

IN THE SUPREME COURT OF UGANDA

AT MENGU

(CORAM: MANYINDO D.C.J., ODER. J.S.C, & PLATT. J.S.C.)

CRIMINAL APPEAL NO. 18 OF 1991

BETWEEN

MOHAMMED YASIN SEKAJOLO :::::::::::::::::::: APPELLANT

AND

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

(Appeal against conviction and sentence of
the High Court of Uganda at Kabale (Mr. Justice
Mukanza) dated 22nd April 1991)

IN

HIGH COURT CRIMINAL SESSION CASE NO. 65/88

JUDGMENT OF THE COURT

The appellant was tried and convicted by the High Court (Mukanza, J) on an indictment of attempted murder, contrary to Section 197 (a) of the Penal Code. He was sentenced to 8 years imprisonment. He now appeals against conviction and sentence. There is no merit in the appeal against conviction. There was evidence that the appellant was at loggerheads with his relatives, including the complainant Kisoka Jamad who was his cousin, over land that belonged to the late father of appellant.

The appellant waylaid the complainant in the latter's banana garden on 28.3.85 at about midday and cut him with a panga on the left arm. The arm had to be amputated above the elbow. During the attack the complainant raised an alarm which was promptly answered by Sekibu Mukuye (PW3), Masitula (Pw4) and Namigadde (Pw5) who found the complainant and the appellant at the scene of crime. The appellant, who was brandishing his panga threaten them and tried to chase them away. The complainant lay on the ground with a badly injured left arm.

In view of that clear and strong evidence the appellants claim that he was attacked by the complainant and other persons including some prosecution witnesses on a road about 200 metres from the alleged scene of the crime, that the attackers assaulted him seriously and that

the complainant was injured by a blow which PW3 had aimed at the appellant was rightly rejected as false.

The complainant was cut badly and indeed maimed. He could have bled to death. A dangerous weapon was used. We have no doubt that the appellant acted with malice aforethought. He was properly convicted. This appeal against conviction is accordingly dismissed.

With regard to sentence we think that in the circumstances of case the sentence of 8 years imprisonment was excessive. We allow the appeal against sentence. The sentence is set aside. We substitute a sentence of six years imprisonment, taking into account the long period the appellant remained on remand.

Dated, at Mengo this 9th day of July 1992.

Sgd:

S.T. MANYINDO

DY. CHIEF JUSTICE

A.H.O. ODER

JUSTICE OF THE SUPREME COURT

H.G. PLATT

JUSTICE OF THE SUPREME COURT

I CERTIFY THAT THIS IS TRUE

COPY OF THE ORIGINAL

B.F.B. BABIGUMIRA

REGISTRAR SUPREME COURT