

**Rex v Chelagat (Criminal Appeal No. 436
of 1948) [1948] EACA 79 (1 January 1948)**
[1948] EACA 79

BEFORE
Nihill P

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

The appellant and another were jointly charged with official corruption, and the relevant portion of the charge was framed in the following terms ... "being employed in the Public Service... on various dates in June, jointly and corruptly, accept various sums of money in consideration for which they omitted to do their duty"... Six witnesses testified to having given bribes, on request, on different dates to the accused who were convicted. The appellant was sentenced to 9 months' H. L. and his co-accused was ordered to pay a fine of Sh. 20.

On appeal

Held (29-9-48).-(1) That the charge as framed offended against the specific provisions of section 135 (2) of the Criminal Procedure Code and was bad for duplicity.

(2) That this irregularity was not curable under section 381 of the Code as it was impossible to say that a failure of justice may not have been occasioned thereby.

Appeal allowed with permission to bring fresh proceedings if advisable. Order made in revision that the fine of Sh. 20, if paid, be remitted to the other accused person who had not appealed.

Appellant absent, unrepresented.

Modi for the Crown.

JUDGMENT.—In this case the appellant was charged with another man, who has not appealed, with the offence of official corruption. It was alleged, that on various dates they jointly and corruptly accepted various sums of moneys in consideration for which they omitted to do their duty, which was to prevent cattle movement in a certain area.

The charge as framed was bad for duplicity and offends against the specific provisions of section 135 (2) of the Criminal Procedure Code which states that where more than one offence is charged in a charge or information a description of each offence so charged shall be set out in a separate paragraph of the charge or information called a count. In the charge now under examination the various offences alleged were set out in a single count. The question for my determination is whether this irregularity in the charge is curable under the provisions of section 381 of the Criminal Procedure Code. In my view it is clearly not so curable because it is impossible to say that a failure of justice may not have been occasioned thereby. The accused faced with the charge as framed could have had no conception of the details of the offences which he was being called upon to meet. A number of witnesses were called by the prosecution, and six of them gave evidence of having been asked for a bribe by the appellant and of their having given a bribe to the appellant. All these transactions constituted separate and distinct offences and were committed on different dates. All these witnesses were accomplices on their own showing, and only in one instance was there any corroboration of their evidence.

There has in fact been no proper trial of the appellant due to the fact that the various offences which he is alleged to have committed were never specified, described or pleaded to. The Court appreciates that this case came for trial in a non-policed area and that the Magistrate did not have the advantage of a prosecutor. Nevertheless it is regrettable that owing to the Magistrate's failure to read the relevant section of the Code, or to comprehend what is after all an elementary principle of criminal justice that an accused person must know clearly the nature of any charge or charges brought against him.

The conviction of the appellant is quashed and the sentence set aside; but I leave the Crown free to bring fresh proceedings if thought advisable before another Magistrate. The appellant meanwhile if in custody to be released. The other accused person in this case who has not appealed was fined Sh. 20 by the Magistrate. I make an order in revision that this sum, if paid, to be remitted to him.

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://ulii.org/akn/aa/judgment/eaca/1948/79/eng@1948-01-01>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/rex-v-chelagat-criminal-appeal-no-436-of-1948-1948-eaca-79-1-january-1948-unknown-topic-unknown-court-1948>

Prepared on 14 October 2026 · Esheria