

5 2] The facts of the case as discerned from the record of court are that
on 12th October, 2015 at around 12.00 noon, as NB was going to
fetch water, she met the accused who kicked her. NB fell down
and the appellant first removed her knickers then inserted his
penis into her private parts. Before the incident, NB was with
10 Luwagga Fahaim whom the appellant chased away before he
defiled her. After the incident, NB reported the incident to one
Nassali Teddy who in turn informed Nalumansi Olive, NB's
mother. Nalumansi Olive examined NB and confirmed that she
was defiled. Nalumansi reported the matter to the DPC of Kanoni
15 who advised that the appellant be arrested. Nalumansi then
contacted her son Julius Kibuka and Mivule Derick who arrested
the appellant with the help of Sali and Mike, and handed him over
to the police.

20 3] The appellant was charged and tried for the offence of aggravated
defilement. He denied the charge, and in his defence stated that
he did not know NB or the other prosecution witnesses who he
claimed to have seen for the first time in court. He claimed that on
the date the offence is alleged to have happened, he was in
25 Bukindu Village working and residing in the home of his employer
Naluzze, from where he was arrested. The trial Judge rejected his
defence, convicted and then sentenced him as stated above.

Representation

30 4] At the hearing of the appeal, the appellant was represented by Mr.
Stephen Birikano on state brief. The respondent was represented
by Ms. Nabasa Caroline Hope, a Principle Assistant DPP, who was

5 assisted by Mr. Aletu Innocent a State Attorney. Both counsel filed
written submissions on 10/8/2022 and 17/8/2022 (respectively)
as had been earlier directed by the Registrar of the Court.

10 5] During the proceedings of 18/8/2022, Ms. Nabasa raised an
objection against the submissions that had been filed for the
appellant, stating that they contained certain errors. Mr. Birikano
acknowledged his mistake and we granted him leave to file the
correct submissions. It appears that no fresh submissions were
15 filed and we accordingly considered the appellant's submissions
as filed on 10/8/2022.

6] In his submissions, Mr. Birikano raised four grounds of appeal
which he claimed were laid down in the memorandum of appeal
as follows:

20 **i. That the learned trial Judge erred in law and fact in
failing to consider and or properly evaluate and weigh
all the evidence laid before court thereby arriving at a
wrongful determination in convicting and sentencing
the appellant.**

25 **ii. That the learned trial Judge erred in law and in fact
when in reaching a final determination in the absence
of key evidence or the key witness**

30 **iii. The learned trial Judge erred in law and in fact when
he convicted the appellant of this offense in the absence
of evidence to prove all the essential ingredients of the
offense.**