

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

Crim. Case No: HAC 017 of 2018

STATE

vs.

ARJUN

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

Date of Hearing: 14 December, 2020

Date of Summing Up: 15 December, 2020

Date of Judgment: 15 December, 2020

Date of Sentence: 23 December, 2020

SENTENCE

1. The Court found you guilty of one count of Attempted Murder, contrary to Sections 44 (1) and 237 of the Crime Act, which carries a maximum penalty of life imprisonment. The particulars of the offence are that:

COUNT 1

Statement of Offence

ATTEMPTED MURDER: *Contrary to Sections 44 (1) and 237 of the Crimes Act 2009.*

Particulars of Offence

ARJUN, on the 13th day of January 2018 at Tauvegavega, Ba, in the Western Division, attempted to murder SASHI KALA.

2. It was proved that you had come behind the Complainant, when she was making tea in the kitchen, at around midday of the 13th of January 2018. You had then struck her with a knife on her head, causing a laceration of 8 to 9 cm in length and 3 cm deep. You had then assaulted her with the same knife, causing further injuries on her chin and fingers. The Complainant, in her evidence, said you had told her that you would kill her and you are not scared of the police when you were assaulting her with the knife.
3. The punishment for the offence of Attempted Murder is a mandatory sentence of life imprisonment. However, the sentencing Court has been given judicial discretion to set a minimum term to be served before pardon may be considered. In order to set a minimum term to be served for the offence of Attempted Murder, the Court is required to consider the aggravating and mitigating circumstances of the crime.
4. The victim impact report of the Complainant states that this offence has adversely affected her both physically and psychologically. You had attacked her when she was not in a position to protect herself or escape from the danger. The injuries inflicted by this assault were severe. Accordingly, I find the level of harm and culpability of this offence is significantly high.
5. You were having a relationship with the Complainant at the time of this offence took place. By committing this crime, you have breached the trust the Complainant had in you as her partner. I find this as an aggravating factor in this offence.
6. The learned Counsel in her written mitigation submissions submitted the personal and family background of you. I do not find any significant personal or family circumstances that attract any discount in the sentencing.

7. You are a first offender. Therefore, you are entitled to a substantive discount when the Court contemplates in fixing the maxim term to be served.
8. Having considered the above-discussed factors, I sentence you life imprisonment for the offence of Attempted Murder as charged in the information. Moreover, you must serve minimum imprisonment period of eight (08) years before you are being considered for any pardon.
9. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a permanent Domestic Violence Restraining Order against you with standard non-molestation conditions and no contact conditions pursuant to Sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court or any other competence Court is varied or suspended it. Furthermore, if you breached this restraining order, you will be charged and prosecuted for an offence pursuant of section 77 of the Domestic Violence Act.
10. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in black ink, appearing to read "R. D. R. T. Rajasinghe", written over a horizontal dotted line.

R. D. R. T. Rajasinghe

JUDGE

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.