

**IN THE COURT OF APPEAL**  
**[On Appeal from the High Court]**

**CRIMINAL APPEAL NO. AAU122 OF 2013**  
**[High Court Appeal No. HAA 29 of 2012 Ltk]**

**BETWEEN** : TIRATH ANAND

*Appellant*

**AND** : THE STATE

*Respondent*

**Coram** : Goundar JA

**Counsel** : Mr. S. Sharma for the Appellant  
Mr. M. Delaney for the State

**Date of Hearing** : 26 May 2014

**Date of Ruling** : 22 July 2014

**RULING**

[1] This is a timely appeal against a judgment of the High Court in its appellate jurisdiction. The appeal is against sentence only and the right of appeal is governed by section 22[1A] of the Court of Appeal Act. Section 22[(1A)] provides:

“22(1) Any party to an appeal from a magistrate’s court to the [High Court] may appeal, under this Part, against the decision of the [High Court] in such appellate jurisdiction to the Court of Appeal on any ground of appeal which involves a question of law only ...:

Provided that no appeal shall lie against the confirmation by the [High Court] of a verdict of acquittal by a magistrate’s court.

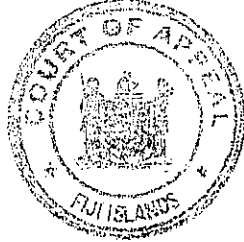
[(1A) No appeal under sub section (1) lies in respect of a sentence imposed by the High Court in its appellate jurisdiction unless the appeal is on the ground –

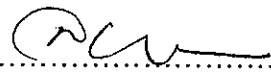
- (a) The sentence was an unlawful one or was passed in consequence of an error of law; or
- (b) That the High Court imposed an immediate custodial sentence in substitution for a non-custodial sentence].”

- [3] The appellant was charged with one count of robbery with violence contrary to section 293(1)(b) of the Penal Code (now repealed). The maximum penalty for this offence was life imprisonment. The appellant elected to be tried in the Magistrate’s Court. He pleaded guilty to the charge after the examination in chief of the complainant. The learned Magistrate convicted the appellant and sentenced him to 6 years’ imprisonment with a non-parole period of 3 years. The appellant appealed against his sentence to the High Court. One of the grounds of appeal to the High Court was that the learned Magistrate made an error by not giving him any discount for his guilty plea because the plea was late.
- [4] The learned High Court judge rejected the appellant’s ground of appeal by saying the trial Magistrate made no error in not giving any discount for the appellant’s guilty plea because it was made late.
- [5] The appeal to this court is brought on the following ground:
- “The learned Appellate Judge erred in law when he failed to invoke section 4(2) of the Sentencing Penalties Decree in allowing some discount for the guilty plea although late in time”.
- [6] In my judgment the appellant has raised an arguable ground that his sentence was passed in consequence of an error of law, namely, the law requires some reduction in sentence when an offender pleads guilty to the charge even if the guilty plea was made late. The appellant has a right of appeal under section 22 of the Court of Appeal Act.

**Result**

[7] The appellant may proceed with his appeal against sentence.



  
.....  
Hon. Justice D. Goundar  
**JUSTICE OF APPEAL**