

IN THE HIGH COURT OF FIJI
AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 030(A) OF 2005

BETWEEN:

THE STATE

AND:

SAILOSI RALAGO VOLIVALE

Date of Hearing: 16th March 2009 – 8th April 2009

Date of Sentence: 18th June 2009

Counsel: Mr. P. Bulamainaivalu for State
Ms. R. Senikuraciri for Accused

SENTENCE

[1] Sailosi Ralago Volivale, you stand convicted of murder, burglary and robbery with violence, following a trial.

- [2] On 7 November 2004 at around midnight, you entered the home of Navin Chandra together with a group of men after breaking the burglar bars. The invaders were armed with pinch bar and knives. You threatened the occupants and demanded money from them. Navin Chandra emptied his wallet and gave away his money.
- [3] In the course of committing the robbery, you stabbed Navin Chandra's son, Vikash Chandra, with a kitchen knife. You claimed that you acted in self-defence but your claim was rejected by the assessors and the trial judge.
- [4] Vikash Chandra was a young man and married with a child. He died due to a penetrating stab wound on the abdomen. The size of the wound was 4.7cm x 1.4cm. The wound was deep.
- [5] The penalty for murder is mandatory life imprisonment. Further, the Court has discretion to fix a minimum term. Counsel for the State has helpfully referred to the following authorities on minimum term: ***State v. Netani Moto Nute & Ors.*** HAC 139 of 2007; ***Waqanivalu v. The State*** [2006] FJCA 74, AAU0079.2005 (24 November 2006); and ***Raikelekele v. State*** [2007] FJCA 31; AAU0018.2006 & AAU0003.2007 (25 June 2007).
- [6] I find the killing in this case a wanton disregard for a human life. You terrorized the victim's family with a group of men by invading his home at night time when the family was asleep. You robbed the family and then stabbed the victim to death.

- [7] You have eight previous convictions since 1992. Four convictions are more than ten years old. I disregard those convictions. You have two convictions for robbery with violence. Your last two convictions are for robbery with violence and indecent assault. You are serving a total sentence of 7 years imprisonment for those offences. That sentence was imposed on 22 July 2008. You committed those offences while on bail in this matter. You have shown a total disregard for people's safety and security. By your conduct you have shown a propensity to use violence against members of the public.
- [8] You are in your mid-thirties and single. You had a disadvantaged upbringing. Your parents separated when you were young. You have attained up to class six education. You have previously worked as a casual labourer.
- [9] You are not entitled to any credit which is afforded to a person with previous good character. Further, I do not consider you are entitled to any credit for the delay in this case. You are the author of the delay by absconding the jurisdiction of the Court in breach of your bail conditions. It would be wrong in principle to allow you to benefit from the delay when you by your conduct have substantially contributed to the delay.
- [10] I take into account your disadvantaged upbringing as a mitigating factor. The aggravating factors are the group attack on a family in the security of their home, the use of a weapon to take away a human life, the non recovery of the stolen property, and the prevalence of this kind of offence in our society. Stern

punishment should be imposed to denounce the public's disapproval of this kind of conduct that strike at the very heart of safety and security of the public.

[11] Taking all these matters into account, I sentence you to life imprisonment for murder, with a fixed minimum term of 18 years imprisonment that you must serve before being eligible for parole, 2 years imprisonment for burglary, and 10 years imprisonment for robbery with violence.

[12] I bear in mind that the total overall term of imprisonment should not have a crushing effect on you by taking away any prospect for rehabilitation. To arrive at a just and fair sentence that reflects the criminality involved in committing these offences, I order that you serve all your terms of imprisonment concurrently with your pre-existing sentence.

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Daniel Goundar
JUDGE

At Suva
18th June 2009

Solicitors:

Office of the Director of Public Prosecutions for State

Office of the Legal Aid Commission for Accused