

IN THE COURT OF APPEAL, FIJI ISLANDS
AT SUVA

Appellate Jurisdiction

CRIMINAL APPEAL NO. AAU0006 OF 2008

BETWEEN : RAMESH PRASAD *Appellant*

AND : THE STATE *Respondent*

Before the Honourable Judge of Appeal Mr Justice John E. Byrne

Counsel : Appellant - In Person
: Ms A. Driu for the Respondent

Date of Hearing & Ruling : 5th May 2008

R U L I N G

[1] The Appellant seeks Leave to Appeal out of time against a Judgment of Shameem J. in the High Court dated 16th of July 2007 when she sentenced the Appellant to a term of 2 years and 6 months imprisonment, after he had pleaded guilty to 17 counts of '***Demanding Money With Menaces***', contrary to Section 294(1)(c) of the Penal Code. The Appellant's co-Accused Stanley Prasad pleaded guilty to the same offences on the 9th of February 2007

and received concurrent sentences of 2 years imprisonment on the 12th of February 2007. The facts which the Appellant admitted are that George Roderick Rickert, an Australian citizen and a farmer came to Fiji in February 1999. He was looking for a solicitor to represent him in a matter involving a Fiji national. The Appellant agreed to find him a lawyer and became friends with him. With Stanley Prasad, he decided to obtain money from Rickert. He took him to various hotels in Fiji where he met with local prostitutes.

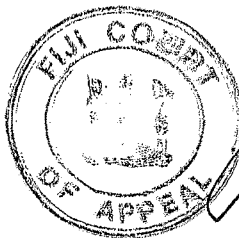
- [2] Upon his return to Australia the Appellant rang Rickert up and told him that the girls with whom he had had sexual intercourse were under the age of consent and that he would report him to the Police because he had photographs of him with the girls. Rickert then began sending the Appellant money by depositing sums into his ANZ bank account. Over a period of two years, the Appellant obtained a total of \$194, 350.00 from Rickert. In fact there were no photographs, and the prostitutes were not underage.
- [3] When the money was received into the Appellant's account he shared it with Stanley Prasad and other friends but most of the money was used by the Appellant and he, as Shameem J. found, was not in a position to pay Rickert

back. In May 2003 the Appellant was interviewed by the Police and admitted the offences. He was charged on the 6th of May 2004 and the charges were pending at the time of the hearing before Shameem J. for 2 years and 9 months.

- [4] Shameem J. took into account the plea of guilty and the fact that the Appellant was 45 years old, married with 7 children, 5 of whom are dependent on him.
- [5] The Appellant is a tourist guide by profession and has been earning his living since he was 13 years old. He expressed remorse and asked for a sentence which was no higher than that imposed on his accomplice.
- [6] Shameem J. stated that the tariff for sentences of breach of trust is 18 months to 3 years imprisonment. For his accomplice Shameem J. began at 2 years and said that the accomplice was not the principal party in the offending and he did not benefit greatly by the enterprise. The Appellant was the principal role-player and he was the principal beneficiary of a scam practised on a trusting and naive visitor to this country.
- [7] The learned Judge therefore commenced her sentencing at 3 years imprisonment but after taking into account all

relevant factors, the plea of guilty, the remorse, the delay until sentence, the lack of restitution and the gross deception practised, she considered that the appropriate sentence was 2 years and 6 months imprisonment on each count to be served concurrently with each other.

- [8] It is common knowledge that tourism is the main foreign currency earner of Fiji. Its reputation as a tourist venue depends in no small way on having trustworthy tourist guides whom visitors to the country can trust. By the Appellant's actions he betrayed this trust.
- [9] I can find no fault in the reasoning of Shameem J. and I therefore refuse leave to appeal.



John E. Byrne

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[John E. Byrne]
JUDGE OF APPEAL

At Suva

5th May 2008