

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 028 OF 2013LAB

STATE

VS

SUREND CHAND

Counsel : **Ms. P. Low for State**
Mr. A. Sen for Accused

Hearings : **24, 25, 26, 27 and 28 November, 2014**


Summing Up : **1 December, 2014**

Judgment : **1 December, 2014**

JUDGMENT

1. The three assessors have returned with a mixed verdict. Two of the assessors (i.e. Assessors No. 1 and 3) have found the accused not guilty of murder, but guilty of the lesser offence of manslaughter. One assessor (i.e. Assessor No. 2) had found the accused guilty of murder.

2. Obviously, the majority had not accepted the prosecution's version of events on the murder charge; although the minority accepted the prosecution's version of events.
3. The verdict of the majority and the minority are not perverse. It was open to them to reach such conclusion on the evidence.
4. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I gave the assessors today.
5. Assessors are there to assist the trial judge come to a conclusion on the guilt or otherwise, of the accused. I have decided to accept the majority view, being the voice of the majority of the assessors. I find that the accused is not guilty of murder, but guilty of the lesser offence of manslaughter. It would appear that the defence had succeeded on the defence of provocation and I accept the same, being the possible view of the majority assessors.
6. Given the above, I find the prosecution had not proven its murder case against the accused beyond a reasonable doubt and I find him not guilty as charged for murder and acquit him accordingly.
7. However, I find him guilty of the lesser offence of manslaughter and I convict him accordingly.
8. Assessors thanked and excused.


Salesi Temo
JUDGE



Solicitor for the State : **Office of the Director of Public Prosecution, Labasa.**
Solicitor for the Accused : **Maqbool & Company, Solicitor, Labasa.**