

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

**CRIMINAL CASE NO. HAC 017 of 2018**

**STATE**

**V**

**ARJUN**

**Counsel:** Ms Latu for the State.  
Ms Nettles /Mr. Kaloulasulasu for the Accused

**Date of Hearing:** 14 December, 2020

**Date of Summing Up:** 15 December, 2020

**Date of Judgment:** 15 December, 2020

---

**JUDGMENT**

---

1. The accused has been charged with one count of Attempted Murder, contrary to Section 44 (1) and 237 of the Crimes Act and one count of Criminal Intimidation, contrary to Section 375 (1) (a) (i) and (iv) of the Crimes Act. The particulars of the offences are that;

*Particular of Offence.*

**FIRST COUNT**

**ATTEMPTED MURDER:** *Contrary to section 44 (1) and 237 of the Crimes Act 2009, ARJUN, on the 13<sup>th</sup> day of January 2018 at Tauvegavega, Ba in the Western Division, attempted to murder SASHI KALA.*

**SECOND COUNT**

*Statement of Offence*

**CRIMINAL INTIMIDATION:** *Contrary to section 375 (1), (a), (i) and (iv) of the Crimes Act 2009.*

***Particulars of Offence***

*ARJUN, on the 13<sup>th</sup> day of January 2018 at Tauvegavega Ba in the Western Division, without lawful excuse, threatened ASHNA with a cane knife with intent to cause alarm to the said ASHNA.*

2. The hearing of this matter commenced on the 14<sup>th</sup> of December 2020 and concluded on the same day. The Prosecution presented the evidence of three witnesses and tendered two exhibits in evidence. The accused opted to exercise his right to remain silent, hence adduce no evidence for the defence. Subsequently, the counsel for the Prosecution and the Defence made their respective closing addresses. I then delivered the summing up. The three assessors, in their unanimous opinions, found the accused guilty of each offence.
3. Having carefully considered the evidence adduced during the hearing, the closing addresses of the parties, the summing up, and the three assessors' opinions, I now proceed to pronounce my judgment as follows.
4. The complainant in her evidence explained the incident that took place in the kitchen of Ashna's home on the 13<sup>th</sup> of January 2018. The accused had come from her behind when she was making tea in the kitchen. He had then struck her with a knife on her head, causing a laceration of 8 to 9 cm in length and 3 cm deep. He had then assaulted her with the same knife, causing further injuries on her chin

and fingers. The complainant said the accused had told her that he would kill her and he is not scared of the police when he was assaulting her with the knife.

5. Doctor Solei, in her evidence, explained the nature of the injuries she found in the complainant. She further explained the severity of those injuries. If the complainant were not taken to Lautoka Hospital for surgical intervention, she would have died due to those injuries.
6. I find the inconsistent nature between the evidence of the complainant and Ashana, in respect of the nature of the visit made by the accused at around 8 a.m., has not affected the credibility of their respective evidence.
7. I observed the manner and the demeanour of the complainant and the two other prosecution witnesses when they gave evidence in respect to the first count. They were straight, coherent, and consistent with their evidence. I accordingly, accept the evidence of the Prosecution as credible, reliable and truthful evidence in respect of the first count.
8. Based on the above findings, I find the Prosecution has proven beyond a reasonable doubt that the accused had committed the offence of attempted murder as charged. Therefore, I do not find any cogent reasons to disagree with the unanimous opinion of the assessors regarding the first count.
9. In her evidence, Ashna said the accused did not say anything to her when she went to the kitchen. She felt scared of the accused after seen the accused with a knife. Therefore, I do not find any evidence that the accused had threatened Ashana intending to prevent her from helping the complainant. Accordingly, I do not find the Prosecution has proven beyond a reasonable doubt that the accused

committed the offence of criminal intimidation as charged. Hence, I find a cogent reason to disagree with the opinion of the assessors concerning the second count.

10. In conclusion, I find the accused guilty of the offence of Attempted Murder as charged under count one and convict him to the same accordingly. Furthermore, I find the accused not guilty of the offence of Criminal Intimidation, as charged under count two and acquit him from the same accordingly.



.....  
R. D. R. T. Rajasinghe

JUDGE

Solicitors:

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the Accused