

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. HAA 12 of 2022

BETWEEN : **HANISH PRAKASH MUDLIAR**

APPELLANT

A N D : **THE STATE**

RESPONDENT

Counsel : Mr. N. R. Padarath for the Appellant.
: Ms. S. Naibe for the Respondent.

Date of Submissions : 06 and 19 July, 2022

Date of Hearing : 06 July, 2022

Date of Judgment : 20 July, 2022

JUDGMENT

BACKGROUND INFORMATION

1. The appellant was charged for one count of false representation in order to obtain a benefit contrary to section 4(1) of the False Information Act 2016. It was alleged that on the 12th May, 2016 the appellant knowingly made a false representation to Ministry of Finance by falsely declaring that he is the owner of a house at Tabataba, Ba on the Help for Home Registration Form for the purpose of obtaining a benefit in the sum of \$1500.00.

2. On 19th November, 2021, the appellant appeared in the Magistrate's Court at Ba. He was bailed the same day. On 21st February, 2022 the appellant appeared in court pleaded guilty and admitted the summary of facts read. The appellant presented his mitigation as well.

3. The brief summary of facts was as follows:

On 30th June, 2016 a report was formally lodged by the Permanent Secretary for Finance against the appellant, 30 years, Farmer of Tabataba, Ba.

It was alleged by the Ministry of Finance verification team that based on their assessment on the criteria of assistance awarded to Fijians affected by cyclone Winston, the appellant did not have a house but claimed for \$1,500 assistance.

During investigation, it was revealed that the appellant had made a false declaration in the Help for Homes Registration Form – Electronic Card that there was partial damage to the roofing of his house, hence requested for \$1,500 to purchase hardware items which was approved. The appellant was issued with an M-Paisa Card Number 679000005621825 which he later swiped at Vinod Patel, Ba.

On 21st September, 2016 the appellant was caution interviewed wherein he stated:

- In (Q & A. 22) that he lives on Radha Krishna's land.
- In (Q & A. 25) he stated that he lives in Radha Krishna's house.
- In (Q & A. 47) he was told by Radha Krishna that he is not entitled for the assistance.

4. On 23rd March, 2022 the appellant was sentenced to 1 year and 6 months imprisonment without a non-parole period.

APPEAL TO THE HIGH COURT

5. The appellant being aggrieved by the conviction and sentence filed a timely appeal in this court upon the following grounds of appeal:

APPEAL AGAINST CONVICTION

1. *The Learned Magistrate erred in law and in fact in entering a conviction when facts upon which the conviction was based did not make the offence under Section 4 (1) of the False Information Act particularly: -*
 - a. *The subject matter of the Help for Homes Registration Form was whether the Appellant had suffered damages to his home (where he lived) and not to a house owned by him.*
 - b. *The Appellant correctly declared that the place he lived in (his home) was damaged by cyclone Winston and needed to be repaired for him to continue living in it.*
 - c. *The Appellant did not falsely declare that he owned a house but instead incorrectly stated the status of the land on which his home was located.*
 - d. *Charges laid against him were on highly technical issues requiring the Appellant to understand legal technicalities which he could be expected to do.*
 - e. *The conviction did not consider the practicality of the matter and the purpose of the Help for Homes Scheme and False Information Act.*

- f. Due to the nature of the Scheme, there was no evidence that the appellant obtained a benefit.*
- 2. The Learned Magistrate erred in law and in fact entered a plea when the plea entered by the appellant was equivocal.*
- a. The plea of guilty was entered without proper legal advice on the implication of the plea and the likely effect of the plea.*
- b. The Learned Magistrate erred in law when the consequence of the plea of guilty was not explained to the appellant.*

APPEAL AGAINST SENTENCE

- 3. The Learned Magistrate erred in law by applying the authority of State v Miller and adopting the tariff for offences under section 317 and 318 when offences under Section 317 and Section 318 of the Crimes Act envisage conduct not comparable to the conduct envisaged by Section 4 of the False Information Act.*
- 4. The Learned Magistrate erred in law by adopting a tariff which is excessive in the circumstances which led to an improper consideration of the mitigating factors.*
- 5. The Learned Magistrate erred in law by not directing himself to consideration in Section 15 of the Sentencing and Penalties Act by not considering:*
- a. That imprisonment ought to be the last Resort.*
- b. The appellant was a first-time offender.*
- c. That Deterrence and rehabilitation were more equal consideration in the circumstances of the case.*

6. *The Learned Magistrate erred in law by not properly directing himself on the principles of Section 26 of the Sentencing and Penalties Act when the sentence in all the general circumstances of the case was appropriate to be suspended.*

6. Both counsel filed written submissions and also made oral submissions during the hearing for which this court is grateful. The appellant's counsel also filed further submissions in reply.

GROUND ONE AND TWO

1. *The Learned Magistrate erred in law and in fact in entering a conviction when facts upon which the conviction was based did not make the offence under Section 4 (1) of the False Information Act particularly: -*

a. *The subject matter of the Help for Homes Registration Form was whether the Appellant had suffered damages to his home (where he lived) and not to a house owned by him.*

b. *The Appellant correctly declared that the place he lived in (his home) was damaged by cyclone Winston and needed to be repaired for him to continue living in it.*

c. *The Appellant did not falsely declare that he owned a house but instead incorrectly stated the status of the land on which his home was located.*

d. *Charges laid against him were on highly technical issues requiring the Appellant to understand legal technicalities which he could be expected to do.*

9. Counsel submitted that the purpose of the initiative was to assist in the repair and rebuilding of homes in which people were living. The purported false representation according to the help for homes registration form states “*Your home is located on land owned by you or your land owning unit.*” The particulars of the charge states the appellant falsely declared he was the owner of the house when the registration form did not state that the appellant had to be the owner of the house in question.
10. Counsel also submitted that the particulars of the charge and the summary of facts did not make it clear what the false representation was. Finally, there was nothing before the court to suggest that the summary of facts was understood by the appellant. The copy record only mentions that the summary of facts was read and tendered.
11. Counsel relies on the observations of Prakash J. in *Eliki Roloka vs. State, (2001) 2 FLR 38 (9 November, 2001)* in support of the above:

In a significant number of cases the High Court at Lautoka has had to order a retrial due to the lack of adherence to the Criminal Procedure Code and the relevant constitutional provisions. It is imperative that on Guilty pleas Magistrates' Courts need to exercise due diligence. The bulk of the criminal cases in the Magistrates' Courts are disposed due to Guilty pleas. Most of the accused are unrepresented. It is usually because of the dissatisfaction with their sentences that they appeal. On appeal the High Court has to consider all the matters put before it including the facts put before the Magistrates' Courts, exhibits tendered and caution statements. If necessary, and on the basis of the Petition of Appeal, the High Court can call for further evidence. The caution interviews become relevant when facts put forward by the Prosecution assert that the accused was interviewed and he admitted certain facts or words to that effect. In view of the right to a fair trial the High Court then has to verify this. This is incumbent when an unrepresented Appellant makes contrary

assertions in his *Petition of Appeal* or at the hearing of his appeal. As the Court of Appeal has stated: "whether a plea of guilty is effective and binding will be a question of fact to be determined by the Appellate Court ascertaining from the record and from any other evidence tendered. what occurred at the time the plea was entered" (*Kuruka Bogivalu & Ifereimi Nakauta v State FCA Cr App No AAU 006/96 ...*).

12. To answer the above it is important to have a look at section 4 (1) of the False Information Act which states as follows:

"A person must not knowingly make a false representation to any officer, agent or representative of the Government or an entity for the purpose of obtaining a benefit."

13. It is not in dispute that the appellant was unrepresented in the Magistrate's Court. A perusal of the copy record shows that when the appellant first appeared on 19th November, 2021 the disclosures were served and the appellant had opted for legal aid assistance. The following is recorded at page 18 of the copy record:

19th November 2021

<i>Prosecution</i>	:	<i>Sgt Anilesh</i>
<i>Accused</i>	:	<i>Present</i>
<i>Preferred language</i>	:	<i>Hindi</i>
<i>Right to counsel</i>	:	<i>Legal Aid Counsel</i>
<i>Accused</i>	:	<i>Disclosures served. Seeks Legal Aid Counsel.</i>
<i>Police Prosecution</i>	:	<i>No objection to bail.</i>
<i>Court</i>	:	<i>Bail conditions attached.</i>
<i>Accused</i>	:	<i>I don't have a passport.</i>
<i>Court</i>	:	<i>Accused not to apply for passport. 21/2/22 – Mention.</i>

14. When the matter was called on 21st February, the appellant informed the court that he had obtained legal advice and that he will represent himself. The following is recorded at page 18 in the copy record:

21st February 2022

Prosecution : *Sgt Kumar*

Accused : *Present*

Accused : *I took advice from them [about] my case.
I will represent myself.*

Charge read explained *Plea*

- Understood *Guilty*

Accused – own free will.

Summary of facts read and tendered (Exhibit 1).

Caution interview (Exhibit 2).

Documents from Ministry of Finance (Exhibit 3).

1st offender.

Court : *Convicted as charged.*

Mitigation

- *35 years, Varadoli Ba.*
- *Married, 4 children, my father on wheel chair.*
- *I'm labourer, I earn \$70-\$75 per week.*
- *I seek forgiveness.*
- *Won't repeat offence.*
- *I'm sole bread winner.*
- *I can pay that amount. That's all.*

Court *23/3/22 Sentence*
Bail extended.

15. From the above, the charge was read and explained to the appellant who understood the same and pleaded guilty. The appellant went further to inform the court that he was pleading guilty on his free will. Thereafter the

summary of facts was read and tendered as exhibit 1, followed by the caution interview as exhibit 2 and documents from Ministry of Finance (as it was known as) as exhibit 3.

16. The learned Magistrate upon being satisfied that the appellant had entered an unequivocal plea convicted the appellant as charged. The appellant in his plea in mitigation inter alia sought forgiveness, promised not to repeat the offence and offered to pay the amount involved.
17. This court can in its discretion set aside the guilty plea if it is satisfied that there was evidence of an equivocal plea or the summary of facts did not disclose the offence charged or there was prejudice caused to the appellant due to lack of legal representation.
18. The above has been succinctly mentioned by the Court of Appeal in *Aiyaz Ali vs. The State*, criminal appeal no. AAU 031 of 2015 (27 February, 2020) at paragraphs 15 to 17 as follows:

[15] The paramount question on any change of plea application, is whether the plea was unequivocal, and made with a full understanding of the offence alleged and its ingredients. In considering this question, the history of the case itself is highly relevant (vide State v Seru [2003] FJHC 189; HAC 0021D.2002S (26 March 2003).

[16] In Hefferman v The State [2003] FJHC 163; HAA 0051J.2003S (12 December 2003) Justice Nazhat Shameem said

“The law on the subject of change of plea was clearly set out in S (an infant) – v- Recorder of Manchester and Others (1971) AC 481 by the House of Lords. I applied those principles in State -v- Timoci Kauyaca Bainivalu HAC0006 of 2002. A plea can be changed at any time before sentence. However in considering change of plea, the court should only allow the change if there was

an equivocal plea, or the facts did not disclose the charge or there was prejudice as a result of lack of legal representation. The discretion should be exercised sparingly and judicially.”

[17] In Tuisavusavu v State [2009] FJCA 50; AAU 0064.2004S (3 April 2009) the Court of Appeal held:

“[9] The authorities relating to equivocal pleas make it quite clear that the onus falls upon an appellant to establish facts upon which the validity of a guilty plea is challenged (see Bogiwaluv State [1998] FJCA 16 and cases cited therein). It has been said that a court should approach the question of allowing an accused to withdraw a plea ‘with caution bordering on circumspection’ (Liberti(1991) 55 A Crim R 120 at 122). The same can be said as regards an appellate court considering the issue of an allegedly equivocal plea.

[10] Whether a guilty plea is effective and binding is a question of fact to be determined by the appellate court ascertaining from the record and from any other evidence tendered what took place at the time the plea was entered. We are in no doubt from the material before us that the 1st appellant’s plea was not in any way equivocal. As the 1st appellant admitted to us during argument, he pleaded guilty to the charge after having been advised to do so by his counsel in the hope of obtaining a reduced sentence. As was stated by the High Court of Australia in Meissner v The Queen [1995] HCA 41; (1995) 184 CLR 132);

"It is true that a person may plead guilty upon grounds which extend beyond that person's belief in his guilt. He may do so for all manner of reasons: for example, to avoid worry, inconvenience or expense; to avoid publicity; to protect his family or friends; or in the hope of obtaining a more lenient sentence than he would if convicted after a plea of not guilty. The entry of a plea of guilty upon grounds such as these nevertheless constitutes an admission of

all the elements of the offence and a conviction entered upon the basis of such a plea will not be set aside on appeal unless it can be shown that a miscarriage of justice has occurred. Ordinarily that will only be where the accused did not understand the nature of the charge or did not intend to admit he was guilty of it or if upon the facts admitted by the plea he could not in law have been guilty of the offence."

19. The appellant's counsel stressed that the plea was equivocal on the basis that the summary of facts did not satisfy section 4 of the False Information Act. In addition to this, the summary of facts was not put to the appellant and therefore it is not clear if the appellant understood what he was pleading guilty to.

20. Even though counsel argued the above two limbs only, in the interest of justice I have gone further to discuss the third limb as well:

a). Whether the plea was unequivocal

The copy record is self-explanatory in this regard. The appellant had obtained legal advice and informed the court that he will represent himself. The charge was read and explained which was understood by the appellant and he also stated that he was pleading guilty on his freewill.

21. When the appellant pleaded guilty he made it clear that he had obtained legal advice and wanted to represent himself so there was nothing much the learned Magistrate could do. There is nothing in the copy record that would suggest that the plea was equivocal. In my view the appellant pleaded guilty with the full understanding of what he was doing including the consequences of pleading guilty.

b). Summary of facts does not satisfy the elements of the offence

22. The appellant's counsel is asking this court to look at the following two aspects:
 - i). Elements of the offence; and
 - ii). Did the appellant understand the summary of facts read.
23. In respect of the contention that the summary of facts did not satisfy all the elements of the offence alleged one has to consider the summary of facts in its entirety with the exhibits tendered.
24. In respect of the summary of facts read it is important to note that the facts read in court satisfied all the elements of the offence charged. The elements of the offence are mentioned in the earlier part of this judgment conforms to section 4 of the False Information Act which is clearly reflected in the summary of facts. The appellant's counsel also made reference to the Help for Homes Registration Form in submitting that the form seeks information about the location of the home on the land owned by the applicant or the land owning unit whereas the charge mentions that the house is to be owned by the applicant.
25. Counsel vehemently argued that it was the home of the appellant which he had occupied for many years as a labourer and that is what the registration form had intended. In my view the words house or home are to be used interchangeably the registration form is specific about the type and location of the house. It is quite far-fetched to think that the appellant who does not own the house and the land would be expected to receive the benefit as claimed by him. The important thing to note is that section C in the form mentions the word "Structure" which simply refers to the house built on the land owned by the person making the application or the land owning unit. Furthermore, the registration form also puts the applicant on notice about the consequences of providing false information. The applicant then

proceeds to sign the declaration in the registration form for the issuance of the electronic card. Moreover, when the summary of facts was read in court there were exhibits tendered and of particular importance is the caution interview of the appellant.

26. Counsel further argued that the ownership of the home was not material to the benefit to be received since the Help for Home Registration Form and the guide to complete the form did not specify this. I disagree, the form under section C seeks specific information about the type of home and where the home is located. The applicant had ticked the box which indicated that the home was located on the land owned by the appellant.

27. The guide to completion of the form is also crucial which must be read before the completion of the form it expressly states:

“...You must also indicate if your home is on land owned by you...”

28. The summary of facts at paragraph two mentions:

“It was alleged by the Ministry of Finance ...(B1) did not have a house but claimed for \$1500.00.”

At paragraph 4 the summary of facts goes further to mention:

“During the course of investigation, it was revealed that (B-1) ...falsely declaring that the partial damaged roofing of his house, hence requested for \$1,500.00 to purchase hardware items which was approved... “

29. The evidence before the court was that the appellant was not the owner of the land or the house in question. The caution interview of the appellant confirms the land and the house or home the appellant was living in did not belong to him and yet he had obtained a benefit.

30. The copy record did not have a copy of the appellants caution interview, however, on the day of the hearing the appellant's counsel handed a copy for the court's consideration. It is noted that the questions and answers in the summary of facts correctly reflected the questions and answers in the caution interview of the appellant.
31. The registration form also puts the appellant on notice against making a false declaration and the subsequent penalty. The statement of offence and the particulars of offence have been properly drafted in accordance with section 4 of the False Information Act. The summary of facts also satisfies all the elements of the offence as charged.
32. Moreover, I agree that the copy record states that the summary of facts was read to the appellant but there is nothing to suggest that the appellant was asked if he understood the facts read. To answer this, the proceedings of 21st February have to be considered holistically. The mitigation submitted by the appellant does suggest that the appellant understood the summary of facts read particularly when he sought forgiveness, promised not to repeat the offence and most importantly, wanted to repay the amount involved. Additionally, the appellant admitted all the elements of the offence in his caution interview which was read as part of the summary of facts. Section 7 of the Act defines the word "knowingly" which has been satisfied in this case.

c. Prejudice caused due to lack of legal representation

33. The appellant made it clear to the learned Magistrate that he had obtained legal advice and was pleading guilty on his freewill. The mitigation advanced by the appellant also confirmed his understanding of the charge and the summary of facts read. From the copy record it can be construed that there is no prejudice caused to the appellant due to lack of legal representation.

The appellant told the court that he had obtained legal advice and was representing himself.

34. In this case the copy record is self-explanatory there is no evidence that will enable this court to exercise its discretion in favour of the appellant.
35. For the above reasons, the appeal against conviction is dismissed due to lack of merits.

APPEAL AGAINST SENTENCE

3. *The Learned Magistrate erred in law by applying the authority of State v Miller and adopting the tariff for offences under section 317 and 318 when offences under Section 317 and Section 318 of the Crimes Act envisage conduct not comparable to the conduct envisaged by Section 4 of the False Information Act.*
4. *The Learned Magistrate erred in law by adopting a tariff which is excessive in the circumstances which led to an improper consideration of the mitigating Factors.*
5. *The Learned Magistrate erred in law by not directing himself to consideration in Section 15 of the Sentencing and Penalties Act by not considering:*
 - a. *That imprisonment ought to be the last Resort.*
 - b. *The appellant was a first-time offender.*
 - c. *That Deterrence and rehabilitation were more equal consideration in the circumstances of the case.*

6. *The Learned Magistrate erred in law by not properly directing himself on the principles of Section 26 of the Sentencing and Penalties Act when the sentence in all the general circumstances of the case was appropriate to be suspended.*

36. In sentencing an offender the sentencing court exercises a judicial discretion. An appellant who challenges this discretion must demonstrate to the appellate court that the sentencing court fell in error whilst exercising its sentence discretion.

37. The Supreme Court of Fiji in *Simeli Bili Naisua vs. The State, Criminal Appeal No. CAV0010 of 2013 (20 November 2013)* stated the grounds for appeal against sentence at paragraph 19 as:-

“It is clear that the Court of Appeal will approach an appeal against sentence using the principles set out in House v The King [1936] HCA 40; (1936) 55 CLR 499 and adopted in Kim Nam Bae v The State Criminal Appeal No. AAU0015 at [2]. Appellate Courts will interfere with a sentence if it is demonstrated that the trial judge made one of the following errors:-

(i) Acted upon a wrong principle;

(ii) Allowed extraneous or irrelevant matters to guide or affect him;

(iii) Mistook the facts;

(iv) Failed to take into account some relevant consideration.”

38. The appellant’s counsel submits that the sentence is excessive since the appellant was a first offender who was entitled to receive a lenient sentence. Furthermore, the tariff of 2 years to 5 years imprisonment used by the learned Magistrate in sentencing was incorrect which resulted in an excessive sentence. The learned Magistrate erred when he also took planning

or premeditation as an aggravating factor which was an irrelevant factor. Counsel submits a suspended sentence should have been imposed considering the circumstances of the offending.

39. The offence in question does not have a tariff hence the learned Magistrate took into account offences of obtaining financial advantage or property by deception which is akin to the current offending and also carried a maximum imprisonment term of 10 years as a guide. The offence in this case also has 10 years imprisonment term in addition to a fine.
40. In my judgment the tariff for dishonesty as in this case ought to be between 2 years and 5 years imprisonment. Abusing the trust of the taxpayers is a serious matter and no court will take this lightly. In any event the final sentence is below the tariff which is favourable to the appellant.
41. Prematilaka JA sitting as a single judge of the Court of Appeal in *Alfred Ajay Palani vs. State*, AAU 111 of 2020 (16 December, 2021) made a pertinent observation in respect of the importance of the final sentence rather than the reasoning process leading to the final sentence at paragraph 37 which is applicable to the current issue raised by the appellant:

However, it is the ultimate sentence that is of importance, rather than each step in the reasoning process leading to it. When a sentence is reviewed on appeal, again it is the ultimate sentence rather than each step in the reasoning process that must be considered (vide Koroicakau v The State [2006] FJSC 5; CAV0006U.2005S (4 May 2006)). In determining whether the sentencing discretion has miscarried the appellate courts do not rely upon the same methodology used by the sentencing judge. The approach taken by them is to assess whether in all the circumstances of the case the sentence is one that could reasonably be imposed by a sentencing judge or, in other words, that the sentence imposed lies within the permissible range (Sharma v State [2015]

FJCA 178; AAU48.2011 (3 December 2015). However, not every sentence within the range would be necessarily an appropriate sentence that fits the crime.

42. The learned Magistrate took the starting point of the sentence at the lower range of the scale. The sentence was increased for the aggravating factor being planning or premeditation. The conduct of the appellant shows a degree of planning he knew what he was doing was wrong he was not entitled to receive a benefit yet he went ahead and gave false information, signed the document and then made purchases for over a period of time.
43. All the above could not have been achieved without planning and/or premeditation in addition to the breach of trust factor. The initiative was funded by the taxpayers hence the appellant breached the trust of the Ministry of Finance (as it was known at the time) and the taxpayers of this country.
44. There is another aggravation which the learned Magistrate did not direct his mind to which is that the appellant had lied to the police in his caution interview (Q. & A. 51) that he had given the M-Paisa card to the Advisory Councillor and that the Advisory Councillor had called him several times to buy building materials to assist other victims in the area. As a result of this lie the Advisory Councillor was arrested, questioned by the police and interviewed under caution.
45. Furthermore, the learned Magistrate has given a cogent reason at paragraph 13 of the sentence as to why he refused to suspend the sentence. The learned Magistrate properly exercised his discretion which is justified in the absence of any exceptional reasons advanced by the appellant to enable the court to suspend the sentence.

46. In order to suspend an imprisonment term the sentencer has to consider whether the punishment fits the crime committed by the offender. In this regard the guidance offered by Goundar J. in *Balaggan vs. State, Criminal Appeal No. HAA 031 of 2011 (24 April, 2012)* at paragraph 20 is helpful:-

“Neither under the common law, nor under the Sentencing and Penalties [Act], there is an automatic entitlement to a suspended sentence. Whether an offender’s sentence should be suspended will depend on a number of factors. These factors no doubt will overlap with some of the factors that mitigate the offence. For instance, a young and a first time offender may receive a suspended sentence for the purpose of rehabilitation. But, if a young and a first time offender commits a serious offence, the need for special and general deterrence may override the personal need for rehabilitation. The final test for an appropriate sentence is whether the punishment fits the crime committed by the offender?”

47. I am satisfied that the term of imprisonment was an appropriate sentence and the learned Magistrate correctly refused to suspend the sentence considering the circumstances of the offending. The principle of deterrence in accordance with section 4 (1) of the Sentencing and Penalties Act was properly taken into account. The circumstances of the offending and the culpability of the appellant called for a custodial sentence.
48. I also agree that there was no genuine remorse in the guilty plea or in the offer of restitution. The learned Magistrate had correctly come to the conclusion that the offer of restitution by the appellant was an attempt to buy himself out of a custodial sentence. If the appellant was genuine in his offer to pay he would have obliged but he did not. After mitigation the matter was adjourned which allowed the appellant ample time to do so but he did not.

49. A perusal of the sentence also shows that the learned Magistrate had taken into account rehabilitation of the appellant when he refused to impose a non-parole period which would allow the appellant to receive one third remission from the Commissioner of Corrections subject to his compliance with the Corrections Regulations.
50. In view of the above, there is no error made by the learned Magistrate in the exercise of his sentence discretion. For a case of gross dishonesty as in this case a custodial sentence is most likely unless there are compelling and exceptional reasons pointing towards a suspended sentence. In this case there was none.

ORDERS

1. The appeal against conviction and sentence are dismissed due to lack of merits;
2. The sentence of the Magistrate's Court is affirmed;
3. 30 days to appeal to the Court of Appeal.



At Lautoka
20 July, 2022

Solicitors

Messrs Samuel Ram Lawyers, Ba for the Appellant.
Office of the Director of Public Prosecutions for the Respondent.