

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO. HAC 399 OF 2018**

**STATE**

**V**

**ROMULUSE SENILEBA**

**Counsel** : Ms J.J.M. Fatiaki for State with Mr A. Kumar for State  
Ms N. Mishra with Ms M. Chand for Defence

**Date of Summing Up** : 26 February 2020

**Date of Judgment** : 27 February 2020

**JUDGMENT**

1. The accused was charged with one count of Attempted Murder. He was tried before three assessors.
2. Having been directed by my Summing Up, the assessors unanimously found the accused guilty as charged. I direct myself in accordance with my own Summing-Up and review evidence led in the trial.
3. The Prosecution called four witnesses. At the end of the Prosecution's case, the accused

was put to his defence. The accused elected to give evidence under oath.

4. There is no dispute that the accused struck his wife Luisa Volau (complainant) with a cane knife. The only issue before the assessors was whether the accused intended to kill his wife. The Defence takes up the position that the accused was frustrated at his wife's refusal to reconcile, angry at seeing a love bite on her neck and his intention was not to kill the wife but only to cause injuries.
5. The witnesses for Prosecution are consistent and reliable. All of them are independent eye witnesses to the incident. They had no obvious reason to lie to this court. They corroborated each other in material particular. The medical report, the cane knife exhibited and the scars of the injuries on the complainant support the version of the Prosecution.
6. The evidence is overwhelming to support the version of the Prosecution that the accused had assaulted the complainant with the intention to kill her. It is open for the assessors to draw such an inference on the strength of the evidence led in the trial.
7. There is no dispute that, prior to this incident, the accused had assaulted the complainant and a DVRO was issued to protect her. Approximately a week prior to this incident, the accused had promised to cut complainant's neck down. This warning had come when the complainant was about to go to the police station to lodge a complaint against the accused.
8. When the DVRO was in force, the complainant had repeatedly turned down accused's offer to reconcile. As a result of the DVRO, the accused had to leave the matrimonial home. He was no doubt in an embarrassing situation when he had to seek shelter in one of his neighbour's house. The accused had an apparent motive to kill the complainant as she had become a problem for the accused.
9. The accused was desperately trying to convince this Court that the complainant was in an

extra marital affair and she should take the blame for what had happened. His evidence that a love bite on complainant's neck made him angry and that the complainant was always on telephone conversations with another man was not appealing to the assessors. His position on telephone conversation was never put by his counsel to the complainant when she took witness stand. It is clear that the accused was trying to defend himself on the basis of a made up story.

10. A sharp cane knife had been used. It had been struck several times all over the complainant's body. The medical report tendered as an admitted fact supports the evidence of the complainant that she had received injuries on her neck, back of the head, hands and a leg. The injuries on her hands have been received when she was trying to shield her head, the most vulnerable part of human anatomy.
11. The accused admits that the only reason why he had to stop striking Luisa was because Panapasa came and stopped him with a wood. If not for Panapasa's timely and brave intervention, the complainant would have been killed. If not for the timely action of Inoke and Panapasa to take her to the hospital, she would not have been among the living.
12. The accused had struck three times with the cane knife even after he was interrupted by Panapasa. He has chopped her leg when she was trying to escape. He had continued to chop the complainant despite Lusiana's shouting, calling him to stop chopping the wife. He had continued to attack the complainant even after she had fallen down in a weak condition.
13. After the brutal assault, Lusiana had heard the accused say "I am now satisfied that the wife is dead".
14. The accused admits that he did not assist for the complainant to be taken to the hospital despite her critical condition. The intention of the accused is clearly manifested by his words, actions and inactions. His evidence in court that he did not intend to kill his wife does not hold water. The assessors are justified in rejecting his evidence.

15. The Prosecution proved the charge beyond a reasonable doubt. I endorse the unanimous opinion of the assessors.
16. The accused is found guilty as charged. The accused is convicted accordingly.
17. That is the judgment of this court.



  
Aruna Aluthge  
Judge

**At Suva**

**27 February 2020**

**Counsel:** Office of the Director of Public Prosecution for State  
Legal Aid Commission for Defence