

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

HCT-05-CR-CV-0003-2003
(From MBR-00-CR-CO-0059-2002)

UGANDAAPPLICANT

-VS-

ALICE KIIZARESPONDENT

BEFORE: THE HON. JUSTICE P. K. MUGAMBA

RULING

This is an application by the State for a Revisional order of the judgment of the Magistrate Grade II who on 20th December 2002 decided that the complainant in the trial court had committed the offence of theft. The background of this application is not complicated. The original case was MBR-00-CR-00-0059 and the two accused were Mujungu Fred and Alice Kiiza. The case involved theft of eucalyptus timber for firewood. The complainant in the case was Mutabazi Dan. Eventually judgment was read and Mujungu Fred was convicted of the offence and sentenced to 8 months' imprisonment. The other accused was not convicted. After the magistrate had read the judgment in those terms and explained the right of appeal to the convict he signed the judgment. Thereafter he wrote as under:

'ORDER:

The complainant loaded a lorry of firewood of A.2 without authority. He also committed an offence of theft. He is ordered to return the said firewood to A.2.'

There is nothing on the record, in the judgment in particular, to show the complainant committed any offence. Indeed he was never convicted. As the order is not premised on any provision of the law it does not deserve to be complied with. It is set aside forthwith.

Before I take leave of this matter I should express concern at the number of cases where magistrates feel no need to be bound by provisions of the law in arriving at their decisions. Such development is sad and should be eschewed as it leads to inevitable arbitrariness - a public disservice.

P.K. Mugamba
Judge

6th August 2003

Mr. Ahimbisibwe State Attorney

Mr. Rutazana court clerk

Court:

Ruling read in court.

P.K. Mugamba
Judge