

1.2 The convicts came before the High Court for sentencing pursuant to the decision of the Supreme Court of Uganda in Attorney General-vs-Susan Kigula & 417 others, constitutional Petition appeal No. 3 of 2006, which found that the previous mandatory death penalty

regime was unconstitutional. Each convict who was subject to the automatic death sentence and not yet exhausted the appeal process was remitted to the High Court for mitigation and sentence, which was confirmed by the subsequent case of Ambaa Jacob & Another – vs-Uganda, Criminal Appeal No. 10 of 2009.

- 1.3** The prosecution is represented by the Directorate of Public Prosecutions. This matter was argued by Ms.Nalwanga Sherifah, State Attorney. Whereas, the convicts are represented by Mr. Senkezi Stephen of Senkezi, Saali Advocates & Consultants.

Both Counsel for the parties ably presented their mitigating factors in their submissions.

2. Sentencing the convicts.

- 2.1** In sentencing the convicts the following factors/reasons are considered:-

1) The cases of Attorney General-vs- Susan Kigula & 417 others (Supra) and Tigo Stephen –vs- Uganda Criminal Appeal No.8 of 2009.

- 2) All the mitigating factors submitted by both Counsel for the parties, which are on Court record.
- 3) The Constitutional (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, Legal Notice No.8 of 2013 particularly part 1 of the 3rd schedule.
- 4) For special emphasis, I have also considered the following factors:-
 - (i) The convicts were convicted of murder, an offence that carries a maximum sentence of death.
 - (ii) From the facts of the case and the submissions by Counsel, though the victim was brutally assaulted, she never died. She was admitted in Hospital, treated and recovered from the assault wounds. The facts of the case do not put this case in the rarest of the rare cases.
 - (iii) The convicts stole from the victims shs.400,000/= and property valued at Shs. 800,000/=.
 - (iv) The convicts are first offenders.
 - (v) I have also considered the prison's report, social inquiry report and the pre-sentence reports in respect of each

convict and I have no doubt that the convicts have the capacity to reform.

- (vi) Each convict spent about 4 years on remand before conviction, which period is taken into account in sentencing the convicts.

In the result and for the reasons given hereinabove in this ruling, I would have sentenced each convict to 14 (fourteen) years imprisonment, but I do deduct the period of 4 years each convict spent on remand. I therefore, sentence:-

(a) Yuda Atiku to 10 years imprisonment from the date of conviction.

(b) Banura David to 10 years imprisonment from the date of conviction.

Considering the days each convict would have got on remission of sentence, I order that each convict has already served the sentence. They should be released from custody hence with. Unless they are held on other lawful charges.

Dated at Kampala this 16th day of July, 2014.

.....

Joseph Murangira

Judge.

Court: Pursuant to Section 286 (4) of the Penal Code Act, Cap 120 Laws of Uganda, each convict is ordered to pay Shs. 1,000,000/= (one million shillings) only to the victim of crime as compensation for the loss suffered, within 30 days from today. This order shall be extracted by Counsel for the State and served on the victim's next of keen within 14 days from today for execution purposes under the Civil Procedure Rules, S.I. 71-1.

Dated at Kampala this 16th day of July, 2014.

.....

Joseph Murangira

Judge.