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IN THE FIJI COURT OF APPEAL

Criminal Jurisdiction

Criminal Appeal No. 68 of 1982

Between: INIA KOMAI

Appellant

- and -

THE DIRECTOR OF PUBLIC
PROSECUTIONS

Respondent

Appellant in person
A. Gates for the Respondent

Date of Hearing: 14th March, 1983.

Delivery of Judgment: 14th March, 1983.

JUDGMENT OF THE COURT

Speight J.A. (Orally)

The Appellant, appearing in person appeals against severity of sentence imposed for manslaughter viz. 10 years imprisonment.

He had been charged with murder but the trial Judge concluded that he had not at the relevant time been proved to have had either an intention to kill or an intention to do grievous bodily harm.

We accept the validity of that conclusion in view of this man's particular circumstance. He was a young man undoubtedly in love with this woman with whom he had been living, and being in custody for another offence he brooded about the circumstances she was living

in, and he escaped from custody with the purpose of removing her from the ghetto where she was.

When he found her in undesirable circumstances he was angered to the point of striking her, and he had a knife in his hand, but the Judge's finding of lack of intent is only consistent with the view that he was very mentally disturbed at the time to the extent that he was not master of his mind.

We do not take it as a mitigating circumstance that he had consumed considerable alcohol of potent variety That explains but does not excuse - indeed if anything the Court would regard it as an aggravating factor.

We take into account that he is young, his past record has no previous offence of violence, he acted in hysteria in a set of circumstances which were unusual and understandable, he has shown remorse which seems genuine, and there seems little likelihood - as the Crown concedes - indeed advocates - that he would offend in an extreme way again.

In all the circumstances we feel the sentence was excessive and the appeal is allowed and a sentence of six years imprisonment is substituted.

SENTENCE IN THIS CASE
Allowed
11. 2. 1970

G. D. Bejls
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Judge of Appeal

Phillips
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Judge of Appeal

R. G. Munn
.....
Judge of Appeal