

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

HOLDEN AT MASAKA

CRIMINAL SESSION CASE NO. 56 OF 1988

(Original Crim. Case No. 473 of 1985 of  
the Chief Magistrate's Court of Masaka).

UGANDA ..... PROSECUTOR

v e r s u s

A1. JOHN NKULANGA

A2. JOSEPH SEGIRINYA

A3. NO. UD.14024 ABERI TUSINGWIRE

..... ACCUSED

BEFORE: THE HONOURABLE MR. JUSTICE C.M. KATO

R U L I N G

This ruling is in respect of a submission of no case to answer made on behalf of the accused person by his Counsel Mr. Matovu.

At the close of the case for prosecution, the learned counsel for the defence submitted that according to the evidence available, prosecution had not made a prima facie case for the accused person to answer. The learned counsel for prosecution on his part agreed with the defence counsel's contention.

The back-ground of the case is that the accused person No. UD. 14024 Aberi Tusingwire was indicted with 2 other persons; John Nkulanga (A1) and Joseph Segirinya (A2) for the offences of Murder contrary to section 183 of the Penal Code and Robbery contrary to sections 272 and 273(2) of the Penal Code.


When the case came up for hearing the state entered Nolle Prosequi in respect of A1 and A2 and the case proceeded against the present accused (A3). The prosecution presented evidence of six witnesses and all that evidence was admitted under the provisions of section 64 of Trial on Indictments Degree.



No any other witness was physically called to testify before the court.

I have carefully looked at the admitted evidence and listened to argument of defence counsel and I have found that all the evidence which was admitted does not anywhere connect the present accused with any of the two offences which he is alleged to have committed. Applying the facts of the present case to the principles governing this sort of submission, I find that no reasonable tribunal would proceed to convict the accused, if he decided to remain silent after the close of the case for prosecution.

In these circumstances, I find that no prima facie case has been made out for the accused person Aberi Tusingwire to answer in respect of both counts. He is accordingly acquitted on all the two counts under the provisions of section 71(1) of T.I.D. and he is to be set free unless he is being held in prison for some other lawful purposes.

  
C.M. KATO  
JUDGE.  
12/12/89.