

IN THE MAGISTRATES' COURT OF FIJI
AT SUVA

Criminal Case No. 1929 of 2016

STATE

v.

MEENA KUMARI

Prosecution : Sergeant F. Mohammed
Accused : Present with **Mr. A. Patel**, *of counsel*, of the Legal Aid Commission
for the Accused

SENTENCE

1. You were found guilty and convicted after trial to one count of **Unlawful Possession of Illicit Drugs** contrary to section 5 (a) of the *Illicit Drugs Control Act 2004* in that you “on the 12th day of November, 2016 at Namena Road in the Central Division, without lawful authority, possessed 5.2 grams of illicit drugs namely cannabis sativa.”
2. The facts were that the Police found 16 bullets of cannabis sativa inside an outlet in a drain to the bathroom attached to your room in your home. The Police Officers testified that they had received information that you were selling drugs from your home. I disregard that because there was no evidence before me that you had possessed the drugs for the purpose of sale. I accept that this was for personal use only.

Maximum Penalty & Tariff

3. The maximum penalty for **Unlawful Possession of an Illicit Drug** is life imprisonment or a fine of up to \$1, 000, 000.00 or both.
4. The tariff for unlawful possession of cannabis sativa was established in **Sulua v. State** [2012] FJLawRp 74; (2012) 2 FLR 111 (31 May 2012) per Temo and Fernando JJA at [115] – [117].
5. This is a Category 1 offence and the following tariff applies:

“possession of 0 to 100 grams of cannabis sativa – a non-custodial sentence to be given, for example, fines, community service, counselling, discharge with a

strong warning etc. Only in the worst cases, should a suspended prison sentence or a short sharp prison sentence be considered.”

Aggravating Factors

6. There are no readily apparent aggravating factors available on the evidence before me.

Mitigating Factors

7. You are 59 years of age. You are separated but have 3 children. You have a son who is 33 years and two daughters who are 14 and 16 years old respectively. You operate a small canteen and earn approximately \$400.00 per month.
8. You are a first offender.

Sentence

9. This is a Category 1 offence and you were found in possession for only 5.2 grams of cannabis sativa.
10. In the circumstances, and in particular, in light of the fact that there are no aggravating factors and in light of the fact that you are a person of previous good character, I sentence you at the lower end of the Category 1 tariff.
11. Pursuant to section 31 of the *Sentencing and Penalties Act 2009*, I fine you \$50.20 to be paid within 30 days *in default* 14 days imprisonment.

Result

12. You are convicted and are fined \$50.20 to be paid within 30 days *in default* 14 days imprisonment.
13. **28 days to appeal.**



Seini K Puamau

Resident Magistrate

Dated at Suva this 8th day of November 2019.