

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**Criminal Case No: HAC 231 of 2019**

**STATE**

**V**

**SALAIMA SENIMABA VUKI**

**Counsel** : Ms. L. Bogitini for the State.  
: Ms. J. Singh [LAC] for the Accused.

**Date of Submissions** : 15 May, 2020  
**Date of Sentence** : 29 May, 2020

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**SENTENCE**

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1. The accused is charged with the following offences as per the following information filed by the Director of Public Prosecutions dated 23<sup>rd</sup> August, 2019:

**FIRST COUNT**

**Statement of Offence**

**ACTS INTENDED TO CAUSE GRIEVOUS HARM:** Contrary to section 255 (a) of the Crimes Act 2009.

**Particulars of Offence**

**SALAIMA SENIMABA VUKI** on 06 June, 2019 at Nabatini Settlement, Sigatoka in the Western Division, with intent to do

some grievous harm to Maca Drodrolagi, unlawfully wounded Maca Drodrolagi with a cane knife.

## **SECOND COUNT**

### **Statement of Offence**

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to section 275 of the Crimes Act 2009.

### **Particulars of Offence**

**SALAIMA SENIMABA VUKI** on 06 June, 2019 at Nabatini Settlement, Sigatoka in the Western Division, assaulted Maca Drodrolagi, by biting her and thereby occasioned actual bodily harm to Maca Drodrolagi.

2. On 12<sup>th</sup> February, 2020 the accused pleaded guilty to the second count of assault causing actual bodily harm contrary to section 275 of the Crimes Act in the presence of her counsel. On 3<sup>rd</sup> March the accused admitted the summary of facts read by the State Counsel as follows:

*Maca Drodrolagi, hereinafter referred to as "the complainant" is 28 years of Nageledamu, Cuvu, Sigatoka. Salaima Senimaba Vuki hereinafter referred to as "the accused" is 24 years of Nabatini Settlement, Sigatoka. Frank Peter Mccomber, hereinafter referred to as "PW2" is 32 years of Nageledamu, Cuvu, Sigatoka is the defacto partner of the complainant. They have been in a relationship for about 2 years. PW2 is employed at the Shangri-La's Fijian Resort. The accused and PW2 have a child together named Kaminieli Vuki who is 2 years old.*

#### Incident

*On the 5<sup>th</sup> June, 2019 at about 11.30am PW2 left home for work. On that evening, the complainant called PW2's workplace and was told*

*that he had not been at work. At about 7.00am on the 6<sup>th</sup> of June, 2019, the complainant called PW2's phone which was answered by the accused. The complainant then went to the accused house at 11.30am looking for PW2. Upon arriving at the house, the complainant knocked on the door which nobody opened, she then heard PW2's voice inside the accused house. There was an aggressive confrontation between the parties which ultimately led to the accused biting the complainant's upper arm. The complainant reported the matter to the police and the complainant was medically examined at the Sigatoka Hospital whereby it was revealed that there were human bite marks on her posterior arm, amongst other injuries.*

3. After considering the summary of facts read by the State Counsel which was admitted by the accused this court is satisfied that the accused has entered an equivocal plea of guilty on her own freewill.
4. This court is also satisfied that the accused has fully understood the nature of the charge and the consequences of pleading guilty. The summary of facts admitted satisfies all the elements of the offence of assault causing actual bodily harm.
5. In view of the above, this court finds the accused guilty as charged for one count of assault causing actual bodily harm and she is convicted accordingly.
6. Both counsel filed written sentence and mitigation submissions for which this court is grateful.
7. Counsel for the accused presented the following personal details and mitigation on behalf of the accused:
  - a) The accused was 24 years at the time of the offending;
  - b) First Offender;

- c) Lives in a defacto relationship and has three young children;
- d) House keeper at one of the Resorts;
- e) Pleaded guilty at the first available opportunity;
- f) Genuinely remorseful;
- g) Seeks mercy and leniency of the court;
- h) Accused has cooperated with the police.

### **AGGRAVATING FACTORS**

8. From the summary of facts I do not see any aggravating factors.

### **TARIFF**

9. The maximum penalty for the offence of assault causing actual bodily harm is 5 years imprisonment. The accepted tariff for this offence is from a suspended sentence where there is a degree of provocation by the victim to 9 months imprisonment for more serious cases of assault (*see Jonetani Sereka vs. The State, criminal appeal no. HAA 27 of 2008 (25 April, 2008)*).
10. Bearing in mind the objective seriousness of the offence committed I take 6 months imprisonment as the starting point of the sentence. There are no aggravating factors in this case. The accused comes to court as a first offender for which she should receive a reduction with other mitigating factors. The sentence is reduced by 3 months. The interim sentence is 3 months imprisonment. The accused also pleaded guilty at the earliest opportunity which I accept is a show of genuine remorse, the sentence is further reduced by 1 month. The final sentence is 2 months imprisonment. The accused was not remanded for this matter.
11. Under section 26 (2) (a) of the Sentencing and Penalties Act this court has a discretion to suspend the final sentence since it does not exceed

3 years imprisonment. Considering the fact that the accused pleaded guilty at the earliest opportunity, has shown genuine remorse, cooperated with police, young age, minor injuries were caused to the victim and that the accused takes responsibility of her actions this court takes into account rehabilitation over and above deterrence.

12. The accused is sentenced to 2 months imprisonment which is suspended for 1 year. The meaning of suspended sentence is explained to the accused.



  
**Sunil Sharma**  
**Judge**

**At Lautoka**

29 May, 2020

**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**