THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT JINJA

CRIMINAL APPEAL NO.079 OF 2014

Coram: ***(Elizabeth Musoke, Cheborion Barishaki and Hellen Obura, JJA)***

ZZIWA JACKSON::APPELLANT

VERSUS

UGANDA:::RESPONDENT

(An appeal against the decision of Lameck N Mukasa, J dated 19th March 2014 in High Court of Uganda sitting at Masaka in Criminal Session Case 0220 of 2011)

JUDGMENT OF THE COURT

The facts as set out by the learned trial Judge were that the accused Zziwa was indicted for Aggravated Robbery c/s 285 and 286(2) of the Penal Code Act. The particulars are that he on the 11th day of February, 2011 at Takajjunge village Mukono District robbed Sserwanga Lwanga of his cash Shs. 180,000/= and during the said robbery , he was armed with a deadly weapon, to wit; an iron bar which he used against the said Sserwanga Lwanga. The accused pleaded not guilty. He was tried, convicted and sentenced to 30 years imprisonment. The

appellant being dissatisfied with the conviction and sentence passed by the trial Judge now *appeals on the following grounds;*

1. *That the learned trial judge failed to evaluate the evidence on record thereby arriving at wrong and unjust conclusions occasioning a miscarriage of justice upon the appellant.*
2. *That the learned trial judge erred in law and fact when he convicted the appellant relying on the uncorroborated evidence of a single identifying witness in difficult circumstances thereby occasioning a miscarriage of justice.*
3. *That the Learned trial Judge erred in law and fact when he convicted the appellant relying on prosecution evidence that was full of contradictions and inconsistencies thereby occasioning a miscarriage of justice*
4. *That without prejudice to the foregoing, the learned trial judge erred in law and fact when he passed a sentence of 30 years imprisonment upon the appellant, which is illegal, harsh and excessive thereby occasioning a miscarriage of justice.*

At the hearing of this appeal learned Counsel Mr. Mr. Richard Kumbuga: appeared for the appellant on State Brief while Ms. Peace Biira: Chief State Attorney appeared for the respondent. The appellant attended Court via video link.

On ground one, it was submitted for the appellant that the ingredient of theft was not proved by the prosecution and that it was erroneous for learned trial

Judge to decide otherwise. That in **Uganda v Obua Polycarp & Another , High Court criminal session 454/2015** it was held that the prosecution must prove all the ingredients of aggravated robbery to wit; theft of property belonging to the victim, use of violence or threats to use violence against the victim, possession of a deadly weapon and participation of the accused. Counsel submitted that PW1 Lwanga`s evidence was not certain on when the pool table safe was broken since he found out on his return from hospital after 2 days and he was not sure whether it had money and if so, how much. He contended that the pool table safe had no money and there was no property of the victim that was stolen rendering the entire charge redundant. Counsel submitted that if there was any money in the stolen safe, it was taken when the victim was in hospital.

Counsel further submitted that the trial Judge alluded to the fact that the victim`s testimony on how much was in the safe was speculative and that no records were adduced before court to show how much was in the safe. That in absence of any evidence to support the allegations that the pool table machine was functional before the attack or that there was any money left in the safe it was very unfair for the trial Judge to find otherwise by his own imagination and imputations. Counsel cited **Abdu Ngobi vs Uganda SC criminal Appeal No.10/1991** for the proposition that where the accused person raises a reasonable doubt, either through weakness of the prosecution case or by his defence, then he must be acquitted. He contended that there is doubt on who

broke the pool table safe and when it was broken and where there was money in the safe and the trial Judge ought not to have decided the way he did.

On ground 2, counsel submitted that PW1, the victim was the single identifying witness who testified that the robbery happened at 4:00am while he was asleep and he was awakened by the people who were forcing the door open. He stated that there was light at the pool table where he managed to identify the appellant who was standing there. That PW1 Serwanga Lwanga testified that he ran after the appellant for a considerable distance and that he was sure as to whom he had seen. Counsel submitted that had the victim identified the appellant, he would have made an alarm while shouting his name. PW1 stated that he would have told his son who rescued him after the appellant threw an iron bar at him that it was the appellant who he saw. He testified that the night was very dark and PW3 Oketcho Steven did not include in the sketch plan that there was light near the pool table yet the police officer knew that this was important evidence. Counsel submitted that the circumstances of the attack if any, were unfavourable that PW1 cannot be said not to have been mistaken. Counsel contended that the chase he made after the assailants had the identification been clear PW1 would have been able to dodge the object that was thrown at him. That the identification if any of the appellant was not proper given the prevailing circumstances and it was unsafe without any other independent evidence for the learned trial Judge to hold that the appellant had been positively identified.

On ground 3, it was submitted for the appellant that the prosecution evidence was full of contradictions and material falsehoods which if the trial Judge had addressed his mind to he would not have convicted the appellant. That PF3 on which PW1 was examined revealed that he had a healing cut wound on the lower abdominal wall consistent with a sharp implement yet Exh P8 was not sharp. He submitted that the learned trial Judge stated in his judgment that the Exh P8 could not shoot, stab or cut. He contended that this was a sharp contradiction that went to the root of the charges of aggravated robbery where it had to be proved that one had a deadly weapon. Counsel cited **Pte Wepukhulu Nyuguli v Uganda CACA No. 21/2001** for the proposition that major contradictions and inconsistencies will usually result in the evidence of the witnesses being rejected unless they are satisfactorily explained away. Minor ones, on the other hand will only lead to rejection of the evidence if they point to deliberate untruthfulness on the part of the witness. He contended that the inconsistencies and contradictions were so grave and only pointed to falsehoods on the part of the prosecution witnesses and a conviction arrived at without regard to these contradictions would not stand.

On ground 4, regarding sentence, it was submitted for the appellant that the learned trial Judge did not take into account mitigating factors. That the appellant was 27 years at the time of commission of the crime, he explained to court that he had taken several religious courses and was a Christian lay reader

in prison pointing to the fact he was reformed and remorseful, first offender and had a family and children to look after.

Counsel invited court to apply the consistency principle and cited **Aharakundira Yustina v Uganda SC Criminal Appeal No.27/2005** for the proposition that consistency is a vital principle of a sentencing regime deeply rooted in the rule of law and requires that laws be applied with equality and without unjustifiable differentiation. He also cited **Adama Jino vs Uganda, CACA No.50 of 2006** where the sentence was reduced from death to 15 years imprisonment after the court had taken into account the period of 3 years and 2 months the appellant had spent on remand, the fact that there had been loss of life and that the appellant appeared repentant.

In reply, the respondent submitted that the trial Judge had rightly ruled that the prosecution had proved the ingredient of theft beyond reasonable doubt. That the victim testified that he found the appellant standing near the pool table, and at that material time the pool table had been broken yet it had a safe where weekly income to the tune of Ug shs 85000 to 90000 would be deposited. He contended that much as the exact stolen amount could not be established, it was enough to show that indeed some money was stolen

On ground 2, counsel submitted that the learned trial Judge was alive to the principles governing evidence of a single identifying witness in difficult circumstances and rightly arrived at a correct decision when he found that the

appellant had been correctly identified upon evaluating the evidence on record and cautioning himself on the same while relying on the authority of **Abdala Nabulere & Another vs Uganda** supra. He contended that it is neither a legal requirement nor practice that every evidence of single identifying witness must be corroborated. Such evidence can be relied upon solely by court provided that Courts finds the witness to be truthful, credible and reliable.

On ground 3, it was counsel for the respondent`s submission that the case portrayed two components to wit; the attackers were in possession of a deadly weapon an iron bar and that grievous harm was occasioned on the victim immediately after the commission of the offence. Counsel submitted that the weapon used was a deadly weapon by nature and caused grievous harm on the victim within the provisions of section 286 (2) of the PCA.

He contended that there were no major contradictions and if there was any contradictions then they were minor in nature which could be explained by lapse of time. That the evidence of causing grievous harm was never disputed by the defence and the trial Judge arrived at a right decision.

On ground 4, counsel submitted that the sentence of 30 years imprisonment was neither harsh nor excessive in the circumstances especially where the maximum sentence for aggravated robbery is death. Counsel cited **Kiwalabye vs Uganda SCCA No.143/2001** for the circumstances under which an appellate court can interfere with the sentencing discretion of the trial court. He further submitted that the trial judge considered both the aggravating and mitigating factors as

well as the period of 3 years the appellant had spent on remand and rightfully sentenced him to 30 years imprisonment.

Analysis

We have carefully considered the arguments for both counsel, and we have also carefully perused the proceedings and judgment of the trial Court. We are alive to the principle that an accused person should be convicted on the strength of the prosecution case, and not on the weakness of the defence. *See* **Akol Patrick & Others V Uganda, Court of Appeal Criminal Appeal No.60 of 2002.**

The duty of this Court as the first appellate Court is to re-evaluate all the evidence on record and make its own findings. In so doing, it should subject the evidence to fresh and exhaustive scrutiny. ***See Rule 30 of the Rules of this Court. See also Kifamunte Henry V Uganda, Supreme Court Criminal Appeal No.10 of 1997 and Pandya V R (1957) EA 336.***

The duty of the first appellate Court was also reiterated by the Supreme Court in **Fr. Narsensio Begumisa & 3 Others V Eric Tibebaga Supreme Court Civil Appeal No.17 of 2002.**

Counsel for the appellant faulted the trial Judge for failing to evaluate the evidence on record thereby erroneously convicting the appellant. That there was no proof that the ingredient of theft had been proved by the prosecution and from the victim`s evidence, it was not clear when the breaking of the pool table safe happened and the amount of money that was in the safe.

There are three ingredients to be proved beyond reasonable doubt in a charge of Aggravated Robbery: That there was theft, there was use or a threat to use a deadly weapon at or immediately before the said robbery and that the accused person participated.

It is incumbent upon the prosecution to prove all three elements to the required standard, which according to the authority of ***Woolmington Vs. DPP (1935) AC 462*** *and* ***Sekitolelo Vs. Uganda (1967) EA 53,*** should erase all reasonable doubt of the accused's commission of the crime with malicious intent.

According to ***Section 254 of the Penal Code Act,*** theft is committed when a person fraudulently and without claim of right takes anything capable of being stolen.

PW1 Serwanga Lwanga was clear that the items were taken from him by force which indicates that he was deprived of them without his consent or authority.

PW1, Sserwanga Lwanga testified and stated that; "*there were three other men at the front door and the accused was at the pool table standing....Zziwa jumped out of the pool shade and ran...Nothing was stolen from the shop apart from the pool where some money was picked, it was Shs. 180,000/=.They broke the pool table where there was money. I believe it was the accused who broke the pool table because he was the one at the table.*"

He further stated that when he came back from hospital, he discovered the theft of the money from the table pool safe. That he knew how much money the pool

would earn weekly. That the money in the pool table safe was for two weeks and weekly earnings were between 85000- 90000.

It was PW1`s testimony that his tenants Dirisa Mukiibi and Nalubega informed him that when they checked in the morning of the robbery, they found the pool table safe broken.

In deciding this issue the learned trial Judge stated that;

"The issue of reluctancy and the element of theft is whether the money was stolen. There is no conclusive evidence as to the amount of money in the safe at the material time. Serwanga Lwanga`s testimony as to how much money was in the pool table safe was speculative. No records were adduced before court to show how much was on average in the safe whenever it was opened and to prove the frequency of the opening. It was however not disputed that the pool table was prior to the attack operational and that money is deposited in the safe to commence a game. Expectedly there was money in the safe unless removed.

All the prosecution witness`s evidence is that the safe was broken open. In my view what is material is whether there was money in the safe, whatever the amount. I find it that the actual amount stolen was not proved, but money was stolen. In such an agreement with the gentlemen assessors, I find that the ingredient of theft was proved beyond reasonable doubt."

It was PW3 D/SGT Oketcho Steven testimony that when he visited the scene, all the 4 shops on the apartment had been broken by cutting the padlocks from the doors and when he moved to the Table pool, the safe was broken. That he was

being guided by a one Dirisa who told him there was money in the pool table safe but he didn`t know the exact amount.

He further testified that he photographed the pool table with a broken safe hanging outside and the same was marked Exh. P3.

PW2 Luboyera Richard a son to the complainant testified that at the scene, he saw the padlocks damaged, the lock handle removed and the pool table lock broken.

From the evidence, it is clear that theft happened and the pool table safe was broken into, however, the amount stolen from the safe was unknown. PW1 Serwanga Lwanga testified that the money was 180,000/=. That he knew how much money the pool would earn weekly and that the safe had money for 2 weeks, weekly earnings being between Shs. 85000/= and Shs. 90,000/=.The evidence that the safe was broken into was corroborated by PW1`s testimony that all through the time of the robbery it was the appellant who was at the pool table. A one Dirisa also informed PW3 D/Sgt that there was money in the pool table safe.

The only logical conclusion from the above evidence is that the appellant broke into the safe, and stole the money that was therein. We find the testimony of PW1 Serwanga Lwanga that the safe had money for 2 weeks amounting to 180,000/= more believable and truthful. Therefore, there was theft of money from the pool table safe. We therefore find that the prosecution proved this ingredient beyond reasonable doubt.

Regarding ground 2, the learned trial Judge is faulted for having relied on uncorroborated evidence of a single identifying witness. It was submitted for the appellant that PW1's identification of the appellant was not proper given the prevailing circumstances and that it was unsafe for the learned trial judge to hold that the appellant had been positively identified without any other independent evidence. He submitted that while screaming, PW1 never referred to the name of the appellant, he never told his son that it was the appellant who attacked him and that the alleged light near the pool table was not indicated in the sketch plan by PW3 D/Sgt Oketcho Steven and thus no such light existed. That had the identification circumstances been clear, PW1 would have been able to dodge the object that was thrown at him.

The law regarding identification was settled in the case of **Abdala Nabulere & Another vs Uganda** supra in the following passage in the judgment:

> *"Where the case against an accused depends wholly or substantially on the correctness of one or more identifications of the accused which the defence disputes, the judge should warn himself and the assessors of the special need for caution before convicting the accused in reliance on the correctness of the identification or identifications, The reason for the special caution is that there is a possibility that a mistaken witness can be a convincing one, and that even a number of such witnesses can all be mistaken. The judge should then examine closely the circumstances in which the identification came to be made particularly the length of time, the distance, the light, the*

familiarity of the witness with the accused. All these factors go to the quality of the identification evidence. If the quality is good the danger of a mistaken identity is reduced but the poorer the quality the greater the danger.

When the quality is good, as for example, when the identification is made after a long period of observation or in satisfactory conditions by a person who knew the accused before, a court can safely convict even though there is no other evidence to support the identification evidence, provided the court adequately warns itself of the special need for caution."

In ***Abdalla Bin Wendo V R (1953) 20 EACA 166***, Court laid the following conditions as necessary for correct identification;

1. *Familiarity of the accused to the witness at the time of the offence.*
2. *Conditions of lighting.*
3. *Proximity of the accused to the witness at the scene of the crime.*
4. *The length of time the accused came under the observation of the witness.*

It was the appellant`s evidence that he didn't know PW1`s home and he never participated in the commission of the offence.

From the evidence on record, the victim was attacked in the wee hours of the morning at around 4:00am. PW1 Serwanga Lwanga (the victim) stated that he saw the accused with the aid of electricity light at the pool table were the

appellant was standing and that the appellant looked at him and he bent down and picked something and threw it at him which he dodged and it hit the wall. Further, that he threw another thing and when he made an alarm, the appellant jumped out of the pool shade and ran. The victim testified that he ran after him calling out his name and alarming and as he approached him, he threw a metal at him which pierced him and the appellant ran away. He further testified that he had been seeing the appellant for about a month.

The appellant was seen with the aid of electricity light of the pool table and from the evidence of PW1, he threw an iron bar at him twice and at one point the appellant and PW1 looked at each other, PW1 was well known and familiar with the appellant having known him for about a month. It was PW2`s evidence that the appellant used to play pool table at his Dad`s Place PW1. That the appellant had at one point reported to PW1 for damaging the pool table. Indeed the appellant was not a stranger to PW1.

In determining this issue, the learned trial Judge stated as follows;

"PW1 was consistent in his evidence. He was not contradicted in cross examination. He impressed me as a truthful witness. The circumstances as testified to were favourable for a correct unmistaken identification of the accused. In the premises, I find that the accused was properly identified at the scene of crime. His participation is proved beyond reasonable doubt."

The appellant was properly identified by the appellant and the trial court safely convicted the appellant solely on PW1`s evidence. PW1`s evidence was

consistent, he was known to the appellant, there was light and the parties saw each other. This quality of identification was good even though there is no other evidence to support the identification evidence. We have no reason to fault the learned trial judge in deciding the way he did.

On ground 3, the learned trial Judge is faulted for convicting the appellant relying on prosecution evidence that was full of contradictions and inconsistencies thereby occasioning a miscarriage of justice. Exhibit PF3 on which PW1 was examined revealed that he had a healing cut wound on the lower abdominal wall consistent with a sharp implement yet Exh P8 the iron bar was not sharp. That the learned trial Judge stated in his judgment that Exh P8 could not shoot, stab or cut. He contended that this was a sharp contradiction that went to the root of the charges of aggravated robbery where it had to be proved that one had a deadly weapon.

The law is now well settled that inconsistencies or contradictions in the prosecution evidence which are major and go to the root of the case must be resolved in favour of the accused. However, where the inconsistencies or contradictions are minor they should be ignored if they do not affect the main substance of the prosecution's case, save where there is a perception that they were deliberate untruths. ***See Alfred Tajar V Uganda EACA Criminal Appeal No.167 of 1969, Sarapio Tinkamalirwe V Uganda Supreme Court Criminal Appeal No.27 of 1989.***

I have read Exh P1 Police Form 23, the medical examination report for the complainant, PW1. The conclusions therein are that the injuries are recent and consistent with sharp implements. Throughout PW1 `s testimony, he stated that the appellant threw a metal at him first when he was standing by the pool and when he chased him, and the second time, he threw a metal towards him which pierced him at the lower abdomen and the scar is visible. He further testified that he picked the metal and continued to run after the appellant until he felt weak due to bleeding and also the intestines came out.

Section 286 (2) and (3) of the Penal Code Act provides;

(2) *Notwithstanding subsection (1) (b), where at the time of, or immediately before, or immediately after the time of the robbery, an offender uses or threatens to use a deadly weapon or causes death or grievous harm to any person, such offender and any other person jointly concerned in committing such robbery shall, on conviction by the High Court, be sentenced to death.*

(3) In subsection (2), "deadly weapon" includes any instrument made or adapted for shooting, stabbing or cutting and any instrument which, when used for offensive purposes, is likely to cause death.

In determining this issue the learned trial Judge stated as follows;

"..As to whether there was possession or use of a deadly weapon, the prosecution evidence is that one of the attackers hit PW1 with an iron bar door locker which caused injury.

Mr. Musoke argued that the medical report exhibit P1 stated that the injuries were consistent with assault with sharp implements yet exhibit P8 was an iron bar locker with no sharp ends and he stated that it could not cut.

Counsel argued that the circumstances under which PW1 sustained the injury as he testified to were like a film and unbelievable. To contrary, with due respect, to court, and in agreement with the gentlemen assessors, I am of the considered view that an iron bar if strongly applied to hit the abdomen can cause the injury sustained by PW1. Even a stick can cause such injury depending on the strength with which it is applied."

We find the appellant`s submission that the trial Judge stated that Exh P8 the iron bar locker had no sharp ends and that it could not cut misleading for this was the argument of the appellant`s counsel. Be that as it may, there is strong evidence that the appellant threw the stated iron bar at the victim and it caused grievous bodily harm on him to wit; his stomach was cut and the intestines came out. In my view this was a deadly weapon within the meaning of section 286 (2) and (3) of the Penal Code Act. Even at page 47 of the record, the appellant's counsel seemed to have argued that appellant threw the iron bar at PW1 in self-defence.

We find no contradictions between the evidence of PW1, Exh P8 and the observations of the learned trial Judge. Exh P8 was a deadly weapon which caused grievous harm to PW1 as earlier determined. It being a mere iron bar

door locker did not undermine evidence of proof of essential ingredients of the crime of aggravated robbery.

We find that there were no contradictions and inconsistencies in the present case and we find no reason to fault the learned trial Judge in deciding the way he did.

On ground 4, the learned trial Judge is faulted for sentencing the appellant to a harsh and excessive sentence. Counsel for the appellant submitted that the appellant`s mitigating factors and the principle of uniformity in sentencing were not taken into account for example; the appellant was 27 years at the time of commission of the crime, he had taken several religious courses and was a religious lay leader in prison, he was a first time offender and had family and children to look after. Had the learned trial Judge addressed his mind to these mitigating factors and the principle of uniformity of sentences, he would have arrived at a more lenient sentence.

It's trite law that this Court has power to interfere with the sentence imposed by a lower court. This however is governed by established principles as were stated by the Supreme Court in the case of **Kiwalabye Bernard vs Uganda Criminal Appeal No.143 of 2001 (unreported)** whereby the court stated that the appellate court can only interfere with the discretion exercised by the trial Judge in imposing sentence if the exercise of that discretion is such that it results in the sentence imposed to be manifestly excessive or so low as to amount to a miscarriage of justice or where the trial Judge ignores to consider an important

matter or circumstance which ought to be considered while passing sentence or where the sentence imposed is wrong in principle.

In sentencing the appellant the learned trial Judge stated as follows;

"..That robbery is rampant and need to be checked. The state Invited court to consider the weapon used, a metallic bar. She also included that the convict is a habitual offender who was produced before this court on a production warrant from Lugazi court where he had been charged an earlier offence of theft.

In view of the presumption of innocence provided for in Article 28(3) of the Constitution, he is presumed innocent until proved guilty in respect to the other offence. I agree with Mr. Musoke, Counsel for the convict that for now the convict is a first offender.

Counsel also submitted that the victim has a young wife and child born while he was on remand who requires his care and presence and that convict was a young man capable of reform. In his allocutus the convict produced certificates to show that he had been baptized and confirmed in the Catholic Church while in prison and stated he is a catholic lay reader in prison and had connected many to Christ. We prayed for leniency.

While sentencing, court must consider the purpose for the sentence as laid down in Rule 5 of the Sentencing Guidelines LN 8/2013.

I have considered the aggravating factors and mitigation factors put forward in light. The objectives of sentence as spelt out in the said rule. I have particularly

considered the severance of the injuries sustained by the victim and the fact that robberies committed by use of iron bars are on the increase as evidenced by such cases cause listed in this session. I have also considered the fact that the convict is a young man who has shown indigenous to reform. In the circumstances, I find 33 years imprisonment appropriate. I also take into account the nearly 3 years spent on remand and sentence the convict to 30 years of imprisonment from the date of conviction i.e. 10/03/2014."

In the case of **Ramathan Magala vs (Criminal Appeal No.01 Of 2014) [2017] UGSC 34 (20 September 2017);** Supreme Court stated that;

"Nevertheless the fact that the judicial officer was alive to what the accused submitted in mitigation must be evident on record. It must therefore be stated by the judicial officer that the sentence was arrived at with both the mitigating and aggravating factors in mind. It is only then that the accused will be sure that the judge addressed his or her mind to the cited mitigating factors but nevertheless came to the conclusion that the aggravating factors outweighed the mitigating ones."

From the above statement, it's clear and evident on record that the learned trial Judge took into account the appellant`s mitigating factors before sentencing him to serve 30 years imprisonment.

The **Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions 2013,** provide for the starting point in sentencing for both murder and aggravated robbery as 35 years and the maximum as death.

Regarding the principle of uniformity we are alive to the fact that no two crimes are identical but at the same time we have to try as much as possible to maintain consistency in sentences.

The Supreme Court in **Criminal Appeal No. 34 of 2017, Ojangole Peter vs. Uganda,** confirmed a sentence of 32 years imprisonment for the offence of aggravated robbery. In that case, the appellant and another were first sentenced to suffer death by the High Court. Following the decision in the case of **Attorney General vs. Suzan Kigula and 417 Ors, Constitutional Appeal No.03 of2006,** the death sentence was reduced to 40 years imprisonment by the High Court in a resentencing procedure. On appeal to the Court of Appeal, the sentence was reduced to 35 years, which was further reduced to 32 years after deducting the period spent on remand. The Supreme Court found no reason to interfere with the said sentence.

In **Guloba Rogers versus Uganda criminal appeal NO. 57 OF 2013** the appellant, Guloba Rogers was convicted of Aggravated Robbery and Murder and sentenced to 47 years' imprisonment. On appeal, he was a sentenced to 33 years and 7 months' imprisonment on each of the counts to run concurrently.

In **Rutabingwa James vs. Uganda Court of Appeal Criminal Appeal No. 57 of 2011**, confirmed an 18 year sentence for aggravated robbery. While confirming that sentence, this Court noted that the appellant in that case had spent close to 5 years on remand. It also considered the injuries inflicted upon the victim.

Taking into account the principle of uniformity we find that the sentence of 30 years imprisonment imposed upon the appellant was fair and neither harsh nor excessive. We therefore uphold the conviction and sentence of the learned trial Judge.

We so order.

Delivered at ~~Jinja~~ Kampala ..... this 30th day of February 2023

Elizabeth Musoke

JUSTICE OF APPEAL

Cheborion Barishaki

JUSTICE OF APPEAL

Hellen Obura

JUSTICE OF APPEAL