

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 218 of 2020

BETWEEN: STATE

PROSECUTION

A N D: 1. VOREQE DELATABUA
2. TAGILALA JEKE

ACCUSED PERSONS

Counsel : Ms. S. Sharma for the State
Mr. J. Korotini for 2nd Accused

Date of Sentence : 06 November 2020

SENTENCE

1. Mr. Tagilala Jeke, you pleaded guilty to one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act which carries a maximum penalty of twenty (20) years imprisonment. The particulars of the offence are that:

Statement of Offence

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

Particulars of Offence

VOREQE DELATABUA and TAGILALA JEKE on the 21st day of July, 2020 at Nausori, in the Eastern Division, robbed one **SAMHIR HUSSAIN SAHIB** of a Huawei P9 Mobile Phone, Ripcurl wallet and cash of \$25.00, the property of **SAMHIR HUSSAIN SAHIB**.

2. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict you to this offence of Aggravated Robbery.
3. According to the summary of facts, which you admitted in Court, you and your accomplices followed the complainant when he was walking along the road. One of your accomplices grabbed the complainant while you held his hands together. You then took out his wallet, containing \$25.00, and one of your accomplices took his mobile phone.
4. You and your accomplices had robbed the complainant while he was walking along a public road. Crimes of this nature are prevalent and have created insecurity and vulnerability in the society. Aggravated Robbery is the worst and severe form of property crime in this jurisdiction, which carries a maximum penalty of twenty years imprisonment. Therefore, I find this is a serious offence.
5. Because of the seriousness of this offence, it is my opinion that such offenders must be dealt with severe and harsh punishment. Therefore, the purpose of this sentence is founded on the principle of deterrence and protection of the community.
6. The High Court in **State v Vatunicoko [2018] FJHC 885; HAC210.2018 (21 September 2018)** found that:

"In assessing the objective seriousness of your offending, I am mindful that aggravated robbery in the company of others is punishable by 20 years

imprisonment. The tariff depends on the nature and circumstances of the robbery. The tariff is as follows:

- i) Street mugging: 18 months to 5 years imprisonment (Raqauqau v State [2008] FJCA 34; AAU0100.2007 (4 August 2008)*
- ii) Home invasion: 8 -16 years imprisonment (Wise v State [2015] FJSC 7; CAV0004.2015 (24 April 2015)*
- iii) A spate of robberies: 10 -16 years imprisonment (Nawalu v State [2013] FJSC 11; CAV0012.12 (28 August 2013)*

7. Nawana JA in **Qalivere v State [2020] FJCA 1; AAU71.2017 (27 February 2020)** held that:

“Low threshold robbery, with or without less physical violence, is sometimes referred to as street-mugging informally in common parlance. The range of sentence for that type of offence was set at eighteen months to five years by the Fiji Court of Appeal in Raqauqau case (supra).”

8. Crimes of this nature have the effect of endangering the innocent public and their freedom of life. You and your accomplices had found an opportunity when the complainant was walking along the public road. You and your accomplices had used a substantial amount of force on the complainant. Indeed, the impact of this offence on the complainant must be a frustrating experience. Therefore, I find the level of harm and culpability in this offending is substantially high.
9. You are a 24 years old young first offender. Therefore, you are entitled to a substantial discount for your previous good character. Moreover, you pleaded guilty to this matter at the first available opportunity. Consequently, you are entitled to a substantive discount for your plea of guilty.

10. Considering the above-discussed factors, I sentence you to a period of three (3) years imprisonment for this offence of Aggravated Robbery as charged.
11. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find one (1) year of the non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for one (1) year.
12. In view of the seriousness of this crime, the level of harm, and the culpability, and the purpose of the sentence, I do not find this is an appropriate case to suspend the sentence.

Head Sentence


13. Accordingly, I sentence you to a period of three **(3) years** imprisonment for the offence as charged. Moreover, you are not eligible for any parole for **one (1) year** pursuant to Section 18 of the Sentencing and Penalties Act.

Actual Period of Sentence

14. You have been in remand custody for this case for nearly three (3) months and eleven (11) days. In pursuant to Section 24 of the Sentencing and Penalties Act, I consider four (4) months as a period of imprisonment that you have already served.
15. Accordingly, your actual sentencing period is two **(2) years and eight (8) months** of imprisonment period, with **eight (8) months** of non-parole period.

16. Thirty (30) days to appeal to the Fiji Court of Appeal.




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Hon. Mr. Justice R.D.R.T. Rajasinghe

At Suva

06 November 2020

Solicitors

Office of the Director of Public Prosecutions for the State.
Office of the Legal Aid Commission for the Accused.