

**IN THE COURT OF APPEAL**  
**CRIMINAL JURISDICTION**

**APPEAL NO. AAU 2 of 2011**  
**(High Court HAC 127 of 2009)**

**BETWEEN** : **VARAMASI MOTOFAGA**

**Appellant**

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

**Respondent**

**Coram** : **Calanchini P**  
**Kumararatnam JA**  
**Bandara JA**

**Counsel** : **Appellant in person**  
**Mr L Fotofili for the Respondent**

**Date of Hearing** : **20 September 2013**

**Date of Ruling** : **25 October 2013**

**RULING**

[1] The Appellant had pleaded guilty to one charge of manslaughter and was convicted on 12 August 2010 by the High Court. He was sentenced to a term of imprisonment of three years with a non-parole term of 2 years. He subsequently filed an application for leave to appeal against sentence.

[2] When his application for leave came before a single judge of the Court on 1 May 2013 the Appellant indicated that he wanted to abandon his appeal. A notice of abandonment of appeal dated 1 May 2013 was filed on the same day.

[3] In accordance with the Supreme Court decision in Masirewa –v- The State (unreported CAV 14 of 2008; 17 August 2010) the learned Justice of Appeal referred the application to the Full Court for determination under Rule 39 of the Court of Appeal Rules.

[4] The Appellant has informed this Court that he had served his sentence and confirmed that he wanted to abandon his appeal against sentence. Under those circumstances the application to abandon the application should be granted and the appeal dismissed.

**Kumararatnam JA**

[3] I agree that the appeal should be dismissed.

**Bandara JA**

[4] I also agree that the appeal be dismissed.

**Orders:**

*Appeal dismissed.*

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**HON. MR JUSTICE CALANCHINI**  
**PRESIDENT**

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**HON. MR JUSTICE KUMARARATNAM**  
**JUSTICE OF APPEAL**

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**HON. MR JUSTICE BANDARA**  
**JUSTICE OF APPEAL**

