

IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT

CRIMINAL APPEAL NO: AAU 52 of 2013
(High Court HAC 32 of 2012 at Labasa)

BETWEEN : **TEBABURE KIRITIAN**
Appellant

AND : **THE STATE**
Respondent

Coram : **Calanchini P**
Kumararatnam JA

Counsel : **Ms N Nawasaitoga for the Appellant**
Mr L Fotofili for the Respondent

Date of Hearing : **10 September 2014**

Date of Judgment : **13 October 2014**

JUDGMENT

Calanchini P

[1] This is an application by the Appellant seeking leave to abandon his appeal under Rule 39 of the Court of Appeal Rules (the Rules). The Court is duly constituted by two judges pursuant to section 6(2) of the Court of Appeal Act Cap 12 (the Act).

- [2] On 19 September 2012 the Appellant was convicted on two counts of sexual assault and one count of indecent assault in the High Court at Labasa. On the same day he was sentenced to a term of imprisonment of 8 years with a non-parole term of 6 years. The Appellant subsequently filed and served an application for leave to appeal against sentence.
- [3] On 6 June 2014 the Appellant filed a notice of abandonment of appeal as required by Rule 39 of the Rules.
- [4] When the matter was called on for hearing counsel for the Appellant informed the Court that the Appellant had instructed the Legal Aid Commission to make the application following advice that he had received from his legal practitioners.
- [5] Counsel informed the Court that the Appellant understood that his decision to abandon the appeal will lead to the dismissal of the appeal.
- [6] As a result the Court grants the Appellant leave to abandon his appeal. The Appeal is dismissed.


Kumararatnam JA

- [7] I agree that the appeal should be dismissed.

Order:

Appeal dismissed.





HON. MR JUSTICE CALANCHINI
PRESIDENT, COURT OF APPEAL



HON. MR JUSTICE KUMARARATNAM
JUSTICE OF APPEAL