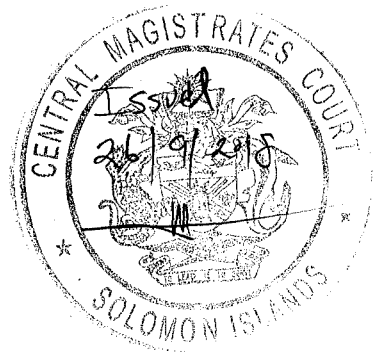


**IN THE CENTRAL MAGISTRATE'S COURT  
OF SOLOMON ISLANDS**

**CRIMINAL JURISDICTION**

*Criminal Case No. 220 of 2016*



**REGINA**

**V**

**NATALIE KENI**

Date of submission: 25<sup>th</sup> September 2018

Date of sentence: 26<sup>th</sup> September 2018

Mrs. S. Ramosaea for the prosecution

Ms. S. Karani for the accused

**SENTENCE**

1. It has been said that one of the maxims of law is those who come to the law must come with clean hands. This sentiment imbues the trust that the criminal justice system expects from the litigants or the parties before the court. Any deviation from this basic principle is a breach of that trust anticipated from the litigants and therefore, any consequence arising from that must be severely and firmly dealt with by way of sentence.
2. I translate this principle for the sentence of the accused, Natalie Keni, who was convicted after trial of a single count of uttering contrary to section 344 of the *Penal Code*. It was found during the trial that between 1<sup>st</sup> to 29<sup>th</sup> February 2016, she was working as a junior accountant at the Heritage Park Hotel. It was during that period that she uttered cash payment vouchers resulting in a shortage of \$25, 358.80.
3. Further, it was found that she committed the offence by reposting the old or already-used/exhausted receipts to balance the receipts of the current cash payment vouchers for purposes of reimbursement of monies taken from the front desk officers. Following an audit of the financial documents for that month of February 2016, a shortage of \$25,358.80 was discovered.

This shortage came from the cash payment vouchers prepared by the accused.

4. The prosecution's submission had made reference to few case laws. One from our jurisdiction whilst the others from other jurisdictions with a range from 8 months to 3 years imprisonment. The only Solomon Islands case law on this offence as cited by the prosecution is the case of *Idris v R*.<sup>1</sup> In that case, the accused was sentenced to pay \$2,500 as compensation to the complainant, Quality Inn.
5. It was suggested by the prosecution that a deterrent message is needed for the accused and the entire public. This is to discourage people not to think of such things or who are minded to commit this offence.
6. The defence on the other hand made submissions that although she was convicted after trial, the circumstances of this case and the level of her culpability warrant a lesser penalty. It was suggested that a sentence of 3 months imprisonment is appropriate. That call in my view is quite surprising for how come a trial matter like the present case would be so leniently sentenced in that way. There is no remorse shown by the accused and therefore, if a custodial sentence is to be imposed then this will inevitably must above 3 months imprisonment.

#### Mitigating and personal factors

7. The only mitigating factor I consider in her favour is that the accused is a first time offender. I also take into account her personal circumstances that she is still single and was very cooperative with police during the police investigations.
8. I have also considered the length of delay of about 2 years and 5 months this matter has taken to have it finalised. This delay will be factored into the sentence.
9. She has no credit for remorse since the conviction herein follows a trial.

#### Aggravating factors

10. In this case, the accused was an accountant and was in a position of trust to her employer. As an accountant, she knew that reposting of old receipts

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<sup>1</sup> [2008] SBHC 29

into the ledger of the current cash payment voucher was not proper and also considered deceitful. By doing that, she abused the trust bestowed or expected from her to do her work with honesty and integrity.

11. Also, she did that reposting of the used receipts on numerous occasions within the month of February 2016. This is a systematic fraud and one that shows she has a cunning and malicious intention to deceive her employer, being the Heritage Park Hotel.
12. There was a shortage of \$25,358.80 from the Forex Collection Control and the Summary of Foreign Currency documents. This shortage emanated from the cash payment vouchers prepared by the accused. That is a lot of money and no doubt, it had caused financial loss to the Heritage Park Hotel.

#### Sentencing remarks

13. Unfortunately, there isn't any reported case law on sentence following a trial for this offence in this jurisdiction. The sentence imposed in the case of *Idris v R*<sup>2</sup> referred to me by the learned prosecutor in my view should be on a different footing from the present case. It was a sentence following a guilty plea.
14. I am quite hesitant to accept the position taken by the courts in Fiji and Vanuatu since the circumstances and the level of offending in those countries might be different to Solomon Islands. Hence, I decide to sentence the accused based on the facts of the case.
15. In this case, what concerns this court is the accused has been working as an accountant for the Heritage Park Hotel. She had been working closely with the financial controller, Mr. Pramod Kuma Boity, and had frequent contacts with him on almost a daily basis. Although she knew of the shortages in the balance, she did not bother to inform or alert him about the shortages. She could have avoided this predicament had she done that at the first place. She however secreted it and continued with that improper accounting practice thinking that it would not be detected or brought to light.
16. In her profession as an accountant, it should ring her a bell that reposting of old or already-used receipts in order to balance the current cash payment vouchers is not a proper thing to do. It is the manipulation of the system to achieve an improper or unlawful purpose. It can lead to financial scandal, theft or fraud carried out by professional people especially when done in a

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<sup>2</sup> I bid

commercial setting like the present case to achieve undue advantage or benefits.

17. The inappropriateness of her actions when viewed in that context is plainly visible.
18. The maximum penalty for this offence prescribed under section 41 of the *Penal Code* is for a term not exceeding 2 years imprisonment or a fine or a combination of both.
19. I take into account her pleas that she is single, has very supportive parents and the fact that she is a first time offender. I have considered and given due weight to her personal factors for purposes of her sentence.
20. I have looked at the aggravating background of this offence and when this kind of deceptive accounting practice is brought to light to the criminal justice system, the court will react to this offending with a deterrent sentence to send a message to the accused and the entire public that any undue advantage through deceptive accounting practices must not be tolerated.
21. When these factors are considered and taking into account that the conviction herein follows a trial, it is my view that a custodial sentence is the appropriate form of penalty.
22. I fixed a starting of 9 months imprisonment for this offence for a conviction following a trial. I apply it accordingly for this case. This term is increased to 3 months imprisonment to reflect the aggravating factors of this case. This 12 months term is then reduced by 2 months to reflect the delay this case has taken.

#### Sentencing orders

23. I therefore sentence the accused, Natalie Keni, to 10 months imprisonment.
24. Presentence period is to be taken into account.
25. Right of appeal applies.

  
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(Augustine Aulanga – Principal Magistrate)

