

**THE REPUBLIC OF UGANDA**  
**IN THE SUPREME COURT OF UGANDA**  
**AT MENG0**

**CRIMINAL APPEAL NO. 7 OF 2001**

**B E T W E E N**

**RUHWEZA ANONIO:       :~::~:       :~::~:       :~::~:       :~::~:       :~::~: APPELLANT**

**A N D**

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

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

**JUDGMENT OF THE COURT**

The appellant Ruhweza Antonio was convicted by the High Court in Fort Portal for the murder of his wife Katambazi Alice c/ss. 183 and 184 of the Penal Code Act, and sentenced to death. His appeal to the Court of Appeal was unsuccessful. He has now appealed to this Court. The only ground of appeal is to the effect that the learned Justices of Appeal erred in law and in fact as first court of appeal in failing to re-evaluate the evidence on record with regard to inconsistencies in the prosecution case, thereof arriving at the wrong decision.

Mr. Paul Tusubira argued the appeal as the appellant's learned Counsel. At the end of his submission, we decided not to hear the learned Commissioner for Prosecutions, Mr. Elem Ogwal.

The submission of the appellant's learned Counsel concentrated on criticising the Court of Appeal for not re-evaluating the evidence of Margaret Karuhimbo, PW2 and D/C Juma, PW5, regarding inconsistencies in

their evidence. He attacked the evidence of PW2 for saying at first that there were only three of them at the scene where the appellant speared the deceased to death. This was in her examination - in - chief. Towards the end of her examination-in-chief and in her cross- examination, PW2 said that PW1 was also at the scene.

The second inconsistency pointed out by the learned counsel is that the Police investigating Officer, PW5 said in his Police Statement that he arrested the appellant near his home, but in evidence in Court PW5 testified that the appellant was arrested 5 miles away in the bush.

The Court of Appeal dealt with what the learned Counsel contended were inconsistencies in the prosecution evidence.

Regarding the consistency in PW2's evidence the learned JJA did not find that there was any inconsistencies in PW2's evidence. We agree with them.

The consistency in PW5's evidence was not brought to the attention of the Court of Appeal. That must be why they did not advert to it.

In our view, we think that had a similar contention been put to it, it would have found that there was no inconsistency in PW5's evidence, because the Police Statement in question was not tendered in evidence. Consequently, there was no provision statement which could be used to discredit the veracity of PW5.

In the circumstances we see no merit in the appeal. There was overwhelming evidence by eyewitnesses to support the appellant's conviction.

In the result this appeal is dismissed.

***Dated at Mengo this 18<sup>th</sup> day of July, 2002.***

***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**

**J. M. MULENGA**  
**JUSTICE OF THE SUPREME COURT**

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