

**IN THE COURT OF APPEAL**  
**CRIMINAL JURISDICTION**

**APPEAL No. AAU 25 of 2011**  
**(High Court HAC 81 of 2010)**

**BETWEEN** : **SAVENACA MATAKI** *Appellant*

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

**Coram** : **Calanchini P**  
**Kumararatnam JA**  
**Bandara JA**

**Counsel** : **Appellant in person.**  
**Mr L Fotofili for the Respondent**

**Date of Hearing** : **20 September 2013**

**Date of Ruling** : **25 October 2013**

**RULING**

[1] In a Ruling delivered on 12 December 2012 the Resident Justice of Appeal, in accordance with Rule 39 of the Court of Appeal Rules and the Supreme Court decision in **Jone Masirewa –v- The State** (unreported CAV 14 of 2008; 17 August

2010), directed that the Appellant's application to withdraw his appeal against sentence be listed for determination by the Court of Appeal.

[2] When the matter was called before the Court of Appeal the Appellant informed the Court that he now wanted to withdraw his application to abandon his appeal. As he had not formerly applied in writing to abandon his appeal and since no determination had been made, his appeal remained alive. There is therefore no impediment to his withdrawing his application to abandon his appeal and I would be prepared to allow the Appellant's appeal against sentence to remain in the list.

**Kumararatnam JA**

[3] I agree with the conclusion and proposed orders of Calanchini P.

**Bandara JA**

[4] I also agree.

**Orders:**

*The Appellant's application to abandon his appeal against sentence is marked withdrawn and his appeal is extant.*

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**HON. MR JUSTICE CALANCHINI**  
**PRESIDENT**

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**HON. MR JUSTICE KUMARARATNAM**  
**JUSTICE OF APPEAL**

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**HON. MR JUSTICE BANDARA**  
**JUSTICE OF APPEAL**