

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

Criminal Appeal No. HAA 66 of 2018

DASPREET SINGH

Appellant

v

THE STATE

Respondent

Mr. I.Khan for the Appellant
Miss S. Kiran for the State

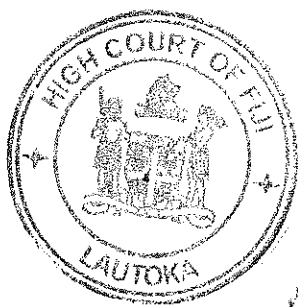
Date of Hearing : 2nd November 2018
Date of Judgment : 6th November 2018

JUDGMENT

- 1.) On the 16th August 2018 in the Magistrates' Court at Nadi, the Appellant entered a plea of guilty to two counts of dangerous driving occasioning grievous bodily harm and one count of dangerous driving.
- 2.) On the 13th September 2018, he was sentenced on all three counts to 4 months' imprisonment and 3 months thereafter suspended for 3 years. He was further disqualified from driving for one year.
- 3.) The Appellant now appeals that sentence on the grounds that it was harsh and excessive and that irrelevant matters were taken into consideration.
- 4.) The facts of the case were that on the 5th February 2018 at about 1745h on the Queens Road at Uciwai, the appellant with four passengers drove a vehicle registered FO448 dangerously and bumped into another vehicle JD810. He had overtaken another vehicle and upon impact with JD810, the appellant lost control of his vehicle and it tumbled several times hitting an

F.E.A. post. The appellant driver and two of his passengers were seriously injured and were rushed to hospital, first to Nadi and from there to Lautoka.

- 5.) The maximum penalty for the offence of dangerous driving occasioning grievous bodily harm under section 97(4) of the Land Transport Act 1998 is a fine of \$2000, and or imprisonment for 2 years and disqualification for 12 months. The tariff has been set by previous cases in the High Court and that band is from suspended up to 2 years. (**Chand** HAA11.2015, and **Ali** HAA 51.2016).
- 6.) Counsel for the Appellant has referred the Court to 7 earlier cases where a suspended sentence was ordered. Some of those 7 are not even for the same offence. Moreover, it is never helpful to rely on sentences passed on other cases. Each case turns on its own particular fact situation and this Court does not necessarily have to follow the precedent of cases decided in the Courts below.
- 7.) The Magistrate in the court below has crafted a very thorough sentence, relying on appropriate authorities. He has made no error of law and he has exercised his discretion to pass a sentence in the middle of the tariff band set.
- 8.) Pursuant to section 256(2)(f) of the Criminal Procedure Act 2009 and following the Court of Appeal's dicta in **Sharma** AAU 48.2011, this Court will not interfere with the sentence passed quite properly by the learned Magistrate.
- 9.) The appeal against sentence is dismissed.



P.K. Madigan
Judge
06/11/18
High Court Lautoka