

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

CRIMINAL APPEAL NO. AAU 2 OF 2016
(High Court HAC 254 of 2013)

BETWEEN : **INOKE VALEKULA** *Appellant*

AND : **THE STATE** *Respondent*

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms S Nasedra for the Appellant**
Ms W Elo for the Respondent

Date of Hearing : **24 September 2019**

Date of Ruling : **25 October 2019**

RULING

Calanchini P

[1] Following a trial in the High Court at Suva the appellant was convicted on one count of rape. On 7 December 2015 the appellant was sentenced to 12 years 7 months imprisonment with a non-parole term of 8 years 7 months.

- [2] The Appellant subsequently filed a timely notice of appeal against conviction and sentence. On 16 November 2018 the Appellant filed an application to abandon his appeal against sentence 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) the 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] In a Ruling dated 18 December 2018 the appellant's application for leave to appeal against conviction was refused. The appellant has not sought to renew that application before the Full Court under section 35(3) of the Court of Appeal Act 1949.
- [5] Under the circumstances the application to abandon the appeal against sentence is granted and the appeal is dismissed..

Chandra JA

- [6] I agree.

Order:

Appeal against sentence is dismissed.



W. Calanchini

Hon Mr Justice W D Calanchini
PRESIDENT, COURT OF APPEAL

S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL