

IN THE HIGH COURT OF FIJI
SAT LAUTOKA
APPELLATE JURISDICTION

Criminal Appeal No. HAA 60 of 2018

PAULA NAMUA

Appellant

v

STATE

Respondent

Appellant in person
Mr. S. Babitua for the State

Date of Hearing: 15 November 2018

Date of Judgment: 22 November 2018

JUDGMENT

1.] On the 27th November 2017, at the Magistrates' Court at Lautoka, the Appellant was found guilty after trial and convicted of the offence of robbery, contrary to section 310(1)(a)(i) of the Crimes Act 2009.

2.] He was sentenced on the 3rd January 2018 to 3 years and 8 months' imprisonment with a non parole period of 2 years.

3.] He now appeals the sentence, an appeal against conviction being dismissed earlier by Aluthge J.

The appeal is out of time by about 4 months and the Appellant has not advanced any reasons for not appealing in time. The appeal before me is for an extension of time to appeal and the

appeal itself. The facts of the case are that on the 19th November 2016, the victim, a 24 year old female was standing at the roadside in Lautoka trying to hail a taxi. The appellant approached from the other side of the road, seemingly sniffing a cloth. He approached the young lady, started swearing at her and pulling her bag. He pulled her shirt and she fell to the ground . He punched her on the shoulder and took a pouch from the bag , a pouch which contained \$300. A taxi stopped and the Appellant fled the scene. The lady reported to the Police and was medically examined, and injuries were detected.

- 4.] The maximum penalty for robbery is 15 years imprisonment and the tariff for robbery without concomitant violence is a period of 8 to 14 years imprisonment. In this case the theft of the bag was accompanied by swearing, pulling of the bag and pulling of the shirt. It must have been a seriously traumatic experience for the unaccompanied lady. There is no doubt that the physical elements were enough to bring the offending within the terms of a robbery, contrary to the submissions of the Appellant.
- 5.] The learned Magistrate below has made no error of law, he has properly applied additions to his starting point and properly allowed deduction for mitigatory factors, arriving at a sentence which this court would deem to be lenient in the circumstances.
- 6.] Pursuant to the decision of the Court of Appeal in ***Sharma*** AAU 48.2011, this Court will not interfere with a lenient but properly arrived at sentence passed by the learned Magistrate below.

7.] Orders

1. Leave to appeal is granted.
2. Appeal is dismissed.



A handwritten signature in black ink, appearing to read "P.K. Madigan". The signature is written in a cursive style with a large, looping initial "P". Below the signature is a horizontal dotted line.

P.K. Madigan

Judge

High Court Lautoka

22nd November 2018