

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT ARUA**  
**CRIMINAL CASE No. 0069 OF 2018**

**UGANDA** ..... **PROSECUTOR**

5

**VERSUS**

**OMOYA COLLINS** ..... **ACCUSED**

10 **Before: Hon Justice Stephen Mubiru.**

**SENTENCE AND REASONS FOR SENTENCE**

This case has come up today 23<sup>rd</sup> November, 2018 in a special session for plea bargaining. The  
15 accused is indicted with the offence of Aggravated Robbery c/s 285 and 286 (2) of *The Penal Code Act*. It is alleged that on 11<sup>th</sup> May, 2017 at Kanyagoga sub-ward in Bardege Division, in Gulu District, the accused and others still at large robbed from Acan Night Lubel cash shs. 160,000/=, a Techno phone worth shs. 150,000/= a ladies' handbag worth shs. 50,000/= and a National Identity Card, and during, immediately before or immediately after the said robbery  
20 used a deadly weapon, to wit, a hammer on the said Acan Night Lubel.

When the case was called, the learned State Resident Attorney, Ms. Catherine Nakaggwa has reported that she successfully negotiated a plea bargain with the accused and his counsel. The court has invited the State Attorney to introduce the plea agreement and obtained confirmation of  
25 this fact from defence counsel on state brief, Mr. Walter Ladwar Okidi. The court has ascertained that the accused has full understanding of what a guilty plea means and its consequences, the voluntariness of the accused's consent to the bargain and appreciation of its implication in terms of waiver of the constitutional rights specified in the first section of the plea agreement. The Court being satisfied that there is a factual basis for the plea, and having made the finding that  
30 the accused made a knowing, voluntary, and intelligent plea bargain, and after he has executed a confirmation of the agreement, has gone ahead to receive the agreement to form part of the record. The accused has then been allowed to take plea whereupon a plea of guilty has been entered.

The court has invited the learned Resident State Attorney to narrate the factual basis for the guilty plea, whereupon she has narrated the following facts; on 11<sup>th</sup> May, 2017 at Kanyogoga village the victim closed her bar at around 11.00 pm after serving her customers. The accused with three others hit her on the head with a hammer and took her bag containing shs. 160, 0000/= a phone and an ID. She regained consciousness at Gulu Hospital. On arrest, the accused was found to be 33 year old and mentally sound. The victim was found to have soft tissue injuries on the head. The respective medical examination reports too have been admitted as part of the facts.

Upon ascertaining from the accused that the facts as stated are correct, he has been convicted on his own plea of guilty for the offence of Aggravated Robbery c/s 285 and 286 (2) of *The Penal Code Act*. In justification of the sentence of eight (8) years' imprisonment proposed in the plea agreement, the learned Resident State Attorney has stated that; the convict hit the victim on the head and also considering that he was in possession of a hammer which he used. Learned defence counsel has stated the key mitigating factors considered to have been that; willingness to admit right from the beginning and he was under the influence. He can reform. By way of *allocutus*, the accused has stated that; he prays for forgiveness.

I have reviewed the proposed sentence in light of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*. I have also reviewed current sentencing practices for offences of this nature. In this regard, I have considered the case of *Uganda v. Ongodia, H.C. Crim. Sessions Case No. 21 of 2012* where the High Court sentenced a UPDF soldier convicted of aggravated robbery to 15 years' imprisonment. He was a first offender who admitted the offence on arrest, pleaded guilty on arraignment and had spent a period of 5 years on remand. In *Kusemererwa and Another v. Uganda C.A. Crim. Appeal No. 83 of 2010*, the Court of Appeal substituted a sentence of 20 years' imprisonment that had been imposed upon each of the appellants with one of 13 years' imprisonment, on grounds that it was manifestly excessive.

A plea of guilty offered readily before commencement of trial usually results in a discount of anywhere up to a third of the sentence that would otherwise be imposed after a full trial. Having considered the sentencing guidelines and the current sentencing practice in relation to offences of

this nature, I consider the sentence proposed in the plea agreement entered into by the accused, his counsel, and the State Attorney to be appropriate.

5 In accordance with Article 23 (8) of the Constitution and Regulation 15 (2) of The *Constitution*  
*(Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*, to the effect that  
the court should deduct the period spent on remand from the sentence considered appropriate,  
after all factors have been taken into account, I observe that the convict has been in custody since  
8<sup>th</sup> June, 2017 and I hereby take into account and set off one year and five months as the period  
10 the convict has already spent on remand. I therefore sentence the convict to a term of  
imprisonment of six (6) years and seven (7) months to be served starting today.

Having been convicted and sentenced on his own plea of guilty, the convict is advised that he has  
a right of appeal against the legality and severity of this sentence, within a period of fourteen  
days.

15

Dated at Gulu this 23<sup>rd</sup> day of November, 2018

.....  
Stephen Mubiru  
Judge,  
23<sup>rd</sup> November, 2018.