

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 249 of 2019

BETWEEN: STATE

PROSECUTION

A N D: SULIASI FUATA

ACCUSED PERSON

Counsel : Ms. E. Rice for the State
: Mr. R. Vananalagi for Accused

Date of Sentence : 31st October 2019

SENTENCE

1. Mr. Suliasi Fuata, you are being charged with one count of Murder, contrary to Section 237 of the Crimes Act, which carries a mandatory sentence of imprisonment of life, with a judicial discretion to set a minimum term to be served before pardon may be considered. The particulars of the offence are that:

Statement of Offence

MURDER: *Contrary to Section 237 of the Crimes Act of 2009.*

Particulars of Offence

SULIASI FUATA on the 28th day of June 2019, at Nasinu in the Central Division, murdered SALANIETA LEB.

2. You pleaded guilty to the offence on the 22nd of August 2019. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict you to this offence of Murder.
3. According to the summary of facts, which you admitted in open court, you were in a *de facto* relationship with the deceased. You came to your home at Colo-i-Suva on the 28th of June 2019, at around 8 and 9 p.m. with the deceased. Your mother and the sister who is 12 years old were at home. You started to argue with the deceased over an issue pertaining to her facebook account. Your mother tried to intervene and advised you to stop the argument. However, you continued with your arguments and asked your mother to give her mobile phone, so the deceased can show you the facebook account of her. However, your mother refused to give her mobile phone and she went away. You then took a dagger knife and stabbed her on her back. According to the post-mortem report, the Doctor has found 8 main stab wounds. They were deep open wounds to the back. Six of the wounds indicated that the knife had gone through the heart. Five of the stab wounds were noted to the lungs. The deceased was pronounced dead when she was admitted to the hospital.
4. The punishment for the offence of Murder is a mandatory sentence of imprisonment of life. However, the sentencing court has been given a judicial discretion to set a minimum term to be served before pardon may be considered. In order to set a minimum term to be served for the offence of Murder, the court is required to consider the level of culpability, level of harm, aggravating factors and mitigating circumstances of the crime. Murders which are brutally carried out without any form of remorse or respect to human life must be given longer minimum period.
5. According to the summary of facts, the deceased had pleaded you not to cut her ear and asked forgiveness. However, you have stabbed her several times on her back. Six of those stabbing had gone through her heart and five of them had gone to the lungs which indicate the force that you have used to stab your *de facto* partner. She was in a position where she could not escape or seek for help. This is not a pre-planned murder. Accordingly, I find the level of harm and culpability in this matter are substantially high.

6. By killing your *de-facto* partner in this brutal manner, you have breached the trust that she had in you as her partner. Just because she was your *de-facto* partner, she had not surrendered her personal autonomy to you. Therefore, you were not in a position to control every aspects of her life. The reason for this killing was a very trivial issue. You brutally killed her due to the certain interactions of the deceased on social media. You have stabbed and killed the deceased when your twelve years old sister was witnessing this tragic ordeal. I find these reasons as aggravating factors.
7. You are a 21 years old young first offender. You pleaded guilty to this offence at the first available opportunity. I consider your young age, previous good character and early plea of guilty in your favour.
8. Having taken into consideration the level of culpability and harm, the aggravating factors and mitigation factors, I fix a period of eighteen (18) years of imprisonment as the minimum term to be served before pardon may be considered.
9. Accordingly, Mr. Suliasi Fuata, I sentence you to a period of imprisonment of life to the offence of Murder, contrary to Sections 237 of the Crimes Act with a minimum term of eighteen (18) years before being considered for any pardon.
10. Thirty (30) days to appeal to the Fiji Court of Appeal.




R.D.R.T. Rajasinghe
Judge

At Suva

31st October 2019

Solicitors

Office of the Director of Public Prosecutions for the State.
R Vananalagi & Associates for the Defence.