THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(Anti-CORRUPTION Division)

CRIMINAL APPEAL NO. OO4 OF 2022

(Arising from HCT 00-AC 0048-2018)

Florence Nattu:::Appellant

VERSUS

Uganda (Igg):::Respondent

Judgment

Before Hon. Lady Justice Margaret Tibulya

This is a judgment on an appeal from the judgment and orders of a Magistrate Grade One Court sitting at Kololo. The appellant was convicted of Causing Financial loss in count 1 and Abuse of office in count 2. She was sentenced to payment of fines of **Ugx 2,000,000/=** and in default to serve 3 year's imprisonment on count 1. In count 2, she was sentenced to a fine of **Ugx 1,000,000/=** and in default to serve 1 year's imprisonment. She was ordered to refund **Ugx 5,581,248/=** to her employer.

The grounds on which the appeal is premised are;

- That the trial magistrate erred in law and fact when he failed to properly evaluate the evidence on record and thereby arrived at a wrong decision that the appellant caused financial loss,

- That the trial magistrate erred in law and fact when he failed to properly evaluate the evidence on record and thereby arrived at a wrong decision that the appellant was guilty of abuse of office.

It is settled law that the role of a first appellate court is to re-appraise the evidence and subject it to an exhaustive scrutiny before drawing its own conclusions bearing in mind that it did not see the witnesses testify, (**Kifamute Henry Vs Uganda (Criminal case No 10/1997**).

The prosecution bears the burden of proof, and must prove all ingredients of each offence beyond reasonable doubt.

With regard to the 1st ground of appeal, the state had to prove that;

- the accused processed and facilitated payment of Shs 12,551,670/= purported to be salary arrears for **Nakkazi Maimuna and Gertrude Nakabiri**,
- she knew that her action would cause financial loss to her employer,
- she caused financial loss of **5,581,248/=** to Kayunga District Local Government.

Whether the accused processed and facilitated payment of Shs 12,551,670/= purported to be salary arrears for Nakkazi Maimuna and Gertrude Nakabiri.

The appellant faults the court's finding that she captured the data and was therefore aware of the existence of **Nakkazi Maimuna and Gertrude Nakabiri** on the pay roll. She maintains that the court ignored the evidence that the data entry that was initially handled by **Ssebowa** was verified and approved

by the approver and the CAO who is the central person in the recruitment process.

This assertion however ignores the CAO's (**Pw3 - Ezaruku Kazimiro**)'s evidence that the appellant confirmed to him that the two names did not access the pay roll through the normal process of pay change report but through data capture at Uganda data services at the Ministry of Public Service. **Pw7** (**Mubiru Robert**) was moreover clear that the two people were created on the system by the appellant, a fact corroborated by the responsible officer from the Ministry of Public Service in a correspondence (**exhibit P8**) to the investigating officer (**Pw8-Baru Dominic Paula**). It was also confirmed in the same correspondence that the two people had also been paid though they were never teachers at **Kanjuki SS**.

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Pw3's evidence that the accused confirmed to him that the two names did not access the pay roll through the normal process points to the guilty knowledge of the appellant.

And, as the learned magistrate rightly noted, the appellant was a focal person and played a central role in management of the human resource and of the pay roll. Had she been not complicit in the scum she would have raised a red flag over the issue.

The above evidence supports the state assertion that the appellant entered false entries of particulars of the two ghost teachers on the payroll of Kayunga District Local Government indicating that the two persons were posted as teachers of Kanjuki SSS whereas not, an act which caused financial loss of **Ugx 5,581,248/==** and which amounted to abuse of office. The learned magistrate therefore rightly

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found that the accused processed and facilitated payment of the money in issue purported to be salary arrears for **Nakkazi Maimuna and Gertrude Nakabiri**.

Whether she knew that her action would cause financial loss to her employer.

The accused only denies that she made the impugned entries (which has been disproved) but does not deny that she knew that the two persons were not teachers of Kanjuki SS. Since the two persons were not teachers at Kanjuki SS, payment of money to them would certainly cause financial loss to the payer. The learned magistrate therefore rightly found so.

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Whether she caused financial loss of 5,581,248/= to Kayunga District Local Government.
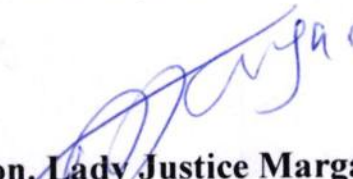
Pw's 6 (**Lukande Paul Rogers**), 7 (**Robert Mubiru**), and 9 (**Sarah Magoola**) all testified that the two ghost persons were paid money and that *5,581,248/=* was not recovered. Since payment of money to none-existent persons amounts to a loss, the learned magistrate rightly found that the appellant caused financial loss of **5,581,248/=** to Kayunga District Local Government.

On the whole, there was sufficient evidence to ground an adverse finding against the appellant. **The first ground of appeal fails.**

The second ground relates to the appellant's conviction for abuse of office. The appellant repeats her denial that she made the impugned entries, which has been sufficiently interrogated and found to be untrue. Based on evidence that the accused made the false entries, the learned magistrate rightly found that the appellant did an arbitrary act. The false entries led to loss of funds by the Local Government, which was prejudicial to the interests of the appellant's employer.

The assertion that the trial magistrate erred in law and fact when he failed to properly evaluate the evidence on record and thereby arrived at a wrong decision that the appellant was guilty of abuse of office has no merit.

The appeal is dismissed in its entirety, and the decision and orders of the lower court are upheld.

Hon. Lady Justice Margaret Tibulya
Judge
2nd December 2022.