

UGANDA / JUDGMENT

Uganda v Luwemba

(HCT-00-CR-CM 33 of 2023) [2023]

UGHCCRD 113 (7 September 2023)

[2023] UGHCCRD 113

COURT

HC: Criminal Division (Uganda)

CASE / FILE NUMBER

HCT-00-CR-CM 33 of 2023

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(CRIMINAL DIVISION)

HCT-00-CR-CF-0033-2023

(ARISING FROM CHIEF MAGISTRATES COURT OF ENTEBBE CRIMINAL CASE NO. 267 OF 2020)

UGANDA..... APPLICANT

VERSUS

LUWEMBA CHARLIE AUSTIN RESPONDENT

CONFIRMATION OF SENTENCE

BEFORE JUSTICE GADENYA PAUL WOLIMBWA

1. Introduction

HW Nakitende Juliet, a Chief Magistrate at Entebbe, forwarded this case to the High Court for confirmation of sentence under section 173 of the Magistrates Courts Act.

1. Background

On 12 May 2020, Luwemba Charlie Austin, hereinafter called the convict, was charged with the offence of Simple Defilement contrary to Section 129(1) of the Penal Code Act. The prosecution case was that on 5 May 2020 at Mpala Village Katabi Town Council in Wakiso District, the convicted, aged 20, performed a sexual act with Nalubwama Sarah (his girlfriend at the time), aged 17 years. The convict denied the charges. He was tried, convicted, and sentenced to two years' imprisonment.

1. Issue for Determination

Whether a sentence of two years imprisonment imposed by a Chief Magistrate require confirmation by the High Court?

1. Resolution

Sentences of imprisonment imposed by Chief Magistrates do not require confirmation by the High Court. Section 173(1) & (2) of the Magistrates Courts Act, which is the relevant law on confirmation of sentences, provides that:

“(1)Where any sentence to which this section applies is imposed by a[*magistrate’s court*] (https://www.ulii.org/akn/ug/act/1998/10/eng%402020-02-14#defn-term-magistrate_s_court)*(other than by a[*magistrate’s court*](https://www.ulii.org/akn/ug/act/1998/10/eng%402020-02-14#defn-term-magistrate_s_court))*presided over by a chief[*magistrate*](<https://www.ulii.org/akn/ug/act/1998/10/eng%402020-02-14#defn-term-magistrate>)*), the sentence shall be subject to confirmation by the High Court. (2) This section applies to - (a) a sentence of imprisonment for two years or over...”*

The above section does not apply to sentences imposed by Chief Magistrates. To avoid doubt, confirmation of sentences only applies to sentences of two years and above imposed by any Magistrate other than a Chief Magistrate. Consequently, the file is improperly before me, and I direct that it be returned to the appropriate court for the convict to serve his sentence.

Gadenya Paul Wolimbwa

JUDGE

7th September 2023

I request the Deputy Registrar to deliver this decision on 11th September 2023 and then communicate the decision to the appropriate court.

Gadenya Paul Wolimbwa

JUDGE

7th September 2023

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