

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

CRIMINAL APPEAL AAU 15 OF 2014
(High Court HAC 5 of 2013 at Labasa)

BETWEEN : ASHNEEL KAMAL
Appellant

AND : THE STATE
Respondent

Coram : Calanchini P
Chandra JA

Counsel : Mr M Fesaitu for the Appellant
Mr R Kumar for the Respondent

Date of Hearing : 26 September 2018

Date of Ruling : 29 October 2018

RULING

Calanchini P

[1] The appellant was jointly charged with Ravinesh Deo on one count of arson contrary to section 362(a) of the Crimes Act 2009. They were convicted after trial in the High Court at Labasa and sentenced on 13 March 2014. The appellant Deo was sentenced to 4 years

and 10 months imprisonment with a non-parole term of 4 years. The appellant Kamal was sentenced to 5 years imprisonment with a non-parole term of 4 years

- [2] The Appellants subsequently filed a joint notice of appeal against their convictions and sentences. On 12 December 2017 the Appellants filed applications to abandon their appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules. Leave to appeal against conviction had been refused and neither appellant renewed the application for leave to appeal conviction.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) the applications to abandon the appeals were listed for hearing before the Court of Appeal. At the hearing the appellant Deo confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that he had received legal advice and that he understood the consequence in the event that his application were granted. The appellant Kamal withdrew his abandonment application and indicated that he wished to pursue his sentence appeal.
- [4] However on 19 March 2018 the appellant Kamal has filed a second notice to abandon his appeal against sentence. At the hearing he confirmed that he is to be released later this year, he has made his decision voluntary and he understands the consequences if his application is granted.
- [5] Under the circumstances the application by Kamal to abandon the appeal against sentence is granted and the appeal is dismissed. Deo’s application was granted in a Ruling dated 29 March 2018.

Chandra JA

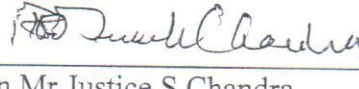
- [5] I agree.

Order:

Appeal by Kamal against sentence is dismissed.



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



Hon Mr Justice S Chandra
JUSTICE OF APPEAL