

IN THE FIJI COURT OF APPEAL

Criminal Jurisdiction

Criminal Appeal No. 49 of 1984

Between:

ERONI DAWAI

Appellant

and

R E G I N A M

Respondent

Appellant In Person

Mr. G.E. Leung for Respondent

Date of Hearing: 13th November, 1984

Delivery of Judgment: 15<sup>th</sup> Nov. , 1984

JUDGMENT OF THE COURT

Mishra, J.A.

This is an appeal against a sentence of 4½ years' imprisonment imposed on the appellant by the Supreme Court, Suva upon his conviction on a charge of receiving stolen property.

He was found at Lautoka in possession of video tapes valued at \$5,665 identified as the property of a video dealer in Suva.

The appellant has a criminal record of which the last conviction involving dishonesty was for larceny from the dock in September 1982. He then received from the Magistrate's Court, Suva a sentence of 2 years' imprisonment suspended for 3 years together with a fine of \$350.

The Chief Justice while imposing the sentence in the present case said -

"I am afraid that a custodial sentence is very necessary in this case. There have been too many cases of receiving around the country. It is quite clear and I would be failing in my duty if I do not recognise the need for a deterrent sentence so that not only the accused be deterred from future criminal activities, but others who may be similarly inclined. "

The appellant has given an account of hardship suffered by him and his family, particularly by his wife who has just given birth to a child. His main ground, however, is that the Court in imposing a deterrent sentence has punished him for similar offences committed by others. We are unable to accept that. From the passage quoted above it is clear that the Chief Justice's attention had been drawn to the prevalence of this offence and the sentence was intended to deter "others who may be similarly inclined".

Under the circumstances we do not consider the sentence either excessive or wrong in principle.

We note that this offence was committed, and the sentence imposed, within the period of suspension relating to the sentence of 2 years' imprisonment for larceny from the dock. This matter was not brought to the Chief Justice's attention or the totality of sentences may well have been higher.

The appeal is dismissed.

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