

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 122 of 2022

BETWEEN: STATE

PROSECUTION

A N D: MARINO VONOYAUYAU

ACCUSED PERSON

Counsel : Ms. P. Ram for the State
 Ms. L. David for Accused

Date of Sentence : 25th August 2022

SENTENCE

1. Mr. Marino Vonoyauyau, you are charged with one count of Attempt to Unlawfully Wound, contrary to Section 44 (1) and Section 261 of the Crimes Act, which carries a maximum punishment of five years imprisonment and one count of Act with Intended to Cause Grievous Harm, contrary to Section 255 (a) of the Crimes Act, which carries a maximum punishment of life imprisonment. The particulars of the offences are:

Count 1

Statement of Offence

ATTEMPT TO UNLAWFULLY WOUND: *Contrary to Section 44 (1)*
and Section 261 of the Crimes Act 2009.

Particulars of Offence

MARINO VONOUYAU on the 23rd day of March, 2022 at Nakorovou Village, Rewa, in the Eastern Division, attempted to unlawfully wound **ANARE SOVAKALIA**.

Count 2

Statement of Offence

ACT WITH INTENT TO CAUSE GRIEVOUS HARM: *Contrary to Section 255 (a) of the Crimes Act 2009.*

Particulars of Offence


MARINO VONOUYAU on the 23rd day of March, 2022 at Nakorovou Village, Rewa, in the Eastern Division, with intent to cause grievous harm to **KAIYAVA TUDRAU**, unlawfully wounded **KAIYAVA TUDRAU** with a weapon, namely a cane knife.

2. You pleaded guilty to this offence on the 16th of August 2022. I am satisfied that you have fully comprehended the legal effect of your plea and that it was voluntary and free from force and influence; I now convict you of the said two offences as charged in the Information.
3. The Summary of Facts, which you admitted in the Court, states that you had requested the lady (Paulina Katarina), who was conversing with the two victims, Mr. Anare Sovakalia and Kaiyava Tudrau at their residence, to lower her voice. You were lying nearby at the same place. However, they had not paid any attention to your request and continued their conversation. You had then picked a cane knife and charged at the lady; however, she managed to escape your assault. You had then attempted to assault Mr. Anare Sovakalia, but he managed to avoid it. You attacked Mr. Kaiyava Tudrau with the cane knife causing him injuries on his right shoulder.

4. These two counts are founded on the same series of offences. Therefore, I find it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
5. The tariff for the Act with Intended to Cause Grievous Harm is 6 months to 5 years imprisonment.
6. Act with Intended to Cause Grievous Harm is one of the serious forms of offence against a person. Hence, I find the objective seriousness of this matter is high. According to the Medical Examination Form, one of the victims had suffered substantial injuries and pain. Therefore, I find the level of harm in this offence is also high. You reacted angrily and violently when you saw the victims did not consider your request. Accordingly, the level of your culpability in this offence is substantially high.
7. The learned Counsel for the Defence submitted that you are a first offender and pleaded guilty at the earliest opportunity. I find that you have shown your remorse and repentance for committing this crime by pleading guilty. Furthermore, it was stated in the Summary of Facts that you had voluntarily surrendered to the Police. Therefore, you are entitled to a substantial discount and leniency for your previous good character, an early plea of guilty, and remorse.
8. Taking into consideration the above-discussed reasons, I sentence you to 12 months imprisonment as an aggregate sentence for these two offences as charged in the Information. Furthermore, considering your previous good character and remorse, I find this is an appropriate case to suspend the sentence pursuant to Section 26 of the Sentencing and Penalties Act. I accordingly suspend your sentence for three years. If you commit an offence and are found guilty during this period of three years, you are liable to be charged and prosecuted for an offence under Section 28 of the Sentencing and Penalties Act.

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




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Hon. Mr. Justice R.D.R.T. Rajasinghe

At Suva

25th August 2022

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.