IN THE COURT OF APPEAL, FIJI AT SUVA

<u>CRIMINAL APPEAL NO. AAU0002/2001</u> (High Court Criminal Appeal No. HAA 88 of 2000)

BETWEEN:

LISALA MATAVURA

<u>Appellant</u>

<u>AND:</u>

THE STATE

Respondent

APPEAL AGAINST SENTENCE

- 1. Having pleaded guilty the appellant was convicted in the Magistrates' Court of housebreaking, entering and larceny. Taking into account the prevalence of offending of this kind and the appellant's numerous convictions for similar and other offences, the Magistrate imposed a sentence of 4 years imprisonment. His appeal to the High Court was dismissed.
- 2. The appellant has lodged a further appeal to this Court. He has relied on section 21(c) of the Court of Appeal Act, but that section relates to appeals where the original sentencing was in the High Court. Here the applicable provision is s.22 and under that provision the appeal can only be on a question of law alone.
- 3. In his petition the appellant has complained that the reference to previous convictions means he is being punished twice for the same offence. This is not so. A person with many previous convictions is not entitled to the leniency which might be shown to an offender with a good previous record. The appellant has also complained that no allowance has been made for his plea of guilty. While it is good practice for Judges specifically to refer to that factor in sentencing, or in dealing with an appeal, it is obvious that here, both Judges were aware that the sentencing followed a plea of guilty.

The appellant also has complained generally about the severity of the sentence. The sentence is a stern one but none of the points raised by the appellant are matters of law alone. Accordingly, acting under s.35(2) of the Court of Appeal Act as amended, I dismiss the appeal.

-11 Dated at Suva this, the October 2001. 8200 serve eren Thomas Eichelbaum Justice of Appeal



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