

UGANDA / JUDGMENT

Rex v Rotich (Cr. Conf. Case No. 251/35.) [1935] EACA 136 (1 January 1935)

[1935] EACA 136**COURT**

East African Court of Appeal

BEFORE

Sheridan CJ, Webb, J

CASE / FILE NUMBER

Cr. Conf. Case No. 251/35.

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CRIMINAL CONFIRMATION.

Before Sir JOSEPH SHERIDAN, C. J., and WEBB, J.

REX, Prosecutor, $\mathbf{1}$ **CHERIYOT ARAP ROTICH, Accused.**

Cr. Conf. Case No. 251/35.

Criminal procedure—Reward to informer—No fine imposed— Reward ordered to be placed to credit of Police Rewards and Fines Fund—Stock and Produce Theft (Levy of Fines) Ordinance, 1933, section 7—Police Ordinance, 1930, section 53(3).

The accused was convicted of stock theft and was sentenced, under section 255 of the Penal Code and section 7 of Ordinance 18/1933, to six months' imprisonment with hard labour and to pay Sh. 200 to the Police Rewards and Fines Fund.

Held (11-7-35).—(1) That, unless a fine is imposed on the accused, an award to an informer cannot be made under Ordinance 18/1933.

- (2) That, where it is desired to make an award in favour of a private person who has given information, the order should not direct that it be paid to the Police Rewards and Fines Fund, the application of which is prescribed by section 53 (3) of the Police Ordinance, 1930.

Dennison, Crown Counsel, for the Crown.

Accused absent, unrepresented.

ORDER.—The Ordinance No. 18/1933, and particularly section 7 thereof, contemplates a punishment of fine and the award of a sum not exceeding one-half of the fine paid, but not exceeding £15 in any case, to any person or persons giving information leading to a conviction. In the present case the learned magistrate did not impose a fine and for that reason alone no question of making an award can arise. But there is another reason why the order cannot stand and that is that there is no authority for directing that a reward under section 7 shall be placed to the credit of the Police Rewards and Fines Fund when the information is given by a private person. That a reward for the giving of information by a private person should go to the Police Rewards and Fines Fund would defeat the object of section 7 of Ordinance 18/1933, for the informer would never receive the money, the destination of which is governed by section 53(3) of Ordinance 64/1930. The learned Attorney General does not support the order. As the order is quashed the sentence of imprisonment which is one of six months does not require confirmation. Any money recovered under the order is directed to be refunded.

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