

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 190 of 2020
[CRIMINAL JURISDICTION]

STATE

V

LIVAI RAVONU

Counsel : Ms. B. Kantharia for the State
Ms. R. Nabainivalu and Ms. L. Naikavakava for the
Accused

Hearing on : 01 - 03 March 2021

Judgment on : 05 March 2021

Sentenced on : 12 March 2021

SENTENCE

1. Livai Ravonu, you stand convicted of the offence of assault causing actual bodily harm contrary to section 275 of the Crimes Act 2009 ("Crimes Act").
2. To state the facts very briefly; on 27/06/20, you caused actual bodily harm to your elder sister with the use of an iron pipe. She was five months pregnant at that time. You had an argument with her over her not cleaning dog feces in your compound. You got angry because she was talking back to you. First, you punched her on her cheeks and stomach. While you were walking away from her after punching her, she kept on arguing with you and talking back to you. On your way, you got hold of the iron pipe with the intention of frightening her so that she would stop her arguing and talking back. You went to her and you swung the heavy iron pipe towards her head once with the intention of frightening her. By doing this you were reckless as to the risk of causing your

elder sister actual bodily harm. The two ends of the iron pipe were square in shape with pointed vertices and the four edges were relatively sharp. Your conduct of swinging the iron pipe towards her head resulted in causing a laceration on her head which was around 4cm long and 1.5cm deep. This injury required nine sutures for it to be closed. However, it was revealed that you had not used a substantial amount of force and the injury was caused as a result of either a pointed vertex or a sharp edge at the end of the iron pipe coming into contact with your sister's head. Your sister was admitted in the hospital for one week, not because of the aforesaid injury but for the reason that she was pregnant and she complained of having reduced fetal movement.

3. It was submitted that you are 25 years old and single. You were unemployed but was studying martial arts.

4. The offence you have committed falls under the definition of a domestic violence offence within the meaning provided under the Domestic Violence Act 2009 and therefore this court should have regard to the factors provided under section 4(3) of the Sentencing and Penalties Act 2009 ("Sentencing and Penalties Act") among other factors. The victim is 36 years old at the material time and as stated before, was five months pregnant. This court was informed that your sister had forgiven you and she does not want a DVRO issued against you. You have shown remorse from the time you were formally charged for this matter by the police where you have informed the charging officer that you want to seek forgiveness from your sister. In fact you pleaded guilty to the offence of act with intent to cause grievous harm, the offence you were tried for, the first time you were arraigned before this court. This plea was subsequently vacated by this court because it was noted that you in fact did not admit that you had the intention to cause grievous harm though you felt responsible for what had taken place.

5. The maximum sentence for the offence under section 275 of the Crimes Act is an imprisonment term of 5 years. The sentencing tariff that is generally applied for this offence is a term of 03 months to 12 months.

6. I would consider the following circumstances as the aggravating factors in this case;
 - a) The offence was committed against your elder sister and there was a serious breach of trust;
 - b) The victim was five months pregnant at the material time;
 - c) The use of a heavy iron pipe to commit the offence; and
 - d) The injury that was caused was relatively serious.

7. The mitigating factors that stand in your favour are as follows;
 - a) you are a first offender;
 - b) you are remorseful where you were willing to accept the responsibility for your actions from an early stage; and
 - c) you have cooperated with the police.

8. I would select 03 months as the starting point of your sentence. In view of the aforementioned aggravating factors, I would add 04 years to your sentence and in view of the mitigating factors, I would deduct 02 years. Your final sentence is a term of imprisonment of 02 years and 03 months. I would fix your non-parole term at 01 year in terms of the provisions of section 18 of the Sentencing and Penalties Act.

9. It is submitted that you were arrested on 29/06/20. Thus, you have spent a period 08 months and 13 days in custody in view of this matter. The said period will be considered as time already served in terms of section 24 of the Sentencing and Penalties Act.

10. In the result, you are hereby sentenced to a term of imprisonment of 02 years and 03 months with a non-parole period of 01 year. In view of time spent in custody the time remaining to be served is;

Head Sentence – 01 year; 06 months; and 17 days

Non-Parole Term - 03 months; and 17 days


11. Having considered the facts of this case, the fact that you are a first offender, the fact that you were willing to accept the responsibility for your actions from the inception, the fact that you are deemed to have already served a term 08 months and 13 days, and especially the fact that the victim has forgiven you, I have decided to suspend the remaining term of your sentence. Accordingly, the remaining term of the sentence imposed on you shall be suspended for a period of 03 years. The court clerk will explain you the effects of a suspended sentence.

12. I would refrain from issuing a Domestic Violence Restraining Order (DVRO) given the specific request made by the victim to that effect.

13. Accordingly, you will be released today. You are thoroughly warned and advised to hereafter abide by the laws of this country and to lead a good life.

14. Thirty (30) days to appeal to the Court of Appeal.




Vinsent S. Perera
JUDGE

Solicitors;

Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Accused