

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT TORORO
CRIMINAL SESSION CASE NO. 245/93

UGANDA :::PROSECUTION

VERSUS

SILAJI MOISA :::ACCUSED

BEFORE: THE HON. MR. JUSTICE C.M. KATO

RULING

This ruling is in respect to a submission of no case to answer made by Mr. Wegoye the learned counsel for defence. Mr. Wegoye seriously argued that prosecution had failed to adduce evidence to prove the necessary ingredients of the offence of aggravated robbery. His submission centered on the issues of theft and identification.

He opined that no theft had been proved because nobody had seen the accused stealing money from the complainant's home. He stated that while the indictment speaks of 60,000/= as money stolen the complainant spoke of 900,000/= as being the amount involved. As for the issues of identification he said that PW1 said the accused was wearing a pullover his wife spoke of the accused having been wearing a white shirt. Complainant's wife spoke of the accused having wakened her up after he had entered the bedroom but the complainant says by the time the robbers entered the bedroom he and his wife were already awake.

Mr. Khaukha who appeared for the prosecution left the matter to court and he chose to say nothing about the matter.

Principles upon which this court proceeds to uphold or reject a submission of no case to answer are well defined and authorities on such principles are not lacking, they include the celebrated case of: Bhatt v R [1957] EA 332.

I have carefully considered the forcefully arguments of the learned defence counsel, I have also cautiously examined the evidence on record along with the relevant law and I have come to the conclusion that no reasonable tribunal, like the one upon which I am presiding, would proceed to convict the accused on the available evidence if he chose to say nothing.

Prosecution has failed to establish that there was theft to prejudice of the complainant; theft is material ingredient to the offence of aggravated robbery. Prosecution has also not been able to connect the accused sufficiently with the commission of this offence due to lack of proper identification by PW1 and PW2.

In these circumstances I find that the submission of no case to answer must be upheld. The submission is accordingly upheld and the accused is found not guilty he is acquitted of the offence of aggravated robbery under section 71(1) of the T.I.D and he is to released from prison unless he is being held there for some other lawful purposes. So I order.

C.M. KATO

JUDGE

4/5/94

4/5/94 - Later at 3.30 P.M

Court - The court is as before. Ruling is delivered signed, and dated.

C.M. KATO

JUDGE

4/5/94