

IN THE FIJI COURT OF APPEAL

CRIMINAL JURISDICTION

CRIMINAL APPEAL NO. 15 OF 1993
(High Court Criminal Appeal NO. 20 of 1992)

BETWEEN:

ANTONIO TERAKI

APPELLANT

-and-

STATE

RESPONDENT

Appellant in Person
Mr. Christopher Hook for the Respondent

Date of Hearing : 18th November, 1993
Date of Delivery of Judgment : 18th November, 1993

JUDGMENT OF THE COURT

This is an attempt to invoke the jurisdiction of this Court for an appeal by one Antonio Teraki against his conviction on 31 August 1992 for rape.

The applicant's appeal against his sentence was heard by the Chief Justice of the High Court of Fiji Sir Timoci Tuivaga on 19th November, 1992. the learned Chief Justice, after hearing submissions by the applicant in person, dismissed the appeal stating that in his opinion there was no merit in the appeal.

Subsequently the applicant indicated that he wished to appeal against his conviction and sought an order for bail. Such an application for leave to appeal was clearly out of time.

Nevertheless the matter did get before the Hon. Resident Judge of Appeal Sir Moti Tikaram on 17 September, 1993. The applicant again appeared in person. The record of these proceedings noted inter alia:-

"Appellant/Applicant: I appealed against sentence to the High Court. The C.J. dismissed my appeal. I now want to appeal to the Court of Appeal on grounds of law.

When I went through the record later, then I realised I wanted to appeal against conviction, too."

Counsel for the respondent opposed the application.

The matter having got before the learned Resident Judge, he heard submissions and examined the material at the trial and the appeal to the learned Chief Justice.

He concluded:-

"If the Applicant had any prospect at all of succeeding on appeal I would have given him leave to appeal out of time. But I do not think it is possible for the Applicant to by-pass the High Court and raise new grounds of appeal for the Court of Appeal to deal with. In any case the grounds that he has formulated do not in my view constitute or raise questions of law. His purported appeal is bound to fail on the question of jurisdiction. To grant leave to appeal out of time would be an exercise in futility. Applications for leave to appeal out of time and for bail are therefore dismissed."

With each of those conclusions we respectfully agree. Whatever the nature of the proceedings before us (and at best they would appear to be an attempt to review the decision of Sir Moti Tikaram), we are of the view that they should be dismissed. If we had the jurisdiction to entertain appeals from this conviction and from the sentence, we would have no hesitation in rejecting such an appeal in each case.

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Mr Justice Michael M. Helsham
President Fiji Court of Appeal

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Sir Edward Williams
Justice of Appeal

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Mr Justice Michael Scott
Justice of Appeal