

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

**CORAM: ODER, TSEKOOKO, KAROKORA, KANYEIHAMBA, KATO, JJ.S.C.**

**CRIMINAL APPEAL NO. 15 OF 2003**

**CPL. BYASIGARAHU WILSON :::::::::::::::::::: APPELLANT**

**AND**

**UGANDA :::::::::::::::::::: RESPONDENT**

*[An appeal from the decision of the Court of appeal contained in the judgment of the Justices Okello, Mpagi-Bahigeine and Twinomujuni, JJ.A. delivered on 8th May, 2003, in Criminal Appeal No. 15 of 2003].*

**JUDGMENT OF THE COURT**

The appellant, Byasigaraho Wilson was indicted, tried, convicted and sentenced to death by the High Court at Fort Portal for aggravated robbery contrary to Sections 272 and 273(2) and murder, contrary to Sections 183 and 184 of the Penal Code Act. He appealed to the Court of Appeal which dismissed his appeal. Hence this appeal.

The appeal to this court was founded on five grounds. During the course of his submissions, Mr. Cranimer Tayebwa, counsel for the appellant, abandoned ground 1.

Counsel proceeded to argue the rest of the grounds together. He contended that the courts below did not take into account the fact that the appellant had been beaten before he made the charge and caution statement which the two courts held to be a confession. He further contended that the Court of Appeal failed to consider the statement in its entirety. The fact of the participation of PW 3 in the commission of the offences was ignored and ought to have been considered since he gave evidence as an accomplice. The courts below made errors in law and fact and this appeal ought to be allowed, conviction quashed and sentence set aside.

Mrs. Betty Khisa, Senior Principle State Attorney, for the respondent supported both the convictions and sentence. Counsel for the state referred to the evidence relied upon by the courts below and the way the two courts reached their decisions. In her view, their findings and decisions were correct and cannot be faulted. She prayed that the appeal be dismissed.

Having heard both counsel and perused the record of proceedings, we are satisfied that the appellant was properly convicted. His claim that he confessed because of beating is not true since the assault on his person was by a crowd which was chasing him after the murder and robbery had been reported and before he made his confession to the police officer, AIP Katarwa. In our view therefore, the trial court and the Court of Appeal were correct in holding that the confession had been made voluntarily and was therefore admissible.

In the confession, the appellant revealed the whereabouts of the murder weapon which only the user could have known. In any event, the evidence of PW 3 and PW 4 corroborated his confession. Whether or not the evidence of PW 3 as an alleged accomplice should have been ignored or not, would not have, in our opinion advanced the case for the defence any further. If PW 3 was indeed an accomplice, his evidence was amply corroborated.

In our view, the trial court properly evaluated the evidence and the learned Justices of the Court of Appeal correctly reevaluated it and came to their own decision which was to confirm both the conviction and sentence.

We are satisfied that the appellant was properly convicted. There was ample evidence to support this conviction. We find no merit in this appeal which must fail. It is accordingly dismissed.

*Dated at Mengo this 19<sup>th</sup> day of February, 2004.*

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

**J.W.N. TSEKOOKO**  
**JUSTICE OF THE SUPREME COURT**

**A.N. KAROKORA**  
**JUSTICE OF THE SUPREME COURT**

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

**C.M. KATO**  
**JUSTICE OF THE SUPREME COURT**