

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 29 of 2018

STATE

v

RATU RABULU VAKALILAI

Appearance : **PC Lal** for the prosecution
Accused in person

Sentence : **5 October 2018**

SENTENCE

1. Ratu Rabulu Vakalilai, today is for sentencing for one count of *Theft* where you contravened *section 291(1)* of the *Crimes Act*.
2. On 15 January 2018, you waived your rights to counsel. On 29 January 2018 you pleaded guilty to the charge. I find your plea to be unequivocal as it was given on your own free will.
3. The brief summary of facts are;-
"Between 6th and 9th of January 2018, the accused Ratu Rabulu Vakalilai at Navesidrua, Seaqaqa stole 4 yaqona plants valued \$2000.00 from the farm of

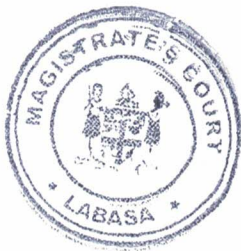
Viliame Somumu. The matter was reported, investigation carried out, accused was arrested and caution interviewed where he admitted to the allegation.”

4. You admitted to the above summary of facts on 15 May 2018, and convicted as charged. You submitted oral mitigation on the same day.
5. The maximum penalty for *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.*
6. The aggravating factor is that you deny the victim who is a 65 years old man to enjoy the fruit of his hard work and sweat.
7. The compelling mitigating factors are;-
 - a. *young and first offender.*
 - b. *seek the court forgiveness.*
 - c. *promise not to re-offend.*
8. This is a planned theft and not a simple theft. For your sentence, I pick 1 year as my starting point. I add 1 year for the aggravating factor and that increase your sentence to 2 years imprisonment. I reduce 8 months for your mitigation that reduce your sentence to 1 year and 4 months imprisonment.
9. I reduce 5 months from your sentence, for your one third entitlement for your early guilty plea. That reduce your sentence to 11 months imprisonment.
10. In this sentence I have considered *section 4* of the *Sentence and Penalties Act*, and the principle of rehabilitation. In doing so, I also reminded myself of *Goundar. J*, decision in ***State v Filipe Ratusuka & Others***, High Court,

Criminal Appeal No. HAA 001 of 2013 (7 March 2013), where his Lordship stated that animal and farm theft are considered as a serious offence and immediate custodial sentence should be imposed.

11. This Court is bound by the decision in ***Ratusuka*** (*supra*), therefore, suspended sentence is not an option in this case.
12. I noted from the record that you were in remand for a period of about 1 month. I reduce 1 month for the remand period. That reduce your sentence to 10 months imprisonment.
13. Your final sentence is 10 months imprisonment.
14. Ratu Rabulu Vakalailai, I now sentence you to 10 months imprisonment with immediate effect.

28 days to appeal.



C. M. Tuberi
RESIDENT MAGISTRATE