

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA

AT MENGO

*(CORAM: ODOKI, CJ, ODER, TSEKOOKO, KAROKORA AND
KANYEIHAMBA*

CRIMINAL APPEAL NO. 46 OF 2000

B E T W E E N

MUJUNI APOLLO: ::: ::: ::: ::: ::: ::: APPELLANT

A N D

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

JUDGMENT OF THE COURT

The appellant was convicted of defilement contrary to section 123(1) of the Penal Code Act. He and one Ruhangailyo had been inducted together tried and convicted for defilement of the complainant. They both appealed to the Court of Appeal which allowed Ruhangailyo's appeal. The Court of Appeal dismissed the appellant's appeal and upheld his conviction and imprisonment of 14 years.

He has now appealed to this Court on 2 grounds. 1st that the learned Justices of Appeal erred in law and in fact by finding ~~that~~ there was ample corroboration in the evidence of PW2 and PW3, and 2nd that the learned Justices of Appeal erred in law and in fact when they failed to re-evaluate the evidence on record and subsequently upheld the decision of the learned trial judge. The appeal was argued by Mr. Henry Kunya the appellant's learned Counsel.

The thrust of his argument was that the learned Justices of Appeal failed to comply with the provisions of rule 29(1)(a) of the Court of Appeal Rules, which enjoin the Court of Appeal to reappraise the evidence. He criticized the Court of Appeal for upholding the trial court's finding that the evidence of PW2 and PW3 corroborated the evidence of PW1 (the complainant) that she was defiled.

With respect, we are unable to agree with the learned Counsel's submissions. We are satisfied that the learned Justices of Appeal properly re-evaluated the evidence in the case as a whole and reached their own conclusions that the complainant was defiled by the appellant and that the evidence of PW2 and PW3 corroborated the complainant's evidence in material particulars.

There is no set form of re-evaluation of evidence by a first appellate court. The manner of re-evaluation of evidence in each case varies according to the peculiar facts and circumstances of each case.

In the instant case, we are satisfied that there was ample evidence to support the Appellant's conviction and that Court of Appeal rightly upheld the conviction.

In the circumstances, we see no merit in the appeal.

In the result, it is dismissed.

Dated at Mengo this 13th day of June, 2002.

B.J. ODOKI
CHIEF JUSTICE

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

J.W. TSEKOOKO
JUSTICE OF THE SUPREME COURT

N. KAROKORA
JUSTICE OF THE SUPREME COURT

G. W. KANYEIHAMBA
JUSTICE OF THE SUPREME COURT