

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC. 274 of 2015

BETWEEN: STATE

PROSECUTION

AND: CHARLES RONIL BHAN

ACCUSED PERSON

Counsel: Ms. D. Kumar for State
Mr. M. Yunus for Accused

Sentence: 28th April 2016

S E N T E N C E

1. Charles Ronil Bhan, you were charged with one count of Murder and one count of Theft.

Count 1

Statement of Offence

MURDER: Contrary to Section 237 of the Crimes Decree 2009.

Particulars of Offence

CHARLES RONIL BHAN on the 15th day of August, 2015 at Tamavua, Suva, in the Central Division, murdered **LUI RAMLOO RAMAN**.

Count 2

Statement of Offence

THEFT: Contrary to Section 291 (1) of the Crimes Decree 2009.

Particulars of Offence

CHARLES RONIL BHAN on the 15th day of August, 2015 at Tamavua, Suva, in the Central Division, dishonestly appropriated a Skyworth brand TV worth \$777 and a Phillips brand home theatre system worth \$200, the property of **SONIA KAMAL**, with the intent to permanently deprive **SONIA KAMAL** of her property.

2. You pleaded guilty to both counts 1 and 2 and admitted the summary of facts as submitted by State. Having being satisfied that you pleading guilty on both count 1 and 2 to be unequivocal, you were convicted by this Court of both counts.
3. The brief facts of the case you admitted are; that you were a Carpenter living in Rifle Range, Lautoka. You are 29 years old. The deceased is the father of the complainant Sonia Kamal. They were living in Sakoca Settlement, Tamavua, Suva.
4. In August 2015, you came to Suva in search of employment. Through the assistance of a church member, you were provided accommodation in complainant's house and you secured employment in Suva.
5. On 14/08/2015 night you did not come to the complainant's house. On 15/08/2015 complainant left for work at about 7am leaving her father Lui Ramloo Raman at home.

6. After consuming alcohol you came to Sakoca at about 8am. When you returned to the house, the deceased questioned you about why you were drinking whole night. He was holding a stick and he slowly hit you with it. Then you punched the deceased and pulled him to complainant's bedroom and punched him again several times. The deceased fell on the bed face up. Then you climbed on the deceased and punched him again several times on the face and the neck. You saw the blood coming out of the deceased's mouth.
7. Then you went and brought a taxi and you stole the Television and the home theatre system which belonged to the complainant. You then pawned the Television at a pawn shop and the home theatre system was given to the taxi driver in lieu of the fare. Both items were later recovered by police.
8. You were 29 years old and the deceased was 87 years old.
9. The post mortem examination was conducted at CWM hospital and the cause of death opined by the pathologist was 'death due to injuries to the deceased's face that led to the accumulation of blood in his mouth and down to his throat which ultimately resulted in him choking to death.'
10. In terms of section 237 of the Crimes Decree 2009, penalty for murder is mandatory sentence of imprisonment for life with a judicial discretion to set a minimum term to be served before pardon may be considered.
11. Therefore I sentence you to imprisonment for life on count no. 1.

12. Now I will consider the minimum term you have to serve before pardon may be considered.
13. In case of Mesulame Waqabaca and Tiko Uate v. State *Criminal Appeal No. AAU 0063 of 2010 (3 December 2015)* where the accused persons were convicted for murder by punching the victim to commit robbery after consuming alcohol, was sentenced to imprisonment for life with the minimum period of 14 years and 12 years respectively to be served by 1st and 2nd accused persons.
14. The minimum term to be served before pardon will depend on the circumstances of each case. The court will take the aggravating and mitigating factors into consideration including the nature of the offence and the danger which the accused might pose to the community if released.
15. In this case the aggravating factors are, that you breached the trust reposed on you by the deceased and his daughter who is the complainant when you were provided with accommodation at their house.
16. The mitigating factors are that you are a first offender. You co-operated with the police. You are 29 years old and married with a kid. You pleaded guilty at the first available opportunity and that you are remorseful.

17. Considering the above I fix 12 years as the minimum period you have to serve before pardon may be considered.
18. Maximum penalty prescribed for Theft in section 291 of the Crimes Decree 2009 is imprisonment for 10 years. Tariff for Theft is between 2 and 9 months for the 1st conviction. **Vakarauvanua v. The State** [2004] FJHC 116.
19. In case of State of **Maikeli Seru** HAC 426 of 2012 [6 July 2015] sentencing the accused, Justice Wengappuli said in paragraph (7):

(7) "In relation to the offence of Theft, the sentencing tariff is set between 2 to 9 months by the judgment of **Vakarauvanua v. The State** [2004] FJHC 116, and only on a second conviction, a sentence in excess of 9 months can be considered. In laying down the tariff, it had considered the following considerations and precedents, which could be utilized in respect of sentencing offenders who are punished for repeated offences. *"The tariff for a first conviction for simple larceny is 2-9 months imprisonment (Ronald Vikash Singh v. State HAA0035 of 2002, and Josevata Taucilagi v. The State Crim. App. No. HAA0096 of 2002S). On a second conviction, a sentence in excess of 9 months imprisonment (the length being dependent on the value of the goods stolen and the circumstances of the stealing) is appropriate. Suspension should be considered for first offenders especially in cases of petty theft."*

20. Aggravating factors and the mitigating factors are the same as above. An additional mitigating factor would be that the stolen goods were recovered when you cooperated with the police.
21. Taking into consideration the above aggravating and mitigating factors I sentence you to 9 months imprisonment for the offence of theft in Count No. 2.
22. Your final sentence is:

Count No. 1 – Imprisonment for life with a minimum period of 12 years to be served before pardon may be considered.

Count No. 2 – 9 months imprisonment.

Both sentences in Count No. 1 and 2 are to run concurrently.



Priyantha Fernando
Judge

At Suva

28th April 2016

Solicitors

Office of the Director of Public Prosecutions for the State
Office of the Legal Aid Commission for Accused