

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

**CRIMINAL APPEAL NO. AAU 44 OF 2016**  
**(High Court HAC 158 of 2014)**

**BETWEEN** : **CHANDAR KANT**  
*Appellant*

**AND** : **THE STATE**  
*Respondent*

**Coram** : **Calanchini P**  
**Chandra JA**

**Counsel** : **Mr T Lee for the Appellant**  
**Mr M Vosawale for the Respondent**

**Date of Hearing** : **20 May 2019**

**Date of Ruling** : **27 June 2019**

**RULING**

**Calanchini P**

[1] The appellant was convicted on one count of rape and two counts of indecent assault by the High Court of Suva. On 7 March 2016 the appellant was sentenced to 2 years imprisonment for each of the indecent assault convictions and 12 years and 10 months imprisonment on the rape conviction to be served concurrently with a non-parole term of 9 years.

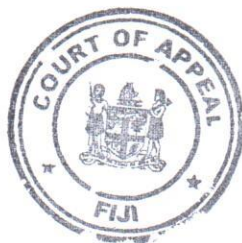
- [2] The Appellant subsequently filed a timely notice of appeal against sentence and a late appeal against conviction. On 19 March 2019 the Appellant filed an application to abandon his appeal against conviction and sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) the application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing the appellant confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that he had received legal advice and that he understood the consequences in the event that his application were granted. The legal advice was to the effect that the appeal was unlikely to succeed.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence should be granted and the appeal dismissed.

**Chandra JA**

- [5] I agree.

Order:

*Appeal against conviction and sentence is dismissed.*



*W. Calanchini*

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

*S. Chandra*

Hon Mr Justice S Chandra  
**JUSTICE OF APPEAL**