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THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KABALE
HCT-05-CR-SC-0092 OF 2003

UGANDA:..... PROSECUTOR

VERSUS

10 NTEZIRYAYO alias GAPAMPARI :..... ACCUSED

BEFORE: HON. JUSTICE P.K. MUGAMBA

PROCEEDINGS:

15

1st September 2003

Accused in Court

Mr. Beitwenda for accused on state brief

Mr. L. Tumwesigye Resident State Attorney

20 Milton Court Clerk

Indictment read and explained to accused.

Court: Have you understood to indictment?

25

Accused: I have understood it.

Court: How do you plead?

Accused: I know nothing about it.

30

Court: Plea of not guilt entered.

Assessors:

1. Mihigo, aged 53 years. peasant, Kamwazi.
- 35 2. Kyamuhama, aged 27 years, Civil Servant, Kabale.

Accused: I do not object to any of the assessors.

State Attorney: No objection.

5

Mr. Beitwenda : No objection

Court: Hearing for 25th September 2003.

10

P.K. Mugamba

Judge

25th September 2003

Accused in Court

15 Mr. Beitwenda for accused

Mr. Turyamuhima Court Clerk/interpreter

State Attorney:

We have agreed on medical evidence – Police Form 3 and Police Form 24. We shall put
20 them in as exhibits.

Mr. Beitwenda:

That is the position.

25 **Court:**

The evidence contained in Police Form 3 shows that on 31st December 2001 Dr. Ndizihirwe Assy, District Director of Health Services, Kisoro at the request of Kisoro Police Station examined Mujawimana Jackline who he found to be 15 years old. Her hymen had been ruptured 50% about 3 days previously. There were injuries and
30 inflammation around the girl's private parts. There were also injuries and bruises on

thighs, elbows and legs. The injuries were about 3 days old. The girl was not strong enough to put up resistance. There were no signs of venereal disease or sperms.

On 7th January 2002 the Medical Officer, Kisoro Hospital examined Nteziryayo alias
5 Gapampari. He was in his early twenties. He had no recent physical injuries and his mental status appeared normal.

P.K. Mugamba

Judge

10

SIGNATURE OF ACCUSED

SIGNATURE OF COUNSEL FOR ACCUSED

15 **SIGNATURE OF STATE ATTORNEY:**

20 **Court:**

Medical evidence is accordingly admitted under S. 64 of the Trial on Indictment Act. Police Form 3 is exhibit P.1 while Police Form 24 is exhibit P.2.

P.K. Mugamba

25 **Judge**

Assessors:

1. Mihigo G. Christian, sworn.
2. Kyamuhama L; Christian, sworn.

30

PW1 MUJAWIMANA JACKLINE, aged 18 years, cultivator of Kibugu village Nyabusaza sub county, Kisoro District Christian sworn and state:

I know accused who is from our place. His name is Gapampari. On 28th December 2001
5 at around 5 pm I was at home. The sister of the accused had my debt of shs.200/=. She came to our house. Her name is Marinah. She told me she had not bought my money but she asked me to go with her all the same. I went with her to her house. I used to go there often.

10 When we reached their home the accused forcefully pulled me into their house. At the time I was seated in front of the house near the door. I was too weak to resist. Inside the house accused removed his shorts and took my knickers. Immediately he put his erect penis inside my vagina. Earlier he had pulled me on the flour. I raised an alarm but nobody answered. He continued having sexual intercourse with me until my brother
15 Kwihagana came to my rescue. This was also Nyirabashitzi Provia and the chairman of the Gitsuzi village. Merinah was meanwhile outside together with his mother. They were both laughing. I saw them.

When Kwihagana and Nyirabashitzi came try broke the door. The door had been closed
20 by accused using some nails. I left the house and fell in front of the entrance to the house. I left my headdress, shoes and Kitenge in the house. I was taken to the house of the chairman where I spent the night. Accused ran away and he was arrested later in the maize plantation where he had fled to.

25 When I came from the house I found many people outside. It was a market day so I could not recognise all of them.

I spent the night at the chairman's house while accused was taken to the Gombolola Headquarters. I was later taken to Dr. Ndizaye by Police for examination.

30

I know accused before but I never expected him to do such a thing to me. From accused's house to my house it is nearby, a distance of about 250 metres.

Cross examination by Mr. Beitwenda: Nil

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Mr. Beitwenda:

My client wishes to change his plea from that of not guilty to that of guilty.

10

State Attorney: No objection.

Indictment read and explained to accused person.

15 **Court:**

Have you understood the indictment?

Accused:

I have understood it.

20

Court:

How do you plead?

Accused:

25 I am aware of the charge. I admit it.

Court:

Plea of guilty is entered.

State Attorney:

30 On 28th December 2001 Mujawimana Jackline aged 15 years went to sister of the accused called Mehina to the home of accused. Merina had promised to pay back the shs.200/=

she owed her. At the home of the accused he dragged complainant to their house and shut the door. He forcefully had sexual intercourse with her. She raised an alarm which attracted many people. They broke the door of the house and rescued her. The matter was reported to the local authorities and later to police. Accused is arrested and charged
5 accordingly.

Court:

Have you heard those facts?

10 **Accused:**

I have understood them.

Court:

Are they true?

15

Accused:

They are true.

Court:

20 You are convicted on your own plea of guilty to the charge of defilement, and upon your admission of the facts.

Allocutus:

State Attorney:

25 The convict is a first offender. The offence carries a maximum sentence of death. I pray for a stiff sentence. the convict has been on remand since December 28th 2001.

Mr. Beitwenda:

30 The convict has pleaded guilty saving court's time but in realisation of his mistake. He has been on remand for about 2 years and he is 20 years old. He is a young man who can

reform and be useful to his country. He says he is remorseful. I pray for a lenient sentence.

Convict:

I pray for lenience. I will not repeat the offence.

5

Sentence:

The convict is 20 years old and he has saved Court's time by being repentant and showing remorse. However what he did to the complainant is something that this court is duly bound to discharge.

10

I have taken into account all the circumstances of this case and the fact that the convict has been on remand for about 2 years now. Nevertheless while a stiff sentence is called for in a case like this I shall sentence accused to 10 years' imprisonment, having discounted the period already spent on remand.

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P.K. Mugamba

Judge

1st September 2003