

IN THE HIGH COURT OF FIJI

CRIMINAL JURISDICTION

AT LAUTOKA

CRIMINAL CASE: HAC 40 OF 2014

BETWEEN : STATE

AND : PENIASI SUKANAKONIFEREDI

Counsel : Mr. A. Singh for State
Ms. L. Tabuakuro for the Accused

Date of Hearing : 03rd of November – 10th of November, 2016

Date of Ruling : 10th of November, 2016

RULING ON NO CASE TO ANSWER

1. At the conclusion of the prosecution case, the learned counsel for the defence made an submission under Section 231 (1) of the Criminal Procedure Decree, stating that prosecution failed to present evidence that the accused person committed the offence as charged in the information.

2. Section 231(1) of the Criminal Procedure Decree states that;

“ When the evidence of the witnesses of the prosecution has been concluded and after hearing (if necessary) any arguments which the prosecution or the defence may desire to submit, the court shall record a finding of not guilty if it considers that there is no evidence that the accused person committed the offence”

3. In pursuant of Section 231 (1) of the Criminal Procedure Decree, the court is required to satisfy whether there is some relevant and admissible evidence on

each element of the offence as charged in the information and not whether the evidence is credible and acceptable.

4. The accused is being charged with one count of Unlawful Importation, contrary to Section 4 of the Illicit Drugs Control Act. The particulars of the offence are that;

“Peniasi Sukanakoniferedi on the 18th day of March 2014 at Nadi in the Western Division, imported 408.1 grams of illicit drugs, namely Cocaine without lawful authority”

5. The prosecution adduced evidence to establish that;

- i) The accused is one of the two directors of the Energy Supplements Fiji Limited,
- ii) He was the only person doing the day to day business of the company in Fiji
- iii) The accused was sending pills and tablets overseas as per the direction received from Stanly Leon,
- iv) The alleged parcel was consigned to Energy Supplement Fiji Limited,
- v) The accused has previously obtained the service of Allied Custom Brokers to import an airfreight shipment in September 2013,
- vi) The accused signed the detention notice,

vii) The accused was aware of the parcel was coming to Fiji through his boss Mr. Stanley Leon.

viii) The Custom Officer Mr. Tiatia found powdery substance inside the two aluminum foil packages that were found inside the parcel,

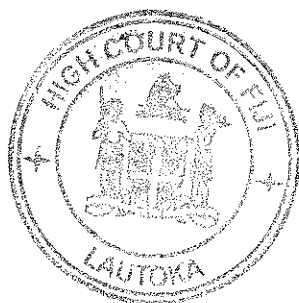
ix) The forensic test conducted at Koronivia Research Centre, confirmed that the powdery substance contains 408.1 grams of illicit drugs, namely Cocaine.

6. The learned counsel for the prosecution submitted that when considering the evidence presented by the prosecution, it leads to a conclusion that the accused has committed this offence of unlawful importation of illicit drugs.

7. The court is not required to determine the truthfulness, credibility, and the probative value of the evidence presented by the prosecution under Section 231(1) of the Criminal Procedure Code.

8. I am satisfied that there is sufficient evidence presented by the prosecution to establish the main elements of the offence of unlawful importation of illicit drugs as charged. Therefore, I refuse this application made by the learned counsel for the defence pursuant to Section 231(1) of the Criminal Procedure Decree.

At Lautoka
10th November, 2016



R. D. R. Thushara Rajasinghe
Judge

Solicitors : Office of Director of Public Prosecution
Messrs K Law & Associates