

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 037 OF 2019S

STATE

VS

JEKOPE ROKOVUKI NAIMAWI

Counsels : **Ms. J. Fatiaki for State**
Ms. S. Hazelman and Mr. E. Radio for Accused

Hearings : **3, 4, 5, 6, 7 and 10 August, 2020**

Summing Up : **11 August, 2020.**

Judgment : **12 August, 2020.**

Sentence : **13 August, 2020.**

SENTENCE

1. In a judgement delivered yesterday, the court found you guilty and convicted you on the following information:

“Statement of Offence

MURDER: Contrary to Section 237 of the Crimes Act 2009.

Particulars of Offence

JEKOPE ROKOVUKI NAIMAWI, on the 10th day of January 2019 at Nasinu in the Central Division, murdered MARAIA TALA.”

2. The brief facts were as follows. On the day of the incident, that is, 10 January 2019, you were 31 years old, and the deceased, your wife, was 35 years old.

You and your wife had been living in a defacto relationship for the previous 5 years, and you two had a 2 year old daughter. You supported your family as a carpenter and resided at Naiyalayala Settlement in Kalabu. On 10 January 2019, you, your wife (the deceased) and some friends, were drinking homebrew among pine trees near your residence.

3. The drinking started in the early morning and went on until late afternoon. During the homebrew party, you and your wife argued several times. You then repeatedly assaulted her by hitting her right eye with the homebrew bucket and punched her several times. She fled from you to a neighbour's house. You went and took her to your house. You were extremely angry at her and both of you were drunk. You later poured benzene on her, lit a match stick and set her alight. She was severely burnt to 45% of her body. You later took her to CWM Hospital, wherein she died on 22 January 2019, as a result of her burn injuries. You had been tried and convicted of her murder in the Suva High Court.
4. There is only one sentence for murder and that is a mandatory life imprisonment (section 237 of the Crimes Act 2009). The law gives the court power to fix a minimum term to be served before a pardon may be considered by His Excellency the President of the Republic of Fiji (section 119 of the 2013 Constitution of the Republic of Fiji).
5. Ms. Maraia Tala chose to go out with you in 2014. You were 26 years then, and she was 30 years old at the time. Obviously, the two of you loved each other, and a testament to that was that you two had a 2 year old daughter, at the time of the incident. You worked hard to support your family by working as a carpenter. You treated Ms. Maraia Tala as your defacto wife. However, you two's relationship appeared to be a "love/hate" relationship. It was not uncommon for you two to argue verbally, which then transformed itself into a physical fight. This

happened during the incident. You, your wife (the deceased) and friends were drinking homebrew from the early morning of 10 January 2019 to the late afternoon. An argument erupted between the two of you which ended up with her murder. You must realize that you have to be punished to atone for her murder.

6. At the age of 33, this is your first offence. You had been remanded in custody awaiting trial since 25 January 2019, that is, approximately 1 year 6 months 18 days. You have a 2 year old daughter.
7. I sentence you to the mandatory life imprisonment. Given the matters mentioned above, I set 18 years as the minimum term to be served before a pardon may be considered by His Excellency the President of the Republic of Fiji.
8. Because of a misunderstanding of what a minimum term means, let me quote what His Lordship Mr. Justice Goundar said in **State v Yogesh Rohit Lal**, Criminal Case No. HAC 46 of 2019, High Court, Labasa (13 February 2020):

“...Let me explain to the offender the effect of fixing a minimum term. Once a minimum term is fixed the offender cannot apply for a pardon until he had served the fixed term. After serving the fixed term he may apply to the President to pardon him upon advice of the Mercy Commission, but it is not necessary that he will be granted one. In the event the offender is not granted a pardon, he remains in prison till death...”

I endorse His Lordship’s view abovementioned.

9. You have 30 days to appeal to the Court of Appeal.



Solicitor for State
Solicitor for Accused

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Office of the Director of Public Prosecution, Suva
Legal Aid Commission, Suva

A handwritten signature in blue ink, appearing to read 'Salesi Temo'.

Salesi Temo
JUDGE