

IN THE MAGISTRATE'S COURT AT LABASA

CRIMINAL JURISDICTION

Criminal Case No. 176 of 2014

STATE

v

SHEIK MOHAMMED FIROZ

Appearance : **PC Chand** for prosecution
Mrs Raj. R for the accused

Sentence : **26 July 2019**

SENTENCE

1. Sheik Mohammed Firoz, the Accused, today is for sentencing.
2. After the trial, the court on its judgment of 10 May February 2019, found you guilty as charged for two counts of *Indecent Assault* where you contravened section 212(1) of the *Crimes Decree*.
3. The name of the victim is suppressed to protect her privacy and interest and is referred to as "the Victim" in this sentence.
4. The Court's finding was that in 2013, you touched the Victim's private part and in 2014, you touched the Victim's breast. The Victim was a student at the school

in which you are teaching, in fact you are the Victim's class teacher.

5. You have been convicted as charged for both the counts. The mitigation submission was tendered in court on 22 July 2019.
6. The maximum penalty for *Indecent Assault* is 5 years imprisonment. The tariff is 12 months to 4 years imprisonment, depending on the nature of the assault.
7. The aggravating factors are ;-
 - a. *The victim was your student at the time of the offence.*
 - b. *The victim was under your supervision when you committed the offences.*
 - c. *You have no respect for the victim.*
 - d. *You took advantage on the vulnerability of the victim at the time of the offence and exploit her with your evil intention.*
8. The compelling mitigating factor is that you are a first offender with 42 years of good character. You seek forgiveness from the court and you promise not to re-offend
9. For your sentence, I pick 2 years as the starting point. I add 1 year for the aggravating factors and that increase your sentence to 3 years imprisonment. I reduce your sentence by 8 months for your mitigation and that reduce your sentence to 2 years and 4 months imprisonment.
10. You were found guilty after trial and you are not entitle for any plea concession.

11. I reduce 3 months for the delay in our system in bringing the case to finality and that reduce your sentence to 2 years and 1 month imprisonment. There is no information on remand period submitted or in the record.
12. Your final sentence is 2 years and 1 month imprisonment.
13. I have considered *section 4 of the Sentence and Penalties Act*. This is a case of exploitation and breach of trust at the upper category. Considering the principle of rehabilitation and deterrent, I find that deterrent sentence both specific and general need to be imposed to denounce such conduct and as a warning to the people especially when there is a fiduciary relationship.
14. *Sheik Mohammed Firoz*, I now sentence you as follows;-
- a. Count 1 - *Indecent Assault - 2 years and 1 month imprisonment.*
 - b. Count 2 - *Indecent Assault - 2 years and 1 month imprisonment.*
 - c. *Sentence for both the counts to be served concurrently and to be served concurrently with your sentence that you are currently serving in other cases.*
 - d. *Non- parole period of 16 months.*

28 days to appeal



C. M. Tuberi

RESIDENT MAGISTRATE