

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 125 OF 2021

BETWEEN : STATE

AND : MANASA LALAQILA

Counsel : Mr. Z Zunaid for the State
Ms N Chand for the Accused

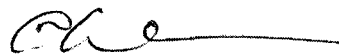
Date of Hearing : 14 October 2021

Date of Sentence : 15 October 2021

SENTENCE

- [1] On 2 May 2019, the Accused and his accomplice entered early guilty pleas to charges of aggravated burglary and theft. It was alleged that on 24 March 2019 the two Accused entered into Nayan's Supermarket as trespassers and stole assorted items to an approximate value of \$8539.15. The Accused was arrested and charged. Some stolen items had been recovered.
- [2] When the prosecution tendered the facts in support of the charges, both Accused disputed certain items they were being accused of stealing. The learned judge instead of holding a Newton hearing to determine the disputed facts, rejected the guilty pleas and proceeded to hear the trial.
- [3] On 24 March 2021, the co-accused admitted the facts in support of the charges and was convicted and sentenced to 9 months imprisonment suspended for 3 years.

- [4] The Accused has now come before me and has admitted the charges and the facts in support of the charges.
- [5] In mitigation, his counsel has informed the court that he is 25 years of age and is married with a child. Before being remanded he worked as a digger operator. He is a first time offender.
- [6] The maximum penalty for aggravated burglary is 17 years imprisonment. The statutory aggravation is that the burglary was committed in a company of another. The maximum penalty for theft is 10 years imprisonment. Both offences are part of one transaction. The tariff range from 18 months to 3 years imprisonment for burglary. (*Leqavuni v State* [2016] FJCA 31; AAU0106.2014 (26 February 2016))† The purpose of sentence is deterrence, both special and general because burglary and theft are prevalent offences in our community.
- [7] The mitigating factors are the Accused's early guilty pleas (although wrongly not accepted at first instance), expression of remorse, previous good character and the partial recovery of the stolen property.
- [8] Taking these factors into account an aggregate term of 18 months imprisonment is appropriate. The final factor to be considered is the Accused's remand period. He had been in custody on remand for 1 year and 5 months. That is a significant period. If his early guilty pleas would not have been rejected by the court he would have served his sentence by now. The total length of the remand period and the post charge delay are special circumstances to suspend the sentence.
- [9] The Accused is convicted and sentenced to 18 months imprisonment suspended for 2 years.



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Hon. Mr Justice Daniel Goundar

Solicitors:

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

