

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

CRIMINAL APPEAL AAU 56 of 2012
(High Court HAC 75 of 2010)

BETWEEN : SAULA TUWAI *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P
Gamalath JA
Jayamanne JA

Counsel : Mr S Waqainabete for the Appellant
Mr S Vodokisolomone for the Respondent

Date of Hearing : 26 May 2016

Date of Ruling : 3 June 2016

RULING

Calanchini P

[1] This is an application for leave to abandon an appeal against sentence under Rule 39 of the Court of Appeal Rules (the Rules). On 24 May 2011 the Appellant was

convicted in the High Court at Suva on five counts of indecent assault contrary to section 154(1) of the Penal Code Cap 17, three counts of rape contrary to sections 149 and 150 of the Penal Code, three counts of rape contrary to section 207(1) and 207(2) (a) of the Crimes Decree 2009 and one count of sexual assault contrary to section 210(1) (a) and 210(2) of the Crimes Decree. He was subsequently sentenced to a term of imprisonment of 12 years 10 months with a non-parole term of 10 years and 10 months.

- [2] A notice seeking leave to appeal against sentence was filed in person out of time on 17 July 2012. A notice of abandonment of appeal was filed on 22 March 2016 by the Legal Aid Commission on behalf of the Appellant. 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.
- [3] Through his Counsel the Appellant confirmed that he wanted to abandon his appeal against sentence. He confirmed that his application had been made voluntarily. He stated that he had received legal advice on the merits of his appeal and understood the consequences for him if his application were to be granted.
- [4] Under the circumstances the application to abandon the appeal against sentence should be granted and the appeal dismissed.

Gamalath JA

- [5] I agree that the appeal should be dismissed.

Jayamanne JA

- [6] I agree also that the appeal should be dismissed.

Order:

Appeal against sentence is dismissed.

W. Calanchini

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

Gamalath

Hon. Mr Justice Gamalath
JUSTICE OF APPEAL



Jayamanne

Hon. Mr Justice Jayamanne
JUSTICE OF APPEAL
