

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL AAU 147 of 2014
(High Court HAA 39 of 2014[Lautoka])
(Magistrates Court No.378 of 2013[Lautoka])

BETWEEN : **SANJEET SHALVIN KUMAR** *Appellant*

AND : **THE STATE** *Respondent*

Coram : Calanchini P
Guneratne JA
Prematilaka JA

Counsel : Ms S Narayan for the Appellant
Mr L Fotofili for the Respondent

Date of Hearing : 18 November 2016

Date of Ruling : 19 December 2016

RULING

[1] The Appellant had been charged on one count of abduction of a person under 18 years of age with intent to have carnal knowledge contrary to section 211(1) of the Crimes Decree

2009. The Appellant pleaded not guilty in the Magistrates Court at Lautoka. He was subsequently convicted and on 12 September 2014 was sentenced to 8 months imprisonment, 5 months of which was suspended for a period of 2 years.

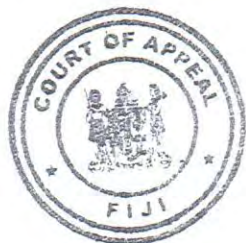
- [2] Being satisfied with the decision of the Magistrates Court the Appellant filed a timely notice of appeal against conviction in the High Court. On 7 November 2014 the High Court dismissed the appeal. The Appellant then filed in this Court a timely notice of appeal against the decision of the High Court in this Court under section 22 of the Court of Appeal Act Cap 12 (the Act).
- [3] On 17 March 2016 Counsel for the Appellant informed the Court that the Appellant had instructed his legal practitioner that he wished to abandon his appeal. Directions were given on that day for the Appellant to file and serve a notice to that effect under Rule 39 of the Court of Appeal Rules (the Rules) within 14 days. Unfortunately that was not done until 18 November 2016.
- [4] In accordance with the decision of the Supreme Court in Masirewa --v- The State (CAV 14 of 2008; 17 August 2010) the application was listed for hearing before the Court of Appeal. Through his Counsel it was confirmed that the Appellant had made his decision to abandon the appeal voluntarily. Counsel informed the Court that the Appellant had received legal advice and understood the consequences for the Appellant if the application were to be granted.
- [5] Under the circumstances the application to abandon the appeal against conviction is granted and the appeal dismissed.

Orders:

Appeal against conviction is dismissed.

W. Calanchini

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Hon. Mr. Justice W. D. Calanchini
PRESIDENT, COURT OF APPEAL



J. Guneratne

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Hon. Justice Guneratne
JUSTICE OF APPEAL

C. Prematilaka

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Hon. Mr. Justice C. Prematilaka
JUSTICE OF APPEAL