

Particulars of Offence

SEMI TUINABOU VANIA ROGO with others on the 23rd of September, 2022 at Vasant Lal Road, Nasinu in the Central Division, in the company of each other entered into the dwelling house of **DEEPAK PRANIL CHAND** as a trespasser, with intent to commit theft.

COUNT 2

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence

SEMI TUINABOU VANIA ROGO with others on the 23rd of September, 2022 at Vasant Lal Road, Nasinu in the Central Division, in the company of each other dishonestly appropriated assorted jewelry, assorted foreign currency, assorted documents, 1x MacBook Pro, 1x Samsonite bag, 2x Samsung mobile phones, 2 Nokia mobile phones, 1x Samsung Galaxy S21 mobile phone with cover, 1x Samsung Galaxy Note 12 inch with cover and 1 HP bag the property of **ARTI DEVI** with the intention of permanently depriving **ARTI DEVI** of the said property.

COUNT 3

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Act 2009.

Particulars of Offence

SEMI TUINABOU VANIA ROGO with others on the 23rd of September, 2022 at Vasant Lal Road, Nasinu in the Central Division, in the company of each other dishonestly appropriated 1x Dell Laptop, 1x A WEI Bluetooth Speaker and 1x black Kenneth Cole brand bag containing different charges the property of **DEEPAK PRANIL CHAND** with the

intention of permanently depriving DEEPAK PRANIL CHAND of the said property.

2. Satisfied by the fact that you have fully comprehended the legal effect of your pleas and that your pleas were voluntary and free from influence, I now convict you of these three offences as charged in the Information.
3. According to the Summary of Facts, you and your two accomplices entered the Complainant's house while she was at home with her elderly mother. One of your accomplices was carrying a pinch bar. The owner of the house, the Complainant's brother, was not at home. Upon noticing the three perpetrators standing outside the house, the Complainant went to her mother's room and locked it inside. They locked themselves inside the room until the three offenders had ransacked and stolen the items described in the Information. You and other accomplices entered the house through the front door.
4. This is a breaking of a dwelling house and stealing therein. You broke into this house while the two occupants, one lady with her elderly mother, were hiding inside one of the rooms helplessly. Crimes of this nature, targeting dwelling houses, undoubtedly affect the entire community. You have instilled fear and insecurity among the people by committing this crime. I, accordingly, find this is a severe offence.
5. Having considered the serious nature of these offences, I now proceed to determine an appropriate sentence for you in line with general principles, objectives, and purposes of sentencing under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. All of these offences are founded on the same series of offending. Therefore, it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
7. The tariff for the offence of Aggravated Burglary was between 18 months to 3 years. The Fiji Court of Appeal in Avishkar Rohinesh Kumar and Sirilo Vakatawa v The State (Criminal Appeals No AAU 33 of 2018 and AAU 117 of 2019) stipulated a new tariff range for the offence of Aggravated Burglary, which ranges from 1 year to 12 years.

The tariff for the offence of Theft has been stipulated in Ratusili v State [2012] FJHC 1249; HAA011.2012 (1 August 2012), where Madigan J held that:

- i) *For a first offence of simple Theft the sentencing range should be between 2 and 9 months.*
 - ii) *Any subsequent offence should attract a penalty of at least 9 months.*
 - iii) *Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.*
 - iv) *Regard should be had to the nature of the relationship between offender and victim.*
 - v) *Planned thefts will attract greater sentences than opportunistic thefts.*
8. Considering the nature of the items you have stolen, one of your accomplices was carrying a black pinch bar, the fact that you have ransacked the place while stealing and how you entered the premises while the two occupants were hiding inside one of the rooms helplessly and vulnerably, the level of harm is medium (third category); hence, the starting point is seven years, and the sentencing range is 5 to 10 years.
9. You are a young first offender. You pleaded guilty to these offences at the first available opportunity. Moreover, you admitted your responsibilities for committing these offences in your caution interview. In doing that, you expressed remorse and repented for committing this crime. Therefore, you are entitled to a substantial discount for your early plea of guilty and good character.
10. Considering the above reasons, I sentence you to five (5) years imprisonment as an aggregated sentence for these three counts as charged in the Information.
11. Having considered the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I find two (02) years of the non-parole period would serve

the purpose of this sentence. Hence, you are not eligible for parole for two (02) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.


Head Sentence

12. Accordingly, I sentence you to a period of five (05) years imprisonment as an aggregate sentence for one count of Aggravated Burglary, contrary to Section 313 (1) (a) of the Crimes Act, and two counts of Theft, contrary to Section 291 (1) of the Crimes Act. Moreover, you are not entitled to parole for two (02) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Actual Period of the Sentence

13. You have been in remand custody for this case for nearly seventy-five (75) days before the sentence. Pursuant to Section 24 of the Sentencing and Penalties Act, I consider three (03) months as a period of imprisonment you have already served.
14. Accordingly, the actual sentencing period is **four (04) years and nine (09) months** imprisonment with a non-parole period of **one (01) year and nine (09) months**.
15. Thirty (3) days to appeal to the Fiji Court of Appeal.




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

At Suva

09th December 2022

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.