

**IN THE MAGISTRATE'S COURT AT LABASA**  
**CRIMINAL JURISDICTION**

*Criminal Case No. 558 of 2015*

*Criminal Case No. 578 of 2015*

**STATE**

v

**DANNY AJAY KARAN**

Counsels : **WCPL Mere** for the Prosecution  
**Mr Sharma. S** for the Accused

Sentence : **11 May 2018**

**SENTENCE**

1. The accused, *Danny Ajay Karan*, today is for sentencing for the following cases and offences:-

- |    |           |         |                                    |
|----|-----------|---------|------------------------------------|
| a. | CF 558/15 | count 1 | Assault Causing Actual Bodily Harm |
|    |           | count 2 | Breaching DVRO                     |
|    |           | count 3 | Assault Causing Actual Bodily Harm |
| b. | CF 578/15 | count 1 | Common Assault                     |
|    |           | count 2 | Breaching DVRO                     |
|    |           | count 3 | Breaching Bail Condition           |
|    |           | count 4 | Common Assault                     |

2. The Accused pleaded guilty to all the above offences in the presence of his counsel. I find the accused plea to be unequivocal as it was given on his own free will.

3. The brief summary of facts are;-

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*"On 1 October 2015, at about 8.30pm the accused Danny Ajay Karan was drunk and went to his home at Waiqele, Labasa. The victim, Sharon Lata Prasad the wife of the accused was sleeping with her three children in their bedroom. The accused went to their bedroom, call his wife, grab the collar of his wife and punched her mouth, kicked her twice on the back. The accused took out his belt and belted his wife on the face and back. At the same time the accused swore at his wife saying "Khutia" meaning female dog and "Bhajaru" meaning bitch. The children woke up and their mother was crying. The accused broke one glass and poke on her wife's hand. The victim ran away to the neighbour's house with her children for help. The victim sustained injuries. The accused in doing those act has breached DVRO No. 14/14. The accused father was drinking grog outside. The accused then went to his father and punched his father's lower lips and pulled the diesel pump and hit his father's back three times. The accused swore at his father saying "dogla maichod" meaning son of two fathers. The accused threw his father with the basin of grog. The accused father received injuries.*

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*"The accused Danny Ajay Karan is the husband of Sharon Lata Prasad, the victim. On 23 October 2015, at about 3.30am, the victim was sleeping at their home at Waiqele, Labasa, when the accused came home drunk. The accused went to their room and slapped the victim's face. The accused told the victim to leave the house and he punched the victim's face. In doing that, the accused has breached the DVRO issued against him on 19 October 2015 on DVRO case No. 538/15. On the same day, the victim statement was recorded at the Labasa Police Station when the accused walked into the room and slapped the victim again. In doing the above the accused has breached his bail condition of not to re-offend while on bail.*

4. The accused admitted to the above summary of facts on 15 November 2016, and convicted as charged for all the offences.

5. The maximum sentence for *Assault Causing Actual Bodily Harm* is 5 years, tariff is from suspended sentence to 18 months imprisonment, *Common Assault* is 1 year imprisonment with tariff of 2 to 6 months imprisonment, *Breach of DVRO* is fine of \$1,000.00 and imprisonment for 12 months. For repeated offender, fine of \$2,000.00 and 12 months imprisonment, there is no set tariff, *Breach of Bail Condition* is fine of \$2,000.00 or 12 months imprisonment and no set tariff.
6. The aggravating factors are :-
  - a. *The victims are your wife and your father,*
  - b. *You offended the victims at home in the night,*
  - c. *The victims have to ran out of the house for their life,*
  - d. *The children were involve where they have to ran out of the house with their mother,*
  - e. *You have no respect for the rights of the victims and your children,*
  - f. *You have no respect on the orders of the court.*
7. The compelling mitigating factors are :-
  - a. *Remorseful and seek the court forgiveness,*
  - b. *He made a bad judgment and promise not to re-offend,*
  - c. *Had learnt his lesson,*
  - d. *Had reconcile with the victims,*
8. For sentencing, I pick 11 months as my starting point. I add 1 year for the aggravating factors and that increase your sentence to 1 year and 11 months imprisonment. I reduce 6 months for your mitigation and that reduce you sentence to 1 year and 5 months imprisonment.
9. You did not make an early guilty plea and you are not entitle for one third reduction, I will reduce your sentence by 2 months for your guilty plea. That reduce your sentence to 1 year and 3 months imprisonment.
10. I noted from the court record that you have been in remand for about 1 month and 1 week for these two cases. I reduce your sentence by 1 month and 1

week and that reduce your sentence to 1 year, 1 month, and 3 weeks imprisonment. You are currently serving from 19 September 2016 in another case and I will not take that as part of your remand period in this case.

11. I will further reduce your sentence by 3 months and 3 weeks for the delaying in the system in delivering this sentence. That reduce your sentence to 10 months imprisonment. Your final sentence for *Assault Causing Actual Bodily Harm* is 10 months imprisonment.

12. The tariff for other offences appears to be below the tariff for *Assault Causing Actual Bodily Harm*. Accordingly, I impose the appropriate sentence for the other offences as follows:-

<i>Common Assault</i>	6 months imprisonment
<i>Breach of DVRO</i>	6 months imprisonment
<i>Breach of Bail Condition</i>	6 months imprisonment

13. The victims are your wife and your father and makes it a domestic violence case. Accordingly, I impose a permanent Domestic Violence Restraining Order under section 27 of the Domestic Violence Act for the protection of your wife, children, and your father.

14. I had considered *section 4 of the Sentence and Penalties Act*, and the principle of rehabilitation in this sentence. This sentence is based on the principle of deterrent both specific and general to denounce the conduct of the accused in these cases and to serve as a warning to those people who are engaged in similar conduct.

15. Danny Ajay Karan, I now sentence you as follows:-

**a. Case 558 of 2015**

Count 1 Assault Causing Actual Bodily Harm 10 months imprisonment

Count 2 Breaching DVRO 6 months imprisonment

Count 3 Assault Causing Actual Bodily Harm 10 months imprisonment

**b. Case 578 of 2015**

Count 1 Common Assault 6 months imprisonment

Count 2 Breaching DVRO 6 months imprisonment

Count 3 Breaching Bail Condition 6 months imprisonment

Count 4 Common Assault 6 months imprisonment

c. Sentence for all the counts to be served concurrently with immediate effects. This sentence to be served concurrently with the sentence that you are currently serving in Case No. 322 of 2016.

**28 days to appeal**



C. M. Tuberi

RESIDENT MAGISTRATE