

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**CASE NO.: HAC 17 OF 2019**

STATE

V

RATU KANITO MATAGASAU

Counsel: Ms. U. Tamanikaiyaroi for State

Ms. T. Kean with L. Naikawakawavesi for Defence

Date of Summing Up: 26 June 2019

Date of Judgment : 27 June 2019

**JUDGMENT**

1. The accused was charged with one count of Aggravated Robbery and tried before three assessors. The information reads as follows:

**Statement of Offence**

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

## Particulars of Offence

RATU KANITO MATAGASAU on the 31st day of December, 2018, at Suva in the Central Division, armed with a weapon namely a silver blade robbed SANJANA LATA of 1x Samsung S6 mobile phone, the property of said SANJANA LATA.

2. The Prosecution called two witnesses and, at the end of the Prosecution's case, the accused was put to his defence. The accused elected to give evidence under oath.
3. Having been directed by my Summing Up, the assessors, after a short deliberation, unanimously found the accused guilty of Aggravated Robbery as charged.
4. I reviewed evidence led in trial with my own Summing- Up. Having concurred with the opinion of the assessors I give my reasons as follows.
5. There is no dispute in this case as to the identity of the accused. The accused admits that he had snatched complainant's phone from her hand at around 2.30 am on the 31st December, 2018. He maintains that, after snatching the phone, he fled the scene without doing anything against the complainant.
6. The only dispute is whether the accused had used a silver blade on the complainant after he snatched the phone from the complainant.
7. The complainant gave clear evidence that when she was on the road at around 1.30 am, on 31st December, 2018, talking to her husband on her Samsung S6 mobile phone; a robber came from behind and snatched the phone. She further said that after snatching the phone, the robber pushed her to the ground and put a silver blade on her neck as she was trying to get up, asking for help.

8. The evidence given by the complainant is trustworthy and believable. She had no motive to lie to this court about a silver blade if it was not used on her. The complainant had no opportunity to notice the tattoo on accused's right hand if he had only snatched the phone on the spur of the moment and run away.
9. Soon after the alleged incident, the accused had been arrested and, upon a search on him, a silver blade was found in his possession. Accused does not deny that a silver blade was recovered from his pocket. He also admits that at the time of the offence he was aware that a silver blade was in his pocket. The complainant's description of the silver blade in her evidence matched perfectly well with the silver blade found in the possession of the accused and exhibited at the trial. The complainant positively identified the silver blade as the one used on her at the material time.
10. Inconsistencies highlighted by the Defence Counsel in my opinion are not material enough to discredit the version of the complainant. The minor inconsistencies between her evidence and those of her previous statements to police and doctor, did not affect the credibility of the complainant's evidence. She frankly admitted that she did not mention about the silver blade when she called the police soon after the incident. She cannot be expected to give the full details of the incident in a telephone call, made in urgency, which was meant to inform the police about a robbery. The complainant in her statement to police made thereafter at the police station had clearly mentioned that she was threatened with a silver blade before the phone was snatched. Although there is an inconsistency between complainant's previous statement and her evidence as to the moment at which the silver blade was put on her neck that did not affect the credibility of her version as she had been consistent on her evidence touching the use of a silver blade by the accused.
11. Accused's evidence that he was wearing his uncle's pants and that the silver blade was never used on the complainant was not believed by the assessors. I accept the version of the Prosecution on this particular point and reject that of the Defence.

12. The silver blade exhibited at trial is an offensive weapon within the meaning of the Crimes Act. The incident happened after midnight in an empty road. The phone was snatched from a lone young lady whilst she was talking to her husband. There is no doubt that snatching the phone from complainant's hand, which was admitted by the accused, itself constitutes 'use of force' within the meaning of the section.
13. After snatching the phone, the accused had put the silver blade on complainant's neck when she was trying to get up and cry for help. The accused, armed with an offensive weapon, has used force on the complainant with the intention of committing theft and also to escape from the crime scene. All elements of the offence of Aggravated Robbery are satisfied.
14. I accept the unanimous opinion of assessors and find the accused guilty of Aggravated Robbery. The accused is convicted accordingly as charged.
15. That is the judgment of this Court.

A handwritten signature in black ink, appearing to read "Aruna Aluthge". Below the signature, the name "Aruna Aluthge" and the title "Judge" are printed in a black serif font.

Aruna Aluthge  
Judge

At Suva  
27th June 2019

**Counsel:** Office of the Director of Public Prosecution for Prosecution  
Office of the Legal Aid Commission for Accused