

IN THE MAGISTRATES' COURT OF FIJI

AT BA

[CRIMINAL JURISDICTION]

Criminal Case No: CF 110/22

STATE

v.

MOHAMMED IFTIKAR

PARNEET ANISH KUMAR

PRASHANTH MUNI NATHAN

MOHAMMED TANZEEL

PRANEEL SACHIN KUMAR

AMIT KUMAR

For Prosecution:	Sgt [4971] V. Vunaki
Accused 1 – 5:	All Appearing with Mr. Charan
Accused 6:	Appearing In Person
Plea:	3/7/2024
Trial:	9-11/6/2025, 3/7/2025 & 21/7/2025 (Defense case)
NCTA Ruling:	3/7/2025
Judgement:	28/11/2025
Sentence:	18/12/2025

SENTENCE

A. Background

1. All the accused persons by this Court's Judgement on 28/11/2025 have been found Guilty and convicted for the offence of **Theft** contrary to **Section 291 (1)** of the **Crimes Act of 2009**. The Court so ordered that each of your conviction be recorded against each of you – no submission was offered for your convictions not to be recorded and the Court finds no special reason to do so also.
2. The defence counsel for Accused 1 – 5 sought time to file mitigation submission which was filed on 16/12/2025. On 28/11/2025 the 6th accused submitted oral mitigation in person and the same is within

the Court Record. Following the filing of the written mitigation by Accused 1 – 5 the court then adjourned for Sentencing to today.

B. Statutory Imprisonment Term and Tariff

3. The maximum sentence for Theft is 10 years imprisonment
4. In *Ratusili v State [2012] FJHC 1249; HAA011.2012 (1 August 2012)* Madigan J discussed about the acceptable tariff for theft:
 - i. For first offence of simple theft the sentencing range should be between 2- and 9- months imprisonment
 - ii. Any subsequent offence should attract a penalty of at least 9 months
 - iii. Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years
 - iv. Regard should be had to the nature of the relationship between offender and victim
 - v. Planned thefts will attract sentences than opportunistic

C. Aggravating and Mitigating Factors:

5. The aggravating factor(s) are:
 - You all committed the offending under the cover of night
 - You all committed the offending in the company of others
 - I find a degree of pre-planning in your committal of the offence on account of your having a vehicle ready at around the hours of midnight between 19/3/2022- 20/3/2022 at Ba Riverside to facilitate the taking of the stolen item (1x Yamaha Enduro 60HP Boat Engine valued at \$7, 800)
6. The mitigating factor(s):
 - Accused 2 – 6 are all first offenders
 - Accused 1- 6 remorseful & promise not to reoffend
 - Full recovery of 1x Yamaha Enduro 60HP Boat Engine
7. The 6th Accused Amit Kumar has a PC of Absconding Bail from CF 131/24 where he was sentenced on 3/4/2024 however the principal file in CF 131/24 is this proceeding (CF 110/2022) wherein the accused is to be sentenced therefore I still find him to be a first offender in that regard.
8. The 1st Accused Mohammed Iftikar however is not a first offender, he has 3 PC's two of which are Theft/Theft in nature and the 3 were all active at the time of the charging of this current charge. His first PC is from 9/4/2014 for a conviction of Theft in CF 653/13, then a second conviction from 31/1/2017 for Common Assault in CF 466/16 and his final conviction is from 24/5/2019 for Aggravated Robbery and Assault Causing Actual Bodily Harm in CF 292/15.
9. In sentencing the accused, the Court took into account the factors outlined in Section 4 (1) and (2) of the Sentencing and Penalties Act 2009.

10. For Accused 1 - taking into consideration the objective seriousness of the offence of Theft because of its maximum sentence and in light of this being your second Theft offending, the court takes the starting point of 9 months imprisonment and I add 12 months' imprisonment for the aggravating factors so the interim sentence is 21 months' imprisonment (1 year and 9 months imprisonment). I deduct 4 months imprisonment for the mitigating factors so the interim sentence is 17 months' imprisonment (1 year 5 months imprisonment)
11. For Accused 2 – 6 taking into consideration the objective seriousness of the offence of Theft because of its maximum sentence and in light of this being your first offence of theft however not being a simple case I find that it would be appropriate to start your sentence at 4 months imprisonment and I add 12 months' imprisonment for the aggravating factors so the interim sentence is 16 months' imprisonment (1 year and 4 months imprisonment). I deduct 6 months imprisonment for the mitigating factors so the interim sentence is 10 months' imprisonment.
12. Each of you have been on bail as such no time in remand is deducted pursuant to Section 24 of the Sentencing and Penalties Act 2009.
13. I'm mindful of section 26 (1) & (2), (b) of the Sentencing and Penalties Act 2009 that I have the discretion to suspend the final sentence when it is below 2 years imprisonment.
14. The court looks at the sentencing remarks of Goundar J in *Balagan v State [2012] HAA 31/11S* 24 April 2012 at [20] in considering to suspend a sentence:

'Whether an offender's sentence should be suspended will depend on a number of factors. These factors no doubt will overlap with some of the factors that mitigate the offence. The final test for an appropriate sentence is – whether punishment fits the crime committed by the offender?' (my underlining)
15. The court denounces your offending. You each ought to be ashamed of yourselves for this offending for being able bodied young adults in your primes yet resorting to such vices – you must all learn to earn and own possessions through decent and legal means.
16. I have considered each of your submission on the possibility of any reformation or rehabilitation that may warrant a suspension of your sentence. Accused 2 – 6 by the updated PC's provided by the Police Prosecution you are all first offenders and submit that you have since learnt from this offending and vow never to repeat such offending again. I have also considered your respective personal circumstances which may offer some bearing on the need to consider passing a suspended term. For first offenders the Court considers the principle of rehabilitation as opposed to deterrence and considers that the imposition of an imprisonment term to be served ought to be the last resort – for those reasons I find that each of you Accused 2 – 6 have room to rehabilitate and should be allowed that opportunity to do so.
17. **Accused 2 – 6** you are each sentenced to 10 months' imprisonment of which is wholly suspended to a term of 4 years.

18. **Accused 2 – 6** you are each warned by the court not to commit another offence within 4 years from today, if you do so then you may be charged for **Breach of Order Suspending Sentence** contrary to Section 28 of the Sentencing and Penalties Act 2009. If the court finds you guilty and convicts you then the sentencing Court may activate the above sentence at paragraph 17.

19. **For accused 1** – considering you are not a first offender, and this being your third time before the Court for a Theft charge or Theft natured offending, rehabilitation would not be the core objective for your sentencing. A sentence that will deter is warranted – it is also warranted on account of the Court finding that substantially the evidence points to you as being the master mind towards this offending.

I therefore order that you are sentenced to 1 year and 5 months imprisonment (17 months' imprisonment) and pursuant to Section. 18 (3) of the Sentencing and Penalties Act 2009 you are to serve a total of 11 months' imprisonment before being eligible for parole.

20. A sentence that will deter is warranted however the Court still considers the need for room for rehabilitation on your part.

21. **Summary of sentence as follows:**

Accused 1 - 1 year and 5 months imprisonment – serve 11 months before being eligible for parole.

Accused 2 – 6 10 months' imprisonment wholly suspended for a term of 4 years.

28 days for any aggrieved party to appeal to the High Court.

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S. Nasedra [Ms.]
[Resident Magistrate]

*Divisional Prosecuting Office/West
Accused 1 – 5 – Ravneet Charan Lawyers
Accused 6 – In Person*