

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

Criminal Appeal No. HAA 84 of 2018
(from Lautoka CC727 of 2018)

SERU ARIVAKISATI

V

STATE

Miss J. Singh (L.A.C.) for the Appellant
Mr. A. Singh for State.

Date of Hearing : 11 December 2018

Date of Judgment : 14 December 2018

JUDGMENT

- 1.] On the 10th May 2018, the Appellant was convicted in the Magistrates' Court at Lautoka of one count of burglary and one count of theft.
- 2.] He was sentenced on the 12th July 2018 to 12 months imprisonment for the burglary and 8 months for the theft. These sentences were ordered to be served concurrently but consecutive to sentences he was already serving.
- 3.] The sole ground of appeal by the petitioner is that the unexplained order of the Magistrate to serve the sentences consecutive to other sentences is in breach of the "default" position of "concurrency" stipulated in s.22 of the Sentencing

and Penalties Act, 2009. That being the only issue, the facts of the case are irrelevant.

- 4.] This Court delivered a judgment on 11th December (yesterday) on an appeal prosecuted by this same appellant, on the same issue in another case. In that judgment, the Court declared this appellant to be a habitual offender after having regard to his appalling record of previous convictions for burglary and theft.
- 5.] Although the learned Magistrate fell into error below by not providing reasons for making the sentences consecutive, his status as a habitual offender allows for that by the terms of section 22(2)(c) of the sentencing and Penalties Act, 2009.
- 6.] This Court will not disturb the order made below and the appeal is dismissed.



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P.K. Madigan
Judge
High Court Lautoka