

**IN THE MAGISTRATES' COURT OF FIJI  
AT RAKIRAKI  
[CRIMINAL JURISDICTION]**

**Criminal Case no: CF 59/20**

**STATE  
v.  
PUNGWANAM GOUNDAR**

**For Prosecution:** Inspector L Sautaki

**For Accused:** Present with Ms F Lewanavanua

**Trial/Plea (re-take):** 27<sup>th</sup> March 2026

**Conviction:** 27<sup>th</sup> March 2026

**Sentence:** 27<sup>th</sup> March 2026

**SENTENCE**

1. **Pungwanam Goundar** [hereinafter referred to as '*the accused*'] is charge with one *count* of **Theft**: contrary to section 291 (1) of the Crimes Act 2009.
2. You dishonestly appropriated 50meters lead-wire valued at \$25.50 and permanently deprive the lead wire that belonged to victim- Super Construction.
3. You received a full set of disclosures from the police prosecution. You preferred the Hindi language. You are represented by a LAC counsel.
4. You initially pleaded not guilty to the charge. The matter was fix for trial.
5. Today, the matter is fix for trial and your counsel informed the Court that you wish take a progressive approach. You informed the Court that you wish to plead guilty to the charge.
6. In the presence of your LAC counsel, the charge read again, explained, understood by you and pleaded guilty to the charge on your own free will. You admitted to the Summary of Facts that read to you in Court.

**[Summary of Facts]**

*On 14/10/19 at 1pm, the accused knocked off work from the new Rakiraki Market Complex and stole the lead wire without informing the victim- Super Construction. Ilivasi Ratu did not find the lead wire and he recalled that the accused did not attend work that day. The police arrested the accused and he admitted in his caution interview. The police recovered the 50meter lead wire.*

7. The prosecutor tendered your caution interview notes as prosecution evidence. You confessed to the police that you were a carpenter (**Q&A: 21**) worked for Super Construction (**Q&A: 29**) for 4 years (**Q&A: 30**) and you stole the 50meters lead wire (**Q&A: 35**) to use it at home (**Q&A: 36**).

8. I am satisfied with guilty plea to the charge and your admission to the Summary of Facts in support of the charge. I find you is guilty as charged and I convict you accordingly.
9. The maximum sentence for Theft is 10 years imprisonment
10. The tariff for the offence of **theft (arising out of breach of trust) to be between 18 months to 3 years imprisonment.** (*State vs. Pauliasi Vatunalaba, Criminal Case no. HAC 134 of 2008.*). The present case arises from breach of trust because you had worked for the victim.
11. The aggravating factor is the *breach of the trust*
12. The mitigating factors is that *first offender, confessed to the police* and full recovery of the stolen item.
13. According to the prosecutor that you are a first offender but you would be regarded to be of bad character because you breach the trust of the victim.
14. You pleaded guilty on the eve of the trial so you have saved the Court and Prosecution's time and resources to run a full hearing so some discount (20%) to the sentence.
15. In sentencing you, the Court took into account the factors outlined in section 4 (1) and (2) of the Sentencing and Penalties Act 2009.
16. Taking into consideration the objective seriousness of the offence of ***Theft (breach of trust)*** because of its maximum sentence, I take a starting point of 18months imprisonment and I add 6months for the aggravating factors so the interim sentence is 24months imprisonment. I deduct 4months for the mitigating factor so the interim sentence is 20months imprisonment. I further deduct 4months for the late guilty plea so the interim sentence is 16months imprisonment.
17. I am mindful of section 26 of the Sentencing and Penalties Act 2009 that I have the discretion to suspend the final sentence when it is below 2 years imprisonment.
18. The court looks at the sentencing remarks of Goundar J in ***Balagan v State*** [2012] HAA 31/11S 24 April 2012 at [20] in considering to suspend a sentence:

*'Whether an offender's sentence should be suspended will depend on a number of factors. These factors no doubt will overlap with some of the factors that mitigate the offence. .... The final test for an appropriate sentence is – whether punishment fits the crime committed by the offender?'* (my underlining)

19. The court denounces your offending on your employer.
20. Considering your criminality, I will give a wholly suspend sentence.
21. You are sentence to **16months imprisonment, suspend for 3years.**
22. You must not commit another offence within 3years or you may be charged for **Breach of Suspended Sentence** contrary to section 28 of the Sentencing and Penalties Act 2009. If the court convicts you for the said offence, the sentencing court may active the sentence in paragraph 21.
23. The sentence fell below the accept tariff because the mitigating factors and later guilty plea outweighed the aggravating factors.
24. The assistant court officer to explain to you the meaning of suspend sentence (explained)

25. On 27/2/20, my predecessor- RM Fotofili ordered the recovered 50meters lead wire to release to the owner- Super Construction.
26. Bail conditions discharge.

**28 days to appeal to the High Court.**



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**T. B. Qalinauci**  
**[Resident Magistrate]**

**Divisional Prosecuting Officer/Western  
LAC**