

**IN THE COURT OF APPEAL, FIJI**  
**ON APPEAL FROM THE HIGH COURT OF FIJI**

**CRIMINAL APPEAL AAU 46 of 2015**

(High Court HAA 51 of 2014 [Ltka])

(Magistrates Court 223 of 2013[Nadi])

**BETWEEN** : **RAKESH KUMAR**

**Appellant**

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

**Respondent**

**Coram** : **Calanchini P**

**Counsel** : **No appearance for the Appellant**  
**Ms P Madanavosa for the Respondent**

**Date of Hearing** : **29 April 2016**

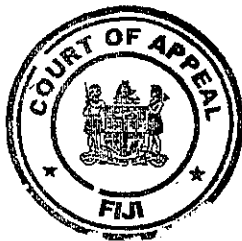
**Date of Ruling** : **27 June 2016**

**RULING**

[1] The Appellant was convicted in the Magistrates Court at Nadi on one count of obtaining property by deception and on one count of obtaining a financial advantage

by deception. The Appellant had pleaded guilty and on 6 October 2014 was sentenced to a term of imprisonment of 18 months with a non-parole term of 12 months.

- [2] The Appellant subsequently filed on about 13 October 2014 a notice of appeal against sentence in the High Court. On 18 February 2015 the Appellant, after consultation with the duty solicitor, applied to withdraw his appeal. The Respondent did not object. As a result the learned High Court Judge granted the application and dismissed the appeal.
- [3] The Appellant then filed a timely appeal against sentence in the Court of Appeal under section 22 of the Court of Appeal Act Cap 12 (the Act). When the appeal was called on for mention on 29 April 2016 the Court was informed that the Appellant had been released as he had served his sentence. The Court was also informed that the Appellant had not provided a forwarding or contact address. Since May 2015 the Appellant has not made any contact with the Registry. The Registry has not been able to contact the Appellant.
- [4] Under those circumstances the Court is compelled to conclude that the Appellant no longer intends to pursue his appeal. As a result the appeal is dismissed as being vexatious under section 35(2) of the Act.



*W. Calanchini*

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Hon. Mr Justice W. D. Calanchini  
PRESIDENT, COURT OF APPEAL