

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 281 OF 2022**

**BETWEEN** : **STATE**

**AND** : **MANASA QALU**

**Counsel** : Mr T Naimila for the State  
Mr T Varinava for Accused

**Date of Hearing** : **13 March 2023, 27 March 2023, 29 September 2023**

**Date of Judgment** : **2 November 2023**

**Date of Sentence** : **15 December 2023**

## **SENTENCE**

- [1] The offender is 44 years old and married with four children. He resides at Kalekana Settlement, Lami.
- [2] On 12 August 2022, the offender had an argument with his spouse, the victim in this case, over her attending a wedding function and leaving the children behind for him to look after. The offender got furious and punched the victim and caused a bruise on her shoulder. She ran out of the house for her safety but the offender pursued her outside and further assaulted her. He picked a brick or a hard object and threw at the victim while she was trying to escape from him. The object hit the victim on her leg and she fell in a small drain near her neighbour's house. The offender then got hold of a timber used for clothes line and assaulted the victim by poking her while she was lying on the drain. The victim's sister came to her

rescue and that is when the offender discarded the timber and went inside the house where one of his children was crying.

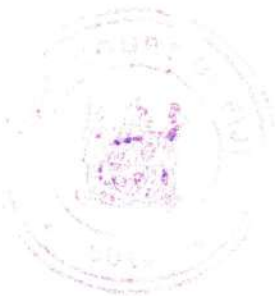
- [3] The victim was transported to the hospital by the neighbours. She sustained multiple fractures on her leg and had to undergo orthopedic surgery. She was hospitalized for three days.
- [4] The offender was arrested and charged with one count of assault causing actual bodily harm and two counts of act with intent to cause grievous harm to the victim. He pleaded guilty to the charge of assault causing actual bodily harm and not guilty to the charges of act with intent to cause grievous harm. He was convicted of the two serious charges after trial. During his caution interview he made a full confession but during the trial he retracted from his confession alleging it was obtained involuntarily by the police.
- [5] The offender committed the offence while serving a suspended sentence for assault causing actual bodily harm. He has a total of six active convictions – all for summary offences.
- [6] The maximum penalty prescribed for assault causing actual bodily harm is 5 years imprisonment while for act with intent to cause grievous harm the maximum penalty is life imprisonment. The assaults on the victim were part of one transaction, and therefore, an aggregate sentence is appropriate. The aggravating factors are that the victim was assaulted with weapons (brick and timber), resulting in serious physical injuries. The assault was unprovoked. The offender assaulted his wife because he was not willing to accept that she was attending a wedding function while he had to stay home and look after the children.
- [7] The victim informed the court that she is continuing with her relationship with the offender because he is a good father and is financially supporting them. She has

forgiven him and while he was on bail she noticed remarkable changes to his behaviour towards her. He also managed to secure an employment while he was on bail.

[8] I take all these factors into account. Custodial sentence is inevitable because of the nature and gravity of the assault on the victim. The main purpose of sentence is deterrence, both special and general.

[9] The offender is sentenced to an aggregate term of 12 months imprisonment. He has nearly spent 9 months in custody on remand, which effectively means he has served two thirds of his sentence and would qualify for one third remission for good behaviour. In these circumstances, he is released without issuance of committal warrant.

[10] A permanent DVRO with standard non-molestation condition is issued against the offender for the protection of the victim from any future violence.



A handwritten signature in blue ink, appearing to read 'D. Goundar', is written over a horizontal dotted line.

**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for the State

Legal Aid Commission for the Accused