

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 28 of 2018

[CRIMINAL JURISDICTION]

STATE

V

SOKOWASA BULAVOU

Counsel : Ms. M. Choudhary for the State
Mr. K. Prasad for the Accused

Hearing on : 26 - 28 August 2019

Summing up on : 29 August 2019

Judgment on : 30 August 2019

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

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

Particulars of Offence

SOKOWASA BULAVOU with others, on the 14th of January, 2018, at Suva, in the Central Division, robbed one **ALVEEN HARAK** of his 1 x Samsung J2 black in color mobile phone valued at \$299.00 and a wallet containing \$186.00 in cash, Wespac ATM Card, FNPF Joint Card, FNU ID Card, Voters ID Card, E-Ticketing card, all to the total value of \$485.00 and at the time of such

robbery used personal violence on the said **ALVEEN HARAK**.

2. The assessors have returned with the unanimous opinion that the accused is guilty of the above offence.
3. I direct myself in accordance with the summing up delivered to the assessors on 29th August 2019 and the evidence adduced during the trial.
4. The prosecution led the evidence of four witness and the accused gave evidence in his defence evidence.
5. I accept the evidence of the complainant. Accordingly, I find that complainant's mobile phone and the wallet as described in the particulars of the offence were stolen on 14/01/18 and at the time of stealing the said properties, force was used on the complainant. Therefore, it is proven beyond reasonable doubt that the offence of robbery was committed.
6. Given the complainant's evidence that he saw a group of four individuals following him before the incident and the evidence of PW2 that he saw four boys trying to take something from the complainant's pockets which I accept, I am satisfied beyond reasonable doubt that the offence of robbery was committed by more than one person. Accordingly, the offence of aggravated robbery is established.
7. Now the question is whether the accused participated in committing this offence.
8. I am not satisfied that the prosecution had led sufficient evidence regarding the circumstances under which PW2 and PW3 identified the accused as the person who took the mobile phone or both the mobile phone and the wallet from the

complainant in line with the Turnbull Guidelines. Therefore, I would not rely on that evidence on identification.

9. According to the first and the second witnesses, the person who took (stole) the complainant's phone crossed the road with the phone and that person was arrested by a police officer on the other side of the road. This person threw the phone and it was recovered by another police officer. This phone which was thrown by the person and subsequently recovered, was identified by the complainant as his phone.
10. The accused himself admitted that he had the possession of a phone when he crossed the road though according to him, he did not realise it was a phone until he crossed the road. He admitted throwing the phone, but according to him, it was because he realised that it was not his phone. Fact remains that, based on the accused's own admission he was in possession of the phone stolen from the complainant, soon after it was stolen. The accused's explanation that he accidentally grabbed it from a person who was being searched by PW3 without realising that it is a phone owing to him being drunk at that time is highly improbable and it is not a reasonable explanation.
11. Based on these facts it is manifestly clear that the phone stolen from the complainant was found in the possession of the accused within a very short interval.
12. Therefore, in view of the doctrine of recent possession it could be inferred that the accused stole the said mobile phone from the complainant and accordingly, the accused participated in committing the offence of aggravated robbery.
13. I am satisfied that the inconsistencies that surfaced during the trial do not affect the said conclusion which is essentially based on the doctrine of recent possession.

14. All in all, I am satisfied beyond reasonable doubt that the accused is guilty of the offence as charged.
15. Therefore, I agree with the unanimous opinion of the assessors.
16. I hereby convict the accused for the offence of aggravated robbery as charged.



A handwritten signature in blue ink, appearing to read "Vinsent S. Perera".

Vinsent S. Perera

JUDGE

Solicitors;

Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Accused