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IN THE FIJI COURT OF APPEAL

Criminal Appeal No. 22 of 1985.

Between: MARA KAPAIWAI Appellant

- and -

R E G I N A M Respondent

Appellant in Person.  
Director of Public Prosecutions (Mr. M. D. Scott)  
for the Respondent.

Date of Hearing: 26th June, 1986

Delivery of Judgment: 4<sup>th</sup> July, 1986.

JUDGMENT OF THE COURT

Speight, V.P.

The appellant originally faced two charges:-

1. Of fraudulently converting money entrusted to him on behalf of his employer. The original case alleged something in excess of \$300 but at trial the amount was reduced to \$26.10.
2. Of obtaining credit by fraud in booking hotel accommodation.

2.

It is obvious from the summing-up of the learned trial Judge and from his remarks on sentence that the prosecution proof fell woefully short. In the event the appellant was quite rightly acquitted on the second count, and as has been said already, the prosecution had to concede inability to prove most of the first count.

The Judge, in sentencing, described appellant as a rogue and that seems an apt description. He is a confidence man - one who will prey upon the public to obtain money not by violence but by trickery. The likelihood of him continuing in this way of life is recognized. But the learned Judge in sentencing him described him as a "dangerous man to be left loose". From this one must take it that the sentence was imposed on a preventive basis. Certainly his removal from circulation will tend to lower the number of gullible people who may be taken in, but in the circumstances here we think that the small amount proved to have been taken did not call for imprisonment for as lengthy a period as eighteen months and was excessive. The appeal is allowed and a sentence of 9 months is substituted.

Vice-President

Judge of Appeal

Judge of Appeal