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IN THE SUPREME COURT OF TONGA
CRIMINAL JURISDICTION
NUKU'ALOFA REGISTRY

CR 61 of 2018

BETWEEN:

REX

- Prosecutor

AND:

SEPULONI MATEO

- Accused

BEFORE HON. JUSTICE NIU

Counsel : Mr. 'I. Finau for the Crown
The accused, Mr. S. Mateo, for himself

Hearing : of submissions 27 May 2019

Sentence date : 4 June 2019

SENTENCE

[1] Sepuloni Mateo, you appear before me now for sentence on 7 offences to which you have pleaded guilty and which are as follows:

- (a) Obtaining money by false pretence (under S.164 of the Criminal Offences Act) that is you obtained a sum of \$8,200 from one Raymond Yu by representing to him that Pacific Forum Line was selling him a particular container when such container did not belong to Pacific Forum Line.

rec'd 06/06/19
ALC

- (b) Forgery (contrary S.170 (1)(a), 2(b) & (4)) in that you created a false invoice for \$8,250 purporting to be issued by Pacific Forum Line in order that Raymond Yu would act on it as a genuine invoice.
- (c) Knowingly dealing with a forged document (contrary S.172) in that you gave the forged invoice to Raymond Yu as if it was a genuine invoice of Pacific Forum Line.
- (d) Forgery (contrary S.170(1)(a), (2)(b) & (4)) in that you created a false receipt for \$4,200 as having been issued by Pacific Forum Line in order that Raymond Yu would act on it as a genuine receipt of Pacific Forum Line.
- (e) Knowingly dealing with a forged document (contrary S.172) in that you gave the forged receipt for \$4,200 to Raymond Yu as a genuine receipt of Pacific Forum Line.
- (f) Forgery (contrary S.170(1)(a), (2)(b) & (4)) in that you created a false receipt for \$4,000 as having been issued by Pacific Forum Line in order that Raymond Yu would act on it as a genuine receipt of Pacific Forum Line.
- (g) Knowingly dealing with a forged document (contrary S.172) in that you gave the forged receipt for \$4000 to Raymond Yu as a genuine receipt of Pacific Forum Line.

[2] What happened was this: You were working for Pacific Forum Line (PFL). You had worked there since 2013 when you were only 18. You worked well and you were promoted and by 2017 you were the Container Controller, a responsible position of trust for which you were being paid \$15,000 per year. You were only 22. That salary gave you nearly \$290 per week, and that would have been enough for your personal needs as well as for your parents with whom you were living. But by then you were drinking alcohol with your friends and that money was not enough so that when this man Raymond Yu came and inquired to purchase an empty container, you saw a way to cheat him and to sell him a container that was not yours or your employer's (PFL) so that you would keep the money for yourself, to fund your drinking with your friends, without him or PFL knowing the truth.

- [3] You went to Nishi Trading and arranged with them that PFL would pick up Nishi's container and PFL would deliver to them a refrigerated container in its place. You then issued to Raymond Yu a false invoice as if it was from PFL for Nishi's container for \$8,200 and required him (Raymond Yu) to pay you half of that sum and to pay the other half upon delivery of the container to him. Raymond Yu paid you the first half (\$4,000) and you then had Nishi's container delivered to Raymond Yu. Raymond Yu then paid you the other half, \$4,200. For each payment you issued to him a false receipt from PFL. PFL did not know of this money. You kept and used it yourself for your drinking with your friends – all of it. When Nishi did not get its refrigerated container, it complained to PFL and that was how you were caught out. Raymond Yu had to give back the container to Nishi but you could not give back his money to him because you and your friends had drunk it all away. You promised him you would pay him back, but PFL dismissed you from employment and you could not pay Raymond Yu back his money up to now.
- [4] That is a very sorry state of affairs for a young man like you at only 24 years of age. You have a substantial debt of \$8,200 and you face going to prison. For forgery, that is the forging of the false invoice and of the two receipts, the maximum sentence is 7 years imprisonment. For knowingly dealing with those forged invoice and receipts, the maximum sentence for it is 5 years imprisonment.
- [5] And what is worst for you is that you were trusted by your employer PFL. It trusted you to try and sell its containers, or containers which it can procure, to PFL's customers and to the general public, at a profit for PFL your employer. PFL trusted you to do that for it and paid you \$15,000 per year as your salary for doing that for it. Instead of doing that for PFL, you did it for yourself and kept the money for yourself, at the loss of PFL and especially of the customer of PFL, Raymond Yu. Now the customers of PFL, and the public, would think twice about doing business with PFL, in case they may be cheated like Raymond Yu was. PFL will thereby lose customers, and revenue. That is what is so serious about what you have done.
- [6] In a similar case like yours, quite recently, (*R v Mele Hausia* (CR140/18)), the offender was in a position of trust in a bank and the money that she received from her forgery was only \$3,500 but the Court felt that she was liable to be imprisoned for 3 years for what she did.

- [7] The probation officer who interviewed you and who considered all your personal and family circumstances has stated that what has led you astray is your friends. They misled you so that you did not finish your studies. You were in form 6 and was doing well but you gave it up and went to work to get money to drink with your friends. Now you have got into this sorry state of affairs, where are your friends now? Why have they not paid back the \$8,200 to Raymond Yu for you?
- [8] You told the probation officer and have told me that you want to repay the \$8,200 to Raymond Yu by paying him \$400 per month from your present wage of \$220 per week as load checker at the airport. I asked you and you told me that you have not made any payment to him as yet, and that you now have \$200 odd put aside to pay to him.
- [9] Mr. Finau for the Crown told me that the only conviction on your record is one for drunk driving in 2016, a traffic offence, and, you were fined \$620 or 2 weeks imprisonment. He pointed out the aggravating factor in your present case of violating the trust which PFL had placed in you and with which I agree. But he also pointed out that this was your first criminal offence and that you have pleaded guilty, showing your acceptance of your folly in this matter, and in particular he thought that a similar sentence be given to you as was given in the recent case I have referred to above. In that case, the offender was sentenced to 2 years imprisonment but fully suspended and that she would serve 60 hours of community service. He pointed out that in that case, the offender had repaid the whole sum she received except for \$800 which was still outstanding, and the Court ordered that she repaid that sum in 2 months. Mr. Finau thought that such an order for compensation to Raymond Yu may be made under S.25 of the Criminal Offences Act. If that was so ordered, your imprisonment sentence may then be fully suspended without any need for community service, so that you may concentrate on repaying Mr. Yu.
- [10] I find common sense in that view of Mr. Finau. If your imprisonment sentence is fully suspended, it hangs over you as your assurance that if you commit another offence or breach the conditions of such suspension, you will for sure go into prison and serve your suspended sentence in full. It will also serve to discipline you to pay your indebtedness and to teach you indelibly that you must not do this ever again and thereby make yourself a better young man. But most importantly you

will not have money to spare and to use for drinking, the folly which had led you into this mess. Besides, I consider that it should be a condition of suspension of your sentence that you are not to drink any alcohol or take any drugs.

[11] Accordingly, I sentence you as follows:

- (a) Count 1 : obtaining \$8,500 by false pretence : 2 years imprisonment.
- Count 2 : forgery of the invoice of PFL : 1 year imprisonment.
- Count 3 : dealing with the forged invoice : 6 months imprisonment.
- Count 4 : forgery of the receipt of PFL for \$4,000: 1 year imprisonment.
- Count 5 : dealing with the forged receipt : 6 months imprisonment.
- Count 6 : forgery of the receipt of PFL for \$4,200: 1 year imprisonment
- Count 7 : dealing with the forged receipt : 6 months imprisonment

(b) All sentences in (a) above to be served concurrently.

(c) All the sentences in (a) above are fully suspended for a period of 2 years from the date of these orders but this suspension is conditional on your compliance with the following:

- (i) that you pay to Mr. Raymond Yu a sum of \$100 and to receive and keep a receipt for the same by no later than 6pm of every Friday until a total sum of \$8,200 is paid, the first payment to be made by 6pm on Friday 7 June 2019.
- (ii) that you commit no offence during the period of this suspension for which you may be liable to imprisonment;
- (iii) that you shall not drink or take any alcohol or drug of any description.

NUKU'ALOFA: 4 June 2019.




L. M. Niu
JUDGE