

IN THE MAGISTRATE'S COURT OF FIJI
AT NASINU [CRIMINAL JURISDICTION]

CF 1590 of 2022

BETWEEN : THE STATE

AND : SHAZEEL ZOHAR HASSAN
SHYMAL KUMAR

DRAFT PROPOSED AGREED FACTS

The following facts and documents are agreed by the Accused and the State pursuant to section 135 of the Criminal Procedure Act.

It is admitted that:

BACKGROUND

We agree with paragraphs 1 and 2.

INCIDENT

1. The Facts alluded from paragraph's 3 to 60 are direct or indirect admissions to the allegations, therefore Disagreed and Prosecution to prove during Trial.
2. We agree with paragraph 61.

ALTERNATE PROPOSED AGREED FACTS

The following facts are derived from the statements in the disclosures and are accordingly submitted as alternative agreed facts.



1. On 24 August 2020, Shagufta Rukshar left with her husband and two kids on a ride as her husband wanted to check one phone sold on Facebook. *(Statement by Shagufta Rukshar, dated 16/12/2020, paragraph 2)*
2. Upon their arrival at the CenterPoint Carpark, a few minutes after a Fijian man came and sat at the front passenger seat and showed a white Samsung S 10, after her husband physically checked it, he gave it to her to check it. Her Husband really want the phone where they went together in their car to the ANZ Bank, CenterPoint to withdraw \$800.00 from the ATM after they both agreed on it. *(Statement by Shagufta Rukshar, dated 16/12/2020, paragraph 2)*
3. Her husband withdrew \$800 cash from ANZ ATM bank and he handed over the \$800.00 cash inside the taxi to the unknown Fijian man. *(Statement by Shagufta Rukshar, dated 16/12/2020, paragraph 3)*
4. On 10 October 2020, Shazeel Zoher Hassan bought a Samsung S20 Ultra Mobile Phone **S/NO R5CN2160X79** from a friend namely Acute Aka Eggplant. He bought the phone for \$400.00. *(Statement by Shazeel Zoher Hassan, dated 17/10/2019, paragraph 2)*
5. Shazeel Hassan went on 11 October 2020 and posted the photo of the said phone and it was acknowledged by a Chinese man namely Jieng Hong of Vidal Avenue, Vatuwaqa. *(Statement by Shazeel Zoher Hassan, dated 17/10/2019, paragraph 3)*
6. On 12 October 2020, Shazeel Hassan went with a friend of his namely Navnit to sell the phone. He explained to this Chinese man about the phone where he agreed of \$1,200.00. *(Statement by Shazeel Zoher Hassan, dated 17/10/2019, paragraph 4)*
7. They signed an agreement through messenger of their dealings. Shazeel sold the phone to this Chinese man amounting to \$1,200.00. He does not know who the owner of the phone is. *(Statement by Shazeel Zoher Hassan, dated 17/10/2019, paragraph 4)*

8. On about October 2020, Navneet Lal received a call from a friend of his Shazeel Hassan alias Zil asking if he could lend him \$400.00 cash to buy a mobile phone but he only gave him \$340.00. He said after buying the phone, he will then sell it and then gave back his money. (*Statement by Navneet Lal, dated 5/11/2020, paragraph 2*)
9. A day after, Navneet went to Shazeel's house at Centre Point in which he showed him the mobile phone that he bought. Shymal sold the phone to a Chinese man for \$1,200.00. (*Statement by Navneet Lal, dated 5/11/2020, paragraph 2*)
10. Shazeel used that money to pay his rent. (*Statement by Navneet Lal, dated 5/11/2020, paragraph 3*)
11. Sometime in the First week of October 2020, Ashis Kumar was at the garage at home around 12 mid-day when he received a call from Navnit. Navnit and Ashis had an old business on which Navnit owes Ashis money, the sum of \$1,500.00. (*Statement by Ashis Kumar, dated 3/11/2020, paragraph 2*)
12. Navnit called Ashis then informed him that he wants to make a deal on how he will pay his credit with him. He stated that he has a S20 Ultra Mobile Phone and wanted to give Ashis so that his dues could be cleared. The phone serial no. is **R5CN2160X70**. (*Statement by Ashis Kumar, dated 3/11/2020, paragraph 3*)
13. On 4 November 2020 an Imtiaz Mohammed was contacted by the Nabua Police station to rectify his stolen phone. He was shown an S20 Ultra Mobile Phone, one of which he still has the box with him, containing the serial number **RSCND160X70**. (*Statement by Imtiaz Mohammed, dated 4/11/2020, paragraph 2*)
14. On 28 August 2020 Melvin Chand was surfing through net, he came across a Facebook post posted by one Bill Snr on Buy and Trade in Fiji Facebook account where the post is selling S9 and S10 plus in cheap prices. (*Statement by Melvin Chand, dated 4/02/2021, paragraph 3, page 1*)

15. Melvin was standing at the bus stop near FNU Campus, Valelevu when he was chatting with Bill Snr when they agreed on \$750.00 instead of \$850.00. *(Statement by Melvin Chand, dated 4/02/2021, paragraph 7, page 9, line 2)*

16. After a while, Bill Snr who is a Fijian guy, slim, taller than him with a fair complexion came in a black taxi with another Fijian guy and Fijian girl. *(Statement by Melvin Chand, dated 4/02/2021, paragraph 7, page 9, line 3&4)*

17. On 5 September 2021, at the CID HQ, Vicky Vikash Prasad gave the Police CCTV footage of his main office, level one, corner of Robertson Road, Suva, the disc footage has 5 videos with 183 MB and it was downloaded by their MH Security, the footage clearly shows the guy (BILL SNR), and how the transaction took place in his office. *(Statement by Vicky Vikash Prasad, dated 4/10/2021)*

STATEMENT OF THE FOLLOWING WITNESSES:

The statements listed by the Prosecution may be made available for cross-examination; no objection is raised, and Prosecution to prove during Trial.

EXHIBITS:

We raise no objection to the prosecution's listed exhibits being tendered and made available.