

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT SOROTI
HCT-09-CR-SC-0075-2013

UGANDA:.....PROSECUTION

VERSUS

AKORIMO JAMES PETER:.....ACCUSED

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

Judgment

This is a case of alleged defilement of a pupil aged below 18 years by her school teacher. It was alleged that Akorimo James Peter (accused) sent the girl to fetch water from the borehole very early in the morning and when she brought the water he locked his house and defiled her. He locked her up in the house the whole day and she failed to attend the games and sports competition that day the 12th of April, 2013. She did not go home that Friday. When she went home the next day she disclosed to her grandmother that she had been defiled. The matter was reported to police. The accused teacher denied the offence.

Facts admitted

1. The victim was aged below 18 years of age.
2. She was a pupil at Owalei primary school in P.5.
3. The accused was her teacher with authority over her.
4. The Teachers' Daily Attendance Record Book tendered in as exhibit PE1 does not show that accused was on duty on 12th April 2013 when he is alleged to have committed the offence.
5. The accused is an adult of sound mind. (Exhibit PE.3).

Prosecution Evidence

Dr. Ekumait Oumo John examined the victim and found that the girl victim had a perforated hymen and tendered PF3A as exhibit PE4.

PW2 OINE Charles, the step-father of the victim told Court that he sent his daughter to school early morning on 12th April 2013. It was also a sports day. The child did not return home until the next day. He got a report from his wife and the mother-in-law that his daughter had been defiled by her school teacher, one Akorimo. He reported the matter to police. The girl was subjected to medical examination and it was confirmed that she had been defiled. This parent said he rejected all attempts of reconciliation and bribery at the police by friends of the accused.

PW3 Adeke Immaculate aged 53 testified and told Court she is the grandmother of the girl victim. That the girl went to her home late on 13th April 2013 at around 5:00pm. She made a disclosure that a teacher had had sexual intercourse with her at Owalei primary school. She slept at her home. The next day, Sunday she took her to her parents and reported the sexual act. The parents took up the matter with the police.

PW4 the victim herself told Court that on 12/4/2013 the accused sent her to the borehole for water. It was a day when the school was supposed to go to Soroti town for a games and sports competition. By the time she came from the borehole all the other pupils and teachers had left for Soroti. The accused laid her on his bed and defiled her.

After the sexual act he locked her up in his house and left. He came back late in the evening and let her out. She went and slept at her grandmother's home. That she told her grandmother what the teacher had done to her. The grandmother led her home the next day and reported the offence to her parents. Her father reported the matter to police. She was later examined by a doctor.

In cross examination she denied having slept at a friend's place. She confirmed that it was the accused who had sexual intercourse with her on 12th April 2013 and that was her first sexual encounter. She made an alarm but no one answered the alarm because all teachers and pupils had gone to the sports ground.

In his defence the accused said he left his house early to go and teach starting at 6:00am and did not return till 7:00pm. That he did not go out to the sports ground but remained at school with DW2 setting academic exercises the whole day.

DW3 Ekwalu Margaret was a pupil from the same school. She said she attended the sports gala with the girl victim. They cheered their school team and left in the evening. That they both went to this witnesses home where they spent a night. The next day she escorted her friend home and also slept there in turn. Her evidence is corroborated by her mother DW4 Asamo Betty.

He finally raised a fact of a grudge that at one time he had reported the complaining girl victim to the school administration for writing a love letter to a boy friend.

The Law and Evidence

On age, the prosecution relied on a baptism card and word of the parent/guardian. Court also observed the witness in Court. The fact that she was a young girl in P.5 (not on mature studies) could be considered in proof of the age.

On the Sexual Act, the act is alleged to have been performed on the girl on 12th April 2013. The medical evidence exhibited in PF3A and the word of the victim were convincing enough.

The identification of the accused in the commission of the crime was best done by the victim. It was in the morning hours. She knew the perpetrator before as her teacher. There was no mistaken identity.

The victim was sent to the borehole for water. She was given keys to the house. By the time she brought the water all the other teachers and pupils had left the compound. They had gone to Soroti to participate in the sports competition. She was left alone with the accused.

The School Daily Attendance register is proof that the accused did not attend school that day. All the others signed except him and his friend DW2.

The defence witnesses cover him beginning from 9:00am but not earlier in the morning.

Contradictions

There were contradictions in the evidence as to where the girl victim went after the alleged sexual act. Prosecution said she went to her grandmother while the defence brought witnesses to show that she went to stay at Betty Asamo's with her friend Ekwalu. These are minor contradictions happening after the fact of the alleged defilement.

The accused being a teacher with authority over the victim is not denied.

I have no doubt that the girl victim was defiled by the accused very early in the morning before school business started. He locked her up in his room the whole day and she did not participate in the games and sports competition. He might have gone to school and forgot to sign in the daily attendance register but that was after committing the defilement.

The prosecution case is so strong proving beyond reasonable doubt that the accused teacher defiled his pupil. I convict the accused of Aggravated defilement as charged.

Judge

04/05/2017