

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

Criminal Case No. HAC 195 of 2025

STATE

-v-

ADI ASENSA MOTUBULA DANFORD
(Also known as Rosemary Whippy)

Counsel: Ms. Sautu, Yelena for the State
Ms. Dean, Andala for the Accused

Sentencing Hearing: 24th November, 2025
Date of Sentence: 28th November, 2025

SENTENCE

[1]. **ADI ASENSA MOTUBULA DANFORD**, you are here to be sentenced after pleading guilty on your own accord to the following offence;

COUNT ONE

Statement of Offence

ATTEMPTS TO COMMIT ARSON: Contrary to **section 363(a)** of the *Crimes Act, 2009*.

Particulars of Offence

ADI ASENSA MOTUBULA DANFORD also known as **Rosemary Whippy**, on the 20th of May 2025, at Suva, in the Central Division, unlawfully attempted to set fire to **CAPITOL MOTEL**.

COUNT TWO

Statement of Offence

CRIMINAL INTIMIDATION: Contrary to section 375 (1)(a)(i)(iv) and (2)(a) of the *Crimes Act, 2009*.

Particulars of Offence

ADI ASENSA MOTUBULA DANFORD also known as **Rosemary Whippy**, on the 20th day of May 2025, at Capitol Motel in Suva, the Central Division, without lawful excuse, and with intent to cause alarm, threatened to stab and burn **LUISA LOGAVATU**.

- [2]. This case was first called before the Suva High Court on 18th July, 2025 and the Director of Prosecutions (DPP) was granted time to file Information and Disclosures.
- [3]. On 31st July, 2025, the State filed the Information and Disclosures pertaining to the case. However, the plea had to be deferred, on several adjournments since the accused was not present in court. The information received by the court was that the accused was granted bail by one of the Magistrates and since then she has not presented herself in court.
- [4]. Then on 24th October, 2025 accused was produced in court. She informed the court that she is now serving a custodial term of 9 month and 11 days by the Nadi Magistrates Court. She is serving at Natabua Correctional Facilities, Lautoka. The case was adjourned to 14th November, 2025 for plea.
- [5]. When the matter was called before me on 14th November, 2025, you were ready to take a plea. You pleaded guilty to the charge in the Information. This Court was satisfied that you pleaded guilty on your own accord and free from any influence. Court found that you fully understood the nature of the charge against you and the consequences of your plea.
- [6]. Thereafter, on 17th November 2025, the Summary of Facts were read out and explained to you and you understood and agreed to the same. Accordingly, Court found your guilty plea to be unequivocal. I found that the facts support all elements of the two counts in the Information, and found the charge proved on the Summary of Facts agreed by you. Accordingly, I found you guilty on your own plea and I convicted you for one count of Attempts to Commit Arson and one count of Criminal Intimidation. You are also convicted accordingly.

Summary of Facts

- [7]. On the 20th of May 2025 at the Capitol Motel in Suva the accused, who is also known as Rosemary, came to the Motel at 6 am and asked **Luisa Logavatu (PW1)** who is the Front Desk Receptionist, if she could see her boyfriend, who was in one of the rooms in the motel. PW1 then told the accused that there was no man in the rooms, only girls, but she kept insisting that her boyfriend was in the room with the three girls.
- [8]. **Ilane Grace (PW2)** did night shift on the evening of 19th May 2025, when she exchanged shift with PW1 at 6am on 20th May 2025, she saw the accused standing at the entrance near the doorway talking to PW1.
- [9]. PW1 did not let the accused in so the accused started threatening PW1 saying "*I know your face, I'm going to come and stab you to death and I will also burn you*". PW1 then chased the accused away.
- [10]. At about 9.40 am PW1, PW2 and **Marica Lekanagata (PW4)** was sitting down at the corner inside Capitol Motel and facing the roadside while having their tea when PW1 could see the accused with her hair tied up with a bandana, she walked in through the driveway, so PW1 told PW2 and PW4 to go and check on the accused outside as she was coming back.
- [11]. When PW1, PW2 and PW4 came out, they could see the accused spilling Pre-mix on the ground, beside the building, and they could also smell the pre-mix from where they were standing.
- [12]. PW1 then ran after the accused, when one girl who was with the accused lit a cigarette and passed it to the accused, who then tried throwing the lit cigarette, but it did not land on the spot where the accused had already spilt the pre-mix.
- [13]. PW2 then went to where the accused dropped the lit cigarette, picked up the cigarette bud and took it away.
- [14]. PW1 then called the Police on the same day and lodged a report against the accused.
- [15]. On 21st May, 2025 **WPC 3769 Mereleni (PW6)** interviewed the accused under caution whereby the accused made full admissions in her record of interview. **(Copy of the Caution Interview statement attached)**

Sentencing Guidelines

- [16]. **Section 4** of the *Sentencing and Penalties Act No. 42 of 2009* ("Sentencing and Penalties Act") stipulates the relevant factors that a Court should take into account during the sentencing process. I have duly considered **section 4** of the *Sentencing and Penalties Act, 2009* before determining the sentence to be imposed on you.

Law and Tariff

Count 1 – Attempt to commit arson

[17]. The offence of Arson is defined in **Section 362** of the *Crimes Act No. 44 of 2009* (Crimes Act), in the following manner:

“A person commits an indictable offence if he or she wilfully and unlawfully sets fire to —

(a) any building or structure (whether completed or not); or

(b) any vessel (whether completed or not); or

(c) any commercial plantation of trees;

(d) any stack of cultivated vegetable produce, or of mineral or vegetable fuel; or

(e) a mine, or the workings, fittings or appliances of a mine.”

[18]. The maximum penalty for Arson is Imprisonment for life.

[19]. **Section 363** of the *Crimes Act, 2009* establishes the distinct offence of “**Attempt to Commit Arson**”. The offence is defined as follows:

“A person commits an indictable offence if he or she —

(a) attempts unlawfully to set fire to any such thing as is mentioned in section 362; or

(b) wilfully and unlawfully sets fire to anything which is so situated that any such thing as is mentioned in section 362 is likely to catch fire from it.”

[20]. The offence of **Attempt to Commit Arson** in terms of **Section 363 (a)** of the *Crimes Act, 2009* carries a maximum penalty of 14 years imprisonment.

[21]. There is no predetermined or established tariff for the offence of **Attempt to Commit Arson**.

[22]. In **Isikeli Nakato & Another v. State** [\[2018\] FJCA 129](#); AAU74.2014 (24 August 2018); the Fiji Court of Appeal held:

“Having considered the views expressed by the courts in the decisions cited above and the aforementioned tariffs, it is my considered view that the tariff for the offence of arson under section 362(a) of the Crimes Decree should be an imprisonment term between 5 to 12 years. In selecting the lower end of 5 years imprisonment, I have taken into account inter alia the nature of the offence under section 362(a) which is unlawfully setting fire to a building or a structure, the natural implications of that offence and the maximum penalty which is life imprisonment. Further, this tariff should be regarded as the range of the sentence on

conviction after trial. A sentencer may inevitably arrive at a final sentence which is below 5 years imprisonment in applying the two-tier approach unless the aggravating circumstances are quite substantial. If the final sentence reached is one that is below 3 years imprisonment, then it would be at the discretion of the sentencer to opt for any sentencing option as provided under the Sentencing and Penalties Act.”

- [23]. His Lordship Justice Madigan in *State v. Seru & Another* [2016] FJHC 841; HAC32.2015 (21 September 2016); held:

[15] *There is no predetermined tariff for the crime of attempted arson but the accepted sentences for arson itself range from 2 years to 10 years. Two years has been held to be appropriate where there is no danger to human life and 4 years where there is such a danger. These are sentences passed for a crime with the maximum penalty of life imprisonment, and there is no reason why a tariff for attempted arson should be more.*

[16] *If then there is an attempt to burn down a building then an appropriate sentence would start from a term of two years. If the attempt is to harm persons inside the building or is reckless as to whether there would be harm to inhabitants then the sentence should be one of at least 4 years. If the attempt is an attempt to effect large scale arson, for example on a large scale shopping area or a sensitive Government building then the sentence could be in the range to 7 to 10 years. (See *Damodar Naidu & Anor v R. C.A.* (1978) FLR93).*

Count 2 – Criminal Intimidation

- [24]. The maximum sentence for **Criminal Intimidation** with death threats as per Section 375(1) (a) (i)(iv) and (2) (a) is a term of ten years’ imprisonment and the accepted tariff would be from 12 months to 4 years imprisonment [*State v Baleinabodou* (2012) FJHC 981].

Sentence

- [25]. Having taken into consideration the seriousness of the offence, I select as the first step in the sentencing process a starting point of 2 years from the bottom range of the tariff.
- [26]. In the light of the Supreme Court decision in *Ram v State* [2015] FJSC 26; CAV12.2015 (23 October 2015), and the helpful submissions of the Counsel, I have identified the following aggravating and mitigation factors:

Aggravating factors

- [27]. The following aggravating factors:-

(a) The accused has no regard for the property rights of the owner of Capitol Motel;

- (b) She has disregarded the lives of the employees of Capitol Motel and the occupants too; and
- (c) Her intention to commit arson was due to the refusal of the staff to permit her entrance to their premises. The accused thought her boyfriend was there with another young woman.

[28]. Based on the above factors, I enhance your sentence by 1 year and arrive to 3 years imprisonment.

Mitigating Factors

[29]. There were no mitigating factors submitted so your sentence remains at 3 years imprisonment.

Early Guilty Plea

[30] Since you pleaded guilty on the first available instance, I provide you with a one third discount of 1 year from your sentence. Your final sentence is 2 years imprisonment.

Summary of Sentence

[31]. Your sentence is as follows;

- (a) Count 1 – Attempts to commit Arson – 2 years imprisonment
- (b) Count 2 – Criminal Intimidation – 1 year imprisonment

Several offences based on same facts

[32]. **Section 17** of the **Sentencing and Penalties Act 2009** stipulates that;

“If an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them.”

[33]. The one count of Attempts to Commit Arson and one count of Criminal Intimidation which you have been convicted are offences founded on the same facts and are of similar character. In accordance with **section 17** of the *Sentencing and Penalties Act, 2009* I consider it just and appropriate to impose an aggregate sentence for the one count of Attempts to commit arson as it is the more serious of the offences.

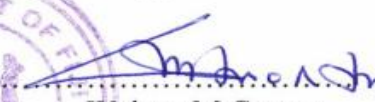

[34]. So your head sentence is 2 years imprisonment.

Order

[35]. Since you are currently serving a custodial sentence, I hereby order that you serve a 1 year custodial term and the remaining 1 year is to be suspended to 3 years thereafter. This sentence is to be served concurrently to your Nadi Magistrates Court Criminal Case No. 951/25.

Appeal Period

[36]. You have 30 days to appeal to the Fiji Court of Appeal.

Waleen M George
Acting Puisne Judge

Dated at Suva this 28th day of November, 2025.

Counsel:

- Office of the Director of Public Prosecution for State
- Legal Aid Commission for offender