

IN THE COURT OF APPEAL, FIJI
[On Appeal from the High Court of Fiji]

CRIMINAL APPEAL NO.AAU0123 OF 2014
(Criminal Case No.528 of 2013)

BETWEEN : THE STATE
Appellant

AND : UMESH PRASAD
Respondent

Before : The Hon. Justice Daniel Goundar

Counsel : Mr. S. Vodokisolomone for the Appellant
Mr. M. Yunus for the Respondent

Date of Hearing : 28 July 2016

Date of Ruling : 5 August 2016

RULING

- [1] The respondent was charged with one count of an act with intent to cause grievous bodily harm contrary to section 255 of the Crimes Decree 2009. Being an indictable offence, the High Court extended the jurisdiction of the Magistrates' Court to hear the case pursuant to section 4 (2) of the Criminal Procedure Decree 2009. After the case was remitted to the Magistrates' Court, the charge was reduced to assault causing actual bodily harm contrary to section 275 of the Crimes Decree 2009, which is a summary offence. The respondent pleaded guilty to the lesser offence and was bound over for \$300.00 for 12 months to be of good behaviour and fined \$150.00 in default of 15 days imprisonment. The State seeks leave to appeal against sentence on the ground that the sentence is manifestly lenient having regard to all the circumstances of the case.

- [2] The facts were that the respondent and the victim were a married couple. A dispute arose when the victim spilled water on the respondent. The respondent reacted violently and assaulted his wife by kicking and punching her. He also struck her several times with the blunt side of a cane knife.
- [3] Counsel for the respondent raises a preliminary point regarding the jurisdiction of this Court to hear this appeal. Counsel submits that since the appellant was convicted and sentenced for a summary offence, the State's right of appeal lie in the High Court and not in the Court of Appeal. Counsel for the State submits that although the conviction and sentence was for a summary offence, the jurisdiction that the learned Magistrate exercised was an extended jurisdiction and not a summary jurisdiction.
- [4] In my judgment, the question of jurisdiction is a question of law alone. That question can be answered by the Full Court. As far as the substantive appeal is concerned, the sentence imposed on the respondent for domestic violence is arguably lenient.

Result

- [5] Leave granted.



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Hon. Mr. Justice Daniel Goundar
JUSTICE OF APPEAL

Solicitors:

Office of the Director of Public Prosecutions for Appellant
Office of the Legal Aid Commission for Respondent