

IN THE FIJI COURT OF APPEAL

Criminal Jurisdiction

Criminal Appeals Nos.32,48 & 51 of 1984

Between:

SEPESA PAULO Appellant

and

R E G I N A M Respondent

SEMI RAVUNACEVA Appellant

and

R E G I N A M Respondent

SIMELI SOKOSAYA Appellant

and

R E G I N A M Respondent

Appellants in person

Mr. Tavai for the Respondent

Date of Hearing: 1st November, 1984

Delivery of Judgment: 1st November, 1984

JUDGMENT OF THE COURT

Mishra, J.A. (Orally)

The three appellants pleaded guilty before the Chief Magistrate, Suva, of jointly taking part in a robbery with violence in which they entered a house with two other men, terrorised women and children with knives and broken bottles, and took away a number of valuable goods to the total value of \$2,706.

- In addition,
- (a) appellant Sepesa Paulo pleaded guilty to two other offences involving dishonesty;
 - (b) appellant Semi Ravunaceva pleaded guilty to two other counts of house-breaking and larceny;
 - (c) appellant Simeli Sokosaya pleaded guilty to twenty-four other counts most of them involving house-breaking and larceny.

Each appellant was dealt with separately and sent up to the Supreme Court for sentencing.

The Learned Chief Justice dealt with Sepesa Paulo and Simeli Sokosaya on 26th April, 1984, but the case of Semi Ravunaceva did not come up before him until 1st June, 1984.

He treated the count on robbery with violence jointly committed by them as the most serious of the offences in each case and, for it sentenced -

Sepesa Paulo to 7 years' imprisonment,
Simeli Sokosaya to 8 years' imprisonment,
Semi Ravunaceva to 6½ years' imprisonment.

On each of the other counts he sentenced each of them to 3 years' imprisonment to be served concurrently with the sentence on the robbery with violence count.

The appellants appeal against their sentences.

As the appeal, in each case, is, in effect, against the sentence in relation to the same offence jointly committed by them, the three appeals were dealt with together.

Sepesa Paulo, was at the time of the commission of the offence, 18 years of age without any previous record. Semi Ravunaceva was 23 years of age and had a previous conviction for causing damage to property. Learned Counsel for the respondent concedes that nothing in the record justifies the imposition of a higher sentence on the former.

There is, however, another matter which has caused us some concern.

Sepesa Paulo and Simeli Sokosaya appeared together before the Learned Chief Justice to receive their sentences. Simeli Sokosaya had a criminal record but was only 17 years of age. As we have already noted Sepesa Paulo was 18 years of age with no record. At the hearing of these appeals they both submitted that their involvement in this offence, and indeed in other offences, was caused by circumstances which compelled them to drift without any family supervision into the bad company of more mature men. Simeli Sokosaya, in addition, mentioned a broken home at a very early age.

We are of the view that in such a case reports from welfare officers would have been of considerable assistance in determining whether these very young men were mere followers or equal partners in the planning and execution of these offences. It would be particularly so where, according to Learned Crown Counsel, two of the five men involved in the robbery with violence charge have never been apprehended.

Unfortunately no assistance from welfare reports was available to the Supreme Court at the time of sentencing.

We entirely agree with the Learned Chief Justice that the circumstances attending the robbery in question were extremely grave and that sentences should reflect the

horror and outrage felt by the community. It is, however, in our view also important that where several accused are jointly involved in the commission of an offence sentences should, wherever possible, take into account the role played by each.

The sentence of eight years' imprisonment imposed on Simeli Sokosaya and that of 7 years' imprisonment on Sepesa Paulo are set aside. In their places are substituted a sentence of 6 years' imprisonment in case of Simeli Sokosaya and one of 5½ years' imprisonment in case of Sepesa Paulo.

As for the appellant Semi Ravunaceva, he was 23 years of age at the time of the commission of the offence and received a sentence of 6½ years' imprisonment, lowest of the three sentences. Nothing in the submissions made by him shows any reason why that sentence should be interfered with.

In his case the sentence of 6½ years' imprisonment is confirmed and his appeal dismissed.

With regard to other counts, in case of each appellant, the sentence of 3 years' imprisonment on each count is confirmed, to be served concurrently with the sentences on the robbery with violence count.

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B. D. S. K. A.
 JUDGE OF APPEAL

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Henry Mearns
 JUDGE OF APPEAL

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M. G. Casey
 JUDGE OF APPEAL