

IN THE HIGH COURT OF FIJI  
AT SUVA  
APPELLATE JURISDICTION  
CRIMINAL APPEAL CASE NO. HAA 029 OF 2014S

BETWEEN

BENJAMIN SAVOU

APPELLANT

AND

THE STATE

RESPONDENT

Counsels : Appellant in Person  
Mr. T. Qalinauci for Respondent  
Hearing : 20 November, 2014  
Judgment : 10 November, 2015

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**JUDGMENT**

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1. On 22 August 2011, the accused waived his right to counsel in the Nasinu Magistrate Court, and pleaded guilty to the following charges:

**FIRST COUNT**

*Statement of Offence*

**OBTAINING MONEY BY DECEPTION:** Contrary to Section 317(1) of the Crime Decree No. 44 of 2009.

*Particulars of Offence*

**BENJAMIN SAVOU**, between 31<sup>st</sup> day of January 2010 and 20<sup>th</sup> day of February 2010, at Nasinu in the Central Division, with intent to defraud dishonestly obtained \$7950.00 cash belonging to **RAVIKASH CHAND s/o RAKESH CHAND**, with the intent of transferring Taxi Permit and LM plate from Land Transport Authority on false pretext and permanently deprived the said **RAVIKASH CHAND s/o RAKESH CHAND**.

## SECOND COUNT

### *Statement of Offence*

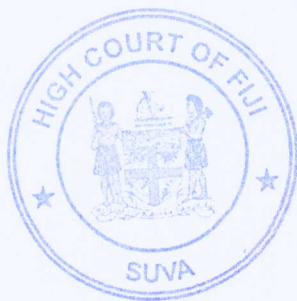
**PERSONATION:** Contrary to Section 356 of the Crimes Decree No. 44 of 2009.

### *Particulars of Offence*

**BENJAMIN SAVOU**, between 31<sup>st</sup> day of January 2010 and 20<sup>th</sup> day of February 2010, at Nasinu in the Central Division, with intent to defraud **RAVIKASH CHAND s/o RAKESH CHAND**, made false representation that he was employed by **LAND TRANSPORT AUTHORITY**.

2. The prosecution read their summary of facts on 31 August 2011. The accused agreed with it. He basically admitted the particulars of offences as laid in the above mentioned charges. The Learned Magistrate then found the accused guilty as charged on the two counts and convicted him accordingly on those two counts.
3. The accused tendered his plea in mitigation. His main plea in mitigation was that in Suva High Court Criminal Case No. HAC 067 of 2010S, he had been sentenced to 8 years imprisonment, with a non-parole period of 6 years imprisonment from 1 July 2011. The sentence was for a charge of rape. The above sentence was made concurrent to any prison sentence being served on 1 July 2011.
4. On 22 November 2011, the Learned Resident Magistrate sentenced the accused, on count no. 1 to 2 years imprisonment, which she suspended for 2 years. On count no. 2, the Learned Magistrate sentenced the accused to 6 months imprisonment, which she made consecutive to any existing prison sentence on 22 November 2011. The appellant asked that the 6 months consecutive prison sentence be made concurrent to his present prison term. The State agreed with the appellant.
5. The Learned Magistrate's sentencing remarks appeared odd, with respect. Normally, when a prisoner was serving a long prison sentence, in this case, 8 years imprisonment, a suspended prison sentence was inappropriate. You have to impose the prison sentence and either make it concurrent or consecutive.
6. In this case, the justice of the case required the Learned Magistrate's sentence to be altered. The Learned Magistrate sentence of 2 years imprisonment for count no. 1 and 6 months imprisonment for count no. 2 are upheld. However, the two sentences are made concurrent to

each other, that is, a total sentence of 2 years imprisonment, and this sentence is concurrent to any prison sentence been served on 22 November 2011. I order so accordingly.



**Salesi Temo**  
**JUDGE**

**Solicitor for Appellant** : **In Person**  
**Solicitor for Respondent** : **Office of the Director of Public Prosecution, Suva.**