

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**[APPELLATE JURISDICTION]**

**CRIMINAL APPEAL NO. HAA 17 OF 2024**

**BETWEEN** : AMENIASI LUTUA

**AND** : STATE

**Counsel** : Mr A Sen for the Appellant  
Mr J Nasa for the Respondent

**Date of Hearing** : 21 August 2025

**Date of Judgment** : 21 August 2025

**JUDGMENT**

1. The Appellant was a police officer who, along with three other officers, was tried and convicted of *Assault Causing Actual Bodily Harm*. On 4 March 2024, the Magistrates' Court at Labasa sentenced him to 12 months' imprisonment - 6 months to be served in custody and 6 months suspended for 2 years.
2. The prosecution alleged that the four officers assaulted the complainant, an adult male, with a baton during his arrest at his residence in Siberia, Labasa, on 14 March 2015.

3. Following their convictions, all four accused appealed to the High Court. However, on 17 April 2024, the Appellant withdrew his appeal, while the remaining three proceeded.
4. On 21 May 2024, Justice Dalituicama allowed the appeals of the three co-accused and quashed their convictions and sentences (Chand & Ors Criminal Appeal No. HAA05 of 2024). His reasoning, summarized in paragraphs [46]–[48], included:
  - **[46]** The Magistrate’s judgment failed to adequately consider the defence evidence. Although the judgment recited much of the defence testimony, it lacked sufficient reasoning and evaluation. This constituted a miscarriage of justice.
  - **[47]** Accordingly, the convictions and sentences of the Appellants were set aside.
  - **[48]** The Court considered the possibility of a retrial but declined to order one. The offence occurred in 2015, and the case concluded in 2024. Given the delay and that the Appellants had already served nearly 3 months in prison, a re-trial would be unjust.
5. As no re-trial was ordered, the co-accused were effectively acquitted, while the Appellant remained convicted.
6. After learning of the outcome, the Appellant filed a fresh appeal on 31 July 2024 and sought an extension of time to appeal.
7. Despite the 4-month delay, the State conceded the appeal. In their written submissions, the State acknowledged:
  - Justice Dalituicama’s ruling addressed all grounds of appeal raised by the three co-accused.
  - The grounds that succeeded in their cases—particularly grounds 1, 3, 4, 5, and 6—were essentially the same as those advanced in the Appellant’s current appeal.

- The Court’s analysis in HAA05, HAA07, and HAA08 of 2024 (paragraphs 30–36) was equally applicable to the Appellant’s case.
  - Therefore, the appeal had merit and was likely to succeed.
8. The State’s concession was fair. All four accused were tried for the same offence and presented the same defence—that they did not carry batons and that the complainant’s claim of being beaten was false. The appellate court found that the trial magistrate failed to properly evaluate the defence case, resulting in a miscarriage of justice. That finding applies equally to the Appellant.
9. In the interests of justice, the Appellant’s appeal is allowed, and his conviction and sentence are set aside.

**Final Orders**

- Extension of time to appeal: Allowed
- Appeal: Allowed
- Conviction and sentence: Set aside
- Retrial: No order for retrial



A handwritten signature in black ink, appearing to read "Daniel Goundar", is written over a horizontal dotted line.

**Hon. Mr. Justice Daniel Goundar**

**Solicitors:**

Sen Lawyers for the Appellant

Office of the Director of Public Prosecutions for the State