

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT KAMPALA
HCT-00-CR-CN-0031-2007

UGANDA.....PROSECUTOR

VERSUS

DR. MUHAMMED BUWULE KASASA.....ACCUSED

BEFORE: THE HON. JUSTICE LAMECK N. MUKASA

Mr. Joseph Kyazze

Mr. Simon Kizza

Mr. Mutushwa Patrick (RSA) for state

Mr. Mariom Mpanga – proceedings recorder

Mr. Kutosi Charles – court clerk.

JUDGMENT:

This is an appeal against part of the judgment of the Chief Magistrate Buganda Road Court whereby the Appellant was convicted of personating and uttering false documents and sentenced to 8 months imprisonment. The Appeal is against conviction and sentence upon 12 grounds.

At the hearing counsel for the Appellant dropped most of the grounds and retained the following:

1. That the learned trial Chief Magistrate erred in law and fact to convict the Appellant of personating and uttering false documents when the two offences had not been proved to have been committed by the Appellant.
2. The learned trial Chief Magistrate erred in law and in fact and misdirected herself on the evidence when she failed to properly evaluate the evidence and came to the wrong and biased conclusion that the Appellant was guilty of personating and uttering false documents.

And additional ground, filed subsequent to additional evidence rendered by the Chief Magistrate Court pursuant to an order of this honorable Court under Miscellaneous Criminal Application No. 384 of 2008, that;

- In light of the new additional evidence the Appellant could not have been convicted of the offences of personation and uttering false documents if the trial court had known that the evidence of the complainant and the prosecution witnesses was false and concocted.

In his submission Mr. Kyazze, for the Appellant, argued that the Appellant was tried and convicted on the evidence of the complainant and other prosecution witnesses namely Arajab Katamba (PW1), Kaggwa James (PW3) and Nabor Mwebe (PW4). Subsequent to the Appellant's conviction the complainant and the other above named prosecution witnesses were charged by the Respondent for perjury under Buganda Road Court Criminal Case No. 1410 emanating from the false evidence they had given against the Appellant exhibits P1, and P2 of the Record of proceedings.

Mr. Mulindwa , in his response, stated that in light of the additional evidence rendered, the Direction of Public Prosecutions agrees that the Appellant was erroneously charged, convicted and sentenced. That he therefore had instructions not to oppose the Appeal.

Justice demands that any person facing trial shall be entitled to a fair trial. See Article 28(1) of the Constitution. In the circumstance a trial, conviction and sentence based on falsified evidence cannot be allowed to stand. I accordingly allow the Appeal, set aside the conviction and sentence by lower court. It is accordingly ordered that the Appellant shall be set free forthwith unless otherwise lawfully held.

Lameck N. Mukasa

Judge

16/08/2012

1. Mr. Kakeeto Mahmood on brief for Mr. Joseph Kyazze for Appellant
2. Mr. Mulindwa Badru PSA for state
3. Appellant present
4. Ms. Halima Kaggwa , court clerk

Court: Judgment delivered.

Lameck N. Mukasa

Judge

16/08/2012