

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT SOROTI
HCT-09-CR-SC-0072-2013

UGANDA:.....PROSECUTION

VERSUS

AKWARI JOSEPH:.....ACCUSED

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

Judgment

Akwari Joseph was charged with murder C/S 188 and 189 of the Penal Code Act. It was alleged that on 8th April 2010 the accused murdered his wife Alibo Loyce at Otikitik village in the Amuria district.

Ingredients of Murder

1. That a person died.
2. That the death was unlawful.
3. That the death was caused with malice aforethought.
4. That the accused person participated in the murder.

Agreed upon facts

1. It was agreed upon that Alibo Loyce died an unlawful death. The post mortem report was tendered as prosecution exhibit PE.3 showing that the body had bruises on the head and multiple injuries on the back and other parts of the body. The cause of death is stated internal

bleeding from the head injuries. The weapon likely to have caused the injuries were clubs and sticks.

Under section 66 of the Trial on Indictment Act all evidence admitted are facts proved beyond reasonable doubt.

Participation

The accused denied participation. Participation is proved by positive identification placing the accused at the scene of crime.

In the instant case prosecution relied on the evidence of two eye witnesses PW1 Osia Tom and PW2 Olinga David. Osia was an immediate neighbour to the home of the accused. He responded to an alarm and found the couple fighting. He saw the accused assaulting his wife using a stick. He stood by until the furious accused stopped himself.

Olinga told Court that he is a nephew of the accused. He heard an alarm and ran to the accused's home to answer the alarm. He found the couple fighting. He saw and heard the accused ordering his wife to lie down and receive her punishment. The accused went looking for a stick and then came back and hit her on the head and the back. He assaulted her and left for the dead.

That by the time the accused was done, his wife was unconscious. This witness together with Osia lifted the unconscious wife and took her to her grass-thatched hut. Both witnesses observed that she had life threatening injuries on the head, neck and the back.

This Court has no doubt that the witnesses knew the accused before. He was a close relative and neighbour. They saw it all happening before their own eyes.

The accused had no defence at all. I find the accused as guilty as charged. He is accordingly convicted of murder C/S 188 and 189 of the Penal Code Act.

Judge

02/05/2017

