

IN THE SUPREME COURT OF FIJI
Revisional Jurisdiction No. 5 of 1956

THE POLICE

v.

BIMLA WATI, F/N RAM KISSUN

Children and Young Persons Ordinance, Cap. 6, sections
12, 15—young person—detention in gaol

A girl under the age of seventeen was convicted by the Magistrate's Court of wandering without visible means of subsistence and ordered to be detained in gaol for twelve months.

Held (on revision).—A "gaol" cannot properly be called an "institution" within section 15 of the Children and Young Persons Ordinance, Cap. 6. In the absence of a certificate required by section 12 (3) it is not open to the court to sentence any young person to imprisonment.

Sentence quashed.

HAMMETT, J. [5th March, 1956]—

Revisional Order:

On 13th February, 1956, the accused, a juvenile girl, was convicted of the following charge by the Magistrate's Court, Suva:

Statement of offence

Found wandering without visible means of subsistence: Section 15 (1) (b) of the Children and Young Persons Ordinance, Cap. 6.

Particulars of offence

Bimla Wati, f/n Ram Kissun, being a young person under the age of 17 years, on the 4th day of February, 1956, at Suva in the Southern District, was found wandering without visible means of subsistence.

On conviction, she was ordered to be "detained in Gaol" for 12 months. In addition, for breach of the terms of a Probation Order previously made against her, she was sentenced to one month I.H.L. to run concurrently.

Under the provisions of the Children and Young Persons Ordinance, Cap. 6, section 15, the accused was not liable to be sentenced to a term of imprisonment, and the "gaol" cannot properly be called an institution within the provisions of this section.

Furthermore, in the absence of the certificate required by section 12 (3), it is not open to the court to sentence any young person to a term of imprisonment.

For these reasons, I am of the opinion that both the orders made in this case cannot be sustained. Under the provisions of the Criminal Procedure Code, section 352, both these orders or sentences are quashed.

Whilst the grave difficulties of Magistrates in dealing adequately with female juvenile delinquents in the absence of any institution to which they may be sent is appreciated, it is the duty of the court to make some lawful order in respect of this accused person.

I direct that the accused be taken before the court at its next sitting, and that the court either pass some lawful sentence, or make some lawful order or release the accused on bail or remand her in custody (having regard to the provisions of section 6 of the Children and Young Persons Ordinance) until the court has had the opportunity of considering a lawful and appropriate order to make in this case.