

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

**Crim. Case No: HAC 114 of 2020**

**STATE**

vs.

- 1. KARIM BEGG**
- 2. RONIL CHAND**

**Counsel:** Ms. P. Mishra for the State  
Mr. J. Reddy & Mr. Y. Kumar for both the Accused

**Date of Hearing:** 31<sup>st</sup> October – 04<sup>th</sup> November 2022

**Date of Closing Submission:** 15<sup>th</sup> November 2022

**Date of Judgment:** 25<sup>th</sup> November 2022

---

**JUDGMENT**

---

1. The Director of Public Prosecutions has charged the accused persons for the following offences as per the Information dated 05<sup>th</sup> June, 2020:

**COUNT ONE**

*Statement of Offence*

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

*Particulars of Offence*

**KARIM BEGG & RONIL RAVINESH CHAND** on the 24<sup>th</sup> day of March 2020, at Sigatoka in the Western Division, in the company of each other stole \$500.00 cash from **JIN CHAO** and immediately before committing theft, threatened to use force on **JIN CHAO**.

2. The charges were read and Accused pleaded not guilty. Upon entering pleas of not guilty by the Accused persons, the matter was heard from 31<sup>st</sup> October to 04<sup>th</sup> November 2022. The Prosecution presented the evidence of six witnesses. Upon the closing of the case for the prosecution the defence was called for and the two Accused persons gave evidence. Subsequently, the Court heard the oral submissions of both the learned Counsel they tendered written submissions too. Having carefully considered the evidence presented during the hearing and the respective submissions of the parties, I now proceed to pronounce the judgment.

3. Admitted Facts

The following facts are admitted and agreed:

1. *The first Accused is Mr. Karim Begg, 43 years old, was a Police Officer (Acting Corporal) of Navosa Police Station at the time of the alleged offence and he resided at Nalebaleba, Bemana, Navosa.*
2. *The second accused is Mr. Ronil Ravinesh Chand, 30 years old, was a Police officer (Police Constable) of Keiyasi Police Station at the time of the alleged offence and he resided at Rakirakilevu, Sigatoka.*
3. *The complainant in this matter is one, Jin Chao, 32 years old, of Lot 17 Goundar Road, Martintar.*
4. *Navosa Police Station is also known as Keiyasi police station.*
5. *The complainant in this matter is a Chinese national.*
6. *On the 24<sup>th</sup> day of March 2020, both Karim Begg and Ronil Chand were on duty as police officers.*
7. *Both the accused persons' were using a police vehicle whilst on duty.*
8. *On the same date, at around 11.00pm, whilst on duty, both accused persons' saw the complainant's vehicle parked along the Sigatoka Valley Road.*
9. *The accused persons' then approached the complainant who was in his vehicle and at first questioned the complainant.*
10. *The conversation and events that occurred thereafter is a trial issue.*
11. *On the 25<sup>th</sup> of March 2020, Mr. Harish Prasad (Police Officer of Sigatoka Police Station) told both the accused persons' to come down to Sigatoka Police Station.*

Elements of the offence

4. Robbery is an aggravated form of theft. Theft is committed if that person dishonestly appropriates the property belonging to another with the intention of permanently depriving the other of that property. The elements of 'dishonestly' and "the intention of permanently depriving the other of the property" are the states of mind of the accused at the time of committing the offence which could be drawn from the conduct of the accused.

'Appropriation of property' is taking possession or control of the property without the consent of the person who has possession or control of the property. Theft becomes robbery if the accused, immediately before, or at the time of, or immediately after, committing theft use force or threaten to use force on another person with the intent to commit theft or to escape from the scene. If more persons than one are involved in committing robbery it is Aggravated Robbery.

5. Accordingly, the Prosecution has to prove beyond reasonable doubt that:
  - (i) The two accused persons,
  - (ii) with each other,
  - (iii) dishonestly appropriated, \$500.00 cash,
  - (iv) with the intention of permanently depriving it,
  - (v) and threatened to use force on Jin Chao immediately before stealing the said items.
  
6. The first element requires the proof of the identity of the offenders and to prove beyond reasonable doubt that two accused committed this offence in the company and together with each other. Where two or more persons commit a criminal offence, whatever the participation of each person may be if they are acting together as part of a joint plan or agreement to commit the offence, each one of them will be guilty. However no formal plan and agreement is required as an agreement to commit an offence may arise on the spur of the moment. The essence of joint responsibility for a criminal offence is that each accused shared a common intention to commit the offence and played his part in it, of any degree to achieve that aim.

#### Presumption of innocence

7. The accused is presumed to be innocent until he is proved guilty. As a matter of law, the onus or burden of proof rest on the prosecution throughout the trial, and it never shifts to the accused. There is no obligation or burden on the accused to prove his innocence. The prosecution must prove the accused's guilt, beyond reasonable doubt. If there is a reasonable doubt, so that the court was not sure of the accused's guilt, or if there be any hesitation in my mind on any of the ingredients or on the of evidence or led by of the prosecution the Accused must be found not guilty of the charge and accordingly acquitted.

### Prosecution Evidence

8. The Prosecution led the evidence of six witnesses. The complainant PW1 Jin Chao, PW2 Waisake Rokolidi, PW3 Leilani Baleimatuku who were the civilian witnesses. The police witnesses namely PW4 Harish Prasad, PW5 Sergeant Ashnil, and PW6 WPC Merula Nasoge were led in evidence.
  
9. The complainant **Jin Chao** was called first and according to him he is a Chinese National who had come to Fiji and living on a visa since late 2019. Around 24<sup>th</sup> March, 2020 he was living in Nadi and working at a restaurant along with Waisake and Leilani. All three of them have been renting one apartment and was sharing the rent. On the 24<sup>th</sup> March, 2020 Jin having decided to go sightseeing proceeded towards Sigatoka and then along the Valley Road. He had not known the exact location or the name of the road but has been proceeding and as he found himself somewhat lost with the nightfall had parked his car on the right side of an isolated place. He had been trying to locate himself on the google map on his phone. When around 11pm when a police vehicle had pulled alongside with two officers. According to Jin Chao one of them was somewhat tall and slim and other was somewhat fat or stocky. According to him the tall one was driving and other was in the passenger seat. Both of them were in uniform.
  
10. The tall officer had questioned him and searched his vehicle. He has also checked his wallet, counted his money and requested him to give \$600. According to Jin he had \$1050 with him. Jin has refused or was reluctant to give him that money when Ronil had then demanded that \$500 to be given to him at the same time the fat officer had shown his hands raised in front with the wrist together, a gesture which Jin understood to mean to be locked up or remanded. Whilst making this gesture the fat person had told him “you want this; you want this”. The witness identified the tall officer as the 2<sup>nd</sup> Accused Ronil and the fat officer to be the 1<sup>st</sup> Accused Karim.
  
11. As Jin Chao was worried and scared that he may be arrested or locked up, he had handed over \$500 to the tall officer. Thereafter, the officers have told that this is a dangerous area where the people do not like Chinese people and asked him to return immediately. Jin had accordingly returned. He admits that the police vehicle followed to a certain distance and thereafter he proceeded back to Nadi. At Nadi he had narrated the incident to Waisake and then Leilani also had come there. Leilani had asked if Jin got a ticket or receipt. He had

got none and when he said that to Leilani she had told him that they should go back to the Sigatoka police and report the matter. All three of them with another cousin of Leilani's had driven back to the Sigatoka Police and informed OC Mr. Harish. Since it was early they were asked to have their breakfast and come back which they have done. After returning they were all in the vehicle close to the police building when the police vehicle which Jin saw the previous night had arrived. Jin has seen the two officers he saw the previous night getting out of the vehicle. He had immediately pointed at them and shown them to others.

12. Then he had made a statement and returned. In cross examination he was questioned as to his visa and the reasons for him to be in Fiji. Further he was questioned on his source of earnings and income and how he met his living expenses. Jin had come here to stay and work however his mother from China had been funding him. Initially she had given him 4 to 5000 US dollars and has been intermittently sending him small amounts for his subsistence. He had been on a three year visa which he admitted is due for extension now. It was suggested that he was trying to proceed to Rakiraki which he denied. It was also suggested that he attempted to bribe the police officer and as he failed and was not allowed to proceed he made this false allegations against the two officers. It was also suggested that the two officers did not get off the vehicle as there was a Covid fear. The witness denied these suggestions and said that both the officers got out of the vehicle and it was the tall officer who questioned, searched and demanded the money.
13. PW2 Waisake confirms that he was living and working with the victim at Nadi. The living arrangement was also confirmed by him. Jin has returned early morning of the 25<sup>th</sup> around 5.46am. He was clearly in a state of agitation and was shivering. He had narrated the incident where \$600 was demanded and \$500 taken by two police officers. When this conversation was taking place Leilani PW3 had joined in and asked if a paper or a receipt was given. As Jin said nothing of that sort was given, they decided to go to the Sigatoka police and lodge a complaint. They have come back to the Sigatoka police in Jin Chao's car driven by Waisake. Then he confirms the incident and happenings as narrated to him by Jin Chao.
14. PW3 Leilani Baleimatuku has heard Waisake and Jin Chao in conversation that morning and she too had joined in. She also narrates the events of the 24<sup>th</sup> night as narrated to her by Jin Chao. After hearing that two policemen have taken \$500 from Jin Chao she had

inquired if a ticket or receipt was given. As he had been given none she had suggested that they should go back to the Sigatoka Police and make a complaint. She had also observed Jin Chao was in fear and shivering. On their way to the Sigatoka Police they have met a police officer close to Sigatoka whom they picked up and he too had gone with them to the Sigatoka Police. Leilani had been helping Jin Chao to communicate with the police officers as she was able to comprehend what Jin was communicating in, “broken English”.

15. Whilst at the police station car park she had seen a police vehicle arriving and two officers alighting from the said vehicle. Just as then Jin Chao has spontaneously pointed at them and said they are the ones. At the same time a senior officer had come out and asked if these are the officers to which Jin has responded in the affirmative. She herself made a statement to the police.

#### Police Evidence

16. PW4 ASP Harish Prasad was the OIC of the Sigatoka Police in May 2020. Keiyasi Police Station also had been under his supervision. On 25/03/2020 in the morning he was informed of a complaint against a police officer and when he checked there was a Chinese National with an I-Taukei man and woman, whom he found out to be Jin Chao, Waisake and Leilani. Leilani has informed that Jin Chao was stopped by two policemen in uniform and taken \$500 from him after threatening to arrest him. He was informed that they were Indian officers. However, in his statement he had written it down as Fijian. He explains that Fijian includes both I-Taukei and Indo-Fijians. Jin Chao has taken his phone and pointed out the location on the Google map a place along Valley road. Jin Chao had also explained the incident according to him he was travelling along this road for the first time as he was somewhat lost he had parked the vehicle and was trying to locate himself using a phone App. Then a police vehicle has arrived with two officers and searched and then demanded money from him. And one of them has indicated that he would be arrested if the money was not given using gestures with his hands. The said officers have taken \$500 in 4x \$100 notes and 2x \$50 notes. Jin Chao has also told him that they were Indo-Fijian officers.
17. When this was brought to his notice Harish had been concerned and immediately realized that the only Indian Officers at the Keiyasi Police Station are Corporal Karim and PC Ronil. He had then immediately called PC Ronil and upon being confirmed that they were

on duty the previous night and they have met a Chinese National both of them have been asked to immediately come to the Sigatoka Police Station. Both these officers were known to the witness and his relationship with them have been cordial.

18. Shortly thereafter these two officers have arrived around 8.30am. He had seen them stopping the police vehicle and getting off the vehicle. Jin Chao and others were in a vehicle which was parked close to that police vehicle. Jin had been pointing at them and when asked if they were the police officers Jin has said yes and that he is sure. Harish has then gone up to his room and taken Ronil and Karim with him. Jin and others have been sent to another room. When asked both of them if they had taken money from the Chinese man, both of them have denied taking money or threatening him. After initially so denying then PC Ronil has suddenly on his own said that he took the money from the Chinese man. Harish has immediately cautioned him however Ronil has stated further that he took only \$400 from the Chinese man and \$200 was with him and the balance \$200 was given to Corporal Karim. Ronil had then got up, taken his wallet out and taken 2x \$100 notes and given it to Sergeant Ashnil. When he was asked why he took the money Ronil has not responded but remained silent.
19. As Ronil stated that he gave \$200 to Corporal Karim. ASP Harish has cautioned him and explained his right to remain silent. Harish has asked Corporal Karim what this allegation about the money was. Karim has paused for a moment and told that 'the money \$200 was on top of the fridge in his house'. Harish has made a note in his pocket notebook. Thereafter Jin Chao was called in and he had pointed out to the Accused and identified them again. Harish as instructed Sergeant Ashnil to make a formal report to recover the \$200 from Karim's house and to brief the Divisional Commander. The \$200 handed over by Ronil had been entered in the search list which Ronil has signed. The search list was produced as exhibit PE1. This has subsequently been entered in the exhibit register. At entry number 493 of 2020 of exhibit register there are 4x \$100 notes and the said page was marked as exhibit PE2. Further investigation and procedures were handled by other officers and ASP Harish did not participate any further. This witness identified Corporal Karim Begg as a first Accused and PC Ronil Ravinesh Chand as the second Accused.
20. ASP Harish was cross-examined at great length by the Defence. He admitted having being investigated for a criminal matter and been produced at the Sigatoka Magistrate Court in respect of an alleged curfew order violation by crossing the border. However as it

transpired that the facts were false the said charges had been withdrawn. It was suggested that the said report against him was made based on the information given by the two Accused which he denied. The witness clearly stated that the report was not by the Accused but by a senior manager of the Western Division and he was never told that the Accused were the informers.

21. Witness said that Leilani informed him that two Indian officers obtained money but in cross-examination a contradiction on this was raised as the witness in his statement had stated that Leilani told him they were Fijian officers. The witness explained that Fijian includes both I-Taukei as well as Indo-Fijian. Further, though the witness said that according to Leilani the Accused had threatened Jin Chao but in his statement the fact of threatening is not stated to that extend there is an omission.
22. It was suggested by the Defence that, PC Ronil had \$400 of his own money on the 24<sup>th</sup> and that he had made withdrawals from his ATM as follows:
  1. On 17.03.20 - \$400
  2. On 18.03.20 - \$80
  3. On 19.03.20 - \$190
  4. On 21.03.20 - \$150
  5. On 22.03.20 - \$70.
23. Through this was brought to the notice of ASP Harish, it was suggested that he totally disregarded this. It was the defence position that Ronil's wallet had been forcibly taken by Harish and \$200 taken out of it. ASP Harish totally denied that anything of that nature was mentioned to him at that time. It was also suggested that the 2<sup>nd</sup> Accused Ronil had \$400 prior to this day and he returned \$200 a loan taken from Corporal Karim. Finally it was suggested that ASP Harish had colluded with Jin, Leilani, his own wife to fabricate this false complaint because the two Accused have given information of Harish crossing the Lautoka border. This was vehemently denied.
24. The defence also took up the position that ASP Harish, Inspector Shameem and Sergeant Ashnil were all senior to the Accused and all three were very rough on the Accused persons and all three of them took advantage of their positions and authority by threatening them to confess. This was denied by the witness. It was also suggested that



despite their threats the Accused did not confess.

25. ASP Harish admitted that WPC Gita is his wife and she was attached to Sigatoka Police. It was also suggested that he got his wife WPC Gita to record two of the statements in this matter. The witness stated that the investigation was not conducted by him after the initial steps were taken and he had no control of the investigation.
26. **Sergeant 3914 Ashnil** was called next and according to him he was attached to the Sigatoka Police Station as at March 2020. The OIC was ASP Harish Prasad. He had served in the Sigatoka Police from 2015 to 2021. Keiyasi Police Station came under the control of Sigatoka Police and had a strength of 12 to 18 officers.
27. On the 25<sup>th</sup> March around 8.30 OC Harish was instructing on Covid related matters, when a Chinese national who was in a car under a rain tree had got off the vehicle and pointed at the police vehicle at the two Accused and said they threatened him and took \$500 from him. Corporal Karim and PC Ronil had got off the police vehicle GR330. The exact words uttered by Chinese national was 'same vehicle this two police officers threatened me and took money'. OC had then handed over the Chinese guy and others to another female officer and taken Karim and Ronil to his room. This witness also had followed them.
28. This witness had known the two Accused and his relationship with them have been cordial. IP Shameem has also been in the room. The OC had informed both the Accused of the allegation made by Jin Chao. After that they have been cautioned. OC had explained to them that it is alleged that both of them have threatened and demanded money and taken \$500. Initially PC Ronil has denied the allegations. However, then his demeanour has changed and a feeling of guilty reaction had come on him. Then Ronil had suddenly stood up and voluntarily taken his wallet and taken out 2x \$100 notes and has given it to the OC. When asked where the rest of the money is he had said that he had used it. However little later he had said that \$200 is with Corporal Karim which he took from the Chinese guy.
29. When OC asked Corporal Karim where the money that Ronil shared with him was, Corporal Karim has denied initially but upon further questioning Karim had admitted that it was given by PC Ronil and it was on the top of the refrigerator in his quarters at Keiyasi.

30. This witness has instructed WPC 3781 Merula to prepare a search warrant and to recover the money. At 1800 hours of the 25<sup>th</sup> March the money recovered from Karim's house was handed over by WPC Merula. It was 2x \$100 notes. The same had been entered in the search list but Corporal Karim had refused to sign it. He had also instructed WPC Gita to record these statements. The 4x \$100 notes the exhibits had been entered in the relevant registers and kept it in the SO safe. After that it had been exhibited on 28/03/2020 to the crime writer and assigned the reference number 493/2020. According to the register on 10<sup>th</sup> December 2020 these exhibits have been released to be taken for the police enquiry at the Namaka Police Station. There is an entry that it was brought back and handed over after the police enquiry. However, this witness admits that the said exhibits are missing and they are conducting a due diligent search.
31. In cross-examination the incident and events that took place at the police station on the 25<sup>th</sup> was led and questioned in detailed. The witness admitted that PC Ronil signed only the search list and that the OC made notes in his pocket notebook. This witness has recorded the caution statement of Corporal Karim and also formally arrested him. He had prepared the report and produced the two suspects before the Magistrate on the 26<sup>th</sup>. The following was suggested to him, that both the Accused did not confess; and that Ronil informed that it was his money; the Ronil asked them to check his bank account; all of which were denied.
32. Finally, **WPC Merula** gave evidence and according to her she had been attached to the Fiji Police Force for 12 years and serving in Sigatoka Police. On 25/03/2020 she was instructed by Sergeant Ashnil to obtain a search warrant which she had done and gone to Corporal Karim's house along with him. At the house Corporal Karim has walked up to the refrigerator and taken 2x \$100 notes from the top of the refrigerator and given it to this witness. It was entered in the search list which Karim refused to sign. She had brought the 2x \$100 notes and the list and handed them over to Sergeant Ashnil.

#### Defence Evidence

33. When the Defence was called for both the Accused persons opted to give evidence on their behalf.

#### 1<sup>st</sup> Accused Karim Begg

34. He admits that he was attached to the Keiyasi Police Station on the 24<sup>th</sup> of March 2020.

Around 11pm he along with PC Ronil have been driving from Sigatoka to the Keiyasi Police Station. Karim says the way driving. As they were proceeding at a lonely and dark spot they have seen a car parked. As this was a dangerous area and a drug infested area they have stopped the vehicle alongside the said car. PC Ronil had got down and gone to check the said vehicle with his torch. PC Ronil has gone from the right side of the vehicle and Karim has seen PC Ronil talking to the driver. The lights of the police vehicle lights had been on but the car lights were not on. It was a Chinese National who was in the vehicle and then all the lights in his car were switched off. PC Ronil had returned to the vehicle and informed him that the Chinese national wanted to proceed to Rakiraki. Since it was dangerous he had been told to return from where he came from. As he was reluctant the police vehicle had followed the car until it reached a particular point and then the car had proceeded towards Sigatoka. Thereafter Karim and Ronil had returned to the Keiyasi Police Station.

35. The following morning he along with Ronil were due to go to the Sigatoka Police to handover a Crime Record. As Ronil was new to the station they were to accompany a crime officer. They have proceeded to the Sigatoka Police and when they met the OC Sergeant Ashnil and prosecution officer IP Shanil were all been there and asked PC Ronil how much money he got and demanded that he take his wallet out. As all of them were senior officers they had to obey and the wallet was handover. They have taken \$200 out of it.
36. He denies the allegation of demanding or taking any money from the Chinese National. He also says that the vehicle was not searched. He also denies giving \$200 to the police when they searched his house. He admits that a search was conducted and there was several police officers and they have taken it from his house. He admits that there was \$200 which Ronil had returned to him and there was more money there. He says that it was his own money. Ronil was not cautioned and neither had made any confession according to him.
37. In cross-examination he had denied all suggestions of the prosecution position. He denied carrying handcuffs. He admitted that around 11.45pm they saw the vehicle with the Chinese man in an area called Navosa along Valley Road which is drug area. As it was parked in this area at that time of the night the officers have felt suspicious and

approached it. He also says in re-examination that he has a plantation sheep and goats and sufficient means as such he used to lend money to other officers as and when they needed. He had assisted Ronil because he knew his situation.

2<sup>nd</sup> Accused Ronil Ravinesh Chand

38. He denies the allegation but admits detecting the car parked around 11pm on their way to Keiyasi Police Station. He had got off his vehicle gone to the driver's side and spoken to the Chinese guy, who said "Me Rakiraki". He had checked his driver's license which was a Group 2 driving license of Jin Chao he has also inspected the passport and then has asked him to leave this area as it is dangerous. There was a grocery bag and a solar box in the car, so he suspected that he was trying to cross the country to go to Rakiraki. The Chinese guy had insisted that he should proceed to Rakiraki and also he had tried to offer money to Ronil. He had told him to go back and come to the Sigatoka Police at 10am. Ronil denies demanding money or threatening and taking \$500. Thereafter the Chinese man was escorted half way down and had got him to return to where he came from.
39. Following morning Ronil along with Karim have gone to the Sigatoka Police with the crime officer. He had got off near the prosecution office and Karim had taken the vehicle in to the police. Thereafter, he had gone into the police station and as he approached the charge room OC Harish has asked him to come because there was a report. As he went into the OC's room ASP Harish has asked for his wallet and taken \$200 out of it and said this is the Chinese person's money. Ronil has told that he had 4x \$100 notes yesterday and that he gave 2x \$100 notes to Corporal Karim. He denies making any confession to the OC.
40. He goes on to say that after the money was taken he was put into the cell in his uniform and charged and produced in court. He says that they never demanded money from the Chinese man and they did not take any money from him. According to Ronil the reason to falsely implicate was because there was a report filed on the 25<sup>th</sup> at 6am against the OC for breaching the Prime Minister's Covid travel restriction orders and that it was suspected that he had given the information, or that they the Accused were the whistleblowers in that matter.
41. According to Ronil he earns \$782 every fortnight and \$200 that was in his wallet was the money he withdrew. He admits taking a loan from Karim and returning it the previous

day.

42. In cross examination he denied the prosecution positions when suggested. He also said that he was a police officer for almost 3 years attached to the Sigatoka Police in the traffic branch, he had been transferred to the Keiyasi Police Station a day before this incident.
43. PC Ronil admits that ASP Harish wanted him to come down to the Sigatoka Police. He also admits signing PE1 Sheet List; however he says the entry “voluntarily handed over was not there when he signed it”. He denies the allegations and says that the complainant Jin Chao did try to bribe him and as he was angry for not allowing him to proceed to Rakiraki the false allegations was this made.

#### Evaluation of the Defence Evidence

44. Both the Accused admit that they approached Jin Chao’s vehicle on the 24<sup>th</sup> night. Both of them deny taking or demanding any money. Both of them suggest to the complainant that this was a false allegation because the complainant was prevented from proceeding to Rakiraki. Simultaneously it was also suggested to ASP Harish that he had made this false allegation because the Accused were the whistle blowers in a report filed against ASP Harish for violating travel restrictions. I will now consider the probability and tenability of the position. The complainant is a Chinese National and was a stranger. If he was angered by not being allowed to proceed to Rakiraki and if there was a travel restrictions will he make-up such a false story against two police officers? In doing so he appears to have then, got two others namely Waisake and Leilani also to participate in this endeavor. Apart from these two Jin Chao should also have colluded with ASP Harish, Sergeant Ashnil and PC Shanil. Can this be? This is highly improbable and impractical and improbable. The defence did suggest that ASP Harish was taking revenge as the Accused were the whistle blowers of the allegation against ASP Harish. According to the suggestions made to ASP Harish and the evidence of PC Ronil, this report was made in the morning of the 25<sup>th</sup> of March 2020. The complaint of Jin Chao was also made in the morning of the same day. In these circumstances it is humanely not possible for ASP Harish to have contacted Jin Chao and planned out this false complaint against the two Accused in this form. This clearly leads to the necessary inference the Accused are attempting to put forward a false defence and attribute a false motive for ASP Harish to fabricate a case against the two Accused.

45. Further it is ironic that neither of the Accused did directly say that they in fact were the whistleblowers or that they were the inferences of the matter against ASP Harish. It was only suggested and in evidence for PC Ronil only said that ASP Harish suspected that the Accused were the whistleblowers. When a suggestion is made and then the Accused opts to give evidence and fail to substantiate the suggestion such suggestion is rendered to a mere suggestion of no value.
46. The 2<sup>nd</sup> Accused PC Ronil alleges that ASP Harish had taken his wallet and forcibly taken 2x \$100 notes from it and produced it as being a part of the money taken from Jin Chao. Ronil also admits that Karim was there and there was money in Karim's wallet too. However, ASP Harish or any other senior officer who was there had not taken Karim's wallet in that manner. The \$200 recovered from Karim was found in his house upon a search warrant. Karim admits that he told ASP Harish that the \$200 given to him was the repayment of a loan by Ronil and was left on the fridge at home. It is this information that led to the police going to his house to recover the same. If ASP Harish with other two officers was minded to falsely fix and fabricate an allegation against the two Accused one would naturally expect them to have taken the money from Karim's wallet as alleged to have been done to Ronil. Nothing of that sort had happened. This clearly leads to the necessary inference that the Defence position of forcibly taking money from Ronil is improbable and false.
47. PC Ronil takes up the position that he did return \$200 to Karim the previous day and Karim in evidence corroborates the same and takes up the position that he received the said sum on the previous day. Ronil said that he had \$200 and another \$39 in his wallet being his own money withdrawn from his account. When ASP Harish was cross examined it was suggested on behalf of Ronil that the money in his wallet was withdrawn from his ATM from his account number 664740 of BSP Bank. It was suggested that the following withdrawals were made by Ronil:
1. On 17.03.20 - \$400
  2. On 18.03.20 - \$80
  3. On 19.03.20 - \$190
  4. On 21.03.20 - \$150
  5. On 22.03.20 - \$70.

48. Thus the position taken up by Ronil is that in view of the above withdrawals he had in hand sufficient money to pay \$200 to Sergeant Karim and also to have another \$239 in his wallet. It is admitted that returning of the \$200 was made on the 24<sup>th</sup>. According to the withdrawals in the 17<sup>th</sup> a sum of \$400 have been withdrawn. Then subsequently between the 18<sup>th</sup> and 22<sup>nd</sup> 80, 190, 150 and 70 dollars have been withdrawn. It appears that though he had withdrawn \$400 on 17<sup>th</sup> from the 18<sup>th</sup> onwards he had been withdrawing substantially small sums up to the 22<sup>nd</sup>. If he had money in hand with the withdrawal of \$400 on the 17<sup>th</sup> in the normal course of event you would not expect a person to make withdrawals between the 18<sup>th</sup> and the 22<sup>nd</sup> as done by him. It is more probable that the \$400 withdrawn by him has been utilized or spent by the 18<sup>th</sup> and thus he had to continue to withdraw money in small amounts. The fact that he was compelled to withdraw \$70 on the 22<sup>nd</sup> clearly indicates that he did not have \$70 in hand as at that day. If he had there is absolutely no reason or necessity for him to withdraw \$70 on the 22<sup>nd</sup>. If that be so it is not probable or possible for him to have \$400 in hand by the 24<sup>th</sup> as claimed.
49. Though the withdrawals and the account number was suggested to ASP Harish in cross-examination, the 2<sup>nd</sup> Accused when he gave evidence did not produced any bank statement which he claimed to have in his possession nor did he in evidence say that he made such withdrawals. This is clearly is an inconsistent position taken up by PC Ronil. The only inference is that though it was suggested that the Accused upon realizing that the said evidence is not favourable had refrained from leading this evidence. The failure to substantiate the suggestion renders it a mere unsubstantiated suggestion.
50. According to Corporal Karim's explanation that he was financially well to do and that he helps and assists fellow officers by advancing money. Corporal Karim was attached to the Keiyasi Police Station. PC Ronil was transferred to Keiyasi Police Station just a day or two before this incident. That will be certainly be on or after the 22<sup>nd</sup> of March. If so Sergeant Karim would have come into contact with PC Ronil only after such day. That will lead to the only inference that PC Karim would have advanced money between the 22<sup>nd</sup> and 24<sup>th</sup> of March. This inference arises as it is unlikely that PC Karim would advance money to a person who was not known or attached to a different police station. There is no evidence from Sergeant Karim or PC Ronil that they knew each other before PC Ronil was transferred to the Keiyasi Police Station. That been so PC Ronil had

obtained an advanced of money after making the alleged withdrawals from his ATM. If so PC Ronil certainly could not have had any excess money of \$400 of his own by the 22<sup>nd</sup> of March which he may have withdrawn prior to that. That been so the evidence and the explanation given by PC Ronil as to how he had \$400 on the 24<sup>th</sup> becomes extremely improbable and most certainly false. In similar vein Corporal Karim's assertion that it was a loan repayment too is improbable and untrue.

51. I do not believe evidence of the Accused persons, but this by itself will not lead to a finding of guilt, because to do so would be to forget who has to prove the case. It is the Prosecution who is required to prove the guilt. I must assess all the evidence that I accept as reliable and consider if the evidence satisfy me of the Accused's guilt beyond reasonable doubt. As stated at the outset the starting point is the presumption of innocence. I must treat the Accused as innocent until the State has proved his guilt. The presumption of innocence means that the Accused do not have to establish their innocence. The State must prove that Accused are guilty beyond reasonable doubt. Proof beyond reasonable doubt is a very high standard of proof. It is not enough for the prosecution to persuade this court that the Accused is probably guilty or even that he is very likely guilty. It is certainly not an absolute certainty. What then is reasonable doubt? A reasonable doubt is an honest and reasonable uncertainty left in my mind about the guilt of the Accused after I have given careful and impartial consideration to all of the evidence. In summary, if, after careful and impartial consideration of the evidence, I am sure that the Accused is guilty is when I can find him guilty. On the other hand, if I am not sure that he is guilty, I cannot find him guilty. Now let's evaluate the prosecution evidence.

#### Evaluation of the Prosecution Evidence

52. Considering the admitted facts and the evidence of both in its totality the following facts are common ground and are not an issue:
1. The fact that Jin Chao met the two Accused along Valley Road on the night of the 24<sup>th</sup> March. The Accused admits that they were attached to the Keiyasi Police and both of them so the complainant vehicle parked along the Sigatoka Valley Road and the Accused persons approached the complainant who was in his vehicle and at first questioned him.
  2. That they arrived at the Sigatoka Police Station on the 25<sup>th</sup> morning and that



Jin Chao and others were also there.

3. That 2x \$100 notes was recovered by ASP Harish from PC Ronil.
  4. That 2x \$100 notes was recovered from Corporal Karim's residence.
53. I will first consider and evaluate the evidence of the three lay witnesses Jin Chao, Waisake and Leilani. All three of them have promptly come back to the Sigatoka Police and made complaints. As for Jin Chao as soon as he returned he had informed Waisake and also Leilani. The latter are thus first complaint witnesses.
54. Jin Chao had promptly informed this as soon as he met Waisake and without delay then proceeded to Sigatoka Police and lodged a complaint. Therefore, his complaint is prompt and there is no delay at all. As to contradictions and omissions the only matter raised was that though he claimed he was unaware as to the location or the name of the road. He had mentioned Valley Road in his statement. The complainant has found his location on Google map. When he came to the police he was showing the Google map to others and his statement was recorded with the assistance of Leilani. In these circumstances at the time the statement was recorded including the name Valley road could have taken place. Therefore I would not consider this contradiction has been serious or substantial.
55. While under cross-examination when he was questioned as regards his current visa status he was reluctant to answer. However, he did subsequently admit that it is due for extension. These are all ancillary issues that were not directly relevant. During cross-examination this witness responded promptly and directly to all questions when he was asked about his source of income how much he got from his mother, the amount spent for living etc, going back several years. He did have some difficulty in giving exact figures. This I observe was not due to any deliberate attempt to evade but naturally when someone is asked about details of income and expenditure of a bygone era one would not find it easy to promptly recall and respond. As for his demeanour I observe that he in narrating the incident and events exhibited a mannerism of recalling and re-living and recollecting something he had actually experienced. His demeanour was consistent with that of a truthful witness.
56. As for witnesses Waisake and Leilani they were co-workers and their acquaintance with Jin Chao had been very short, may be around a month or so. They were sharing an

apartment and sharing the rent too. Shortly after the incident Jin Chao has moved out elsewhere. Therefore, Waisake and Leilani were not partial witnesses and to some extent they are independent witnesses. I saw no substantial contradictions or omissions in their evidence. When considering the evidence of these three witnesses I did not see any serious contradictions inter se either.

57. The defence attempted to assail the credibility of these witnesses on the basis that they were conniving with ASP Harish and are making a false allegation. This I have already considered and found that it is highly improbable and impossible for these three witnesses to connive with ASP Harish to falsely fabricate a story of this nature. Therefore, the evidence of these three witnesses are credible and truthful.
58. As to the police evidence mainly witness number 4 ASP Harish was subjected to lengthy cross-examination and it was suggested that he is fabricating a false allegation because he believed that a report against him was initiated by the Accused. I already considered this and found it to be improbable. There were no serious contradictions or omissions in his evidence on any of the core issues. In these circumstances I am satisfied that ASP Harish is a credible and truthful witness.

Considering the Prosecution Case;

Identity of the Accused

59. In the course of trial the defence did raise an issue as to the identity of the two Accused. Jin Chao claims to have seen and identified the two Accused persons that night and has pointed them out the following morning at the police station. Then, about an year thereafter at the police inquiry held at Namaka police station into this matter, Jin Chao had not been able to identify the two Accused persons. However, about a year thereafter he identifies them in open court during this trial. Based on this the defence submitted that the identity of the Accused persons has not been proved. Jin Chao is the only person who had been present at the time of the incident and the above stated infirmity is present. The following morning within 12 hours of the incident Jin Chao pointed out the two Accused and identified them. Is it because they came in a police vehicle or is it based on the facial recognition? There appears to be some uncertainty that arises as Jin Chao failed to identify them at the Namaka inquiry.
60. However, in the present case it is an agreed fact that the two Accused persons did stop and

approach the complainant on the night of the 24<sup>th</sup> around 11pm along Sigatoka Valley Road. Apart from this the two Accused giving evidence admits that both of them did approach Jin Chao that night. Correspondingly Jin Chao in his evidence said that he was checked or searched by the police that night only once and that was when the money was taken. Therefore, this evidence and admissions lead to the only irresistible inference that it was the two Accused persons and they alone were the persons involved in this incident on the 24<sup>th</sup> night. Further Jin Chao whilst giving evidence referred to the officer who came and spoke to him as the tall officer and other the fat officer. It is thus clear that the witness had seen these two officers and identified them distinctly from their body shapes and height. The 1<sup>st</sup> Accused Karim is somewhat fat and 2<sup>nd</sup> Accused Ronil is somewhat slim and the taller out of the two.

61. The evidence of Jin Chao is credible, but due to the poor light, he may not have had the opportunity to clearly observe, perceive and register the distinctive facial features. But he certainly had the opportunity, light and the occasion to observe, perceive and identify the general features, shape of the physique and various acts and deeds of the two Accused persons that night. When Jin Chao testified that he can identify the Accused in the dock, Jin Chao is not untruthful, but he genuinely believes so and says so thus his evidence as to the acts, events and happenings *vis-à-vis* the body shape description it is credible and reliable. However the facial feature identity is not reliable.
62. Accordingly, the acts committed and deeds done by each of the officers who came there is narrated by Jin Chao by identifying them based on the said description of tall and fat. Therefore, it is in evidence clearly and unambiguously the different acts committed and utterances made by each of the Accused. Even if Jin Chao's facial feature identification of the two Accused be unreliable yet the other evidence prove beyond reasonable doubt that the two persons were the Accused 1<sup>st</sup> and 2<sup>nd</sup> Accused and no other. Therefore, the identity in this instance is proved by the said circumstances.

#### Loss of the Exhibits

63. At the trial the 4x \$100 notes were not physically produced. These 4 notes will be in the nature of real evidence. However, due to the misplacement whilst in the custody of the police the said exhibits were not available. It was led in evidence that these 4 notes have been documented and uplifted into the article register of court exhibits. According to entry number 493/2020 of exhibit PE2, these 4 notes have been uplifted to the register on the

28<sup>th</sup> March, 2020. Then it had been disposed of for the Police Tribunal Enquiry on the 23<sup>rd</sup> September 2020 and it has been brought back. Thereafter, the said notes could not be found in the police safe. The 1<sup>st</sup> Accused admits that \$200 notes were recovered from his house. 2<sup>nd</sup> Accused Ronil admits that 2x \$100 notes was taken on the 25<sup>th</sup> morning by ASP Harish. Therefore, the fact 4x of \$100 notes been uplifted is admitted and not in dispute. In these circumstances the absence of the physical exhibits does not affect the prosecution case to any extent.

#### Oral Confessions/admissions made by the Accused

64. The prosecution did lead the evidence of oral/verbal admissions made by both the Accused in the following form. When ASP Harish asked both of the Accused in the presence of Sergeant Ashnil and IP Shameem if they have threatened the Chinese man Jin Chao and taken any money both the Accused denied at first. Then PC Ronil has suddenly stated that he took the money from the Chinese man at which point Harish has cautioned him, confessions made for some reason. Apart from admitting taking money he had also admitted that he took only \$400 and said that he has \$200 still with him and has given the other \$200 to Corporal Karim. Apart from making the oral statements Ronil had also taken his wallet and taken 2x \$100 notes which was handed over to Sergeant Ashnil.
65. At this stage ASP Harish has cautioned Corporal Karim and asked him what about this allegation and where is the money. Karim had paused for a moment and said that money \$200 is in his house on top of the refrigerator.
66. These are not caution statements but the two Accused when they were initially questioned even before formal charging have on their own uttered these words and made admissions in the presence of Harish and two other police officers. PC Ronil has made a clear admission that he has taken \$400 from Jin Chao. As for Karim he had only admitted that the \$200 he received from Ronil. These admissions no doubt have been made to senior police officers who can be considered as persons in authority. PC Ronil's admission have been made prior to cautioning him. Sergeant Karim after he was cautioned. I will now consider the admissibility of these two admissions.
67. Extra Judicial admissions made by persons Accused are admissible however if they are made to persons in authority it should have been made voluntarily. Judge's rules does not

prohibit such confessions or admissions being led in evidence even when strict compliance is not made. In this instance Ronil unexpectedly when being questioned has come out with an utterance of confessionary nature. He had been cautioned and thereafter he had handed over the money. As for Karim there does not appear to be a confession in the fullest sense but he had admitted receiving \$200 from Ronil.

68. This sequence of events contain two parts; firstly the verbal admission or confession made and secondly the conduct induced by certain questions posed by Harish that is when he asked a question Ronil takes out \$200 and hands it over. Similarly, Karim shows the money on his fridge at home. The rules in respect of confessions would apply to the form of utterances. The law does not prohibit such spontaneous confession made to persons in authority being led provided there voluntarily.

Has the prosecution proved the charge against the Accused?

69. I have accepted the evidence of the prosecution witnesses as been truthful and credible. In the first instance I would consider all other evidence except the admissions and confessions made by the two Accused to ASP Harish. As I accept Jin Chao's evidence the fact that he was searched by two officers and the tall officer demanded \$600 and he was given \$500 and also the gesture made by the fat officer indicating that he would be remanded or arrested is proved. On this evidence Jin Chao had parted with his money because of the imminent fear and threat due to the gesture made by the fat officer. When one person is demanding money the other making such a gesture of a threatening nature is clear evidence of acting together with an intention to use force or threaten to use force in order to appropriate such property and thereby to permanently deprive such property. This evidence proves that the fat person by his gesture was acting together with the tall person. When the tall person was demanding that he be given money Jin Chao has been reluctant to part with his money. At this moment the gestures of the fat person had been of a threatening nature which had induced Jin Chao to part with his money. This direct evidence of Jin Chao established all the ingredients of robbery of \$500. The fact that two persons were involved proves it was aggravated robbery.
70. What remains to be considered is the identity of the two Accused. As evaluated above Jin Chao has seen the two Accused in the night of the 24<sup>th</sup>. This is with the help of the lights of the vehicle and the torch light. Without doubt you can certainly identify the nature of the figure as being tall or fat. However perceiving and identification of the facial features

for the purposes of recognition may not be very conducive in these circumstances. As evaluated above on the following morning the arrival of the vehicle tall and fat officers getting out may have prompted Jin Chao to honestly believe that these are the two he saw that night. The witness is otherwise credible but as regards the facial identity is not reliable. This is further evident by the fact that he was unable to identify the two Accused year later at the Namaka Police inquiry. That being so I would not rely on the facial identification of Jin Chao's evidence to establish the identity as it is unsafe.

71. As evaluated above there is circumstantial evidence that it was these two Accused persons and no one but they that took the money from Jin Chao. If I may recap it is admitted that the two Accused persons approached Jin Chao, Ronil questioned him and came up to him and Karim was accompanying him. Apart from the admitted facts the Accused in evidence has admitted the same. Jin Chao clearly says that on the 24<sup>th</sup> night he was approached and searched by the police only once at Valley Road. The tall person is identified as the 2<sup>nd</sup> Accused Ronil and the fat person is identified as the 1<sup>st</sup> Accused Karim. It is admitted and common ground that these two Accused persons were present that night. The description of tall person fits in with that of Ronil the 2<sup>nd</sup> Accused and the fat person description fits in with that of 1<sup>st</sup> Accused Karim. Therefore, I am satisfied beyond reasonable doubt the persons so referred to by Jin Chao are the two Accused persons.
72. These circumstances are thus proved beyond reasonable doubt. Thus the only irresistible inference that arise from these proved circumstances is that it is Ronil the 2<sup>nd</sup> Accused who spoke to Jin Chao and demanded and took the money and it is the 1<sup>st</sup> Accused Karim who made the hand gestures in a threatening manner. In addition, ASP Harish confirms that these are the only two Indo-Fijian officers attached to the Keiyasi Police Station. Considering the totality of the evidence the identity is established by circumstantial evidence and the act is proved by direct evidence of the complainant.

#### Oral Confessions/admissions made by he Accused

73. On an evaluation of this matter I am satisfied that even disregarding the items of the admissions and confessions made by the Accused the prosecution is able to prove the charges beyond reasonable doubt. However I will now consider the admissibility of the oral admissions and confessions made by the two Accused to ASP Harish. It is settle law that confessions and admissions made by Accused are admissible provided they are proved to have been made voluntarily. Confessions will only be admissible if the State

proves beyond reasonable doubt that they were made voluntarily.

74. *A statement will be involuntary if it is the result of either fear or prejudice or hope of advantage held out by persons in authority. Vigorous and skillful questioning, misstatement of facts by the police and appeals to the conscience of the Accused do not necessarily make a resulting statement inadmissible. The statement will not be excluded simply because the Accused believes it will be to his or her advantage to confess. It is only when this belief is induced or confirmed by persons in authority that the statement should be excluded.* (R v Oickle 2001 1LCR 472, 481 Canada).
75. This is a situation where the Accused persons happen to utter things of confessional nature to a senior police officer to that extent ASP Harish will be a person in authority. 2<sup>nd</sup> Accused Ronil makes the confessional utterance before he was cautioned and before he been formally treated as a suspect. As for Karim he too appears to have made the utterance in a similar manner however he seem to have been cautioned shortly before. The circumstances of the making the statements or utterances is when they were initially questioned not formally as suspect and may be not under caution.
76. Such utterances amounting to confessions have been considered to be admissible as evidence by the Canadian Supreme Court in the case of case of R. v. Tessier, 2022 SCC 35 (October 14, 2022) where the issue for determination was, in the pre-detention phase of the criminal investigation, did the absence of a caution during police questioning affect the voluntariness of a statements including an oral utterance under the confessions rule? Considering this issue Wagner C.J. and Moldaver, Karakatsanis, Côté, Rowe, **Kasirer** and Jamal JJ. Held thus;

*[89] In summary, the confessions rule always places the ultimate burden on the Crown to prove beyond a reasonable doubt that a statement made by an accused to a person in authority was made voluntarily. When an accused brings a voluntariness claim with respect to police questioning that did not include a caution, the first step is to determine whether or not the accused was a suspect. If the accused was a suspect, the absence of a caution is prima facie evidence of an unfair denial of choice but not dispositive of the matter. It is credible evidence of a lack of voluntariness that must be addressed by the court directly. Depending on the circumstances, it is potentially relevant to different Oickle factors as well as any other considerations pertinent to voluntariness. However, the absence of a caution is not conclusive and the Crown may still discharge its burden, if*

*the totality of the circumstances allow. The Crown need not prove that the accused subjectively understood the right to silence and the consequences of speaking, but, where it can, this will generally prove to be persuasive evidence of voluntariness. If the circumstances indicate that there was an informational deficit exploited by police, this will weigh heavily towards a finding of involuntariness. But if the Crown can prove that the suspect maintained their ability to exercise a free choice because there were no signs of threats or inducements, oppression, lack of an operating mind or police trickery, that will be sufficient to discharge the Crown's burden that the statement was voluntary and remove the stain brought by the failure to give a caution.*

### Voluntariness

77. The oral admissions had been made to ASP Harish in his room. The defence is totally denying the making of any such admissions. As such no voir dire inquiry was held and the same was dispensed with the consent and agreement of both the Accused. In view of total denial the issue if such statements were made becomes a trial issue. As such I will consider the same now. I have accepted the evidence of ASP Harish and Sergeant Ashnil. According to them the two Accused in response to preliminary questions put by the Mr. Harish had made certain utterances. Mr. Harish had made preliminary inquiries from both of them; they have initially denied. But Ronil subsequently admit taking money from the Chinese man. Then he gives \$200 from his purse and informs that \$200 was given to Karim. Karim in turn admits receiving \$200 and agrees to hand it over. The defence suggested that money was forcibly taken from Ronil's wallet. If that be so one would expect money to be similarly taken from Karim's wallet too. Karim had money in his wallet. Nothing of that sought was done. This clearly shows that what is narrated by the prosecution witnesses is true. The fact that the Accused initially denied is narrated in that form. If Mr. Harish forcibly took money and falsely made up a false story one would not expect him to come out with an initial denial. This sequence of events and conduct is clearly consistent with a true version narrated by Mr. Harish. Therefore, I am satisfied that the evidence of Mr. Harish is credible, reliable and truthful. That being so the fact that the two Accused persons made the utterances is proved beyond reasonable doubt.
78. Let me consider if it was voluntary. Both the Accused were able to initially deny then subsequently Ronil admits. There were two other officers in this room Ashnil and Shameem. In these circumstances it appears that Ronil spontaneously had admitted the taking of money. After the initial admissions were made they were cautioned and



statements were recorded later. The mere presence of the three officers and the circumstances of initial discussion does not indicate anything in the nature of undue coercion or force or a threat being made to them. The fact that Sgt. Karim was not forced to handover money and the utterance that they took only \$400 being told in that manner, further establishes that whatever the Accused uttered had been voluntarily told by them and the prosecution witnesses did truthfully narrate to this court exactly what happened. Accordingly, I am satisfied beyond reasonable doubt that the admissions and confessions have been made voluntarily. I am also satisfied that the absence of a caution was without consequence and that the statements in view of the context as a whole, voluntary and the accused were not psychologically detained when they made the oral admissions.

79. Thus notwithstanding the absence of a formal caution, the accused's statements to the police were voluntary and the accused exercised a free or meaningful choice to speak to the police and was not unfairly denied and the state, has proved that the absence of a caution was without consequence and that the statements were, beyond a reasonable doubt and in view of the context as a whole, voluntary.
80. It is settled law, that in this jurisdiction that an accused person can be convicted of a crime even though the evidence in the case against him is confined to an alleged oral confession and nothing else. A confession properly proved to have been given of one's own free will to my mind, is proof of guilt. This is so whether the confession be in writing or is claimed to have been oral, although in the case where the sole evidence against an accused person is that of an oral confession, it is prudent to act with caution. The defence is that these confessions are fabricated. I am mindful that the police often offer some kind of inducement to the suspect to obtain a confession. Few suspects will spontaneously confess to a crime. In the vast majority of cases, the police will have to somehow convince that it is in his or her best interest to confess. This becomes improper only when the inducements, whether standing alone or in combination with other factors are strong enough to raise a reasonable doubt about whether the will of the subject has been overborne. The following passage from R v Rennie 1981 74 Cr. App R. 207 at 212 is particularly relevant;

*“Very few confessions are inspired solely by remorse. Often the motives of an accused are mixed and include a hope that an early admission may lead to an earlier release or a lighter sentence. If it were the law that the mere presence of such a motive, even if provided by something said or done by a person in*

*authority led inexorably to the exclusion of a confession, nearly every confession would be rendered inadmissible. This is not the law. In some cases the hope may self-generated. If so, it is irrelevant, even if it provides the dominant motive for making the confession. In such a case the confession will not have been obtained by anything said or done by a person in authority. More commonly the presence of such a hope will, in part at least, owe its origin to something said or done by such a person. There can be few prisoners who are being firmly but fairly questioned in a police station to whom it does not occur that they might be able to bring their interrogation and their detention to an earlier end by confession.... The most important consideration in all cases is to look for a quid pro quo offer by interrogators regardless of whether it comes in the form of a threat or a promise.”*

81. I find no *quid pro quo* in evidence to substantiate any form of inducement though promises or otherwise. Thus the admission by Ronil that he demanded money and accepted supports and corroborate the complainant. This will be evidence of taking money by itself. He also admits sharing a part of it with Corporal Karim. Similarly, the admission by Corporal Karim will prove that he has received a part of the proceeds of the crime and this will further confirm his active participation in the common joined enterprise and thus will strengthen and confirm the offence of aggravated robbery committed jointly between the two Accused. This evidence thus confirms and proves that the 2<sup>nd</sup> Accused Ronil had demanded and taken money from Jin Chao and the 1<sup>st</sup> Accused Karim had shared a portion of the money so stolen by Ronil.

### Conclusion

82. Thus I am satisfied that the prosecution had proved beyond reasonable doubt that both the Accused person have uttered the said confessions and admissions to ASP Harish and they were voluntarily and freely made.
83. In the above circumstances the defence taken up by the Accused is false and extremely improbable. The defence failed to create any reasonable doubt on the prosecution evidence. For the reasons stated above I hold that the prosecution has thus proved the charges against both the Accused beyond reasonable doubt. Accordingly, I find the 1<sup>st</sup> and 2<sup>nd</sup> Accused persons guilty of the charge of Aggravated Robbery punishable under section 311 (1) (a) of the Crimes Act and hereby convict them separately for the said offence as charged.



**At Suva**

25<sup>th</sup> November 2022

**Solicitors**

Office of the Director of Public Prosecutions for the State.  
Jiten Reddy Lawyers for both the Accused