

**IN THE FIJI COURT OF APPEAL**  
**[On Appeal from the High Court of Fiji]**

**Criminal Appeal No: AAU0150 of 2014**  
**[High Court Case No. HAC62/14Lab]**

**BETWEEN** : DONASIANO GADEINIUSILADI *Appellant*

**AND** : THE STATE *Respondent*

**Coram** : Hon. Mr. Justice Daniel Goundar

**Counsel** : Mr. J. Savou for the Appellant  
Mr. M. Korovou for the State

**Date of Hearing** : 28 July 2016

**Date of Ruling** : 5 August 2016

**RULING**

[1] On 11 December 2014, the appellant pleaded guilty to a charge of manslaughter in the High Court at Labasa. He was sentenced to 6 years imprisonment with a non parole period of 5 years. The appellant seeks leave to appeal against sentence on the following grounds:

- (i) The learned sentencing Judge erred in principle in failing to make a separate discount for an early guilty plea.
- (ii) The learned sentencing Judge caused the sentence to be harsh and excessive considering the circumstances of the offending.

- [2] The facts were that the appellant accompanied his brother to a pub after consuming considerable amount of alcohol on the evening of 10 August 2014. The pub employees made the two men leave the pub after they misbehaved. When they were leaving the pub, the appellant for no reason punched the victim who happened to be standing outside the pub. The victim fell on the ground and was rushed to the hospital. He died of brain injuries the following morning.
- [3] The maximum sentence prescribed for manslaughter under the Crimes Decree 2009 is 25 years imprisonment. The learned sentencing judge considered the appropriate tariff for manslaughter by referring to the relevant cases and picked 5 years as his starting point. He considered the mitigating factors including the guilty plea which was made 3 months after the first call and gave a reduction of 3 years. The sentence was increased by 4 years to reflect the aggravating factors.
- [4] The appellant's contention that he should have been given a separate discount for guilty plea is misconceived. The guilty plea was not an early plea. The learned sentencing judge gave a reduction of 3 years for the guilty plea and the appellant's personal circumstances. While a guilty plea should be considered in sentencing, there is no fixed formula regarding how the guilty plea should be discounted. In the present case, the learned sentencing judge gave a generous discount for all the mitigating factors including the guilty plea. There is no arguable error in the sentencing discretion as far as the guilty plea was concerned.
- [5] The appellant's second contention is that his sentence is harsh and excessive when compared to other one punch manslaughter cases. I accept that this was one-punch manslaughter case. But the violence that was inflicted on the victim was senseless. The victim was an innocent bystander. He offered no provocation to the appellant. The violence was fuelled by consumption of excessive alcohol. These aggravating factors justified the sentence that was imposed on the appellant. In my judgment, the sentence appeal is unarguable.

**Result**

Leave refused.



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Hon. Mr. Justice Daniel Goundar  
**JUSTICE OF APPEAL**

**Solicitors:**

Office of the Legal Aid Commission for Appellant  
Office of the Director of Public Prosecutions for State