

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

CRIMINAL APPEAL NO. AAU 77 OF 2013
(High Court HAA 7 of 2013)

BETWEEN : RAVINDRA LAL

Appellant

AND : THE STATE

Respondent

Coram : Chandra RJA

Counsel : Appellant absent and unrepresented
Ms. P. Madanavosa for the Respondent

Date of Hearing : 29 May 2017

Date of Ruling : 16 June 2017

RULING

- [1] The Appellant was charged in the Magistrate's Court for one count of Larceny contrary to sections 259 and 262 of the Penal Code.
- [2] At the trial, after the close of the prosecution case the learned Chief Magistrate delivered a no case to answer ruling and acquitted the Appellant.

- [3] The prosecution appealed against the said decision to the High Court at Suva.
- [4] The High Court quashed the order of acquittal and ordered a fresh trial before a different Magistrate within 2 months of the Appeal judgment.
- [5] The Appellant thereupon filed an appeal to the Court of Appeal against the judgment of the High Court and sought a stay application from the same High Court to stay its own judgment pending the decision of the Court of Appeal regarding his appeal.
- [6] The High Court denied his stay application for stay by the Appellant and ordered that the re-trial need not take place within 2 months but as soon as practicable.
- [7] In his appeal to the Court of Appeal the Appellant raised 19 grounds appeal and both parties filed their written submissions.
- [8] When the application for leave to appeal to the Court of Appeal was taken up for hearing on 11 October 2016, Counsel for the Appellant moved for an adjournment on the basis that the Appellant's wife was undergoing medical treatment and the adjournment was granted.
- [9] After a further adjournment at the instance of the Appellant, the hearing was fixed for 29th of May 2017.
- [10] When the application was taken up for hearing on 29th May 2017, the Appellant was absent and unrepresented. When the name of the Appellant was called out there was no response.
- [11] An appeal lies from a judgment of the High Court sitting in appeal from a judgment of the Magistrate's Court only on a question of law.
- [12] A perusal of the grounds of appeal filed by the Appellant shows that there are no questions of law in those grounds.
- [13] Further, the Appellant having sought several adjournments and being granted same, failed to appear or have himself represented on the date of hearing.

[14] In view of the above circumstances the application of the Applicant seeking leave to appeal is dismissed in terms of Section 35(2) of the Court of Appeal Act, 2012 being vexatious.

Order of Court:

Application for leave to appeal is dismissed in terms of section 35(2) of the Court of Appeal Act, 2012.



A handwritten signature in black ink, appearing to read "S. Chandra", is written over a horizontal line.

Hon. Justice S. Chandra
RESIDENT JUSTICE OF APPEAL