

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

*Criminal Case No. 40 of 2020*

**STATE**

v

**MELI VULIMAILODONI**

Appearance : **CPL Prasad** for prosecution  
**Accused** in person

Sentence : **13 March 2020**

**SENTENCE**

1. Meli Vulimailodoni, today is for sentencing for one count of *Theft* where you contravened *section 291* of the *Crimes Act*.
2. On 17 January 2020, you waived your rights to counsel. On 27 January 2020, you pleaded guilty to the charge. I find your plea to be unequivocal as it was given on your own free will.
3. The facts of the case are that on 20 December 2019, the accused Meli Vulimailodoni of Baleyaganiga village dishonestly appropriated 2 matured yaqona plants from the farm of Jekope Matanamatua at Baleyaganiga while Jekope was away in the Lau group. The value of Yaqona you

uprooted is \$2,000.00. You took the yaqona about 34kg and sold it to Sachin Prasad for \$340.00. You have used all the money and there was no recovery.

4. You admitted to the summary of facts on 11 February 2020, and convicted as charged. On the same day you submitted your oral mitigation.
5. The maximum penalty for *Theft* is 10 years imprisonment. In the case of **Ratusili v State** [2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows;-
  - a) *First offence of simple theft, sentence range between 2 and 9 months;*
  - b) *Any subsequent offence, attracts penalty at least 9 months;*
  - c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years;*
  - d) *Planned thefts attract greater sentence than opportunistic thefts.*
6. The aggravating factor is that you deny the victim to enjoy the fruit of his hard work and sweat.
7. The compelling mitigating factor are;-
  - a. *First Offender and young offender of 24 years old.*
  - b. *Seek the court forgiveness and promise not to re-offend.*
8. This is a planned theft as you did it when Jekope is not in the village. For your sentence, I pick 1 year as my starting point. I add 1 year for the aggravating factor and that increase your sentence to 2 years imprisonment.

I reduce 6 months for your mitigation and that reduce your sentence to 1 year and 6 months imprisonment.

9. I reduce 6 months as your one third entitlement for your early guilty plea. That reduce your sentence to 1 year imprisonment.
10. I noted from the court record that you have been in remand for about 2 months. I reduce 2 months from your sentence.
11. Your final sentence is 10 months imprisonment.
12. In this sentence I have considered *section 4* of the *Sentence and Penalties Act*, and the principle of rehabilitation and deterrence. In doing so, I also reminded myself of *Goundar. J*, decision in ***State v Filipe Ratusuka & Others***, *High Court, Criminal Appeal No. HAA 001 of 2013 (7 March 2013)*, where his Lordship stated that animal and farm theft are considered as a serious offence and immediate custodial sentence should be imposed.
13. This Court is bound by the decision in ***Ratusuka*** (*supra*), therefore, suspended sentence is not an option in this case.
14. Meli Vulimailodoni, I now sentence you to 10 months imprisonment with immediate effect.

**28 days to appeal.**



C. M. Tuberi

**RESIDENT MAGISTRATE**