

UGANDA / JUDGMENT

Rex v Kasyoka (Criminal Appeal No. 124 of 1948) [1948] EACA 69 (1 January 1948)

[1948] EACA 69

COURT

East African Court of Appeal

BEFORE

De Lestang J, Nihill P

CASE / FILE NUMBER

Criminal Appeal No. 124 of 1948

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APPELLATE CRIMINAL

Before SIR BARCLAY NIHILL, C. J., and DE LESTANG, J.

REX. Respondent

\$\nu\$. KATUSYA WA KASYOKA, Appellant. Criminal Appeal No. 124 of 1948

- Criminal Law-Official Corruption, section 93, Penal Code-Procedure-Appellant charged with five separate offences in one charge—Duplicity—Fatal defect.
- Held (29-6-48).—That by reason of the multiplication of charges the conviction could not be maintained.

Appeal allowed. Conviction quashed and sentence set aside.

Appellant present, unrepresented.

Todd, Crown Counsel, for the Crown.

JUDGMENT.—This is an appeal from a conviction on a charge of official corruption heard before a Second Class Magistrate in the native reserve. The Magistrate was without police assistance either in the prosecution or in the framing of the charge. We appreciate that the errors into which he has fallen are due to his lack of experience and want of legal knowledge, but it is quite apparent that the conviction of the appellant cannot be maintained and must be quashed.

The first defect in the trial which by itself would be fatal is that the appellant was charged with five separate allegations of corruption in one and the same charge. This makes the charge bad for duplicity and its prejudicial effect on the mind of the Magistrate can be seen from his judgment. He has assumed that the evidence against the appellant was of an overwhelming character

because a number of witnesses gave evidence for the prosecution, each testifying to a separate occasion when they alleged the appellant acted corruptly. In most of these cases it is clear from their evidence that they were accomplices in the corruption and there was no independent corroboration of their evidence.

Furthermore the instances of corroboration or what the Magistrate thought was corroboration as referred to by him in his very short judgment are not in fact instances of corroboration at all, and the evidence of the Veterinary Scout on which the Magistrate appeared to rely, was found on examination to be entirely hearsay.

In any event, whether or not there was sufficient evidence before the learned Magistrate on which he could have convicted the appellant on any particular instance of corruption, it is quite clear that by reason of the multiplication of charges no such conviction could be maintained.

We allow the appeal and quash the conviction and the sentence imposed. -The appellant is set at liberty.

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