THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT MBARARA

[*Coram: Egonda-Ntende, Bamugemereire, Madrama, JJA*]

CRIMINAL APPEAL NO. 070 OF 2016

(*Arising from High Court Criminal Session Case No 0318 of 2013 at Mbarara*)

BETWEEN

Dusabe Odeta *alias* Musamabende ==========Appellant

AND

Uganda==========Respondent

(*An appeal from the Judgement of the High Court of Uganda [Matovu, J] delivered on 14th April 2016*)

JUDGMENT OF THE COURT

Introduction

[1] The appellant was indicted and convicted of the offence of murder contrary to sections 188 and 189 of the Penal Code Act. The particulars of the offence are that the appellant on the 4th day of January 2013 at Nakivale Refugee Settlement camp in Isingiro murdered Kabanda Joseph. The learned trial judge sentenced the appellant to 37 years and 261 days' imprisonment.

[2] Dissatisfied with the decision of the trial court, the appellant appealed against the conviction and sentence on the following grounds:

> '1. The learned trial Judge erred in law and fact when he relied on the charge and caution statement that was not properly made which occasioned a miscarriage of justice.

2. The learned trial Judge erred in law and fact when he admitted a charge and caution statement without affording the Appellant an opportunity to either accept or deny it.

3. The learned trial Judge erred in law and fact when he found that the Appellant had committed the offence when there was no direct or indirect evidence implicating the Appellant in committing the crime.

4. The trial Judge erred in law and fact when he convicted the Appellant of a capital offence without a thorough mental examination of the Appellant as recommended by the medical doctor.

5. The learned trial Judge erred in law and fact when he gave a harsh sentence of 37 years and 261 days for the appellant.'

[3] The respondent opposed the appeal.

[4] During the hearing, the appellant was represented by Mr. Turyahabwe Vicent and the respondent by Ms Samali Wakoli, Assistant Director of Public Prosecutions.

Submissions of Counsel

[5] Counsel for the appellant submitted on grounds 1 and 2 together. He argued that the charge and caution statement was not properly made thus occasioning a miscarriage of justice. This was because it was recorded in English, a language that the appellant does not understand. He referred to the evidence of PW5 and PW6 which showed that the appellant did not understand English. Counsel further contended that the learned trial judge admitted the charge and caution statement into evidence without first affording the appellant an opportunity to either deny it or confirm it. He argued that it has been held in various cases that even when the defence counsel does not object to the admissibility of the charge and caution statement, the trial court should be cautious before admitting into evidence a confession made by an accused person who has pleaded not guilty. He relied on Beingana Kononi Willy v Uganda [2011] UGSC 8 to support this submission.

[6] Counsel for the respondent in reply contended that failure to record the appellant's confession in English did not occasion a miscarriage of justice because the statement was written in English with the guidance of a police officer who was fluent in Kinyarwanda. He stated that the statement was read back to the appellant in Kinyarwanda, and she signed it.

[7] Regarding the admission of the charge and caution statement into evidence, counsel for the respondent submitted that there was no miscarriage of justice because the defence did not object to its being tendered into evidence. Ms. Samali Wakoli relied on sections 139 (1) and (2) of the Trial on Indictments Act and Ochola Oboi Ignatius and 2 Ors v Uganda Court of Appeal Criminal Appeal No.43 of 2011 (unreported). She contended that holding a trial within a trial is purely a rule of practice and not a rule of law.

[8] On ground 3, Mr. Turyahabwe submitted that there was no direct evidence placing the appellant at the scene of the crime and that the circumstantial evidence adduced was weak. He relied on Tajudeen Iliyasu v The state (2015) LCN/4388(SC) for his submission on what amounts to circumstantial evidence. He contended that no one saw the appellant kill the deceased. The evidence of PW2 and PW3 was full of hearsay. They did not see the appellant murder the deceased. PW4 testified that she only saw the appellant picking a panga and heading to the direction where the deceased was cut from. Counsel was of the view that the mere carrying of a panga by the appellant did not on itself prove that she killed the deceased as PW4 testified on cross examination that it was not the first time the appellant had been seen with a panga.

[9] Mr. Turyahabwe further contended that the prosecution did not prove the motive of the appellant for murdering the deceased. He stated that PW3 testified that the appellant did not have any grudge with the deceased and PW2 testified that the deceased was of good character. Counsel relied on Charles Benon Bitwire v Uganda, Criminal Appeal No. 23 of 1985, where the Supreme Court held that absence of motive should be considered in favour of the accused in a weak case.

[10] In reply, counsel for the respondent submitted that this ground offends rule 66 (2) of the rules of this court and ought to be struck out. She relied on Sseremba Denis v Uganda [2021] UGCA 142. Counsel referred to Simon Musoke v R [1958] EA 715, Teper v R [1952]2 ALLER 447 and

Audrea Obonyo & Others v R [1962] EA 542. On the principles governing circumstantial evidence, Ms. Wakoli contended that the circumstances surrounding this case lead to no other inference other than the fact that it was the appellant who murdered the deceased. She submitted the appellant was a neighbour to the deceased and was the only person seen that morning carrying a panga and heading in the direction that the deceased's body was found. She submitted that PW3 testified that the appellant also used a panga on him and PW7 stated that the appellant kept on saying that 'I have done it and I have no regrets' when she was taken into police custody.

[11] Regarding the failure to prove motive, counsel for the respondent contended that motive is not one of the ingredients of murder that the prosecution is required to prove. Unless expressly required by the law, proof of motive is immaterial and failure to do so does not occasion a miscarriage of justice.

[12] It was counsel for the appellant's submission on ground 4 that the trial court erred in not subjecting the appellant to a thorough medical examination upon establishing that the appellant's medical test was inconclusive. Counsel for the appellant argued that this error occasioned a miscarriage of justice warranting an acquittal. He prayed that a retrial should not be ordered given the insufficient evidence implicating the appellant in the murder of the deceased.

[13] On the other hand, counsel for the respondent argued that a thorough medical examination of the appellant was not necessary because the trial court rightly found that the appellant was normal basing on its observations. She contended that the issue of prior mental illness did not arise at the trial and that the conduct of the appellant before, during and after the commission of the offence did not insinuate that she was suffering from mental illness. She was specific in picking her targets.

[14] On ground 5, Mr. Turyahabwe stated the principles upon which an appellate court can interfere with a sentence imposed by the trial court as articulated in Kiwalabye v Uganda Supreme Court Criminal Appal No. 143 of 2001 (unreported). He argued that although murder is a serious offence, the sentence against the appellant is harsh and manifestly excessive in the circumstances. He referred to Aharikundira Yustina v Uganda [2018] UGSC 49 where the Supreme court stressed the need of uniformity in sentencing. Consequently, counsel for the appellant relied

on Batuli Moses & 7 others v Uganda [2020] UGSC 2102 where this court sentenced each of the appellants to 13 years and 9 months' imprisonment for the offence of murder. He also cited Rwabugande v Uganda [2017] UGSC 8 where the Supreme Court reduced a sentence of 35 years' imprisonment to 21 years' imprisonment for the offence of murder. Counsel for the appellant concluded by praying that the sentence against the appellant be set aside and an appropriate sentence be imposed in light of section 11 of the Judicature Act.

[15] In reply, counsel for the respondent submitted that the sentence against the appellant is neither harsh nor manifestly excessive because it is less than the death penalty, the maximum punishment for the offence of murder. She relied upon Okello Geoffrey v Uganda [2017] UGSC 37 and submitted that a sentence of more than 20 years' imprisonment cannot be said to be illegal because it is less than the maximum punishment. Counsel then reiterated the principles upon which an appellate court can interfere with a sentence of a trial court. She relied on Kaddu v Uganda [2019] UGSC 19, Bakubye and another v Uganda [2018] UGSC 5, Kiwalabye Bernard v Uganda (supra) and Muhwezi Bayon v Uganda Court of Appeal Criminal Appeal No. 198 of 2013 (unreported).

[16] Counsel for the respondent further contended that the learned trial judge considered the mitigating and aggravating factors and listened to the appellant before sentencing. She argued that it is imperative to look at the purpose of sentence while sentencing. She cited paragraph 5 of the Constitution (Sentencing Guidelines for courts of Judicature) (Practice) Directions, 2013. She also relied on Kato Kajubi v Uganda [2021] UGSC 57 where the Supreme Court emphasized the need to take into consideration the rights of the accused as well as the rights of the victim and the public while sentencing.

[17] Counsel urged this court to take into consideration the fact that the appellant murdered the deceased in a gruesome manner and that the deceased was the only surviving parent to his children having lost his wife. She contended that the Supreme Court has upheld sentences harsher than 37 years. She relied on Kato Kajubi v Uganda (supra) and Sebuliba Siraji v Uganda [2014] UGCA 55 to support this submission.

Analysis

[18] It is our duty as a first appellate court to subject the evidence adduced at the trial to a fresh re-appraisal and to draw our own conclusions of the law and facts of the case, bearing in mind that we did not have the opportunity to observe the witnesses testify, in assessing their credibility. See Rule 30 of the Judicature (Court of Appeal Rules) Directions S.I 13-10, Bogere Moses v Uganda [1998] UGSC 22 and Kifamunte Henry v Uganda [1998] UGSC 20.

[19] The facts of the case according to the prosecution are that on the 4th day of January 2013, while the deceased was in his garden, the appellant was seen with a panga heading towards the direction of the deceased's garden. The appellant later attacked a one Ssebazungu Atanansi (PW3). PW3 was at a bar when the appellant cut him. The appellant was disarmed and arrested while PW3 was rushed to hospital for treatment. While the appellant was in police custody, the mutilated body of the deceased was discovered in the garden by his children. The appellant confessed to have cut both the deceased and PW3 in a charge and caution statement. According to the post - mortem report, the cause of death was massive haemorrhage due to deep cut wounds on the neck that severed the major blood vessels.

[20] The appellant never put forth a defence.

Grounds 1 and 2

[21] Grounds 1 and 2 shall be considered together since they touch on the admissibility of the charge and caution statement and the procedure in recording the statement. It was counsel for the appellant's contention that the proper procedure was not adopted while recording the charge and caution statement. Counsel argued that the statement ought to have been recorded in Kinyarwanda, the language that the appellant understands.

[22] In the charge and caution statement, the appellant stated that she picked a panga from her home and went and attacked the deceased. She cut him several times on his body and thereafter she went and used the same panga to cut PW3. She stated that she did not know why she cut the people and that she did not know whether the people she cut had died

when she was arrested. The learned trial judge relied on the confession in his decision to convict the appellant.

[23] PW5, Detective Inspector of Police Turyasingirize David, the recording officer gave evidence of how he recorded the charge and caution statement. He stated that the appellant was brought to him by Corporal Benturarihe on 9th January 2013 to record the confession. He invited Corporal Muhirwa to join them as a translator since he was not conversant with the Kinyarwanda language. At page 36 of the record of appeal, he stated:

> 'I was writing this charge and caution in English and Corporal Muhirwa was translating to me. I read it to her in English as Corporal Muhirwa translated to Kinyarwanda and accused accepted the contents of the charge and caution and she signed this confession. I also signed the same. Muhirwa did not sign because of his rank, but I indicated that he was the translator.'

[24] We find that the procedure adopted in recording the charge and caution statement would ordinarily not be fatal to its admissibility. It has been held in a number of cases by the Supreme Court that such procedure is not fatal as long as the charge and caution statement is read back to the suspect through a translator in the language he or she understands, and he or she signs the English version. See Ssegonja Paul v Uganda [2002] UGSC 10; Mweru Ali and Ors v Uganda [2003] UGSC 29 and Lutwama David v Uganda [2004] UGSC 31.

[25] However, notwithstanding the foregoing, in light of the testimony of PW9, Dr Kato Edward, the medical doctor who examined the appellant a day after she is reported to have made the charge and caution statement, it is questionable whether this statement was recorded from the appellant as testified by PW5. PW9, Dr Kato Edward, testified that on examination of the appellant, the appellant did not understand why she was arrested and had no idea of the offence.

[26] It is also odd that the charge and caution statement was recorded first prior to medical examination. Given the testimony of PW9 it is difficult to accept that the charge and caution statement was made by the appellant. She was in no state to record a statement. And the fact that the statement was not recorded in the language she ordinarily spoke and understood takes on a new significance.

[27] The admission of this statement into evidence would only be upon a proper finding by the trial court that such a charge and caution statement had been established, through a trial within a trial, to have been made by the appellant voluntarily. Accordingly, we shall now examine whether or not the said charge and caution statement was properly admitted in evidence.

[28] Regarding the admissibility of the charge and caution statement, while PW5 was giving his evidence, counsel for the appellant raised an objection to the statement that was summarily dismissed by the learned trial judge. We find it relevant to reproduce what transpired, at page 35 paragraph 10 of the record of appeal, Ms Kemigisha learned counsel for the accused stated:

> '**Ms. Kemigisha**
> Upon consultation with my client she says she has never met this man.'

[29] The learned trial judge replied;

> **'Court**
> There is no need for a trial within a trial in this case since the accused person is not alleging any torture at all, and the witness PW5 states that he knows the accused as the person from whom he recorded the charge and caution statement. Let the contents of the charge and caution statement be heard and counsel for the accused will cross examine this witness.'

[30] Thereafter PW5 continued to give his evidence. When counsel for the state applied to tender the charge and caution statement in evidence, counsel for the appellant did not object.

[31] In Omaria Chadia v Uganda [2002] UGSC 1, the appellant was convicted of the offence of murder. He had murdered his wife in Owino Market where she was a trader. The appellant was seen by several eye witnesses stabbing the deceased to death. A confession statement allegedly made by the appellant was admitted in evidence without objection from counsel for the appellant. His appeal to this court failed because there was

sufficient evidence from eye witnesses to support the conviction besides the confession. On appeal to the Supreme Court, one of the grounds of appeal was that the learned Justices of Appeal erred in fact and in law when they relied on the charge and caution statement. Regarding that ground of appeal, the Supreme Court stated:

> 'Firstly we would reiterate what we have stated in our recent decisions that because of the doctrine of the presumption of innocence enshrined in Article 28(3)(a) of the Constitution where, in a criminal trial, an accused person has pleaded not guilty, the trial court must be cautious before admitting in evidence a confession statement allegedly made by an accused person prior to his trial. We say this because we think that an unchallenged admission of such a statement is bound to be prejudicial to the accused and to put the plea of not guilty in question. It is not safe or proper to admit a confession statement in evidence on the ground that counsel for the accused person has not challenged or has conceded to, its admissibility. Unless the trial court ascertains from the accused person that he or she admits having made the confession statement voluntarily, the court ought to hold trial within a trial to determine its admissibility. See, **Kawooya Joseph Vs Uganda**, Criminal Appeal No. 50 of 1999 (Supreme Court) (unreported); **Edward Mawanda Vs Uganda,** Criminal Appeal No.4 of 1999 (Supreme Court) (unreported) and **Kwoba Vs Uganda**, Criminal Appeal No. 2 of 2000 (Supreme Court) (unreported). Therefore, and with respect, we think that it was improper for the learned trial judge to admit in evidence the confession statement (exh.P3) of the accused on the basis that his counsel did not object..'

[32] In Amos Binuge & Ors v Uganda [1991] UGSC 5, the Supreme Court stated:

> 'The purpose of the trial within a trial, is to decide, upon the evidence of both sides, whether the confession should be admitted. See: M'Murari s/o Karegwa v R (1954) 21 E.A.C.A. 262 and Mwangi s/o Njerogi v R (1954) 21 E.A.C.A. 377.'

[33] In the case before us, the appellant's counsel made an objection to the statement but was overruled when the learned trial judge hastened to find that a trial within a trial was not necessary. A trial within a trial ought to have been held to determine the admissibility of the charge and caution statement.

[34] In light of the foregoing principles we are satisfied that the trial court erred in admitting the charge and caution statement into evidence without first holding a trial within a trial. Ground 2 of the appeal succeeds.

Grounds 3 and 4

[35] Other than the charge and caution statement which we have found was wrongfully admitted in evidence, there is no direct evidence implicating the appellant in the murder of the deceased. The case of the prosecution was mainly built on circumstantial evidence. The learned trial judge besides the confession relied on the evidence of PW2, PW3, PW4 and PW6 to convict the appellant.

[36] We are charged with the duty to establish whether the circumstantial evidence relied upon proves the guilt of the accused person beyond reasonable doubt as is required by law. A conviction based on circumstantial evidence can only be justified where the inculpatory facts are incompatible with the innocence of the accused and incapable of explanation upon any other reasonable hypothesis than that of the guilt of an accused. See Byaruhanga Fodori vs. Uganda [2004] UGSC 24.

[37] As cautioned in Simoni Musoke v R [1958] E.A. 715 circumstantial evidence is quite susceptible to fabrication to cast suspicion on an accused person. See also Katende Semakula v Uganda [1995] UGSC 4. Before court draws any inference of guilt from circumstantial evidence, it must be sure that there are no co-existing circumstances which would weaken or destroy the inference of guilt.

[38] PW2, the LC1 chairperson testified that when he was informed by Abdu Mukwaya that the appellant had cut PW3, he rushed to the scene of the crime but along the way he met PW3 being taken to hospital. Abdu Mukwaya handed over PW3 to him and he proceeded to police to report the matter. He was advised at police to take the victim for treatment but before they reached the health centre, a one Lazaro called him and

informed him that the deceased had been cut to death. He went to police and reported the matter. He took the police to the scene of the crime and they found the body of the deceased. The police brought a medical doctor who examined the body of the deceased and that they were later ordered to bury. He stated that he suspected that the appellant cut the deceased.

[39] Upon cross examination, he confirmed that he did not the know who killed the deceased and that prior to the incident, the appellant was of good conduct.

[40] PW3, Ssebazungu Atanansi testified that the appellant found him at a bar and called him out. When he went to the appellant, she asked him where he worked that day, he replied, and she cut him with a panga. She cut him on the head, ear, the back and his left-hand side. The appellant chased him while cutting him and when people came to his rescue, she said, 'I wish people would leave you and I finish you.' The appellant was arrested and tied, and he was taken to hospital. He was later told about the deceased's death by a one Gakibayo. Upon cross examination, he stated that he does not know why the appellant cut him and that he did not have any grudge with the appellant prior to the incident. He also stated that he does not know who cut the deceased.

[41] PW4, a neighbour to the appellant testified that she saw the appellant on that fateful day at her home with a panga and she thought that she was going to collect firewood. The appellant went in the direction where the deceased was cut from and that she did not see her coming back. When cross examined, she stated that it was not her first time to see the appellant with a panga and that she did not know who cut the deceased.

[42] PW7, Detective Sergeant Nahakira Alphonse testified that while the appellant was in police custody, she was saying in Kinyarwanda that 'I have done it and I have no regrets'. That when he informed the appellant of the death of the deceased, she only stated that 'I have done it and have no regrets.

[43] Upon evaluating the evidence on record, we are of view that although the circumstantial evidence raises strong suspicion, it does not lead to the irresistible inference that the appellant murdered the deceased. The fact that the appellant cut PW3 on the same day that the body of the deceased was found mutilated does not itself implicate the appellant in the murder

of the deceased. PW4's testimony that she saw the appellant heading in the direction that the deceased's body was found does not lead to a conclusive inference that it was the appellant that murdered the deceased. She testified that it was not the first time that she had seen the appellant with a panga. PW7 stated that while in police custody, the appellant kept on saying that, 'I have done it and I have no regrets' even when she was informed of the death of the deceased. It appears that the appellant kept on saying that statement to whatever was said to her which raises doubt as to whether she was in a proper state of mind.

[44] PW2's testimony was to the effect that the appellant was of good moral conduct prior to the incident. PW3 stated that he did not have any grudge with the appellant before she cut him. This raises a question as to what changed suddenly and would perhaps be answered by the testimony of Dr Kato Edward.

[45] PW9, Dr. Kato Edward who examined the appellant stated;

> 'This is Police Form 24 of 10th January, 2013 from Isingiro Police Station. I filled the form. They were found to be examined and was a female Odeta, she was 40 years. I examined her she had no injuries, I examined her mental status, she looked normal but her mood was poor and she did not understand why she was arrested. She had no idea of the offence. There are patients who suffer from mental possession. They can do things without remembering what they had done. I recommended other tests to rule out epilepsy. I do not know if those tests were done.
> She was free when I examined her. She had an ability, her mood was poor and did not know what she had done. That is why I recommend other tests.'

[46] He stated upon cross examination that his report was not conclusive without an electro encephalogram report. On this matter, the learned trial judge in his judgment stated:

> 'This court observes that the medical examination of the accused was not conclusive and this was admitted as exhibit P6. The report indicates that the accused was normal at the time of examination on 10th January 2013 and this examination was carried out after six (6) days from the date of the alleged offence. Similarly, this court has observed the accused person from the

> commencement of this trial and there was nothing to suggest that she had any mental problem.
> It is therefore the finding of this court that the accused person Busabe Odeta is normal and I hereby find her guilty of murder of Kabanda.'

[47] With respect, it was erroneous for the learned trial judge to arrive at the above finding relying on his own observations of the appellant during the trial rather than be guided by medical evidence of a medical officer who examined the appellant soon after her arrest for this offence. The examination report was inconclusive on the mental state of the appellant, as it called for further examination, which was not carried out. It was essential to establish the mental state of the appellant as it is key in determining whether the appellant was capable of forming *mens rea* or not.

[48] In Kiiza v Uganda [2014] UGCA 19, this court stated:

> 'Before taking leave of this case, this court points out to the trial courts below of the necessity, upon those courts in the course of the trial, to ascertain the age and mental status of every accused person at the time the alleged offence was committed. The necessity for this is because the age and or mental status of an accused at the time of the commission of the offence have a vital bearing on the whole trial, including the conviction and or sentencing process, amongst other considerations.'

[49] It is clear on the evidence available to the trial court that the prosecution had failed to establish an essential ingredient of the offence. This was whether or not the appellant was capable of forming *mens rea* at the time the offence was committed. This important ingredient of the offence was put in issue by the prosecution's own medical evidence. Having failed to satisfactorily resolve it by evidence the only finding possible is that the prosecution failed to prove that the appellant was capable of forming the necessary intent to commit the offence in question.

[50] Regarding lack of motive, in Charles Benon Bitwire v Uganda, Criminal Appeal No. 23 of 1985, while considering the same issue, the then Court of Appeal, (now Supreme Court) stated:

> 'The seventh and last ground of appeal was that the trial judge had erred in not taking into account the fact that the prosecution had failed to establish any motive for the killing on the part of the, appellant. Counsel for the appellant argued this ground with force. With respect, the learned trial judge did consider the question of motive 'and directed himself properly on it. This is what he said: "The defence raised the issue of lack of motive with persistence. However, our law is clear that the prosecution need not prove motive on the part of the accused for committing a crime. The reasons which lead men to kill as in this case may be million."
> We agree and would only add this in a weak case, like the instant one, the absence of motive ought to be considered in favour of the accused because a sane person does not normally kill another for no reason at all.'

[51] In light of the above, we are of the view that the fact there was no motive may explain or buttress the finding that the prosecution failed to prove that the appellant at the time the offence in question was committed was capable of forming the necessary intent to commit the offence.

[52] We accordingly uphold grounds 3 and 4. We find that there was insufficient evidence to prove beyond reasonable doubt that the appellant committed the offence she was indicted of.

[53] In light of the foregoing it is unnecessary to consider ground 5.

Decision

[54] We accordingly allow the appeal. We quash the conviction and set aside the sentence imposed upon the appellant. We order the immediate release of the appellant unless she is held on some other lawful charge.

Other Remarks

[55] We note with dismay that the appellant spent 3 years 4 moths in pre-trial custody and her appeal was heard only after a further 5 years in custody,

all totalling to more than 8 years. She has now been acquitted of the offence with which she was brought before the courts. It is regrettable that this type of delay in the resolution of criminal proceedings in our system of justice is becoming the norm rather than the exception. This amounts to a breach of one's right to a speedy trial as enshrined in article 28 (1) of the Constitution for which a victim must be entitled to damages at the very least.

[56] John Bisset Stenhouse v Uganda (Criminal Appeal No. 1 of 1972) [1972] UGCA 1 was heard and determined by the East African Court of Appeal, sitting as a Court of Appeal for Uganda. From the judgment of the Court of Appeal, the matter arose from a decision of the High Court of Uganda made on the 15th December 1971. It was determined on the 11th March 1972. That is hardly three months from the date of filing of the appeal. The matter had begun in the Chief Magistrates Court of Gulu sometime after 20th February 1971 when the offence was allegedly committed. It was tried and completed well before the end of that year. An appeal to the High Court was decided the same year, on 15th December 1971. All in all, the proceedings in the 3 courts were completed in a total of not more than13 months. This must be the type of speedy trial envisioned by our Constitution. After all it has been possible before and there is no reason why it is not possible now.

[57] It is inescapable to conclude that a delay of 8 years before concluding criminal proceedings at all levels of our system is a travesty of justice.

Signed, dated and delivered at Mbarara this 3rd day of March 2022.

Fredrick Egonda-Ntende
Justice of Appeal

Catherine Bamugemereire
Justice of Appeal

Christopher Madrama
Justice of Appeal