

IN THE COURT OF APPEAL
[On Appeal from the High Court]

CRIMINAL APPEAL NO. AAU 0043 OF 2015
[Magistrate Court Case No. 047.2011]

BETWEEN : **ABOROSIO BILIGI**
Appellant

AND : **THE STATE**
Respondent

Coram : Basnayake, JA
A.Fernando, JA
S. Jayamanne, JA

Counsel : No Appearance for the Appellant
Mr. L. J. Burney for the Respondent

Date of Hearing : 11 February 2016

Date of Judgment : 26 February 2016

RULING

Basnayake JA

I agree that this appeal be dismissed.

Jayamanne JA

1. This is an application for leave to abandon an appeal.
2. The appellant was charged on four counts namely; Attempted Rape on 22nd January 2011 contrary to section 208 of the Crimes Decree, No 44 of 2009. He was convicted on his own plea and was sentenced for six years on all counts on 15th March 2012. The sentences were to run concurrently with a non-parole period of 5 years of imprisonment.
3. The accused-appellant filed a notice of leave to appeal against the sentence. However on 14th April 2014 the appellant had submitted a notice to the Registrar of the Court of Appeal

moving to abandon his appeal. As a result the application was transmitted to the Court of Appeal for consideration pursuant to Rule 39 of the Court of Appeal Rules.

4. When this case was listed before the Full Court the appellant was present and appeared in person. The accused-appellant informed court that the move to withdraw this appeal was voluntary and without the use of any pressure from anyone. He had already served four years of his sentence. The appellant was warned by court that in the event of allowing this application that the appeal would be dismissed and the appellant would not be able to revive this appeal again. The appellant understood the consequences of the abandonment and informed the Court that he wanted to pursue his application for withdrawal.
5. Being satisfied that there was no inducement or pressure on the appellant to abandon this appeal and the fact the move to abandon the appeal was made voluntarily by the appellant the application to withdraw the appeal is allowed. The appeal is thus dismissed.

A. Fernando JA

6. I too agree that the appeal be dismissed.

Order of the court

Appeal dismissed.



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Hon. Mr. Justice E. Basnayake
JUSTICE OF APPEAL

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Hon. Mr. Justice A. Fernando
JUSTICE OF APPEAL

A handwritten signature in blue ink, appearing to be "S. Jayamanne".

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Hon. Mr. Justice S. Jayamanne
JUSTICE OF APPEAL.