

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 520 of 2018

STATE

v

- 1. NAVITALAI URADAMUDAMU**
- 2. DHARMEN SINGH**

Appearance : **PC Lal** for the prosecution
 : **Mrs Marama. K** for the accused

Ruling : **22 March 2018**

SENTENCE

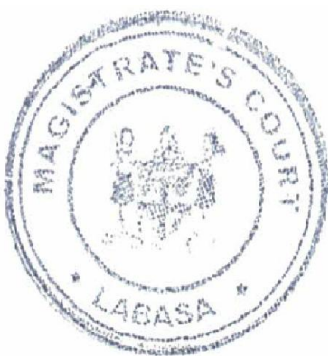
1. The accused, *Navitalai Uradamudamu* and *Dharmen Singh* was charged for *Theft*, contrary to *section 291(1)* of the *Crimes Act*.
2. On 28 September 2018, the First Accused waived his right to counsel and pleaded guilty to the charge. I find his plea to be unequivocal as it was given on his own free will. On 27 November 2018, the Second Accused pleaded guilty to the charge in the presence of his counsel. I find his plea to be unequivocal as it was given on his own free will.
3. The brief summary of facts are;-
“On the 10th day of December 2017, around 2pm, the accused Navitalai Uradamudamu (Navitalai) was at work as a Security officer at Goodman Fielder when he noticed that the workshop was empty. He then rang the second accused

Dharmen Singh (Dharmen) a Whare house Assistant of Goodman Fielder where they agreed to unload bags of frozen chicken from the truck parked in the yard. Later Dharmen informed Navitalai that he is sending one taxi for him to load the bags of frozen chicken into the taxi. Navitalai unloaded 8 bags of frozen chicken from Goodman Fielder truck and loaded it to the taxi. Dharmen rang the taxi driver Jaswant Jai Sing to go to the back of Kwong Tung Restaurant. Dharmen was waiting there and he sold the 8 bags of frozen chicken to Chung Choow Tong of Kwong Tung Restaurant for \$50.00 per bag for a total of \$400.00. Navitalai and Dharmen shared the \$400.00 where they have \$200.00 each."

4. You both admitted to the above summary of facts on 27 November 2018, and both convicted as charged. Both the accused submitted their respective oral mitigation on the same day.
5. The maximum penalty for *Theft* is 10 years imprisonment. In the case of ***Ratusili v State***[2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows;-
 - a) *First offence of simple theft, sentence range between 2 and 9 months;*
 - b) *Any subsequent offence, attracts penalty at least 9 months;*
 - c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years;*
 - d) *Planned thefts attract greater sentence than opportunistic thefts.*
6. The aggravating factor is that this is a case of breached of trust as you are both employed by Goodman Fielder.
7. The compelling mitigating factors are;-
 - Navitalai Uradamudamu
 - a. *first offender.*
 - b. *seek the court forgiveness.*
 - c. *promise not re-offend.*
 - Dharmen Singh
 - a. *first offender.*
 - b. *remorseful and seek the court forgiveness.*
 - c. *full co-operation with the police.*

- d. *seek the court leniency.*
 - e. *willing to pay the whole amount.*
8. This case falls under *category (c)* of ***Ratusili*** above. For your sentence, I pick 2 years as my starting point. I add 1 year for the aggravating factor and that increase your sentence to 3 years imprisonment. I give 9 months for each of your mitigation, accordingly, that reduce your sentence to 2 years and 3 months imprisonment.
9. I reduce 9 months for your one third entitlement for your early guilty plea. That reduce your sentence to 1 year and 6 months imprisonment.
10. The final sentence is 1 year and 6 months imprisonment.
11. In this sentence I have considered *section 4* of the *Sentence and Penalties Act*, the principle of rehabilitation and deterrent. Considering the facts and all the circumstances of the case, custodial sentence has to be imposed as a deterrent both specific and general to denounce such act.
12. *Navitalai Uradamudamu* and *Dharmen Singh*, I now sentence both of you to 1 year and 6 months imprisonment with immediate effect.

28 days to appeal.



C. M. Tuberi
RESIDENT MAGISTRATE