

IN THE HIGH COURT OF FIJI
AT LABASA
[APPELLATE JURISDICTION]

CRIMINAL APPEAL CASE NO. HAA 24 OF 2019

(Magistrates' Court Case No. 414 of 2019)

BETWEEN: MALAKAI TAWANAKORO

APPELLANT

AND: THE STATE

RESPONDENT

Counsel: Appellant in person
Ms D Rao for the Respondent

Date of Hearing: 30 October 2019

Date of Judgment: 31 October 2019

JUDGMENT

[1] This is an appeal against conviction and sentence.

[2] On 29 July 2019, the appellant was charged with giving false information to a police officer. The charge alleged that the appellant on 25 July 2019 at Savusavu knowingly gave a false name as “Malakai Mira” to Police Constable 5761 Anare Seru.

[3] On 30 July 2019, the appellant appeared in the Magistrates' Court at Savusavu, waived his right to counsel and pleaded guilty to the charge. On 31 July 2019, he was sentenced to 16 months' imprisonment with a non-parole period of 10 months.

- [4] He challenges his conviction on the ground that he cannot be convicted for giving false information when his alias is Malakai Mira and that his sentence is excessive when compared to other similar cases.
- [5] It is trite law that an appeal against conviction arising from a plea of guilty can be entertained only in limited circumstances (*Rex v Golathan* (1915) 84 LJKB 758). A valid guilty plea to a charge is one that is made freely and voluntarily and supported by admission of facts to sustain the charge. Where an accused is unrepresented, there is a duty upon the court to exercise the greatest vigilance to ensure that he or she fully comprehends exactly what the plea of guilty involves (*Michael Iro v Reginam* FLR 12, 104, *Anaia Nawaqa & Ors v State* HBM 14 of 2000L, *Tubuna v State* [2017] FJHC 155; HAA024.2016 (28 February 2017)).
- [6] The offence of giving false information is set out in section 201(a) of the Crimes Act. Section 201(a) provides:
201. If a person (the first person) gives to any person employed in the public service any information which he or she knows or believes to be false, and intending to cause, or knowing it to be likely that the first person will cause the person employed in the public service —
- (a) to do or omit anything which such person employed in the public service ought not to do or omit if the true state of facts respecting which such information is given were known to him;
- [7] The fault elements of the offence are the knowledge, belief and intention of the Accused. The offence is made out if the Accused gives information to a person employed in the public service knowing or with the belief the information is false and with the intention for the public official to act upon the false information in due execution of his or her official duties.
- [8] According to the facts tendered by the prosecution in support of the charge and admitted by the appellant, he was arrested on an allegation of theft and brought to the Savusavu

Police Station for questioning. When he was asked to reveal his name he gave the name “Malakai Mira”. Later when the police discovered his name was Malakai Tawanakoro, the appellant was charged with giving a false name to a police officer.

[9] Apart from the facts, the prosecution also tendered the official previous conviction record of the appellant kept by Police. According to that document the appellant’s alias is “Malakai Mira”. Apparently, the appellant had advised the police officer during his caution interview of his alias, but the record of interview was not tendered in court when the appellant pleaded guilty to the charge.

[10] Counsel for the State fairly concedes that the appellant’s alias is “Malakai Mira”. The question now is whether the name that the appellant gave to the police officer constitutes false information. That question can only be answered in a trial.

[11] In my judgment the facts admitted by the appellant do the support the charge and therefore his guilty plea is invalid.

[12] The conviction and sentence are set aside and the case is remitted to the Magistrates’ Court at Savusavu for the learned magistrate to enter a not guilty plea and proceed to trial to determine whether the charge has been made out.

[13] The appeal is allowed.



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Hon. Mr Justice Daniel Goundar



Solicitors:

Appellant in person
Office of the Director of Public Prosecutions for the Respondent