

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

**Crim. Case No: HAC 85 of 2018**

STATE

vs.

1. EREMASI RINASAU
2. TIMOCI SORO

**Counsel:** Ms. W. Elo for the State  
Mr. K. Chang for Accused 1  
Ms. N. Mishra with Ms. M. Singh for Accused 2

**Date of Hearing:** 02<sup>nd</sup> and 03<sup>rd</sup> July 2019

**Date of Ruling:** 03<sup>rd</sup> July 2019

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**RULING**

**[On No Case to Answer]**

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1. The two accused are being charged with one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. The particulars of the offence are that:

*Statement of Offence*

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

*Particulars of Offence*

**EREMASI RINASAU** and **TIMOCI SORO** on the 17<sup>th</sup> day of February, 2018 at Nasinu in the Central Division, in the company of each other, robbed **ETIKA KAFOA** of 8 x Fiji Gold Beer Bottles valued at \$46.40 and 1 x Packet of Twisties Snack valued at \$3.80, all to the total value of \$50.20, the property of **ETIKA KAFOA**.

2. The hearing commenced on the 2nd of July 2019. The prosecution adduced the evidence of three witnesses. At the conclusion of the case of the prosecution, the learned counsel for defence made submissions pursuant to Section 231 (1) of the Criminal Procedure Act, stating there is no evidence presented by the prosecution to prove the two accused persons have committed the offence as charged in the information.

3. Section 231 (1) of the Criminal Procedure Act states that:

*“When the evidence of the witnesses of the prosecution has been concluded and after hearing ( if necessary) any arguments which the prosecution or the defence may desire to submit, the court shall record a finding of not guilty if it considers that there is no evidence that the accused person committed the offence.”*


4. In pursuant of Section 231 (1) of the Criminal Procedure Act, the court is required to satisfy whether there is some relevant and admissible evidence on each element of the offence as charged in the information.

5. The submissions of the defence is mainly founded on the ground that there is no evidence adduced by the prosecution linking the two accused to this alleged incident of robbery. The two victims of this alleged incident in their respective evidence did not identify the two accused as the two perpetrators who committed this crime to them. The third witness of the prosecution said in his evidence that he saw the two accused with a group of youths at the outside of the shop on the evening of 17th August 2018. They have then walked to the same

direction that the two victims walked in. However, he has not witnessed or seen this alleged incident.

6. The learned counsel for the prosecution in her submissions, conceded the fact there is no evidence of identification to link the two accused to this alleged incident.
7. Accordingly, I am satisfied that there is no evidence of identification of the two accused in order to link them to this offence of Aggravated Robbery. Therefore, I find the two accused not guilty of Aggravated Robbery as charged in the information pursuant to Section 231 (1) of the Criminal Procedure Act and acquit them for the same accordingly.
8. Thirty (30) days to appeal to the Fiji Court of Appeal.



  
R.D.R.T. Rajasinghe  
Judge

At Suva  
03<sup>rd</sup> July 2019

Solicitors  
Office of the Director of Public Prosecutions for the State.  
Office of the Legal Aid Commission for the 1st Accused.  
Office of the Legal Aid Commission for the 2<sup>nd</sup> Accused.