

IN THE SUPREME COURT OF UGANDA

AT MENGO

(CORAM: MANYINDO - DCJ, ODER - JSC, TSEKOOKO - JSC)

CRIMINAL APPEAL NO. 29 OF 1994

B E T W E E N

LEO BYARUHANGA: :: :: :: :: :: :: :: :: :: :: :: :: :: :: :: :: APPELLANT

Vs

UGANDA: :: :: :: :: :: :: :: :: :: :: :: :: :: :: :: :: RESPONDENT

(Appeal against Conviction and Sentence of the  
H/Court holden at Mukono on 22-11-94, before  
Hon. J. L.E. Kikonyogo in H/C Cr. Ss. No. 217/94)

REASONS FOR THE DECISION:

The appellant was convicted of defilement of an eight year old girl, contrary to Section 123 of the Penal Code. He was sentenced to 10 years imprisonment. He appealed to this Court against the conviction and sentence. During the hearing of the appeal it occurred to Counsel for the appellant that the conviction could not be faulted. Accordingly he abandoned the appeal against conviction. We heard his submission on sentence but saw no merit in it. We dismissed the appeal for reasons which we reserved. We now give them.

For the appeal against sentence to succeed, the appellant had to satisfy this Court that the sentence <sup>was</sup> manifestly excessive in the circumstances of this case.



The trial Judge did take into account the <sup>advanced</sup> age of the appellant as well as the period of 11 months for which he had been on remand. She observed, quite rightly in our view, that defilement, which is a serious crime carrying a maximum sentence of death, was sadly rampant in the Country and that Courts had to impose deterrent sentences.

We cannot say that in the circumstances of this case where the appellant chased the little complainant, grabbed her and took her to his house where he defiled her and then denied the incident through and through, he deserved leniency. He truly deserved the sentence of 10 years imprisonment. He could even have got more than that. That is why <sup>we</sup> ~~he~~ dismissed the appeal.

DATED at Mengo This:...15<sup>th</sup>... day of:.....November..... 1995.

S. T. MANYINDO  
DEPUTY CHIEF JUSTICE

A. H. O. ODER  
JUSTICE OF THE SUPREME COURT

  
J. W. N. TSEKOOKO  
JUSTICE OF THE SUPREME COURT

Large for Appellant  
Whisio PSA for Press  
Judgment delivered to [Signature] SSC 1/11/95

