

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

CRIMINAL APPEAL NO. AAU 10 OF 2016  
(High Court HAC 208 of 2014)

BETWEEN : SERUPEPELI CURUQARA *Appellant*

AND : THE STATE *Respondent*

Coram : Calanchini P  
Chandra JA

Counsel : Mr M Fesaitu for the Appellant  
Ms S Tivao for the Respondent

Date of Hearing : 18 February 2019

Date of Ruling : 29 March 2019

RULING

Calanchini P

- [1] The appellant Curuqara along with Asikinasa Waqa was convicted on 10 December 2014, by the High Court at Suva on 4 counts of rape. Both were sentenced to terms of imprisonment of seven years with non-parole terms of 5 years.

- [2] Both Appellants subsequently filed a joint notice of appeal against sentence that was out of time by about 12 months. On 13 December 2018 the Appellant Curuqara filed an application to abandon his appeal against 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. At the hearing the appellant confirmed that his decision to abandon the appeal was made voluntarily. He confirmed that he had received legal advice and that he understood the consequences in the event that his application were granted.
- [4] The appeal filed by the appellant Waqa had been dismissed in a Ruling dated 14 December 2017 on his application to abandon his sentence appeal.
- [5] Under the circumstances the application by Curuqara to abandon his appeal against sentence should be granted and the appeal should be dismissed.

**Chandra JA**

- [6] I agree.

Order:

*Appeal against sentence by Curuqara is dismissed.*



*W. Calanchini*

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

*S Chandra*

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