

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

CRIMINAL APPEAL NO. AAU 149 OF 2016

(with AAU 140 of 2017)

(High Court HAA 22 of 2016 at Lautoka)

BETWEEN : **JOSUA NATAKURU**

Appellant

AND : **THE STATE**

Respondent

Coram : **Calanchini P**
Chandra JA

Counsel : **Appellant in person**
Mr M Vosawale for the Respondent

Date of Hearing : **22 November 2018**

Date of Ruling : **30 November 2018**

RULING

Calanchini P

- [1] Following a trial in the Magistrates Court the appellant was convicted on one count of criminal intimidation. He was sentenced to 2 years imprisonment. On 27 June 2016 the appellant filed a timely appeal in the High Court against conviction. On 18 October 2016 the appeal was dismissed.

- [2] The Appellant subsequently filed a timely notice of appeal against conviction under section 22 of the Court of Appeal Act 1949. On 5 October 2017 the Appellant filed an application to abandon his appeal against conviction pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) that application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing the appellant confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that he had received legal advice and that he understood the consequences in the event that his application were granted.
- [4] The appellant has a second appeal before the Court of Appeal in AAU 140 of 2017 also under section 22 of the Court of Appeal Act. The High Court in HAA 26 of 2016 had dismissed the appeal against conviction. Directions for the conduct of that appeal will be given in this Ruling.
- [5] Under the circumstances the application to abandon the appeal against conviction in AAU 149 of 2016 is granted and the appeal is dismissed.

Chandra JA

- [6] I agree.

Orders:

1) *Appeal in AAU 149 of 2016 against conviction is dismissed.*

2) *Appeal AAU 140 of 2017:*

- a. *Appellant to file submissions on jurisdiction within 7 days from the date of this Ruling.*
- b. *Respondent to file and serve submissions within 14 days thereafter.*
- c. *The issue of jurisdiction is to be determined by a justice of appeal on a date to be fixed.*

W. Calanchini

Hon Mr Justice W. D. Calanchini
PRESIDENT, COURT OF APPEAL



S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL