

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL AT KAMPALA
CRIMINAL APPEAL NO 78 OF 2013

*(Arising from the Judgment of the High Court of Uganda in HCT-00-AC-CN 0011-2013 dated
13th June 2013 delivered by the Hon. Justice Paul K. Mugamba)*

IGAMU JOANITA..... APPELLANT

VERSUS

UGANDA RESPONDENT

CORAM: HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA
HON. MR. JUSTICE STEPHEN MUSOTA, JA
HON. LADY JUSTICE NIGHT PERCY TUHAISE, JA

JUDGMENT OF THE COURT

INTRODUCTION

This is a Second Appeal from the Judgment of Hon. Mr. Justice Paul Mugamba on first Appeal. He found the Appellant guilty of Causing Financial Loss and sentenced her to thirty months imprisonment. He also ordered her to refund the UGX Shs 101,001,500/= which was lost. The Appellant being dissatisfied with the Judgment of the first Appellate court lodged this Second Appeal.

BACKGROUND

The Appellant was employed by Equity Bank as the Manager of the Jinja Branch. Between 21st to 25th May 2011, there was an audit carried out at the Jinja Branch which discovered a shortage of UGX Shs 101,213,700/=. Investigations were conducted and it was discovered that on 21st May 2011 the Appellant without any authority took over UGX Shs 101,001,500/= in



denominations of UGX Shs 50,000/= and then concealed the shortage in UGX Shs 500 coins for purposes of doing business with the money and then paying it back later. The Appellant was arrested and charged with one count of Embezzlement and with an alternative count of Causing Financial Loss. She was tried and convicted of the offence of Embezzlement and sentenced to 30 months imprisonment. She appealed to the High Court and which upheld the conviction and sentence and in addition also sentenced her to refund the money that was lost. She was dissatisfied with the Judgment hence this Appeal.

10 **GROUND OF APPEAL**

1. **The Appellate Judge having rightly and correctly found and held that the trial magistrate relied on speculation, fantasy and conjecture to convict the Appellant on the charge of Embezzlement grossly erred in law when he relied on the same evidence to convict the Appellant of the offence Causing Financial Loss.**
2. **The Appellate Judge grossly erred in law when he failed to properly and effectively appraise and subject to a fresh and thorough analysis and evaluation of the evidence adduced before the trial court hereby arriving at a wrong and erroneous decision and conclusion of convicting the appellant Causing Financial Loss.**
3. **The Appellate Judge, having rightly and correctly found and held that the Appellant never embezzled, stole, converted to her use, benefit or advantage any money from the complainant bank, grossly erred in law when he ordered the appellant to refund the said amount to the complainant.**



4. **The Appellate Judge having rightly and correctly found that the Charge and Caution statement of the Appellant did not amount to a confession, grossly erred in law when he relied on it to convict the Appellant of the offence of Causing Financial Loss.**

5 5. **The Appellate Judge grossly erred in law and fact when he held that since the Appellant who was fully represented consented to the admissibility of a confession in a Charge and Caution Statement, the same is admissible evidence without conducting a trial within a trial or ascertaining from the accused the credibility or**
10 **voluntariness of the statement.**

6. **The Appellate Judge erred in law by upholding the sentence and order to repay the loss basing on a wrong conviction**

REPRESENTATION

The Appellant was represented by Mr. Macdosman Kabega while the State
15 was represented by Senior State Attorney Adrine Asingwire.

DUTY OF THE COURT

This is a second Appeal and this Court is charged with the legal duty of appraising the inferences of fact drawn by the trial court as provided for under Rule 32(2) of the Judicature (Court of Appeal Rules Directions SI 13-10)

20 The Rule states that;

“On any Second Appeals from a decision of the High Court acting in the exercise of its appellate jurisdiction, the court shall have power to appraise the inferences of fact drawn by the trial court but shall not have discretion to hear additional evidence.”



Under Section 45 of the Criminal Procedure Code Act, on Second Appeals from decisions of the High Court a party can Appeal to the Court of Appeal on a matter of law but not on a matter of fact or mixed law and fact.

5 The Role of a second Appellate Court was explained by Supreme court in the case of **Kifamunte Henry v Uganda Criminal Appeal No. 10 /1997**. At page 12 of the Judgment the court said;

“

10 *On Second Appeal, the court of Appeal is precluded from questioning the findings of fact of the trial court, provided that there was evidence to support those findings, though it may think it possible or even probable that it would not have itself come to the same conclusion, it can only interfere where it considers that there was no evidence to support the findings of fact, this being a question of law. R v Hassan bin Said (1942) 9 EACA62.”*

Ground 1, 2 and 3

15 That the Appellate Judge having rightly and correctly found and held that the trial magistrate relied on speculation, fantasy and conjecture to convict the Appellant on the charge of Embezzlement grossly erred in law when he relied on the same evidence to convict the Appellant of the offence Causing Financial Loss.

20 That the Appellate Judge grossly erred in law when he failed to properly and effectively appraise and subject to a fresh and thorough analysis and evaluation of the evidence adduced before the trial court hereby arriving at a wrong and erroneous decision and conclusion of convicting the appellant Causing Financial Loss.



That the Appellate Judge, having rightly and correctly found and held that the Appellant never embezzled, stole, converted to her use, benefit or advantage any money from the complainant bank, grossly erred in law when he ordered the appellant to refund the said amount to the complainant.

5 **Appellant's submissions**

First, counsel for the Appellant submitted that the Appellate Judge did not properly evaluate the evidence as to how the money was lost.

He argued that there was no evidence on the record to show who had taken the money from the safe. He referred us to Appellate Judge's findings [page 89
10 of the Record of Appeal] where he held:

"That from the evidence on the record nothing emerges to show that the Appellant stole the money in issue. The finding that the Appellant stole the money is indeed speculative."

Counsel faulted the Appellate Judge for subsequently finding that it was not
15 disputed that the money in issue was lost under the Appellant's watch. He argued that according to the testimony of Batebwa Asmah (Pw7) there were three other people who had access to the strong room. He argued that this finding was not supported by evidence because the bank did not have CCTV
20 cameras. He submitted that the Appellant could not be solely been responsible for the loss of money because she was not the only key holder at the time the loss occurred.

Secondly, counsel for the Appellant submitted that the Appellate Judge did not properly re-evaluate the evidence of Batebwa Asmah (Pw7) and Raymond Mpora (Pw8).



His submission was that Batebwa Asmah (Pw7) had testified that he was given keys to the Strong Room by Emadit Idah the Operations Manager because she was not going to be at the Bank. Counsel for the Appellant submitted that Batebwa had testified that on 20th May 2011 he had signed for the keys though he actually got them on 21st May 2011.

It was submitted by Counsel for the Appellant that there was no specific act that showed that it was the Appellant who had taken money out of the strong room. He argued that the Appellate Judge ought to have considered the fact that Batebwa Asmah PW7 signed for the keys on 20th May 2011 from Emadit Idah. He submitted that there was no evidence to show that the money in the strong room was counted to be sure of the amount of money she was taking over.

Thirdly, counsel for the Appellant faulted the prosecution for not getting a testimony from Emadit Idah and for not offering an explanation why she was not called as a witness. Emadit Idah was employed as the Operation Manager at the branch.

He submitted that Emadit's evidence was important in this matter because she gave the key to the strong room to another officer who signed for it a day earlier than when they actually got it. He also submitted that Emadit left the Bank when money was discovered as missing. Counsel for the Appellant argued that the reason why Emadit was not called was because she would disorganize the prosecution case.

Fourthly, Counsel for the Appellant also submitted that the documents that were exhibited in court could not be said to constitute the act that caused the financial loss.

He submitted that the Appellate Judge referred to cash count certificate made on 25th May 2011(exhibit Exp5) with entries testified to by Musimenta Moreen (PW2) and Batebwa Asmah (PW7).The Appellate Judge also referred to a book (Exp13) with a page glued up being presented to Batebwa Asmah(PW7) which showed that there was a shortage of UGX Shs 111,213,700/=.

He submitted that even though these documents were submitted they cannot be said to constitute Financial Loss.

Counsel for the Appellant concluded his submissions by arguing that there was no specific act that was attributable to the Appellant that showed that she was the one who caused the Financial Loss.

Respondent's submissions

Counsel for the Respondent opposed the Appeal. He submitted that the Judge had properly evaluated the evidence before him and made correct findings of fact; hence came to a correct final Judgment.

Counsel for the Respondent submitted that it was never disputed that the Appellant was an employee of Equity Bank. He submitted that the Appellate Judge correctly analysed the evidence and convicted the Appellant of Causing Financial Loss since it was an alternative charge. He submitted that Causing Financial Loss and Embezzlement each had different ingredients and the evidence adduced by the prosecution supported the offence of Causing Financial Loss. Counsel for the Respondent referred us to five acts of the Appellant which proved that she was responsible for the financial loss.



First, the Appellant called a meeting to conceal the loss of money from the bank. Counsel for the Respondent then submitted that on page 122 of the record of appeal in the testimony of Joy Lunkuse [PW6], the Appellant called a meeting in which she told the staff of the Jinja branch that Ug shs 100,000,000/= was missing and she was taking care of it. He also submitted that the Appellant even concocted a story about how a one Habib came to the bank with coins worth Ug shs 101,000,000/= to get bigger denominations of 50,000/=. He submitted that this was an indicator that the Appellant was aware of the loss.

10 Counsel for the Respondent submitted that even though Habib had an account with the Bank, there was no evidence that he ever came to any teller with the money in question. This was according to the testimony of Joy Lunkuse (PW6) and Batebwa Asmah (PW7).

15 Secondly, counsel for the Respondent submitted that the Appellate Judge was right to find that the Appellant caused the loss because she had supervisory authority over the rest of the staff since she was the manager of the branch and also had custody of one of the keys for the safe.

Thirdly, counsel for the Respondent submitted that the Appellant admitted to giving the money to her friends namely Mukasa and Swaleh.

20 Counsel for the Respondent submitted that the evidence of Elijah Matthew [PW1] on page 102 of the proceedings was never challenged by way of cross examination by the Appellant's counsel. Elijah Matthew's evidence was to the effect that he interviewed the Appellant and she revealed that she had given the money in question to her friends Mukasa and Swaleh to clear goods at



Busia and who would then return the money with 15% interest but they never returned the said money.

5 Fourthly, counsel for the Respondent argued that PW1 on this matter had been truthful because these very names Mukasa and Swaleh appeared on charge and caution statement. He further submitted that the said transactions could not be traced in all the bank's records. He also submitted that it was only the Appellant who saw these men. He submitted that on the other hand none of the bank tellers carried out any transaction with Habib and Mukasa.

10 Counsel for the Respondent also submitted that it was Batebwa Asmah (Pw7) evidence [page 125 of the record of Appeal] that the Appellant Joanita locked the strong room then left the bank branch and did not return until 8:00 pm. Counsel for the Respondent concluded that the Appellant had left the strong room inaccessible to anyone else.

15 Counsel for the Respondent further submitted that Musimenta did not have the keys to the strong room since the record of Appeal [page 128] shows that she was given the keys after the meeting.

Fifthly, counsel for the Respondent submitted that the Appellant made suspicious entries in the register of cash leaving the strong room.

20 Counsel for the Respondent submitted that Elijah Martheri (PW1) who was employed as a security manager with Equity Bank testified that the Appellant made an entry on 21st May, 2011 of Ug shs 101, 000,000/= which she got out of the strong room in denomination notes of Ug shs 50,000/= and that another entry was made of Ug shs 101,000,000/= in form of Ug shs 500 in coins. His testimony was that these transactions were suspicious because
25 their narration was that the money was for exchange yet there was no name



of the teller who dealt with that transaction. Counsel for the Respondent submitted that the Appellant admitted to making these two entries.

Sixthly, counsel for the Respondent submitted that the evidence of Kennedy Majura [PW4] also showed that the Appellant caused the financial loss.

5 Counsel submitted that Kenneth Majura testified that the Appellant had revealed to him that,

“..on 25th May 2011 UGX Shs 101,000,000/= had been lost through a customer who came to withdraw the money and both the money and cheque were missing.”

10 Counsel further submitted that Majura’s evidence should be compared with the evidence of Jonathan Muyimba [PW5] who testified that on 21st to 25th May 2011 he did not receive a customer with a transaction of UGX Shs 101,000,000/=.

Court’s findings

15 In this ground counsel for the Appellant disputes the fact there was evidence that it was the Appellate who caused the financial loss. However on the other hand Counsel for the Respondent submitted that there were several acts committed by the Respondent that showed that it was the Appellant who caused the financial loss. The Appellant in this Appeal was employed as the
20 Branch manager of Equity Bank Jinja Branch. She was also one of the key holders to the strong room around the time when UGX Shs 101, 000,000/= was lost.

The burden of proving the guilt of an accused person lies upon the prosecution throughout the trial. See **Sekitoleko v Uganda [1967] EA531.**

This is the cardinal principal of our justice system. Thus an accused has no duty to prove her innocence and even if she offers a weak defence she can only be convicted on the strength of the prosecution case.

5 The Appellant had been charged with the offence of Embezzlement in count one and also causing Financial Loss in count two. The trial court found her guilty of Embezzlement. On Appeal, the Appellate court found that there was nothing in the evidence that showed that the Appellant stole the money in issue. He found that theft was a cardinal ingredient in the charge of embezzlement but it had not been proved against the Appellant. We agree that
10 there was indeed no evidence that showed that the Appellant had stolen any money from the bank.

Section 19 of the Anti-corruption act defines Embezzlement to mean:

A person who being- (a) an employee, a servant or an officer of the Government or a public body;

15 *(b) a director, an officer or an employee of a company or a corporation;*

(c) a clerk or servant employed by any person, association or religious or other organisation;

(d) a member of an association or a religious organisation or other organisation, steals a chattel, money or valuable security—

20 *(i) being the property of his or her employer, association, company, corporation, person or religious organisation or other organisation;*

(ii) received or taken into possession by him or her for or on account of his or her employer, association, company, corporation, person or religious organisation or other organisation; or



(iii) to which he or she has access by virtue of his or her office; commits an offence and is liable on conviction to a term of imprisonment not exceeding fourteen years or a fine not exceeding three hundred and thirty six currency points or both..."

5 Section 20 of the Anti-corruption Act defines Causing Financial Loss as:

(1) Any person employed by the Government, a bank, a credit institution, an insurance company or a public body, who in the performance of his or her duties, does any act knowing or having reason to believe that the act or omission will cause financial loss to the Government, bank, credit institution commits an
10 *offence and is liable on conviction to a term of imprisonment not exceeding fourteen years or a fine not exceeding three hundred and thirty six currency points or both.*

(2) In this section—

(a) "bank" and "credit institution" have the meanings assigned to them by the
15 *Financial Institutions Act; and*

(b) "insurance company" means an insurance company within the meaning of section 4 of the Insurance Act..."

In the case of **Lwamafa Jimmy and 2 ors v Uganda Crim App No. 0357 of 2016** this court found that the ingredients of Causing Financial Loss to be;

- 20
1. That the accused were employees of government.
 2. That they did or omitted to do an act they had knowledge would cause financial loss.
 3. That the loss occurred.

The Appellate Judge found that the Appellant had caused financial loss because of the following reasons; she was the manager of the Equity Bank Branch in issue, she had custody of one of the keys to the safe in issue in the period when the keys were lost, Elijah Martheri (PW1) who was employed as the security manager of equity bank had testified that the Appellant had mentioned to him that she gave the money to Swaleh Kagodo and Mukasa though this evidence was never validated. The Appellant had also mentioned to Joy Lunkuse (PW6) and Batebwa Asmah(PW 7) that a one Habib had exchanged coins for notes of Ug shs 50,000/=. Though Joy Lunkuse (PW6) and Batebwa Asmah (PW7) testified that Habib did not come to the bank during that period; the Appellant was also the one who glued of pages of the register to conceal information. The Appellate court found that all these actions showed that the Appellant had a reason to believe that financial loss would occur in the bank. These are facts that the first Appellate Court properly evaluated.

We find therefore that there is no point of law in question here to be addressed and further still we find no basis for questioning the findings of fact of the Appellate court as there was clearly evidence to support the said findings that the Appellant caused Financial Loss because of the various acts that she did.

These grounds therefore fail.

Ground 4

That the Appellate Judge having rightly and correctly found that the Charge and Caution statement of the Appellant did not amount to a confession,

grossly erred in law when he relied on it to convict the Appellant of the offence of Causing Financial Loss.

Appellant's submissions

5 Counsel for the Appellant faulted the Appellate Judge for relying on the Charge and Caution statement even though he found that it did not amount to a confession.

He submitted that the Appellate Judge should not have relied on the charge and caution statement because it had been procured unlawfully. Counsel submitted that [at page 89 of the record of Appeal] the Appellant Judge found
10 that the extra judicial statement did not amount to a confession because the Appellant did not admit that she was involved in the theft.

Counsel also referred us to page 90 of the record of Appeal where the Appellate Judge alluded to what was in the Charge and Caution Statement specifically where it mentioned two names Swaleh Kagoro, Habib and Mukasa
15 Levy in connection with the disappearance of the money. The appellate Judge then concluded by finding that the he was satisfied that the evidence on the record supported the charge of causing Financial Loss.

Counsel submitted that under Section 21 of the Evidence Act what Musimenta Maureen (PW2) and Batebwa Asmah (PW7) stated should not have been
20 admitted or used as evidence against the Appellant because it was not lawfully procured. He relied on the case of *Ssewankambo Francis & 2 others SCCA No. 33/2001* for the proposition that a Charge and Caution Statement that is unlawfully procured should not be relied on.

Respondent's Submissions

Counsel for the Respondent submitted that the Appellant Judge did not only rely on the charge and caution statement to convict the Appellant of Causing Financial Loss.

He argued that Elijah Matthew (PW1) also testified that that the Appellant had revealed to him that she had given the money to her friends Swaleh and Mukasa to clear goods at Busia Boarder and they promised to pay her 15% interest. He submitted that this was never challenged in cross-examination.

Counsel for the Respondent submitted that the Appellant admitted to Causing Financial Loss in the Charge and Caution Statement but did not admit to theft. He submitted that the Appellate court was right to find him guilty of Causing Financial Loss.

Court's findings

The complainant in this ground is that the Appellate Judge should not have relied on the Charge and Caution Statement in order to convict the Appellant.

With regard to the Charge and Caution Statement Counsel for the Appellant submits that the trial court should not have relied on it. On the other hand counsel for the Respondent submits that there was other evidence that besides the Charge and Caution statement that the Appellant Judge considered. We need to resolve whether this was a confession or an extra judicial statement.

Section 24 of the **Evidence Act** states that no confession made by any person whilst he is in the custody of a police officer shall be proved against any such person, unless it is made in the immediate presence of ;

(a) a police Officer of or above the rank of assistant Inspector



(b) Magistrate

It has been held and we agree with the view that a confession connotes an unequivocal admission of having committed an act which in law amounts to a crime. **See R v S Kifungu S/o Nusurupia (1914)8 EACA 89**. A confession
5 must either admit in terms the offence or at any rate substantially all the facts which constitute the offence. **See R v S Kituyan s/o Swandetti (1941) 8 E.A.C.A.**

We will reproduce an excerpt of the charge and caution statement;

10 *“...I recall it was on the 21st day of May 2011 at about 12 o'clock when at my branch Jinja I received two clients namely Swaleh Kagodo and Mukasa and have accounts at Arua Park Kampala in Equity. So these men told me that they want to withdraw money and the line was long even they needed to be served first to enable them to and catch up with their business in Mubende to pay the main growers. So I got two cheques which I put under my key board then got their
15 identity cards and went to photocopy the cards. I photocopied their cards then they went to the cash officer one Asmah Batewa and picked UG Shs 101,000,000 in denominations of 50 thousand, picked the photocopies and when to my office since it was bank transaction. I then told the clients to sign on his identity photo
20 card proper and as they were signing I went to the tellers to pass it on their system such that it can be paid. The tellers were Jonathan Muyimba and Joy Lukunse. When I had briefed the tellers I went back in office only to find the two men were not there...”*

In her testimony the Appellant says that it was the security officers who were narrating what the policeman was writing and she just signed on the
25 document.

In this case we find that the extra judicial statement made by the Appellant did not in law amount to a confession because the Appellant did not admit that she took the money.

The Appellate Judge was therefore correct when he found that;

5 *"...however the statement is anything but a confession since a confession should be incriminating the maker..."*

The Appellate Judge made the following observation with regard to the charge and caution statement on page 87 of the record of Appeal.

10 *"...it is evident from the record that when the prosecution sought to proffer the charge and caution statement as an exhibit no objection was raised by the defence. In fact counsel for defence is recorded as stating that the defence had no objection to the admission of the statement in evidence. The imperative of a trial within a trial emerges where there is need to ascertain itself that the statement itself was freely and voluntarily made, that it was not induced by*
15 *threat or violence or actuated by a promise that the maker will be released if he /she signed the statement. In the case at hand the defence agreed to the admission of the charge and caution statement so there was no need for a trial within a trial. It was only during her defence statement that the appellant stated that she did not make the statement willingly. Her defence statement was unlike*
20 *the testimony of PW12, unsworn. So there was no opportunity to check the veracity of her statement through cross-examination. Yet she could have challenged the statement of PW12 if she had wished so through cross-examination. I find no imperative existed for a trial within a trial..."*



With regard to the issue of whether there was a confession in the charge and caution statement. The trial court made the following finding about the charge and caution statement;

5 *"...it should be noted however that during the hearing the defence raised no objection to the charge and caution statement and neither did they raise any issues about the environment in it was taken... and without contesting the charge and caution statement it is this court's considered opinion that the need for a trial within trial did not arise..."*

10 We find that the Appellate Judge was correct to find that the charge and caution statement did not have a confession in it.

We find that the first Appellate Judge correctly addressed himself on the law and did not only rely on the evidence of the charge and caution statement alone but he relied on the total evidence before him.

This ground therefore fails.

15 **Ground 6**

That the Appellate Judge erred in law by upholding the sentence and order to repay the loss basing on a wrong conviction.

Appellant's submissions

20 Counsel for the Appellant submitted that the Appellate Judge erred in law when he upheld the sentence and the order of repayment of the money lost.

He faulted the Appellate Judge for confirming the sentence of imprisonment of the trial magistrate of 30 months without giving a reason for it. Counsel

argued that the first Appellate court did not make any re-evaluation of the sentence of the trial court.

He submitted that the Appellate Judge failed in his duty to re-evaluate the evidence.

5 Respondent's submissions

Counsel for the Respondent submitted that Section 34 (2) (b) of the Criminal Procedure Code Act allowed the Appellate Judge to set aside the conviction of embezzlement and convict the Appellant of the offence of Causing Financial loss. He argued that the same Section gave court the power to lower, increase
10 or confirm the sentence.

He submitted that the Appellate Judge did not err in any way when he sentenced the Appellant to 30 months imprisonment and ordered compensation of 101,001,500/=. He argued that the option of a fine was discretionary.

15 He submitted that there was no merit in the Appeal and prayed that the conviction and sentence be upheld.

Court's Findings

The dispute in this ground is that the Appellant court handed down a sentence of 30 months imprisonment for the offence of causing Financial Loss.
20 Furthermore that the Appellant Judge upheld the order of compensation of Shs 101,001,500/= lost by the bank without showing how he arrived at that figure. Counsel for the Appellant was not satisfied with this sentence because it was the same sentence handed down by the trial court for the offence of Embezzlement.

We find that the sentence imposed was not an injustice to the Appellate because the Appellant Judge knew that he convicted the Appellant of causing financial loss when he found,

5 *“...Meanwhile section 34 of the criminal Procedure code Act which relates to the powers of court on appeals from convictions does provide under Section 34 (2)(b) for this court to alter the findings of the lower court and find the Appellant guilty of another offence, maintaining the sentence of the lower court...”*

Furthermore on page 91 of the Judgment he made the following observation;

10 *“Suffice to say that the offence was not proved by the prosecution, the appellant, the Appellant could not be made to refund money she did not embezzle. Nevertheless having found as I have, that the accused should be convicted of causing financial loss, accused should refund the Shs.101,001,500/=. This is in concert with section 197 of the Magistrates Court Act”*

15 On page 165 of the Record of Appeal the trial court ordered the Appellant to refund all the monies in issue i.e. Shs 101,001,500/= less any payments so far made to the bank. This was the basis of the order for compensation made by the first Appellate court.

20 Furthermore, Section 126 of the Trial on Indictment Act also allows the High court to order a convicted person to pay compensation to any party who has suffered a material loss in addition to any other lawful punishment.

According to Section 20 the Anti-corruption Act the sentence of the person who is found guilty of causing financial loss should not exceed fourteen years.

We find that the sentence imposed of 30 months imprisonment was not excessive and was within the confines of the law.

We find that the Appellate Judge was correct not interfere with the sentence of the trial court. Consequently this ground is disallowed.

5 **Final Result**

Having found that all the grounds of Appeal fail, this Appeal is hereby dismissed. We uphold the conviction and sentence of the High Court.

We so order.

10 Dated at Kampala, this 30th day of June 2020


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HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA.

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HON. MR. JUSTICE STEPHEN MUSOTA, JA.

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HON. MR. JUSTICE NIGHT PERCY TUHAISE, JA.