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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDENT AT KABALE

HCT-11-CRIMINAL CASE-00CR-CSC-0107 OF 2022

(Arising from Criminal case KIS No. AA-0013 of 2021)

(Arising from Police CRB No. 273 of 2021)

10 **UGANDA:.....PROSECUTION**

VERSUS

A1: NZAMUYE GILBERT

A2: NTAMUKUNZI THEOPHILS

A3: MUHIRE EDWARD:.....ACCUSED PERSONS

15

BEFORE: HON. JUSTICE SAMUEL EMOKOR

JUDGMENT

Nzamuye Gilbert (A1), Ntamukunzi Theoplillus (A2) and Mihiire Edward (A3) are jointly charged with one count of Murder Contrary to **Section 188** and **189** of the **Penal Code Act**. It is alleged that Nzamuye Gilbert (A1), Ntamukunzi Theophillus (A2) and Muhiire Edward (A3) on 01/06/2021 at Mburara in Kisoro District with malice aforethought unlawfully caused the death of Kabagenyi Bonny Mutabazi.

The trio are also charged jointly with one count of Aggravated Robbery Contrary to **Section 285** and **286(2)** of the **Penal Code Act**. It is alleged that Nzamuye Gilbert, Ntamukunzi Theophillus and Muhhire Edward on the 01/06/2021 at Mburara in Kisoro District stole one LG 3D LED Televesion set 26 inches valued at approximately 1,500,000/=, a gas Cylinder valued at 350,000/=, a pair of Blankets valued at 120,000/= one black bag valued at 70,000/=, 2 Solar Regulators valued at approximately 3,000,000/= all valued at approximately 6,140,000/= from Kabagenyi

5 Bonny and at or immediately before or immediately after the said Robbery,
Murdered the said Kabagenyi Bonny Mutabazi.

All 3 Accused persons pleaded not guilty to both counts.

Representation.

Mr. Ainomugisha Christopher a senior State Attorney appeared for the Prosecution
10 while Mr. Bakanyebonera Felix represented the 2nd and 3rd Accused persons on
private brief and Mr. Nabasa Rodgers appeared on State brief for all 3 Accused.

The Assessors for this trial were Mr. Rwangeyo Joseph and Mr. Tumushime
Emmanuel.

During the Preliminary hearing sanctioned under **Section 66 of the Trial on**
15 **Indictment Act** the Prosecution and the defence consented to the admission of the
Post Mortem report in respect of the deceased Kabagenyi Bonny and the same was
received as Exhibit P1.

The Medical examinations of the three Accused persons on Police Form 24A were
also received as Exhibit P2 for A1, Exhibit P3 for A2 and Exhibit P4 for A3.

20 The burden and standard of Proof:

This being a Criminal case it is one whose proof lies squarely on the Prosecution
and it never shifts to the Accused. It is also proof beyond reasonable doubt. Any
doubts must be resolved in favour of the Accused and the Accused must only be
convicted on the strength of the Prosecution case and not the weakness of the defence
25 case.

(See **Ssekitoleko versus Uganda (1961) EA 531**).

Ingredients of the offence on Count1.

5 On the first count of Murder the Prosecution must prove each of the following ingredients beyond reasonable doubt.

- 1) Death of a human being.
- 2) The death was caused by some unlawful act.
- 3) The unlawful act was actuated by malice aforethought.
- 10 4) That it was the Accused who caused the unlawful death.

a) Death of a human being:

Death may be proved by production of a Post Mortem report or evidence of witnesses who state that they knew the deceased and saw the deceased's body or attended the burial.

15 In the instant case Uwera Marita (PW1), Nsabimana Sarah (PW2), Busingye Vastina (PW3), Florence Muhawenimana (PW4) and Twinomuhangi Expodius (PW5) all testified that they viewed the body of the deceased Kabagenyi Bonny and attended her burial. Their evidence is corroborated by the Post Mortem report in Exhibit P1 that being open head injury.

20 Indeed A2 and A3 both testified to learning of the death of Kabagenyi Bonny and going to her home on the date in issue of the 01/06/2021.

I therefor accept the evidence presented by the Prosecution in proof of the death of Kabagenyi Bonny Mutabazi. The first ingredient has therefore been proved beyond reasonable doubt.

25 **b) That the death was caused by some unlaw act.**

The law presumes that any homicide (Killing of human being by another) is presumed to have been caused unlawfully unless it was accidental, excusable or authorized by law.

5 **See R versus Gusambizi s/o Wesonga (1948) EACA.**

Uwera Marita (PW1) and Busingye Vastina (PW3) who were among the first to view the body of the deceased Kabagenyi Bonny Mutabazi described the body as having a wound on the head and her clothes as being blood stained. The Post Mortem report in Exhibit P1 describes her cause of death as being an open head injury.

10 There is no evidence on the Court record to suggest that the death of Kabagenyi Bonny was either accidental, excusable or authorized by law.

I therefore find that the Prosecution has proved beyond reasonable doubt that the death of Kabagenyi was unlawful.

c) That the unlawful act was actuated by malice aforethought.

15 **Section 191** of the **Penal Code Act** provide that malice aforethought maybe proved by direct evidence or maybe inferred from the evidence indicating knowledge that the conduct of an Accused would probably caused death.

Malice aforethought in Murder trials can be ascertained from the weapon used (Whether it is a lethal weapon or not) the manner in which it is used (whether it is
20 used repeatedly or the number of injuries inflicted) the part of the body that is targeted or injured (whether or not it is a vulnerable part) and the conduct of the accused before, during and after the incident (whether there was impunity).

See R versus Tubere s/o Ochen (1945) EACA 63.

It is the evidence of PW1 and PW3 that when they viewed the body of the deceased
25 they observed that she had a cut wound to the head and that there was blood on the stones where her head rested and that her lesu and headwear were blood stained. Their evidence is well corroborated by the Post Mortem report in Exhibit P1 that indicates that the deceased Kabagenyi Bonny had multiple bruises and abrasions to

5 the face with a wound measuring 5 x 2cm above the left eye, rugged edges with the skin having multiple bruised areas and peeling off from the skull, the front of the skull had a large fresh wound measuring 6 x 4cm with the skin crashed and bleeding from the left ear. The cause of death according to the report was open head injury and the possible weapon likely to have caused the above injuries are blunt objects
10 used with much force.

The head it has been held severally by the Courts is a sensitive and vulnerable part of the body.

(See Okello Okidi versus Uganda SCCA No. 0003 of 1995).

I have no doubt that the assailant (s) in targeting the head of Kabagenyi Bonny using
15 a blunt object and applying such force that cracked her skull open had only one intention and that was to take her life which they succeeded in doing.

I therefore find that the Prosecution has proved beyond reasonable doubt that the death of Kabagenyi Bonny was actuated by malice aforethought.

d) Participation of the Accused persons.

20 The three Accused persons in this case denied the charge of Murder and in their sworn defence raised the defence alibi.

It is the sworn defence of Nzamuye Gilbert (A1) that on the date in issue of the 01/06/2021 he was at home around 1:00PM when a woman he worked worked for a one Maureen called him to go and pick his money owed to him of UgX 10,000/=
25 and that on his way when he reached Kibaya he found many people on the road.

It is the evidence A1 that as he was passing they asked him where he was from, where he was going and when he replied that there was no need for the questions because he was going to demand for his money they told him that he was under arrest

5 because he did not come from their area and he was taken to Mutolere Police Station and later transferred to Kisoro Police Station and charged over offences that he knew nothing about.

While Ntamukunzi Theophillus (A2) in his sworn defence stated that on the date in issue of the 01/06/2021 he was at his home and listened to the news headlines at
10 7:00AM before moving to his garden in Kumulombero that is about half a kilometer from his home and that he moved there on foot.

A2 testified that he got to the garden at around 7:20AM and found that some of his bean sticks had fallen down and also he decided to fix them and while he was doing so one Mbabazi Godfrey passed by and that he went home at around 8:45AM.

15 According to A2 while at home his daughter in law one Mbabazi Eva came and informed him that Kabagenyi Bonny the wife to his late brother Mutabazi Lawrence had died and that he immediately went to the home of Kabagenyi Bonny who was his immediate neighbor and found when a crowd of people had gathered there at the gate and that Kabagenyi's body was lying at her home and she was dead. It is the
20 evidence of A2 that on seeing this he decided to proceed to Kisoro Police Station where he reported the death and returned with Police Officers who also came with a sniffer dog but that the sniffer dog after moving for about 50 meters from the scene sat down and could not continue with the trail.

A2 states that the people searched his home and did not recover anything there. A2
25 further states that it was 8 months later on the 24/02/2022 when he was arrested and later charged with the death of Kabagenyi Bonny a charge he denies.

A2 presented a witness Mbabazi Godfrey (DW4) who testified that on the 01/06/2021 he was on his way to work and it was approaching 8:00AM when he decided to pass via Kumulombero to check on his garden where he found A2 who

5 owns land neighbouring his and that they exchanged pleasantries and he continued to work where he later learnt that Kabagenyi Bonny had been killed.

According to DW4 when he left his garden at around 7:44AM A2 was still working in his garden.

Muhirwe Edward (A3) in his sworn defence denied the charge of Murder testifying
10 that on the 01/06/2021 he woke and at 7:00AM proceeded to his place of work where he arrived at 7:17AM and found his customer one Ngabirano Emmanuel waiting for him over work that he had earlier given him to perform.

It is the evidence of A3 that upon learning of the death of Kabagenyi Bonny he immediately closed his shop and went to her home, arriving there at 10:00AM and
15 that when he got there he found many people and no one alleged that he was behind Kabagenyi Bonny's death. A3 states that it was not until the 24/02/2022 that he was arrested and charged over the death of Kabagenyi Bonny a charge that he denied.

A3 presented a witness in Ngabirano Emmanuel (DW5) who testified that on the 01/06/2021 between 7:00AM – 7:15AM he was waiting for A3 at A3's workshop
20 because he had given A3 an order to make for him 4 door frames and that A3 came and found him already there waiting.

It is the evidence of DW5 that A3 had worked on 2 frames when between 9:30AM – 10:00AM A3 received phone call and immediately kept his tools informing him that he had lost someone and left for home.

25 Where an Accused person as in the instant case raise the defence of alibi they do not have the duty to prove their defence.

The onus is on the Prosecution to discredit their defence and to place them at the scene of crime.

5 **(See Kyalimpa Edward versus Uganda SCCA No. 0010 of 1995).**

The Prosecution to discharge this responsibility relied on the evidence of Nsabimana Sarah (PW2) who testified that on the 30/05/2021 at 6:00PM she left Elegu at the border with South Sudan in Amuria District where she was a shop keeper and travelled to Kisoro District by Gate Way bus arriving on the 31/05/2021 at Kibaya
10 in Kisoro District at around 6:00PM.

PW2 testifies that she then went to her Auntie Kabagenyi Bonny's home where she found her alone and that she was welcomed by her Auntie who served her and after she had eaten told her to go to sleep.

According to PW2 the following morning her Auntie Kabagenyi called her at around
15 7:00AM asking her how her night was and that she gave her instructions to prepare tea that the two of them would take upon her return.

PW2 states that she prepared the tea and placed it in the dining room after which she went to prepare her Auntie's bedroom and that as she was mopping the bedroom she heard her Auntie Kabagenyi Bonny making an alarm outside the house and that she
20 was shouting that "*rescue me they have killed me*" and that the 2nd time her Auntie shouted that "*Tophel has killed me*"

PW2 asserted that the "*Tophel*" made reference to by her Auntie Kabagenyi Bonny is A2. PW2 testified that she got scared and moved slowly to the sitting room where she peeped through the sitting room window and saw her Auntie lying down on the
25 ground outside on the foundation and that besides the foundation she saw Tophel (A2) holding her Auntie Kabagenyi Bonny by the neck with a hammer in one hand and Muhiire (A3) had a panga in one hand that was blood stained and further that she saw A1 but that she did not know his name and he was holding a club.

5 According to PW2 Auntie Kabagenyi Bonny was saying “*Why are you doing this to me? I have no grudge with you*” and that she then saw Tophel (A2) strike her Auntie on the head with the panga and that is when she stopped talking. It is the evidence of PW2 that she watched all this from the window that was made of glass and that she pulled the curtain back a little to be able to see what was happening and she was
10 about 2 meters from them as she watched what was happening and the whole incident took about 5 minutes. PW2 states that she then went and hid under the bed where she had spent the night and while there she kept hearing footsteps moving in the house into her Aunties bedroom and heard things banging but could not see who was moving in the house. PW2 testified that she was under the bed for about 30
15 minutes and when she heard people crying outside the house and raising alarms she moved out and joined them. PW2 states that Tophel (A2) was among the people she found outside together with Uwera Marita (PW1), Agatha and others. It is the evidence of PW2 that her Auntie Kabagenyi Bonny was assaulted between 8:00AM – 9:00AM and she moved out of the house between 9:00AM – 10:00AM.

20 According to PW2 at the time she was 6 months pregnant and decided not to tell anyone what she had seen until she had given birth and that is when she revealed to her cousin Kembabazi Lilian what she had seen on the 01/06/2021. Kembabazi PW2 states is the daughter to the late Kabagenyi Bonny and that together they moved to Kibuli Police Station in Kampala where she made her statement.

25 Uwera Marita (PW1) testified that on the 31/05/2021 her Auntie Kabagenyi Bonny instructed her that on the 01/06/2021 she should go and cook for her workers and take them food in the garden. According to PW1 the next morning she went back to her Auntie’s home arriving there at about 8:45AM where she found the gate half closed and entered the compound where she found the door to the sitting room open.

5 According to PW1 she thought that her Auntie had visitors and went behind the house to sit there but that she decided to go to the latrine and as she was about to enter she turned and saw her Auntie lying on the ground about 4 meters from the Pit latrine and that she moved to where she was and observed that her arms were spread out, her dress was pulled up and the rest of the body was naked.

10 PW1 states that she tried to shake her and when she touched the back of her head she felt a depression and there was blood on the stones where her head was resting, the lesu that she had was also covered in blood together with her head wear. PW1 states that the body was near the sitting room and there was a piece of wood and panga near the body and the panga had blood stains while the piece of wood did not.
15 PW1 testifies that she then ran and informed a neighbor one Vase and that she returned with her together with her son Expodius and that she (PW1) and Vase pulled down the dress of the deceased Kabagenyi Bonny and that Vase then went to call people as she remained home.

PW1 states that she moved inside the house and discovered that the TV screen that
20 used to be on the table was missing, in the dining she found that the flask had been broken and tea poured, in the bedroom of her Auntie she found the same disorganized and when she moved into another room and switched on the light she saw someone hiding under the bed and that she got scared and stepped back but she then moved closer and found that it was her biological sister Sarah Musabimaba
25 (PW2) who was hiding under the bed and that she was covering her face with her hands and her heart was pumping.

According to PW1 she removed her hands and identified her as her sister and called her but that she did not respond and remained silent so she left her there and moved out to check on the chicken and goats. That later people gathered at the house that
30 included A2, A3, Expodius, Vase, Agatha and others.

5 That the Police later came and took down her statement.

The Prosecution also relied on the evidence of Busingye Vastina (PW3) who testified that she is a neighbour to the late Kabagenyi Bonny and a biological sister to (A2) she testified that on the 01/06/2021 between 8:00AM – 8:30AM she was collecting rubbish from her compound when she saw one Maria Nyeraneza at her gate and that Maria told her that she had come to work for Kabagenyi Bonny but that she had found a brown boy wearing a mask who instead of opening the gate for her closed it from inside and that she could hear him talking to someone from inside.

That Marita left and she continued with her work. According to PW3 it was approaching 9:00AM Uwera Marita (PW1) came and told her to go and see who was sleeping at her Auntie's compound and that together with her they moved to the compound where they found the deceased Kabagenyi Bonny dead near the banana plantation and that she had a cut on the head and at her side was a panga and blood stained wood. PW3 states that she raised an alarm to which people responded and that later A1 came demanding to see the body of Kabagenyi Bonny who he described as his Auntie saying he had medicine that he can apply to reveal her real killers. PW3 states that she then organised his arrest and he was taken to Police.

Florence Muhawinimana (PW4) testified that upon hearing of the death of Kabagenyi Bonny she went to the home of the deceased that morning and at around 2:2:30PM as she was in the bedroom of the deceased when A1 entered the room and requested to view the body of the deceased saying that he wanted to perform a ritual and reveal who the killers were and that this scared her and

5 so she took him outside the house where he repeated his words and was arrested by those who were present.

D/AIP Rumanika Wilberforce (PW6) testified that he is attached to CID metropolitan Police at Central Police Station – Kampala and that he was part of a team that had been set up by the head of CID at Kibuli Police Headquarters D/SSP
10 Agaba to review investigations in this case after complaints were made by family members of the deceased Kabagenyi Bonny vide Kisoro CRB 273 of 2021 and that their inquiries indeed revealed that the investigations had not been properly carried out and that he took fresh statements from some witnesses including Nsabimana Sarah (PW2) who had identified the assailants but had feared
15 previously to come out and declare the same. PW6 also visited the scene guided by Uwera (PW1) and tendered to Court a sketch plan of the same received as Exhibit P5.

PW6 also testified that arising from his investigations he ordered for the arrest and Prosecution of A2 and A3.

20 The evidence presented by the Prosecution linking the 3 Accused persons directly to the Murder of Kabagenyi Bonny is that presented by Nsabimana Sarah (PW2) who testifies to seeing all the Accused together as they assaulted her in the morning of the 01/06/2021. This evidence was availed first to Kembabazi Lilian who then took her to Kibuli Police headquarters where she made her first
25 statement on the 21/11/2021, more than five months after what she witnessed. According to Nsabimana (PW2) all this time she did not tell a soul what she had witnessed and puts this down to the pregnancy that she was undergoing at the time that disturbed her and that she was scared. The demeanour of Nsabimana

5 Sarah (PW2) in the witness's box as she testified appeared to be far from one who could have been intimidated into silence for such a long time. Nsabimana (PW2) exuded self-confidence and appeared to me to have a strong character.

She was not in the least intimidated by the rigorous cross-examination of two defence Counsel. She did not lose her cool at the barrage of questions that were
10 poured at her by the defence. I have serious difficulty imagining this witness (PW2) being so scared that she could not utter a word after what she had witnessed moreover soon after the danger was passed and she was in the company of multitudes including the Police.

The picture that Nsabimana (Pw2) paints of a timid and frightened witness is not
15 what this Court could see in the witness box. I am persuaded that Nsabimana (PW2) took the witness box prepared to tell lies and this is exactly what she did. It is no little wonder that the assessors found her testimony to sound more like a movie than reality. Uwera (PW1) who attempts to corroborate her testimony that she found her hiding under the bed admits that she had not seen her in over one
20 year and yet on having found her (PW2) hiding under the bed frightened and covering her face she only managed to identify her and left her still under the bed and did not tell anyone else of her presence in the house nor did she inform the Police when they arrived. Incredibly Uwera (PW1) did not even in the 8 months ask her if she had witnessed anything while inside the house.

25 D/AIP Tumukunde Gilbert (PW7) testified to having searched the entire house that included 8 rooms and confirmed that there was no one else in the house.

5 He further casts doubt on the testimony of Nsabimana (PW2) when he testifies that it was impossible for one at the sitting room to see the body where they found it nor could one from the sitting room view the veranda that was stained with blood. The sketch plan drawn by D/AIP Tumukunde in Exhibit P7 when contrasted with that drawn by D/AIP Rumanika (PW6) in Exhibit P5 differ
10 greatly.

Exhibit P5 drawn more than 6 months later on the 16/12/2021 clearly shows that the body of the deceased Kabagenyi Bonny could be viewed from the sitting room window. D/AIP Rumanika admitted that he reconstructed the scene as guided by Uwera (PW1). This same Uwera whose credibility was impeached when she
15 claimed to have used four different signatures in her Police statement in Exhibit D2 dated 16/12/2021 in which she claimed to have signed each page of her statement using a different signature and the samples that she presented to Court in Exhibit D3 were also different! Indeed, Rumanika (PW6) when confronted with Uwera's statement in Exhibit D2 had no option but to admit that each of the 4
20 signatures were different from the other. I am therefore not convinced that Uwera (PW1) properly guided D/AIP Rumanika (PW6) as to the location of the body and the spot where the suspected blood of the deceased Kabagenyi Bonny was on the veranda. I therefore find the sketch plan drawn by D/AIP Tumukunde (PW7) on the 01/06/2021 the date on which he visited the scene and made his observations
25 to be much more believable and I accept his evidence to be truthful. I therefore do not accept the evidence of Nsabimana Sarah (PW2) that she saw the 3 Accused persons assaulting the deceased nor that of Uwera that she saw Nsabimana (PW2) on the date in issue and I am fortified in this belief by the personal statement

5 made by Uwera to the Police on the date in issue of the 01/06/2021 in Exhibit D1 that she did not see anybody around the home of the deceased Kabagenyi Bonny. It is therefore very questionable 6 months later plus when she makes another statement altering her previous statement.

I am persuaded that Uwera (PW1) and Nsabimana (PW2) both coined their stories
10 to spin a lie against the 3 Accused persons and I entirely reject their evidence as a work of fiction.

Busingye Vastina (PW3) testifies to talking to one Maria Nyeraneza who told her that she had seen a brown boy with a mask inside the compound of Kabagenyi Bonny and that this brown boy dosed the gate locking her out. The witness in
15 Maria Nyeraneza was not produced by the Prosecution to corroborate Busingye's testimony in this regard. This assertion targeted A1 presumably because of his light colour is nothing more than loose talk and is not corroborated. It cannot be relied upon.

Busingye (PW3) and Muhawinimana (PW4) both testified that Nzamuye Gilbert
20 (A1) was arrested because he presented himself as being capable of identifying the killers of Kabagenyi Bonny by performing a ritual.

I find nothing in this claim sufficient to warrant a charge of Murder against him. A1 obviously wanted to take financial advantage of the family of the deceased but this intention heartless as it was cannot amount to Murder.

25 The Prosecution in my considered opinion has not provided any scintilla of evidence that links the 3 Accused persons to the death of Kabagenyi Bonny.

5 The defence of alibi that the 3 Accused persons have presented have not been rebutted by the Prosecution. After considering the evidence adduced by the Prosecution and in full agreement with the gentlemen assessors. It is my finding that the Prosecution has failed to prove its case beyond reasonable doubt and I accordingly find the 3 Accused persons A1, A2 and A2 not guilty on the first count
10 of **Murder** Contrary to Section **188** and **189** of Penal **Code Act** and accordingly acquit them of the same.

On the 2nd count of Aggravated Robbery the Prosecution must prove the following:

- a) That there was theft of property.
- b) Use of actual violence at before or after the theft.
- 15 c) That the assailants were armed with a deadly weapon before during or after the theft.
- d) That the Accused persons participated in the robbery.

The first 3 ingredients it is my finding have been proved by the Prosecution. It is not disputed by the defence that properties belonging to the late Kabagenyi Bonny
20 that included a TV screen and Gas cylinder were stolen from her house. In fact, according to D/AIP Rumanika (PW6) the TV screen was recovered and he saw it at Kisoro Police Station in the store. Despite the Prosecution not presenting any Exhibits that were recovered I am sufficiently satisfied that theft was proved.

It is not disputed by the defence that in the course of theft Kabagenyi Bonny lost
25 her life. Violence was used either before or after the theft of her properties.

I find this ingredient to have been proved by the Prosecution.

5 The presence a panga at the scene of Murder and a blood stained piece of fire wood next to the body has not been disputed by the defence. While the panga according to the record belonged to the deceased its presence next to the body together with the blood stained piece of firewood that the Post Mortem report in Exhibit P1 states to have been the blunt object used with much force to cause
10 injuries upon the deceased Kabagenyi Bonny is proof that the assailants were armed with a deadly weapon. I find that the Prosecution has proved the 3rd ingredient beyond reasonable doubt.

On the 4th ingredient of participation of the Accused persons, I am not persuaded that the Prosecution witness in Nsabimana Sarah (PW1) was being truthful in her
15 testimony that she saw the 3 Accused persons assaulting the late Kabagenyi Bonny and that she later hid under her bed and that her presence in the house was only known to her and her sister Uwere (PW1) for over 5 months before Nsabimana allegedly decided to come out and declare so. I do not believe this account to be true in the face of evidence given by D/AIP Tumukunde Gilbert
20 (PW7) that he searched the entire house and there was no one in that house at the time they arrived. Uwere herself in her first statement taken down on the day of the robbery and Murder on 01/06/2021 declares that she did not find any one at the home of Kabagenyi Bonny when she arrived there. I have no reason to believe that she was telling lies then. The defence of alibi set up by the Accused
25 persons in this case has not been discredited by the Prosecution evidence. It is therefore my finding that the Prosecution has not proved satisfactorily the Participation of the 3 Accused persons.

5 In full agreement with the gentlemen assessors I find that the Prosecution has failed to prove the 2nd count of Aggravated Robbery Contrary to **Section 285** and **286(2)** against the 3 Accused persons and I find them not guilty and accordingly and acquit them of the same.

10 In the result an order is hereby issued that Nzamuye Gilbert (A1) be released from custody (A2 and A3 being on bail) unless liable to being held for some other lawful purpose.

An order is hereby issued for the refund of UgX shs.2,000,000/= paid by Ntamunkizi Theophillus (A2) and Muhiire Edward (A3) for their bail.

Right of Appeal explained within 14 days.

15 Before me,

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Samuel Emokor
Judge
28/08/2023

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28/08/2023

All 3 Accused present.

Chief State Attorney – Ms. Grace Nabagala Ntege.

Mr. Nabasa of State brief.

10 Mr. Bakanyebonera of private brief for A2 and A3.

Clerk: Vianney.

Court: Judgment delivered in open Court.

Before me,

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Samuel Emokor

Judge

28/08/2023

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