

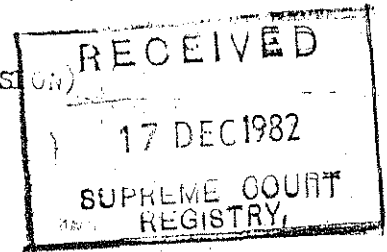
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IN THE SUPREME COURT OF FIJI (WESTERN DIVISION)

A T L A U T O K A

Appellate Jurisdiction

Criminal Appeal No.75 of 1982



BETWEEN: JAMES MURTHI s/o Anand Murthi Appellant

A N D : R E G I N A M Respondent

Mr. S. C. Maharaj Counsel for the Respondent

J U D G M E N T

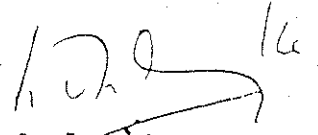
The appellant was convicted on his own plea on three counts, one of forgery and the other two of obtaining money by false pretences.

He was sentenced to 18 months' imprisonment on the first count and 12 months on the second and third counts, the sentences to run concurrently. Apparently he was on the previous day convicted of attempting to obtain money by false pretences and sentenced to 9 months imprisonment. Since no order was made this sentence would be a consecutive sentence.

The appellant has now appealed against his sentence. I have no doubt that his sentence to imprisonment is a hardship to himself and to his family. That is invariably the case, and a prisoner's family always suffers. But is there any reason to pass a more lenient sentence, or a suspended sentence? The appellant apparently had a clean record prior to this series of offences. The magistrate was aware of the factors in the appellant's favour, and the hardship to his family. But as the magistrate has said, this was a planned, calculated fraud, or series of offences against the bank. As a result of the offences the appellant obtained money from the bank which has not been recovered. With these sort of white collar offences it is usual to pass custodial sentences and I see no reason to interfere with the magistrate's

discretion in the matter of passing sentence and the appeal is dismissed, except to the following extent. The other prior offence seems to be part of the same series of offences and so it would be appropriate to make it run concurrently with the present sentences.

The present sentences are therefore confirmed but will be made concurrent with the sentence of nine months' imprisonment passed in respect of the prior offence.


G. O. L. Dyke
Judge

Lautoka,
3rd December, 1982