

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT GULU
Coram: Egonda Ntende, Bamugemereire & Mulyagonja, JJA.

CRIMINAL APPEAL NO 536 OF 2014

BETWEEN

OMONA CHRISTOPHER ::::::::::::::::::::::::::::::::::::::: APPELLANT

AND

UGANDA::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT

*(Appeal from the decision of Dr Nabisinde, J. delivered on 22nd
October 2013 in Lira Criminal Session Case No. 093 of 2011)*

JUDGMENT OF THE COURT

Introduction

The appellant was indicted for the offence of aggravated defilement of a girl under the age of 12 years, contrary to sections 129 (3) and (4) (a) of the Penal Code Act. On 22nd October 2013 he was convicted and sentenced to imprisonment for 20 years.

Background

The facts upon which the appellant was convicted were briefly that Hanifa, the victim, lived with her biological parents in Telwa Cell, Atura Parish in Oyam District. They lived within the vicinity of her uncle, Okwera Musa, a peasant and fisherman. Sometime in January 2011, Hanifa's mother was summoned to her parent's home in Kampala. She left Hanifa in the care of the appellant and/or her uncle, Okwera. The appellant was a fisherman but he sometimes worked for Hanifa's father in his garden for cash. He was Okwera's neighbour but it appears he was invited by Hanifa's mother to stay in their kitchen while she was away, to safeguard their animals.

In the night of 11th January 2011, the appellant broke into the papyrus grass thatched hut where Hanifa's family lived, in which she was asleep and alone, and had forceful sexual intercourse with her. Early in the morning on 12th January 2011, she reported the incident to her uncle, 5 Musa Okwera who in turn called in some women to examine her. They established that she was indeed subjected to sexual intercourse. The matter was referred to Local Council I Chairman who called in the Police. The victim was examined at Oyam Health Centre and it was found that she had injuries consistent with sexual assault. The 10 appellant was arrested, indicted, prosecuted and convicted as we have stated above. He now appeals against both conviction and sentence on the following grounds:

1. The learned trial judge erred in law and fact when he convicted the appellant on the uncorroborated evidence of the victim, thus 15 occasioning a miscarriage of justice.
2. The learned trial judge erred in law and fact when he imposed a manifestly harsh and excessive sentence against the appellant.

He prayed that this court quashes the conviction and sets the sentence aside. In the alternative that the sentence be reduced as the court 20 deems fit.

The respondent opposed the appeal.

Representation

At the hearing of the appeal on 30th March 2023, Mr Douglas Odyek Okot represented the appellant on State Brief. The respondent was 25 represented by Ms Fatinah Nakafeero, Chief State Attorney, from the Office of the Director of Public Prosecutions.

Both counsel filed written submissions as directed by court before the hearing date. They each prayed that court considers the said submissions in the appeal and their prayers were granted. Both counsel