

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 221 of 2019

[CRIMINAL JURISDICTION]

STATE

V

ILISAVANI TAMANISAVE

Counsel : Mr. E. Samisoni for the State
Ms. H. Hazelman and Mr. K. Skiba for the Accused

Hearing on : 10 – 11 February 2020

Summing up on : 12 February 2020

Judgement on : 12 February 2020

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

Aggravated Robbery: contrary to Section 311 (1) (a) of the Crimes Act, 2009.

Particulars of Offence

ILISAVANI TAMANISAVE with others on the 4th day of June, 2019 at Nasinu in the Central Division, in the company of each other, stole a bag containing a Samsung mobile phone charger and a pair of sunglasses from **RONEEL PRAKASH** and immediately before stealing from **RONEEL PRAKASH**, used force on him.

2. The assessors have returned with the unanimous opinion that the accused is guilty of the above offence.

3. I direct myself in accordance with the summing up delivered to the assessors this morning and the evidence adduced during the trial.
4. The only disputed element of the offence relevant to this case is the identity.
5. The prosecution relies on the doctrine of recent possession. The accused does not deny having recent possession of the stolen item and he provided an explanation for the possession.
6. I do not find the explanation given by the accused to be reasonable or probable.
7. In my judgment, the inconsistencies surfaced in the evidence given by PW1 and PW2, and also between the evidence of PW1 and PW2, do not affect the credibility of those witnesses. Nevertheless, those inconsistencies are not relevant to the issue of recent possession.
8. I am satisfied that the prosecution has proven the case against the accused beyond reasonable doubt.
9. Therefore, I agree with the unanimous opinion of the assessors and I find the accused guilty as charged.
10. The accused is hereby convicted accordingly.




Vincent S. Perera
JUDGE

Solicitors;

**Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Accused**