

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: HAC 04 OF 2012**

**BETWEEN : STATE**

***Applicant***

**A N D : SAINIVALATI BOTAI**

***Respondent***

**Council : Ms. S. Kiran -for State**

**Mr. T. Lee -for Accused**

**Date of Ruling and Sentencing : 9<sup>th</sup> May, 2013.**

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**RULING AND SENTENCING**

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1. The accused above-named is charged with one count of Common Assault and one count of Act Intended to Cause Grievous Harm punishable under Section 274(1) and 225 (a) of the Crimes Decree respectively.

2. Both the accused and the complainant are de-facto partners and they live together. Further they have a child. Matter was considered under Domestic Violence Decree and a permanent D.V.R.O. was issued.
3. When the case was taken on the 1<sup>st</sup> date itself the Applicant wants to plead guilty. Due to the DVRO inquiries, proceedings of this case was kept down. It was reported that both parties had gone through extensive counseling and they have reconciled their disputes. Presently the Social Welfare reports that they are happily living together with a child.
4. The accused pleaded guilty to both counts and pleads with the Court that he is working in the Tourism Industry and he wants the court to not to convict him.
5. I consider Section 15, 16, 43, 44 and 45 of the Sentencing and Penalties Decree. Since the accused was comprehensively dealt under DVRO and extensive counseling I proceed under Section 45 to sentence the accused without entering a conviction.
6. The accused is imposed a fine of \$50.00 on both counts (each) in default 1 month imprisonment.
7. I must place at my record the un-stinted support provided by the State Counsel Ms. Sherlyn Kiran. She not only assisted the court but also supervised the long counseling programme of the accused and the complainant.
8. The court also appreciates the assistance rendered by Mr. Thomson Lee of Legal Aid Commission for appearing and filing comprehensive sentencing submissions with very short notice.

9. 30 days to appeal to the Court of Appeal

S. Thurairaja  
**JUDGE**

At Lautoka  
9<sup>th</sup> May, 2013.