

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

**CRIMINAL CASE NO.: HAC 176 OF 2012**

**STATE**

**-v-**

**RAJENDRA**

**Counsels** : Mr. Semi Babitu for the state  
Ms. C. Choy for the accused

**Date of Sentence** : 8 October 2014

**SENTENCE**

1. You are charged as follows:

**FIRST COUNT**  
**Statement of Offence**

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

**Particulars of the offence**

**RAJENDRA** alias **BAKA** on the 9<sup>th</sup> of December, 2012 at Lautoka in the Western Division, recklessly murdered **NANCY SHOBNA PILLAY**.

2. You pleaded Not Guilty to the charge. After trial lasting three days, the three assessors unanimously found you Guilty. This Court concurred with that verdict and found you Guilty as charged and convicted you.
3. Following facts were proved at the trial.

You and your de facto wife (deceased) were on a fishing boat anchored near Bekana reef. After exchange of some words you stabbed your wife on the chest. This injury had cut all three lobes of right lung. Cause of death was excessive loss of blood due to stab wound. There were there defence injuries. Captain of the boat gave evidence about the subsequent conduct of you. The doctor who did the post mortem stated that the injury to the chest cannot be self-inflicted. You have admitted stabbing the deceased in your caution interview statement and the charge statement. This Court found those statements voluntarily made and truthful. You took up the position that the deceased stabbed herself. That version is highly improbable and inconsistent with the other available evidence. I have rejected your evidence.

4. The mandatory sentence fixed by law for Murder is that the convicted person shall be sentenced to imprisonment for life. There is no discretion allowed to the court in a murder case to sentence to a lesser term.
5. It is well known that convicted persons sentenced to life imprisonment usually do not serve the full term that is serve imprisonment for the rest of their lives.
6. Both parties have filed detail submissions on the sentence. I have carefully considered those submissions and the case authorities submitted by both parties on setting a minimum period.
7. In **State v Momo** [2012] FJHC 1093; HAC 086.2011 (18 May 2012) Hon. Mr. Justice Temo had discussed this issue in detail.

*“Murder” is a serious offence, and it is often said, to be at the top of the criminal calendar. It carries a mandatory penalty of life imprisonment. (Section 237, Crime Decree 2009). The court has the power to fix a non-parole period to be served, before a prisoner is eligible for parole. Case precedents show that the non-parole period for murder varies widely, depending on the peculiar facts of the case. In **Waisale Waqanivalu v The State**, Criminal Appeal No. CAV 0005 of 2007, Supreme Court, Fiji, on 5 counts of murder and 1 of attempted murder, the accused was given 19 years non-parole period on each murder count, and 10 years consecutive on a pending prison sentence, total non-parole period was 26 years. In **State v Niume & Others**, Criminal Case No. HAC 010 of 2010, High Court, Suva, on 2 counts of murder, Accused No. 1 was given 25 years non-parole period for the murder counts. In **State v Ashwin Chand**, Criminal Case No. HAC 032 of 2005, High Court, Lautoka, on a count of murder, the accused was given a non-parole period of 22 years. In **State v Navau Lebobu**, Criminal Case No. HAC 016 of 2002, High Court, Suva, the non-parole period was 20 years. Twenty years non-parole period were also imposed in the following three cases: **State v Anesh Ram**, Criminal Case*

No. HAC 124 of 2008S, High Court, Suva; The State v Bharat Lal & Others, Criminal Case No. HAC 061 of 2009S, High Court, Suva; The State v Balekivuya, Criminal Case No. 095 of 2010S, High Court, Suva. In State v Tukana, Criminal Case No. HAC 021 of 2009, High Court, Lautoka, the non-parole period was 11 years. The non-parole period imposed will depend on the mitigating and aggravating factors.

8. Aggravating factors;

- (i) Use of a weapon
- (ii) Nature of injuries on the deceased
- (iii) The deceased was your de-facto wife
- (iv) You have shown no remorse for your conduct.

9. Mitigating circumstances:

- (i) You are first offender at the age of 50 years
- (ii) You were in remand from 9.12.2012 to 8.8.2013 for a period of 8 months.

10. After weighing the aggravating factors against the mitigating circumstances of this case, I fix a non-parole period of 20 years acting under Section 18 (1) of the Sentencing and Penalties Decree.

11. Therefore you are sentenced for life imprisonment and not eligible for parole till completing 20 years imprisonment.

12. 30 days to appeal to Court of Appeal.



  
Sudharshana De Silva  
**JUDGE**

At Lautoka  
08<sup>th</sup> October 2014

Solicitors: Office of the Director of Public Prosecution for State  
Legal Aid Commission for Accused