

**IN THE CENTRAL MAGISTRATES COURT OF SOLOMON ISLANDS
AT HONIARA**

(Criminal Jurisdiction)

Criminal Case No: 906 of 2019

REGINA

-V-

NICKSON PARAHU

Coram: HOLLISON F (PRINCIPAL MAGISTRATE)

Appearances:

Mr Steward Tonowane, Senior Legal Officer, ODPP, for the Crown

Mr Michael Fagani, Senior Legal Officer, PSO, for the Defendant

Date of Sentencing: 1st May 2020

Notice: This copy of the Court's Reasons for Judgment/Sentence is subject to formal revision prior to publication.

SENTENCE

INTRODUCTION

1. The defendant Mr Nickson Parahu was initially charged with one count of Common Nuisance contrary to section 172 of the *Penal Code* [Cap 26], one count of Using of Abusive Words contrary to section 178(n) of the *Penal Code* [Cap 26], one count of Malicious Damage contrary to section 326(1) of the *Penal Code* [Cap 26], one count of Going Armed in Public contrary to section 83 of the *Penal Code* [Cap 26], one count of Arson contrary to section 319(a) of the *Penal Code* [Cap 26]; one count Criminal Trespass contrary to section 189(1)(a) of the *Penal Code* [Cap 26]; and one count of Intimidation contrary to section 231(1) of the *Penal Code* [Cap 26].
2. After a plea negotiation arrangement with the Office of the Director of Public Prosecution (ODPP), the defendant pleaded guilty to counts 1, 3, 5, and 7.
3. I now pronounce his conviction for one count of Common Nuisance contrary to section 172 of the *Penal Code* [Cap 26]; one count of Malicious Damage contrary to section 326(1) of the *Penal Code* [Cap 26]; one count of Arson contrary to section 319(a) of the *Penal Code* [Cap 26]; and one count of Intimidation contrary to section 231(1) of the *Penal Code* [Cap 26];

Basic background of the defendant and the Complainant

4. The defendant is Mr Nickson Parahu from Bola village, Big Ngella Island in Central Islands Province.
5. The victims in this case are as follows:
 - 1) Charles Bae who is from the same village as the defendant in Central Island Province.
 - 2) Paul Tahitorea who is also from the same village as the defendant and the other victim in Central Islands Province.
 - 3) Villagers from Bola village in Central Islands Province.

FACTS

6. These incidents occurred at Bola village in Central Islands Province.
7. On the 12th of October 2019 at around 0100hrs Nickson Parahu including others were drinking beers whilst playing music using a JBL portable speaker. That noise caused annoyance to Charles Bae's family including other people in Bola village when they were exercising their common rights to have a good rest that night.
8. The loud music made a lot of noise that disturbed Mr Charles Bae including the villagers. The complainant approached Mr Parahu and the other boys and told them to stop what they were doing. However, the defendant with his cohorts refused to hear the complaint.
9. Secondly, the accused willfully broke a water pipe owned by Mr Charles Bae subsequently on the same day.
10. Thirdly, the defendant also poured a mixed-petrol and set fire to part of the building used by Mr Charles Bae's family as a store house and dining kitchen.
11. Moreover, the defendant also intimidated Mr Paul Tahitorea by saying these words in Solomon Islands pidgin "*wea nao Mary and Paul, tufala like challenge last night*". He also shouted at them saying Paul should be responsible for solving the problem between them.
12. The matter was then reported to the Tulagi Police which resulted in the defendant's arrest, laying of charges and the commencement of this proceeding.

DISCUSSION AND ANALYSIS:

SENTENCING PRINCIPLES

12. The sentencing principles such as punishment, deterrence and rehabilitation should always be considered when in the process of formulating a sentence.
13. In sentencing, each case must be decided according to its own set of facts and circumstances.

14. It is also important that each sentence must be proportionate with the gravity of each of the offence.

Aggravating features

15. The aggravating factors in this case are as follows:

16. **Seriousness of the offences.** There are several offences in this present matter which include malicious damage with a maximum sentence of two years' imprisonment; intimidation with a maximum sentence of three years imprisonment; arson with a maximum sentence of life imprisonment and common nuisance with a maximum sentence of 1 year imprisonment that show the seriousness of these offences and arson being the most serious.¹

17. **The commission of the offences was done at night.** The burning of the house in the early hours in the morning on that fateful day could have resulted in injuries, casualties and even fatality had it not been stopped. Nevertheless, it had caused some damages to the house. The value of the damage was not particularized in the facts but only parts of the building was damaged. The fact that the offence of arson was committed in the night made it even more serious as the occupants, if any, would have been badly put in an awkward position in terms of defending the property and their lives. More so, the fire might get out of control and burn other nearby houses.

18. **Offences committed with the company of others.** Counts 1 and 7 were committed with at least other people. This is an aggravation as well.

19. **Intoxication/drunk at the time of the offending.** The accused was under the influence of alcohol when he committed these offences.

20. **Premeditation and properties damaged.** The water pipe which is the source of water for the victim and the villagers, and also the dwelling home of the victim were damaged although the house was not completely damaged. The use of the petrol to burn the house clearly shows that the arson was premeditated. There is no evidence to suggest otherwise. These actions also infringed fundamental constitutional rights of the victims with respect to property rights.²

Mitigating Features

21. The mitigating factors are as follows:

22. **Early guilty plea.** The defendant entered an early guilty plea. This saves the court's time and resources as it will cost more should the matter proceed to trial.

¹ Penal Code [Cap 26], s 172, s 326(1), s 319(a), s 231(1)

² Constitution of Solomon Islands (1978), s 8 and 9

23. **Genuine Remorse.** The defendant not only entered an early guilty plea but apologized to the court and the victims through his lawyer for the offences that he committed. This is an indication of genuine remorse.
24. **First time offender.** Mr Parahu has no previous criminal record which shows that he was a good person prior to committing these offences. This ought to be taken into account as well.
25. **Prospects of Rehabilitation.** The defendant is 23 years old and has a high chance of rehabilitation.
26. **Time spent in custody.** The defendant was remanded in custody for around 6 months since the date of the first remand on 15th October 2019.

COUNT 1: COMMON NUISANCE

27. Section 172 of the *Penal Code* [Cap 26]³ provides as follows:

172. Any person who does an act not authorised by law or omits to discharge a legal duty and thereby causes any common injury, or danger or annoyance, or obstructs or causes inconvenience to the public in the exercise of common rights, commits the misdemeanour termed a common nuisance, and shall be liable to imprisonment for one year.

28. The offence of Common Nuisance carries a maximum sentence of one year imprisonment. This offence ensures that the public who are exercising their common rights must not be obstructed unnecessarily or without any lawful excuse.

Comparative Sentences

29. Normally, the maximum sentence of 1 year is reserved for the worst form of Common Nuisance.
30. In *Regina v Balou* [2015] SBMC 7; Criminal Case 417 of 2015 (19 August 2015)⁴; the defendant was convicted for a count of Common Nuisance along with other offences. He was sentenced to three months for Common Nuisance and the total sentence was 9 months imprisonment when combined with the other offences' respective sentences.
31. As stated already, the severity and nature of each offence determines the sentence that the court will issue.

Starting Point

32. After having considered both the aggravating and the mitigating factors, I am of the view that a starting point of 8 months is appropriate.
33. **Early guilty plea.** The defendant entered an early guilty plea. This saves the court's time and resources. I deduct 3 months to reflect this.

³ *Penal Code* [Cap 26], s 172

⁴ *Regina v Balou* [2015] SBMC 7; Criminal Case 417 of 2015 (19 August 2015)

34. *Genuine Remorse*. The defendant not only entered an early guilty plea but apologized to the court and the victims for what he did which is a sign of genuine remorse. I deduct 1 month to reflect this.
35. *First time offender*. Mr Parahu is a first time offender and I deduct 1 month to reflect this.
36. *Prospects of Rehabilitation*. The defendant is 23 years old and has a high chance of rehabilitation. I deduct 1 month to reflect this.
37. Hence, I am satisfied that an imprisonment of 2 months imprisonment is proportionate for the offence of Common Nuisance.

COUNT 3: MALICIOUS DAMAGE

38. Section 326(1) of the *Penal Code* [Cap 26]⁵ provides as follows:

326. -(1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence, which, unless otherwise stated, is a misdemeanour, and he shall be liable, if no other punishment is provided, to imprisonment for two years.

39. The maximum sentence of 2 years imprisonment shows that it is quite a serious offence.

COMPARATIVE SENTENCES

40. In *Regina v Wanefalea* [1992] SBHC 62; HCSI-CRC 13 of 1992 (27 May 1992)⁶, the offender was sentenced for a number of offences including malicious damage. In that case, the offender plunged the knife into two fibre-glass canoes damaging them. He was sentenced to four months imprisonment each for the two counts of malicious damage, which were served concurrently with the more serious charge of armed robbery for two and half years.
41. In *Regina v Sukulu* [2017] SBMC 55; Criminal Case 873 of 2017 (30 October 2017)⁷, the offender was sentenced to four months imprisonment for wilful and malicious damage contrary to section 326(1) of the *Penal Code* [Cap 26]. The properties damaged were as follows: a 2 feet light valued \$250, 2 buckets valued \$156 and a wheel barrow valued \$450.
42. In *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016)⁸, the offender pleaded guilty to a number of offences including two counts of malicious damage contrary to section 326(1) of the *Penal Code*. He was sentenced for five (5) months each for the malicious damage. The offender in *Goro* damaged the verandah and the walling of the victim's house.⁹
43. In *Regina-v-Junior* [2016] SBMC 23; Criminal Case No 1277 of 2015¹⁰; the defendant was charged with a number of offences including malicious damage. The damage committed in that case includes

⁵ *Penal Code* [Cap 26], s 326(1)

⁶ *Regina v Wanefalea* [1992] SBHC 62; HCSI-CRC 13 of 1992 (27 May 1992)

⁷ *Regina v Sukulu* [2017] SBMC 55; Criminal Case 873 of 2017 (30 October 2017)

⁸ *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016)

⁹ The Court in that case imposed a sentence of 2 years and 2 months which included other offences combined with the malicious damage.

¹⁰ *Regina-v-Junior* [2016] SBMC 23; Criminal Case No 1277 of 2015

the damaging of three bulbs, he was sentenced to five (5) months imprisonment but the total sentence was higher because it combined with other serious offences.

44. In *Regina v Alatala* [2017] SBMC 57; Criminal Case 777 of 2017 (16 November 2017)¹¹, the offender was charged and found guilty of malicious damage including other offences. The offence involved the shooting and breaking of the back glass of a moving vehicle. The offender was sentenced to one (1) year or twelve months for malicious damage. The final sentence, however, combined with other offences was two years and nine months.
45. In the case of *R v Homelo* [2019] SBMC 16; Criminal Case 85 of 2019 (25 March 2019)¹², the offender was sentenced to eighteen months for damaging a Toyota Caldina especially the back-rear glass with a hard object.
46. In *Ghele v Reginam* [2004] SBHC 38; HC-CRAC 169 of 2004 (6 May 2004)¹³. The severity of the sentence was challenged in the High Court on the basis that the total sentence of twelve (12) months imprisonment for malicious damage and three (3) months imprisonment for common assault imposed by the Magistrate Court were manifestly excessive. However, his Lordship Kabui J, as he then was, increased the sentence for malicious damage to eighteen (18) months but did not disturb the sentence for the other offence.
47. The sentences imposed in this jurisdiction for the offence of malicious damage so far are as follows: penalty fines, non-custodial sentences, and custodial sentences ranging from one month up to eighteen months. In many malicious damage cases, the value of the damage is one of the determining factors in sentencing.

Starting Point

48. This offence involves the damaging of the water pipe. After having considered the aggravating features and the circumstances of this case, I am of the opinion that a starting point of 14 months is appropriate for this charge.
49. I will now consider the mitigating factors and give due deductions and allowances.
50. *Early guilty plea.* The defendant entered an early guilty plea. This saves the court's time and resources as it will cost more should the matter proceed to trial. I deduct 4 months to reflect the early plea taken.
51. *Genuine Remorse.* The defendant not only entered an early guilty plea but apologized to the court and the victims for what he did. I deduct 2 months to reflect this.
52. *First time offender.* Mr Parahu has no previous criminal record and I deduct 2 months to reflect this.

¹¹ *Regina v Alatala* [2017] SBMC 57; Criminal Case 777 of 2017 (16 November 2017).

¹² *R v Homelo* [2019] SBMC 16; Criminal Case 85 of 2019 (25 March 2019).

¹³ *Ghele v Reginam* [2004] SBHC 38; HC-CRAC 169 of 2004 (6 May 2004). The value of the damage is estimated to be \$38,750.00 in total and the 18 months imprisonment issued by Kabui J reflected that.

53. *Prospects of Rehabilitation.* The defendant is 23 years old and has a high chance of rehabilitation. I deduct 2 months to reflect this.
54. Hence, I am satisfied that an imprisonment term of 4 months is appropriate for one count of malicious damage.

COUNT 5: ARSON

55. Section 319(a) of the *Penal Code* [Cap 26]¹⁴ provides as follows:

319. Any person who wilfully and unlawfully sets fire to -

(a) any building or structure whatever, whether completed or not; or is guilty of a felony, and shall be liable to imprisonment for life.

56. Arson is a felony which means it is a very serious offence and the maximum sentence for life imprisonment is a testament to this. In this jurisdiction, a Principal Magistrate has the authority and jurisdiction to deal with arson amongst other serious offences, and I can impose a sentence up to 5 years imprisonment.

Comparative Sentences

57. In *Do'oro v Regina* [2005] SBHC 130; HCSI-CRC 297 of 2005 (10 October 2005)¹⁵; the defendant was initially sentenced in the Magistrates Court for 4 years for a count of Arson and 18 months for conspiracy to commit a felony, which totalled up to 5 ½ years' imprisonment. However, when the severity of the sentence was challenged in the High Court by way of an appeal, the sentence for Arson was reduced to 3 years which was ordered to run concurrently with the 18 months imprisonment for conspiracy to commit a felony. Hence, the total sentence was 3 years imprisonment.
58. In *Kaieti v Regina* [2007] SBHC 93; HCSI-CRC 358 of 2006 (27 July 2007)¹⁶; the defendant was convicted for Arson amongst other offences. He was sentenced to 4 years imprisonment for a count of Arson which was to be served concurrently with the sentences for other offences. However, upon appeal to the High Court, the sentence for Arson was reduced to 18 months imprisonment on the basis that the delay factor was not considered by the sentencing Magistrate.
59. In *Regina v Mino* [1997] SBHC 40; HC-CRC 004 of 1997 (25 July 1997)¹⁷; the defendant was convicted for one count of Arson. The defendant was responsible for burning the building that housed the offices of Golden Springs International (SI) Limited. The building destroyed was worth approximately three quarters of a million dollars which was completely destroyed and according to his Lordship Palmer CJ "..... it was done with calculated precision".

¹⁴ Penal Code [Cap 26], s319

¹⁵ *Do'oro v Regina* [2005] SBHC 130; HCSI-CRC 297 of 2005 (10 October 2005)

¹⁶ In *Kaieti v Regina* [2007] SBHC 93; HCSI-CRC 358 of 2006 (27 July 2007)

¹⁷ *Regina v Mino* [1997] SBHC 40; HC-CRC 004 of 1997 (25 July 1997)

60. In *Regina v Moulala* [2004] SBHC 74; HC-CRC 187 of 2002 (29 September 2004)¹⁸; the then three students were charged with a count of Arson for the burning of the Su'u National School administration building on Malaita. At least two of the defendants were juvenile during the commission of the offence. The defendants were sentenced to two years of imprisonment but substantial part of their respective sentences were suspended mainly because of their prospects of rehabilitation and their young ages.
61. In *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)¹⁹; the defendant was convicted for two counts of Arson in the High Court and he was sentenced to 5 years imprisonment each which were ordered to be served concurrently giving a total sentence of 5 years. The severity of the sentence was challenged in the Court of Appeal but was dismissed.
62. In this present case, the house was not completely burnt and the value of the damaged part of the house is lesser compared to most of the cases cited above, and should receive a lesser sentence compared to most of the cases cited above.

Starting Point

63. After having considered the relevant factors, I am of the view that a starting point of 26 months (2 years and 2 months) is appropriate for this offence.
64. I will now consider the mitigating factors and give due allowances.
65. *Early guilty plea.* The defendant entered an early guilty plea. This saves the court's time and resources as it will cost more should the matter proceed to trial. I deduct 6 months to reflect this.
66. *Genuine Remorse.* The defendant not only entered an early guilty plea but apologized to the court and the victims for what he did. This is an indication of genuine remorse. I deduct 2 months to reflect this.
67. *First time offender.* Mr Parahu is a first time offender and I deduct another 2 months.
68. *Prospects of Rehabilitation.* The defendant is 23 years old and has a high chance of rehabilitation. I deduct another 2 months to reflect this.
69. Thus, I am satisfied that 14 months (1 years and 2 months) imprisonment is appropriate and proportionate to the severity of the offence. Other considerations include the using of highly flammable liquid such as petrol to burn the house which could be catastrophic.

COUNT 7: INTIMIDATION

70. Section 231(1) of the *Penal Code* [Cap 26]²⁰ provides as follows:

231.-(1) Any person who intimidates or molests any other person shall be guilty of an offence and liable to imprisonment for three years.

Comparative sentences

¹⁸ *Regina v Moulala* [2004] SBHC 74; HC-CRC 187 of 2002 (29 September 2004)

¹⁹ *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)

²⁰ *Penal Code* [Cap 26], s 231(1)

71. In *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016)²¹. The accused was charged for a number of offences including intimidation. He was sentenced to seven months of imprisonment for intimidation. The total sentence is two years and 2 months when computed with the sentences for other offences.
72. In *Kilatu v Regina* [2005] SBHC 118; HCSI-CAC 206 of 2004 (22 September 2005), the accused was charged with a number of offences including intimidation and other assault related offences. He was sentenced to six (6) months imprisonment for intimidation and upon appeal to the High Court the sentence for the intimidation was not disturbed. The total sentence imposed by the High Court is thirty months imprisonment for all the other offences.
73. In *Regina v Ramosala* [2016] SBMC 8; Criminal Case 1297 of 2015 & 27 of 2016 (5 April 2016)²², the defendant was sentenced to one (1) year imprisonment for intimidation and it was ordered to run concurrently with the sentences for malicious damage and common assault.
74. In *Regina v Ome* [2011] SBHC 109; HCSI-CRC 265 of 2006 (1 June 2011)²³, His Lordship Palmer CJ imposed a two year sentence respectively on the counts of intimidation against Mr. John Ome and David Suiti. Both men were also charged for arson and other offences respectively. Mr Ome received a total sentence of five years which included intimidation and other offences whilst Mr Suiti received a total sentence of four years.
75. In *Regina v Gora* [2016] SBMC 18; Criminal Case 1456 of 2015 (25 July 2016)²⁴, the defendant was charged with two counts of intimidation contrary to section 231(1) of the *Penal Code*, and one count of in possession of firearm contrary to section 5(2)(a) of the *Firearms Ammunition Act*. The Court imposed a 24 months' imprisonment term for the count of intimidation, and a total sentence of 30 months or 2 years and 6 months for both offences.
76. Thus, the sentencing tariff with respect to intimidation ranges from bound over, non-custodial sentences, custodial sentences ranging between one month up to 24 months (2 years).

Starting Point

77. After having considered the relevant factors in this case, I am of the view that a starting point of 18 months is appropriate for this present case.
78. I will now consider the mitigating factors and give appropriate allowances.
79. *Early guilty plea.* The defendant entered an early guilty plea. This saves the court's time and resources and I deduct 6 months to reflect this.

²¹ *Regina-v-Goro* [2016] SBMC 24; Criminal Case 1277 of 2015 (15 September 2016)

²² *Regina v Ramosala* [2016] SBMC 8; Criminal Case 1297 of 2015 & 27 of 2016 (5 April 2016)

²³ *Regina v Ome* [2011] SBHC 109; HCSI-CRC 265 of 2006 (1 June 2011)

²⁴ *Regina v Gora* [2016] SBMC 18; Criminal Case 1456 of 2015 (25 July 2016)

80. **Genuine Remorse.** The defendant not only entered an early guilty plea but apologized to the court and the victims for what he did. This is an indication of genuine remorse. I deduct 2 months.
81. **First time offender.** Mr Parahu has no previous criminal record. This ought to be taken into account as well. I deduct another 2 months to reflect this.
82. **Prospects of Rehabilitation.** I deduct a further 2 months to reflect the fact that the defendant is 23 years old and has a high chance of rehabilitation.
83. Hence, I am satisfied that an imprisonment of 6 months is appropriate for the one count of intimidation.

CONCLUSION

84. The offences committed by the defendant include common nuisance, malicious damage, arson and intimidation. Most of these offences are fairly serious offences while arson is the most serious with a maximum sentence of life imprisonment. When sentencing a number of offences, the general guidance enunciated in *Bade v Reginam* [1988] SBHC 10; [1988-1989] SILR 121 (21 December 1988)²⁵ is also helpful to follow. His Lordship Ward CJ stated that:

When considering sentence for a number of offences, the general rule must be that separate and consecutive sentences should be passed for the separate offences. It is trite to point out that a man who commits, say, five offences should receive a heavier sentence than a man who only commits one of them.

85. Most notably, the offences of malicious damage and arson infringed fundamental property rights as embedded in the *Constitution*.²⁶
86. With respect to the offence of arson, the use of the petrol to set the fire could have attracted further severe damages had the fire continued to burn the whole house which I consider as an aggravation. The fire if not contained could have been dangerously fueled by the petrol. In *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)²⁷, the Court of Appeal commented as follows:

Fire can spread and get out of control. Keeping the houses empty was only possible because the residents were detained on the beach as hostages for 48 hours.

87. The Court of Appeal in *Randy*²⁸ also observed with respect to arson and also damaging of other people's properties as follows:

There are indications of genuine remorse and that he has learned something for this experience which will guide his future conduct. Even taking those into account these were very serious offences, destroying peoples homes and inconveniencing their lives.

²⁵ *Bade v Reginam* [1988] SBHC 10; [1988-1989] SILR 121 (21 December 1988)

²⁶ *Constitution of Solomon Islands* (1978), s 8 and 9

²⁷ *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)

²⁸ *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)

88. I also share and endorse the same sentiments echoed in *Randy*.²⁹ A person should always respect another person's properties regardless of whether the properties are big or small, valuable, expensive or less expensive or of whatever nature, description and value. The constitutional rights such as property rights must always be protected and respected and this requires a person to also treat others with dignity. My judicial role, *inter alia*, is to issue a sentence or sentences that will send a message of deterrence to the members of the public and potential offenders not to commit such offences. That whoever wish to commit such offences should expect severe consequences.

89. Having said that, and after having considered the relevant sentencing principles such punishment, deterrence and rehabilitation with other relevant factors, I now sentence Mr Parahu as follows:

- 1) For count 1, I sentence him to 2 months imprisonment.
- 2) For count 3, I sentence him to 4 months imprisonment.
- 3) For count 5, I sentence him to 14 months (1 year and 2 months) imprisonment.
- 4) For count 7, I sentence him to 6 months imprisonment.

90. The next issue is whether or not the sentences should be served concurrently or consecutively. In *Angitalo v Regina* [2005] SBCA 5; CA-CRAC 024 of 2004 (4 August 2005)³⁰, the Court of Appeal of Solomon Islands stated that:

The fundamental underlying principle is that a sentence should reflect the true criminality involved in the offences, without on the one hand punishing the offender more than once for the same or essentially the same criminal conduct or, on the other hand, failing to punish the offender for committing a crime. This will almost always be a matter of fact and degree, requiring the exercise of judicial discretion. The fundamental rule is the Court should ensure that both the end result does not exceed what is the appropriate punishment for the offender's criminal conduct, considered as a whole, and that result adequately punishes the offender for the crimes actually committed. It should be observed, moreover, that the language adopted by Ward CJ is indicative rather than mandatory.

91. All the offences occurred on the 12 of October 2019 in the early hours and throughout the morning part of the day and can be regarded as arising out of the same transaction.³¹ Both parties agreed through their submissions earlier today that the offences arose out of the same transaction albeit the fact that there were at least two victims. Hence the total sentence is 14 months (1 year and 2 months imprisonment) imprisonment. I hope this will teach the defendant a good lesson and for him to change for the better after the completion of his sentence in prison as he still has a high rehabilitative prospects given his age.

92. The total sentence must be retrospectively commenced from the date of first remand.

ORDERS

93. The orders of the Court are as follows:

1] The offender Mr Nickson Parahu is sentenced as follows:

²⁹ *Randy v Regina* [2006] SBCA 3; CA-CRAC 020 of 2005 (25 May 2006)

³⁰ In *Angitalo v Regina* [2005] SBCA 5; CA-CRAC 024 of 2004 (4 August 2005)

³¹ *Bade v Reginam* [1988] SBHC 10; [1988-1989] SILR 121 (21 December 1988)

- [1] He is sentenced to 2 months imprisonment for one count of Common Nuisance contrary to section 172 of the *Penal Code* [Cap 26]
 - [2] He is sentenced to 4 months imprisonment for one count of Malicious Damage contrary to section 326(1) of the *Penal Code* [Cap 26];
 - [3] He is sentenced to 14 months (1 year and 2 months) of imprisonment for one count of Arson contrary to section 319(a) of the *Penal Code* [Cap 26];
 - [4] He is sentenced to 6 months of imprisonment one count of Intimidation contrary to section 231(1) of the *Penal Code* [Cap 26];
- 2] The sentences are to be served concurrently as they arose out of the same transaction. Hence, the final sentence is 14 months (1 year and 2 months) imprisonment.
 - 3] The time spent in custody shall be taken into account and the sentence must be retrospectively backdated or commenced from the date that the defendant was first remanded, that is, from the 15th of October 2019.
 - 4] Right of Appeal within 14 days.


PRINCIPAL MAGISTRATE FELIX HOLLISON
THE COURT
