

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 78 of 2020

STATE

vs.

DAVNIT KRISHAN RATNAM

Counsel: Mr. E. Samisoni for the State
Mr. J. Reddy with Ms. S. Narayan for Accused

Date of Hearing: 17th July 2023
Date of Closing Submission: 20th July 2023
Date of Judgment: 15th August 2023
Date of Sentence: 05th September 2023

SENTENCE

1. The Court, on the 15th of August 2023, found you guilty of one count of Manslaughter, contrary to Section 239 of the Crimes Act, which carries a maximum sentence of twenty-five years imprisonment and convicted of the same.
2. It was proved during the hearing that you had driven the car bearing registration number JW741 at high speed, while having 171.6 milligrams of alcohol in 100 millilitres of your blood, along Kings Road on the night of 13th of August 2019 and knocked the Deceased,

who was standing in the middle of the road to cross the road. The Deceased died due to this accident. After knocking her down, you did not stop your car and drove it to Shah's supermarket, where the Police arrested you. During the investigation's early stages, you gave a false name to the Police. According to the Post Mortem Report of the Deceased, she had sustained severe injuries.

3. The tariff for Manslaughter ranges from a suspended sentence, where there has been a great deal of provocation, to 12 years imprisonment, where there has been minimal provocation. However, this is a case of homicide caused by a motor vehicle accident. There is no separate tariff with respect to the cases of homicide caused by a motor vehicle accident.
4. The Fiji Court of Appeal in **Hill v State [2018] FJCA 123; AAU109.2015 (the 10th of August 2018)** has outlined an appropriate approach in sentencing offenders for offences of this nature, where Aluthge JA said that:

“Road accidents cause immense human suffering. Every year, a considerable number of people are killed and seriously injured. This represents a serious economic burden. It is understandable that cases of serious driving offences causing death are referred to courts by the DPP in the form of Manslaughter because he considers that the prescribed sentence and tariff for Causing Death by Dangerous Driving is unduly lenient.

Motor manslaughter cases cause particular difficulty for sentencers. By definition, it is one which always gives rise to extremely serious harm. Understandably this often leads to calls from victims' families, and from the wider community, for tough sentencing. On the other hand, an offender sentenced for causing death by reckless driving did not intend to cause death or serious injury, even in the extreme case where he or she deliberately drove for a prolonged period with no regard for the safety of others. Therefore, the sentencing should strike an appropriate balance between the level of

culpability of the offender and the magnitude of the harm resulting from the offence.

A factor that courts should bear in mind in determining the sentence which is appropriate is the fact that it is important for the courts to drive home the message as to the dangers that can result from dangerous driving on the road. It has to be appreciated by drivers the gravity of the consequences which can flow from their not maintaining proper standards of driving. Motor vehicles can be lethal if they are not driven properly and this being so, drivers must know that if as a result of their driving dangerously a person is killed, no matter what the mitigating circumstances, normally only a custodial sentence will be imposed. This is because of the need to deter other drivers from driving in a dangerous manner and because of the gravity of the offence. [R v Cooksley (supra)].”

5. The deceased's death has undoubtedly caused a devastating impact on her family. Therefore, the level of harm is substantially high. You have driven the car on a busy road while having 171.6 milligrams of alcohol in 100 millilitres of blood. You did not stop the car and fled the scene, leaving the victim on the road. You then tried to mislead the Police by giving a false name during the early stages of the Investigation. Therefore, I find that the level of culpability in this matter is extremely high.
6. I consider your young age, family background, and the contribution you have made to the community as mitigatory factors. Moreover, you are a first offender; hence, you are entitled to a discount for your previous good character.
7. Considering the above-discussed reasons, I sentence you to three (3) years imprisonment.
8. Considering the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I partially suspend your sentence. Accordingly, you shall serve 24 months of your sentence forthwith, and the remaining 12 months is suspended for three years.

Considering the period of nearly one month that you have spent in remand custody before this sentence, the actual period you have to serve is twenty-three (23) months imprisonment.

9. If you commit any crime during three (3) years and are found guilty by the Court, you are liable to be charged and prosecuted for an offence according to Section 28 of the Sentencing and Penalties Act.
10. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a vertical line and a horizontal stroke.

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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

05th September 2023

Solicitors

Office of the Director of Public Prosecutions for the State.

Jiten Reddy Lawyers for the Accused.