

IN THE COURT OF APPEAL, FIJI AT SUVA

CRIMINAL APPEAL NO. AAU0014/2000
(High Court Criminal Appeal No. HAA120 of 1999L)

BETWEEN: VATEMO TURUKAWA *Appellant/Applicant*

AND: THE STATE *Respondent*

APPLICATION FOR LEAVE TO EXTEND TIME FOR APPEAL

1. After a defended hearing in the Magistrates' Court the applicant was convicted of rape of his step daughter. Her evidence was uncorroborated but the Magistrate, having correctly directed herself with regard to the legal requirements, accepted the uncorroborated evidence of the complainant.
2. On 8 February 2000 the applicant's appeal against conviction and sentence was dismissed by a Judge of the High Court acting under rule 313(2) of the Criminal Procedure Code, on the basis that there was no material raising a reasonable doubt whether the conviction was right or leading him to the opinion that the sentence ought to be reduced. Thus the appeal was summarily dismissed.
3. On 12 April 2000 the applicant wrote requesting the record of the proceedings for purposes of a further appeal. The file does not disclose when this was supplied, although the applicant complained about the delay, so it may be assumed it was not supplied immediately. At any rate it was not until 25 June 2001 that the applicant wrote a letter expressing the wish to appeal further against conviction and sentence, and applying for an extension of time.

4. As the applicant appreciated any second appeal can only be on a question of law. In his letter the applicant referred to two grounds. First he complained that the learned Magistrate misdirected herself as to the burden of proof, but a perusal of the judgment does not lend any support to this contention. Secondly the applicant referred to the decision being unreasonable and not supported having regard to the evidence, and that the evidence was not sufficient to support the conviction. However, in the case of a second appeal to this Court, these matters do not constitute grounds for an appeal.
5. The applicant has not shown any tenable grounds for a further appeal. Accordingly I dismiss the application.

Dated at Suva this 12 October 2001.



Thomas Eichelbaum

Thomas Eichelbaum
Justice of Appeal