

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

CRIMINAL APPEAL NO.: HAA 005 OF 2009

BETWEEN:

MANASA NAITUKU

Appellant

AND:

THE STATE

Respondent

Appearance: Appellant in Person
Mr. L. Sovau for the State

Date of Hearing & Judgment: Friday 5 June 2009

JUDGMENT

[1] Following a trial in the Magistrates' Court, the appellant was convicted of one count of unlawful possession of an illicit drug and sentenced to 3 years imprisonment.

[2] He appeals against sentence saying it is harsh and excessive.

- [3] The amount of cannabis involved was 780.5 grams. The learned Magistrate after considering the circumstances of possession, made a finding that the drugs were for supply, which aggravated the offence.
- [4] In mitigation the appellant said he was 36 years old and married with three children. He apologized to the Court for his conduct. He had four previous convictions but none for illicit drugs offences.
- [5] After applying the guidelines set in **Bavesi v State – Criminal Appeal No. HAA 027 of 2004** and in **State v Roko – Criminal Case No. HAC 160 of 2007**, the learned Magistrate imposed a term of 3 years imprisonment.
- [6] The term of 3 years imprisonment is within the tariff for this kind of offence.
- [7] The learned Magistrate took all relevant factors into account and the sentence could not be said to be manifestly excessive.
- [8] The appeal against sentence is dismissed.

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Daniel Goundar

JUDGE

At Lautoka

5 June 2009