

IN THE HIGH COURT OF FIJI
AT LAUTOKA (CIVIL JURISDICTION)
WESTERN DIVISION

CIVIL ACTION No. HBM 23 of 2023 &
CIVIL ACTION No. HBM 29 of 2023.

BETWEEN : **REVONI YALAYALA** **PETITIONER**

AND : **THE FIJI POLICE FORCE** **RESPONDENT**

BEFORE : A.M. Mohamed Mackie- J.

APPEARANCES : Applicant appears in person.

: Mr. Bauleka A. For the Respondent.

DATE OF HEARING : On 16th May 2024.

WRITTEN SUBMISSIONS : On 16th May 2024 by the Respondent.

: On 24th May 2024 by the Applicant.

DATE OF JUDGMENT : On 4th November 2024.

JUDGMENT

1. Before are two Applications bearing Nos. HBM 23 of 2023 and HBM 29 of 2023 filed on 27th April 2023 and 17th May 2023 respectively by the same Applicant, seeking for Constitutional Redress based on an incident of assault, allegedly, occurred on 20th February 2023, when the Applicant was arrested and detained at the Lautoka Police Station.
2. The Application bearing No HBM 23 of 2023 for constitutional redress was filed by the Applicant on 27th April 2023, by way of the Standard Form HCCR -1, without giving any details as to on what basis the Application is made. However, he filed a copy of the Fiji Police Medical Examination form dated 1st March 2023 with the brief history that he was hit by the Police Officers on the back of his head, with a stick, while he was being arrested and detained.

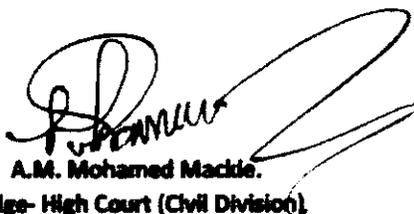
3. As there was no sufficient details and evidence for this Court to act upon, direction was given for the Applicant to swear an Affidavit in this regard and this direction was duly relayed by the Registry to the Applicant on 1st May 2023 through an email addressed of Mr. Meli Taito, the Officer in Charge of Lautoka Correction Centre, where the Applicant was detained.
4. As no such an Affidavit was filed by the Applicant, this Application came to a standstill and not proceeded with by the Applicant any further. Instead, the Applicant on 17th May 2023 filed a fresh Application bearing No-HBM 29 of 2023, on standard form –HCCR 1, yet without a proper Affidavit in support with sufficient details and evidence to substantiate his allegations, as required by Rule 3(1) of the High Court (Constitutional Redress) Rules 2015.
5. His complaint here, upon which he seeks constitutional redress, is that on 20th February 2023 he was arrested, brought to Lautoka Police Station around 5.00 pm, detained there and during this process he was treated in inhumanly manner and assaulted very badly causing injuries. He, apparently, relied on his Medical examination form filed in the previous Application.
6. The relief he sought was “ ***An Order for cost and compensation against the member of the Fiji Police Force and further great warning to be issued to the Commissioner of the Fiji Police Force to discipline all its members and staff***”
7. In the absence of the details and evidence, in relation to the alleged violation, by way of duly sworn Affidavit, as required by the Rule 3(1), this Court is not in a position to adjudicate on it by calling upon the Respondent to respond to the allegations. Thus, his Application is bound to fail on this ground alone.
8. However, his Applications cannot be entertained and favorably considered for the following reason.
High Court (Constitutional Redress) Rules 2015, Rule 3 (2) states:
“An application under paragraph (1) must not be admitted or entertained after 60 days from the date when the matter at issue first arose unless a judge finds there are exceptional circumstances and that is just to hear the application outside that period “
9. The incident of alleged assault, relied on by the Applicant for the purpose of both these Applications, as alluded to in paragraph 1 above, appears to be none other than what occurred after he was, admittedly, arrested on 20th February 2023 and charged for the offence of Escaping from Lawful Custody contrary to Section 196 of the Crimes Act of 2009.
10. His 1st Application bearing No-HBM 23 of 2023 was filed on 27th April 2023, after around 67 days from the date of the occurrence of the alleged incident on 20th February 2023. Thus, his 1st Application was delayed by around 7 days.

11. His 2nd Application bearing No- HBM 29 of 2023 was filed on 17th May 2023, after around 87 days from the occurrence of the alleged incident on 20th February 2023. Thus, his 2nd Application was delayed by around 27 days.
12. The rule stated is in mandatory terms and requires the Court **not to entertain** an Application for constitutional redress after the stipulated period. An application of this nature is bound to waste the resources that can be better utilized on matters that deserve it. These matters should not have been entertained or admitted and as such this Court is of the view that it should “act now for then”.
13. I do not find any exceptional circumstances in his Applications, or purported Affidavit (“Notice of Affidavit”) or in his oral and written submissions for this Court to entertain and proceed to hear this application after the lapse of the mandatory 60 day period stipulated in the High Court (Constitutional Redress) Rules, 2015. I uphold the preliminary objection and decide to dismiss this applications.

Orders

- a. The Applications bearing Nos HBM 23 of 2023 and HBM 29 of 2023 for constitutional redress are hereby dismissed.
- b. A copy of this ruling may be dispatched to the Applicant through the Officer in Charge of the Lautoka Corrections Centre.




A.M. Mohamed Mackie.
Judge- High Court (Civil Division)
Lautoka.

On this 4th day of November 2024 at High Court Lautoka.

SOLICITORS: The Applicant in person.
The Attorney General for the Respondent