

IN THE COURT OF APPEAL

CRIMINAL APPEAL AAU 38 of 2014
(Magistrates Court 283 of 2009 at Labasa)

BETWEEN : **ILAISA DELATIRI** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**

Counsel : **Appellant in person**
Mr M Korovou for the Respondent

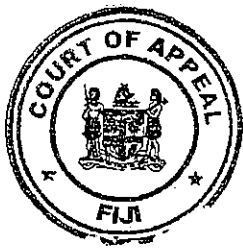
Date of Hearing : **26 June 2014**

Date of Ruling : **15 July 2014**

RULING

[1] On 28 May 2013 the Appellant was convicted in the Magistrates Court at Labasa on one count of rape and two counts of common assault. He had pleaded not guilty to the rape charge and guilty to the common assault charges. He was sentenced to 10 years imprisonment with a non-parole term of 9 years and 6 months on 19 June 2013.

- [2] By letter dated 5 April 2014 the Appellant informed the Chief Registrar of the High Court that he was seeking leave to appeal out of time. It would appear from his letter that the Appellant challenged the severity of the sentence.
- [3] Unfortunately the staff in the Suva Correction Facility addressed the correspondence to the Chief Registrar, Court of Appeal. The Court of Appeal registry staff, without checking the correspondence, opened a file and the matter took its place in the list awaiting a hearing date for leave to appeal before a single judge of the Court.
- [4] Since this was a trial in the Magistrates Court, the Appellant's right to appeal is to the High Court and I direct that the file be forwarded to the Suva High Court criminal registry. Pursuant to section 21 of the Court of Appeal Act Cap 12, a right of appeal to the Court of Appeal is given after trial in the High Court.
- [5] The application before this court is dismissed under section 35(2) of the Court of Appeal Act Cap 12.



W. Calanchini

HON. MR JUSTICE W. D. CALANCHINI
PRESIDENT, COURT OF APPEAL