

**IN THE COURT OF APPEAL, FIJI**  
**[On Appeal from the High Court of Fiji]**

**CRIMINAL APPEAL NO: AAU0017 of 2016**  
**[High Court Case No: HAA004 of 2013S)**

**BETWEEN** : **LOTE SERUITALATALA**  
*Appellant*

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

**Coram** : **Hon. Mr. Justice Daniel Goundar**

**Counsel** : **Ms S Latu for the Appellant**  
**Mr S Vodokisolomone for the Respondent**

**Date of Hearing** : **21 June 2017**

**Date of Ruling** : **23 June 2017**

**RULING**

- [1] Following a trial in the Magistrates' Court, the appellant was convicted of two counts of robbery with violence and one count of unlawful use of motor vehicle. He was sentenced to 9 years' imprisonment with a non-parole period of 5 years. The main evidence against the appellant was his confession made under caution. The admissibility of the confession was determined in a voir dire. The appellant appealed against his conviction in the High Court. On 21 December 2015, the High Court dismissed the appeal. This appeal is against the High Court's judgment dismissing the appellant's appeal. The appeal is governed by section 22(1) of the Court of Appeal Act, Cap.12. Section 22 restricts the right of appeal to a question of law only.
- [2] The notice and the grounds of appeal were filed by the appellant in person. After legal aid was approved, counsel for the appellant filed a notice of abandonment. At the hearing, both the appellant and his counsel advised the Court that they are abandoning

the appeal because they are unable to demonstrate that the learned High Court judge made an error of law alone in dismissing the appellant's appeal against conviction. I accept that this is a fair concession because the grounds of appeal advanced by the appellant do not raise any question of law alone. The grounds of appeal relate to the trial Magistrate's assessment of the evidence. The same grounds were raised in the High Court. The High Court found the grounds were not made out. Section 35(2) of the Court of Appeal Act gives a single judge power to dismiss an appeal that is bound to fail because there is no right of appeal. I am satisfied that this appeal is bound to fail because there is no right of appeal.

[3] **Result**

Appeal dismissed under section 35(2) of the Court of Appeal Act, Cap. 12.



A handwritten signature in black ink, appearing to read "Daniel Goundar", with a long horizontal line extending to the right.

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Hon. Mr. Justice Daniel Goundar  
**JUSTICE OF APPEAL**

**Solicitors:**

Office of the Legal Aid Commission for the Appellant  
Office of the Director of Public Prosecutions for the State