

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

**Crim. Case No: HAC 232 of 2019**

STATE

vs.

1. EMOSI ROKOVESU
2. LEDUA TALEMAITOGA

**Counsel:** Mr. Z. Zunaid for the State  
Mr. K. Prasad and Ms. A. Sharma for Accused

**Date of Hearing:** 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> February 2020

**Date of Closing Submission:** 26<sup>th</sup> February 2020

**Date of Summing Up:** 02<sup>nd</sup> March 2020

**Date of Judgment:** 03<sup>rd</sup> March 2020

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## **JUDGMENT**

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1. The prosecution has charged the accused with one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. The particulars of the offence are that:

### ***COUNT ONE***

#### *Statement of Offence*

**AGGRAVATED ROBBERY:** *Contrary to Section 311 (1) (a) of the Crimes Act 2009.*

*Particulars of Offence*

***EMOSI ROKOVESU & LEDUA TALEMAITOGA and another, on the 15<sup>th</sup> day of June 2019 at Suva, in the Central Division, in the company of each other stole 1x black I-Phone 7 Plus from NAVIN BHUGALOO and at the time of stealing from NAVIN BHUGALOO, used force on him.***

2. The hearing commenced on the 24th of February 2020 and concluded on the 26th of February 2020. The prosecution presented the evidence of five witnesses, and the defence adduced the evidence of the accused. The learned counsel for the prosecution and the defence then made their respective closing addresses. After that, I delivered the summing up.
3. The three assessors in their unanimous opinions found the accused guilty of this offence.
4. Taken into consideration the evidence presented during the hearing, the closing addresses of the counsel, the summing up, and the opinions of the assessors, I now proceed to pronounce the judgment as follows.
5. The prosecution alleges the accused with two others had robbed Mr. Navin Bhugaloo on the 15th of June 2019. The accused denies the allegation, stating that he was at the Union Night Club at the material time. He further claims that Mr. Bia mistakenly arrested him when he was walking along the footpath near the Charman's gym to get a taxi.
6. Accordingly, the main dispute in this matter is whether Mr. Bia had mistaken in his identifications of the accused as one of the three suspects involved in the alleged incident of Aggravated Robbery.
7. During the evidence-in-chief, Mr. Bia said that he saw this alleged incident when he was driving around the town with his siblings and nephews. They were driving towards the Suvavou house along the road of FBC station. He saw the faces of the two boys clearly and the clothes they were wearing. They were i-taukei boys. When they approached, the boys ran away. The two boys ran towards the road between the Suvavou house and the Holiday

Inn Hotel. They then chased after the two boys. He lost the sight of the two boys at the back of the Union Club. A half a minute later, he saw the two boys were coming towards the vehicle. When the boys saw the car, they jumped to the compound of Charman's gym. Mr. Bia then arrested them at the compound of the gym.

8. When the prosecution concluded the evidence-in-chief of Mr. Bia, I found the following inadequacies and doubts in his evidence. That:
- i) Who was driving the 4WD vehicle?
  - ii) If someone was driving the vehicle, where was Mr. Bia seated in the car?
  - iii) How many people were inside the car?
  - iv) Whether the vehicle was moving or stopped when he saw the alleged incident?
  - v) How did he see the alleged incident? Through the front windscreen or the side windows of the car?
  - vi) To which direction the boys ran away?
  - vii) How did he chase after the two boys?
  - viii) Has he gotten off from the car and chased them after or chased them in his car?
  - ix) Whether there were people around the vicinity or at the back of the Union Club?
  - x) How did he get to the road of the Charman's gym? And from which direction he entered into that road?
  - xi) Has he got off from the car and gone to the compound of the gym?

xii) Did he arrest the two boys by himself or with the help of others?

9. However, the learned counsel for the defence during the cross-examination of Mr. Bia invited him to clarify those inadequacies and doubts. Mr. Bia explained during the cross-examination that his son was driving the car, and he was sitting on the front passenger seat. He saw the incident from his front side as the vehicle came and stopped at the T-junction of the Suvavou house. The two boys ran along the road of FBC station. Hence, the vehicle had to make a 180 degree turn. By the time the vehicle made the turn, the two boys had got a lead. Mr. Bia chased the two boys in his car. There was no one at the back of the Union Club. They then drove and entered the road from the side of the Charman's gym. Mr. Bia got off the car with one of his nephews, who was sitting at the back seat. They then arrested the accused and the other boy.
10. Mr. Bia said the accused was wearing a white t-shirt and a yellowish shorts. The accused himself in his evidence, admitted that he was wearing a white t-shirt and a yellowish shorts at that time. DC Moshin received the two suspects brought in by Mr. Bia at the Police Station. One of them was the accused who was wearing a white t-shirt and a yellowish shorts. Moreover, the accused said when he was walking along the road, Emosi was following him.
11. Taking into consideration the circumstances in which Mr. Bia made the identification of the accused as one of the three boys who robbed Mr. Navin and the evidence of DC Moshin, Mr. Navin and the accused himself, I find the evidence of Mr. Bia is reliable, credible and truthful.
12. Accordingly, I do not find any compelling reasons to disagree with the unanimous opinion of guilty given by the three assessors. Hence, I find the prosecution has proven beyond a reasonable doubt that the accused with two others had committed this offence of Aggravated Robbery on Mr. Navin Bhugaloo on the 15th of June 2019.

13. In conclusion, I find the accused guilty of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. Accordingly, the accused is convicted of the same.

A handwritten signature in black ink, appearing to read "R.D.R.T. Rajasinghe".

R.D.R.T. Rajasinghe

**Judge**

At Suva

03<sup>rd</sup> March 2020

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.