

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA**

CRIMINAL SESSION CASE NO. 272 OF 2011

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UGANDA.....PROSECUTOR

VERSUS

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**WALYANDA ASUMAN
ISABIRYE.....ACCUSED**

BEFORE: THE HON. JUSTICE GODFREY NAMUNDI

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RULING

This is a Ruling on whether the prosecution has made out a prima facie case against the accused.

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A prima facie case is one where a reasonable Tribunal would convict on the evidence available if no other evidence is called or even if the accused offers no defence.

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As cited in the case of **Labiro alias Musa Vrs. Republic**, the court may hold that there is no case to answer when there is no evidence to prove an essential element or the evidence has been discredited or the evidence is so unreliable that it cannot be believed.

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The evidence of participation of the accused in this matter revolves around the testimony of the victim - Kasakya Sarah. She states that the accused had sex with her 2 times - once near her home, and the second time at the office of the
5 accused. Both times she reported to no one and does not even recall the days or month when the same took place.

She then claims she reported to her teachers - one Nsada James (PW3) and Ndagire Alice Mpagi (PW4).

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The said witnesses in their testimony deny the victim ever told them that the accused had defiled her.

She states in her testimony that when the accused visited
15 their home and asked for sex the 3rd time, that is when she revealed to her mother that the accused had been defiling her more than once and this time had come for more sex.

The mother however who was PW2 denied that the victim
20 ever reported to her that the accused had ever had sex with her. That she only told her that the accused has asked her for sex and that is why she reported the matter to the LC.

With all the contradictions, denials and what I consider to be
25 outright lies on the part of the victim and most of the witnesses - one wonders who is fooling who.

I find no sufficient evidence to support the Indictment against the accused.

- 5 The charges are dismissed and the accused is acquitted accordingly.

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Godfrey Namundi
Judge
16/01/2014

16/01/2014:

Accused in court

Prosecutor: Janat Kitimbo

5 Defence: Munyamasoko Chris

Court: Ruling delivered in open court.

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Godfrey Namundi

Judge

16/01/2014

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