

IN THE HIGH COURT OF FIJI  
AT LABASA  
[APPELLATE JURISDICTION]

CRIMINAL APPEAL CASE NO. HAA11 OF 2018

(Magistrates' Court Case No. 26 of 2018)

BETWEEN:           MARITINO RADITORA

APPELLANT

AND:                 THE STATE

RESPONDENT

Counsel:           Appellant in person  
                  Ms A Vavadakua for the Respondent

Date of Hearing:    08 June 2018

Date of Judgment: 08 June 2018

JUDGMENT

- [1] The appellant appeared in the Magistrates' Court and pleaded guilty to theft of yaqona plants from two different farmers between December 2017 and January 2018. On the first occasion, he stole 10 yaqona plants valued at \$3,000 from his uncle's farm. On the second occasion, he stole 20 yaqona plants valued at \$6,000 from another farmer. For the first theft, he was sentenced to 9 months imprisonment and for the second theft he was sentenced to 13 months imprisonment. The terms were made consecutive. The total sentence was 1 year and 10 months imprisonment.

- [2] The appeal is against sentence only. The only complaint is that the learned magistrate failed to consider the totality principle when making the sentences consecutive.
- [3] The totality principle applies to an offender who has committed more than one offence. In sentencing the offender for each offence, the court is required to consider whether to make the sentences concurrent or consecutive. In any case, the aggregate sentence should not have a crushing effect on the offender but must be just and appropriate (*Vulawalu v State* [2011] FJSC 6; CAV0006.2010 (8 April 2011)).
- [4] In the present case, the learned magistrate made no reference to the totality principle in her sentencing remarks. She was required to take a final look at the aggregate sentence to see if it was just and appropriate. In my judgment, if she had done so, she would have concluded that the total sentence of 1 year 10 months imprisonment was just and appropriate for theft of yaqona plants involving two victims. Yaqona is an expensive commodity. Many farmers in the rural communities are depended on yaqona farming for their livelihood. Deterrence is the primary purpose of punishment for yaqona thieves. The total sentence imposed on the appellant reflects the criminality involved.
- [5] The appeal is dismissed.



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**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Appellant in person  
Office of the Director of Public Prosecutions for the Respondent