

UGANDA / JUDGMENT

Rex v Rwakaikara (Cr. App. 39/1931.) [1931] EACA 15 (1 January 1931)

[1931] EACA 15

COURT

East African Court of Appeal

BEFORE

Barth, C.J (Kenya), Griffin C.J. (Uganda), Pickering,
C.J. (Zanzibar)

CASE / FILE NUMBER

Cr. App. 39/1931.

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COURT OF APPEAL FOR EASTERN AFRICA.

Before SIR JACOB BARTH, C. J. (Kenya); SIR CHARLES GRIFFIN, C. J. (Uganda), and
PICKERING, C. J. (Zanzibar).

REX

(Respondent) (Original Prosecutor)

RWAKAIKARA

(Appellant) (Original Accused).

Cr. App. 39/1931.

Law of Evidence-subsequent conduct when relevant.

Held (9-3-31):—That a complaint made by a prosecutrix should be
proved by stating what she said, and not by the production of a
document in which it was alleged the complaint had been recorded.

Appellant in person.

Reece, Crown Counsel (for Attorney-General, Uganda) for Crown.

This was an appeal from a conviction in Criminal Case No. 6 of 1931 of the High Court of Uganda.

The Superintendent, C. I. D., had given evidence to the following effect—"I arrived at Fort Portal on 31st October, 1930, and took full statement from her (prosecutrix) on the same I filed her formal complaint on 1st November, 1930 (Ex. 4). day. I have her statement here. It is this (\$Ex. 5\$)."

The appellant having been charged in the first instance with attempted rape was convicted of indecent assault under section 110 of the Penal Code.

Appellant makes statement denying his guilt.

Reece refers to Russel on Crimes, Vol. 1, p. 906, 8th Edition.

Appellant.—The woman was lying.

The Judgment of the Court was delivered by Sir Jacob Barth.

JUDGMENT.—The evidence in our opinion supports the finding of fact by the learned trial Judge and the conviction.

The evidence regarding the complaint by the prosecutrix to Mr. Younger is in our view inadmissible. It was made some six days after the event and was not given in the correct way, which should have been by stating what she said and not by the production of a document in which it was alleged the complaint was recorded.

The appeal is dismissed.

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Prepared on 14 October 2026 · Esheria