

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

**Criminal Case. No. HAC 192 of 2022**

**BETWEEN** : **THE STATE**

**A N D** : **ISOA SAQASERE BAINIVALU**

**Counsel** : Mr. M. I. Rafiq for the State.  
Ms. K. Kumar and Ms. L. Taukei for the Accused.

**Dates of Hearing** : 01, 02, 04 and 05 July, 2024

**Closing Submissions** : 08 July, 2024

**Date of Judgment** : 08 July, 2024

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**JUDGMENT – SPECIAL VERDICT**

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1. The Director of Public Prosecutions charged the accused by filing the following information:

**COUNT ONE**

***Statement of Offence***

**ATTEMPTED MURDER:** Contrary to section 44 (1) and section 237 of the Crimes Act 2009.

***Particulars of offence***

ISOA SAQASERE BAINIVALU on the 30<sup>th</sup> day of November, 2022 at Sigatoka in the Western Division, attempted to murder SERGEANT 4704 VONIANI NAMUA.

**COUNT TWO**

**ACT WITH INTENT TO CAUSE GRIEVOUS HARM:** Contrary to section 255 (a) of the Crimes Act 2009.

***Particulars of offence***

ISOA SAQASERE BAINIVALU on the 30<sup>th</sup> day of November, 2022 at Sigatoka in the Western Division, with intent to cause grievous harm to POLICE CONSTABLE 7727 APISAI MOIMOI, unlawfully wounded the said POLICE CONSTABLE 7727 APISAI MOIMOI with a cane knife.

**COUNT THREE**

**SERIOUS ASSAULT:** Contrary to section 277 (b) of the Crimes Act 2009.

***Particulars of offence***

ISOA SAQASERE BAINIVALU on the 30<sup>th</sup> day of November, 2022 at Sigatoka in the Western Division, resisted POLICE CONSTABLE 7727 APISAI MOIMOI whilst effecting arrest in due execution of his duty.

2. In this trial, the prosecution called four witnesses and after the prosecution closed its case, this court ruled that the accused had a case to answer in respect of all the offences as charged.

## **BURDEN OF PROOF AND STANDARD OF PROOF**

3. As a matter of law, the burden of proof rests on the prosecution throughout the trial and it never shifts to the accused. There is no obligation on the accused to prove his innocence. An accused is presumed to be innocent until he or she is proven guilty. The standard of proof is one of proof beyond reasonable doubt.

## **ELEMENTS OF THE OFFENCE**

4. To prove the first count the prosecution must prove the following elements of the offence of attempted murder beyond reasonable doubt:
  - a) The accused;
  - b) engaged in a conduct; and
  - c) the said conduct was an attempt to cause the death of the complainant; and
  - (d) the accused intended to cause the death of the complainant by his conduct.
5. In this case the prosecution is alleging that the accused intended to cause the death of the complainant by his conduct. The first element of the offence of attempted murder is concerned with the identity of the person who allegedly committed the offence.
6. The second element relates to the conduct of the accused. To engage in a conduct is to do an act which is the product of the will of the accused and it was not accidental. The prosecution has to prove beyond reasonable doubt that the conduct of the accused was deliberate and not accidental.

7. For the accused to be guilty of attempted murder, the accused's conduct must be more than merely preparatory to the commission of the offence. The question whether a conduct is more than merely preparatory to the commission of the offence is one of fact.
8. The third element is that the said conduct of the accused was an attempt to cause the death of the complainant.
9. The final element is concerned with the state of mind of the accused that he intended to cause the death of the complainant. It is not possible to have direct evidence regarding an accused's state of mind since no witness can look into the accused's mind and describe what it was at the time of the alleged incident. However, one can construe the state of mind of the accused from the facts and circumstances proved.
10. In order for this court to conclude that the accused intended to cause the death of the complainant, this court should be satisfied that the accused intended to kill the complainant as a result of his conduct. In this regard this court should consider all the evidence and draw appropriate inferences to ascertain whether the accused had the intention to cause the death of the complainant.
11. In this trial the accused has denied committing the offence of attempted murder. It is for the prosecution to prove beyond reasonable doubt that it was the accused who had intended to kill the complainant and with that intention he did something which was more than merely preparatory.
12. Intention is not something that can be easily proved it is something that has to be judged by the acts or words of a person or of the circumstances that surrounds what he or she does. The law says a person has intention with respect to a result if he or she means to bring it about or is aware that it will occur in the ordinary course of events. This court will decide

intention by considering what the accused did, by looking at his actions before, at the time of, and after the act.

13. The prosecution must also prove that with the intention to kill, the accused did something which was more than merely preparatory. Before this court can find the accused guilty of the offence of attempted murder it must be satisfied beyond reasonable doubt of two things: first that the accused intended to commit the offence of murder and second, that, with that intention, he did something which was more than merely preparatory for committing that offence.
14. In other words, did he actually intend to commit the offence of murder on the complainant, in which case he is guilty of attempting to commit murder, or that he only got ready, or put himself in a position, or equipped himself, to do so, then he is not guilty.
15. A person commits the offence of murder if:
  - (a) *the person engages in conduct; and*
  - (b) *the conduct causes the death of another person; and*
  - (c) *the first-mentioned person intends to cause, or is reckless as to causing, the death of the other person by the conduct.”*
16. The prosecution says the accused had intended to kill the complainant. The accused armed with a cane knife went behind the complainant and struck the knife at the back of the complainant’s head with such a force that the complainant fell on the pavement.
17. If this court accepts the accused did this, then it is for this court to decide whether what he did went beyond merely preparatory. If this court is satisfied that the prosecution has proved all the elements of the offence of

- attempted murder beyond reasonable doubt then this court must find the accused guilty as charged.
18. If on the other hand, this court finds that the prosecution has failed to prove any of these elements beyond reasonable doubt then this court must find the accused not guilty of attempted murder.
  19. To prove the second count the prosecution must prove the following elements of the offence of act with intent to cause grievous harm beyond reasonable doubt:
    - a) The accused;
    - b) with intent to do some grievous harm;
    - c) unlawfully wounds or does grievous harm to the complainant by any means.
  20. In law grievous harm means any harm which—
    - (a) amounts to a maim or dangerous harm; or*
    - (b) seriously or permanently injures health or which is likely so to injure health; or*
    - (c) extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ, member or sense.*
  21. The term harm has also been defined as any bodily hurt, disease or disorder (including harm to a person's mental health) whether permanent or temporary, and includes unconsciousness, pain, disfigurement, infection with a disease and physical contact with a person that the person might reasonably object to in the circumstances (whether or not the person was aware of it at the time).

22. The first element of the offence of act intended to cause grievous harm is concerned with the identity of the person who allegedly committed the offence.
23. The second element relates to the intention of the accused that he intended to do some grievous harm to the complainant.
24. The final element relates to the conduct of the accused that he did some grievous harm to the complainant by any means.
25. As I mentioned earlier intention of the accused is decided by considering what the accused did, this court should look at his actions before, at the time of, and after the act. Furthermore, unlawful means without lawful excuse and grievous harm means any dangerous harm to the body of another person.
26. If this court is satisfied that the prosecution has proved all the above elements of the offence of act intended to cause grievous harm beyond reasonable doubt, then it must find the accused guilty of the offence of act intended to cause grievous harm. However, if there is a reasonable doubt with respect to any element of the offence of act intended to cause grievous harm then it must find the accused not guilty of this offence.
27. To prove the third count the prosecution must prove the following elements of the offence of serious assault beyond reasonable doubt:
  - (a) The accused;
  - (b) resisted PC 7727 Apisai Moimoi;
  - (c) in the due execution of his duty.
28. The accused has denied committing the offence of serious assault as alleged. It is for the prosecution to prove beyond reasonable doubt that it

was the accused who had resisted PC 7727 Apisai Moimoi in the due execution of his duty.

29. If this court is satisfied beyond reasonable doubt that the prosecution has proven beyond reasonable doubt that the accused had committed the above offence then this court must find the accused guilty as charged.
30. If on the other hand, there is a reasonable doubt with regard to any of those elements of the offence the accused is charged with then this court must find the accused not guilty.
31. In this case, the accused is charged with more than one offence, this court is required to consider the evidence in respect of each offence separately from the other. If the accused is guilty of one offence it does not necessarily mean that he is guilty of the others as well there has to be evidence in respect of each offence separately from the other. This also applies with the findings of not guilty.

#### **ADMITTED FACTS**

32. In this trial the prosecution and the defence have agreed to certain facts titled as agreed facts. These facts are part of the evidence and I have accepted these agreed facts as accurate, truthful and proven beyond reasonable doubt.
33. I will now remind myself of the prosecution and defence cases. In doing so, it would not be practical of me to go through all the evidence of every witness in detail. I will summarize the important features for consideration and evaluation in coming to my final judgment in this case.



## **PROSECUTION CASE**

34. The first complainant PC 7727 Apisai Moimoi informed the court that he joined the Fiji Police Force in 2016. On 30<sup>th</sup> November, 2022 at around 10 am whilst on duty at the Sigatoka Police Station he went to Sigatoka town.
35. At Vunahalu Police Post the complainant met Sgt Voniani Namua who informed the witness that the accused was roaming around in town holding a cane knife. The complainant knows the accused from a long time. The complainant and Sgt Namua went in the police vehicle to look for the accused.
36. The complainant was able to see the accused standing at the old bakery so he and Sgt Namua got off the vehicle by this time the accused went into the passage where the bakery was.
37. When the complainant and Sgt Namua went into the passage the accused came running towards them with the cane knife in his hand. Both the complainant and Sgt Namua ran the complainant went towards the Sigatoka Market Square whereas Sgt Namua ran to the left behind Westpac Bank.
38. After a while the complainant and Sgt Namua met each other opposite Tappoo's building. After a while the complainant saw the accused standing with a cane knife on the railway not far away. The accused again ran after the complainant, the complainant ran looking for a stick or a timber to protect himself from the accused. The complainant was able to find one timber which he threw at the accused, the timber did not hit the accused. The complainant tried to arrest the accused but the accused resisted and chased the complainant once again with the knife in his hand.

39. The complainant went and hid behind a white van, however, the accused came and struck the knife on the complainant's right shoulder. The complainant got injured and he ran around the van so that he could escape.
40. The complainant again went towards the bakery and he saw Sgt Namua lying on the footpath with blood coming out from the head of Sgt Namua. The accused was there and he again wanted to strike Sgt Namua with the knife, the complainant intervened to protect Sgt Namua by going towards the accused. The accused again ran after the complainant with the cane knife. The complainant ran to the Vunahalu Police Post, at this time the other police officers arrived in a police van.
41. The police post was not far from where the accused was. The accused was challenging the police officers for a fight. The police officers surrounded the accused and at this time the accused threw away the knife. The accused was arrested by another officer and taken to the Sigatoka Police Station.
42. The complainant was seen by a doctor at the Sigatoka Hospital. In court the complainant was able to recognize the knife used by the accused on him that day and he was also able to recognize the accused in court. The knife was exhibited as prosecution exhibit no.1.
43. In cross examination the complainant stated that he knew the accused very well including his family. According to the complainant the accused behaviour was not of a normal person he was carrying a cane knife in his hand like he wanted to strike someone and was swearing "*magaitinamu*" meaning your mother's vagina. The complainant had also noticed that the accused was talking to himself.
44. The second complainant Sgt. 4704 Voniani Namua informed the court that on 30<sup>th</sup> November, 2022 at about 10 am he was in Sigatoka town. At the

old bakery he saw an Itaukei man standing with a cane knife in his hand. Upon seeing the complainant the accused said “*move out quickly or I will chop you.*”

45. The complainant messaged the Sigatoka Police Station to send some officers to the old bakery so that the accused could be restrained. He went to the Vunahalu Police Post, a police vehicle came with Detective Constable Moimoi and the driver.
46. The complainant got into the police vehicle and they went to the old bakery. The complainant and officer Moimoi got off the vehicle and they started looking for the accused. The complainant was able to see the accused standing with a cane knife in his hand on the road in the middle of the Tappoo’s building car park.
47. Upon seeing the complainant the accused called out saying “*what you want*”. The complainant was alone he went to check where the accused was standing in the car park. As the complainant went between two cars he heard footsteps at the back, when he turned his head he felt something struck the back of his head and he fell down. The complainant couldn’t stand up so he sat down and he saw the accused standing about 5 meters away from him.
48. At this time officer Moimoi arrived, the complainant was taken in the police vehicle to the Sigatoka Hospital and then to the CWM Hospital for treatment. The complainant was able to recognize the accused and the knife that was used by the accused to strike the back of his head.
49. In cross examination the complainant said when he saw the accused that morning he knew something was wrong with the accused. The complainant was able to see the accused after he was struck from behind

when he was trying to sit. According to the complainant the behaviour of the accused was not normal and the accused appeared to be angry.

50. The third witness PC 5696 Inoke told the court that he was the arresting officer in this case. On 30<sup>th</sup> November, 2022 at about 10 am he was instructed to check on an Itaukei man moving around in town with a cane knife.
51. The witness saw the accused threatening Sgt Namua and PC Moimoi. The witness went to assist his colleagues, upon seeing the witness the accused ran towards Westpac Bank. Shortly after, the witness saw Sgt Namua walk back with blood on his uniform holding the back of his head. Sgt Namua was taken to the Sigatoka Hospital.
52. The witness went to Vunahalu Police Post from there he was able to see the accused standing at the Tappoo's car park swinging the knife at the other police officers including PC Moimoi the witness ran to assist. After sometime the accused threw away the knife. It was at this time the witness went to the accused and handcuffed the accused hands. The knife was put in the police van and the accused was escorted to the Sigatoka Police Station.
53. The witness was able to recognize the accused and the cane knife uplifted from the scene.
54. In cross examination the witness stated that he found the accused to be violent, aggressive, threatening and swearing "*fuck each other and I will cut you up.*" Upon further questioning the witness said the accused was swinging the knife at the police officers and bystanders and burnishing the knife on the road swearing. According to the witness the accused did not appear normal.

55. The final witness Dr. Sera Sadranu informed the court that she graduated with an MBBS degree from the University of Fiji in the year 2015. On 30<sup>th</sup> November, 2022 the witness had examined Voniani Namua and Apisai Moimoi at the Sigatoka Hospital.
56. The witness had first examined Voniani Namua at about 10.13 am. The specific medical findings of the witness were:
- a) The patient was bleeding from a laceration at the back of his head;
  - b) The wound was about 15 cm slanting inwards and about 5 cm deep.
57. The witness stated that she had illustrated the wound in appendix 1. According to the witness the injury was a clean cut probably by a sharp object such as a knife. The witness also stated that had the injury been any deeper it could have been life threatening. The Fiji Police Medical Examination Form of Voniani Namua dated 30<sup>th</sup> November, 2022 was marked and tendered as prosecution exhibit no. 2.
58. The witness had also examined Apisai Moimoi that day at about 12.25 pm. The specific medical finding of the witness was:
- a) Superficial abrasion on the right shoulder joint.
59. According to the witness the injury could have been caused by a struggle, scratch or striking from a distance with a knife. The Fiji Police Medical Examination Form of Apisai Moimoi dated 30<sup>th</sup> November, 2022 was marked and tendered as prosecution exhibit no. 3.
60. In cross examination the witness agreed that the injury seen at the back of the head of Voniani Namua could have been caused by a knife. The witness also agreed that the injury seen on Apisai Moimoi could have been caused by a struggle.

61. This was the prosecution case.

### **DEFENCE CASE**

62. In this case the accused was taken as remaining silent since the Psychiatric Evaluation Report of the accused states that the accused is not fit to take this plea. At the end of the prosecution case the defence called the Dr. Kiran Gaikwad, Principal Medical Officer at St. Giles Hospital. This court must consider the evidence of the defence witness and give such weight as is appropriate.
63. The defence witness, Dr. Kiran Gaikwad informed the court that he has an MBBS degree, and he has also completed his Post Graduate Diploma in Mental Health Human Rights and Law. He has 15 years of experience at the St. Giles Hospital as a medical professional.
64. The accused is a patient of the St. Giles Hospital with a history of mental illness. The accused was admitted at the St. Giles Hospital on previous occasions. The witness has prepared three reports for the accused.
65. The first Psychiatric Evaluation Report is dated 16<sup>th</sup> March, 2023, the second report is dated 23<sup>rd</sup> October, 2023 and the final one is dated 21<sup>st</sup> March, 2024. The Psychiatric Evaluation Reports were marked and tendered as defence exhibits 1, 2 and 3.
66. According to the witness the accused has a mental illness known as Schizophrenia. It is a chronic mental illness which affects the person and it is not curable but treatable and controlled by medications. The accused has had this illness for more than 10 years now. The accused has been admitted to the hospital on 10 different occasions due to relapses. The witness stated that upon his assessment of the patient he can state that

at the time of the commission of the offences the accused was suffering from a mental illness.

67. The witness also mentioned that the accused currently does not have the mental capacity to participate in the court proceedings or to respond verbally in a relevant manner to cross examination. After assessing the patient including administration of medication the witness has come to the following conclusions:

- a. The accused has a history of mental illness namely schizophrenia and harmful use of cannabinoids;*
- b. Is not fit to plead;*
- c. Is unable to meaningfully participate in the court proceedings;*
- d. Was under the influence of mental illness at the time of the alleged crimes.*

68. In cross examination the witness stated that the accused has worsening symptoms of schizophrenia which is continuous. It is nearly 4 or 5 years now that the accused has been a patient of the St. Giles Hospital. The witness further stated that the accused does not have good family support and in his current state of mind he is a risk to the community. The witness stated that the accused can be treated at the St. Giles hospital till he improves.

69. This was the defence case.

#### **DIRECTION ON EXPERT EVIDENCE**

70. This court has heard the evidence of Dr. Sadranu and Dr. Gaikwad who had been called as an expert on behalf of the prosecution and the defence respectively. Expert evidence is permitted in a criminal trial to provide the court with information and opinion which is within the witness expertise.

It is by no means unusual for evidence of this nature to be called the medical reports of the two complainants and the psychiatric evaluation reports of the accused are before this court and what the doctors said in their evidence as a whole is to assist this court.

71. An expert witness is entitled to express an opinion in respect of his or her findings. When coming to my conclusion about this aspect of the case I have borne in mind that if, having given the matter careful consideration, I do not accept the evidence of the experts I do not have to act upon it. Indeed, this court does not have to accept even the unchallenged evidence of the doctors.
72. I have also kept in mind that the evidence of the doctors relate only to part of the case, and that whilst it may be of assistance to me in reaching my decision, I must reach my decision having considered the whole of the evidence.

### **ANALYSIS**

73. The prosecution alleges that on 30<sup>th</sup> November, 2022 the accused armed with a cane knife was roaming around the Sigatoka Town. PC Apisai Moimoi and Sgt Voniani Namua went in the police vehicle to look for the accused.
74. The complainants were able to see the accused standing at the old bakery so both got off the police vehicle by this time the accused went into the shop passage where the bakery was.
75. After looking for the accused in town PC Moimoi saw the accused standing with a cane knife he tried to arrest the accused but the accused resisted arrest and chased the complainant again with the knife in his hand.



76. The complainant went and hid behind a white van, however, the accused was able to see him came over and struck the knife on his right shoulder. The complainant got injured and he ran around the van so that he could escape from the accused. The accused ran to the Tappoo's car park.
77. Sgt. Namua saw the accused with a cane knife in his hand. He followed the accused into the car park and went between two cars. Suddenly Sgt Namua heard footsteps, when he turned his head he felt something hit the back of his head and he fell. The complainant couldn't stand up so he sat down and he saw the accused standing about 5 meters away from him.
78. At this time PC Moimoi arrived, both the complainants were taken in the police vehicle to the Sigatoka Hospital for treatment.
79. The doctor found Sgt Namua to have injuries at the back of his head which was about 15 cm slanting inwards about 5 cm deep. According the doctor the injury was a clean cut probably by a sharp object such as a knife. In respect of PC Apisai Moimoi the doctor had seen superficial abrasion on the right shoulder joint.
80. Finally the prosecution submits that the accused intended to kill Sgt Namua and what he did was more than merely preparatory. There was no provocation by Sgt Namua what the accused did was so forceful that the complainant fell down. The injury at the back of Sgt Namua's head is serious. The accused resisted arrest when PC Moimoi wanted to arrest him. The accused swung the knife on PC Moimoi injuring his shoulder.
81. On the other hand, the defence accepts that it was the accused who had committed all the offences as alleged. However, at the time of his actions he was not aware of what he was doing since he was suffering from a mental illness namely Schizophrenia.

82. As a result of this mental impairment the accused did not have the requisite mental element or *mens rea* to be legally responsible for his actions. The mental illness of the accused affected his cognitive behaviour to such an extent that he was incapable of knowing the nature and quality of his actions at the time and/or was incapable of knowing that his actions were wrong.

### **DETERMINATION**

83. I would like to remind myself that a person is presumed not to be suffering from a mental impairment. The presumption is only displaced if it is proved on balance of probabilities by the defence that the accused was suffering from a mental impairment at the time of the allegations.
84. There is no dispute that the accused has admitted the *actus reus* or the physical elements of all the offences. What is in dispute is the mental element?

### **LESSER OFFENCE**

85. In respect of the second count of act with intent to cause grievous harm I have also directed my mind to the lesser offence of assault causing actual bodily harm. The law provides that when a person is charged with an offence and the court is of the opinion that he is not guilty of that offence but guilty of a lesser offence, the court may find the accused guilty of that lesser offence. In this regard, I direct myself that if this court finds the accused not guilty of act intended to cause grievous harm then it should consider the lesser offence of assault causing actual bodily harm.
86. I have once again carefully examined the evidence in totality and I am satisfied that the evidence adduced satisfies all the elements of the offence of act intended to cause grievous harm.

87. The defence is arguing that the accused is not criminally responsible since he was suffering from a mental disease or impairment at the time of the allegations. The effect of this illness is that the accused did not know the nature and quality of his conduct and he did not know that his conduct was wrong.

## **LAW**

88. Section 28 of the Crimes Act states:

### *Mental impairment*

*28.-(1) A person is not criminally responsible for an offence if, at the time of carrying out the conduct constituting the offence, the person was suffering from a mental impairment that had the effect that-*

*(a) the person did not know the nature and quality of the conduct;*

*or*

*(b) the person did not know that the conduct was wrong (that is, the person could not reason with moderate degree of sense and composure about whether the conduct, as perceived by reasonable people, was wrong); or*

*(c) the person was unable to control the conduct.*

*(2) The question whether the person was suffering from a mental impairment is one of fact.*

*(3) A person is presumed not to have been suffering from such a mental impairment. The presumption is only displaced if it is proved on the balance of probabilities (by the prosecution or the defence) that the person was suffering from such a mental impairment.*

- (4) *The prosecution can only rely on this section if the court gives leave.*
- (5) *The court must return a special verdict that a person is not guilty of an offence because of mental impairment if and only if it is satisfied that the person is not criminally responsible for the offence only because of a mental impairment.*
- (6) *A person cannot rely on a mental impairment to deny voluntariness or the existence of a fault element but may rely on this section to deny criminal responsibility.*
- (7) *If the court is satisfied that a person carried out conduct as a result of a delusion caused by a mental impairment, the delusion cannot otherwise be relied on as a defence.*
- (8) *In this section-  
“mental impairment” includes senility, intellectual disability, mental illness, brain damage and severe personality disorder.*
- (9) *The reference in sub-section (8) to mental illness is a reference to an underlying pathological infirmity of the mind (whether of long or short duration and whether permanent or temporary), but does not include a condition that results from the reaction of a healthy mind to extraordinary external stimuli.*
- (10) *A condition that results from the reaction of a healthy mind to extraordinary external stimuli may be evidence of a mental illness if it involves some abnormality and is prone to recur.*

89. In reliance of the above the defence called Dr. Gaikwad. The prosecution did not dispute the evidence of Dr. Gaikwad in respect of the mental impairment of the accused and the effect of Schizophrenia that the accused was not able to control his conduct due to a disease of the mind.

90. When an accused person relies on the common law defence of insanity the evidential burden is on the accused on the balance of probabilities that it is more likely than not that on 30<sup>th</sup> November, 2022 the accused was suffering from a mental illness namely Schizophrenia and as a result he was not able to control his conduct when he committed the offences mentioned in the information filed in this court.
91. It cannot be ignored that at the time of the alleged acts the accused was suffering from a mental illness which renders the accused not criminally responsible for his actions. I have no reason to disregard the opinion of Dr. Gaikwad, the accused was suffering from a mental illness known as Schizophrenia at the time he committed all the offences alleged. The psychiatrist gave a detailed account of the illness and how it had affected the accused at the material time.
92. After considering all the evidence adduced, this court is satisfied that the accused has established and discharged his burden of proof required of him in relation to the defence of mental impairment. This court is also satisfied that it was more likely than not that on 30<sup>th</sup> November, 2022 the accused was suffering from a chronic mental illness known as Schizophrenia and as a result he was not able to control his conduct and was incapable of knowing that what he was doing was wrong.

### **SPECIAL VERDICT**

93. For the above reasons, the accused is found not guilty by reason of mental impairment for one count of attempted murder, one count of act with intent to cause grievous harm and one count of serious assault as charged.

94. This is the judgment of the court. Counsel will be heard as to the appropriate orders that should be issued in accordance with the Mental Health Act.



**Sunil Sharma**  
**Judge**



**At Lautoka**

08 July, 2024

**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**