

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

AT MBALE

HIGH COURT CRIMINAL SESSION NO.0058/2000

UGANDA.....PROSECUTOR

VERSUS

ABAAD AEKO AND ANOTHER.....ACCUSED

BEROFE: THE HONOURABLE MR. JUSTICE RUGADYA-ATWOKI

RULING

The state closed its case after calling four witnesses. None of them said anything which would ever in the slightest point to the accused. PW4 said he was assaulted by very many people, but was able to identify the accused among them. Accused had a 2-cm piece of stick and he alleged used this to assault the witness.

He however, had a gun which was not used in the assault.

When the witness confronted the accused about the beating, the accused stopped the beating.

This was all from the witness himself. That was the evidence of attempted murder. It just simply does not add up. This court would not convict the accused if he was not to say anything. That is one of the facts for a prima facie case ***Bhatt v R***. No prima facie case was made out to require the accused to make his defence in respect of any of the offences under which he was charged.

I therefore record a finding of a not guilty under S.71(1) T.I.D and hereby acquit the accused of the seven offences In the indictment. He is to be set free and at liberty forthwith unless he is held on other lawful charges. I am not inclined to put him on his defence merely in the hope that court might convict him of a lesser offence of simple assault. That would only be pointing that he would in his defence somehow strengthen the prosecution case; which is contrary to the law and practice of this court See ***Bhat v R***.

I therefore order for accused to be released as directed above.

Rugadya-Atwoki

Judge

8/7/2002