

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0057 OF 2002
(High Court Criminal Case No. HAC007 of 2000)

BETWEEN: ILAISA SOUSOU *Applicant*

AND: THE STATE *Respondent*

APPLICATION FOR LEAVE TO APPEAL OUT OF TIME
AGAINST SENTENCE

1. The Applicant was charged before the High Court for Robbery with Violence, contrary to Section 293(1) of the Penal Code.
2. On 18 April 2001, the Applicant pleaded guilty to the charge and was convicted by Shameem J. accordingly.
3. The facts and antecedents are not in dispute, and were admitted by the Applicant. They are set out in the judgment of Shameem J., as follows:-

“ The facts of the case as outlined by the prosecution are as follows: On the 20th of October 1999 at 10.45 am, the defendant with two others, entered the Tulja Jewellery Shop in Nausori, wearing masks and armed with cane knives. They had come to Nausori from Cunningham Road in a stolen motor-vehicle, had parked it adjacent to the shop, and entered the shop through the front door.

They threatened the shop assistants, two women, and the owner Deepak Lodhia. The assistants were taken to the back of the shop where there is an office. The defendant, with the

others, then broke the show glass in the shop and put assorted jewellery into a bag. The defendant was unable to leave the shop by the door, and he with others then broke the window glass of the shop and left in the vehicle parked outside.

The jewellery taken was valued at \$6,500. No one was injured, although whilst in the shop, the robbers had wielded their cane knives at the shop assistants and the owner.

The defendant was apprehended on 6th November 1999, and he confessed to the commission of the offence, to the police. He was charged on the 7th of November and remanded until 18th November 1999, when he was granted bail by the Suva Magistrates Court.

The defendant's antecedent history shows that he is 20 years old, and is unemployed. His father died in 1990, and he now lives with his mother and stepfather, at Nadonumai, Delainavesi. He was educated to Form 5 level and left school because he did not have the means to continue.

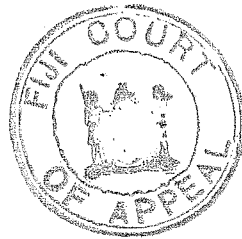
His previous convictions show that he was convicted of Restaurant Breaking and Larceny in 1998, of Drunk Disorderly in 1998, of Unlawful Use of Motor Vehicle in 1999, of Larceny and Driving Vehicle in Contravention of 3rd Party Risks, also in 1999. On 27th February 2001, he was convicted of Office Breaking Entry and Larceny and sentenced to three years imprisonment. He is currently serving that sentence.

In mitigation, the defendant said that he was 19 years old that he had been brought up by his grandmother after his father's death. He expressed remorse for the commission of the offence, and said that he was unlikely to rehabilitate in prison. He asked for leniency."

4. On 19 April 2001, the learned Judge sentenced the Applicant to 5 years imprisonment and ordered that the sentence be served

concurrently with a three year sentence beginning in February 2001 that the Applicant was then serving.

5. On 16 November 2002 the Applicant wrote to the High Court, purporting to appeal against the sentence. The relevant file was then sent to this Court.
6. The purported appeal is out of time by some nineteen months. Furthermore that Applicant requires leave to appeal against his sentence under Section 21(1)(c) of the Court of Appeal Act. No explanation is given for the delay. This appeal has no merit, and no prospect of succeeding.
7. Leave to appeal out of time and leave to appeal is therefore refused.



A handwritten signature in black ink, appearing to read "Jai Ram Reddy".

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Jai Ram Reddy
President

4/3/03