

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

CRIMINAL APPEAL NO. AAU 152 OF 2016
(High Court HAC 42 of 2015 at Labasa)

BETWEEN : SOVITA SEVAKASIGA
PENIJAMINI TAWAKE

Appellants

AND : THE STATE

Respondent

Coram : Calanchini P
Chandra JA

Counsel : Mr M Fesaitu for the Appellant
Mr A Jack for the Respondent

Date of Hearing : 23 May 2019

Date of Ruling : 27 June 2019

RULING

Calanchini P

- [1] The appellants were each convicted on two counts of rape by the High Court at Labasa. On 19 August 2016 each appellant was sentenced to 10 years 10 months 2 weeks imprisonment with non-parole terms of 8 years 10 months and 2 weeks.

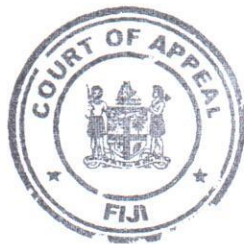
- [2] The Appellants subsequently each filed a notice of appeal against conviction and sentence. On 24 January 2019 each Appellant filed an application to abandon his appeal against sentence pursuant to Rule 39 of the Court of Appeal Rules. Their applications for leave to appeal against conviction were refused in a Ruling dated 22 February 2019.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) the application to abandon the appeal was listed for hearing before the Court of Appeal. At the hearing each appellant confirmed that his decision to abandon the appeal was made voluntarily. Each confirmed that although he had not received legal advice, he understood the consequences in the event that his application were granted.
- [4] Under the circumstances each application to abandon the appeal against sentence should be granted and the appeal dismissed.

Chandra JA

- [5] I agree.

Order:

Appeals against sentence are dismissed.



W. Calanchini

Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL

S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL