

IN THE RESIDENT MAGISTRATES COURT
AT SUVA
CRIMINAL JURISDICTION

Juvenile Case No. 13 of 2016

The State

V

Sevanaia Lalagavesi and another (a Juvenile).

For the State : Counsel Ms. Sharma S.
For the Accused : Counsel Ms. Daunivesi (Legal Aid)
Date of the Sentence : 24th November 2017

SENTENCE

Introduction

1. The Accused has been charged with one count of **Aggravated Robbery** contrary to Section 311(1) (a) of the Crimes Decree Number 44 of 2009.

Particulars of the Offence

The Accused, with another (R.A.D.M., a juvenile- juvenile's name is suppressed) on the 28th day of March 2016, at Suva in the Central Division, stole one Nokia mobile phone valued at \$200.00 and cash of \$60.00, all to the total value of \$260.00, the property of Akariva Durusolo and before stealing used force with the intent to steal on Akariva Durusolo.

2. This is an indictable offence and the case was transferred to the High Court on 30/03/2016. Subsequently, the High Court has granted extended jurisdiction to this court on 08/04/2016, in terms on Section 4(2) of the Criminal Procedure Act 2009.
3. The Accused has pleaded guilty to the charge on 07/06/2016, on his own free will and with a representation by a counsel from Legal Aid. After pleading guilty, he has been absconding court since 25/04/2017, to date.
4. Investigating Officer, Sergeant 2391 Ulaiasi Robanakadavu of CID, Totogo has filed an Affidavit in court on 08/11/2017 to the effect that they have taken every possible step to execute the bench warrant against the Accused, but his whereabouts are not known to them.
5. In the above scenario, the court proceeds with the sentence of the Accused in the absence of him. The punishment for the juvenile has been prepared separately and pronounced on 18/09/2017.
6. The prosecution has filed the Summary of Facts on 23/06/2016, which has been duly admitted by the Accused. It revealed that on 28th March 2016, at about 2.30 am the Accused and the juvenile have approached the complainant near Suva bus stand and proclaimed to know him by saying that they went to the same school. Thereafter, all of them have proceeded to Senikau Bar and while walking on the road, the juvenile has grabbed the complainant's neck from the back and held him while the Accused stole his mobile phone and cash as mentioned in the information.
7. Later, both the Accused and the Juvenile have been arrested and interviewed under caution, whereby both have admitted committing the alleged offence. The Accused has given the mobile phone and cash of \$20.40 back to the complainant, at the police station.

8. Being satisfied with the unequivocal plea of guilt, and the admitted summary of facts, which satisfy the elements of the offence, I convict the Accused for the offence of **Aggravated Robbery**, as set out in the charge.

Tariff

9. The maximum penalty for Aggravated Robbery is 20 years imprisonment. The tariff for this offence has been discussed by Justice Madigan in the case of Rarawa v The State Criminal Appeal No HAA 5 of 2015. (30 April 2015) as *10-16 years*; In Wallace Wise V The State [2015] FJSC7; CAV0004.2015 (24 April 2015) Supreme Court decided that the tariff for an offence of Aggravated Robbery should be *8-16 year imprisonment*.

Aggravating Factors

10. The Accused has robbed the complainant in early hours of the day after deceiving him as a known person, which should be considered as an aggravated factor.

Mitigating Factors

11. The Accused is a first offender.
12. The mobile phone and the part of the money have been recovered.
13. There are no other mitigating factors tendered to court.

Early Guilty Plea

14. The Accused has pleaded guilty at the very first opportunity saving the time of the court and expenses of a full hearing. Therefore he is entitled to have a considerable concession from his sentence for his early guilty plea.

Sentence

15. Snatching a phone from a person who was walking on the road is a very serious offence which is undoubtedly denounced by the society. It is the duty of the court and

other law enforcement authorities to make sure that there is a safe environment for citizens to move freely without any fear of their belongings.

16. These types of offenders must be deterred from committing further offences in this nature and the community should be protected from this kind of offenders.
17. On a careful consideration of the law and facts as aforementioned, I select 12 years imprisonment term as the starting point and add 6 months for the aggravating factor making it 12 years and 6 months interim imprisonment term. Then I deduct 4 years for the early guilty plea and another 6 months for the other mitigating factors making the final imprisonment term is 8 years. The Accused has spent 8 months and 4 days in remand custody for this case and I reduce 9 months from his sentence in lieu for the period spent in custody. Therefore his final imprisonment term to be spent is 7 years and 3 months with non-parole period of 3 years.
18. Since the Accused is absconding court, this sentence shall be commenced from the date of apprehension, in terms of the section 173 of the Criminal Procedure Act.
19. As this Court has exercised the extended jurisdiction of the High Court, parties may appeal to this sentence within 30 days to the Court of Appeal, with the leave of the court.

Summary of the Sentence.

7 years and 3 months imprisonment term.

At Suva

24th November 2017



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Geethani Wijesinghe
Resident Magistrate