

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT MASINDI
CRIMINAL SESSION CASE NO.023 OF 2018

UGANDA :: PROSECUTOR
VERSUS

A1: ALIBANKOHA JOSEPHAT

A2: MUGABI JULIUS

A3: SEBITOSI JOSEPH

A4: SEMUGA GODFREY

A5: SEKAYI ACKLEO

A6: KAYIMA GODFREY

A7: MUKISA FRED

A8: KING PAUL

A9: SEMAKARU LEONARD :: ACCUSED

JUDGMENT

BEFORE: HON. JUSTICE BYARUHANGA JESSE RUGYEMA

- [1] The 9 accused persons; **Alibankoha Josephat (A1), Mugabi Julius(A2), Sebitosi Joseph(A3), Semuga Godfrey(A4), Sekayi Ackleo(A5), Kayima Godfrey(A6), Mukisa Fred(A7), King Paul(A8), Semakaru Leonard(A9)** were indicted with the offence of **Murder contrary to Sections 188 & 189 P.C.A.** It is alleged that on the 14/9/17, at Mituju L.CI in the Kibaale District, the 9 accused persons and others still at large murdered **Twesiime Gordon**.
- [2] All the accused persons pleaded not guilty to the offence.
- [3] The prosecution case and the facts relating to the commission of the offence, are that on the early morning of 14/9/2017 at around 5.30am, a police officer, a one **Chance Spider**, attached to Kibaale police station Kibaale district, was on the road waiting for a taxi that would enable him connect to Bundibugyo, where he was to enjoy his pass leave with his family. He boarded a taxi driven by a one **Aliguma Joseph**, which was destined for Kampala via Mubende but he hoped to get out from Mubende where he would board a taxi to Fort portal and then connect to Bundibugyo.

- [4] In the course of moving, they met the deceased, **Engineer Gordon Twesiime** of Kibaale District Local Government who stopped the vehicle and also entered. When they reached a stage called Kawaguzi, the driver **Aliguma Joseph** stopped the vehicle, left the vehicle engine running i.e in idling and went for a short call at a certain petrol station called starlight.
- [5] In the absence of the driver, the deceased who had been seated in front, on the passenger seat left his seat and took up the driver's seat. He drove off the vehicle. Some passengers moved out as the deceased drove the vehicle away at an abnormal speed.
- [6] In the meantime, the driver of the vehicle upon finding his vehicle driven off, made various communication to various authorities and on radios, and as a result, the community set a road block at Mituju where the deceased was intercepted. By then, the deceased was with only one passenger **Chance Spider**, the policeman, in the vehicle. The deceased drove on but as he tried to dodge the eucalyptus tree log that had been used to block the road at Mituju, the vehicle fell into a trench.
- [7] It is at this stage that a mob descended on the deceased and **Spider**, the policeman. They grabbed **Spider**, threw his bag that contained his clothes and money into the bush and tied him on a tree. Then **A9** came with a spear and pierced the deceased on the stomach. The mob assault on them ensued up to when police came and rescued **Spider** and the deceased was also moved to Mubende hospital, where he died from.
- [8] **Spider** survived being lynched because some individuals in the mob realized he was a mere passenger in the vehicle and they protected him from the mob. The deceased was lynched on the suspicion that he had stolen the motor vehicle in question. It however transpired later that the deceased had a mental problem, a fact that was in due course communicated to the mob in an attempt to calm them down but this was in vain. The accused persons were among those identified in the mob that participated in the assault of the deceased that led to his death.
- [9] At the closure of the prosecution case, 3 of the accused persons, that is, **Mugabi Julius**(A2), **Semuga Godfrey**(A4) and **King Paul**(A8) were found to have had no case to answer as they had successfully disassociated themselves from the commission of the offence by acting as peace keepers and they were therefore, acquitted and discharged under **Section 73 T.I.A.** **A1, A3, A6, A7, and A9** were put on their defence.
- [10] In their unsworn statements, all the 6 remaining accused persons denied the prosecution allegations by raising alibis.

- [11] In criminal cases, the prosecution has the burden of proving the case against the accused person beyond reasonable doubt. The burden does not shift to the accused person and the accused are only convicted on the strength of the prosecution case and not on the weaknesses in his defence; **SSEKITOLEKO Vs UGANDA [1967] EA 531.**
- [12] To secure a conviction in murder, the prosecution must prove each of the following essential ingredients, beyond reasonable doubt;
- i) Death of the person named in the indictment.
 - ii) The death was caused by an unlawful act.
 - iii) That the death/unlawful act was actuated by malice aforethought.
 - iv) That the accused persons were responsible for or participated in the death of the deceased; **UGANDA Vs ENDRIO ROSE & ORS H.C.CRIM. SESSION CASE No. 172/16 (GULU)**
- [13] As regards the 1st, 2nd, and 3rd ingredients of the offence, the prosecution led evidence of the Post Mortem Report (**P.Exh.I**) which was admitted as an agreed fact under **Section 66 T.I.A. Dr. Komakech Deus** of Mubende Hospital who examined the body and prepared the Post Mortem Report, recorded external injuries of the deceased to include gross scalp laceration and abdominal laceration. As regards internal injuries, he recorded mandible and brain contusion. He established the cause of death as contusion of the brain.
- [14] The accused persons appear to concede the death of the deceased. It is therefore not in dispute that the deceased **Engineer Gordon Twesiime**, died in the hands of the mob.
- [15] It is trite law that any homicide including mob justice is unlawful unless excusable under circumstances of accident, done in defence of person or property or it was authorized by law; **GUSAMBIZI S/o WESONGA [1948]15 EACA 65.** There is no evidence on record to the effect, that the killing of the deceased was either accidental, or in defence of property, or self defence or in execution of a lawful process.
- [16] Malice aforethought is defined by **Section 191 P.C.A** as either an intention to cause death of a person or knowledge that the act will cause the death of a person. Malice aforethought can be inferred from the injuries inflicted, the nature of the weapon used, the parts of the body targeted; **UGANDA Vs JOHN OCHIENG [1992-93] HCB 80.**
- [17] In the instant case, the evidence of the eye witnesses who included **Asp.Mugizi(PW₁)**, **Wagaba Richard(PW₂)**, **Kasibante Sam(PW₃)**, **D/AIP Omara(PW₄)** and **Chance Spider(PW₅)**, the assailants of the deceased who were in form of a mob used stones, bricks, sticks, spears and pangas to

inflict the fatal blows and injuries that led to his death. Indeed, the Post Mortem Report established the cause of death as contusion of the brain.

- [18] The hurling of bricks, stones and infliction of injuries by deadly weapons to wit; spears and pangas on the head and stomach of the deceased, is sufficient proof that whoever participated in the act, did so with malice and intended the victim to die. It follows therefore, that the death of **Engineer Gordon Twesiime** was caused by an unlawful act, actuated by malice aforethought. The defence reasonably and correctly did not contest any of the 1st, 2nd, and 3rd ingredients of the offence. I therefore find that the first three ingredients of the offence have been duly proved by the prosecution beyond reasonable doubt.
- [19] The next or the most important ingredient of the offence, is whether the accused persons participated in the killing of the deceased, **Engineer Gordon Twesiime**.
- [20] The determination of the above issue is dependent on whether the 6 accused persons were identified as having actually participated in the mob action that resulted in the death of the deceased.
- [21] The guidelines of cases where the case against an accused person depends wholly or substantially on the correctness of one or more identifications of the accused were laid down in **ABUDALLA NABULERE & 2 ORS Vs UGANDA [1979] HCB 77** as follows;
- i) The judge should warn himself and the assessors of the special need for caution before convicting the accused in reliance on the correctness of the identification or identifications.
 - ii) The judge should then examine closely the circumstances in which the identification came to be made, particularly the length of time the accused was under observation, the distance, the light, the familiarity of the witness with the accused etc.
- [22] Upon warning myself as I did and to the assessors, of the special need for caution before convicting the accused in reliance on the correctness of the identification in this case, I proceed to examine closely the circumstances in which the identification came to be made.
- [23] According to **Asp. Mugizi Wycliffe**(PW₁) one of the prosecution star witnesses, it was on the 14/9/18 around 6.30am when he received a phone call on 0777100312, whose source was later to be a one **Besigye**, that a thief had been arrested and needed to be picked and be taken to the police post. PW₁ proceeded to the scene at Mituju while in the company of a **Wagabi Richard**(PW₂), a crime preventer. They found a police officer **Chance Spider**(PW₅) tied on a tree and the deceased seated

near a mini bus motor vehicle Reg.No UBA 0684 being pelted with stones. Others were armed with sticks and pangas and had become rowdy.

- [24] Upon identifying the deceased as **Engineer Gordon Twesiime**, PW₁ caused the untying of the police officer **Spider** and made him sit next to the deceased to enable him focus on both and safe guard them from the mob. He fired in the air as he secured a boda boda man who whisked away the said **Spider**. In the meantime, he run short of bullets as he called for reinforcement from the DPC. He could no longer scare away the mob. It is then that **Semakaru** (A9) whom he knew came with a panga and cut the deceased's arm/hand as other people in the mob pelted PW₁ and the deceased with stones. PW₁ was able to identify the others in the mob as **Alibankoha**(A1) whom he also knew before, **Sebitosi**(A3), **Sekayi Ackleo**(A5) and **Mugisa**(A7). It is only **Kayima Godfrey**(A6) among the accused persons whom he (PW₁) did not mention as having identified. The rest of the people he identified were acquitted on a case to answer for they were able to disassociate themselves from the offence by acting as peace keepers, shielding **Spider**(PW₅) from being lynched.
- [25] **Wagaba Richard**(PW₂) a crime preventer, his evidence supported and corroborated that of PW₁ except that for him, he only knew the accused persons by face because he usually used to meet some of them in markets, bars and in the trading centre. He could not identify any of them by names because he never knew the people in the area.
- [26] As regards **Kasibante Sam**(PW₃), a fellow crime preventer as PW₂, he appeared at the scene and he is the one who towed or drove the mini bus motor vehicle Reg.No.UBA 068H which was purportedly stolen by the deceased, from the scene to Myamarwa police post. He identified and found out the people who participated in the deadly mob assault of the deceased to include **A1**, **A3** and **A5**. The rest like **A2** were among those acquitted on no case to answer. People at the scene were saying and they told him that it was **A9** who cut the arm of the deceased and thereafter went away with his panga. This is corroborated and supported by the Post Mortem Report (**P.Exh.I**) which referred to a "**Gross (R) elbow laceration**" and PW₁ who stated to had seen him cut the deceased's arm/hand with a panga.
- [27] What the people told PW₃ as regards the role played by **A9** during the lynching of the deceased corroborated the evidence of **Chance Spider** (PW₅) who was also a victim of the mob that lynched the deceased. According to him, he saw **A9** again spear the deceased on the stomach. Indeed, according to the Post Mortem Report (**P.Exh.I**), the body of the deceased had an "**abdominal wall laceration.**"

- [28] Lastly, as other realistic people who were among the mob urged the rest to leave the victims of the mob, PW₅ heard A1 loudly state that for him, he was not ready to leave until he squeezed life out of the deceased Engineer and PW₅.
- [29] **Ms Ajok**, counsel for the accused persons submitted that PW₁ stated that when he arrived at the scene of crime, he saw A9 with a panga, cut the deceased's arm/hand but that PW₅ said that he saw A9 with a spear with which he speared/pierced the deceased. According to her, this was a big contradiction that court should consider or find the accused persons innocent.
- [30] I have examined the pieces of evidence as regards the role played by A9, especially the evidence of PW₁, PW₃ and PW₅. It is true, PW₁ stated that he saw A9 cut the deceased's arm/hand and PW₅ saw A9 with a spear, pierce the deceased in the stomach. However, the version of PW₁ is supported and corroborated by the evidence of PW₃ who while at the scene heard the people present, state that it is A9 who cut the arm of the deceased and thereafter went away with his panga. It is corroborated by the Post Mortem Report (**P.Exh.I**) which indicated one of the external injuries on the deceased to include a "gross laceration of the right elbow. It is during another moment that PW₅ saw A9 spear the deceased on the stomach. A9's actions were not simultaneous. This was also again corroborated by **P.Exh.I**, a laceration on the abdomen.
- [31] On my part, I do not see or appreciate any contradiction as regards the evidence of PW₁ and PW₅. The seeming contradiction was explained by PW₅ when he stated thus;
- "A9 came with a spear and speared Engineer on the stomach. I heard people trying to protect me that I was a passenger and I should be spared. While A9 Speared the Engineer, the realistic people started blaming A9, 'oh Semakaru, why have you done that yet the announcement was to the effect that nobody should be killed.' This is when I identified A9 as Semakaru. Then thereafter, A9 picked a panga and came to cut me."***
- [32] During cross examination, PW₅ explained further that;
- "He (Semakaru) would carry a spear, then reappear with a panga."***
- [33] It is clear from the above explanation by PW₅ and considering the terror that the mob had reigned on the victims, A9 whom PW₅ referred to had been the ring leader/commander of the mob, variously carried, held a

spear and a panga and used them at different moments to inflict the above named harm on the deceased. There is therefore no contradiction between PW₁'s evidence and that of PW₅. They instead corroborated each other on A9's presence at the scene and the role he played.

[34] In their unsworn statements, all the accused raised alibis as their respective form of defence.

[35] It is trite that by setting up alibi, an accused does not assume the burden of proving its truthfulness so as to raise doubt in the prosecution case. It is the duty of the prosecution to adduce evidence that places him at the scene of the crime; **CPL. WASSWA & ANOR Vs UGANDA S.C.CRIM. APPEAL No. 49/99.**

[36] One of the ways of disproving an alibi is to investigate its genuineness; **ANDROA ASENUA & ANOR Vs UGANDA S.C.CRIM. APPEAL No.1/98. In R Vs SUKHA & ORS [1939]6 E.A.C.A 145**, the court of appeal of East Africa observed thus;

"if a person is accused of anything and his defence is an alibi, he should bring forward the alibi as soon as he can because firstly, if he does not bring it forward until months after wards, there is naturally a doubt as to whether he has not been preparing it in the interval and secondly, if he brings it forward at the earliest possible moment, it will give prosecution an opportunity of inquiring into that alibi and if they are satisfied as to its genuineness, proceedings will be stopped."

[37] In the instant case **Alibankoha Josephat** (A1) in his defence stated that he knew the 2 crime preventers **Kasibante**(PW₃) and **Wagaba Richard**(PW₂) and they also knew him. He wondered why they never mentioned his name as one of the participants in the murder of the deceased.

[38] Indeed, **PW₂** never mentioned identifying **A1** as one of the participants in the murder of the deceased but **PW₃** listed A1 as one of the people found and identified who participated in the deadly mob assault of the deceased. Besides, A1 himself in his defence, placed himself at the scene of crime when later in his testimony, stated that at around 6.00am, he went to the scene and saw a vehicle that was allegedly stolen by the deceased which had been intercepted by the mob. That it had 2 people inside. Indeed, it was only the deceased and Spider(PW₅) who were in the mini bus vehicle at the time of crime. It is not expected that every prosecution witness ought to have identified each of the accused persons.

- [39] It was A1's further testimony, that however, he left the scene and returned at around 7.00am upon hearing gun shots dispersing the mob at the scene. Though he claimed to have stood at a distance whereupon he saw police lift a lifeless body of the deceased into the vehicle whom they took to Mubende, PW₁ saw him at the scene in action armed with a stick and there is nothing to show that he disassociated himself from committing the offence. Instead, as clearly revealed by PW₅, when the realistic people were urging the mob to leave the victims safe, **A1** was heard loudly state that he was not leaving until he squeezed life out of the deceased. Indeed, **Engineer Gordon Twesiime** lost his precious life in the hands of the mob that included **A1**. PW₃ had also found and identified **A1** as among those who participated in the deadly mob assault of the deceased. The A1's alibi is therefore in the circumstances, disbelieved. It is a mere afterthought.
- [40] **Sebitosi Joseph**(A3) also denied being at the scene. That on the fateful day, he was at his place which is about $\frac{1}{4}$ mile from the scene of the crime. That later at around 8.00am, he left his home and went to Kyababoga village to cultivate and returned at around 4.00pm.
- [41] However, during the trial, PW₁ explained how **A3** joined the mob. It was not disputed that PW₁ knew **A3** very well. Nowhere on record, during cross-examination, A3's alibi was put to PW₁ and PW₃ who identified him at the scene. The alibi was put forward at a later stage during the defence. Court is entitled to regard such an alibi as a mere afterthought. I find that both PW₁ and PW₃ placed **A3** at the scene of the crime. Both PW₁ and PW₃ found and identified him as one of those who participated in the deadly mob action that led to the death of the deceased.
- [42] As regards **Sekayi Ackleo**(A5), he also denied being at the scene. That on the fateful Friday, he went to his work place in Kasuli village to burn his bricks.
- [43] In his further testimony however, he revealed that during the morning hours of the fateful day, he was at a one **Sewanyana's** shop waiting for him to open so that he could buy sugar and then proceed to his work place, that this is when he was able to see the scene of crime where he saw A9 and others. Considering the fact that PW₁ stated that he saw A5 with stones, which evidence is supported by that of PW₃ that he was among the mob who assaulted the deceased to death, and the fact that this albeit late alibi was never put to any of the identifying witnesses; PW₁ and PW₃, I am inclined to believe the prosecution evidence, that A5 was at the scene of the crime and disbelieve the alibi as a mere afterthought.

- [44] As regards **Kayiwa Godfrey**(A6), he also claimed that he was not at the scene of crime. That on the fateful day, he was at his home in Kasuli village. He however testified that he told police the names of the people he knew that assaulted the deceased and these included **A9, Pascal** and others. Indeed, neither PW₁, PW₅ nor PW₃ claim to have seen him at the scene of the crime. His name was not mentioned by any of the prosecution witnesses as being among the mob that assaulted the deceased.
- [45] No wonder during his testimony in cross examination, PW₁ mixed up the identity of **A6** and **A8**. **A8** and **A4** are among those who were acquitted on no case to answer. As a result of the above, I find **A6's** alibi believable. The prosecution has failed to place him at the scene of crime.
- [46] **Mukisa Fred**(A7) also denied being at the scene of the crime at the alleged time of commission of the offence. That he had gone to work at Kasal village cultivating on a one **Sempala's land**. That he left on 10/9/17 and returned on 17/9/17. However, that where he was in the bar drinking, he heard people say that **A9, Sebyole** and **Pascal** were among the mob that killed the deceased. To prove his alibi, he asked court to look at his statement. A7's police statement was therefore in the circumstances received in evidence and marked **(D.Exh.I)**.
- [47] In A7's police statement **(D.Exh.I)** dated 27/9/17, he revealed as follows;
- "That it was around 0530 hrs in the morning when I was sleeping at home in the trading centre of Mituju. I woke up and moved there. I found people like Semakaru Ronald, Pascali Mulindwa, Mwanje, Sebyole, Hassan and others whom I did not identify because there were very many people. They were busy beating a man using bricks and sticks and they were saying that they were beating a thief, that had stolen a vehicle... The police came from Nyamara and they started shooting bullets to rescue the man but these people were so hostile and they killed the man. There was also another man whom they had tied on a tree and he was also beaten seriously."**
- [48] Surely, as seen from A7's statement, it does not support his alibi. Though in the statement he denied participating in the mob action of assaulting the deceased. It is proved beyond reasonable doubt that he was at the scene of the crime on the fateful day and was clearly identified by PW₁. PW₁ identified him in action lynching the deceased.

- [49] As regards **Semakaru Leonard**(A9) it is his statement that from 12/9/17 to 18/9/17, he was at Mubende hospital where he was nursing his sick child. That it is when he returned, that the crime preventers arrested him on allegations of murder of the deceased. He was however not able to present medical documentation regarding his child's sickness and admission in Mubende Hospital. He claimed that the documents were removed from him by the crime preventers.
- [50] However, during the trial, nowhere did he put this alibi to either of the prosecution witnesses i.e **PW₁**, who stated that he saw him cut the deceased's hand/arm, **PW₅** who saw him spear the deceased on the stomach or **A5, A6, and A7** who in their defence place him at the scene of the crime. Secondly, during cross examination, the defence did not put to any of the crime preventers i.e **PW₂** and **PW₃** the claim regarding the removal of his medical documents regarding his child's admission in Mubende.
- [51] As a result of the above, this court is inclined to believe the prosecution's identifying witnesses and reject **A9's** defence of alibi as being a mere afterthought.
- [52] As admitted by the defence, the offence was committed during broad day light. **PW₁** and **PW₅** went to the scene of the crime. **PW₁** in particular knew the accused personally well and had known them even before the incident. The incident took some considerable time to enable **PW₁** and **PW₅** identify the offenders. It is true there was chaos, stones were being pelted at the deceased and later at **PW₁**, **PW₅** was tied on a tree, but all these factors, would not hinder a police officer from identifying people he knew who committed an offence.
- [53] In the instant case, I am satisfied that there were correct conditions for proper identification of the offenders. The offence was committed during broad day light with some of the offenders like **A1** boasting of impunity. I therefore in the premises, find that **A1, A3, A5, A7** and **A9** were properly and correctly identified and have been sufficiently placed at the scene of the crime.
- [54] **Section 20 of the P.C.A** is to the effect that;
"when two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of that purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of that purpose, each of them is deemed to have committed the offence."

This is the doctrine of common intention.

- [55] In **ISMAIL KISEGERWA & ANOR Vs UGANDA CRIM.APPEAL No.6 OF 1978(CA)**, the late Nyamuchuchu, J.A observed that,
“In order to make the doctrine of common intention applicable, it must be shown that the accused had shared with the actual perpetrator of the crime a common intention to pursue a specific unlawful purpose which led to the commission of the offence. If it can be shown that the accused persons shared with one another a common intention to pursue a specific unlawful purpose, and in the prosecution of that unlawful purpose an offence was committed, the doctrine of common intention would apply... it is now settled that an unlawful common intention does not imply a pre-arranged plan; See **P Vs OKUTE [1941] 8 E.A.C.A at p.80.**”

Common intention may be inferred from the presence of the accused persons, their actions and the omission of any of them to dissociate himself from the assault. See **R Vs TABULAYENKA [1943]10 E.A.C.A 51.**

- [56] There are also cases where even a person is convicted on the doctrine of common intention despite the fact that he did not participate in the assault; **ANDREA MUTEBI & ANOR Vs UGANDA CRIM. APP.No.144/75 EACA.**

- [57] In **WANJIRU WAMIRO Vs R [1955]22 EACA 521**,
“It is immaterial whether the original common intention was lawful so long as an unlawful purpose develops in the commission of the offence. See Mutebi’s case(Supra).”

- [58] In this case, I find that it cannot be argued that the accused persons had a lawful intention to intercept or apprehend a motor vehicle thief. The accused persons opted to lynch the deceased who they regarded as a thief. PW₁, a police officer, upon arriving at the scene and identifying the deceased as **Engineer Gordon Twesiime** and the police officer tied on a tree at be a police officer by the names of **Spider**, fired in the air until he ran out of bullets to disperse the rowdy mob but in vain. A sub-county chief **Kisembo Bernard** also intervened and revealed to the mob that the victim they were going to kill, was **Engineer Gordon** whom he had known to have had a mental problem but nobody listened, instead the mob directed its anger and pelted stones at him upon which he fled (see PW₂’s evidence). The owner or driver of the purportedly stolen vehicle, **Aliguma Joseph**, appeared and appealed to the mob to halt executing

the deceased, that the victims were innocent but none listened. The accused persons were all intent and determined to accomplish their mission, the unlawful common intention of assaulting /lynching the deceased.

[59] Although not everyone who was around the scene participated in the assault that led to the death of the deceased.

I find that the accused persons in particular shared a common intention to lynch the deceased. None of them desisted from this objective save for A2, A4, and A8 who disassociated themselves from the objective of assaulting/lynching the deceased by trying to shield and protect the victims hence they earned an acquittal at the closure of the prosecution's case.

[60] The presence of any person at the scene of the crime, actively encouraging the unlawful act and thereby **omitting** to save the life of a human being, the doctrine of common intention catches up with him though he may not have actually participated in the assault of the deceased. In this case however, despite the presence of each of the accused persons at the scene, they were in addition identified in action lynching the deceased.

[61] In view of the totality of the above, I hold that the doctrine of common intention applies to the instant case. The accused persons **A1, A3, A5, A7, and A8** had or formed a common intention to assault or lynch the deceased and in the prosecution of that purpose, murder of the deceased **Engineer Gordon Twesiime** was committed.

[62] The gentleman and lady assessors, in their joint opinion advised that only A1 and A9 be found guilty in the murder of the deceased. That the rest i.e **A3, A5, A6, and A7** be acquitted because though they were placed at the scene, there was no sufficient evidence of their participation.

[63] In disagreement with the assessors, for the reasons already given, each of the accused persons, **A1, A3, A5, A7 and A9** are caught up by the doctrine of common intention under **Section 20 P.C.A.** As a result, each of them is found guilty of the offence of murder of **Engineer Gordon Twesiime** and they are each accordingly convicted

Dated at Masindi this 5th day of August, 2021.

Byaruhanga Jesse Rugyema

JUDGE.

SENTENCE:

The offence of murder that carries a maximum sentence of death. The deceased had had a mental problem which led him to without authorisation drive off somebody's vehicle and when he was intercepted by a mob, it assaulted him to death. The mob which was comprised of the accused persons were nevertheless alerted by the owner of the vehicle, a local Sub county chief, **Kisembo Bernard** and others that the deceased should be left free for he had a mental problem. The accused persons refused to listen. They hurled stones, bricks and sticks at the deceased until when the police came to his rescue from the scene. In the presence of police, the assault continued, he was speared on the stomach and had his arm cut. He died a very scaring and painful death. One wonders where the accused persons secured and or generated such anger for doing away with deceased's precious life in such a manner.

The fact that the accused persons acted with impunity and took away the life of the deceased who was a **District Engineer**, they deserve a tough deterrent sentence. In view of the fact that they have been on remand for a period of about **4 years** and the other circumstances of this case, I don't consider the maximum sentence but consider life imprisonment as the appropriate sentence for each of the accused persons. Each of the accused persons is therefore sentenced to life imprisonment for the murder of **Eng. Twesiime Gordon**. Right of appeal explained.

BYARUHANGA JESSE RUGYEMA

JUDGE

5/8/2021