

**IN THE MAGISTRATE'S COURT OF THE REPUBLIC OF FIJI**  
**AT SUVA**

**CRIMINAL CASE No: 719 / 2023**

**STATE**  
**-Vs-**  
**VINCENT SAMUEL AUGAUTINE DASS**

**BEFORE** : Mr. Lakshitha Jayawardhana, Resident Magistrate

**COUNSEL** : Mr. Nofaga, H. (State Counsel) for the Prosecution

The accused appeared but unrepresented

**RULING ON INQUIRY BY COURT ON UNSOUNDNESS OF MIND OF  
THE ACCUSED**

**A. INTRODUCTION**

1. The accused VINCENT SAMUEL AUGAUTINE DASS was charged before this court with one count of Breach of domestic violence restraining order contrary to section 77 (1) (a) of the Domestic Violence Act 2009.
2. The accused was produced before this court from custody on 13-06-2023 and on that day the police prosecution request to call a psychiatric report of the accused to ascertain whether he is fit to take his plea on the charge.
3. Accordingly, the accused was remanded in custody and ordered to be produced to St. Giles Hospital for Hospital for psychiatric evaluation. The same was done and a Psychiatric evaluation report dated 22-06-2023 issued by Dr. Sheetal Singh, Senior medical officer of St. Gilles Hospital.
4. Following are the conclusions and recommendation of the said report.  
" VII. conclusions and recommendation  
The following conclusions are exclusively based on assumption that whatever history/information available is correct, current observation, personal interviews, and assessments of his mental status. Considering all above the opinion made is , **at the time of the examinations.**
  1. That Mr. Vincent Samuel Augustine Dass has Schizophrenia and is currently under treatment from Suva remand.
  2. That Mr. Dass has history of substance use.

3. That Mr. Dass was under the influence of mental illness; however, he was aware of his actions at the time of incident.
  4. That Mr. Dass is unfit to plead.
  5. That the family needs to be involved in the treatment of Mr. Dass and forensic team to be informed if the clients is released from Suva Remand Center.
5. Upon the request of the prosecution, this court held an inquiry as per section 104 of the Criminal Procedure Act on 22-01-2024. Dr. (Ms.) Sheethal Swasthika Singh and Ms. Suman Lata, the mother of the accused gave evidence in that inquiry. As directed by this Court, prosecution lead evidence of the accused also.

**B. THE LAW**

6. The law relating to inquiry regarding the unsoundness of mind of the accused is enacted in part 10 of ( section 104 to 109) the Criminal Procedure Act 2009 (CPA) and also section 27, 32 and 33 of Mental health Act 2010 can be considered as auxiliary provisions.
7. As per section 104 (1) of CPA, any time after formal charge has been presented if the court has reasons to believe that the accused may be of prevailing unsound mind either on its own motion or one of the party's requests, the court has to inquired into that matter. When such request is made by the Defense, the burden to prove mental illness is borne by the Defense on a standard of a balance of probabilities. If by Prosecution, the burden to prove is borne by them and the standard of proof shall be beyond reasonable doubt. ( Blackstone's Criminal Practice, 2023, Oxford University Press, A 3. 26 at p.53 )

**C. SUMMERY OF EVIDENCE ADDUSED IN THE INQUIRY**

8. Dr. (Ms) Sheethal Singh gave evidence and stated that she had medically examined the accused as per the court order and issued a report dated 22-06-2023. The said report was marked as PE01 and tendered as evidence. She further stated that she also interviewed some of the accused relatives. She diagnosed that the accused was suffering from mental illness of schizophrenia and also he had a history of using illicit drugs. Due to the said illness, the accused believed that his mother was having extra-marital affairs. She further added that at the time of assessment the accused appeared to be in stable state of mind. He could be managed as an outer patient of St. Gills Hospital.
9. Ms. Suman Lata who is the mother of the accused gave evidence under oath before this court at the inquiry. She stated that at the moment her son the accused behaved like normal as he was before. She stated that she believed that the accused was depressed because the relationship he had with his girlfriend

was broken. At the moment the accused is helping them on their online business and doing deliveries with his father.

10. As directed by this court, the prosecution lead the evidence of the accused person under oath. He stated that he stayed at home with his mother and father and engaged in online business. He stated that he advertised the electronic items in Facebook and when customers contact him he delivered the requested items to them. He is having normal relationship with his parents. He is not suffering any illness. When he was in remand for this case, he was directed by St. Gills hospital to take some medication but now he is not taking them.

### **C. ANALYSIS AND FINDINGS**

11. The psychiatric report dated 22-06-2023 issued by Dr. Singh , she observed that at the time of the examination the accused was in a status of understanding the court proceedings. In the said report (PE1) the doctor observed as follows: “ He understand the court proceedings and understand the term guilty to be wrong and not guilty to be not wrong and understand the roles of lawyers and judges. **However, he would not be able to stand court trial as he firmly believes the ideas and thoughts of his mother has affair despite the evidence proving otherwise.** (emphasis added). The above conclusion of the doctor to the effect that the accused would not be able to stand for his trial is contradictory to her own previous observation of the accused. Also, the court directed her to medically evaluate and report to the court whether the accused is fit to plea. Thus, it is clear that the doctor has surpassed her scope in the report in making the above-emphasized comment.
12. Also, the doctor in her conclusion in PE01 stated: 3. That Mr. Dass was under the influence of mental illness; however, he was aware of his actions at the time of the incident. Despite the aforesaid observation, the doctor concludes that the accused is unfit to plea, which is contradictory to her own observation.
13. The State Counsel lead evidence of the accused before this court as directed by the court. By doing that this court had an opportunity to observe objectively about the demeanor of the accused in giving evidence. Also, the Court was able to observe the competence of the accused as a witness. Upon my observation, I find that the accused understood the questions put to him by the State counsel and he gave rational answers to them. He also demonstrated a good memory and sound understanding about circumstances facing him.
14. Witness Ms. Suman Lata, who is the mother of the accused giving evidence before this court stated that the accused was now behaving normally, as he was before, and helped with herself and her husband in their online business.

15. In considering all the above, I am satisfied that the accused above named now in a mentally capable status to fully understand the charge against him and to make a plea on it. Section 106(1) of CPA empowered this court to resumption the process in this case.

**D. ORDERS OF THE COURT**

- i) This Court hereby determine that the accused above named is capable of make a plea to the charge leveled against him,
- ii) Proceedings resumes as per Section 106(1) of the Criminal Procedure Act 2009,
- iii) Plea will be taken on the next mention date.



**Lakshitha Jayawardhana**  
**Resident Magistrate**

At Suva, on this 13<sup>th</sup> day of March 2024.