

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0007 OF 2003  
(High Court Criminal Appeal No. HAA134 of 1999L)

BETWEEN:                      PAULA MALO RADRODRO                      *Applicant*

AND:                                THE STATE    *Respondent*

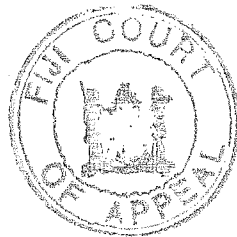
APPLICATION FOR LEAVE TO APPEAL

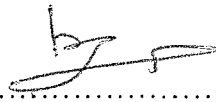
1. On 22 February 1999 the Applicant was sentenced to 9 months imprisonment by the Magistrates' Court, Lautoka for escaping from lawful custody, consecutive to the sentence he was serving at the time.
2. The Applicant appealed to the High Court against the sentence and on 8 February 2000, Townsley J. summarily dismissed the appeal because it had been "lodged without any sufficient ground of complaint" (Section 313(2) Criminal Procedure Code).
3. On 30 August 2002 the Applicant wrote to the Registrar of this Court purporting to appeal against the summary dismissal of his appeal by the High Court.
4. This appeal is well out of time, by almost 30 months. Furthermore, it is a frivolous and vexatious appeal. The Applicant complains, firstly, that he was not granted audience before the

High Court when his appeal was dismissed. The short answer to that complaint is that the High Court is empowered under Section 313(2) of the Criminal Procedure Code to dismiss an appeal that is lodged "without sufficient ground of complaint" without setting it down for hearing, therefore the Applicant was not entitled to an audience before the High Court. Secondly, the Applicant complains that the sentence is harsh and excessive. This complaint does not raise a question of law and is therefore incompetent. The sentence in question is neither unlawful nor was it passed in consequence of an error of law (Section 22 Court of Appeal Act).

5. Under powers vested in a single Judge of this Court under Section 35(2) of the Court of Appeal Act as amended, I dismiss this appeal, since the appeal is incompetent and has no prospect of succeeding.

Dated at Suva this 19<sup>th</sup> March 2003.



  
.....  
Jai Ram Reddy  
President