

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 304 of 2015

STATE

v

ANIT LAL

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

Sentence : **26 July 2019**

SENTENCE

1. *Anit Lal* today is for sentencing for one count of *Theft*, contrary to *section 291* of the *Crimes Decree*.
2. You were found guilty after trial and convicted as charged.
3. The facts of the case are that on 18 March 2011, you stole 5 packets of Tang valued \$3.95, one tin corned mutton valued \$4.33, all to the total value of \$8.28 from Shop and Save supermarket, Labasa. At the time of the offence the Accused was employed by Shop and Save supermarket as the chief security officer. The items were not recovered as the

items confiscated were not items from Shop and Save supermarket.

4. The maximum sentence for the offence of *theft* is 10 years imprisonment. In the case of **Ratusili v State** [2012] FJHC 1249; HAA011.2012 (1 August 2012), the High Court set the tariff as follows;-

- a) *First offence of simple theft, sentence range between 2 and 9 months;*
- b) *Any subsequent offence, attracts penalty at least 9 months;*
- c) *Theft of large sum of money and theft in breach of trust, whether first offence or not attract sentences of up to 3 years;*
- d) *Planned thefts attract greater sentence than opportunistic thefts.*

5. In **Koroivaki v The State**, Crim. App. No. AAU0018 of 2010 (15 March 2013) the Court of Appeal said at paragraph 27:-

"In selecting a starting point, the Court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this stage. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff".

6. The aggravating factors are;-

- a. *Breach of trust as you offended against your employer,*
- b. *Items were not recovered.*

7. The compelling mitigating factors are;-

- a. *First offender of 50 years with previous good character,*
- b. *Promise not to re-offend,*
- c. *Seek leniency.*

8. For your sentence, I pick 5 months as my starting point as this is a case of simple theft and opportunistic theft. I add 10 months for the aggravating factors and that increases your sentence to 15 months imprisonment. I reduce 6 months for your mitigation and that reduce your sentence to 9 months imprisonment.
9. Your final sentence is 9 months imprisonment.
10. In your mitigation you requested for your conviction not to be recorded on economic reason. It is clear from your mitigation that during the period of your interdiction as a police officer you were engage in other forms of employment. On that basis I will not grant your request as you have the ability to engage in other forms of employment. Above that you are a police officer on interdiction and it is a shame that you involved in such criminal activity and if you do not reform yourself you are not worth to be a law enforcement officer when you are breaking the laws.
11. In this sentence, I have considered *section 4* of the *Sentence and Penalties Act*. I also considered the principle of rehabilitation and deterrent and I will give you the benefit to rehabilitate yourself.
12. *Anit Lal*, I now sentence you to 9 months imprisonment and your sentence is suspended for 2 years.

28 days to appeal



C. M. Tuberi

RESIDENT MAGISTRATE