

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE MAGISTRATES COURT
Exercising extended jurisdiction

CRIMINAL APPEAL NO. AAU 50 OF 2017
(with AAU 72 of 2017)
(High Court HAC 224 of 2011)
(Magistrates Court No: 744 of 2011 at Nasinu)

BETWEEN : **THE STATE** *Appellant*

AND : **FILIPE BABA** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Mr R Kumar for the Appellant**
Respondent in person

Date of Hearing : **22 November 2018**

Date of Ruling : **30 November 2018**

RULING

Calanchini P

[1] The respondent was convicted in the Magistrates Court at Nasinu exercising extended jurisdiction of the High Court on one count of aggravated robbery. On 17 March 2017 the respondent was sentenced to 3 years imprisonment.

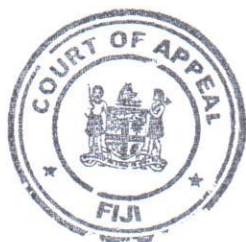
- [2] The Appellant subsequently filed a timely notice of appeal against sentence. On 23 July 2018 the Appellant filed an application to abandon the appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in **Masirewa -v- The State** (CAV 14 of 2008; 17 August 2010) that application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing the appellant confirmed the decision to abandon the appeal. Counsel confirmed that the appellant understood the consequences in the event that the application were granted.
- [4] The Respondent has an appeal in file AAU 72 of 2017 arising out the trial in Magistrates Court. This appeal is listed for mention on 19 December 2018 at 11.30am.
- [5] Under the circumstances the application to abandon the appeal in AAU 50 of 2017 against sentence is granted and the appeal is dismissed.


Chandra JA

- [6] I agree.

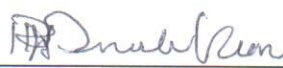
Orders:

- 1) *Appeal against sentence in AAU 50 of 2017 is dismissed.*
- 2) *Appeal by respondent in AAU 72 of 2017 is listed for mention on 19 December 2018 at 11.30am.*





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



Hon Mr Justice S Chandra
JUSTICE OF APPEAL