

IN THE MAGISTRATE'S COURT AT LABASA

CRIMINAL JURISDICTION

Criminal Case No. 9 of 2016

STATE

V

KRISHNEEL DEO

Appearance : **PC Lal** for the prosecution
Mr Sen. A for the accused

Judgment : **7 August 2020**

JUDGMENT

1. The accused, *Krishneel Deo*, is charge for *Resisting Arrest* contrary to *section 277* of the *Crimes Decree*.

2. The particulars of the offence are;-

"Krishneel Deo on the 10th day of January 2016, at Labasa, in the Northern Division, whilst being lawfully arrested by police constable No. CPL 3505 Vinesh Prasad, resisted such arrest."

3. The Accused pleaded not guilty to the charge on 11 February 2016.

4. The case proceeded to trial on 25 June 2018 and continued on 8 July 2020.
5. The Prosecutor called CPL 3505 Vinesh as the only witness for the prosecution case. The court ruled that there is a case to answer. The accused exercised his rights to remain silent and call no witness to the stand.

Law

6. *Section 277(b) of the Crimes Decree, provides;-*

"A person commits a summary offence if he or she assaults, resists or wilfully obstructs any police officer in the due execution of his or her duty, or any person acting in aid of such an officer."

7. The elements of the offence are;-

- (a) *the accused,*
- (b) *resisted arrest,*
- (c) *by a police officer,*
- (d) *in due execution of his duty.*

8. The burden of proof is on the Prosecutor to prove all the elements of the offence beyond reasonable doubt.

Analysis and determination

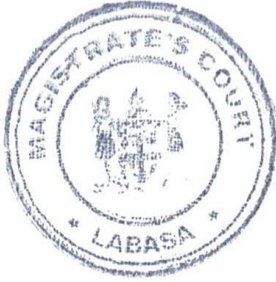
9. CPL Vinesh stated in his evidence that on 10 January 2016, he was on afternoon shift and on duty at the Labasa Police Station. At about 8pm, he was asked to assist in a case of hit and run and suspected drink and drive. The request was from PC Ashwin and LTA officer Kolinio. He went to the house of Ashneel and Krishneel at Siberia. He identified Krishneel in court as the accused person. He

said, there was an argument between the accused and Kolinio. The accused got hold of a piece of timber and tried to struck Kolinio. He came in, got hold of the timber and pulled it away from the accused.

10. CPL Vinesh stated that he approached the accused and warned him that he will be arrested for the offence of criminal intimidation for trying to hit Kolinio with a piece of timber.
11. CPL Vinesh stated that he tried to arrest the accused, the accused resisted the arrest and pushed him away and they fell to the hedges. The other police officers assisted him in arresting the accused. He then arrested the accused and escorted the accused to the Police Station.
12. The evidence of CPL Vinesh was not discredited during cross-examination. The evidence adduced by the Prosecutor has established all the elements of the offence.
13. There will be no adverse inference drawn against the accused in exercising his rights to remain silent.
14. There was no evidence from the defence to create doubt on the evidence of the prosecution.
15. The evidence had shown that CPL Vinesh is a police officer and was on duty when he tried to arrest the accused when the accused resisted the arrest and pushed CPL Vinesh away.
16. In assessing the evidence, I find that the Prosecutor has discharge the burden of proof required.

17. In this judgment, I find the accused guilty as charged and I convicted the accused as charged.

28 days to appeal



A handwritten signature in blue ink, appearing to read "C. M. Tuberi". The signature is written in a cursive style with a large, sweeping initial "C" and "M".

C. M. Tuberi

RESIDENT MAGISTRATE