

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
HOLDEN AT : SOROTI

HIGH COURT CRIMINAL APPEAL NO. 6 OF 1995  
(Original Criminal Case No. MS 353 OF 1995)

OKIRING STEPHEN..... APPELLANT

VERSUS

UGANDA ..... RESPONDENT

BEFORE: THE HON. MR. JUSTICE S.G. ENGWAU

J U D G M E N T:

In the Chief Magistrate's Court sitting at Soroti, the appellant was on 17.10.95 charged with and convicted of the offence of "Giving false information to a person employed in the public service" contrary to section 109 of the Penal Code Act.

The appellant on his own unequivocally pleaded guilty to the offence and he was sentenced to one year imprisonment. The appeal is based on the sentence only on the following grounds:-

1. Because a sentence of imprisonment for one year was harsh and unreasonable in the circumstances.
2. That the learned trial Chief Magistrate misdirected himself in law in failing to record reasons for the sentence.
3. That the learned trial Magistrate's apparent hurry to sentence without giving the appellant opportunity to explain the circumstances under which the offence was committed has occasioned a miscarriage of justice.

Mr. Kakembo, Counsel for the appellant, strongly attacked the learned Chief Magistrate that he had manifestly imposed an excessive sentence based on wrong principle. The learned Counsel argued that the offence under section 109 of the Penal Code Act is a misdemeanour.

It was conceded by Mr. Bamugemereire, Counsel for the respondent that under section 24 of the Penal Code Act, when in this Code no punishment is specifically provided for any misdemeanour as in the present case, it shall be punishable with imprisonment for a period not exceeding two years.

The appellant was given a custodial sentence of one year in prison. The learned Counsel for the appellant strenuously argued that the appellant readily pleaded guilty and saved court time. He is first offender who had not offended any grave moral turpitude.



He was aged 40 years but all that background, the learned Chief Magistrate did not give reasons for the sentence. The learned Counsel for the respondent submitted that the sentence here was properly arrived at and commensurate with the offence.

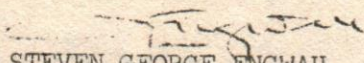
In Uganda V. Itonga, (1976) HCB 237, Saied, Ag. C.J. as he then was held inter alia that questions as to what sentences are appropriate in particular cases are essentially questions of judgment and discretion.

It is relevant to understand local conditions so as to have a perspective by which to assess what sentences are necessary, reasonable and just. Also to be considered are character and antecedents of the accused person which the law requires the sentencing court to inquire into as S. 132 (2) M.C.A. shows.

A sentencing court ought to be careful in imposing a punishment which reflects the justice of the case so that a deterrent sentence should be given only to deserving cases. It is proper to give an accused person a lesser sentence if he shows some genuine remorse, amongst other things by pleading guilty although it is trite to say that an accused who pleads not guilty should not be prejudiced.

Since the appellant was over 40 years and did not have any previous conviction to his name and he is a father of 6 children all of whom are dependant on him, 3 months' imprisonment might have sufficed in these circumstances.

Sentence of one year imprisonment would be set aside and instead a sentence of 3 months' imprisonment substituted, which sentence entitles him to be released from prison custody forthwith when his remissions are properly considered and assessed and I so order.

  
STEVEN GEORGE ENGWAU

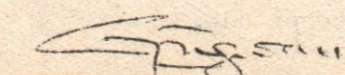
J U D G E

9.1.96.

17.1.96: Appellant before Court,

Resident Senior State Attorney engaged in a seminar at Kampala.

Judgment delivered in open Court.

  
STEVEN GEORGE ENGWAU

J U D G E

17.1.96.