

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA

HCT- 00- CR- CV- 0008 OF 2018

**(ARISING FROM CHIEF MAGISTRATE'S COURT NAKAWA
CRIMINAL CASE NO 48 OF 2018 C)**

MBOGO MUHAMMED ----- APPLICANT

VERSUS

UGANDA ----- RESPONDENT

BEFORE LADY JUSTICE FLAVIA SENOGA ANGLIN

RULING

This matter was referred to this court for revision vide the letter of the Chief Magistrate Nakawa, dated 21.03.18.

The ground for revision is that the matter was handled by a court which had no jurisdiction. Judgment had not yet been given in the matter.

The Accused Mbogo Muhammed was charged on two counts. Count one is forgery of a will contrary to Section 348 of the Penal Code Act – which carries a maximum sentence of life imprisonment.

Count two is uttering a false document contrary to Section 351 of the Penal Code Act, where on accused if convicted is liable to the same punishment as if he or she had forged the thing in question.

Both offences therefore carry a maximum sentence of life imprisonment.

In the lower Court, the file was allocated to a Grade I Magistrate, who without taking into account the fact that he/she had no jurisdiction to handle the matter proceeded to take plea and hear the case.

This court is further informed that the matter was handled by several Magistrates and was pending judgment. When it was discovered early this year that the Grade I Magistrate had no jurisdiction to handle the matter, the file was forwarded to the High Court as earlier mentioned.

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Indeed it is clear from the provisions of the law under which the Accused was charged that a Grade I Magistrate had no jurisdiction to hear the case.

10 S.161 of the Magistrates Courts Act provides for criminal jurisdiction of Magistrates.

Under S. 161 (1) (b), ***“A Magistrate Grade I may try any offence other than an offence in respect of which the maximum penalty is death or life imprisonment”.***
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This court therefore finds that the entire proceedings before a court which had no jurisdiction were a nullity. They are accordingly quashed forthwith.

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The file should be returned to Nakawa Court and placed before a Chief Magistrate for retrial. The Accused should be summoned to appear and take plea after which the matter should be heard afresh.

25 Under S.161 (a) Magistrates’ Courts Act- ***“a Chief Magistrate may try any offence other than an offence in respect of which the maximum penalty is death”.*** Therefore, a Chief Magistrate has jurisdiction to hear the case.

30 Refer also to S. 50 of the Criminal Procedure Code Act which provides for power of the High Court on Revision.

Under S.50 (1) of that Act’ “in the case of any proceedings in a Magistrate’s court, the record of which has been called for or which has
35 been reported for orders, or which otherwise comes to its knowledge, when it appears that in those proceedings an error material to the merits of any case or involving a miscarriage of justice has occurred, the High Court may.

40 – (b) in the case of any other order other than an order of acquittal alter or reverse the order.

S.51 of the Criminal Procedure – gives the court discretion as to the hearing of parties.

- 5 It provides that – *“except as provided in S.50, no party has any right to be heard either personally or by an Advocate before the High Court when exercising its powers of revision; but that court may, if it thinks fit, when exercising those powers hear any party either personally or by Advocate, and nothing in this*
10 *section shall be deemed to affect S.50 (2)”*.

The proceedings are hereby quashed and a retrial ordered before a Chief Magistrate.

- 15 File to be returned to Nakawa Court for that purpose.

FLAVIA SENOGA ANGLIN
JUDGE

20 **28.09.18**