

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 170 OF 2020

BETWEEN : STATE

AND : PRANIL ALVIN SINGH

Counsel : Mr E Samisoni for the State
Mr J Reddy and Ms K Dugan for the Accused

Date of Hearing : 26, 28 & 29 April 2022

Date of Judgment : 1 June 2022

Date of Sentence : 16 June 2022

SENTENCE

- [1] The offender was charged with one count of arson and two counts of attempted murder. He pleaded not guilty to the charges. Unfortunately, the trial had to be delayed due to Covid-19 pandemic.
- [2] The trial was heard in April 2022. On 1 June 2022, the offender was convicted of the three charges. I have a duty to explain the sentence that I am going to impose on him.
- [3] The gravity of an offence is gauged by the actual conduct of the offender and the objective circumstances of the offence. The two victims are the offender's young children. The offences are domestic violence.

- [4] The facts are as follows. The offender was married with two sons. About three months before the incident he had been living separately in a rental low cost housing owned by his relative in Nadawa after his spouse went to live with her mother with their two children. During the separation, the offender was in contact with his spouse and he convinced her to get back together for the sake of their children. She agreed and moved to live with him in Nadawa with their two sons.
- [5] The incident occurred three days after the offender and his spouse got back together. On Friday, 5 June 2020, the offender's spouse left home for work in the morning, leaving the children with him. Without prior notice, the offender appeared at his spouse's workplace in the afternoon, asking her to lend him \$100.00. When he did not get the money from her he went to a relative and got \$50.00 from him. He returned home in a taxi with his two sons. After arriving home his eldest son overheard him having a conversation with a stranger inside their house. After the stranger left, the offender spoke to his mother in the USA. He ended his conversation with his mother abruptly by throwing his phone on the floor. The discussion with the mother was about money.
- [6] After that the offender engaged in a peculiar but calculated conduct. He forced his eldest son who was about 10 years old at the time to damage the television with a hammer. He then took the hammer from his son and nailed the front and the back entrance doors. He opened a gas cylinder that was not connected to the gas stove and then he opened the gas cylinder that was connected to the stove. He ignited the stove, causing an explosion. He went and held his two sons tightly while the fire spread inside the house. His younger son was about 1 ½ years old at the time.
- [7] When the offender's eldest son realized that he was being held back from escaping he bit the offender's hand and got off his grip. The eldest son ran to the window and screamed for help. The neighbours came for their rescue. When the neighbours could not open the doors, they broke the window and rescued the eldest son. When the boy alerted the neighbours that his younger brother was inside the house, the

neighbours then forcefully broke the front entrance door and rescued the offender and his younger son. The offender and the victims did not sustain any significant burns or injuries, but they were taken to a hospital for a medical check and were discharged on the same day.

- [8] The victim impact statements of the offender's spouse and eldest son show that they have been traumatized by the incident and that they fear for their lives.
- [9] Significant damage had been caused to the dwelling flat and the financial loss to the owner of the property is substantial. The contents of the flat were completely damaged. The fire had spread to three other adjoining flats, causing substantial damage to the property of others.
- [10] The maximum penalty prescribed for arson and attempted murder is life imprisonment. Tariff for arson range from 5 to 12 years imprisonment and the primary purpose of the sentence is to protect the community by denouncing the crime and imposing a sentence that would deter the offender and others from engaging in similar conduct in the future (*State v Tubuna* [2020] FJHC 389; HAC017.2020 (5 June 2020)).
- [11] The three offences are part of the same transaction. The offender's culpability in respect of each offence is same. In these circumstances, an aggregate sentence is justified to reflect the offender's total criminality.
- [12] Since the sentence for attempted murder is fixed by legislature, I have no option but to impose a sentence of life imprisonment (*Shaheen v State* [2022] FJSC 17; CAV0015.2019 (28 April 2022)). The only discretion available is to set a minimum term to serve before a release may be considered. Counsel for the State has provided a useful summary of the sentences imposed in attempted murder cases as follows:

<u>CASE</u>	<u>SENTENCE</u>
1. <i>State v Nath - Sentence [2021] FJHC 6; HAC030.2018 (13 January 2021)</i>	Life imprisonment with a minimum term of 8 years <u>after trial</u> . [domestic violence offending; accused and victim were in a <i>de-facto</i> relationship; accused struck the victim with a cane knife].
2. <i>State v Arjun - Sentence [2020] FJHC 1100; HAC017.2018 (23 December 2020)</i>	Life imprisonment with a minimum term of 8 years <u>after trial</u> . [domestic violence offending; accused and victim were in a relationship; accused had struck the victim with a knife].
3. <i>State v Chand - Sentence [2020] FJHC 971; HAC309.2020 (18 November 2020)</i>	Life imprisonment with a minimum term of 8 years <u>after trial</u> . [domestic violence offending; accused and victim were married but separated at the relevant time; accused stabbed victim with an iron rod on her neck].
4. <i>State v Padyachi - Sentence [2019] FJHC 1140; HAC352.2018 (11 December 2019)</i>	Life imprisonment with a minimum term of 15 years <u>after trial</u> . [domestic violence offending; accused and victim were in a relationship; accused tried to drown the victim].
5. <i>State v Tabua - Sentence [2015] FJHC 726; HAC365.2013 (2 October 2015)</i>	Life imprisonment with a minimum term of 8 years <u>after trial</u> . [domestic violence offending; accused and victim were in a relationship; accused had struck the victim with a kitchen knife].

<p>6. State v Narayan - Sentence [2017] FJHC 756; HAC143.2016 (29 September 2017) Accused was charged with Attempted Murder and AWITCGH.</p>	<p>Life imprisonment with a minimum term of 12 years imprisonment <u>after trial</u>; [domestic violence offending; accused was the ex-husband of the victim; accused had stabbed his ex-wife with a knife on her head, hand/elbow and neck.</p>
<p>7. State v Faiyash - Sentence [2019] FJHC 666; HAC40.2018 (28 June 2019) Accused was charged with Attempted Murder and Damaging Property.</p>	<p>Aggregate sentence of life imprisonment with a minimum term of 6 years, 7 months and 20 days <u>after trial</u>; [accused had driven his car into a phone booth which the victim was in; no domestic relationship however the accused had asked the victim to be in a relationship with him].</p>

[13] The level of harm caused by the offender is high. His subjective features such as his age (36 years old), level of education (Form 4) and family background carry less weight. His claim of being involved in religious activities and charity in his community are not mitigating factors. His claim of being remorseful is made late and cannot be considered as genuine. The only mitigating factor is the offender's previous good character.

[14] The aggravating factors are that the victims were children and vulnerable. As a father, the offender was responsible for their safety and security. Their mother left them alone with their father knowing that they would be safe with him. Instead the offender breached the trust of his spouse and children. There was also a degree of planning involved to secure all the escape routes with nails before setting the house on fire. If the offender had succeeded with his intention to burn himself and his two children to death, his children would have received a cruel and a painful

death. Apart from that the offender had no regard to the property of others when he set fire to his dwelling flat, causing substantial financial harm to others.

[15] The message to the offender and others must be clear. The court's duty is to denounce and deter domestic violence by imposing condign punishment. The gravity of the offences justify severe but just and fair sentence.

[16] I take into account that the offender had spent two years in custody on remand.

[17] The offender is sentenced to an aggregate sentence of life imprisonment with a minimum term of 14 years to serve before any release may be considered.



A handwritten signature in black ink, appearing to read 'Daniel Goundar'.

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Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State
Reddy Lawyers for the Accused