

IN THE RESIDENT MAGISTRATE'S COURT OF FIJI
AT NAVUA

Criminal Case No: - 177/2013

STATE

V

**ROSHINI DEVI
SANJANI NAIDU
MAUREEN LATA**

For Prosecution : - WPC Maria

1st , 2nd and 3rd Accused : - In persons

SENTENCE

1. **ROSHINI DEVI, SANJANI NAIDU, MAUREEN LATA** you all were charged in this Court for the offence of Theft contrary to section 291(1) of the Crimes Decree No. 44 of 2009.
2. You all waived right to counsel and pleaded guilty for the above offence on 13 May 2013. You all admitted the summary of facts too.
3. According to summary of facts on 11 May 2013 you all went to Kundal Singh supermarket and stole items to the total value of \$81.35.
4. This Court is satisfied about your pleas and convicts you all for this offence.

The Law and the Tariff for Theft

5. Section 291 of the Crimes Decree sets down the maximum penalty for this offence as 10 years imprisonment.
6. In **Jone Saukilagini [2005] FJHC 13** Her Ladyship Justice Shameem held that **“the tariff for simple larceny on a first conviction is from two to nine months. In cases of larceny of large amount of money sentence of 18 months to three years have been upheld by the High Court”**
7. Considering the facts in this case I take 06 months imprisonment as the starting point for the sentence.

Aggravating factors

8. This can be defined as shop lifting and for that I add 03 months to the sentence to reach 09 months imprisonment.

Mitigating factors

9. You all pleaded at the first available opportunity. For that I follow the case of **Vilimone v State [2008] FJHC 12; HAA** and reduce the sentence by 1/3 to reach 06 months.
10. You all submitted following as mitigating factors.

1st accused

- I. 67 years old
- II. Stolen properties recovered

2nd accused

1. 36 years old
2. Married with 4 children
3. Stolen property recovered

3rd accused

4. 31 years old
5. Married with 4 children
6. First offender

11. For the above mitigating factors I reduce another 03 month. Now all of your final sentence would be 03 months imprisonment.
12. This Court has the power to suspend a sentence which does not exceed a 02 years under section 26(2) (b) of the Sentencing and Penalties Decree.
13. **MAUREEN LATA**, you are a first offender. You pleaded guilty at the first available opportunity. Therefore I believe you need to be given a chance to reform.
14. Accordingly I sentence you to 03 months imprisonment and suspend that for 02 years.
15. If you commit any offence punishable by prison sentence during the next 02 years you can be charged under sec 28 of the Sentencing and Penalties Decree.
16. **ROSHINI DEVI, SANJANI NAIDU** you both committed this offence whilst you were under a suspended sentence. In C.F. 222/12 the Nadi M.C in similar offence has given both of you 18 months imprisonment and suspended that for 03 years.
17. You both do not seem to learn from that and continue committing offences like these. Therefore I do not think it is appropriate to suspend this sentence even though the values of the stolen properties are small and they were recovered.
18. Accordingly both of you are sentenced to 03 months imprisonment for the offence of Theft contrary to section 291(1) of the Crimes Decree No.44 of 2009.
19. 28 days to appeal

14 May 2013

H. S. P. Somaratne
Resident Magistrate, Navua