

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 299 OF 2017S

STATE

Vs

1. TARAIASI WAQA RABUKU
2. ILAITIA SARAI
3. LORIMA KOROITAMANA

Counsels : Mr. E. Samisoni for State
Mr. R. Matebalavu for Accused No. 1.
Accused No. 2 in Person, but tried in absentia.
Ms. T. Kean and Ms. A. Prakash for Accused No. 3

Hearings : 6,7,8,9 and 10 May, 2019.

Summing Up : 13 May, 2019.

Judgment : 13 May, 2019.

Sentence : 14 May, 2019.

SENTENCE

1. In a judgment delivered yesterday, the court found you two guilty and convicted you two on the following counts in the following information:

"Count 1

Statement of Offence

AGGRAVATED ROBBERY: *Contrary to section 311 (1) (a) of the Crimes Act 2009.*

Particulars of Offence

ILAITIA SARAI, LORIMA KOROITAMANA with others on the 25th September, 2017 at Sports City, Suva in the Central Division, in the company of each other, robbed ROSELINE MUDALIAR of USD\$50.00, GBP\$600.00, AUD\$195.00, NZ\$455.00, FJD\$2,921.50 and 3x blank cheques valued at FJD\$4,221.50, the property of REAL FOREX EXCHANGE OFFICE.

Count 2

Statement of Offence

AGGRAVATED ROBBERY: *Contrary to section 311 (1) (a) of the Crimes Act 2009.*

Particulars of Offence

ILAITIA SARAI, LORIMA KOROITAMANA with others on the 25th September, 2017 at Sports City, Suva in the Central Division, in the company of each other, robbed ROSELINE MUDALIAR of a handbag and FJD\$500.00 cash, the property of ROSELINE MUDALIAR.

2. The brief facts were as follows. The female complainant was Ms. Roseline Mudaliar (PW1). She was on 25 September 2017 employed as a teller for Real Forex Exchange Office at Sports City, Suva in the Central Division. At 8.30 am, she opened the main door of the Real Forex Exchange Office at Sports City. She had just started work. She then went into her office, which was separated from the customer area by a counter and glass partition. Suddenly Accused No. 2 and 3 came through the main office door. Another two were on guard outside the office.
3. Accused No. 3 climbed over the counter and glass partition, and went into PW1's office. He opened the office door, and let Accused No. 2 into the same. The two then threatened PW1 not to raise the alarm, or they will kill her. They demanded money. They punched PW1 on the head and back. They then forced PW1 to open the office's safe. The two then stole the items mentioned in count no. 1 from the office safe. They also stole PW1's

properties as itemized in count no. 2. The two then fled the crime scene, with the others outside the office.

4. The matter was reported to police. An investigation was carried out. The two accuseds were arrested. They were interviewed by police. Both were later charged with aggravated robberies. They had been tried and convicted of count no 1 and 2 in the High Court.
5. "Aggravated Robbery", as a criminal offence, is viewed seriously by the law-makers of this country, and it carried a maximum sentence of 20 years imprisonment. For a spate of robberies, the tariff is a sentence between 10 to 16 years imprisonment: see Livai Nawalu v The State, Criminal Appeal No. CAV 0012 of 2012, Supreme Court of Fiji. With a single case of aggravated robbery, the tariff is now a sentence between 8 to 16 years imprisonment: see Wallace Wise v The State, Criminal Appeal No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.
6. The aggravating factors, in this case, were as follows:
 - (i) **A cowardly attack on a Foreign Exchange Teller.** Ms. Roseline Mudaliar (PW1) happily started work as a teller for Real Forex Exchange Office on 25 September 2017 in her office at 8.30 am. She was alone in her office. You two and two other friends confronted her in the office. In numbers, you two subdued her by threats and intimidation. You two even went so far and punched her on the head and back. This was a cowardly attack on an unarmed female worker going about her lawful business. You must realize that the court will not tolerate such cowardly behavior. You will have to serve a prison term to persuade you to strive for other more worthy endeavors, rather than criminal activities.
 - (ii) You two caused injuries to the complainant. Because of your offendings, the complainant (PW1) was medically examined and treated on the same day, that is, 25 September 2017. I refer to her medical report, which was tendered as Prosecution Exhibit No. 1.

(iii) By offending against the female complainant, you two showed no regard to her right as a human being, her right not to be harmed, her right to a peaceful and happy life and her right to enjoy her properties that you stole from her. You two also showed no regards to Real Forex Exchange Office's property rights when you stole their properties, as itemized in count no. 1.

7. The mitigating factors were, follows:

- (i) For Accused No. 2, the record showed you were remanded in custody for 25 days, until you absconded from this case;
- (ii) For Accused No. 3, the record showed you had been remanded in custody for a total of 2 months 8 days. You also absconded from 10 September 2018 until 6 May 2019.

8. On count no.1, for both of you, I start with a sentence of 10 years imprisonment. I add 3 years for the aggravating factors, making a total of 13 years imprisonment. For time already served while been remanded in custody, I deduct 1 year from the 13 years, leaving a balance of 12 years imprisonment. On count no. 1, I sentence each of you to 12 years imprisonment.

9. On count no. 2, I repeat the above process and sentence.

10. The summary of you two's sentence are as follows:

- (i) Count No. 1: Aggravated Robbery: Accused No. 2 – 12 years imprisonment
Accused No. 3 – 12 years imprisonment
- (ii) Count No. 2: Aggravated Robbery: Accused No. 2 – 12 years imprisonment
Accused No. 3 – 12 years imprisonment

11. Because of the totality principle of sentencing, I direct that the above sentences be made concurrent to each other, making the total sentence for each Accused a final sentence of 12 years imprisonment.
12. Mr. Ilaitia Sarai (Accused No. 2) and Mr. Lorima Koroitamana (Accused No. 3), for the two aggravated robberies you two committed against Ms. Roseline Mudaliar (PW1) on 25 September 2017 at Real Forex Exchange Office, Sports City, Suva in the Central Division, I sentence each of you to 12 years imprisonment each, with a non-parole period of 11 years imprisonment, effective forthwith.
13. For Mr. Ilaitia Sarai (Accused No. 2), the above sentence is to take effect and start from the day you are arrested by police.
14. Pursuant to Section 4 (1) of the Sentencing and Penalties Act 2009, the above sentence is designed to punish you two in a manner that is just in all the circumstances, to protect the community from people like you two, to deter other would be offenders and to signify that the court and the community denounce what you did to Ms. Roseline Mudaliar (PW1) on 25 September 2017 at Real Forex Exchange Office, Sports City, Suva.
15. You two have 30 days to appeal to the Court of Appeal.




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JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused No. 1: **R. Matebalavu, Barrister & Solicitor, Suva.**
Solicitor for the Accused No. 2: **In Person, but tried in absentia.**
Solicitor for the Accused No. 3: **Legal Aid Commission, Suva.**