

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

**Criminal Appeal No: AAU 0011 of 2015**  
**(High Court Case No: HAC 072 of 2014)**

**BETWEEN** : **SHASHI MAHEN CHAND**

*Appellant*

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

*Respondent*

**Coram** : Basnayake JA  
A. Fernando JA  
Jayamne JA

**Counsel** : Appellant in person  
Mr. L.J. Burney for the Respondent

**Date of Hearing** : 11 February 2016

**Date of Judgment** : 26 February 2016

**JUDGMENT**

**Basnayake JA**

[1] The appellant seeks leave of Court to abandon his appeal.

- [2] The appellant in this case was convicted and sentenced on 14 October 2014 to a term of 9 years and 1 month imprisonment with a non parole period of 7 years for raping a girl of 5 years of age by penetrating her vagina with the fingers of the appellant. On 30 December 2014 the appellant filed a notice of enlargement of time for leave to appeal and an application to appeal against the conviction. On 15 May 2015 the appellant sent a memorandum seeking to withdraw his appeal.
- [3] When this case was taken up for inquiry, the appellant was present in court, being produced by the prisons. He had no representation. He could not speak English. He was assisted by the Officiating Registrar who did the interpretation. He denied that he ever filed an application to withdraw his appeal. When the court asked whether he wished to withdraw his appeal he said “no”. He further stated that he wants to proceed with the case. He admitted to having placed his signature to a document dated 15 May 2015. He said he never gave instructions to withdraw his appeal.
- [4] Considering the length of time that the appellant has to serve in prison and his intention to proceed with his leave application for enlargement of time and leave to appeal against the conviction I am of the view that this application for withdrawal should be disallowed. The appellant had clearly shown his intention to proceed with the appeal. The learned counsel for the respondent too moved that this case be listed in due course.
- [5] The Registrar is therefore directed that this leave to appeal application be listed for hearing in due course.

**A. Fernando JA**

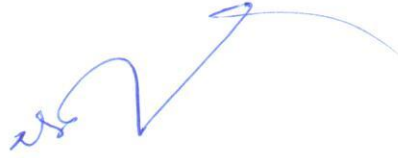
- [6] I agree.

**Jayamanne JA**

[7] I agree.

**The Orders of the Court are:**

1. *Application to withdraw the appeal is disallowed.*
2. *The leave and enlargement application to be listed in due course.*



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**Hon. Mr. Justice E. Basnayake**  
**JUSTICE OF APPEAL**



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**Hon. Mr. Justice A. Fernando**  
**JUSTICE OF APPEAL**



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