

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**Criminal Case No. HAC 005 of 2013**

**STATE**

**vs.**

**RAVINESH DEO AND ASHNEEL KAMAL**

**Counsel** : Ms. P. Low for the State  
Mr. Maopa for the Accused

**Hearing** : 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup>, 10<sup>th</sup>, & 11<sup>th</sup> March 2014

**Judgment** : 11<sup>th</sup> March 2014

**Sentence** : 13<sup>th</sup> March 2014

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**SENTENCE**

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01. You Mr. Ravinesh Deo and Mr. Ashneel Kamal stand convicted for one count of 'Arson' contrary to Section 362 (a) of the Crimes Decree No. 44 of 2009. The assessors unanimously found you two guilty of the charge. This court concurred with the opinion of assessors.

02. The Charge and the Particulars of offence are as follows:

*Statement of Offence*

**ARSON:** Contrary to Section 362 (a) of the Crimes Decree No. 44 of 2009

*Particulars of Offence*

**RAVINESH DEO AND ASHNEEL KAMAL** between the 11<sup>th</sup> day of December 2012 and the 12<sup>th</sup> day of December 2012 at Labasa in the Northern Division willfully and unlawfully set fire to the Westpac Bank Corporation Labasa Branch Office.

03. The maximum sentence for the offence of 'Arson' is life imprisonment. The tariff ranges from 02 years to 04 years. (**Donato Vakabale v. The State**; HAA 0051 of 2012, **Kelemedi Lagi and Others v The State**, HAA 004 of 2004S, **Tuitokava v The State**, HAA 67 of 2005). In the case of **State v Raicebe and Others** [2011] FJHC 729; HAC 208.2011 (17<sup>th</sup> November 2011) Justice Madigan had imposed a sentence of 4 years and 6 months for two counts of 'arson' relating to Police bures. Justice Thurairaja, in the case of **State v Sachindra Nand Sharma** [2011] FJHC 232; HAC 045.2008 (27<sup>th</sup> April 2011) ordered a sentence of 06 years imprisonment for the accused who was charged with one count of arson with other counts as three dwelling houses were burnt over the fire. Their Lordships of the Court of Appeal and the Supreme Court upheld a sentence of 02 year imprisonment for a count of 'arson' in **Amina Koya v the State**; CAV 002.1997 where the action was motivated by a financial gain and no danger posed to any person because the building was unoccupied. Justice Pathik in **State v Jai Kumar**

Solanki and another; Criminal Case No. 5 of 1999, went up to 6 years imprisonment in somewhat similar circumstances to this case.

04. It was revealed in the course of the trial that both of you climbed to the roof top of the Westpac Bank in Labasa and cut the roofing sheets first and then set fire to the bank. Mr. Ravinesh Deo, you had mentioned in your caution interview that you were in need of money and thought of robbing the bank. (Q and A: 105-109 of your caution interview-exhibit No. 05). You, Mr. Kamal had told in your caution interview that you accompanied with Mr. Deo to do a 'dangerous job' to get \$1000 in return. (Q and A: 124-126 of your caution interview-exhibit No. 7). The Manager of the bank said in court that the total loss caused to the bank was over \$1 million. He told that they had to close down the bank to public for several days. He further said that the fire had occurred just close to the 'strong room' which is been used to keep the money. The fire report (exhibit No. 22) says that an accelerant had been used in this instance.
05. Having considered the background of offending, I take a starting point of 03 years imprisonment in respect of you both.
06. The aggravating factors apply to both of you as the offence is a result of a joint enterprise. This court sees that a lot of preparation and pre-planning is needed to execute this type of a plot. The damage caused to the complainant bank was over \$1 million and that it is in the very high level of a loss. It is immaterial whether the bank recovered their loss from any insurance claim or not, because the damage is done. The 'Westpac fire' would have caused lot of disruption to the public, at least its customers, when its ordinary day to day operations are

seized for sometime due to this fire. The worse part is, had the fire spread out of the bank premises, it would have been a huge devastation in Labasa town as lot of business outlets are connected to each other in the main street. These aggravating factors attract 03 years imprisonment to the starting point.

07. Mr. Deo, you claim that you are 33 years old and looking after your 56 year old mother and the small scale farm. You are still single and the sole bread winner of the family. You are not a first offender and committed this offence while been released on extra-mural punishment for another offence. You are said to be remorseful, though you did not show any remorse to court until you are been convicted, and seek leniency from the court. This court sees no valid ground of mitigation in your claim. Thus, you will not receive any concession for mitigating factors.

08. Mr. Kamal, you are 22 years of age and a first offender. You are also remorseful, though it was not visible during the court process, and seeks a minimum prison term. Having considered the fact that you are a young first offender you will get a reduction of one year imprisonment from your interim sentence.

09. Mr. Deo, you have been in remand custody for 14 months in relation to this offence. Thus that period is ordered to be deducted from your interim sentence of 06 years. (Section 24 of the Sentencing & Penalties Decree 2009).

10. Now the final sentences stand as follows:

1<sup>st</sup> accused - 4 years and 10 months imprisonment

2<sup>nd</sup> accused - 5 years imprisonment

11. This court is mindful that the final sentences of you two exceed the tariff band in existence. Nevertheless, the aggravating factors in this instance do insist to impose a sentence outside the tariff. This court is not in agreement with the contention of the learned defence counsel that the court cannot pass a sentence *“beyond the maximum tariff of 04 years imprisonment”* though *“can pass sentence below the minimum tariff of 02 year”*. A strong message should convey to the public at large that whoever interrupts or disturbs the smooth functioning of the public life with this type of offences will receive an immediate custodial sentence.
12. Mr. Ravinesh Deo and Mr. Ashneel Kamal, you will be eligible for parole only after serving 04 years of your sentences.
13. You have 30 days to appeal to the Court of Appeal.

Janaka Bandara  
**Judge**  
13.03.2014

**At Labasa**

**Solicitors**

Office of the Director of Public Prosecutions for State  
Office of Messrs Babu Singh & Associates Nadi for Accused

