

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 34 of 2016

STATE

v

LISALA SAKAI

Appearance : **PC Lal** for the prosecution
Mr Prasad. J for the accused

Judgment : **24 July 2020**

JUDGMENT

1. The accused, *Lisala Sakai* is charge for *Grievous Harm* under *section 258* of the *Crimes Decree*.
2. The particulars of the offence are:-
"Lisala Sakai on the 21st day of November 2015, at Dreketi in the Northern Division, unlawfully and maliciously did grievous harm to Meli Rokosau.
3. The accused pleaded not guilty to the charge on 21 April 2017. The case proceeded to trial on 8 July 2019, and continued on 3 July 2020, after the court ruled that there is a case to answer.

4. The Prosecutor called three witnesses to the stand. The accused and another are the witnesses for the defence case

Law

5. Section 258 of the Crimes Act state;-

"A person commits an indictable offence (which is triable summarily) if he or she unlawfully and maliciously does grievous harm to another person."

6. The elements of the offence are;-

- a. the accused,*
- b. unlawfully and maliciously,*
- c. did grievous harm to the victim.*

7. Grievous Harm is defined in section 4 of the Crimes Act as;-

"means any harm which -

- a. amounts to a maim or dangerous harm; or*
- b. seriously or permanently injures health or which is likely so to injure health;"*

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

Analysis and determination

9. The accused was identified in court by all the prosecution witnesses.

10. Meli Rokosau (Meli) is the first witness for the prosecution case. He stated that on 21 November 2015, while they were selling fish at Dreketi, he received a phone call

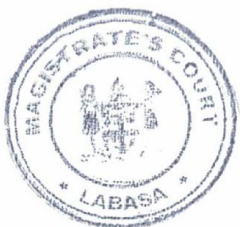
from the village for him to pick some passengers from the village. Iva, the wife of the accused also called him twice. Iva told him that the accused is angry because the boat was late. Meli said, when the accused came, he was angry and threw punches at him but it did not land on him. The accused then hold his collar and hit him on the edge of the boat causing broken bones on his left leg.

11. Neumi Lagilagi (Neumi) is the second witness for the prosecution case. He said, that he was selling fish with Meli on 21 November 2015, at Dreketi when the accused came. The accused was swearing and was angry. The accused came and punched Meli twice, hold Meli's collar and threw Meli into the water. As a result, Meli's left leg hit the boat and injured as he saw the bleeding was coming out.
12. Nivoi Kaminieli (Nivoi) is the third witness for the prosecution case. He stated that on 21 November 2015, at the place where they were selling the fish, he saw the accused punched Meli. The accused hold Meli's collar and threw Meli beside the boat. Meli's left leg was injured.
13. Meli stated that the broken bones on his left leg was between his knees and his ankle. As a result of the injuries, he requested the people around there to take him to the hospital. Nivoi confirmed that they took Meli to the hospital.
14. Meli stated that he was taken to Dreketi hospital where they requested for the ambulance and he was taken to Labasa hospital. He was admitted at the Labasa hospital and had surgery on his leg. He said that he was treated for 4 months but he has no medical report to prove that.

15. Meli tendered his medical report as *prosecution exhibit 1*. The report stated that there is lacerated wound of 1cm in the middle part of the left leg medial to the tibia bone.
16. The evidence of the prosecution discussed above has established all the elements of the offence.
17. The accused stated that on 21 November 2015, he waited for the boat for about 2 hours and he was not angry. On that day, he approached Meli and talked to Meli about the swear words Meli told him on the phone. The accused said that there is no argument between him and Meli.
18. Contrary to that, the accused then said, that Meli was holding the boat anchor and wanted to hit him and he slipped and fell. He grabbed Meli's shirt to stop him from slipping but they both fell down. Meli fell into the boat. The accused denies the allegation.
19. Anarea Bulivakarua (Anarea) is the second witness for the defence case. He stated that on 21 November 2015, he went to buy fish from Dreketi. He was about 13 feet away, when he saw Meli hit the accused with the boat anchor. The accused slipped and pulled Meli's shirt. Anarea stated that on that day he did not know the accused and Meli.
20. Anarea's evidence supported the accused evidence that Meli tried to hit the accused with the boat anchor. That piece of evidence contradicts the accused evidence when he said that when he was talking to Meli there was no argument between them. If there is no argument, then there is no reason for Meli to hit the accused with the boat anchor.

21. Meli stated that he received two phone calls from Iva he did not stated that he spoke to the accused on the phone to support the accused version that Meli swore at him on the phone.
22. As such, I find the accused evidence that the Meli swore at him and tried to hit him with the anchor are recent innovation of the accused to justify his unlawful action.
23. On the other hand, I accept the prosecution evidence on the unlawful and malicious act of the accused when he threw punches at Meli, hold Meli's collar and threw Meli to the boat resulted in grievous harm on Meli's left leg.
24. I am satisfied that the medical report and the evidence of Meli have shown that the harm was grievous.
25. The evidence of the defence was not able to create any doubt on the evidence of the prosecution.
26. The evidence of the prosecution has proven all the elements of the offence beyond reasonable doubt.
27. In this judgement, 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", is written over a blue oval stamp.

C. M. Tuberi
RESIDENT MAGISTRATE