

IN THE COURT OF APPEAL, FIJI
[ON APPEAL FROM THE HIGH COURT]

CRIMINAL APPEAL NO. AAU 0060 of 2018
(Miscellaneous Action HAM 79 of 2018)

BETWEEN : **KRITESH KUMAR**

Appellant

AND : **THE STATE**

Respondent

Coram : **Gamalath, JA**
Prematilaka, JA
Bandara, JA

Counsel : **Mr A K Singh for the Appellant**
Ms J Fatiaki for the Respondent

Date of Hearing : **16 November, 2018**

Date of Judgment : **29 November, 2018**

JUDGMENT

Gamalath, JA

- [1] The appellant, Kritesh Kumar's application for bail pending trial, based on the three counts of unlawful possession of illicit drugs contrary to Section 59a) of the Illicit Drugs Control Act No.9 of 2004, was heard before the High Court at Suva on 25 May 2018 and on 7 June 2018 the learned High Court Judge turned down the application on the basis that the application was "frivolous and vexatious".
- [2] Being aggrieved by the said ruling he has moved this Court in appeal.
- [3] However, when the matter was taken up for hearing before the Court, the counsel for the appellant informed this Court that he was moving to abandon this appeal.
- [4] Consequently, the Court inquired from the appellant, whether he was abandoning the appeal of his own volition and whether he received sufficient legal advice on the course he was presently pursuing by abandoning the appeal. The appellant answered in the affirmative, and further informed the Court that he has full and complete understanding of the consequences that would flow from the decision to abandon the appeal.
- [5] The appellant further informed the Court that the decision to abandon the appeal is mainly based on the fact that the trial against him was to be started in the High Court on 20 November 2018, a few days from this hearing.
- [6] With having reference to the above facts, the Court is satisfied that the application to abandon the appeal should be granted and it is determined accordingly.

Prematilaka, JA

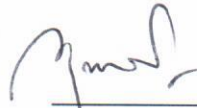
[7] I agree.

Bandara, JA

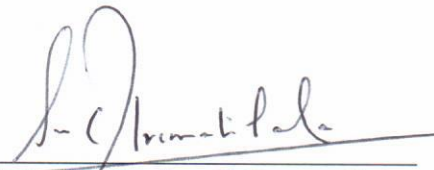
[8] I agree.

Order of the Court

1. *The application to abandon the appeal against the refusal to grant bail pending trial is allowed.*
2. *The appeal dismissed.*



Hon. Mr. Justice S. Gamalath
JUSTICE OF APPEAL



Hon. Mr. Justice C. Prematilaka
JUSTICE OF APPEAL



Hon. Mr. Justice W. Bandara
JUSTICE OF APPEAL