

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

CRIMINAL APPEAL NO.: HAA 012 OF 2009

BETWEEN:

MARIKA TUIVERATA

Appellant

AND:

THE STATE

Respondent

Appearance: Appellant in Person
Ms. V. Lidise for the Respondent

Date of Hearing & Judgment: Friday 5 June 2009

JUDGMENT

[1] The appellant was sentenced to 18 months imprisonment after pleading guilty to the following offence:

Statement of Offence

ACT WITH INTENT TO CAUSE GREIVIOUS HARM: Contrary to section 224 of the Penal Code, Cap. 17.

Particulars of Offence

- MARIKA TUIVERATA on the 23rd day of October, 2008 at Tavua in the Western Division with intent to do some grievous harm unlawfully wounded JAG PRASAD s/o Gayasi with a cane knife.
- [2] He appeals against sentence saying it is harsh and excessive.
- [3] The facts were that on 23 October 2008 the complainant and the appellant were cutting cane in a field when an argument developed between them. The appellant punched and struck the complainant on his hand with a cane knife. The complainant was seriously injured, requiring hospitalization and surgery to his hand.
- [4] At the time of the offence the appellant was 29 years old while the complainant was 59 years old. In mitigation the appellant said he was the sole breadwinner for his family. He said the complainant provoked him by teasing him because he was behind others in meeting his quota.
- [5] The appellant had four previous convictions for larceny. He was not a first time offender.
- [6] The learned Magistrate took 18 months as a starting point and increased the sentence to 2 years for the serious injuries caused to the complainant. The sentence was then reduced to 18 months to discount for the early guilty plea.

- [7] The tariff for the offence of act with intent to cause grievous harm range from 6 months to 5 years imprisonment (**State v Mokubula [2003] FJHC 164**). Where a weapon such as a cane knife is used to inflict serious injury to the victim, a custodial sentence is inevitable (**R v Shaukat Ali (1976) 22 FLR 87**).
- [8] This was indeed a cowardly assault on an elderly man by using a weapon. I find the sentence is neither wrong in principle nor manifestly excessive.
- [9] The appeal against sentence is dismissed.

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Daniel Goundar

JUDGE

At Lautoka

5 June 2009