

HCT-05-CR-CN-001-2005
{FROM RUK-CC-058-2004}

VERSUS

JUDGMENT

1. The trial Magistrate failed to appreciate that she did not have jurisdiction to try an offence of attempted murder and such wrongly and illegally handled the trial thereby rendering the trial and the subsequent judgment, conviction and sentence void ab initio.
2. The trial Magistrate failed to appreciate that the prosecution had failed to prove all the essential ingredients of the offence charged on the prerequisite standard therefore erroneously convicted the appellants.
3. The trial Magistrate meted out an excessive, unconscionable and harsh sentence to the appellants.

I must confess that I have written out the grounds in the style in which they were presented in the memorandum of appeal.

The first ground of appeal is to the effect that the trial Magistrate had no jurisdiction to try the offence of attempted murder. Section 161(1) (b) of the Magistrates' Courts Act ordains that a Magistrates Grade I may try any offence other than an offence in respect of which the maximum penalty is death or imprisonment for, life. As concerns the offence of attempted murder, which the Grade I tried in this instance, section 204 (a) of the Penal Code gives the maximum penalty as imprisonment for life. Doubtless the learned trial Magistrate had no jurisdiction to try the offence she purportedly did. In the result what happened was a mistrial and there is no need to discuss the other grounds of appeal.

This appeal succeeds. The convictions of the two appellants are quashed and the sentences are set aside. The two appellants should be set at liberty forthwith unless they are being held for any other legal cause.

P.K Mugamba

Judge

19th August 2005