

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 129 of 2014

STATE

V

PENIASI CEDRECA SUKANAKONIFEREDI

Ms. S. Navia with **Ms. S. Naibe** and **Ms. P. Lata** for the State
Mr. E. Sailo with **Mr A. Turuva** for the accused.

Dates of Trial : 13, 14, 18, 19 February 2019
Date of Summing up : 19 February 2019
Date of Judgment : 20 February 2019

JUDGMENT

1.] The accused was tried before me and three assessors on the following three counts:

Count 1

Unlawful possession of Illicit Drugs: *Contrary to section 5 (a) of the Illicit Drugs control Act 2004.*

Particulars of Offence

PENIASI SUKANAKONIFEREDI on the 22nd day of March 2014 at Nadi in the Western Division, without lawful authority, was found in possession of illicit drugs, namely methamphetamine, weighing 4.653 kilograms.

Count 2

Unlawful Possession of Control Chemical: *Contrary to section 6 (b) of the illicit Drugs Control Act 2004.*

Particulars of Offence

PENIASI SUKANAKONIFEREDI on the 22nd day of March 2014 at Nadi in the Western Division, without lawful authority, was found in possession of a controlled chemical namely, pseudoephedrine, weighing 1.989 kilograms and being reckless as to whether that chemical is to be used in or for the commission of an offence.

Count 3

Unlawful Possession of Control Equipment: *Contrary to section 6 (b) of the Illicit Drugs Control Act 2004.*

Particulars of Offence

PENIASI SUKANAKONIFEREDI on the 22nd day of March 2014 at Nadi in the Western Division, without lawful authority, was found in possession of controlled equipment namely, a single punch tablet press machine, and was reckless as to whether that equipment is to be used in or for the commission of an offence.

- 2.] Evidence was led by the Prosecution in two parts. The first to establish the connection between the accused and the offending items seized and secondly as to the forensic analysis of those items. The seizures were taken from the premises of a company called Energy Supplements Fiji Ltd, located in the vicinity of Nadi Airport. At the time, the accused was a Director of the Company and had sole charge of the office premises which contained the items. These items included tablets, creams, powders, and a controlled chemical along with an item of controlled equipment. He was well aware of the existence of all these items because he took the Police there to show them.

- 3.] His custody and control over the seizures was evidenced by his sole presence operating the "business", his custody of the only key to open the office door, his status as director and being the sole signatory to the company bank account.
- 4.] The evidence of his custody and control was overwhelming.
- 5.] That being the case, the presumptions provide for in the Illicit Drugs Act 2004 came into effect. He was deemed to be in possession and deemed to know the nature of the products.
- 6.] The defence ran the only defence available to them; that is that he was a mere employee and did not have custody nor control. This was unsurprisingly not accepted by the assessors.
- 7.] The forensic analysis was conducted comprehensively and thoroughly and the results were presented in Court in a professional manner. The prosecution competently completed the chain of evidence in relation to the exhibits.
- 8.] The three assessors returned with unanimous opinions of guilty on each of the three counts. This Court agrees with those opinions and finds the accused guilty on each count. He is convicted of each count accordingly.
- 9.] That is the Judgment of the Court.



P.K. Madigan

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P.K. Madigan

Judge

20th February 2019
At High Court Lautoka