

**IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION**

Criminal Case No: 154 - 2019

STATE

-v-

VIKATORE CARI

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 22nd October 2019

SENTENCE

BACKGROUND

1. **VIKATORE CARI**, you have pleaded guilty to the following charge:

Statement of Offence

ASSAULT OCCASIONING ACTUAL BODILY HARM: Contrary to section 275 of the *Crimes Act of 2009*.

Particulars of Offence

VIKATORE CARI on the 8th day of July, 2019 at Nananu village in the Western Division assaulted **SEREMANA SASANI** thereby causing her actual bodily harm.

2. I am satisfied that your guilty plea or admission of guilt is voluntary and that you understand the consequence of your plea. The evidence tendered in support of your admission also supports your guilty plea. I have convicted and found you guilty of the charge.
3. The victim here is your 14 year old daughter. You told her not to attend a tag rugby competition where she would be representing the school. She went anyways and slept over at an uncle's place after. When you and your daughter met up at home in the morning, you hit your daughter with a hosepipe causing injuries to her leg and

back. Your daughter's teacher reported the matter to police. The social welfare department was also notified.

4. Your daughter was medically examined about 2 days later after your violence. The medical officer amongst other things, observed that there was minor bruising to your daughter's left hand and left leg and minor bruising to her upper back.
5. After the matter was reported, you were arrested and then interviewed by police. You admit meeting your daughter and asked her where she was. You reminded her that you had told her not to play. She told you that she signed the 'consent form' on your behalf. You told her to bring the hosepipe and you used the hosepipe to hit her 3 times on her back. She cried after you hit her.
6. You are a first offender.
7. You have not spent any time in remand.
8. You are 47 years old. You are married but separated. Your daughter still resides with you. She is your only child. You regret what you did and you have apologized to your daughter.
9. Your daughter was present on the day you pleaded guilty and she confirms that you have apologized to her.

LAW

10. The maximum sentence that is imposable by law for the offence of assault occasioning actual bodily harm is up to 5 years imprisonment.

TARIFF

11. The sentencing tariff for assault occasioning actual bodily harm ranges between a suspended sentence and for more serious cases to 9 months imprisonment depending on the degree of provocation and whether any weapon was used [see for example **State v Kalouteretere** - Sentence [2018] FJHC 845; HAC 270. 2018 (12 September 2018).

STARTING POINT

12. Considering the objective seriousness of the offence, a 4 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURES

13. There is a domestic relationship in existence. This was your daughter.
14. She was 14 years old or was young.
15. You used a weapon, in this case a hosepipe.
16. Your sentence is increased to 10 months imprisonment.

MITIGATION

17. I accept that you are remorseful.
18. You are a first offender.
19. You have cooperated with police.
20. I accept that you must have been upset at the time. It was understandable in light of your daughter defying your explicit instructions not to attend the game. Your frustration should not be confused as giving you a license to commit such violence on your daughter but I take into account the passion and emotion that must have been present at the time.
21. You also have your daughter to support.
22. Your sentence is reduced to 4 months imprisonment.

GUILTY PLEA

23. You have pleaded guilty early and I will reduce your sentence to 2 months and 14 days imprisonment.

SUSPENSION

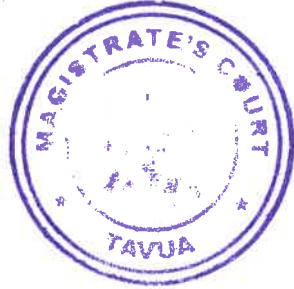
24. I can suspend your imprisonment term either in whole or in part pursuant to section 26 (1) and (2) (b) of the **Sentencing and Penalties Act 2009**.
25. I also take into account the factors outlined in section 4 of the **Sentencing and Penalties Act 2009** when deciding whether or not to suspend your sentence.
26. Your sentence will be aimed at deterrence and to punish you adequately.

SENTENCE

27. You have not spent any time in remand and so no further time will be deducted from your sentence.
28. You are sentenced to 2 months and 14 days imprisonment.
29. I am inclined to suspend your imprisonment term but only in part.
30. 2 months imprisonment term is suspended for the next 2 years.
31. Do not commit any other offence punishable with imprisonment in the next 2 years. If you do, this 2 months imprisonment held in waiting maybe activated.
32. You will serve 14 days imprisonment immediately.
33. Primarily pursuant to section 40 and 41 of the **Juveniles Act 1973** a care order is made on behalf of the child or your daughter and it is directed that the social welfare department take custody of the child while the defendant or her father serves his sentence.
34. Social welfare is to release the child to the custody of the defendant once the defendant completes serving his immediate 14 days imprisonment.
35. If the department of social welfare finds a suitable person whether an immediate family member or close acquaintance of the child with whom social welfare can place the child with before the defendant completes his sentence, then social welfare may do so. I leave that to the discretion of the department of social welfare.
36. The Domestic Violence Restraining Order [DVRO] with section 27 standard non-molestation conditions which was imposed and explained to the defendant on the

15th of July 2019 is made final. The defendant is to behave towards his daughter or the child victim.

37. The defendant is advised and reminded that if he breaches any of those DVRO conditions, he may be charged and prosecuted for another offence.
38. 28 days to appeal to the High Court if you are dissatisfied with your sentence.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at TAVUA this 22nd day of October 2019