

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 430 OF 2018S

STATE
Vs
SETAREKI RAVIA

Counsels : **Mr. M. Vosawale and Mr. U. Lal for State**
Ms. M. Chand for Accused
Hearings : **12, 13, 14, 15 and 16 October, 2020.**
Summing Up : **19 October, 2020.**
Judgment : **19 October, 2020.**
Sentence : **20 October, 2020.**

SENTENCE

1. On 24 June 2019, in the presence of his counsel, the following counts were put to the accused:

“Count 1

Statement of Offence

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

Particulars of Offence

SETAREKI RAVIA & JEKEMAIA RABONU on the 10th day of November 2018, at Nasinu in the Central Division, in the company of each other, robbed SAT DEO

MAHARAJ of a wallet containing \$340.00 cash and assorted cards, the property of the said SAT DEO MAHARAJ.

Count 2

Statement of Offence

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

Particulars of Offence

SETAREKI RAVIA & JEKEMAIA RABONU on the 10th day of November 2018, at Nasinu in the Central Division, in the company of each other, robbed PARBHA WATI of handbag which contained: \$204.00 (cash), 1 x Alcatel mobile phone, 1 x Gold plated bangle, 1 x Silver and purple coloured bangle and 1 x Gold chain, the property of the said PARBHA WATI.

Count 3

Statement of Offence

RESISTING ARREST: Contrary to Section 277 (b) of the Crimes Act 2009.

Particulars of Offence

SETAREKI RAVIA on the 10th day of November 2018, at Nasinu in the Central Division, resisted arrest by Police D/Cpl 1853 Luke Lewabeci, in the execution of his duty.”

2. The charge was read and explained to the accused. He said, he understood them. He pleaded not guilty to count no. 1 and 2, but pleaded guilty to count no. 3. On 19 July 2019, the prosecution presented the summary of facts in court on count no. 3, the accused through his counsel admitted the same, including the particulars of the offence in count no. 3. The court then found the accused guilty as charged on count no. 3, convicted him on the same and adjourned sentencing to when count no. 1 and 2 are decided.
3. In a judgment delivered yesterday, the court found the accused guilty as charged on count no. 1 and 2, after a week’s trial before myself and three assessors.

4. The brief facts of the case were as follows. The first complainant, Mr. Sat Deo Maharaj (PW1) was married to the second complainant, Ms. Parbha Wati (PW2). They had been married for 49 years, and on 10 November 2018, the date of the aggravated robberies, PW1 was 71 years old, while PW2 was 65 years old. At about 11 am on a sunny Saturday morning, the 10th November 2018, they were walking on Bal Govind Road near Veiraisi Settlement to visit relatives in Nadawa.
5. Suddenly, two i-taukei youths aged about 18 and 20 years old jumped out of the bush and confronted them. They repeatedly punched PW1 in the face, and dragged PW2 along the road. PW1 fell on the road and injured himself. He later needed 7 stitches to close his facial injuries. The two youths were later identified to be the accused, and another. They later stole the complainants' properties, as itemized in the charge. The accused had been tried in the High Court and found guilty of the above crimes. Yesterday, he was convicted as charged on count no. 1 and 2.
6. "Aggravated Robbery", as a criminal offence, is viewed seriously by the law-makers of this country, and it carried a maximum sentence of 20 years imprisonment. For a spate of robberies, the tariff is a sentence between 10 to 16 years imprisonment: see **Livai Nawalu v The State**, Criminal Appeal No. CAV 0012 of 2012, Supreme Court of Fiji. With a single case of aggravated robbery, the tariff is now a sentence between 8 to 16 years imprisonment: see **Wallace Wise v The State**, Criminal Appeal No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.
7. In **Wallace Wise v The State** (supra), the Supreme Court of Fiji had this to say on sentencing:

"[26] Sentences will be enhanced where additional aggravating factors are also present. Examples would be:

(i) offence committed during a home invasion.

(ii) in the middle of the night when victims might be at home asleep.

(iii) carried out with premeditation, or some planning.

(iv) committed with frightening circumstances, such as the smashing of windows, damage to the house or property, or the robbers being masked.

(v) the weapons in their possession were used and inflicted injuries to the occupants or anyone else in their way.

(vi) injuries were caused which required hospital treatment, stitching and the like, or which come close to being serious as here where the knife entered the skin very close to the eye.

(vii) the victims frightened were elderly or vulnerable persons such as small children.

[27] It is our duty to make clear these type of offences will be severely disapproved by the courts and be met with appropriately heavy terms of imprisonment. It is a fundamental requirement of a harmonious civilized and secure society that its inhabitants can sleep safely in their beds without fear of armed and violent intruders."

8. The aggravating factors in this case were as follows:

- (i) **Cowardly Attack on Vulnerable Elderly Couple.** The facts of this case showed two elderly couple going about their business on a sunny Saturday morning on 10 November 2018. They were walking on Bal Govind Road, near Veiraisi Settlement, to visit relatives in Nadawa. Mr. Sat Deo Maharaj, aged 71, earned his living by cutting grass. He had \$340 cash in his wallet. His wife, Ms. Parbha Wati, aged 65 years old, did domestic chores and had \$204 cash in her handbag. Out of the blue, the accused and another jumped out of the bush and attacked them. The accused was about 20 years old at the time. The accused and another then punched Mr. Maharaj, dragged Ms. Wati along the road, and stole their money, as mentioned above. This was obviously a cowardly attack on the elderly couple, and the accused ought to be taught a lesson, to respect others. Mr. Maharaj later required 7 stiches to his face to close a wound. The accused's criminal actions showed utter disrespect to the couple's right as human beings.

- (ii) **Offence carried out with premeditation and pre-planning.** It was obvious that the attack on the couple was pre-planned by the accused and his friends. When the police arrested the accused after 2 pm on the same day, that is, approximately 3 hours of the aggravated robbery, he smelt heavily of liquor. In his evidence, during the trial, the accused said, he had been drinking liquor at his home at Veiraisi Settlement after 12 pm midday. This was approximately one hour after the attack on the elderly couple. It was obvious that the attack on the couple was pre-planned to obtain finance to fund their drinking party. The accused had to be taught a lesson to earn his money the honest way, with a prison sentence.
- (iii) **By offending against the couple, you had caused them untold sufferings.** You have violated their right to a peaceful and happy life. You have brought them nothing but miseries. You have caused heartache and sadness to them and their families. You had demeaned their self-respect and dignity. You must not complain when you are given a long prison sentence to pay for your crime.

9. The mitigating factors are as follows:

- (i) At the age of 21 years, this is your first offence;
- (ii) You had been remanded in custody awaiting trial since 12 November 2018, that is, approximately 1 year 11 months 8 days ago.

10. On count no. 1 (aggravated robbery), I start with 8 years imprisonment. I add 5 years for the aggravating factors, making a total of 13 years imprisonment. I deduct 2 years from the 13 years, for time already served while remanded in custody, leaving a balance of 11 years imprisonment. For being a first offender, I deduct 1 year, leaving a balance of 10 years imprisonment. On count no. 1, I sentence you to 10 years imprisonment.

11. For count no. 2 (aggravated robbery), I repeat the above process and sentence.

12. For resisting arrest (count no. 3), I sentence you to 3 months imprisonment.

13. The summary of your sentences are as follows:
- (i) Count No. 1 - Aggravated Robbery : 10 years imprisonment.
 - (ii) Count No. 2 - Aggravated Robbery : 10 years imprisonment.
 - (iii) Count No. 3 - Resisting Arrest : 3 months imprisonment.
14. Because of the totality principle of sentencing, I direct that all the above sentences be made concurrent to each other, making a final sentence of 10 years imprisonment, effective forthwith.
15. Mr. Setareki Ravia, for committing aggravated robberies against the elderly couple complainants on 10 November 2018 at Nasinu in the Central Division, and also of resisting arrest, I sentence you to 10 years imprisonment, with a non-parole period of 6 years imprisonment, effective forthwith.

16. You have 30 days to appeal to the Court of Appeal.



Solicitor for the State
Solicitor for the Accused

: **Office of the Director of Public Prosecution, Suva.**
: **Legal Aid Commission, Suva.**

A blue ink signature of Salesi Temo, consisting of a large, stylized 'S' shape.

Salesi Temo
JUDGE