

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 213 OF 2013

STATE

-v-

KULINIO NASILOKIA

Counsels : Ms. L. Latu for the State
Accused In person

Date of Sentence : 17 June 2014

SENTENCE

1. You are charged as follows.

Statement of Offence

RECEIVING: Contrary to Section 306 (1) of the Crimes Decree 44 of 2009.

Particulars of Offence

KULINIO NASILOKIA on the 4th day of November 2013, at Ravuravu, Rakiraki in the Central Division, dishonestly received the Alcatel mobile phone valued at \$89.00 and at the time of receiving, **KULINIO NASILOKIA** knew that the said mobile was a stolen property of **Dhirendra Naidu**.

2. You pleaded guilty to above charge on 29.5.2014 on the first day plea was taken. You admitted the summary of facts on 30.5.2014.
3. The Summary of Facts submitted by the State Counsel states as follows:

The accused in this matter is Kulinio Nasilokia, 23 year old at the time of offending, farmer of Nalalawa Village, Ra.

The complainant in this matter is Dhirendra Naidu, 29 years old, Chief Clerk and resides at Raravatu, Rakiraki.

On the 4th day of November 2013, at about 7.30pm the complainant and his family left home for a visit to Ellington wharf. Then from there they headed to a cousins place from there PW1 noticed that his vehicle fuel tank was leaking. So he decided to drive to his in-laws place at Naria, to get a mechanic and repair the car. The complainant and his family stayed till 10.30pm and head back home. As they reach home at sometimes between 11.30pm to 12.30pm, PW1 noticed, that the house was opened with lights on, with the entire house ransacked and the following items stolen:

1. ZTE Touch Screen
2. 1 wallet containing \$150.00
3. Cash \$2,000.00
4. Pacifika Digital camera \$569
5. Samsung Laptop with charger \$1,999.00
6. 3 bottles of Beer \$15.00
7. 2 litres ice cream \$6.99
8. 1 kitchen knife \$10.00
9. Money box containing coins \$50.00
10. Alcatel mobile phone \$89.00
11. Motorola mobile phone \$469.00
12. 1 birthday cake in container \$40.00
13. 1 fons carry bag \$50.00
14. Assorted snacks \$20.00
15. 1 gents wrist watch \$89.00
16. 1 gold chain with pendant \$3,300.00
17. 1 gold necklace \$50.00
18. 1 brown sandal \$48.00

All to the total value of \$6,493.00.

The matter was reported to Rakiraki Police Station. During investigations, the police received information of the accused involvement in this matter and personally searched the accused, who dishonestly had received the 9th item on the list above, that is the Alcatel mobile phone \$89.00.

4. After carefully considering your Plea to be unequivocal, this Court found you guilty for one count of Receiving and accordingly you are convicted under Section 306 (1) of the Crimes Decree.
5. You stand convicted for Receiving.
6. Section 312 (1) prescribes a maximum sentence of 10 years imprisonment for Receiving.

7. Considering the tariff for the offence of Receiving in **State v Qarasaumaki** [2011] FJHC 283; HAC 096.2009S (23 May 2011) the Court accepted between 12 months to 3 years as tariff.

8. You have 6 previous convictions.

9. Considering the nature of the offence and all other circumstances, I commence your sentence for the 1st count at 12 months.

10. State had submitted following aggravating factors:

(a) You were in possession of a mobile phone worth \$89.00 soon after the burglary.

11. I increase your sentence by 3 months for the above aggravating factor. Now your sentence is 15 months.

12. Mitigating circumstances of the accused are:

(a) You are married and wife is 9 months pregnant

(b) You are remorseful

(c) The item worth \$89.00 was recovered.

13. I deduct 3 months for the above mitigating factors. Now your sentence is 12 months.

14. I deduct 4 months for the guilty plea. Now your sentence is 8 months.

15. You have been in remand from 8th November 2013. However, that period was deducted in the sentence of case No. HAC 211/2013.

Summary;

16. You are sentenced as follows:

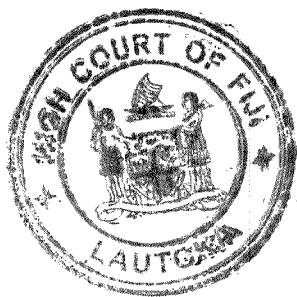
1st Charge of Receiving - 8 months

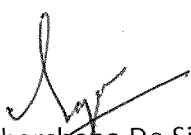
17. Considering Section 22 (1) of the Sentencing and Penalties Decree, I order that this sentence to run concurrent to the Sentence in HAC 211/2013.

18. Although you do not deserve a suspended sentence considering your previous convictions considering the fact that your wife is 9 months pregnant and you are the sole bread winner, this Court will give you a final chance to rehabilitate by suspending the operation of this sentence for a period of 3 years.

19. The suspended sentence is explained to the accused.

20. 30 days to appeal




Sudharshana De Silva
JUDGE

AT LAUTOKA
17th June 2014

Solicitors for the State: Office of the Director of Public Prosecution, Lautoka
Solicitors for the Accused: Accused In person