

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 188 OF 2019S

STATE

Vs

1. IVAMERE LIKUIVALU TAMANIVALU

2. VANI VATUBULI

Counsels : Mr. N. Sharma and Ms. W. Elo for State

Mr. K. Prasad for Accused

Hearings : 23, 24 and 27 July 2020.

Summing Up : 28 July, 2020.

Judgment : 28 July, 2020.

Sentence : 29 July, 2020.

SENTENCE

1. On 23 July 2020, the following information was put to both accuseds, in the presence of their counsels:

“Statement of Offence

AGGRAVATED ROBBERY: *Contrary to Section 311 (1) (a) of the Crimes Act 2009.*

Particulars of Offence

IVAMERE LIKUIVALU TAMANIVALU and VANI VATUBULI on the 4th day of May, 2019 at Raiwaqa, in the Central Division, in the company of each other stole 1 x black leather handbag, 1 x black purse containing \$200.00 cash, 1 x 9 carat gold chain, 1 x black Samsung Galaxy J4 mobile phone containing 1 x Inkk sim card, the property of MACA TUINASIGANA, and immediately before committing theft, used force on MACA TUINASIGANA.”

2. For Accused No. 1, she said she understood the charge and pleaded guilty to the same. The prosecution later presented the summary of facts. Basically it said that on 4 May 2019, at Raiwaqa in the Central Division, accused no. 1 and another, including the complainant (PW1), were walking along Grantham Road to buy some alcohol. It was between 6.30 am and 8 am that Saturday morning. The complainant was carrying her bag, which contained the items mentioned in the charge. Suddenly, accused no. 1 and another jointly attacked the complainant, and fled with her bag containing the items mentioned in the charge.
3. Accused No. 1, through her counsel, admitted the above summary of facts, including the particulars of offence in the information, and as a result, the court found Accused No. 1 guilty as charged and she was convicted accordingly. Her plea in mitigation was taken, and the court heard her sentence submission. The matter was then adjourned for sentencing.
4. As for Accused No. 2, she wished to proceed to trial. The three assessors were sworn in, and the information was put to her, in the presence of her counsel. She pleaded not guilty to the charge. Her case was heard on 23, 24 and 27 July 2020. In a judgment delivered yesterday, the court found her guilty as charged and convicted her accordingly. The facts were basically similar to that outlined in paragraph 2 hereof for Accused No. 1. The two accuseds basically attacked the complainant, at the material time, at Raiwaqa, and fled with her bag, containing the items mentioned in the charge. None of the complainant's properties were ever recovered.

5. “Aggravated Robbery”, as a criminal offence, is viewed seriously by the law-makers of this country, and it carried a maximum sentence of 20 years imprisonment. For a spate of robberies, the tariff is a sentence between 10 to 16 years imprisonment: see **Livai Nawalu v The State**, Criminal Appeal No. CAV 0012 of 2012, Supreme Court of Fiji. With a single case of aggravated robbery, the tariff is now a sentence between 8 to 16 years imprisonment: see **Wallace Wise v The State**, Criminal Appeal No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.
6. I find no aggravating factors in this case. The facts basically satisfied the elements of “aggravated robbery”.
7. The mitigating factors were as follows:
 - (i) Accused No. 1, although you pleaded guilty to the offence 1 year 1 month 19 days after first call in the High Court, you nevertheless saved some court time;
 - (ii) Accused No. 1, at the age of 22 years, this is your first offence. As for Accused No. 2, you are 27 years old, and this is your first offence.
 - (iii) This was a street mugging at the lower end of the scale, that is, the complainant suffered no serious physical injuries and was not hospitalized;
 - (iv) Both of you had been remanded in custody, awaiting trial, for approximately 5 months.
8. For each of you, I start with a sentence of 8 years imprisonment. For time already served while remanded in custody, I deduct 6 months, leaving balance of 7 years 6 months imprisonment. Because, you two are first offenders, I deduct 2 years 6 months, leaving a balance of 5 years imprisonment. Because the complainant was not seriously injured during the offending, I deduct 3 years, leaving a balance of 2 years imprisonment. For Accused No. 1 pleading guilty on the date of the trial, I deduct 1 year, leaving a balance for her, of 1 year imprisonment.

9. The summary of your sentences are as follows:
- (i) Accused No. 1 – 1 year imprisonment.
 - (ii) Accused No. 2 – 2 years imprisonment.
10. Ms. Ivamere Likuivalu Tamanivalu (Accused No. 1), for the offence you committed against the complainant on 4 May 2019, at Raiwaqa, I sentence you to 1 year imprisonment, effective forthwith. Ms. Vani Vatubuli (Accused No. 2), for the same offence, I sentence you to 2 years imprisonment, effective forthwith.
11. Both of you have 30 days to appeal to Court of Appeal.




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JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accuseds : **Legal Aid Commission, Suva.**