

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 04 OF 2011

STATE

-v-

IMMANUEL KULDIP SINGH

Counsels : **Mr. S. Babitu for the State**

Accused In person

Date of Sentence : **27th September 2013**

SENTENCE

1. The Director of Public Prosecutions preferred following charge against the accused above named.

COUNT 1

Statement of Offence

ARSON: Contrary to Section 362 (a) of the Crimes Decree, No. 44 of 2009.

Particulars of the offence

IMMANUEL KULDIP SINGH and SANT BEHARI on the 25th day of December 2010 at Korotale, Rakiraki in the Western Division, willfully and unlawfully set fire to the dwelling house of **PREM CHAND**.

2. When the case was mentioned on 11th September 2013 you informed court that you want to change the plea. On that day you pleaded guilty to the charge against you and admitted the Summary of Facts on 16th September 2013.

3. The Summary of Facts submitted by the State Counsel states as follows:

On 25th of December 2010, the accused and another burnt a house made of corrugated iron and timber belonging to Prem Chand of Korotale in Rakiraki. The house at the time of the offence was unoccupied and the house was completely destroyed.

4. After carefully considering the Plea of you to be unequivocal, this Court found you guilty for one count of arson and accordingly you are convicted for one count under Section 362 (a) of the Crimes Decree.
5. Accused **IMMANUEL KULDIP SINGH** you stand convicted for one count of arson.
6. Section 362 (a) prescribes maximum sentence of life imprisonment.
7. Tariff for the offence of arson was discussed in several cases. In **State v Timoci Taqainakoro HAC 100 of 2012** the court highlighted the following.

*'The maximum penalty for arson is life imprisonment and is therefore an offence to be regarded as most serious. Very often the offence is part and parcel of insurance fraud but that is clearly not the case with this offending. In the cases of **Lagi** HAA 4 /2004 and **Tuitokova** HAA 67/2005, Shameem J set the tariff band to be between 2 and 4 years imprisonment-the higher penalty to be reserved for cases where it was known or the accused was reckless as to whether the building being burnt was inhabited.'*

8. Considering the nature of the offence and all other circumstances, I commence your sentence for this count at 2 years.
9. State had submitted following aggravating factor:
 - (a) The accused completely destroyed a house and caused a loss of about \$60000.
10. I add 1 year for the above aggravating factor. Now your sentence is 3 years.
11. I deduct 1 year for your early guilty plea now your sentence is 2 years.

12. The mitigating circumstances submitted by you are:

- (a) You are remorseful,
- (b) You are first offender,
- (c) You are married with one child and sole bread winner of the family,

13. Considering above, I reduce 9 months of your sentence now your sentence is 15 months.

14. You were in remand for this case for four days in 2010 December and from 4th July 2012 up to date. Therefore you have served the sentence. Prison authorities directed to release you forthwith.

15. 30 days to appeal.

Sudharshana De Silva

JUDGE

**At Lautoka
27th September, 2013**

**Office of Director of Public Prosecutions for the State
The accused in person**