

IN THE MAGISTRATE'S COURT
AT NADI, FIJI

CRIMINAL CASE NO:945/21

THE STATE

v

ILIESA RATUVA

BEFORE: Resident Magistrate Mrs. Nirosha Kannangara

COUNSEL: PC Isireli for the Prosecution,
The Accused in Person

Date of the Sentence: Thursday 2nd February, 2023.

SENTENCE

1. You ILIESA RATUVA were charged with for one count of ASSAULT CAUSING ACTUAL BODILY HARM contrary to Section 275 of the Crimes Act 2009.
2. The maximum penalty for this offence is five years imprisonment.
3. The Particulars of offence are on the 12th day of September 2021 at Nadi in the Western Division assaulted RAM PRAKASH NARAYAN thereby occasioning him actual bodily harm.

4. The charges against you were read over to you in your preferred language and you pleaded guilty on your own free will. You admitted summary of facts read and tendered by the Prosecution. I find your plea unequivocal. Therefore, I convict you for one count of ASSAULT CAUSING ACTUAL BODILY HARM contrary to section 275 of the Crimes Act of 2009.

5. The Tariff for “Assault Causing Actual Bodily Harm” was discussed in State v Tugalala [2008] FJHC 78; HAC025S.2008S (29 April 2008). Her Ladyship justice Shameem stated the Tariff in the following manner:

“The tariff for this offence appears to range from an absolute or conditional discharge to 12 months imprisonment.”

6. In Naqialawa v State [2017] FJHC 484; HAA 15.2017 (29 June 2017) his lordship Vincent Perera stated that in Sereka (supra) State v Anjula Devi [Criminal case no. 04 of 1998 Lab.] *the court noted the “Tariff” for the offence of “Assault Causing Actual Bodily Harm” is a suspended sentence where there is a degree of provocation and no weapon used, to 9 months imprisonment for the more serious cases of assault.* In the same case he illustrated that in Elizabeth Joseph v The State (2004) HAA 030/04S and State V Tevita Alafi (2004) HAA 073/04S it is the extent of the injury which determines the sentence. *(Emphasis mine)*

7. According to the summary of facts of this case, on the 12th day of September, 2021 at about 1615 hours at Sagagyam Street, Nadi Town (A 1) Ram Prakash Narayan, 25 years, taxi driver of Nawaka, Nadi was going towards Vunavau driving his taxi when he stopped at the Zebra crossing waiting for the traffic lights to turn green whilst the wife of (B 1) Iliesa Ratuva, 23 years unemployed of Qeleloa, Nadi was at the passenger’s seat. (A 1) was still waiting when he saw (B 1) came running towards his vehicle. (B 1) reached up to (A 1) and told (A 1) to open the door on the passenger seat. (A 1) was still talking to (B 1)

when (B 1) slapped (A 1) on the mouth where (A 1) loosed one of his tooth and received injuries.

Injuries received

- Laceration noted on the inner surface of lower lip.
- Crack tooth and missing tooth noted on the upper set of tooth.

(B 1) was then brought and interviewed under caution for the allegation of Assault whereby he admitted to the allegation. (Ref to question and Answer 51 & 52). (B 1) was then later charge for the offence of Assault Causing Actual Bodily Harm.”

8. The Prosecution tendered the Medical Report of the Complainant dated 12th September 2021 certified by Courtney Pene, the Medical Officer of Nadi Hospital marked as Exhibit 3. According to the said Medical Report injuries noted on the complainant were laceration noted on inner surface of lower lip- no active bleeding noted, cracked tooth and missing tooth noted on upper set of teeth and small superficial laceration noted on right index finger.
9. There are no aggravating factors other than the facts embedded in the charge statement.
10. You stated the following at your mitigation:
 - I. 24 years old,
 - II. In a de facto relationship and having a child,
 - III. Employed as a Security Officer at Grade Security,
 - IV. Earning \$100 per week,
 - V. Seeking forgiveness of the Court,
 - VI. Promising not to re-offend,
 - VII. Sole breadwinner of the family.
11. You were brought before the Court on 14/9/2021 and bail was granted and matter was adjourned for possible reconciliation. From 26/11/2021 the matter

was adjourned and on 15/8/2022 when the matter was called in open Court you evaded the Court and a bench warrant was issued against you. You again appeared before the Court on 5/9/2022 and this Court cancelled your bench warrant and ordered you to be in Court on 26/10/2022. You again evaded the Court on 26/10/2022 and the bench warrant was extended to 9/11/2022 and on 29/11/2022 you came before the Court and this court displaced your bail and you were remanded to date.

12. According to your previous conviction report tendered by the Prosecution as Exhibit 4 you were sentenced by Lautoka Magistrate Court twice for the offence of Absconding bail, once on 8/5/2018 with a fine of \$100 in default 10 days imprisonment and second time on 24/8/2020 with a similar sentence.
13. Considering the above mentioned legal precedents on Tariff, the above case cited, the medical report tendered and the nature of the injuries and the nature of the incident, your mitigatory factors under Section 24 of the Sentencing and Penalties Act of 2009, for the offence of "ASSAULT CAUSING ACTUAL BODILY HARM" contrary to section 275 of the Crimes Act of 2009, the period you were in remand is considered as sentence served.
14. 28 days to appeal.

Thursday 2nd February, 2023.



Nirosha Kannangara
Resident Magistrate