

**IN THE MAGISTRATES' COURT OF FIJI AT TAVUA
CRIMINAL JURISDICTION**

Criminal Case No: 35 - 2018

STATE

-v-

MOSHIM ALI

Before : RM Fotofili L.
For Prosecution : WPC Chand A. [Police Prosecution]
Accused : Mr. Samy A. [Legal Aid Commission]
Date of Sentence : 26th July 2019

SENTENCE

BACKGROUND

1. **MOSHIM ALI**, you have pleaded guilty to the following charge:

Statement of Offence

ASSAULT OCCASIONING ACTUAL BODILY HARM: Contrary to section 275 of the *Crimes Act of 2009*.

Particulars of Offence

MOSHIM ALI on the 31st day of January, 2018 at Tavua in the Western Division assaulted **LORIZA KHAN** thereby causing her actual bodily harm.

2. I am satisfied that your guilty plea to the charge is voluntary and that you understand the consequence of your plea. Your admission and the evidence also support your guilty plea. I have found you guilty and I convict you.
3. The victim here is your 27 year old de-facto partner. Your partner called her mother requesting that they assist in taking your daughter to the hospital. You did not like the victim speaking to her parents. You grabbed the phone from the victim and punched her causing her injuries.

AGGRAVATING FEATURES

13. There is a domestic relationship in existence. This is your de-facto partner.
14. I am not sure whether your children witnessed your violence so I will not increase your sentence because of this.
15. Your sentence is increased to 7 months imprisonment.

MITIGATION

16. You are a first offender.
17. You have cooperated with police but only in part. You were suggesting that you hit her by accident.
18. I accept that emotions must have been high at the time.
19. I accept that you are remorseful.
20. You have a family to look after.
21. Your sentence is reduced to 3 months imprisonment.

GUILTY PLEA

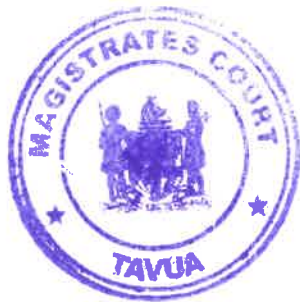
22. You have pleaded guilty early.
23. I reduce your sentence to 2 months imprisonment.

SUSPENSION

24. I can suspend your imprisonment term either in whole or in part pursuant to section 26 (1) and (2) (b) of the **Sentencing and Penalties Act 2009**.
25. I also take into account the factors outlined in section 4 of the **Sentencing and Penalties Act 2009** when deciding whether or not to suspend your sentence.
26. Your sentence will be aimed at deterrence and to punish you adequately.

SENTENCE

27. The domestic violence restraining order [DVRO] with section 27 standard non-molestation conditions which was imposed on you on the 1st of February 2018 is made final. You are to behave towards the victim. You breach any of the conditions for this DVRO, you may be charged and prosecuted.
28. You are sentenced to 2 months imprisonment.
29. No further time will be deducted as you did not spend any time in remand.
30. I am inclined to suspend your imprisonment term but only in part.
31. 1 month of your imprisonment term is suspended for the next 1 year.
32. Do not commit any other offence punishable with imprisonment in the next 1 year, if you do, this 1 month imprisonment held in waiting maybe activated.
33. You will serve 1 month imprisonment immediately.
34. 28 days to appeal.



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Lisiata T.V. Fotofili
Resident Magistrate

Dated at Tavua this 26th day of July 2019