

**FIJI INDEPENDENT COMMISSION AGAINST CORRUPTION (FICAC)
v FOANA TUKANA NEMANI (HAC037A of 2010S)**

5 HIGH COURT — CRIMINAL JURISDICTION

BANDARA J

17 September 2013

10 **Criminal Law — trial — extortion by public officers — abuse of office — unanimous opinion of assessors — whether accused found guilty — guilty — Penal Code ss 107, 111.**

15 The accused was charged with the offence of ‘Extortion By Public Officers’ contrary to s 107 of the Penal Code, Cap 17 and ‘Abuse of Office’ contrary to s 111 of the Penal Code Cap 17.

Held –

(1) The High Court, concurring with the unanimous opinion of three assessors, found the accused guilty on two counts separately.

20 Accused found guilty on two separate counts.

R. Aslam with Puleiwai for FICAC.

[1] **Bandara J.** The accused is been charged by the Fiji Independent Commission Against Corruption on the following two counts.

25 **First Count**

Statement of Offence (a)

EXTORTION BY PUBLIC OFFICERS: Contrary to s 107 of the Penal Code, Cap 17.

Particulars of Offence (b)

30 **FOANA TUKANA NEMANI**, during the period between 26th of July, 2005 to 26th January 2007, at Suva in the Central Division, whilst being employed in the public service namely as Deputy General Manager and Chief Operations Officer of the Fiji National Provident Fund, accepted a payment of \$26, 487.12 from the said Fiji National Provident Fund, beyond her proper pay and emoluments.

35 **Second Count**

Statement of Offence (a)

ABUSE OF OFFICE: Contrary to s 111 of the Penal Code Cap 17.

Particulars of Offence (b)

40 **FOANA TUKANA NEMANI**, on the 5th day of September, 2006, at Suva in the Central Division, whilst being employed in the public service namely as Acting General Manager and Acting Chief Executive Officer of the Fiji National Provident Fund, and in abuse of the authority of that office, did an arbitrary act, namely authorized the payment of a responsibility allowance of \$33,333 to Olota Tulumani Rokovunisei without the authority of the High Salaries Commission and the Fiji National Provident Fund Board, thereby causing prejudice to the rights of the said Fiji National Provident Fund.

45 [2] In the unanimous opinion of three assessors the accused have been found GUILTY to the offences of “Extortion By Public Officers” contrary to s 107 of the Penal Code, Cap 17 and “Abuse of Office” contrary to Section 111 of the Penal Code Cap 17. In directing myself on my own summing up, I concur with the unanimous opinion of the Assessors and find the accused GUILTY to both the charges separately.

[3] That is the judgment of the Court.

Accused guilty on two counts.

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