

**IN THE MAGISTRATES' COURT OF FIJI**

**AT SUVA**

Criminal Case : 348/2014

**STATE**

**V**

**NATASHA NILMA SINGH**

**Counsel** : Ms.D.Kumar for the State  
Ms.Safaira Ratu for the Accused  
**Date of Sentence** : 04<sup>th</sup> of November 2016

**SENTENCE**

1. **NATASHA NILMA SINGH**, you were convicted after a hearing in this Court to one count of Possession of Property suspected of being proceeds of crime contrary to section 70(1) and (2) of the Proceeds of Crime Act 1997.
2. During the hearing it was proved that you became friend with a Steven Ham through face book and believed that he would marry your mother and you would be able to settle in USA. On 07/12/2012 you received in to your account a sum \$72,128.74 which was stolen from an Australian company and Steven asked you to transfer this money to different accounts in South Africa. You managed to transfer \$7000.00 and the balance you kept in your and mother's accounts. You failed to transfer the balance because the bank stopped you from having access to the accounts. Even though you denied that you were aware these were proceeds of crime based on the evidence I was satisfied that as a reasonable person you could have suspected about that.
3. The maximum penalty for this offence is fine not exceeding \$12,000 or imprisonment for a term not exceeding 2 years, or both.
4. Both parties have failed to submit to this court any guideline judgment about tariff for this offence.
5. But the maximum penalty for money laundering is a fine of \$ 120,000 and /or a term of imprisonment of 20 years. In **State v Robin Shyam**[2013] FJHC529 and **State v Stephens**

[2012] FJHC 1010 the tariff for offence of money laundering was accepted as range of imprisonment between 5 years and 12 years.

6. Since the maximum penalty for this offence is only 02 years imprisonment applying the tariff for money laundering offence as a guideline in my view would find 6 to 14 months imprisonment as acceptable sentencing range for this offence.

7. In **Laisiasa Koroivuki v the State** ( Criminal Appeal AAU 0018 of 2010)the Fiji Court of Appeal discussed the guiding principles for determining the starting point in sentencing and observed :

**"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".**

8. Considering the objective seriousness of the offence I select 06 months as the starting point for your sentence.

9. I consider the following as aggravating factors in this case:

- a. The accused possessed substantial amount in her account;**
- b. It was shown that she benefited from some of these funds.**

10. For these aggravating factors I add 06 months to reach 12 months imprisonment.

11. Your counsel in her mitigation submitted the following grounds:

- a. You are 24 years old;**
- b. Presently studying in FNU ;**
- c. Your mother is suffering from hypertension and diabetes ( annexed a letter from Dr.Komal of CENTEAST Health Center);**
- d. You are looking after your mother;**
- e. You are a first offender.**

12. For these mitigating factors I deduct 04 months to reach 08 months imprisonment.

13. Now I have to consider whether to suspend your sentence.
14. The Fiji Court of Appeal in O'Keefe v State [2007] FJCA 34 ; AAU 0029.2007( 25 June 2007) observed that when sentencing, the Court has to strike a balance between the seriousness of the offence as shown through the maximum penalty and seriousness of the actual acts of the accused that is to be sentenced.
15. It appears from the proved facts in this case that trusting the person who you met through social media and your lack of judgment led you in to this situation. But considering your young age and past good behavior I am of the view that the main purpose for this sentence is to allow you the chance to rehabilitate. Hence a suspended sentence is appropriate in this case.
16. NATASHA NILMA SINGH, you are sentenced to 08 months imprisonment for this charge and I suspend that for 02 years.
17. If you commit any offences during next 02 years, you can be charged under section 28 of the Sentencing and Penalties Decree.
18. 28 days to appeal.

**Shageeth Somaratne**  
**Resident Magistrate**