

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CRIMINAL DIVISION

CRIMINAL REVISION NO. 21 OF 2015

(Arising out of Magistrate’s Court of Kampala at Makindye Miscellaneous Application No. MA. 4907 of 2015)

IN THE MATTER OF KAMYA VALENTINO, ACCUSED, UGANDA POLICE REF. CID HQRS CEF 647/2015

SASHA RUKUNDO :::APPLICANT

VERSUS

UGANDA :::RESPONDENT

RULING BY HON.MR. JUSTICE JOSEPH MURANGIRA

The applicant through her lawyers Matovu & Matovu Advocates filed this application on 17th December, 2015 by a petition, under Section 50 (5) of the Criminal Procedure Code Act, Cap. 116, laws of Uganda. This application is supported by an affidavit that was sworn on 17th December, 2015, by the applicant.

This application is seeking for revision of the order passed by a Magistrate in the Magistrate’s Court of Kampala at Makindye under Section 6 of the Evidence (Banker’s Books) Act. The order of the Magistrate froze A/C No.08012630004 in the names of Sasha Rukundo at the said Bank of Africa, Kabalagala Branch.

The applicant is represented by Mr. Matovu John from Matovu & Matovu Advocates. Whereas, the respondent is represented by Mr. Okello Jonathan, Senior State Attorney, working with the Directorate of Public Prosecutions.

On 4th January,2016, when this application came up for hearing, Counsel for the respondent, Mr. Okello Jonathan raised a Preliminary Objection to the effect that there is a restraining order issued by the Anti-corruption Court, dated 22nd December,2015, restraining the subject matter of this application. He made a prayer that Counsel for the applicant does abandon this application.

In reply, Counsel for the applicant does not agree. He submitted that the applicant does not agree. He submitted that the applicant in this application is challenging the order of the Magistrate's Court. That the order of the Magistrate's Court has to be set aside, that because it is invalid. He prayed that this application proceeds on hearing.

The land is settled. An order of any Court must be obeyed as ordered by Court unless set aside or varied. If Court orders were to be ignored with impunity, this would destroy the authority of Judicial Orders, which is the heart of all Judicial Systems. The essence of my aforesaid proposition of the law regarding Court orders; is that once a party knows an order irregular, he or she cannot be disregarding an order of the Court is a matter of sufficient gravity, whatever the order may be. See the cases of:-

- 1. Amrit Goyal –VS- Hari Chard Loyal & 3 others, Civil application No. 109 or 2004 reported in 2008 ULR 32 (Court of Appeal of Uganda);**
- 2. Muwema & Mugerwa Advocates & Solicitors –VS- Shell (U) Ltd & 10 others Civil Appeal No.18 of 2011, delivered on 19th October,2012 by the Court of Appeal of Uganda and;**
- 3. Stanbic Bank (U) Ltd and Another –VS- The Commissioner of General of URA Miscellaneous application No.42 of 2010.**

In the instant Preliminary Objection, Counsel for the respondent, Mr. Okello Jonathan in his submissions entirely relied on the Order that was issued by Hon. Lady Justice Margaret Tibulya, Judge of Anti-Corruption Division of the High Court of Uganda, at Kampala, dated 2nd December, 2015. In that order which was submitted to this Court restrains among other many properties A/C No.08012630004 in the names of Sasha

Rukundo in the Bank of Africa Oasis, restraining the withdrawal of Shs. 240,000,000/= (Two hundred forty million Shillings). This order has the effect of freezing the said account.

I have perused the order of the Magistrate, which is annexure R.2 to this application and ascertained that on 7th October, 2015 the Bank Account in issue was indeed frozen.

That order of the Magistrate Court served its purpose. From the nature of the Magistrate's Court, it appears to me that the order issued, which is under dispute is valid. Consequently, the prosecution (respondent) obtained, yet another order from the High Court among Other things freezing the applicant's A/C No.08012630004 in the names of Sasha Rukundo, at the said Bank. The order of the High Court is valid for six (6) months from the date of issue or until further orders of the Court.

Wherefore, from my hereinabove analysis in this ruling, I agree with Counsel for the respondent that this application is overtaken by said order issued by the Anti-Corruption Division, of the High Court of Uganda at Kampala. In the premises, this application stands dismissed.

Dated at Kampala this 5th day of January, 2016.

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Joseph Murangira,
Judge.

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REPRESENTATION

05/1/2016

Mr. Matovu John for the applicant.

The applicant is in Court.

Mr. Okello Jonathan, Senior State Attorney for the respondent.

Mr. Lillian Kagaso, the Clerk is in Court.

Court: Ruling is delivered to the parties.

Right of appeal is explained.

Joseph Murangira,

Judge.

05/1/2016