

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT SOROTI
CRIMINAL SESSION CASE NO. 1 OF 2012
UGANDA V MUSANA CHARLES

JUDGMENT BEFORE HON. LADY JUSTICE HENRIETTA WOLAYO

The accused person in this case is charged with aggravated defilement c/s 129(3) (4) (a) of the Penal code. It is alleged that on 9th May 2011, at Airriament village Olio sub county in Serere district, the accused person performed a sexual act on Ikalai Irene Grace, a girl aged three years.

Prosecution was led by Mr. Noah Kunya Senior State Attorney while the accused person was represented by Mr. Ogire on state brief.

Assessors were Ocole Joshua and Amoding Florence.

Prosecution had a duty to prove beyond reasonable doubt that a sexual act took place on a child and that the accused person participated in the criminal act.

On whether a sexual act took place on a child , prosecution relied on medical evidence and the evidence of Atim Susan, pW2 , mother of the victim. PW1 Anyodi Catherine senior clinical officer examined the victim at Serere Health centre IV and found aged three years. Although she found there was no penetration and the hymen was intact, there was inflammation of the sexual organ due to attempts to penetrate which attempts were made within 24 hours of the examination. Her findings are recorded on Pexh. 2 dated 10.5.2011. Her evidence is corroborated by PW2 Atim Susan who testified that on 9.5.11 , in the evening, she searched for her daughter and when she called

out her name the child responded from the house of the accused person . When the child emerged, she informed the witness that accused person had urinated on her. The accused person and the witness were neighbours. The witness took the child into the house, and on examination, found semen in her pants and private parts. The witness called a policewoman that night and accused person was arrested. I believed this witness whom i found consistent and reliable.

Therefore the sexual act was proved by both medical evidence and the circumstantial evidence of the child being in the company of the accused inside a house and when she came out, she had semen in her pants.

On participation, the evidence of PW2 Atim has shown that it is the accused who was with the child that evening. She immediately called PW3 Det. Corp. Apolot Helen who responded by coming to the scene. She too examined the victim and found semen in her private parts.

The accused denied the offence in a sworn statement but admitted him and Atim PW2 were neighbours.

An analysis of the evidence shows that the accused person performed a sexual act on Ikalai Grace a child aged 3 years. The state has proved beyond reasonable doubt offence charged.

I am in agreement with the assessors that i enter a guilty verdict. The accused person is accordingly convicted as indicted.

DATED AT SOROTI THIS 24th DAY OF JUNE 2014.

HON. LADY JUSTICE H. WOLAYO

