

IN THE HIGH COURT OF FIJI
AT LAUTOKA
[CRIMINAL JURISDICTION]

High Court Criminal Case No. HAC 192 of 2015

BETWEEN : STATE

AND : GEETA DEVI

Counsel : Mr Tuenuku For the State
Ms Radrole and Ms N. Sharma For the Accused [LAC]

Dates of Hearing : 13, 14, 15 August 2019
Closing Speeches : 16 August 2019
Date of Summing Up : 19 August 2019
Date of Judgment : 29 August 2019

JUDGMENT

1. The Accused is indicted for murder contrary to Section 237 of the Crimes Act as per the first count in the Information filed by the Director of Public Prosecutions. The particulars of offence are as follows;

“Sundar Kaur and Geeta Devi on the 1st November 2015 at Sigatoka in the Western Division murdered Sanjini Lata.”

2. The second count is an alternative count for accessory after the fact of murder contrary to Section 238 of the Crimes Act. The alternative count will be considered only if the Accused is acquitted for the first count. Otherwise, I will not discuss the evidence in relation to the second count.
3. The trial against the Accused, Geeta Devi was commenced on 13 August 2019. The prosecution called six witnesses to prove the case against the Accused. After the prosecution case was closed the Accused chose to remain silent and no witnesses were called for the defence.
4. After the summing up the assessors returned with a unanimous opinion that the Accused is guilty to the first count of murder.
5. Having directed myself in accordance with the summing up I will now review the evidence to pronounce my judgment.
6. The prosecution relied on the principle of joint enterprise to prove the charge against the Accused. The assessors were given directions on joint enterprise, alternative charges, circumstantial evidence and other general considerations. Further the assessors were directed on the elements of murder as well as the elements of the alternative count of accessory after the fact to murder. I am satisfied that the assessors have followed those directions in considering the evidence adduced in this case.
7. The main witness for the prosecution was Koyal Radhika. According to her evidence her mother, Sundar Kaur had been assaulting the deceased in a room. The Accused had been inside the room in two occasions when the assault was taking place. Later the Accused had dragged the deceased out of the room. Koyal Radhika said that the deceased was still moving and was breathing heavily when she was dragged outside by the Accused. The prosecution evidence reveals that the Accused later burnt the deceased. Although Koyal Radhika was cross examined at length by the defence, her credibility could not be shaken. Her evidence was consistent, and I do not have any reason to

disbelieve her. I am satisfied that Koyal Radhika's evidence is credible and reliable.

8. The prosecution further relied on the caution interview statement of the Accused. The Accused has admitted in the caution interview that she burnt the body of the deceased and later the remains were disposed in a septic tank. The assessors were given directions on how to consider the caution interview and what weight should be attached to a mixed statement.
9. According to the evidence given by the pathologist the cause of death is not ascertained. Therefore, it was not established what caused the death or at what point of time the deceased, Sanjini Lata died. However, the prosecution presented solid evidence that when the deceased was dragged out of the house by the Accused, she was still alive and later she was burnt by the Accused. Further the prosecution adduced evidence that the remains which were found in the septic tank were of the deceased according to DNA analysis.
10. The position of the defence was that the Accused did not take part in the assault and she only intervened to revive the deceased. However, the defence did not deny that the Accused took part in burning the body of the deceased. I am not inclined to believe that the Accused made attempts to revive the deceased as Koyal Radhika's evidence suggests that the deceased was just left in the bathroom by the Accused.
11. In any event the defence could not create any reasonable doubt in the prosecution case. The prosecution adduced reliable and credible evidence in respect of all the elements of the offence of murder.
12. I am of the view that the unanimous opinion of the assessors is justifiable, and I am satisfied that they had enough reasons to reach that conclusion. Therefore, I concur with their unanimous opinion.

13. In the circumstances I decide that the prosecution proved beyond reasonable doubt that the Accused is guilty of the first count of murder.

14. Accordingly, I find the Accused guilty to the first count and she is convicted for the offence of murder.



Rangajeeva Wimalasena
Acting Judge

Solicitors

Solicitors for the State: Office of the Director of Public Prosecutions

Solicitors for the Accused: Office of the Legal Aid Commission