

IN THE HIGH COURT OF FIJI AT SUVA
[CRIMINAL JURISDICTION]

CASE NO: HAC. 178 of 2018

BETWEEN : **STATE**

AND : **JIUTA BULIQEREQERE**

Counsel : *Ms. Kantharia B. for State*
: *Mr. Chang K. for Accused*

Hearing on : *09th of May 2019*
Sentence on : *22nd of May 2019*

SENTENCE

1. At the very first opportunity, Mr. Jiuta Buliqereqere, the accused, having understood the contents of the information and the consequences of such plea, pleaded guilty to the following count:

Statement of Offence

GIVING FALSE INFORMATION TO A PUBLIC SERVENT: Contrary to Section 201 (a) of the Crimes Act 2009.

Particulars of Offence

Jiuta Buliqereqere, on the 28th day of April, 2018 at Suva in the Central Division, gave false information to PC 5137 Akariva Rokousa a public servant, which he knew to be false.

2. The summary of facts presented by the prosecution was as follows.
 - a) The Accused is Jiuta Buliqereqere, 20 years old, Student of FNU of Block 3, Flat 6, Nabua housing, Mead Road, Nabua.
 - b) On 28th of April, 2018 at about 1.00 am the accused was arrested for an alleged offence by PC 5137 Akaripa Rokousa at Carnavon Street, Suva.

- c) PC 5137 Akaripa Rokousa escorted the accused to Totogo Police Station and whilst questioning the accused, the accused gave his name as Apisalome Ravai, 20 years, FNU Student of Block 3, Flat 6, Nabua Housing.
 - d) Upon phone calls made to the accused's family in Nabua Housing, it was confirmed that the accused's real name is Jiuta Buliqereqere.
 - e) The accused was caution interviewed through video recording by WDC 4157 Kesaia on 29/04/2018 for the alleged offence and was asked why he gave his name as "Apisalome Revai" instead of "Jiuta Buliqereqere" and answered that he lied.
 - f) The accused has no previous convictions.
3. Though the Accused entered an unequivocal plea of guilty to this alleged offence charged with, it is the duty of the Court to scrutinize and see whether the accused had admitted all the elements of the offence in the court.
 4. I find that prosecution has adduced sufficient evidence, by way of summary of facts which being admitted by the Accused to be correct and true, in proof of the offence of "*Giving False Information to a Public Officer*" contrary to section 201 (a) of the Crimes Act, 2009.
 5. Therefore, I convict the accused for the offence of Giving False Information to a Public Officer contrary to section 275 of the Crimes Act of 2009.
 6. The maximum punishment prescribed for the said offence of Giving False Information to a Public Officer is 5 years imprisonment.
 7. In **Muskan Balagan v State** HAA 31/2011, His Lordship Justice Gounder has approved, a starting point of 2 years by the learned Magistrate to be within the tariff, for the offence of Giving False Information to a Public Officer.
 8. In consideration of the objective seriousness of the offence and adopting the sentencing guidelines set out by the Court of Appeal in **Koroivuki v State** [2013] FJCA 15; AAU0018.2010 (5 March 2013), I pick 18 months as the starting point of your sentence.
 9. There aren't any additional aggravating factors other than the seriousness of the offence itself to be considered as for the submissions by the State.
 10. The mitigating factors to be considered are;
 - (i) The Accused is remorseful

- (ii) He is only 21 years and still a student at a University.
- (iii) Was co-operative with the police

11. In consideration of above mitigating factors I reduce your sentence by 3 months and arrive at 15 months imprisonment.
12. The Accused has entered a guilty plea at the very first opportunity. Therefore, I give a discount of 5 months in consideration of his early plea by which he confirmed his remorse and saved the valuable time and resources of the state. Now the final sentence stands at 10 months of imprisonment.
13. As for the material available before the Court, the Accused has been in remand for a period of about two weeks. That period should be considered as period served and rightfully be deducted from the 10 months stated above and the remainder would be 9 months and 2 weeks.
14. Now I will consider the provisions of section 26(1) of the Sentencing and Penalties Act.
26. — (1) On sentencing an offender to a term of imprisonment a court may make an order suspending, for a period specified by the court, the whole or part of the sentence, if it is satisfied that it is appropriate to do so in the circumstances.
15. In consideration of whether it is appropriate to so, Court should consider the provisions of section 4 of the Sentencing and Penalties Act.

4. — (1) The only purposes for which a sentence may be imposed by a court are

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- (a) to punish offenders to an extent and in a manner which is just in all the circumstances;
- (b) to protect the community from offenders;
- (c) to deter offenders or other persons from committing offences of the same or similar nature;
- (d) to establish conditions so that rehabilitation of offenders may be promoted or facilitated;
- (e) to signify that the court and the community denounce the commission of such offences; or
- (f) any combination of these purposes.

16. Having duly considered the above and all the circumstances of this case, I am of the view that a non-custodial term would be adequate and serve the above mentioned purposes best.
17. I am mindful that this is quite a serious offence. However, this is the first time the accused had been reported of violating the law.
18. In result, the Accused's sentence of 9 months and 2 weeks will be suspended for a period of 3 years.
19. The effect of a suspended term is explained to the Accused.
20. The accused is given 30 days to appeal to the Court of Appeal if he desires so.


Chamath S. Morais
JUDGE



Solicitors : ***Office of the Director of Public Prosecutions for the State
Legal Aid Commission, Suva for the Accused***