

IN THE MAGISTRATE'S COURT AT SAVUSAVU
CRIMINAL JURISDICTION

Criminal Case No. 81 of 2016

STATE

v

JOSEPH ASHWIN LAL

Counsels : WCPL Qolitabua for the Prosecution
Ms Kumar. M for the Accused

Sentence : 25 May 2018

SENTENCE

1. Joseph Ashwin Lal today is for sentencing for one count of *Act With Intent To Cause Grievous Harm*.
2. On 14 October 2016, you pleaded guilty to the charge on your own free will in the presence of your counsel. I find your plea to be unequivocal.
3. The brief summary of facts are;-

"On 12 March 2016, the accused Joseph Ashwin Lal was drinking beer with his wife Maria Hassan (the victim) at their home at Korovesi. All of a sudden, the accused hit the victim with an empty beer bottle. The victim received injuries with abrasion on the left parital region with visible bottle pieces embedded into the scalp and scalp hair and abrasion on the lateral aspect of the left mid arm

surface. During the caution interview, the accused admitted that he was doing it for fun."

4. You admitted to the above summary of facts on 24 November 2016, and convicted as charged.
5. The maximum penalty for *Act With Intent To Cause Grievous Harm* is life imprisonment. The tariff is from 6 months to 5 years imprisonment. For using of weapon, the starting point is 2 years and above
6. The aggravating factors are:-
 - (i) Using of weapon (beer bottle).
 - (ii) Weapon was used to strike the victim's head.
 - (iii) Injuries sustained by the victim.
 - (iv) Domestic violence case.
7. The compelling mitigating factors are:-
 - (i) Mechanic and earned \$250.00 a week.
 - (ii) Co-operation with the police.
 - (iii) Remorseful and seek the court forgiveness.
8. This is a case for used of weapon. I pick 2 years and 6 months as my starting point.
9. I add 1 year for the aggravating factors and that increase your sentence to 3 years and 6 months imprisonment. I reduce 10 months for your mitigation and that reduce your sentence to 2 years and 8 months imprisonment.
10. I deduct 10 months and 2 weeks from your sentence as your one third entitlement for your early guilty plea. That reduce your sentence to 1 year, 9 months, and 2 weeks imprisonment.

11. From the court record, you were in remand for a period of 1 week. Accordingly, I reduce 1 week from your sentence, that reduce your sentence to 1 year, 9 months, and 1 week imprisonment.
12. Your final sentence is 1 year, 9 months, and 1 week imprisonment.
13. In your mitigation you asked for a non-custodial sentence and request for a suspended sentence. I have considered *section 4* of the *Sentence and Penalties Act* and the principle of rehabilitation. There is no special circumstance to suspend your sentence. Noting the seriousness of the offence in this case, this sentence is based on the principle of deterrent both specific and general to denounce such conduct.
14. The Interim Domestic Violence Restraining Order that was issued on 23 March 2016, is now made permanent for the protection of the victim.
15. Joseph Ashwin Lal, I now sentence you to 1 year, 9 months, and 1 week imprisonment to be served with immediate effects.
16. Since the accused is not present today, I will pronounce the sentence in absence of the accused. The sentence to run from the date the accused is arrested.

28 days to appeal



C. M. Tuberi

RESIDENT MAGISTRATE

