THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA

AT MENGO

CORAM: ODOKI – CJ, ODER – JSC, KAROKORA – JSC, MULENGA - JSC, KANYEIHAMBA - JSC

CRIMINAL APPEAL NO. 50 OF 2000

B E T W E E N

OYEKI CHARLES: ::::: ::::: ::::: APPELLANT

VS

UGANDA: :::::: : ::::: :::::: RESPONDENT

JUDGMENT OF THE COURT

The appellant was indicted, tried and convicted of rape c/ss 117 and 118 of the Penal Code Act. The particulars of the offence were that on 16-07-95, at Jemba Village in Mpigi District, he had unlawful carnal knowledge of Nanyenga Tereza who was PW2 at the appellant's trial. He appealed against his conviction to the Court of Appeal. That appeal failed. He has now appealed to this Court.

There are 2 grounds of appeal, the second one of which was against the severity of sentence of 15 years imprisonment imposed on the appellant by the trial court. The appellant's learned Counsel abandoned this ground, rightly so in our view, because it is incompetent." The remaining ground which was argued by the appellant'$ learned Counsel was that the learned Justices of Appeal erred in law and fact by finding that there was proof of forceful sexual intercourse.

The thrust of the argument by the appellant's learned Counsel was that the evidence of the complainant, (PW2) was not sufficiently corroborated. We think that this argument has no merit, because the evidence shows that the complainant's daughter Nakayima Seforoza (PW3) responded to the scene when her mother was attacked by the appellant and she raised an alarm. PW3 found the appellant on top of her mother having sexual intercourse with her (the complainant). She then ran to where her mother and herself had been to a party and called others, including the victim's son (Musata). They found the appellant still on top of the complainant having sexual intercourse with her.

The trial court accepted the evidence of PW3 as corroborative of the complaint's evidence that sexual intercourse took place and that it was the appellant who raped her.

We are unable to say that the Court of Appeal erred in that respect. PW3's evidence was sufficient corroboration of PW2's evidence of sexual intercourse and that the appellant was the culprit. Consequently we see no merit in the appeal. It is accordingly dismissed.

B. ODOKI
CHIEF JUSTICE

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

A. N. KAROKORA
JU*STICE* OF *THE SUPREME COURT*

J. MULENGA
JUSTICE OF THE SUPREME COURT

G. W. KANYEIHAMBA
***JUSTICE* OF THE SUPREME COURT**