

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

CRIMINAL APPEAL NO. AAU 0014 OF 2015
[High Court Crim.Case No. HAC 293 of 2011]

BETWEEN : **MOSESE TAUNA; and**
SUNIA MALEWA

Appellants

AND : **THE STATE**

Respondent

Coram : **Basnayake, JA**
A.Fernando, JA
S. Jayamanne, JA

Counsel : **Both Appellants appeared in person**
Mr. L. J. Burney for the Respondent

Date of Hearing : **11 and 12 February 2016**

Date of Judgment : **26 February 2016**

JUDGMENT

Basnayake JA

I agree with the judgment of A. Fernando JA.

A.F.T. Fernando JA

- [1] This was a joint application by the Appellants in Criminal Appeal No. AAU 0014 of 2015, for Abandonment of their appeals filed against the sentence of 3 years with a non-parole period of 2 years, imposed on them on their conviction by the Suva High Court on the 27th of May 2014 on two counts of aggravated burglary and theft.

- [2] The Appellants had been convicted on their own plea of guilt for aggravated robbery, and two charges of theft.
- [3] The Appellants appeared in person at the hearing of this application for abandonment of appeal and Mr. L. J. Burney represented the State. The Appellants were questioned by Court individually. On being asked as to why they want to abandon their appeals, the Appellants stated that their prison term was to expire in three months' time and thus see no reason to pursue the appeals. They informed Court that they were making this application out of their own free will and that no promise, threat or inducement had been made to them by anyone to abandon the appeal. They informed Court that they had given due consideration before they decided to make this application.
- [4] Court informed the Appellants of the consequences of abandoning their appeals by stating that once the Court makes a decision to allow the Appellants' application it will be a final decision of the Court and they will not be able to retract the abandonment and re-agitate the matter again. The Appellants informed Court that they were certain about their decision.
- [5] I am satisfied that the Appellants decision to abandon their appeal has been made by them out of their own free will and with a proper understanding of the consequences of such abandonment. I also find that they have given a valid reason for the abandonment of their appeal. I would therefore allow the application for abandonment of appeal and dismiss the appeal.

Jayamanne JA

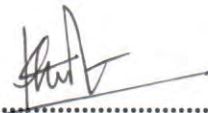
- [6] I also agree with the judgment of A. Fernando JA.

The Orders of the Court are:

1. *Application to abandon the appeal is allowed.*
2. *The Appeal is dismissed*



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Hon. Justice E. Basnayake
JUSTICE OF APPEAL



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Hon. Justice A. Fernando
JUSTICE OF APPEAL



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Hon. Justice S. Jayamanne
JUSTICE OF APPEAL