

**IN THE HIGH COURT OF FIJI AT SUVA**  
**APPELLATE JURISDICTION**

**Criminal Appeal No: HAA0033 OF 2024**

**BETWEEN:**

**DEEPAK RAHUL CHAND**

First Appellant

**ABISHEK CHAND**

Second Appellant

**AND:**

**THE STATE**

Respondent

**Counsel:** Appellants in Person  
Mr. Lal. U for the Respondent

**Date of Hearing:** 16 December 2024

**Date of Judgment:** 19 February 2025

**JUDGMENT**

1. The Appellants appeals against their sentence imposed on them by the Nasinu Magistrates Court on the 18 June 2024. They were sentenced, on conviction for the following offence:

**Statement of Offence**

**UNLAWFUL POSSESSION OF ILLICIT DRUGS:** Contrary to section 5 (a) of the Illicit Drug Control Act of 2004.


**Particulars of Offence**

**DEEPAK RAHUL CHAND** and **ABISHEK CHAND** on the 3<sup>rd</sup> day of March, 2024 at Nasinu in the Central Division, without lawful authority was unlawfully in possession of 0.274 grams of illicit drugs known as **Methamphetamine**.

2. The facts, which the Appellant admitted were that on the 3 March 2024 at about 2am at Caubati Topline, Police officers conducted a raid at Abhisek Chand's residence. Police officers approached the property and noticed a white Toyota Prius in the driveway. They found the two Appellants and another in the vehicle. The two Appellants and another were all instructed to exit the vehicle and a search was conducted. The Police officers found, amongst other things, three small clear plastic containing crystal like residue. These crystals were then analysed at the Fiji Police Forensic Chemistry Laboratory and it was discovered that the crystals were tested positive for Methamphetamine, with a total weight of 0.274 grams.

3. The court record does not state as to whether the Appellants were first offenders or had previous convictions.
4. In response to the Appellants Ground of Appeal, the State submits in Paragraph 5.6 of their submission that "...the final sentence arrived was still well within the tariff."
5. The Court note that the Learned Magistrate sentenced the Appellants by stating that he had considered the early plea of guilty, the mitigation and since there was no aggravating factors, sentenced both Appellants to 2 and ½ years imprisonment. The sentence was not suspended. The Learned Magistrate states that the sentence is within range set in **Abourizk v The State**.
6. The Appellants appealed against sentence on the said ground;
  - (i) That the Learned Magistrate erred in law and fact by not giving due weight to their personal circumstances which results in their sentence being too harsh.
7. In considering the Court record, on page 6, the Learned Magistrate in paragraph 10 of the Sentence, deducted one year for mitigation. The Learned Magistrate did consider the Appellants personal circumstances
8. Furthermore, the Learned Magistrate referred to **Abourizk v The State [2019] FJCA 98; AAU0054.2016 (7 June 2019)** in his decision. The Appellants were in possession of 0.274 grams of Methamphetamine which falls under category 01 of the recommended tariff by the Court of Appeal in **Abourizk v The State** which is: Up to 05 grams – 2 ½ years to 4 ½ years' imprisonment. Thus the Appellants sentence of 2 ½ imprisonment term is well within **Abourizk** tariff, in fact the lowest in the tariff.
9. The Appellants were entitled to no further leniency because of their personal circumstances
10. This Court confirms the Appellants' sentence of 2 ½ years imposed by the Learned Magistrate.
11. In conclusion, I order as follows;
  - (i) The Appeal is dismissed.
12. Thirty (30) days to appeal to the Fiji Court of Appeal.



  
Waleen M George  
Acting Puisne Judge

Dated at Suva this 19<sup>th</sup> day of February, 2025

**Solicitors**

Both Appellants in Person

Office of the Director of Public Prosecutions for the Respondent