

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT SOROTI
HCT-09-CR-SC-0069 OF 2014

UGANDA:.....PROSECUTION

VERSUS

IKAALAT JOHN BOSCO:.....ACCUSED

BEFORE HIS LORDSHIP HON. MR. JUSTICE BATEMA N.D.A, JUDGE

Judgment

IKAALAT JOHN was charged with one count of Aggravated Defilement C/S 129 (3) and (4) (d) of the Penal Code Act. It was alleged that on the 26th day of December 2013 at about 1500 Hours (3:00pm) at Alere village Achowa Sub-county in Amuria district the accused performed a sexual act with a neighbour's daughter who was a girl with a mental disability aged 15 years.

At the beginning of the trial both the prosecution and defence agreed that the victim was indeed a girl aged 15 years and had a mental disability. It was agreed upon that she was indeed defiled and medical evidence in PF3A was admitted as prosecution exhibit PE1. It showed that the girl had small tears in her private parts as a result of defilement. The only ingredient of the offence denied was participation by the accused.

Prosecution relied on the evidence of PW1 ALAYO CHRISTINE, the mother of the child victim and PW2 IRIMO BOSCO, a neighbour, told Court that they got a report from Josephine Imalingat that accused was seen having sexual intercourse with the victim. The witnesses ran to the home of Josephine Imalingat and found the accused infragranto de licito in the sexual act. The witnesses literally pulled him off his victim.

In the identification of the accused I have no doubt that the witnesses knew the accused before as a village mate and immediate neighbour. It was in brood day light and there was no obstruction. There was no mistaken identity. The accused was caught with pants down and did not run away.

His defence was that he was framed up because the parents of the victim want to grab his land and 8 cows. He did not substantiate.

I found nothing to make me believe his defence. It raised no doubt in my mind.

I find the accused guilty of aggravated defilement. He defiled the deceased girl knowing she was a girl she was a girl with mental disabilities. He is according conceited of Aggravated Defilement C/S 129 (3) and (4) (d) of the Penal Code Act.

Judge
2/05/2017