

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 64 of 2024

BETWEEN: STATE

PROSECUTION

A N D: ESALA BALE

ACCUSED PERSON

Counsel : Ms. P. Ram for the State
Ms. R. Nabainivalu for Accused

Date of Sentence : 05th April 2024

SENTENCE

- I. Mr. Esala Bale, you are charged with one count of Act with Intended to Cause Grievous Harm, contrary to Section 255 (a) of the Crimes Act, which carries a maximum penalty of life imprisonment. The particulars of the offence are:

ONE COUNT

Statement of Offence

ACT WITH INTENDED TO CAUSE GRIEVOUS HARM: *Contrary to Section 255 (a) of the Crimes Act 2009.*

Particulars of Offence

ESALA BALE on the 1st day of February 2024 at Navatuwula Village in the Eastern Division, with intent to cause some grievous harm to **RUCI RAIKORO**, by hitting her head with a pinch bar.


2. You pleaded guilty to this offence on the 15th of March, 2024. Having satisfied that you fully comprehended the legal effect of your plea and that it was voluntary and free from force and influence, I now convict you of the said offence of Act with Intended to Cause Grievous Harm.
3. The Summary of Facts, which you admitted in the Court, states that you struck your sister with a pinch bar on multiple occasions on her head until she became unconscious. You were angry with the victim as she was speaking loudly. You threatened her, swearing at her before you assaulted her with the pinch bar. The Complainant suffered injuries on her head as described in the medical report.
4. The acceptable tariff for the Act Intended to Cause Grievous Harm offence is two (2) to six (6) years of imprisonment. (*The State v Pauliasi Yasa, Criminal Case No. HAC 044 of 2012S, State v Masicola [2015] FJHC 411; HAC081.2014S (the 5th of June 2015), Felix Patel v State Criminal Appeal No HAA 030 of 2011 (the 27th of October 2011).*)
5. An Act Intended to Cause Grievous Harm is one of the serious forms of offence against a person. Hence, the objective seriousness of this matter is high. According to the Medical Examination Form, the Complainant had suffered substantial injuries and pain. Therefore, the level of harm in this offence is also high. You reacted angrily and violently without any provocation. Accordingly, the level of your culpability in this offence is substantially high.
6. The learned Counsel for the Defence submitted that you are a first offender and pleaded guilty at the earliest opportunity. You have shown your remorse and repentance for committing this crime by pleading guilty and making an admission in your record of

caution interview. Therefore, you are entitled to a substantial discount and leniency for your previous good character, an early guilty plea, and remorse.

7. Considering the above reasons, I sentence you to three (3) years imprisonment for this offence as charged. Your sentence is partially suspended: You shall serve two (2) years of your sentence immediately, and the remaining period of one (1) year is suspended for three (3) years.
8. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find one (1) year of the non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for one (1) year pursuant to Section 18 (1) of the Sentencing and Penalties Act.
9. Considering the time spent in custody (nearly two months), the actual period you have to serve in custody is **one (1) year and ten (10) months** imprisonment with **ten (10) months** of non-parole period.
10. If you commit any crime during this three (3) years and are found guilty by the Court, you are liable to be charged and prosecuted for an offence according to Section 28 of the Sentencing and Penalties Act.
11. Since this incident involves Domestic Violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a Permanent Domestic Violence Restraining Order against the Accused with standard non-molestation conditions and no contact conditions pursuant to Sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court or any other competent Court is varied or suspended. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence pursuant to Section 77 of the Domestic Violence Act.

12. Thirty (30) days to appeal to the Fiji Court of Appeal.




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Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

05th April 2024

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.