

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 98 of 2024

STATE

-v-

LINO SERU BARAVILALA

Counsel: Mr E Kotoilakeba for the State
Mr S Driu with Ms S Devi for the Accused

Date of Trial: 19 January 2026 – 20 January 2026

Date of Judgment: 6 February 2026

JUDGMENT

Introduction

1. By an Information dated 14 November 2024, Mr Lino Baravilala (“the accused”) was charged with the offence of Act With Intent to Cause Grievous Harm, contrary to section 255(a) of the Crimes Act 2009, the particulars being that, on 5 October 2024, at Mataniwai Settlement, Taveuni, with intent to cause grievous harm to Filimoni Waqa Usavudi (“the complainant”), he wounded the complainant by stabbing his back with a pair of scissors.

Prosecution case in outline

2. As opened by Mr Kotoilakeba, the prosecution case was that, on 5 October 2024, in the early evening, the complainant entered into the accused’s home uninvited in a drunken state. The accused was at home enjoying some family time with his wife and children. The accused remonstrated with the complainant for coming into

his house drunk and asked him to leave. There was a frank exchange of views and some mild cursing. The complainant left, only to return sometime later in order to apologise to the accused. The accused was angry with the complainant and an argument ensued. When the complainant turned away from the accused, the accused stabbed him in the back with a pair of scissors, causing an injury requiring hospital treatment. When interviewed under caution, the accused accepted that he had stabbed the complainant as he was angry with him. It was the prosecution case that the accused intended to cause the complainant really serious harm when he stabbed him in the back.

Prosecution evidence

3. The first prosecution witness was Dr Sanjay Kumar. He examined the complainant at Taveuni Hospital in the early hours of 6 October 2024. He was intoxicated and not in any obvious distress. He had suffered a 1cm deep wound to his back, which was not actively bleeding. Dr Kumar described this as a minor injury.
4. The complainant testified that he was drinking strong beer (12% Atlas) from around 11am on 5 October 2024. Later that afternoon, he went to the accused's house. The accused was not happy with him entering his house in a drunken state and told him as much. After he left, the complainant went to another house and drank more Atlas. Later, he encountered the accused's elder brother, Mr Simione Dali ("Simione"), and they exchanged apologies. Wanting to offer apologies to the accused, against Simione's advice, he went back to the accused's house and entered his sitting room. He approached the accused and touched his arm as he apologised. However, his apology fell on stony ground and he was asked to leave. He kept asking for forgiveness and things became heated. As he turned to leave, he was stabbed from behind. He did not see who stabbed him, but knew that it was the accused. When I asked him how he reacted to being stabbed, the complainant replied: *"I couldn't feel it"*. The complainant exited through the window with the assistance of Mr Lisaua Ake. He was taken to hospital.
5. In cross examination, the complainant confirmed that the accused had been drinking grog when he first went to his house, and he poured the grog away because he did not want the complainant there in a drunken state. As the

complainant was leaving, the accused called him a '*penis*'. He retorted that the accused was a '*big ass*'. The complainant returned to the accused's house knowing that he was not welcome there. The accused told him to come back when he was sober. The accused was on the other side of the house rolling suki. The complainant denied that he had tried to put the accused in a headlock, but accepted that he approached the accused and touched him when seeking forgiveness. When it was suggested to him that he was stabbed with scissors as the accused tried to extricate himself, the complainant replied: "*I don't know*".

6. When the Court sought to clarify how the complainant knew that he had been stabbed if he did not feel it, the complainant explained that he only realised that he was injured when Lisaua informed him that he was bleeding.
7. Mr Lisaua Ake ("Lisaua") testified that he was near to the accused's house and heard him shouting from inside about the complainant being drunk. Lisaua pulled the complainant through the window of the accused's house and said for him to go home. When they were sitting outside the complainant's house, the complainant was running short of breath. Lisaua massaged his back and felt it was wet. He lifted the complainant's t-shirt and saw that his back was bleeding.
8. Simione testified that, on the evening of 5 October 2024, he heard the complainant swearing at Simione's younger brother, the accused. He approached the complainant and admonished him. The complainant sought forgiveness, and Simione forgave him. They went together to the next house and the complainant bought two fish parcels. Simione told the complainant to stay where he was whilst he went to see someone. He specifically told the complainant not to go to the accused's house, and the complainant agreed to wait for him. However, when he returned, the complainant was not there. He later found the complainant near to the accused's house. The complainant was hurt and Simione took him to hospital.
9. The last prosecution witness was Cpl Nale, who had interviewed the accused under caution. He read the English translation of the accused's unchallenged record of interview into the record. At Q/A 64 the accused was asked how he injured the complainant and replied that he stabbed him. When asked which part of the complainant's body he had stabbed, the accused replied: "*I don't know*".

because I was really angry". The accused had been shown the scissors during the interview. The prosecution did not seek to adduce them in evidence, but Cpl Nale described them as small scissors.

Election

10. At the close of the prosecution case, there was plainly a case to answer and the accused elected to give evidence in his own defence.

Defence evidence

11. The accused testified that he is a 50-year-old farmer. He is married and has seven children.
12. At around 8am on Saturday 5 October 2024, he and his children went to collect food to prepare their Sunday meal. His routine is to drink grog at the end of the week. He started drinking with his son at around 4pm in their sitting room. This was family time for them. The grog was not finished because he poured it away after the complainant entered his house. When he heard drunkards outside, he looked at his wife as she is always scared of drunkards. When the complainant entered, his wife and children got up and left. He approached the complainant and told him that he was the first person to enter his house drunk. He did not want him there because he was drunk. The complainant did not like what he heard and started to get angry. The complainant questioned him whether he ever got drunk, and the accused told him that he drank when he was single, but had brought his family to the village to provide a better education for his children. His eldest son had gone to USP, but had died after getting drunk. After the accused poured away the yaqona, the complainant left.
13. After the complainant left, the accused's wife suggested that she and the children would go to Simone's house because she could still hear shouting. She was too scared to eat dinner.
14. After dinner, the accused wanted to roll suki because of what had transpired. He took out his scissors to cut pandamus. As he was cutting, the door opened and the complainant entered. The accused was sitting and, as the complainant approached, he tried to stand, but the complainant tried to head lock him. The

complainant was holding the accused's collar. He used his right hand to push the complainant away. He shouted at the complainant and chased him out. He turned off the light and went off to sleep. After a while, his wife called him and asked whether he knew that the complainant was injured. He was surprised to hear that.

15. In cross-examination, the accused said that he poured away the grog because the complainant was drunk when he came to his house. They argued and the complainant left. The accused was rolling suki when the complainant came to ask for forgiveness. When he was not drunk, the complainant was a humble person, but that day he was a different person because he was drunk. The complainant came towards him and started touching him. That is when he flipped the complainant's hand away. When Mr Kotoilakeba suggested that the accused had stabbed the complainant in the back after he had turned away, the accused did not accept that.

Closing submissions

16. The parties have made helpful written and oral submissions for which the Court is grateful.
17. In his closing speech, Mr Kotoilakeba very fairly and properly accepted that the evidence could not sustain a finding that the accused had intended to cause really serious harm to the complainant. He did, however, maintain that it was open to the Court to find the accused guilty of unlawful wounding on the basis that he intentionally stabbed the complainant.
18. Mr Driu argued persuasively that the evidence fell short of proving to the criminal standard that the accused had deliberately stabbed the complainant in his back. The injury to the complainant's back could well have been inflicted in the manner described by the accused as he pushed the complainant's arm away. The complainant accepted that he had touched the accused and that there had been some twisting and turning as the accused pushed his arm away. Mr Driu reminded me that the complainant only became aware of his injury when he got home that night, and the accused testified that he was surprised when his wife informed him

that the complainant had suffered an injury. In a nutshell, the stabbing was accidental.


Directions/Warnings

19. The prosecution must prove that the accused is guilty. The accused does not have to prove anything to me. The defence does not have to prove that the accused is innocent. The prosecution will only succeed in proving that the accused is guilty if I have been made sure of his guilt. If, after considering all of the evidence, I am not sure that the accused is guilty, my verdict must be not guilty.
20. I remind myself that if the accused's denials are, or may be, true, I must find him not guilty. Even if I reject his evidence, I must not find him guilty unless the prosecution has made me sure of his guilt.

Analysis and determination

21. The picture that has emerged of events on 5 October 2024 is largely uncontested. The heavily intoxicated complainant entered the accused's family home causing significant distress to his wife. The accused was naturally angry about this unwelcome intrusion into his family life and, perfectly understandably, he made his feelings clear to the complainant.
22. The relevant context is that the complainant and the accused seem to have enjoyed a good relationship prior to this incident. Indeed, the accused described the complainant as a '*humble*' man when not in drink. No doubt, the accused was sensitive to drunkenness because of the tragic loss of his eldest son, and because it scared his wife.
23. What happened that evening is all very regrettable, but I am sure that the accused harboured no intention to cause serious harm to the complainant. The evidence also does not make me sure that the accused intentionally stabbed the complainant in his back. I do not doubt that the accused was very angry with the complainant for good reason, but I do not find that his anger caused him to intentionally attack the accused with scissors. I accept that he was using his scissors to cut pandanus to roll his suki when he was approached by the complainant.

24. I also find that the complainant was genuinely, albeit ill-advisedly, seeking to offer apologies when he approached and touched the accused as he rolled suki. I cannot exclude the possibility that the complainant was injured accidentally in the manner described and demonstrated in Court. I am fortified in this view by the fact that the complainant was not immediately aware that he had suffered any injury and the accused's evidence, which I accept, that he was surprised to learn from his wife that the complainant had been injured.
25. As for the accused's statements against interest, I do not read his answers under caution as unequivocal admissions that he *intentionally* stabbed the complainant. To my mind, he was simply acknowledging, consistent with his testimony at trial, that he was very angry with the complainant and that the complainant had been stabbed with his scissors during their confrontation.
26. It follows that I must find the accused not guilty. I acquit him accordingly.
27. 30 days to appeal to the Court of Appeal.



Hon. Mr Justice Burney

At Labasa

6 February 2026

Solicitors

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