

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KABALE

D.R. CRIMINAL APPEAL NO. KAB-00-CR-CA-0002-2001

(From Cr. C. No. 722/2001 of Kabale Court)

SUNDAY BOSCOAPPELLANT

VERSUS

UGANDARESPONDENT

BEFORE: THE HON. JUSTICE P. MUGAMBA

JUDGMENT

The appellant appeals against conviction and sentence by Ms. Ikit Mary, Grade I Magistrate Kabale. He was convicted of child neglect contrary to section 153 of the Penal Code and sentenced to a fine of Shs.50,000/ or a custodial sentence of 3 months in default.

Four witnesses were produced by the prosecution to prove their case on the basis that as father the appellant failed or neglected to provide the necessities for the complainant. The appellant denied he was father to the complainant. I find noteworthy the last paragraph of the evidence of PW4 Byamukama Deus in cross-examination. He stated, 'In my office I have handled such cases but I would solve them. Parents would deny but evidences such as baptism cards are adduced and parents admit-----.' In the instant case apart from the complainant's evidence and the evidence given by her aunt and grandmother, who are relatives, there is no independent evidence from a person not related to her. There is even no documentary evidence. It behoved the prosecution to provide strong evidence pointing to the appellant's paternity of the complainant and I find what is available shaky. Appellant had no duty to prove his innocence.

In the result I would allow this appeal quash the conviction and set aside the sentence.

P. Mugamba

Judge

19/02/2002

19/02/2002

Mr. Kasirivu for the appellant

Appellant in Court.

State Attorney absent.

Mr. Turyamuboona Court Clerk

Court: Judgment read in open Court

P. Mugamba

Judge