

RWANDA / JUDGMENT

PROSECUTION v. MBUGUJE

RPAA 0079/10/CS

COURT

Supreme Court

DECIDED

27 December 2013

CASE / FILE NUMBER

RPAA 0079/10/CS

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

PROSECUTION v. MBUGUJE

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2013-12-27
- Case/document no.: RPAA 0079/10/CS
- Collection: Supreme Court

Text

Page 1

PROSECUTION v. MBUGUJE [Rwanda SUPREME COURT – RPAA 0079/10/CS (Mugenzi, P.J., Gatete and Munyangeri, J.) December 27, 2013] Criminal procedure law – The reduction of the penalty due to plea of guilty entered at appeal at appeal – It cannot deprive him of the reduction of the penalty though he might have pleaded guilty at the last instance – Law 30/2013 of 24/05/2013 relating to the code of criminal procedure, article 35. Facts: Intermediate Court of Rusizi found Innocent Mbuguje guilty of child defilement against a child of 16 years. He was sentenced to 20 years in prison and a fine totalling 100, 000, 00 Frw. He appealed to the High Court, Chamber of Rusizi which upheld the appealed judgment. He appealed to the Supreme Court stating that the child who inculpates him wrote a letter exculpating him and that his imprisonment was plotted by the child's mother who is his wife. He added in support to his appeal that he was he was deprived of his right to defend himself during the hearing before the court and the letter ground was not considered. He articulated that he repeatedly requested the previous court to have access to the case file and read it but in vain. However, at the beginning of the hearing he pleaded guilty and sought forgiveness.

Page 2

The Prosecution submitted that the guilty plea entered three years after receiving advice must be assessed in the discretion of the court. Held: Despite his denial of the charges against him at the High Court, he admitted an offence at the judicial police and unequivocally pleaded guilty in the Supreme Court. Hence, based on the provisions of the law, he deserves the reduction of the penalty. Appeal granted. Sentences him to 10 years and a fine of 100, 000,00 Frw. .Court fees to public fund. Appealed judgment is changed. Statutes and statutory instruments referred to: Law n° 27/2001 of 28/04/2001 n° 27/2001 of 28/04/2001 relating to rights and protection of the child, articles 33 and 34. Organic law N° 30/2013 of 24/05/2013 instituting the penal code, articles 76, 78, 192 and 765. Law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure, article 35. No case was referred to:

Judgment

Page 3

[1] Intermediate Court of Rusizi found Innocent Mbuguje guilty of child defilement against a child of 16 years old called B.J. He was sentenced to twenty (20) years and a fine of 100, 000,00 Rfr. [2] Mbuguje appealed to the High Court, Chamber of Rusizi. Basing on the statements of witnesses including his wife who attests that he caught him red-handed and on that if the child herself who testified that he was sexually abused, his guilty plea and the medical certificate, the Court upheld the appealed judgment. [3] Mbuguje appealed to the Supreme Court alleging that B. Who inculpates him wrote a letter exculpating him. The letter indicates that how he was falsely inculpated by the mother of the child who is his wife, the way he was denied a speech during the hearing and even that letter was not considered. Moreover, he states that the previous court declined his request to read the case file. [4] The case was heard in public on December 2, 2013, Innocent Mbuguje assisted by Counsel Alice Umulisa Kaigamba while the Prosecution was represented by Jean Bosco Mutangana. When he was asked to defend himself against the allegations, he requested the court not to consider his appeal submissions. He articulated that he pleads guilty and seeks forgiveness and hence thereof requests the penalty reduction.

Page 4

II. ANALYSIS OF LEGAL ISSUES Whether Innocent Mbuguje can benefit the penalty reduction as he pleads guilty and seeks forgiveness. [5] Mbuguje explain that he took the child B.J in the room and abused her and subsequently her wife caught him red handed, called people and arrested then put remanded in the custody. He explains that he has been denying the charges against him till to the High Court but now he pleads guilty and seeks forgiveness. He emphasized that he was incited by beer he had consumed. Regarding the letter drafted by the abused child, he states that the child did it in conjunction with her mother without his knowledge. [6] His defence counsel precises that now he pleads guilty unequivocally clearing the way the crime has been

committed in such bway that he deserves the penalty reduction as provided for by the Law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure since there is no time limit provided for by the law within which the accuse dis supposed to plead guilty. [7] The Prosecutor contends that based on the provisions of article 191 of the penal code in Rwanda, Mbuguje would normally be sentenced to life imprisonment with special provisions. He recalled moreover that article 33 and 34 of the Law n° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence provides for life emprisonment and that the penalty requested by the Prosecution was confirmed

Page 5

by the Court bsing on the provisions of articel 765 of the new penal code. He added that given three years which elapsed after Mbuguje gave his submissions but invalidate them before the court after paying attention to advice, then the court should in its discretion analyse it. [8] The Court notes that the crime he committed was punished by life emprisonment by virtue of article 33 and 34 of Law n° 27/2001 of 28/04/2001 relating to rights and protection of the child against violence as well as 192 of Organic law n° 01/2012 of 02/05/2012 instituting the penal code which provides for life imprisonment and a fine from 100, 000,00 to 500, 000, 00 if the offence is committed by a person having authority over the child. Hence he should be punished following the same law since it is the one which provides for lesser penalty per articel 765 of the new penal code. [9] Moreover, the court is of the view that Mbuguje had denied the charges against him in the High Court while he had admitted it at the very beginning of the proceding in the judicial police and now unequivocally pleads guilty and seeks forgiveness. This is the reason why basing on artttcle 35 of the Law n° 30/2013 of 24/05/2013 relating to the code of criminal procedure and articles 76 and 78 of the new penal code which provides for mitigating circumstances, he deserves the penalty reduction and be sentenced to 15 years of imprisonment and a fine totalling 100, 000,00.

Page 6

III. THE DECISION OF THE COURT [10] Finds the appeal filed by Innocent Mbuguje with merit. [11] Sentences Innocent Mbuguje 15 years of imprisonment and a fine of 100, 000, 00 Rwf. [12] Orders the court fees to be charged to public fund. [13] Precizes that the ruling of the appealed judgment is changed.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/7816/8092>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/prosecution-v-innocent-mbuguje-childdefilement-supreme-court-2013>

Prepared on 12 October 2026 · Esheria