

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 246 OF 2012S

STATE

VS

VERAMU DIKIDIKILATI

Counsels : Mr. M. Vosawale for State  
Mr. M. Fesaitu for Accused

Summing Up : 9 October, 2014

Judgment : 9 October, 2014

Sentence : 30 December, 2014

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SENTENCE

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1. On 9 October, 2014, in a judgment delivered by the court, you were found guilty and convicted on the following information:

**Statement of Offence**

**ACT WITH INTENT TO CAUSE GRIEVOUS HARM:** *Contrary to section 255 (a) of the Crimes Decree No. 44 of 2009.*

**Particulars of Offence**

**VERAMU DIKIDIKILATI** on the 29th day of May, 2012 at Nasinu in the Central Division, unlawfully wounded one Salote Yalimawai by stabbing Salote Yalimawai with a kitchen knife thereby causing Salote Yalimawai grievous harm.

2. The brief facts were as follows. On 29 May 2012, the female complainant was 42 years old, married with two children, aged 20 and 13 years old. At about 7pm on 29 May 2012, the complainant, her husband and children were watching TV in their home at Nasinu. Their main door was open, and the complainant was sitting next to it. Suddenly, out of the blue, someone came and stabbed her on the left side, below her chest. Blood poured out of the wound. It was the accused who stabbed her. He later fled the crime scene. The complainant was rushed to CWM Hospital, and was hospitalized for 3 days. She suffered 2% damage to her kidney. The injury had affected her quality of life to this day.
  
3. In **State v Maba Mokubula**, Criminal Appeal No. HAA 0052 of 2003S, Her Ladyship Madam Justice N. Shameem had reviewed several Court of Appeal and High Court cases, on the offence and said as follows:

**“...On the basis of these authorities, the tariff for sentences under section 224 of Penal Code, is between 6 months imprisonment to 5 years imprisonment. In a case of an attack by a weapon, the starting point should range from 2 years imprisonment to 5 years, depending on the nature of the weapon. Aggravating factors would be:**

- 1. Seriousness of the injuries;**
- 2. Evidence of premeditation or planning;**
- 3. Length and nature of the attack;**
- 4. Special vulnerability of the victim;**

**Mitigating factors would be:**

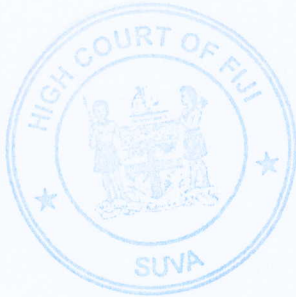
- 1. Previous good character;**
- 2. Guilty plea;**
- 3. Provocation by the victim;**
- 4. Apology, reparation or compensation.**

**In general terms, the more serious and permanent the injuries, the higher the sentence should be. As a matter of principle, a suspended sentence is not appropriate for a case of act with intent to cause grievous harm not only because it is contrary to the accepted tariff, but also because section 29(3)(a) of the Penal Code contains a**

**legislative fetter to the section 29 powers to impose a suspended sentence for crimes of violence (DPP –v- Saviriano Radovu Crim. App. No. HAA0006 of 1996; State –v- Senitiki Naga and Others Crim. App. No. HAA0023 of 2003S)...”**

4. I would hold that Her Ladyship Madam Justice N. Shameem’s view abovementioned, also applied to section 255 (a) of the Crimes Decree 2009.
  
5. The aggravating factors, in this case were as follows:
  - (i) This was an unprovoked attack by you on the complainant, who was watching TV in the comfort of her sitting room. She was watching TV, with her family, in the peace and quiet of her sitting room. By stabbing her with a knife, you showed utter disregard to her right to personal safety, and her right to undisturbed comfort of her home;
  
  - (ii) Your offending caused serious injuries to the complainant, necessitating surgery and a 3 days stay at CWM Hospital. Her kidney is now 2% damage, and her quality of life had been greatly affected , while you still enjoyed your uninjured kidney;
  
  - (iii) Your offending had caused the complainant to fear being alone in her own house, because of the experience, and she feels vulnerable in the same.
  
6. The mitigating factors were as follows:
  - (i) At the age of 32 years, this is your first offence;
  
  - (ii) You have been remanded in custody since 1 October 2012, that is, 2 years 2 months 29 days ago.
  
7. I start with a sentence of 4 years imprisonment. I add 3 years for the aggravating factors, making a total of 7 years imprisonment. I deduct 2 years 3 months for the time spent on remand in custody, leaving a balance of 4 years 9 months. I deduct another 9 months given that he is a first offender, leaving a balance of 4 years imprisonment.

8. Mr. Veramu Dikidikilati, for stabbing Salote Yalimaiwai on 29 May 2012, with intent to cause her grievous harm, I sentence you to 4 years imprisonment, with a non-parole period of 3 years imprisonment, effective forthwith.



**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**  
**Solicitor for the Accused** : **Legal Aid Commission, Suva.**