

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

**CRIMINAL APPEAL AAU 163 OF 2015**

(High Court HAA 13 of 2015)  
(Magistrates Court No: 1271 of 2011)

**BETWEEN** : **TIMOCI CINAUILAKEBA**  
*Appellant*

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

**Coram** : **Calanchini P**  
**Chandra JA**

**Counsel** : **No appearance for the Appellant**  
**Mr M Vosawale for the Respondent**

**Date of Hearing** : **22 February 2018**

**Date of Ruling** : **29 March 2018**

**RULING**

**Calanchini P**

[1] The Appellant was convicted after trial in the Magistrates Court on one count of receiving a bribe contrary to section 135(1) (a) (ii) and (b) (i) of the Crimes Act 2009. The Appellant then appealed to the High Court against his conviction. The appeal was dismissed on 9 October 2015.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by about 11 days. On 2 March 2017 the Appellant filed an application to abandon his appeal against conviction and sentence pursuant to Rule 39 of the Court of Appeal Rules.
- [3] In accordance with the decision of the Supreme Court in Masirewa –v- The State (CAV 14 of 2008; 17 August 2010) the application to abandon the appeal was listed for hearing before the Court of Appeal. When the application was called there was no appearance by or on behalf of the Appellant. The Appellant had served his sentence and had been discharged. The Court was informed that the Appellant was not known at the address given for the service of notices.
- [4] Under the circumstances the application to abandon the appeal against conviction and sentence is granted and the appeal is dismissed.

**Chandra JA**

- [5] I agree.

Orders:

*Appeal against conviction and sentence is dismissed.*



*W. Calanchini*

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

*S. Chandra*

Hon Mr Justice S. Chandra  
**JUSTICE OF APPEAL**