

IN THE MAGISTRATES' COURT OF FIJI
AT TAVUA
CRIMINAL JURISDICTION

Criminal Case No: 144 - 2020

STATE

-v-

CHRISTINA TIMAIMA TAGIMOUCIA

Before : RM Fotofili L.
For Prosecution : A/CPL Chand A. [Police Prosecution]
Accused : Mr. Samy A. [LAC]
Date of Sentence : 30th November 2021

SENTENCE

BACKGROUND

1. CHRISTINA TIMAIMA TAGIMOUCIA, you have pleaded guilty to the following charge:

Statement of Offence

COMMON ASSAULT: Contrary to section 274 of the *Crimes Act No. 44 of 2009*.

Particulars of Offence

CHRISTINA TIMAIMA TAGIMOUCIA on the 10th day of April 2020 at Nasivi, Vatukoula in the Western Division unlawfully assaulted KESAIA TORA.

2. I am satisfied that your guilty plea and admission in court is voluntary and that you understand the consequences. The evidence tendered in support of your admission also supports your guilty plea.
3. I do not find that you acted in self-defence.
4. You are found guilty and I convict you of the charge.

5. The victim, 24 years old is a de-facto partner of your husband. You had an argument with your husband and you left the house. While you were gone, your husband brought the victim home. You returned home later to take some of your belongings and you were told by your children that the victim was at home. You saw the victim hiding inside the storeroom beside the kitchen. You pulled her out and punched her shoulder once. Both of you then grabbed a kitchen knife each. You abandoned the knife preferring a garlic pounder instead and you hit the victim on her hand and head. Your husband's mother intervened to stop the fight. The matter was reported to police and you were arrested and then interviewed under caution by police.
6. In your police interview you voluntarily admitted that you had a dispute with your husband. You left home but you returned home to get a personal file. You saw a bag belonging to the victim inside a room in the house and then you took it outside. You saw the victim inside the storeroom and you pulled her out. Both of you held a knife. You then took a pounder and you hit her head and hand. You admit pouring benzene on her clothes. You said that you were frustrated as she was with your children. You said that the children were outside when you were fighting with her.
7. This is your first offence.
8. You have not spent any time in remand.
9. You are 39 years old, You are unemployed. You have 3 daughters aged between 6 years to 10 years old. You have recently given birth to a 4th child. You acted violently in the spur of the moment. You seek leniency and are remorseful. You are a first offender.

LAW

10. The maximum sentence that is imposable by law for the offence of common assault is up to 12 months imprisonment.

TARIFF

11. Suspended sentences even fines or terms of imprisonment may be appropriate [State v Sokiveta [2013] FJHC 407; HAC 12.2013 (8th August 2013) and Kumar v State [2017] FJHC 360; HAA28.2017 (17 May 2017)].
12. Ultimately, each case will determine its own sentence within the maximum punishment imposable.

INSTINCTIVE SYNTHESIS APPROACH

13. Primarily because there is no established sentencing tariff for this offence, I will adopt an instinctive synthesis approach when sentencing you.
14. It is important that I highlight some important features I find present in your case and which I will outline below.

AGGRAVATING FEATURES

15. You used a pounder or a weapon to hit the victim.
16. You punched her and you hit her twice, once on her hand and once on her head.
17. You poured fuel on the clothes of the victim.
18. Your children were present and I am sure must have witnessed the altercation.

MITIGATION

19. This is your first offence.
20. You cooperated with police when interviewed.
21. You are remorseful.
22. You have a family to support.
23. It does not excuse your actions, but it must have been a very difficult period for you especially seeing another woman present in the house with your children.

GUILTY PLEA

24. You have pleaded guilty early.

TIME IN REMAND

25. You have not spent any time in remand and so your sentence will not be reduced because of this factor.

SUMMARY

26. **CHRISTINA TIMAIMA TAGIMOUCIA**, your sentence will be aimed at deterrence and is to punish you adequately.
27. I have considered section 16 of the **Sentencing and Penalties Act 2009** amongst other provisions.
28. Primarily because this is your first offence and I am satisfied that you are truly remorseful, you will not spend any immediate time in prison.
29. You are sentenced to 14 days imprisonment which will be suspended for 12 months.
30. Do not reoffend in the next 12 months because if you do, you risk having this 14 days imprisonment that is held in reserve being activated.
31. You are fined \$100 to be paid in 28 days. You default and you risk up to 4 days imprisonment.
32. You will be discharged off your bail obligations once you pay your fine.
33. The interim domestic violence restraining order [DVRO] with section 27 standard non-molestation conditions which was imposed on you and explained to you on the 5th of May 2020 is made final. You are to continue behaving towards the victim. Do not misbehave towards her or breach any condition of the DVRO as you may be charged for another offence.
34. 28 days to appeal



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Lisiate T.V. Fotofili
Resident Magistrate

At TAVUA this 30th day of November, 2021