

The procedure for appealing to the Court of Appeal from the High Court's decision is governed by Section 21 of the Court of Appeal Act.

The Appellant therefore can only appeal as of right against conviction on a question of law alone or with the leave of this Court or on a certificate from the trial Court on a question of fact alone or on a mixed question of law and fact (see Section 21(1)(a) of the Court of Appeal Act. No question of law alone is involved in the proposed appeal.

There is no certificate from the trial Court that the appeal is a fit one for appeal on fact or on mixed fact and law. Nor has any application been made to this Court for leave to appeal against conviction.

As to sentence no application for leave to appeal has been made to this Court as required by Section 21(1)(c) of the Court of Appeal Act. In fact the proposed appeal is well out of time and no application has been made for leave to appeal out of time either. No reasons have been given for the inordinate delay, i.e. a lapse of almost 2 years since the date of conviction and sentence. The appeal or notice of application for leave to appeal should have been filed within 30 days of conviction as required by Section 26(1) of the Court of Appeal Act.

The Appellant is a lay person and is also disadvantaged one by being in custody. I would have considered relaxing the rules had there been the slightest prospect of his intended appeal succeeding. There is none. His intended appeal is bound to fail not only on legal grounds but also on merits. In fact it is a frivolous appeal.

I therefore dismiss it under the provisions of Section 35(2) of the Court of Appeal Act.

Dated at Suva this 28th day of February 2000.



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Sir Moti Tikaram
President, Court of Appeal, Fiji