

IN THE SUPREME COURT OF FIJI
Appellate Jurisdiction
CRIMINAL APPEAL NO. 116 OF 1980

Between:

VINOD KUMAR s/o GANGA PRASAD

APPELLANT

- and -

R E G I N A M

RESPONDENT

J U D G M E N T

The appellant was on the 22nd October, 1980 convicted by the Magistrate's Court, Suva of Office Breaking and Larceny, contrary to section 333(a) of the Penal Code and of Office Breaking with intent to Commit a Felony contrary to section 335(2) of the Penal Code. He was sentenced to 9 months imprisonment on the first count and 3 months on the second consecutive to the sentence on the first count. He appeals against the convictions and sentences.

I have perused the Record and am satisfied there is no merit in the appeal against convictions. At the hearing of the appeal he raised a defence to the first count namely that he was out fishing with a Fijian and an Indian boy. He did not raise this defence at his trial.

The appellant gave a statement to the police which the Magistrate held was a voluntary statement in which he admitted breaking into the Education Office on two occasions. Indeed on the second occasion he was found by the Police inside the premises hiding under a table. In his statement he also admitted stealing some money from the premises on the first occasion.

There is as I have stated no merit in the appeal against conviction.

As to the sentences the Magistrate took into account that the appellant was only 17 when convicted and in my view treated him leniently. He has a shocking history for so young a person. Since the 24th November, 1978 he has been convicted of simple larceny 3 times, larceny from a dwelling house and criminal trespass twice. In my view the sentences for the offences were on the lenient side.

The appeal against convictions and sentences is dismissed.

Rd Kermode

(R.G. KERMODE)

J U D G E

SUVA,

19 FEBRUARY, 1981.