

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0029/2002  
(High Court Criminal Action No. HAC016-019 of 2001)

|                 |                    |                   |
|-----------------|--------------------|-------------------|
| <u>BETWEEN:</u> | <u>MESAKE RABO</u> | <u>Appellant</u>  |
| <u>AND:</u>     | <u>THE STATE</u>   | <u>Respondent</u> |

APPLICATION FOR LEAVE TO APPEAL OUT OF TIME

1. The Appellant pleaded guilty to a total of 112 separate charges, in 4 separate Court files, in the Magistrates' Court, all involving dishonesty. Pursuant to Section 222 of the Criminal Procedure Code, the files were referred to the High Court for sentence.

2. On the 18<sup>th</sup> of January 2002, Surman J. sentenced the Appellant as follows:-

"(1) Appeal File HAC 16.01 (Magistrate's Court 446/01)

*12 Charges - 3 years on each charge: reduced to 2 years for the pleas. Sentences on the 12 Charges to run Concurrently with each other.*

Overall total : 2 years.

(2) Appeal File HAC 17/01 (Magistrate's Court 447/01)

*3 Charges - 18 months on each charge: reduced to 12 months for the pleas. Sentences on the 3 Charges to run Concurrently with each other.*

Overall total : 12 months (1 year).

(3) Appeal File 18/01 (Magistrate's Court 182/01)

*1 Charge - 18 months : reduced to 12 months for the plea.*

Overall Total : 12 months (1 year).

(4) Appeal File HAC 19/01 (Magistrate's Court 1553/01)

96 Charges - 3 years on each charge reduced to 2 years for the pleas.  
Sentences on the 96 Charges to run Concurrently with each other.

Overall total : 2 years.

Final Sentence:

Each of the total mentioned in (1)(2)(3) and (4) above are to run Consecutively to each other making final total of 6 years.

Order:

Sentenced to 6 years imprisonment."

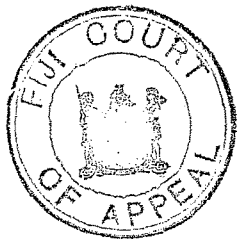
3. In sentencing the Appellant the learned Judge said:-

*" The Offences on which the Defendant has been convicted are serious. Blatant corruption by the Defendant has to be severely punished. The total amount of money involved in these Charges is F\$127,761.90. However, I take into account that the Defendant has pleaded guilty to all the Charges. Credit must be given for those pleas: because they have saved a significant amount of Court time and they show remorse. The credit has to be published to encourage others to enter pleas of guilty where appropriate."*

4. The Appellant now seeks leave to appeal out of time. There is nothing unlawful about the sentence imposed by Surman J. The learned Judge took full account of the totality principle, just as he took full account of the fact that the Appellant had pleaded guilty, and saved the Court's time.

5. This appeal is frivolous and vexatious. Leave to appeal out of time is granted, and the appeal is dismissed under Section 35(2) of the Court of Appeal Act (as amended).

Dated at Suva this 9<sup>th</sup> September, 2002.



Jai Ram Reddy  
President