

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

Criminal Case No: 155 - 2019

STATE

-v-

FILIPE NAYAKUYAKU

Before : RM Fotofili L.
For Prosecution : WPC Priya P. [Police Prosecution]
Accused : In Person, Waived Right To Counsel
Date of Sentence : 10th December 2019

SENTENCE

BACKGROUND

1. **FILIPE NAYAKUYAKU**, you are here to be sentenced upon pleading guilty to the following charge:

Statement of Offence

CRIMINAL INTIMIDATION: Contrary to section 375 (1) (a) (iv) of the *Crimes Act* No: 44 of 2009.

Particulars of Offence

FILIPE NAYAKUYAKU on the 12th day of July, 2019 at Davota, Tavua in the Western Division without lawful excuse threatened **VIJENDRA SHARMA**.

2. I am satisfied that your guilty plea to the charge is voluntary and that you understand the consequence of your plea. The evidence tendered in support of your plea and your admission, supports your guilty plea.
3. The victim was at his home at Davota. This was around 9pm. You came to the victim's house and asked the victim if he could drop you off at Matanagata. You swore at the victim saying 'Magaitinamu' [your mother's vagina] and 'kawa ca' [having a bad lineage]. You picked up stones and threw it on top the victim's roof top.

14. I find this 6 months to 2 years imprisonment tariff or range appropriate.

STARTING POINT

15. Considering the objective seriousness of the offence, a 7 month imprisonment term is selected as a starting point.

AGGRAVATING FEATURE

16. You came to the victim's house. This was at night.
17. You were drunk.
18. You said profanities.
19. You threw stones on the victim's roof.
20. Your sentence is increased to 14 months imprisonment.

MITIGATION

21. I accept that you are remorseful.
22. Although you could not remember much, I accept that you told police what you could remember. In that sense, you have cooperated with police.
23. You have a family to support.
24. Your sentence is reduced to 9 months imprisonment.

GUILTY PLEA

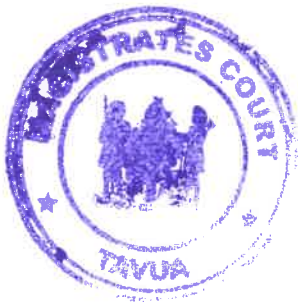
25. You have pleaded guilty early.
26. For that, your sentence is reduced to 6 months imprisonment.

SUSPENSION & OBJECTIVE OF YOUR SENTENCE

27. I can suspend your imprisonment term either in whole or in part pursuant to section 26 (2) (b) of the Sentencing and Penalties Act 2009.
28. Your sentence will be aimed at deterrence and is to punish you adequately.

FINAL SENTENCE

29. You are sentenced to 6 months imprisonment.
30. I will deduct 7 days from your sentence for your time in remand.
31. You have 5 months and 21 days remaining.
32. Your remaining term will be suspended in part.
33. 5 months out of your remaining term will be suspended for the next 3 years.
34. Do not commit any other offence [punishable with imprisonment] in the next 3 years or you risk this 5 months imprisonment held in waiting being activated.
35. You will serve 21 days imprisonment immediately.
36. 28 days to appeal.



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Lisiate T.V. Fotofili
Resident Magistrate

Dated at TAVUA this 10th day of December, 2019