

Appellate Jurisdiction
Criminal Appeal No. 39 of 1980

000175

Between:

SHIU SHANKAR s/o KASI RAM

and

REGINAM

Mr. A. Ali for the Appellant
Mr. M.I. Khan for the Respondent

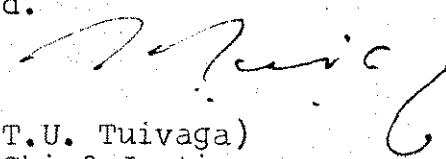
JUDGMENT

On 24th January 1980 the appellant was convicted after trial in Suva Magistrate's Court of common assault contrary to section 276 of the Penal Code and was fined \$12 or fourteen days in default and was bound over in the sum of \$50 for a period of twelve months.

The appeal is against conviction on the ground that the evidence was not sufficient to support the conviction of the appellant.

The case was essentially one of fact which was decided by the learned trial Magistrate against the appellant. The learned trial Magistrate found on the evidence before him that the complainant was in fact assaulted by the appellant as to constitute the offence of common assault. He had the distinct advantage which is not available to this Court of having seen and heard the contending witnesses on what allegedly happened on the evening in question. In these circumstances this Court is unable to find any proper grounds upon which to interfere with the finding of the trial Court.

The appeal is therefore dismissed.


(T.U. Tuivaga)
Chief Justice

Suva,
20th June 1980.