

UGANDA / JUDGMENT

Stephene v Regina (Criminal Appeal No. 98 of 1953) [1953] EACA 7 (1 January 1953)

[1953] EACA 7

COURT

East African Court of Appeal

BEFORE

Bourke J, Hearne CJ

CASE / FILE NUMBER

Criminal Appeal No. 98 of 1953

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APPELLATE CRIMINAL

Before HEARNE, C. J. and BOURKE, J.

G. STEPHENE, Appellant

 $\mathbf{v}$. REGINA, Respondent

Criminal Appeal No. 98 of 1952

Criminal Law—Resident Labourers Ordinance (Cap. 113) section 25—Refusal of resident labourer to obey order-Whether power to convict of criminal offence.

The accused, who was employed as a resident labourer on a farm at Londiani, was ordered by his employer to assist another servant outside the usual course of his employment. He refused. He was taken before a Second Class Magistrate and charged with refusing to obey an order contrary to section 25 (g) of the Resident Labourers Ordinance (Cap. 113). The accused was convicted as if this were a criminal offence and fined. The accused appealed. The Crown did not support the conviction.

Held (14-5-52).-No criminal offence is created by section 25 (g) of the Resident Labourers Ordinance (Cap. 113) in the event of a resident labourer failing to obey an order of his employer. The power given to the magistrate was no more than to rescind the contract of service. The conviction being ultra vires of the magistrate was quashed and the fine set aside.

Appellant in person.

Boyle, Crown Counsel, for the Crown.

JUDGMENT.—In the opinion of the Attorney-General no criminal offence had been committed by the appellant by refusing to obey the order given to him. The power given to the magistrate under section 25 of Cap. 113 was merely to rescind the contract of service, if the appellant was proved to have refused to obey the order given to him (section 25 (2) (a) and section 25 (5) (g)). We agree with the view of the Attorney-General and the conviction and sentence are set aside. Order for the fine to be refunded.

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