

IN THE SUPREME COURT OF UGANDA

AT MENGO

CRIMINAL APPEAL NO. 2/86

BETWEEN

NRA. PTE ROBERT BYARUHANGA APPELLANT

AND

UGANDA RESPONDENT

(Appeal from the conviction and sentence of the High Court of Uganda at Kampala (Mrs. Justice L.E.M Kikonyogo) dated 23/5/86)

JUDGEMENT OF THE COURT

The appellant is a private to the National Resistance Army. He was indicted before the High Court sitting at Kitgum for the murder of Juliana Ataro at Adileng Trading Centre, Agogo County in the district of Kitgum. He was convicted of Manslaughter contrary to section 182 of the Penal Code and was sentenced to 10 years imprisonment. He has now appealed to this Court against sentence only.

There is evidence that the appellant was drinking together with other soldiers and some civilians at the Trading Centre. The soldiers were armed with rifles. There is evidence that the appellant fixed his gun at the door behind which were people with whom the appellant had been drinking killing the deceased, Juliana Ataro. The deceased had sustained serious injuries including compound fracture of the left arm, a through wound from the right to the left part of the chest, impaired lung and blood vessels and shattered mandible and maxilla. These injuries caused her death.

We are satisfied that the appellant is properly convicted.

As regards sentence, the learned trial Judge gave reasons for imposing the sentence. She had considered the age of the appellant, the fact that he was a first time offender, but she referred to the gravity of the offence and its prevalence at the material time. In her view a deterrent sentence was called for.

In these circumstances we are unable to say that the learned trial judge exercised his discretion wrongly in that the sentence is manifestly excessive having regard to the circumstances. We see no merit in the appeal, which is accordingly dismissed.

DATED AT MENGO THIS 5th DAY OF DECEMBER 1989

S.W.W. WAMBUZI
CHIEF JUSTICE

S.T. MANYINDO
DEPUTY CHIEF JUSTICE

A.H.O. ODER
JUSTICE OF THE SUPREME COURT

I CERTIFY THAT THIS IS A TRUE COPY
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B.F.B.BABIGUMIRA
REGISTRAR SUPREME COURT