

42

IN THE FIJI COURT OF APPEAL
Criminal Appeal No: 16/90

BEFORE THE HON JUSTICE MICHAEL M HELSHAM
PRESIDENT OF THE FIJI COURT OF APPEAL
AND THE HON SIR MOTI TIKARAM
RESIDENT JUDGE OF APPEAL
AND THE HON MARI KAPI
JUDGE OF APPEAL

MONDAY THE NINTH DAY OF MARCH, 1992 AT 2.15 P.M.

BETWEEN: ILIKENA BULA APPELLANT

- vs -

S T A T E RESPONDENT

MR ILIKENA BULA
MR I MATAITOGA

IN PERSON
FOR THE RESPONDENT

O R D E R

43

JUDGE HELSHAM

: Towards the end of 1987, the Appellant in this case, the accused, was charged under Section 293(b) of the Penal Code of Robbery with Violence. The charge alleged that he and two others robbed a victim of \$400.00 in cash and a Seiko wrist watch valued at \$65.00.

The trial did not come before the Court for hearing until 1990, a delay of about 3 years. There were reasons for this which we need not go into.

At the trial all three were charged with the same offence, the accused pleaded guilty and the other two pleaded not guilty. All three were convicted. The learned trial Judge then proceeded to hear a plea in mitigation and eventually pronounced sentence of imprisonment for 12 months. We think it is very probable that the delay in the hearing of the matter was a factor which the learned trial Judge took into account in imposing that sentence, because in the circumstances we feel that it certainly was one about which no complaint whatsoever could be made. All three accused had offered violence against the shopkeeper and there did not seem to be any mitigating factors whatsoever.

The accused has appealed against his sentence and has put before us a statement of mitigating factors, we have read that statement. Unfortunately, this man embarked on a life of crime at a very early age. It looks as though his first offence was committed when

JUDGE HELSHAM (CONTD.) :

he was about 14, and thereafter there were a number of occasions in which he was before the Court and convicted of various offences, certainly a number relating to shop breaking and carrying an offensive weapon, robbery with violence on one occasion and house breaking on another, receiving stolen property. That was from 1973 through to 1987.

There is absolutely nothing further that could be said on his behalf and we dismiss the appeal.



PRESIDENT
FIJI COURT OF APPEAL