

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

Criminal Case No: 286 - 2018

**STATE**

-v-

**STN**

For Prosecution: WPC Chand A. [ Police Prosecution ]

Accused: Mr Samy A. [ Legal Aid Commission ]

Date of Sentence: 22<sup>nd</sup> of March 2019

**PUNISHMENT**

1. **STN**, you have pleading guilty to the following charge:

*Statement of Offence*

**DAMAGING PROPERTY**: Contrary to section 369 ( 1 ) of the **Crimes Act 2009**.

*Particulars of Offence*

**STN** with others on the 2<sup>nd</sup> day of June, 2018 at Tavua Town in the Western Division wilfully and unlawfully damaged the front door glass of vehicle registration number DM. 463 valued at \$150.00, the property of **SHIU SHANKAR**.

2. I am satisfied that your guilty plea is voluntary and that you understand the consequences of your plea.
3. You were 17 years old at the material time.
4. I have entered a finding of guilt against you.
5. The facts you admit reveal that you had been drinking with some friends and roaming around town. This was around 3 am in the morning. You and your friends broke the window of the victim's vehicle and the vehicle was ransacked. Police were alerted but by the time they arrived, you and your accomplices had disappeared. You

were aware that police were looking for you and you were evading them for some time. You were finally arrested on the 7<sup>th</sup> of October 2018 from your home.

6. When you were interviewed under caution by police in the presence of your mother, you said that at the material time you were drunk. You were in Tavua town with 5 of your friends. You all had drunk rum. You admitted breaking into the vehicle with your friends. You said that you all were drunk. You all ran from the place. Your friends were already inside the vehicle when you reached it.
7. The court was not satisfied with facts you admitted and your explanation in your caution interview and was reluctant to enter any finding of guilt against you at first.
8. The court enquired with you in court and you admitted that you got into a fight with a friend of yours and that is how you broke the glass.
9. You have no previous conviction.
10. You have been in remand from the 21<sup>st</sup> of January 2019 until today. You were remanded because of other subsequent cases.
11. You have been in remand for approximately 60 days.
12. It is submitted in your mitigation that you 17 years old at the material time and is now 18 years old. You have learnt your lesson and promise not to reoffend. You want to support your parents. You have cooperated with police. You have pleaded guilty early. You want to continue your studies if released.

#### **MAXIMUM PUNISHMENT**

13. In your case, the maximum punishment for damaging property is up to 2 years imprisonment.
14. You were under 18 years old at the material time or were a juvenile. You will be treated as such despite attaining the age of 18 years old.
15. The law says that you cannot be imprisoned for more than 2 years because of your age at the time.

## PUNISHMENT RANGE

16. Non-custodial sentences may be appropriate for damaging property offences but if imprisonment is considered, then the imprisonment range can be between 3 months to 6 months imprisonment [ Bano v State [ 2011 ] FJHC 168; Criminal Case 293.2009 ( 17 March 2011 ) ].
17. Amongst other sentencing options, the Juveniles Act 1973 at section 36 and the Sentencing and Penalties Act 2009 particularly section 15 is helpful in deciding what punishment you deserve.

## FINAL SENTENCE

18. I will not go through the exercise of selecting a starting point, highlighting the aggravating features, mitigation and the discount given to you for pleading guilty early.
19. The law allows me to consider the time you have spent in remand as time served.
20. You have spent 60 days in remand. This is equivalent to 2 months and 4 days imprisonment.
21. This time is within the punishment range for you and is reflective of the offending in this case and your circumstance.
22. I will consider the time you have spent in remand as your punishment and I will consider your punishment in this case served.
23. 28 days to appeal.



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Lisiate T.V. Fotofili

**Resident Magistrate**

Dated at Tavua this 22<sup>nd</sup> of March 2019.