

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL MISC NO: HAM 072 OF 2025

BETWEEN : **KALAVETI RAVU**
TEKATA TOAISI

APPLICANTS

AND : **STATE**

RESPONDENT

Counsel : **Mr T Vakalalabure for the First Applicant**
Mr J Cakau for the Second Applicant
Ms N Tikoisuva for the Respondent

Ruling on Papers : **30 September 2025**

RULING

- [1] On 5 September 2025, this Court passed a judgment allowing the State's appeal against acquittal of the Applicants at a no case to answer stage, and remitting the case for continuation of the defence case in the Magistrates' Court. The Applicants are now seeking a stay of that judgment pending an appeal to the Court of Appeal.
- [2] The High Court, when exercising its appellate criminal jurisdiction, is functus officio after delivery of judgment and lacks authority to suspend or stay the effect of its determination once rendered in such capacity. This principle is derived from the established statutory framework and case law governing appeals and related interlocutory orders.

- [3] Upon the High Court rendering its appellate judgment, any application for relief pending further appeal, including for stay of execution of that judgment, may only be entertained by the appellate jurisdiction of the superior court, not by the High Court itself, which has concluded its role in the proceedings. Jurisdiction shifts from the High Court to the Court of Appeal for any interlocutory relief pending appeal.
- [4] Applications for stays in such situations must be made directly to the Court of Appeal. The High Court's authorities regulating civil and interlocutory matters (such as Order 45 of the High Court Rules 1988 for civil cases) are not applicable as to criminal appellate judgments where jurisdiction for stay orders is statutory and limited.
- [5] Given the authorities cited by the parties and the absence of any express statutory provision conferring residual power upon the High Court to grant such relief after delivery of its appellate judgment, the court is prohibited from entertaining or granting the application. This approach prevents mismatches of function and promotes certainty and finality in appellate procedure.
- [6] **Order**
For the above reasons, the application for stay of the High Court's judgment pending appeal to the Court of Appeal is refused for lack of jurisdiction.



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Hon Mr Justice Daniel Goundar

Solicitors:

Rokoika & Vakalalabure Lawyers for the 1st Applicant

Vosarogo Lawyers for the 2nd Applicant

Office of the Director of Prosecutions for the Respondent