

**IN THE MAGISTRATE'S COURT AT LABASA**

**CRIMINAL JURISDICTION**

*Criminal Case No. 178 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 28 June 2019, found you guilty as charged for *Indecently Insulting or Annoying Any Person* where you contravened *section 213(1)(b)* 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 June 2013, you insult the modesty of the Victim by touching her private part. The incident happened in school where the Accused was teaching

and the Victim was a student. In fact the Accused was the class teacher of the Victim.

5. The Accused was convicted as charged. The mitigation submission was filed on 22 July 2019.
6. The maximum penalty for *Indecently Insulting or Annoying Any Person* is 12 months imprisonment. The tariff is from 3 to 6 months imprisonment.
7. The aggravating factors are ;-
  - a. *The victim was your student who was in class 8 at the time of the offence.*
  - b. *This is a teacher and student relationship and you breached that trust.*
  - c. *The victim was under your care and supervision when you committed the offence.*
  - d. *You have no respect for the victim.*
  - e. *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 factors are ; -
  - a. *First offender with 42 years of good character,*
  - b. *Seek the court's forgiveness,*
  - c. *Promise not to re-offend.*
9. For your sentence, I noted the aggravating factors and the compelling mitigating factors. You are not entitle for plea concession. There is no information on remand period. With all the calculation, your sentence for this offence is 6 months imprisonment.
10. 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.

11. *Sheik Mohammed Firoz*, I now sentence you to 6 months imprisonment and to be served in concurrent with your sentence in other cases that you are currently serving.

**28 days to appeal**



A handwritten signature in blue ink, appearing to read "C. M. Tuberi", enclosed within a blue oval scribble.

C. M. Tuberi

**RESIDENT MAGISTRATE**