

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

**Crim. Case No: HAC 212 of 2018**

STATE

vs.

NIKOTIMO KOROVOU

**Counsel:** Ms. B. Khantaria for the State  
Mr. I. Ramanu for the Accused

**Date of Hearing:** 1<sup>st</sup> to 2<sup>nd</sup> October 2018

**Date of Summing Up:** 04<sup>th</sup> October 2018

**Date of Judgment:** 04<sup>th</sup> October 2018

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## **JUDGMENT**

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1. The accused is being charged with one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. The particulars of the offence is that:

*Statement of offence*

**AGGRAVATED ROBBERY:** Contrary to Section 311 (1) (a) of the Crimes Act 2009.

*Particulars of the Offence*

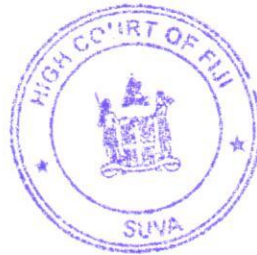
**NIKOTIMO KOROVOU** with others on the 18<sup>th</sup> day of May, 2018, at Suva in the Central Division, in the company of each other, robbed **SAMAN KUMARI MENDI** of his wallet containing 1 x \$100.00, 2 x \$20.00 and 2 x \$10.00 together with assorted cards all to the total value of \$160.00 the property of **SAMAN KUMARI MENDI**.


2. The hearing of this matter commenced on the 1st of October 2018 and concluded on the 2nd of October 2018. The prosecution presented the evidence of three witnesses. The accused opted to exercise his right to remain in silence. Hence, the accused did not adduce any evidence for the defence. Subsequently, the learned counsel for the prosecution and the defence made their respective closing addresses. I then sum up the case to the assessors.
3. The three assessors in their opinion unanimously found the accused guilty for this offence.
4. Having carefully considered the evidence presented by the prosecution, the respective closing submissions of the parties, the summing up and the opinion of the three assessors, I now proceed to pronounce the judgment as follows.
5. In view of the evidence presented by the prosecution and the agreed facts, the main dispute in this matter is to determine whether it was the accused who robbed the complainant with two others. The defence does not dispute the occurrence of this robbery.
6. The complainant in his evidence explained that he did not properly recognize or saw the three assailants as he was frustrated and shocked. It was SC Nasila who have seen that the accused with two others were strangling the complainant and then ran away. When SC Nasila decided to go after the accused, he found that another person had caught the accused and started punching on the accused. He then approached them and arrested the

accused. SC Nasila then found that the accused was in possession of the wallet of the complainant. The complainant came and identified his wallet and the items therein.

7. SC Nasila explained that the accused is a known person in the city as he used to roam around the city. He has seen the accused before and also had searched him many occasions during his city patrol. SC Nasila explained the lighting condition of the place where this crime took place. He further said that he clearly saw the incident though the people were walking along the passage.
8. The learned counsel for the defence submitted that the evidence given by the complainant and SC Nasila is not consistent in respect of the duration of this alleged incident. The Complainant in his evidence said that this incident lasted only for two to three minutes. According to the evidence of SC Nasila, he had observed this incident only for five seconds. The learned counsel for the defence submitted that this inconsistency nature makes the evidence given by SC Nasila untrustworthy.
9. It is important to note that SC Nasila said that he only observed the incident for five seconds. He did not say that the incident lasted for five seconds. According to his evidence when he saw the incident, the three assailant, including the accused had already started to strangle the complainant. The complainant said that the incident lasted for two to three minutes. Therefore, I do not find any inconsistency between the evidence given by the complainant and SC Nasila.
10. Having taken into consideration all of the evidence given by the prosecution, I am satisfied that SC Nasila had properly identified the accused as one of the perpetrators who robbed the complainant on that day. Therefore, I accept the evidence of SC Nasila as truth and credible evidence.
11. Accordingly, I find that the prosecution has proven beyond reasonable doubt that accused guilty for this offence as charged. Therefore, I do not find any cogent reasons to disregard the unanimous opinion of guilty given by the three assessors.

12. In conclusion, I find that the accused guilty for the offence of Aggravate Robbery, contrary to Section 311 (1) (a) of the Crimes Act and convict him for the same accordingly.



  
R.D.R.T. Rajasinghe  
**Judge**

At Suva  
04<sup>th</sup> October 2018

Solicitors  
Office of the Director of Public Prosecutions for the State.  
Office of the Legal Aid Commission for the Defence.