

Appellate Jurisdiction
Criminal Appeal No. 17 of 1981

Between:

SAYED MAHBUB HUSSAIN BOBBY BILTON
alias BOBBY BILTON s/o SAYED ABEL
HUSSAIN

and

REGINAM

Mr. I. Khan for the Appellant

Mr. M. Raza for the Respondent

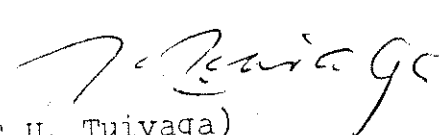
JUDGMENT

On 23rd December 1980 appellant was convicted after trial in Suva Magistrate's Court of the unlawful use of a motor vehicle contrary to section 325 of the Penal Code and was sentenced to a fine of \$30 or in default 30 days' imprisonment. Appellant was also given a conditional discharge for two years.

Appellant has appealed against his sentence claiming that it is wrong in law on the ground that the order made by the learned Magistrate for conditional discharge was incompatible with the order of a fine made against the appellant.

Crown Counsel conceded the point saying the fact that a fine was imposed in this case necessarily precluded the making of any order under section 38 of the Penal Code.

This Court agrees and accordingly the order for conditional discharge of appellant is set aside as manifestly bad in law.


(T.U. Tuivaga)
Chief Justice