

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 27 OF 2020S

STATE

vs

- 1. SEMI BALEISUVA**
- 2. JONE VUNAKULA**

Counsels : **Ms. W. Elo for State**
Accused No 1. In Person
Accused No. 2 In Person

Hearings : **19 and 20 August, 2020.**

Ruling : **20 August, 2020.**

RULING ON NO CASE TO ANSWER

1. The prosecution has closed its case after calling 3 witnesses.
2. The law at this stage is section 231 (1) and (2) of the Criminal Procedure Act 2009, which reads as follows:

“(1) When the evidence of the witnesses for the prosecution has been concluded, and after hearing (if necessary) any arguments which the prosecution or the defense may desire to submit, the court shall

record a finding of not guilty if it considers that there is no evidence that the accused person (or any one of several accused) committed the offence.

(2) When the evidence of the witnesses for the prosecution has been concluded, the court shall, if it considers that there is evidence that the accused person (or any one or more of several accused persons) committed the offence inform each such accused person of their right-

(a) To address the court, either personally or by his or her lawyer (if any); and

(b) To give evidence on his or her own behalf; or

(c) [Repealed]

(d) To call witnesses in his or her defence..."

3. The two accuseds had submitted that there was no case to answer. They appear to say that the prosecution's witnesses' evidence were inconsistent with what they said in court and what they said in their police statements.
4. The prosecution had conceded that both accuseds had no case to answer. I agree with both accuseds and the prosecution. The complainant (PW1) said two persons attempted to rob him of his properties on 26.12.19. He said, the two later left the crime scene and went towards the Suva market. The complainant alerted nearby security guards, who alerted the police.
5. However, while giving evidence, the complainant failed to identify the two accuseds in court, as the two persons who allegedly attempted to rob him, at the material time. Thus the alleged crime cannot be connected to the two accuseds, as a matter of evidence. As a result, there was no case to answer by both accuseds.
6. As a result of the above, I find that both accuseds have no case to answer. I find them not guilty as charged and I acquit them accordingly.

7. Both accuseds are free to go home.



Salesi Temo
JUDGE

Solicitor for the State : Office of the Director of Public Prosecution, Suva.
Solicitor for Accused No. 1 : In Person.
Solicitor for Accused No. 2 : In Person.