

THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 250 OF 2014

STATE

vs

MUKESHWAR NARAYAN SINGH

Counsel : Ms J Prasad & Ms M Konrote for the State
Mr J Reddy for the Accused

Date of Hearing : 9th May – 25th May 2016

Summing Up : 30th May 2016

Judgment : 1st June 2016

Sentence : 6th June 2016

SENTENCE

- [1] Mr. Mukeshwar Narayan Singh, after being convicted to a count of Money Laundering, contrary to Section 69(2)(a) and (3)(a) of the Proceeds of Crime Act 1997 as amended by Proceeds of Crime (Amendment) Act 7 of 2005 and Proceeds of Crime (Amendment) Decree No. 61 of 2012, you are now brought before this Court for imposition of your sentence.

[2] You pleaded not guilty to the above charge. During the ensuing trial the Prosecution called 13 witnesses, while you opted to exercise your right to silence.

[3] At the conclusion of the trial; having reviewed the evidence and it's summing up to assessors, this Court decided to accept their ~~majority~~^{unanimous} opinion and found you guilty and convicted you to the said count of Money Laundering.

[4] The following facts were proved during the trial:

(i) *There were 27 fictitious tax payers introduced to the taxation system of FRCA and had TINs. These non-existent tax payers have lodged tax returns under salary and wage earner category. The contractor's slips their tax returned were annexed with revealed certain amount has been deducted from them as PAYE tax;*

(ii) *Sakiusa Vakarewa, an auditor attached to FRCA, had accessed these tax payer accounts and altered certain information it contained. FRCA had refunded the PAYE deductions and these refunds cheques were posted to their common address, P.O. Box 1671 Nabua;*

(iii) *Keys to this box were collected by you from the Post Office and you yourself used it as your postal address. 56 refund cheques issued by FRCA were encashed by you. You were employed by Sakiusa during the relevant period;*

(iv) *The names of these fictitious tax payers were your acquaintances and you used their names and identity details by lying to them.*

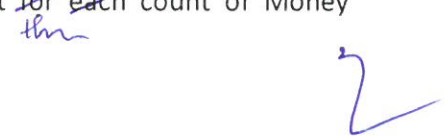
[5] The prescribed punishment for the offence of Money Laundering is a 20 year term of imprisonment, or a fine not exceeding \$120,000 or both.

[6] In mitigation you said you will pay a fine and requested this Court to impose a suspended term of imprisonment.

[7] In relation to the applicable tariff, the High Court of Fiji has generally accepted a range of sentences between 5 to 12 years of imprisonment (as per sentences of **State v Shyam** [2013] FJHC 529, **State v Singh** [2013] FJHC 74, **State v Arora** [2012] FJHC 1004, **State v Prasad and others** [2011] FJHC 218.

[8] In determining the starting point within the said tariff, Goundar J, in *Koroivuki v State* (Criminal Appeal AAU 0018 of 2010) has formulated the following guiding principles;

"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range".

[9] Considering the nature of offending, in the light of the above guiding principles, I commence your sentence at 6 years of imprisonment ^{for each} ~~for each~~ count of Money Laundering. 

[10] The aggravating factors are:

- (i) Breach of trust your acquaintances had in you;
- (ii) Money belongs to FRCA amounting to \$102,843.50 never recovered;
- (iii) Significant degree of planning and its execution over a long period of time;

[11] I add 4 years for the above aggravating factors. Now your sentence is 10 years for each count.

[12] The mitigating factors are:

- (i) You are a first offender as conceded by the State;
- (ii) You are 32 years old;
- (iii) you are married and supports your only child;
- (iv) You claim you did not gain from these transactions.

[13] I deduct 3 years for the above mitigating factors. Now the sentence is 7 years.

[14] Considering Section 18 (1) of the Sentencing and Penalties Decree, I impose 5 years and six months as non- parole period.

[15] This Court has no power to suspend a term of imprisonment, which is more than three years as per section 26(2)(a) of Sentencing and Penalties Decree.

Summary

- [16] You are sentenced to 7 years of imprisonment. You will not be eligible for parole until you complete serving 5 years and 6 months of your term of imprisonment.
- [17] You have 30 days to appeal to the Court of Appeal.




Achala Wengappuli
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva**
Solicitor for the Accused : **J Reddy Lawyers**