

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

CASE NO: HAC. 49 OF 2014

BETWEEN : **STATE**

AND : **1. JANARDHAN**
2. RONIL KUMAR

Counsel : **Mr. Niudamu J. for State**
: **Ms. Vulimainadave K. for the 1st Accused**
2nd Accused appears in Person

Hearing on : **03rd February 2020 – 05th February 2020**

Summing up on : **06th February 2020**

Judgment : **07th February 2020**

JUDGEMENT

[1] The accused, Mr. Janardhan and Mr. Ronil Kumar were charged as follows;

Statement of Offence

AGGRAVATED ROBBERY: contrary to section 311(1) (a) and section 45 (1) of the Crimes Act, 2009.

Particulars of Offence

Janardhan and Ronil Kumar on the 16th day of April 2014 at Lautoka in the Western Division, robbed Atishma Devi and Shaiyum Shiraj of \$35,000.00 cash and \$5,000.00 worth of cheques, the property of Shiu Prasad & Sons Limited.

[2] They pleaded not guilty to the Charge and it was taken up for trial and the ensuing trial lasted for 3 days. The PW1 Mr. Roneel Kamal Sen, PW2, Ms. Atishma


Devi, PW3 Mr. Shaiyum Shiraj Ali and 3 police officers who were attached to Lautoka Police Station gave evidence for the prosecution while the accused remained silent exercising their constitutional right and also opted to not to call any witnesses on their behalf.

- [3] At the conclusion of the evidence and after the directions given in the summing up, the assessors unanimously found both the accused guilty to the count of Aggravated Robbery.
- [4] I direct myself in accordance with the law and the evidence inclusive of which I have discussed in my summing up to the assessors.

Analysis

- [5] The evidence of the PW1, PW2 and PW3 were basically in proof of the alleged incident. The evidence given by them went unchallenged. Though there were some minor inconsistencies among the three witnesses they would not be relevant to the vital issues. Therefore, I consider the 2nd element as set out in my summing up for the offence of aggravated burglary as proved.
- [6] The contested element in this trial was the identity. In other words, whether the 1st and 2nd accused took part in the said robbery would be the issue. There were no eye witnesses who recognized the robbers or gave a clear description of them. The prosecution case rested entirely on the confessions PE1, PE2 and PE3. The contents of the said exhibits fit well with the rest of the evidence on many important aspects including as to the vehicle they used and the description of the robbers. Furthermore, the contents manage to fill in the gaps of the prosecution case which could not have been explained otherwise. In consideration of all the material before me, I am convinced without any reasonable doubt that the 1st and 2nd accused actively took part in the alleged robbery.
- [7] The third requisite for the offence of aggravated robbery, that there had been more than 1 person, too has been established by the prosecution through the evidence of PW2, PW3 and the contents of the documents PE1 and PE3.

- [8] Therefore I am of the view that the prosecution has proved the necessary elements of the alleged offence and the defense has failed to create a reasonable suspicion in the prosecution case.
- [9] It is obvious that the assessors have accepted the prosecution version as acceptable and reliable and rejected the accused's stance and their denial. Together with the prosecution proving the all necessary elements of the alleged offence, I see no option for the assessors as well as for this court other than finding the accused guilty of the alleged count.
- [10] From my point of view, the assessor's opinion was not perverse. It was open for them to reach such a conclusion on the available evidence. Therefore, I endorse and agree with the opinion of the assessors.
- [11] I, having seen and heard the testimonies of the witnesses, am satisfied that evidence of the prosecution presented through the PW1 to PW6 and the exhibits PE1 to PE3, were sufficient to establish the elements of the offence of aggravated robbery, beyond any reasonable doubt. The prosecution also established the identity of the accused beyond a reasonable doubt. In these circumstances, I am convinced that the accused have committed the offence of Aggravated Robbery.
- [12] Therefore, I convict the accused, Mr. Janardhan and Mr. Ronil Kumar to the alleged count of Aggravated Robbery.
- [13] This is the Judgment of the Court.


Chamath S. Morais
JUDGE



At Lautoka
This 07th Day of February 2020

cc: Solicitors for the State - Director of Public Prosecutions, Lautoka
Solicitor for the 1st Accused - Legal Aid Commission, Lautoka