

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

**CASE NO: HAC. 160 of 2020**

**[CRIMINAL JURISDICTION]**

**STATE**

**V**

**SANJAY LAKHAN**

**Counsel** : Mr. N. Sharma for the State  
Mr. A. Singh for the Accused

**Hearing on** : 09 – 13 November 2020

**Summing up on** : 19 November 2020

**Judgment on** : 20 November 2020

**JUDGMENT**

1. The accused is charged with the following offences;

**FIRST COUNT**

*Statement of Offence*

**Act With Intent To Cause Grievious Harm:** contrary to Section 255 (a) of the Crimes Act 2009.

*Particulars of Offence*

**SANJAY LAKHAN**, on the 19<sup>th</sup> day of May, 2020 at Bau Road, Nausori in the Eastern Division, with the intent to cause grievous harm to **VIKASHNI DEVI**, unlawfully wounded the said **VIKASHNI DEVI** with a cane knife.

**SECOND COUNT**

*Statement of Offence*

**Act With Intent To Cause Grievious Harm:** contrary to Section 255 (a)

of the Crimes Act 2009.

*Particulars of Offence*

**SANJAY LAKHAN**, on the 19<sup>th</sup> day of May, 2020 at Bau Road, Nausori in the Eastern Division, with the intent to cause grievous harm to **RD**, unlawfully wounded the said **RD** with a cane knife.


2. The assessors have returned with the unanimous opinion that the accused is guilty of both counts as charged.
3. I direct myself in accordance with the summing up delivered to the assessors on 19/11/20 and the evidence adduced during the trial.
4. The prosecution led the evidence of three witnesses. The accused gave evidence and called one witness in his defence.
5. The defence did not contest the fact that PW1 and PW2 were wounded by the accused, but took up the position that his conduct that led to wounding PW1 and PW2 was involuntary. The defence raised in this case was similar to what is termed as the defence of sane automatism due to a psychological blow. The defence counsel made it clear during the discussions that the defence in this case is not raised in terms of the provisions of section 28 of the Crimes Act. Thus, the accused only had an evidential burden to discharge in respect of the said defence.
6. It was the position of the defence that the accused was very angry, 'out of his mind' and heartbroken after he saw his wife PW1 with another man ('policeman') in his house in the early morning on 18/04/20 and thereafter, from the day he allowed PW1 and PW2 to come back into the house he was ill-treated by PW1 and PW2 throughout, and finally on 19/05/20 when PW1 denied talking to the said 'policeman' when he confronted PW1 after hearing the conversation between the two over the phone that morning and being assaulted by PW2, he was hurt, he was 'very stressed' and 'his brain went crazy' and from there on, his actions were involuntary. It was noted that the accused did not take up the

position that he acted out of anger. It was clear that provocation is not a defence available for this offence of act with intent to cause grievous harm.

7. Having considered all the evidence led in this case, especially the evidence of DW2, it was clear that both PW1 and PW2 lied in court when they denied the accused's version with regard to what took place in the early morning on 18/04/20 and from thereon until 19/05/20. However, I accept the evidence of PW1 and PW2 in relation to how they were wounded by the accused on 19/05/20. The reason for PW1 not to admit the extra marital affair she had, can be understood and her denial of the said fact does not affect the credibility and the reliability of her evidence as to how the accused attacked her and PW2 on 19/05/20. Same applies in relation to the evidence of PW2. In fact, the evidence raised by the accused regarding the said affair was helpful to see the whole picture.
8. I am unable to accept the accused's version that he wounded PW1 and PW2 unconsciously to be probable given the totality of the evidence. I am satisfied beyond reasonable doubt that the conduct in question of the accused on 19/05/20 was voluntary. The accused had clarity of mind to remember where the cane knife was kept and to go to PW2's room and to take it from underneath the mattress after the event he claims that made his 'brain go crazy'. It is clear that he had made a conscious decision in selecting the weapon he used to inflict the wounds on PW1 and PW2. Given the conversation he had in between, it is clear that the accused was conscious of what he was doing.
9. Considering all the relevant circumstances including the manner in which PW1 was wounded by the accused and the nature of the injuries sustained by PW1, I am satisfied beyond reasonable doubt that the accused unlawfully wounded PW1 with the intention to do grievous harm to PW1.

10. Moreover, considering all the relevant circumstances including the manner in which PW2 who was 14 years old was wounded by the accused and the nature of the injuries sustained by PW2, I am satisfied beyond reasonable doubt that the accused unlawfully wounded PW2 with the intention to do grievous harm to PW2.
11. Thus, I agree with the unanimous opinion of the assessors that the accused is guilty of both counts.
12. I would therefore find the accused guilty of the first and the second counts and hereby convict him accordingly.



  
Vinsent S. Perera  
JUDGE

**Solicitors;**

**Office of the Director of Public Prosecutions for the State  
Anil J. Singh Lawyers for the Accused**