

**THE REPUBLIC OF UGANDA**  
**IN THE COURT OF APPEAL OF UGANDA**  
**HOLDEN AT MBALE**

(Coram: Egonda Ntende, Cheborion Barishaki, Muzamiru Kibeedi, JJA)

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**CRIMINAL APPEAL NO. 365 OF 2016**

**1. KIGOZI LIVINGSTONE**

**2. SSALI IBRAHIM alias BULU ::: APPELLANT**

10

**VERSUS**

**UGANDA ::: RESPONDENT**

*[Arising from the decision of the High Court sitting at Mukono (Hon. Lady Justice Mutonyi Margaret) dated 21/11/2016 in Criminal Case No.088 of 2016]*

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**JUDGMENT OF THE COURT**

The appellants were indicted with two counts - Manslaughter contrary to Sections 187 and 190 of the Penal Code Act and Aggravated Robbery contrary to Sections 285 and 286(2) of the Penal Code Act.

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The particulars of the offence of manslaughter stated that Kigozi Livingstone, Walugendo Sam alias Kajongolo, Ssali Ibrahim alias Bulu and others at large, on the 24<sup>th</sup> night of March 2013, at Kanjuki Village in Kayunga District unlawfully caused the death of Nakyoni Robinah.

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The particulars of the offence of Aggravated Robbery stated that Kigozi Livingstone, Walugendo Sam alias Kajongolo, Ssali Ibrahim alias Bulu and others at large, on the 24<sup>th</sup> night of March 2013, at Kanjuki Village in Kayunga District robbed a one Nakyoni Robinah of her towels, pillow case, clothes, television remote (Sonia) control, electric cable for T.V, photographs, bible, blankets, mattress, receipt, 30 bags of maize, 3 bags of

soya beans, car battery, television set, weighing scale and other household  
30 items and at or immediately before or immediately after the time of the said  
robbery, caused the death of Nakyoni Robinah.

The background to this case as established by the trial judge is that the  
deceased, Robinah Nakyoni, lived alone in Kanjuki village in Kayunga  
District. On the 24<sup>th</sup> day of March 2013, the appellants and others still at  
35 large went to the home of the deceased, broke into her house, stole her  
properties and strangled her to death. Her decomposing body was found  
some days later in her house and taken for post mortem.

After the death of the deceased, some of the stolen items were loaded on a  
motorcycle UDX 402B that was being ridden by the 1<sup>st</sup> appellant, Kigozi  
40 Livingstone. A one Kayanja Silver saw the 1<sup>st</sup> appellant carrying the  
deceased's property on the said motorcycle at an odd hour and when he  
tried to inform his friends, the appellant sped off. Some properties fell off the  
motorcycle and Kayanja picked and took them to the L.C.1 Chairman of  
Kanjuki village. The said properties were exhibited after being identified by  
45 Bukirwa Janet as property of the deceased.

After the deceased's death, the 1<sup>st</sup> appellant fled the village but the police  
traced for him and was arrested in Najjera while hiding in a friend's house.  
The appellant confessed and the confession led to the arrest of the 2<sup>nd</sup>  
appellant. They were examined and found to be adults with normal mental  
50 dispositions.

During the course of the investigations, a search was conducted in the  
house of the 1<sup>st</sup> appellant and police recovered several properties belonging  
to the deceased. A further search was conducted in the house of the 2<sup>nd</sup>  
appellant and the police recovered one sleeveless cream blouse, a bible, a

55 wall clock, a photograph, and a red hand bag all belonging to the deceased that had been stolen on the fateful night.

The appellants were indicted with two counts - Manslaughter contrary to Sections 187 and 190 of the Penal Code Act and Aggravated Robbery contrary to Sections 285 and 286(2) of the Penal Code Act.

60 The 1<sup>st</sup> Appellant was convicted on his own plea of guilty to the offence of manslaughter and sentenced to 20 years imprisonment. He denied the offence of Aggravated Robbery and was tried, convicted and sentenced to 50 years' imprisonment for the offence of Aggravated Robbery.

As for the 2<sup>nd</sup> Appellant, he denied both offences and was tried and  
65 convicted only on the count for Aggravated Robbery and sentenced to 50 years' imprisonment.

The appellants were dissatisfied with the decision of trial court and appealed to this court. The 1<sup>st</sup> appellant's appeal is against the sentence only, while the 2<sup>nd</sup> appellant appealed against both conviction and sentence.

#### 70 **Representations.**

At the hearing of the appeal, Ms. Luchivya Faith, appeared for the appellant on State Brief, while Ms. Nyanzi Macrina Gladys, an Assistant Director of Public Prosecutions in the Office of the Director of Public Prosecutions appeared for the respondent.

#### 75 **Grounds of Appeal.**

The Memorandum of Appeal filed by the appellants on 21.07.2020 set out the following grounds:

- 80
1. That the Learned Trial Judge erred in law and fact when she sentenced the 1<sup>st</sup> Appellant to a harsh and excessive sentence of 20 years for manslaughter and 50 years for Aggravated Robbery without taking into account the period spent on remand which occasioned a miscarriage of justice.
  - 85 2. The Learned Trial Judge erred in law and fact when she convicted and sentenced the 2<sup>nd</sup> appellant to a harsh and excessive sentence of 50 years for aggravated robbery when no clear evidence was led by the prosecution pinning him to the offence.

During the hearing, leave was granted to the Counsel for the appellants to amend the Memorandum of Appeal to separate ground two to read as follows:

- 90
- The Learned Trial Judge erred in law and fact when she failed to evaluate the evidence and convicted the 2<sup>nd</sup> appellant the way she did.
  - The Learned Trial Judge erred in law and in fact when she sentenced the 2<sup>nd</sup> Appellant to a harsh and excessive sentence of 50 years.

95 The effect of the above amendment is that there are now three grounds of appeal namely:

- 100
1. That the Learned Trial Judge erred in law and fact when she sentenced the 1<sup>st</sup> Appellant to a harsh and excessive sentence of 20 years for manslaughter and 50 years for Aggravated Robbery without taking into account the period spent on remand which occasioned a miscarriage of justice.

2. The Learned Trial Judge erred in law and fact when she failed to evaluate the evidence and convicted the 2<sup>nd</sup> appellant the way she did.
3. The Learned Trial Judge erred in law and in fact when she sentenced the 2<sup>nd</sup> Appellant to a harsh and excessive sentence of 50 years.

105 Both parties filed written submissions which they adopted when the appeal came up for hearing.

### **Appellant's Arguments.**

110 Counsel first attacked what she saw as flaws in the prosecution evidence which would have led to the acquittal of the 2<sup>nd</sup> appellant if the trial judge had properly evaluated the evidence before her.

She submitted that from the evidence on record no witness linked the 2<sup>nd</sup> respondent to the death of the deceased by strangulation.

115 Counsel argued that none of the appellants were present as the search was conducted at their respective homes. That A3 was in prison on a different charge and one wonders how he committed the murder in the instant appeal.

120 Counsel raised concerns as to how the properties recovered from the 2<sup>nd</sup> appellant's home were discovered to be there when even the 2<sup>nd</sup> appellant's wife was not aware of them. Counsel submitted that the 2<sup>nd</sup> appellant had several homes and that court did not explore the various ways the stolen items could have got into his house, especially without the wife's knowledge.

Counsel also attacked the 1<sup>st</sup> appellant's Charge and Caution Statement to the effect that it only stated that they used the 2<sup>nd</sup> appellant's truck but does not expressly state that the 2<sup>nd</sup> appellant was part of the murder.

125 With regard to the sentences, Counsel submitted that the law on taking into  
account the period spent on remand has been considered in a number of  
cases including the recent one where the Supreme Court in its 30<sup>th</sup> July 2018  
decision in Ngobya Aloysious Vs Uganda SC. Criminal Appeal No.265 of  
2011, held that a sentence arrived at without taking into account the period  
130 spent on remand is illegal for failure to comply with the constitutional  
provisions.

She argued that in the instant case, the period the appellants spent on  
remand had not been considered by the learned trial Judge. That the trial  
judge had only stated that "the period spent on remand inclusive" which is  
very vague.

135 Counsel concluded by praying that this court be pleased to allow the appeal  
and sentence the 1<sup>st</sup> appellant to an appropriate sentence.

As for the 2<sup>nd</sup> appellant, Counsel prayed that the conviction be quashed, the  
sentence set aside and he be acquitted.

### **Respondent's Arguments.**

140 Counsel for the respondent opposed the appeal and submitted that the  
learned trial Judge was alive to the Penal Code Act as regards the  
punishment that was given to the 1<sup>st</sup> Appellant and that she was lenient in  
giving the 1<sup>st</sup> appellant the 20 years' sentence for the offence of  
Manslaughter. But Counsel conceded that the sentence of 50 years'  
145 imprisonment in respect of Aggravated Robbery was a bit harsh and  
proposed 40 years instead.

Counsel argued that court considered the time spent on remand.

150 She further submitted that the trial Judge properly evaluated the evidence on record and properly convicted the 2<sup>nd</sup> appellant of the offence of Aggravated Robbery. But she likewise conceded the term of 50 years' imprisonment handed to the 2<sup>nd</sup> appellant was on the higher side.

### **Consideration by the Court.**

155 As a first appellate Court, our duty is to reconsider all material evidence that was adduced before the trial court and come to our own conclusions of fact and law while making allowance for the fact we neither saw nor heard the witnesses. See Rule 30(1)(a) of the Judicature (Court of Appeal Rules) Directions, Bagumo Fred Vs Uganda SCCA No. 7 of 2004, Kifumante Henry Vs Uganda SCCA No. 10 of 1997, and D.R Pandya Vs R [1957] EA 336.

160 It is with the above principles in mind that we shall now proceed to consider this appeal. We shall first dispose of ground 2 which deals with evaluation of the evidence leading to the conviction of the 2<sup>nd</sup> appellant of the offence of Aggravated Robbery by the trial court. Thereafter we shall consider grounds 1 and 3 jointly.

### **Ground No. 2 – Evaluation of Evidence.**

165 The complaint of the 2<sup>nd</sup> appellant in respect of the amended ground 2 is that the trial judge failed to evaluate evidence before her which led to the wrongful conviction of the 2<sup>nd</sup> appellant of the offence of aggravated robbery.

The respondent disagreed to this.

170 A close look at the Record of Proceedings of the trial court indicates the prosecution evidence which linked the 2<sup>nd</sup> appellant to participation in the offence of aggravated robbery consisted of the following:

PW1 Kayanja Silver testified that on the 24<sup>th</sup> of March 2013 after he and his friends had loaded tomatoes onto a vehicle and were making arrangements to take them to Kampala, he went back home to pick his jacket. As he was  
175 going home, he met the 1<sup>st</sup> appellant on a Motor Cycle Reg. No. UDX 402B loaded with property which included a blanket, mattress and a sack of maize. When he tried to get near where the 1<sup>st</sup> appellant was, he took off towards his home and abandoned some of the property. The time was around  
180 Midnight but that he (PW1) was able to recognize the 1<sup>st</sup> appellant because the moon was bright and he knew him very well. That he screamed calling his friends who were on the vehicle and when they came he moved with some of them to the LC1 Chairman's home. The Chairman told them to take the abandoned properties to his home and they complied. The properties were subsequently identified by the deceased's sister, PW2 Bukirwa Janet  
185 as belonging to the deceased.

PW2 Bukirwa Janet assisted in the location and arrest of the 1<sup>st</sup> appellant from Najjera after he had disappeared from his usual residence in Kanjuki Village. She stated that during the arrest, the 1<sup>st</sup> appellant pleaded for forgiveness and informed the witness and the arresting officer that he was  
190 not involved in the commission of the crimes alone. That they had made the plan 6 of them including the 2<sup>nd</sup> appellant. That after killing the deceased and robbing her property, they shared it amongst themselves.

When the police subsequently went to do a search on the home of the 2<sup>nd</sup> appellant at Kanjuki Trading Centre she was present and able to identify the  
195 property of the deceased that had been stolen on the fateful night that was recovered during the search. The property included one Bible with the names of the deceased and a photograph in which appeared the deceased



and Bukirwa (PW2), one sleeveless cream blouse, a wall clock, receipts bearing the deceased's names and a red hand bag.

200 PW3 Kolyanga Henry stated that he was a Detective Assistant Inspector of Police attached to Kayunga Police Station. That on the instruction of his supervisor and the District CID Officer, ASP Tushime Allan, he had linked up with PW2 Bukirwa and, with the assistance of some informant, been able to locate the residence of the 2<sup>nd</sup> appellant in Kanjuki Trading Centre. He  
205 found it locked and was assisted by the Secretary LC1 of the area, Mr. Ntulume John, to trace the wife of the 2<sup>nd</sup> appellant, Ms Nandawula Immaculate. He introduced himself to Ms Nandawula, and asked her about the whereabouts of her husband, the 2<sup>nd</sup> appellant. She informed him that he was in prison. He informed her that he was going to do search her house  
210 and she accepted, opened the house for them and the search was conducted in the presence of Ms Nandawula Immaculate, Mr. Ntulume John and Ms Bukirwa among others. During the search properties belonging to the deceased that had been stolen on the fateful night were found at the residence and identified by the deceased's sister, Ms Bukirwa. The details of  
215 the properties were set out in the Search Certificate issued by PW3, dated 14.08.2013 and signed by, among others, Nandawula Immaculate as "Wife to Bulaim Ssaali", Ntulume John as "Secretary" and Bukirwa Janet. The Search Certificate was tendered into court by the witness as Exhibit "PE3".

PW4 Nsubuga Stanley John testified that he was the Chairperson of Kanjuki  
220 Village. He confirmed that he knew the 2<sup>nd</sup> appellant and his home in Kanjuki Village. He confirmed that he knew the deceased. He confirmed having received from PW1 the stolen property that had been abandoned by the 1<sup>st</sup> appellant at night and having handed the same over to the police after they had been identified by Ms Bukirwa as property of her deceased sister.

225 PW5 No. 31958 Detective Sergeant Ongom Samuel Victor testified that he was a Police Officer attached to Kayunga Police Station. That he carried out a search at the house of the 1<sup>st</sup> appellant on the 22<sup>nd</sup> April 2013 located in Ntenjeru Village in the presence of among others, the LC1 Chairman, Mr. Semakula Edward, the 1<sup>st</sup> appellant's Landlady, Ms Nakintu Rosemary and  
230 Ms Bukirwa Janet. During the search they recovered several properties which were identified by Ms Bukirwa as property of the deceased that had been stolen on the fateful night. The details of the property were set out in the Search Statement tendered into court by the witness and marked "PE4".

PW6 Ntulume John testified that he was the Secretary of Kanjuki Village.  
235 That he had known the 2<sup>nd</sup> appellant for a long time as a resident of their village and his wife, Nandawula Immaculate. That he had been requested by the Police to accompany them to the home of the 2<sup>nd</sup> appellant and found it closed. There was no body. He assisted the police look for the 2<sup>nd</sup> appellant's wife, Nandawula Immaculate. They found her at her mother's  
240 shop, went with her to her home and when they reached she opened the door. The search was then carried out by the police in the presence of Nandawula and the witness and they all signed on the Search Certificate, Exhibit PE3.

PW7 No. 35238 Detective Corporal Okumait Drake testified that at the  
245 material time he was a Police Officer at Kayunga Police Station attached to the CID. That after the 1<sup>st</sup> appellant had been arrested from Najjera, he confessed having participated in the murder and robbery and told the witness that he was with other people; he was not alone. That those mentioned as having participated included the 2<sup>nd</sup> appellant. That the witness  
250 immediately took the 1<sup>st</sup> appellant to an Officer of the rank of Inspector who took his Charge and Caution Statement. The Statement was written both in

Luganda and English and in it the 1<sup>st</sup> appellant confirmed that it was true that he had participated in the murder of the deceased and the other participants included the 2<sup>nd</sup> appellant. The Charge and Caution Statement of the 1<sup>st</sup> 255 appellant was admitted in evidence and marked "PE5".

That following the confession, they had to trace for Kajongolo and the 2<sup>nd</sup> appellant for Statement recording and fortunately at the time they were already in prison on charges of stealing cattle after the commission of the murder.

260 The witness also stated that he was the one who received the property that had been recovered during the search of the house of the 2<sup>nd</sup> appellant and exhibited it.

PW8 Detective ASP Allan Twishime testified that at the material time he was the Kayunga District CID Officer. That he received information from an 265 unnamed informant that the 2<sup>nd</sup> appellant's wife, Immaculate, had told a friend during a conversation that she had been called by her husband and told her that the police was suspecting him of having participated in the murder of the deceased. That there were some items that had been brought by the 2<sup>nd</sup> appellant which were still in their home and that the 2<sup>nd</sup> appellant's 270 wife was looking for a way of handling the said items.

He said that upon receipt of this information he directed one of his officers, Detective AIP Kolyanga to proceed and carry out a search at the home of the 2<sup>nd</sup> appellant and the officer complied.

In his evidence given on oath, the 1<sup>st</sup> appellant sought to retract his 275 confession and stated that he had committed the offence alone but had mentioned the participation of the 2<sup>nd</sup> appellant and others because he had

280 been tortured by the police before making the statement. He sought to defend the 2<sup>nd</sup> appellant by claiming that Ms Nandawula Immaculate was his mistress and not the wife of the 2<sup>nd</sup> appellant but failed to name the landlord of the house rented by Nandawula and the father of Nandawula's child.

285 The 2<sup>nd</sup> appellant gave unsworn evidence and stated that on the night of 24<sup>th</sup> March 2013 he was at his home in Nakifuma and denied having committed the offences charged. He denied that Nandawula was his wife and that her home in Kanjuki was his. He however admitted that Nandawula had been her lover and that they have a child called Aisha who was 3 years and 8 months. But that in the year 2013 they had separated. He denied knowledge of the items that had been recovered by the police from the house where Nandawula was staying. He confirmed that it was around 20<sup>th</sup> – 21<sup>st</sup> April 2013 that he was arrested on charges of stealing cattle.

290 DW4 Namatovu Violet stated that she was the wife of the 2<sup>nd</sup> appellant and had six children with him. She was a housewife and had come to court to testify about the charges against her husband of stealing cattle. She stated that on the fateful night her husband was at their home in Nakifuma. She was neither aware of Nandawula being a wife of the 2<sup>nd</sup> appellant nor the child Nandawula had with the 2<sup>nd</sup> appellant.

When dealing with the participation of the 2<sup>nd</sup> appellant in the commission of the offence of aggravated robbery, the trial judge stated thus:

300 *"... Besides A1's confession, A3 is implicated by the Doctrine of recent possession which is simply evidence that the Accused was in possession of recently stolen property which may be evidence that he was either the thief or receiver of the property in the absence of any reasonable explanation for that possession.*

305 *In deciding whether the stealing was recent, or whether there has been any reasonable possible explanation and whether the inference of guilt should be drawn, the whole defence by the accused should be considered and all the circumstances of the case.*

*For the doctrine of recent possession to apply, court must be satisfied that;*

310 *(1) The property the subject matter of the charge was in the possession of the Accused*

*(2) That it was stolen recently*

*(3) No reasonable explanation has been given by the Accused*

315 *I am satisfied beyond reasonable doubt, that the property was recovered from A3's house which was under his constructive possession because he was in prison.*

*His spouse, the mother of his child was occupying it. It was known by the local Council authorities as his house and the occupant was known as his wife.*

320 *I am also satisfied that the property of the late Nakyoni Robina was recently stolen. A3 is not denying the fact of the robbery. He is denying participation. A3 merely denied participation and relied on A1's lies in his defence yet he voluntarily made a confession implicating A3.*

325 *A3 therefore failed to offer any reasonable explanation as to how the stolen property reached under his bed.*

330 *Section 20 of the Penal code Act provides "that when two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another and in the Prosecution of that purpose an offence is committed of such a nature that its commission was a probable consequence of the Prosecution of that purpose, each of them is deemed to have committed the offence." The learned state Attorney relied on the case of Ismail Kisengerwa and Another Vs Uganda Criminal Appeal No6/1978 where the court of Appeal stated the doctrine of common intention as follows: "It is now settled that an unlawful common intention does not imply a pre-arranged plan.*

335 *Common intention can be inferred from the presence of the accused person, their actions and the omission of any of them to disassociate himself from the offence"*

340 Court is very satisfied that common intention existed as clearly stated  
in A1's confession and corroborated by recovery of some of the stolen  
items from A3's home or house. All in all, the circumstances of this  
case point to the guilty of both A1 and A3. A3 fully participated in the  
Aggravated Robbery..."

345 From the above, it is very clear that the trial Judge properly evaluated the  
evidence before her and convicted the 2<sup>nd</sup> appellant accordingly. The above  
ground therefore fails.

### Grounds 1 and 3- Sentences

350 The complaint of the 1<sup>st</sup> appellant under ground No.1 is that the sentence of  
20 years' imprisonment for manslaughter and 50 years' imprisonment for  
Aggravated Robbery were harsh and excessive and did not take into  
account the period spent on remand.

As for the 2<sup>nd</sup> appellant, his complaint under the amended ground no. 3 is  
that the sentence of 50 years' imprisonment for the offence of aggravated  
robbery that was imposed on him was harsh and excessive.

355 The respondent's counsel disagreed.

In sentencing the appellants, the trial judge stated thus:

360 "...A1 is sentenced to 20 years on first count [Manslaughter] and 50  
years imprisonment on the second count [Aggravated Robbery], the  
sentences to run concurrently. Period spent on remand inclusive. A2  
is sentenced to 50 years' imprisonment for Aggravated Robbery  
period spent on remand inclusive."

Article 23(8) of the Constitution of the Republic of Uganda, 1995 imposes a  
mandatory obligation on the court to take into account the remand period  
while sentencing an accused person to a term of imprisonment.

365 In the instant case, the words used by the trial Judge to the effect that "*the period on remand inclusive*" were vague and did not clearly indicate that the period spent on remand had been taken into account.

In *Tatyama Fred V Uganda, Court of Appeal Criminal Appeal No.107 of 2012*, the learned trial Judge while sentencing that appellant noted that she  
370 had considered all the circumstances of the case and the period spent on remand before sentencing the appellant to twenty years imprisonment. This Court found that the said sentence was vague as the trial Judge was silent on whether the period of 3 years that the appellant had spent on remand had been deducted from the final sentence. This Court reduced the sentence to  
375 17 years and 4 months after taking into account the period that the appellant had spent on remand.

In the same vein, we find that the words used by the trial judge fell short of the standard set out in Article 23 of the constitution of the Republic of Uganda, 1995. Accordingly the sentences imposed by the trial judge are  
380 hereby set aside for being illegal and exercising our powers under section 11 of the Judicature Act, proceed to impose a fresh sentence upon the appellants. It is unnecessary to consider the second aspect of the complaint, whether or not the sentences were harsh and excessive.

At the time of commission of the offence, the 1<sup>st</sup> appellant was 23 years of  
385 age and a first offender. He pleaded guilty to the offence of Manslaughter. All these are mitigating factors. However he had killed an old woman in a very gruesome manner bordering on murder. And there is need for court to send clear signals about the sanctity of life through deterrent sentences.

As for the 2<sup>nd</sup> appellant, he was about 30 years of age at the time of  
390 commission of the offence and a first offender. But life was lost in the course  
of the robbery under circumstances bordering on a murder.

This Court is likewise bound to follow the principle of "parity" and  
"Consistency" while sentencing while bearing in mind that the circumstances  
under which the offences are committed are not necessarily identical. See  
395 Sentencing Principle No.6(c) of the Constitution (Sentencing Guidelines for  
Courts of Judicature) Practice Directions, 2013 – Legal Notice No.8 of 2013  
and Aharikundira Yustina Vs Uganda, Supreme Court Criminal Appeal No.  
27 of 2015.

In Baguma Abasi Vs Uganda, Court of Appeal Criminal Appeal No.192 of  
400 2009, the appellant hit the deceased with a big stick on the head and was  
sentenced to 10 years' imprisonment for manslaughter.

In Mumbere Julius Vs Uganda, Supreme Court Criminal Appeal No.15 of  
2014, the appellant who was aged 24 years shot the deceased with a gun  
and was sentenced by the Supreme Court to 10 years and two months'  
405 imprisonment for manslaughter.

In Ainobushobozi Venancio Vs Uganda, Court of Appeal Criminal  
Appeal No.242 of 2014, the appellant assaulted the deceased  
leading to his death and was sentenced to 12 years' imprisonment  
for the offence of manslaughter.

410 With regards to Aggravated Robbery, the tendency of this court has been a  
term of imprisonment ranging from 12 -25 years.



In Kakaire Iguru Ali & Anor Vs Uganda, Criminal Appeal No.784 of2014, the appellant was tried and sentenced to 14 years by the trial court. On appeal this court reduced the sentence to 10 years.

415 In Ssemiyingo Mark Vs Uganda, Court of Appeal Criminal Appeal No.137 of 2012, the appellant was tried and sentenced by the trial court to 15years imprisonment. The Court of Appeal reduced the sentence to 12 years.

In Abelle Asuman Vs Uganda, Supreme Court Criminal Appeal No.66 of 2016, the appellant was sentenced to 18 years' imprisonment for aggravated  
420 robbery.

In light of the above precedents, we find that grounds 1 & 3 succeed.

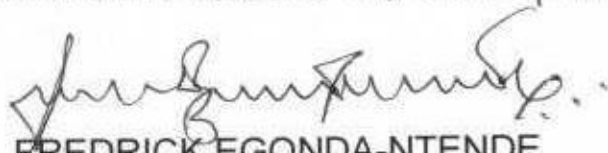
### **Decision.**

1. The 1st appellant is sentenced to 12 years' imprisonment for the offence of manslaughter. From that sentence, we give credit to the 1<sup>st</sup> appellant  
425 for having pleaded guilty to the offence of manslaughter which we put at 4 years, and this reduces the term to 8 years. We further deduct a period of 3 years and 6 months that the 1st appellant spent on pre-trial detention. We therefore sentence the appellant to a term of 4 years and 6 months to be served from the 21<sup>st</sup> day of November 2016, the date of conviction.
- 430 2. The 1st appellant is sentenced to 18 years' imprisonment for the offence of aggravated robbery. From that sentence, we deduct a period of 3 years and 6 months that the 1st appellant spent on pre-trial detention. We therefore sentence the appellant to a term of 14 years and 6 months to be served from the 21<sup>st</sup> day of November 2016, the date of conviction.
- 435 3. Both sentences of the 1<sup>st</sup> appellant shall run concurrently.

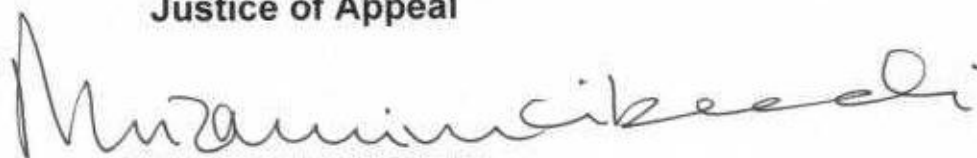
4. As for the 2<sup>nd</sup> appellant he is likewise sentenced to 18 years' imprisonment for the offence of aggravated robbery. From that sentence, we deduct a period of 2 months that the 2<sup>nd</sup> appellant spent on pre-trial detention. We therefore sentence the 2<sup>nd</sup> appellant to a term of 17 years and 10 months to be served from the 21<sup>st</sup> day of November 2016, the date of conviction.

5. We so order.

Signed, dated and delivered this ...15<sup>th</sup>... day of September 2020.

  
FREDRICK EGONDA-NTENDE  
Justice of Appeal

  
CHEBORION BARISHAKI  
Justice of Appeal

  
MUZAMIRU KIBEEEDI  
Justice of Appeal