

IN THE FIJI COURT OF APPEAL

Appellate Jurisdiction

Criminal Appeal No. 54 of 1984

Between :

KISHORI LAL

Appellant

- and -

R E G I N A M

Respondent

S.R. Shankar for the Appellant
 V. J. Sabharwal for the Respondent

Date of Hearing : 4th March, 1985
 Date of Judgment : 4th March, 1985

JUDGMENT OF THE COURT

Speight, V.P. (Orally)

Before an appellate Court will interfere in a sentence imposed it must be shown that the sentence was wrong in principle, or manifestly excessive.

The learned sentencing judge took account of the successful defence of provocation and of the prisoners willingness to admit responsibility for the homicide.

In some cases of provocation where the appellant acted on a sudden impulse before there was time for passion to cool considerable leniency is allowed.

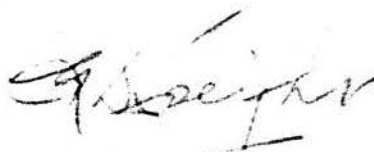
But this was not such a case. It was not un-premeditated. Violence was prolonged and the worst feature was the use of a deadly weapon - the knife is resorted to far too frequently in this country. One can more readily give favourable consideration to the man who in outrage has battered another with bare hands.

2.

Perhaps a sentence of 8 years was at the higher end of the scale in the circumstances here but we are not prepared to say it was manifestly excessive.

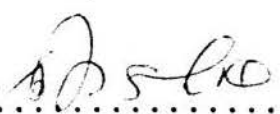
We were invited to give some general directions concerning an appropriate range of sentences in such cases. We decline to do so for circumstances vary infinitely. It would be inappropriate to inhibit the flexibility which must be available to trial judges in this type of case.

Appeal dismissed.



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Vice-President



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Judge of Appeal



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Judge of Appeal