

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

CRIMINAL APPEAL NO. AAU 22 OF 2016
(High Court HAC 124 of 2013)

BETWEEN : **SALESH KUMAR**
Appellant

AND : **THE STATE**
Respondent

Coram : **Calanchini P**
Chandra JA

Counsel : **Ms S Nasedra for the Appellant**
Mr R Kumar for the Respondent

Date of Hearing : **22 November 2018**

Date of Ruling : **30 November 2018**

RULING

Calanchini P

- [1] Following a trial in the High Court at Suva the appellant was convicted on one count of manslaughter. On 15 October 2015 the appellant was sentenced to a term of imprisonment of 4 years 10 months with a non-parole term of 3 years with effect from 15 October 2015.

- [2] The Appellant subsequently filed a notice of appeal against conviction and sentence that was out of time by 4 months. On 14 June 2018 the Appellant filed an application to abandon his late 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) that 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. The reason for abandoning the appeal was that he had received notice of his proposed release date.
- [4] Under the circumstances the application to abandon the late appeals against conviction and sentence is granted and the appeals are dismissed.

Chandra JA

- [5] I agree.

Orders:

Appeals against conviction and sentence are dismissed.



W. Calanchini

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

S Chandra

Hon Mr Justice S Chandra
JUSTICE OF APPEAL