

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

CRIMINAL APPEAL NO. AAU 39 of 2017
(High Court Action No. HAA 35 of 2016)

BETWEEN : **TEVITA VAKATALAI** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Chandra, RJA**

Counsel : **Ms S Nasedra for the Appellant**
Ms Bogitini for the Respondent

Date of Hearing : **28 May, 2019**

Date of Ruling : **21 November, 2019**

RULING


- [1] The Appellant was charged for the offence of Robbery contrary to Section 310(1)(a)(i) of the Crimes Act, 2009 in the Magistrate's Court at Suva.
- [2] He was convicted after trial and on 20th August 2016 was sentenced to 5 years and 9 months imprisonment with a non-parole period of 5 years.

- [3] His appeal to the High Court against conviction was dismissed but the appeal against sentence was allowed and reduced to 3 years imprisonment with a non-parole period of 2 years effective from 30 August 2016.
- [4] He filed an appeal against the dismissal of his appeal against conviction.
- [5] When the appeal was mentioned on 7th of June 2018 it was ordered that it be relisted for mention on a date to be fixed.
- [6] When the matter was mentioned on 9th April 2019, Counsel for the Appellant informed Court that the Appellant was to be discharged during that month and was relisted for the 28th of May 2019.
- [7] When the matter was mentioned on 28th May 2019, the Appellant was absent and Counsel for the Appellant informed Court that the Appellant had been discharged on 29th April 2019.
- [8] The Appellant was absent though being aware of the fact that the matter was being mentioned. This would indicate that the Appellant would no longer be interested in pursuing his appeal as he has been discharged.
- [9] In the above circumstances this appeal is dismissed in terms of Section of 35(2) of the Court of Appeal Act as being frivolous.

Orders of Court:

The Appeal against conviction is dismissed.




Hon. Justice Suresh Chandra
RESIDENT JUSTICE OF APPEAL