

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

**CRIMINAL CASE NO.: HAC 150 OF 2013**

STATE

-v-

SUNIA RORAQIO  
DAVID LOKINGTON

**Counsels** : Ms. S. Kiran and Mr. J Niudamu for the State  
1<sup>st</sup> Accused in person  
Ms. C. Choy for the 2<sup>nd</sup> Accused

Date of Trial : 10 June 2014 to 16 June 2014

Date of Summing Up : 16 June 2014

Date of Judgment : 16 June 2014

**JUDGMENT**

1. The two Accused are charged under following count:

*Statement of Offence*

**AGGRAVATED ROBBERY:** Contrary to Section 311 (1) (a) of the Crimes Decree 44 of 2009.

*Particulars of Offence*

SUNIA RORAQIO, DAVID LOCKINGTON and NACANI TIMO with another, in company of each other on the 18<sup>th</sup> of July, 2013 at Lautoka in the Western Division, robbed FALVIANO PISONI of assorted mobile phones valued at \$5,900.00, 8 assorted Gold wrist watches valued at \$131,000.00, assorted jewelleries valued at \$8,500.00, 2 assorted bags valued at \$5,500.00, cash \$2,500.00 FJ dollars, \$700.00 US dollars (converted

\$1,260.00 FJ), 1000 EURO dollars (converted \$2,215.00 FJD), \$500.00 NZ dollars (converted \$679.00 FJD), \$1,000.00 AUS dollars (converted \$1,779.99 FJD), \$30.00 HK dollars (converted \$6.72 FJD), \$2.00 SINGAPORE dollars (converted \$2.65 FJD), assorted liquors valued at \$140.00 all to the total value of **\$159,483.36**.

2. The three assessors unanimously found 1<sup>st</sup> accused Not Guilty and the 2<sup>nd</sup> accused Guilty of the count.
3. I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.
4. Considering the nature of the evidence before the court, I am convinced that the prosecution had proved the case beyond reasonable doubt in respect of the 2<sup>nd</sup> accused and they failed to prove the case against the 1<sup>st</sup> accused.
5. Obviously, the assessors have not accepted the prosecution's version of items of circumstantial evidence against the 1<sup>st</sup> accused. It appeared that they have found the prosecution had not proven its case beyond a reasonable doubt in respect of the 1<sup>st</sup> accused count.
6. Prosecution case was based on circumstantial evidence. The items of circumstantial evidence against the 1<sup>st</sup> accused were that the search lists of him and Liku Bilu. The 1<sup>st</sup> accused's search list is missing and never produced as evidence in Court. Prosecution failed to establish any connection between the 1<sup>st</sup> accused and Liku Bilu. Therefore, only admissible evidence against the 1<sup>st</sup> accused is that he went to Suva with his wife on 18.7.2013 in a taxi hired by him. The only irresistible inference that could be drawn from that item of circumstantial evidence is not his guilt.
7. Therefore, I agree with the unanimous decision of the assessors and acquit him.
8. The items of circumstantial evidence against the 2<sup>nd</sup> accused are:
  - (i) The search list
  - (ii) The subsequent conduct on 18.7.2013 till his arrest.
9. From the search list it is clear that items robbed from the complaint were voluntarily handed over by the 2<sup>nd</sup> accused at the time of his arrest. These included one GMT master II Rolex Gold watch (replica) and iPhone. Further, there was evidence that the 2<sup>nd</sup> accused was in drinking parties till the time of his arrest. Although the 2<sup>nd</sup> accused was a student he had given AU\$ 50 to change.

10. I am satisfied that items of circumstantial evidence is sufficient to establish the guilt of 2<sup>nd</sup> accused and the only irresistible inference that could be drawn from those items of circumstantial evidence is the guilt of the 2<sup>nd</sup> accused.
11. I reject the evidence of the 2<sup>nd</sup> accused as untrue.
12. In my view, the assessor's verdicts were not perverse. It was open for them to reach such conclusions on the evidence.
13. In this case, the assessor's verdict is not binding on me. However, on careful assessment of the case, I am prepared to accept their unanimous Not Guilty verdict in respect of the 1<sup>st</sup> accused and unanimous Guilty verdict on the 2<sup>nd</sup> accused.
14. I accept the assessor's verdict and I find that the prosecution has proven its case against the 2<sup>nd</sup> accused beyond reasonable doubt in respect of the count.
15. I find the 2<sup>nd</sup> accused Guilty as charged on the count of Aggravated Robbery contrary to Section 311 (1) (a) of the Crimes Decree and convict him of the said count.
16. This is the Judgment of the Court.



  
Sudharshana De Silva  
JUDGE

At Lautoka  
16 June 2014

Solicitors : Office of the Director of Public Prosecution  
Legal Aid Commission for the 2<sup>nd</sup> Accused