

IN THE FIJI COURT OF APPEAL
Criminal Jurisdiction
CRIMINAL APPEAL NO. 65 OF 1983.

Between:

TAUKAVE RUTAGRERE

APPELLANT

- and -

R E G I N A M

RESPONDENT

E. Vula for the appellant
J.V. Sabharwal for the respondent.

Date of Hearing: 9th March, 1984.

Delivery of Judgment:

JUDGMENT OF THE COURT

SPEIGHT J.A. (Oral)

We are obliged to Mr. Vula for his restrained submissions on behalf of the appellant and to Mr. Sabharwal for his responsible attitude on behalf of the Crown.

This man was convicted under the Rotuma Act, and sentenced to 7 years imprisonment for manslaughter.

We note the following matters:

1. There could seldom have been a more justifiable finding of provocation. He acted on the spur of the moment in the heat of passion to strike down a man who had cruelly attacked his elderly father

2.


and our very experienced Chief Magistrate in his report emphasised this mitigating factor.

- 2. We are informed that acts of violence of this seriousness are extremely rare in Rotuma.
- 3. As a Rotuman he must serve his sentence here in Fiji, deprived of the benefit of visits from his family and friends - so any term will be more burdensome to him than would otherwise be the case.
- 4. Because of the unusual procedure which applies in Rotuman cases the sentencing Judge was deprived of the advantage of hearing submissions in mitigation, which we have now received.

Taking all these factors into account we think this is an appeal which should be allowed to the extent of varying the sentence from seven to four years and that is the order of this Court.



 JUDGE OF APPEAL



 JUDGE OF APPEAL



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