

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 064 OF 2011S

STATE

VS

RONEEL CHAND

Counsels : **Mr. L. Fotofili and Mr. R. Kumar for State**
Mr. T. Ravuniwa for Accused

Hearings : **5th to 8th and 11th to 15th November, 2013**

Summing Up : **18th November, 2013**

Judgment : **19th November, 2013**

JUDGMENT

1. On 5th November, 2013, in the presence of your counsel, the following information was put to you:

Statement of Offence

MURDER: Contrary to section 237 of the Crimes Decree No. 44 of 2009

Particulars of Offence

RONEEL CHAND on the 19th day of February 2011 at Nasinu in the Central Division set fire to **KRISHMA NATH** causing her death and at the time of setting fire, **RONEEL CHAND** intended to cause death to **KRISHMA NATH**.

2. You pleaded not guilty to the charge, and the case proceeded to trial. After a nine days trial, the three assessors returned with a unanimous verdict, finding you guilty as charged. Obviously, the assessors have accepted the prosecution's version of events.
3. The prosecution's version of events were as follows. On 19th February 2011, sometime between 9 am and 10 am, you and your wife, the deceased, were involved in a heated argument, at your house at Lot 21, Reba Circle, Nadera. You have been married since 2008, had no children, but resided with your mother and sister. At the time, your mother and sister were out of the house. Your martial argument that morning was so intense that you poured kerosene on your wife, and set her alight. She was burnt in the face and the front of her body. According to the pathologist, the cause of her death was "first degree burnt to 40% of her body". She died on 24th February 2011, at approximately 7.05 pm, 5 days after the incident. According to the prosecution, at the time you burnt your wife (conduct), resulting in serious injuries which caused her death (conduct caused death), you intended to cause her death (intent to kill). Consequently, according to the prosecution, you are guilty of the crime of murder. The three assessors accepted the above version of events, and unanimously found you guilty as charged.
4. However, in a High Court trial sitting with assessors, the trial judge is the final judge of fact and it is his or her responsibility, based on the evidence, as he or she sees it, to decide the guilt or otherwise of the accused. The assessors merely offer opinions to assist the trial judge, in deciding the above. Strictly speaking, the trial judge is not bound by the opinions of the assessors. See section 237(2) of the Criminal Procedure Decree 2009; **Joseph v The King** [1948] AC, 215 (Privy Council); **Ram Dulare, Chandra Bhan & Permal Naidu v Reginam** [1956 – 57] Fiji Law Reports, Volume 5, page 1 (Fiji Court of Appeal).
5. I have reviewed the evidence called in this trial and I have directed myself in accordance with the Summing Up I gave the assessors yesterday. In my view, the assessors' verdict was not perverse. It was open to them to reach such conclusion on the evidence.
6. I accept the unanimous verdict of the assessors. I accept the accused's sworn evidence that, at the material time, that is, on 19th February 2011 between 9 am and 10 am or thereabout, only two persons were at the crime scene at the time, that is, the accused and his wife, the deceased. I accept the accused's evidence that he saw his wife burning with fire on the front

part, at the time. I accept Losena Vunidovu's (PW9) evidence that she heard the accused and his wife involved in a heated verbal argument, before she heard the deceased yell in shock, at the material time.

7. I accept the circumstantial evidence, and given all the evidence and the surrounding circumstance that, the accused burnt the deceased by pouring kerosene on her and setting her alight, at the material time. I accept Suresh Pratap's (PW2) evidence that he took the deceased to Nadera Police Post, and then to CWM Hospital. I accept the deceased's "dying declaration" given to Jitendra Nath (PW1), to PW2 and Josephine Joytika (PW3) that "her husband burnt her". I accept that those statements were given to PW1, PW2 and PW3 by the deceased, and they were true.
8. I accept Doctor Goundar's (PW6) post mortem report, and his finding that the deceased died as a result of "first degree burns to 40% of her body". I reject the defence's suggestion that the deceased committed suicide, at the material time. In my view, the totality of the evidence, does rule out suicide by the deceased.
9. Based on the totality of the evidence, and the surrounding circumstances, as the final judge of fact, I find, as a matter of fact, the following:
 - (i) that the accused poured kerosene to his wife, at the material time, and set her alight (wilful act);
 - (ii) the above wilful act caused the deceased to die as a result of "first degree burns to 40% of her body" (wilful act causes deceased's death); and
 - (iii) at the time he did the above wilful act, the accused intended to cause the death of his wife (intent to kill).

Consequently, I find the accused guilty of murdering his wife, and I convict him accordingly.

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JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused : **T. Ravuniwa, Barrister & Solicitor, Suva.**