

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0027 OF 2002
(High Court Criminal Appeal No. HAA0035/2001)

BETWEEN: MALAKAI SEFETI Appellant

AND: THE STATE Respondent

APPLICATION FOR LEAVE TO APPEAL OUT OF TIME

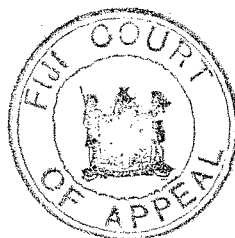
On the 27th of March 2001, the Appellant was convicted of Robbery with Violence by the Chief Magistrate at Suva, and sentenced to five years imprisonment. He subsequently, appealed to the High Court against both conviction and sentence. On the 6th of July 2001 the High Court dismissed his appeal both as to conviction and sentence.

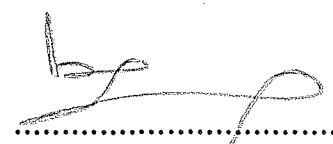
The Appellant did nothing about the High Court decision until the 11th of March 2002, when he wrote to the Registrar of this Court, purporting to appeal against the decision of the High Court. That letter did not reach the Registry until the 21st June 2002, by which time the time for appeal had well and truly expired. The purported appeal is almost 10 months out of time. The Appellant did not seek leave of this Court for extension of time to appeal, and advanced no reasons for the delay in his letter of 11th March 2002. In fairness to the Appellant, I decided to treat the letter, as

application for leave to appeal out of time, and heard the Appellant in chambers this morning. The Appellant was not able to put forward any convincing or acceptable explanation for the delay, and I find no justification for extending the time in this case. According to the Appellant he was present when the decision of the High Court was given and was told by the Court Officer in attendance that he could appeal to this Court, from that decision, if he so wished.

I have also read the record of proceedings in the Magistrates' Court, and the judgment of the High Court. The grounds of appeal that the Appellant intends to argue before this Court, are the same as those he advanced before the High Court. In my view, the learned Judge dealt with the matters raised by the Appellant adequately and correctly. The proposed appeal is without merits. An appeal to this Court from the decision of the High Court given in its appellate jurisdiction is limited to questions of law only. I do not find any error of law in the judgment of the High Court. If there was any merit in the proposed appeal I would have granted the Appellant leave to appeal out of time. Application refused.

Dated at Suva this 21st January, 2003.




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Jai Ram Reddy
President