

UGANDA / JUDGMENT

Rex v Kyononeka and Another (Cr.A 69/1934.) [1937] EACA 151 (1 January 1937)

[1937] EACA 151

COURT

East African Court of Appeal

BEFORE

Abrahams CJ, Ag P (Uganda), Lucie-Smith Ag CJ (Kenya), Webb, J

CASE / FILE NUMBER

Cr.A 69/1934.

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COURT OF APPEAL FOR EASTERN AFRICA.

Before ABRAHAM, C. J. (Uganda), Ag. President, LUCIE-SMITH, Ag. C. J. (Kenya), and WEBB, J. (both of Kenya).

REX (Respondent) (Original Prosecutor) $\mathbf{r}$

KRISTOFA MALE S/O NIKODEMU KYONONEKA AND ANOTHER (Appellants)
(Original Accused).

Cr. A 69/1934.

- Criminal Procedure Code Uganda, section 134—Two accused tried on two separate informations—Trial a nullity.
- Held (11-6-34).—That, where two persons are indicted separately and tried together, the proceedings are a nullity, Rex v. Dennis and Parker (1924), 1 K. B. 867 followed (Kenya Code of Criminal Procedure, section 132).

Appeal from High Court of Uganda.

Turton (Attorney-General, Uganda), for Crówn.

Appellants absent and unrepresented.

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Turton.—Two accused have been tried on two separate informations. It would appear that the trial is a nullity. *Rex v. Crane*; *Rex v. Dennis and Parker*.

JUDGMENT.—In this case the two appellants, though committed for trial together for murder, were charged in separate informations. They were however, tried together and convicted. In *Crane v. Director of Public Prosecutions* (1921), A. C., p. 299, the House of Lords held that, where two persons were indicted separately, one for stealing goods and the other for receiving them, and were tried together, the proceedings were a nullity, and *Rex v. Dennis and Parker* (1924) 1 K. B. 867, is authority to the same effect, the Court of Criminal Appeal there holding that the consent of the accused to the illegality did not correct the want of jurisdiction.

This case differs from those cases in the facts in that the offence is really one, the appellants being charged with the murder of one and the same person; but we are of opinion that the principles of English law with which the wording of section 134 of the Criminal Procedure Code of Uganda is in conformity is not to be varied thereby. We therefore set aside the conviction and order the appellants to be tried according to law.

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