

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**[APPELLATE JURISDICTION]**

**CRIMINAL APPEAL NO. HAA 16 OF 2019**  
**(Sigatoka Magistrates' Court Case No. 504 of 2018)**

**BETWEEN** : AIYAZ ALI  
**AND** : THE STATE

**APPELLANT**  
**RESPONDENT**

**Counsel** : Appellant in Person  
Mr S. Babitu for the Respondent

**Date of Hearing** : 3 July 2019  
**Date of Judgment** : 2 August 2019

**JUDGMENT**

- [1] This is a timely appeal against sentence only.
- [2] On 17 October 2018, the appellant was charged with one count of obtaining property by deception and one count of breach of a suspended sentence. He was produced in the Magistrates' Court at Sigatoka and remanded in custody. On 8 March 2019, the appellant pleaded guilty to the charge of obtaining property by deception. He deferred his plea for breach of a suspended sentence.
- [3] On 15 March 2019, the appellant was sentenced to 1 year 11 months' imprisonment with a non-parole period of 1 year 5 months for obtaining property by deception, to be served concurrently with any pre-existing sentence.
- [4] The facts of the case were that the appellant approached the victim, who was an elderly farmer in the pretext of being a genuine customer to buy dried Tobacco leaves (locally known as Suki) from him. The appellant obtained 27 kg of Tobacco valued at \$2400.00

by giving the victim a dud cheque for the same amount. When the victim presented the cheque to the bank, he was informed that the account had no funds.

[5] The grounds of appeal filed by the appellant are vague, repetitive and unintelligible. It appears that the appellant is critical of the methodology used by the learned magistrate to give reasons for the sentence he imposed on the appellant and his failure to suspend the sentence.

[6] The learned magistrate used instinctive synthesis methodology to give reasons for the sentence he imposed on the appellant. He considered the relevant factors and after weighing and balancing those factors imposed a term of 1 year 11 months imprisonment. He took into account that the appellant had pleaded guilty early, was remorseful and there had been parcel recovery of the property. He properly identified a tariff for the offence of obtaining property by deception articulated in the case of *State v Miller* unreported Cr App No 29 of 2013; (31 January 2014) and imposed a term on the lower end of the tariff. He further reduced the sentence to reflect the period that the appellant had spent in custody on remand. The learned magistrate considered that suspension of sentence was inappropriate because the appellant had previous convictions for similar offences. Further the sentence was made concurrent, meaning the appellant did not receive any additional prison term for the offence of obtaining property by deception.

[7] After considering all the submissions made by both parties, this Court is satisfied that there is no error in the exercise of the sentencing discretion.

[8] The appeal is dismissed.



.....  
**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Appellant in Person

Office of the Director of Public Prosecutions for the Respondent