

IN THE SUPREME COURT OF FIJI

Appellate Jurisdiction

Labasa Criminal Appeal No. 15 of 1978

Between:

DIRECTOR OF PUBLIC PROSECUTIONS

- and -

CHINKESLU s/o Nagap Reddy

JUDGMENT

The respondent was sentenced to 9 months imprisonment for causing griveous bodily harm with intent contrary to section 255(a) of the Penal Code.

He was bound over under section 35 of the Penal Code and also received 9 months imprisonment suspended for 2 years.

He has been sentenced to prison on 3 occasions namely on:-

25.1.63, 18 months

20.2.63 3 years concurrent to above

20.6.73 3 years

The offences were larceny, robbery and robbery.

The Court of Appeal in England and the Supreme Court in Fiji have repeatedly pointed out that a suspended sentence is not appropriate to a person who has actually served a term or terms of imprisonment. Prison is not new to him therefore the threat of a suspended sentence is not likely to be of any useful deterred effect.

I would say with respect that the Magistrate erred in his approach. He clearly thought that 9 months imprisonment would be appropriate. That is I think a fair term.

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His sentence and order are quashed and in its place I impose a term of 9 months imprisonment would be appropriate. That is I think a fair term.

His sentence and order are quashed and in its place I impose a term of 9 months imprisonment from the date hereof.

(Sgd.) J.T. Williams
Judge

Suva.
27th July, 1978.