

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT MENGO

**(CORAM: ODER, TSEKOOKO, KAROKORA, MULENGA AND
KANYEIHAMBA)**

CRIMINAL APPEAL NO. 6 OF 2001

B E T W E E N

KATO GABRIEL:

APPELLANT

A N D

UGANDA:

RESPONDENT

JUDGMENT OF THE COURT

The appellant was convicted of murder by the High Court at Mubende. He was sentenced to death His appeal to the Court of Appeal was unsuccessful. He has now appealed to this Court on one ground which is that the Court of Appeal erred in law and in fact when it failed to exhaustively evaluate the evidence and come to a finding that the defence of provocation was not available to the appellants.

The appellant's learned Counsel argued the ground of appeal to that effect.

With respect, we are unable to agree with the learned Counsel's submissions. We find no merit in the appeal.

The criticism of the Court of Appeal has no justification in our view. After considering the provisions of the law regarding provocation and the evidence in the case, the Court of Appeal concluded:

"We are unable to agree that the failure of the deceased to pay a loan of Shs 20,000= and his refusal to go with the appellant to his mother to explain to her when he would pay the loan alone could amount to provocation sufficient In law to reduce the killing of the deceased from murder to manslaughter. We think the appellant armed himself with the knife and went with the deceased intending to kill him and to steal the

money he was going to buy coffee with. After a full consideration of all the circumstances we are of the view that the learned judge would have come to the same conclusion if he had directed his mind to the defence of provocation."

We agree with that conclusion of the Court of Appeal. In the circumstances, we find that the appeal must be dismissed.

It is accordingly dismissed.

Dated at Mengo this 8th day of July, 2002.

A.H.O. Oder
Justice the Supreme Court

J. W. N. Tsekooko
Justice of the Supreme Court

A.N. Karokora
Justice of the Supreme Court

J.N. Mulenga
Justice of the Supreme Court

G.W. Kanyeihamba
Justice of the Supreme Court