

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 240 of 2014

STATE

v

JOLAME MUSUVANUA

Appearance : **No appearance** for the prosecution
Mr Prasad. J for the accused

Sentence : **1 April 2019**

SENTENCE

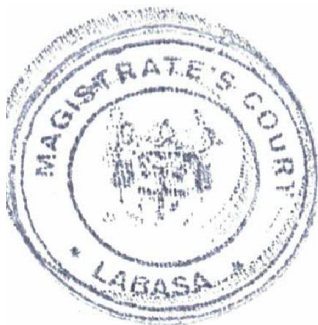
1. *Jolame Musuvanua* today is for sentencing for two counts of *Act With Intent To Cause Grievous Harm* for contravening *section 255(a)* of the *Crime Decree*.
2. On 13 March 2018, you pleaded guilty to both the charges in the presence of your counsel. I find your plea to be unequivocal as it was given on your own free will.
3. The brief summary of facts are;-
“On the night of 10 May 2014, at Nasekula village, the accused, Jolame Musuvanua was annoyed with the loud noise that came from the group of men who were drinking alcohol at the outskirts of Naseakula village. The accused invited some other men to go with him to see those people who were drinking alcohol. The accused took with him a pinch bar, with the intention to strike those people. The accused saw Manoa

Kanace (victim) one of the man who was drinking alcohol. Manoa was returning home. The accused silently followed Manoa and threw punches at Manoa. The accused then struck Manoa with the iron rod twice and Manoa yelled out. At the same time Sakiusa Vudikaria rushed to save Manoa from the accused by raising his hands to block off the accused from beating Manoa. In the process Sakiusa was also struck with the iron rod by the accused. Both Manoa and Sakiusa were wounded as a result of the beating from the accused.”

4. You admitted to the above summary of facts on 25 June 2018, and convicted as charged. Your Counsel filed your mitigation submission on 4 December 2018.
5. The maximum penalty for the offence of *Act With Intent To Cause Grievous Harm* is life imprisonment. The tariff is from suspended sentence (where there was no or minimal injury and where parties have resolved their difference) and 2 and half years to 8 years (where there was serious injury, a brutal assault and the use of a weapon).
6. The aggravating factors are:-
 - (i) *using of weapon (iron rod),*
 - (ii) *weapon was used to strike the victim.*
7. The compelling mitigating factors are:-
 - (i) *first offender,*
 - (ii) *50 years old, shows your previous good character,*
 - (iii) *sole breadwinner,*
 - (iv) *remorseful and cooperation with the police,*
 - (v) *seek the court forgiveness*
 - (vi) *had reconciled with the victims and the victims have confirmed reconciliation,*
 - (vii) *promise not to re-offend and seek leniency*
8. There was no serious injuries in this case and parties have reconciled, however, this is a case of brutal assault where weapon was used. For your sentence, I pick 3 years as my starting point. I add 2 years for the aggravating factors and that increase your sentence to 5 years imprisonment. I reduce 2 years for your mitigations and that reduce your sentence to 3 years imprisonment. You are not entitle for one third reduction but I reduce 6 months for your guilty plea. That reduce your sentence to 2 years and 6 months imprisonment.

9. There was no information provided to the court on the remand period. In perusing the court record, I noted that you were in remand for 1 day. I reduce your sentence by 1 week to reflect the remand period. That reduces your sentence to 2 years, 5 months, and 3 weeks imprisonment.
10. Your final sentence is 2 years, 5 months, and 3 weeks imprisonment.
11. In this sentence, I have considered *section 4* of the *Sentence and Penalties Act* and the principle of rehabilitation. Considering all the circumstances of the case, I order that you are to serve some of your terms as a deterrent both specific and general to deter people who intend to commit such act as life of the victims are at risk.
12. Jolame Musuvanua, I now sentence you as follows:-
- a. Count 1 *Act with intent to cause grievous harm* 2 years, 5 months, and 3 weeks imprisonment.
 - b. Count 2 *Act with intent to cause grievous harm* 2 years, 5 months, and 3 weeks imprisonment.
 - c. *Sentence for both the counts to run concurrently.*
 - d. *I suspended 2 years of your imprisonment term for 2 years.*
 - e. *You are to serve your balance sentence of 5 months and 3 weeks imprisonment with immediate effects.*

28 days to appeal



C. M. Tuberi
RESIDENT MAGISTRATE