

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

**CRIMINAL APPEAL NO. AAU 069 of 2022**

**BETWEEN** : **APISAI CABEBULA NASELAI** *Appellant*

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

**Coram** : **Prematilaka, RJA**

**Counsel** : **Appellant in person**  
: **Ms. S. Shameem for the Respondent**

**Date of Mention** : **20 June 2023**

**Date of Ruling in Chamber** : **20 June 2023**

**RULING**


- [1] The ‘application for late appeal’ filed by the appellant in the High Court of Labasa only against his sentence had been forwarded to the Court of Appeal Registry on 21 July 2022. According to the appellant’s ‘application for late appeal’, he had been convicted on one count of unlawful possession of 427.2 grams of illicit drugs contrary to section 5(a) of the Illicit Drugs Control Act 2004 and upon conviction, sentenced to 12 months imprisonment.
- [2] Given the quantity of illicit drugs involved and the sentence imposed, it appears that the appellant may have been charged and sentenced in the Magistrates’ court and that is why he had filed his appeal in the High Court of Labasa. However, since the caption indicates the Court of Appeal, the High Court may have forwarded it to the Court of Appeal. If that be the case, the appellant has no direct right of appeal to the Court of Appeal

- [3] In any event, Labasa Correction Center had informed the CA Registry today that the appellant had been released on 17 April 2023 after serving his sentence.
- [4] The appellant was absent when the matter came up on 20 June 2023. The respondent made an application for summary dismissal of his appeal.
- [5] In the circumstances, the appellant's appeal against sentence should now be considered as frivolous or vexatious. He most likely has no right of appeal to the Court of Appeal either. Thus, his appeal is liable to be dismissed under section 35(2) of the Court of Appeal Act.

**Order of the Court:**

1. Appeal is dismissed in terms of section 35(2) of the Court of Appeal Act.



  
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**Hon. Mr. Justice C. Prematilaka**  
**RESIDENT JUSTICE OF APPEAL**

**Solicitors:**

Appellant in person  
Office for the Director of Public Prosecutions for the Respondent