**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA HOLDEN AT IGANGA**

**HIGH COURT CRIMINAL SESSION CASE NO 0437 OF 2010**

**UGANDA………………………………………………………PROSECUTOR**

 **VERSUS**

**BOGERE BANULI………….…………………………………………… ACCUSED**

**BEFORE HON. LADY JUSTICE PERCY NIGHT TUHAISE**

**JUDGMENT**

The accused, Bogere Banuli, was indicted for aggravated defilement c/s 129(3) & (4)(d) of the Penal Code Act. It is alleged that on the 13th day of January 2010, at Busei A village, in the Iganga District, the Accused, Bogere Banuli performed a sexual act with Nantongo Fatuma a girl aged 15 years.

The facts of the case as presented by the prosecution are that on the 13th day of January 2010, the accused, Bogere Banuli led Nantongo Fatuma, a 15 year old girl with a mental disability, to a house of a one Latifu which he was renting. Upon entering Latifu’s house, the accused asked the victim to remove her clothes in order to be cleansed around her private parts. The accused then had sexual intercourse with the victim. He gave the victim water in a basin in which she washed her private parts, after which he told her to dress. The accused instructed the victim not to tell anybody about what had happened. The victim however narrated the story to other children and it eventually got to the knowledge of her brother, sister, and father. The father reported the matter to the police. The accused was arrested and charged accordingly.

On arraignment, the accused denied the offence. Thus all the ingredients of the offence of aggravated defilement are put in issue. The prosecution must prove each and every essential ingredient of the offence of aggravated defilement beyond reasonable doubt before conviction of the accused can be secured. An accused person bears no duty of proving his innocence since he is presumed innocent until proved guilty or until he pleads guilty. In the event of any doubt, such doubt must be resolved in favour of the accused with an acquittal. See **Woolmington V DPP [1935] AC 462.** It was stated in **Miller V Minister of Pensions [1947] 2ALL ER 372** that beyond reasonable doubt does not mean proof beyond a shadow of doubt or absolute certainty. That if evidence is so strong against a person as to leave only a small possibility in his/her favour, the case is proved beyond reasonable doubt.

In this case where the defilement is aggravated by the factor of the victim being alleged to be a person with a disability, the ingredients of the offence as set out in sections 129(3) & (4)(d) of the Penal Code Act, are as follows:-

1. That the victim of the sexual act was under the age of 18 years of age.
2. That there was a sexual act performed on the victim.
3. That the victim had a disability.
4. That it was the accused who participated in the sexual act with the victim.

The prosecution called the evidence of three witnesses. These were Mohamed Kafeero PW1 the victim’s father who reported the matter to police, Nakafeero Safia PW2 who was the victim’s biological sister to whom the victim narrated the incident, plus Detective AIP Namada Keneth PW3, the police officer who carried out the arrest of the accused and recorded statements from the victim, her father and her sister.

The prosecution further relied on the medical examination report of the victim exhibit **P1** which was admitted as agreed evidence under section 66 of the Trial On Indictments Act; the victim’s police statement, exhibit **P3;** the plain police statement of the accused, exhibit **P4;** and the accused person’s charge and caution statement exhibit **P5.** The accused on his part made a sworn statement as **DW1.** He also called two witnesses, namely his mother Zauma Nabirye **DW2** and his friend Walusansa Wycliffe **DW3.**

**Whether the victim of the sexual act was under the age of 18 years of age:**

The age of a person can be proved by various means. This includes the evidence of a birth certificate; the evidence of the victim herself, or by a person such as a parent or other relative who knows when that person was born; or by observation in court.

In this case, PW1 Mohamed Kafeero, the father of the victim testified that he produced Nantongo in 1995. This would put her age at 15 years in January 2010 when she is alleged to have been defiled. Dr Bamudaziza of Iganga Hospital examined the victim on 14/01/2010 on PF3, exhibit **P1**, which was admitted as agreed evidence. He determined that the victim was about 14 years old at the time of examination. This court also had opportunity to observe the victim in court and assessed the age of the victim to be below 18 years.

The defense did not contest the fact of age of the victim.

Therefore, I find that the prosecution has proved beyond reasonable doubt that the victim was aged below 18 years.

**Whether there was any sexual act performed on the victim**:

The law is that for proof of sexual intercourse, all that is required is for prosecution to establish that there was penetration of the vagina. In **Hussein Bassita V Uganda SCCA No. 35/1995,** the Supreme Court of Uganda stated as follows:-

*“The act of sexual intercourse or penetration may be proved by direct or circumstantial evidence. Usually the sexual intercourse is proved by the victim’s own evidence and corroborated by the medical evidence or other evidence. Though desirable it is not a hard and fast rule that the victim’s evidence and medical evidence must always be adduced in every case of defilement to prove sexual intercourse or penetration. Whatever evidence the prosecution may wish to adduce to prove its case, such evidence must be such that is sufficient to prove the case beyond reasonable doubt.”*

Sexual intercourse is constituted when the male sex organ, the penis, enters the female sex organ, the vagina. The degree of penetration required is the slightest penetration. Even proof of the rapture of the hymen is not necessary. See **Adamu Mubiru V Uganda COA Crim. Appeal No. 47/1997.**

The victim Nantongo Fatuma did not testify in court. Court declared her incompetent to testify when, after examining her, she was found to be not able to give rational answers to questions put to her. However, according to her police statement which was admitted in evidence as exhibit **P3,** she stated that on the day she cannot recall, she was at home when Bogere Banuli the accused called her to go to the house of Tiffu. When she refused he lifted her up and led her by hand to Tiffu’s house. He took her to the bedroom of Tiffu, removed her clothes and knickers and also removed his. He told her to sleep on the bed so that he cleans the part where she had removed her knicker. He then did something (sex) to her. After that he told her to dress, gave her water in the basin and she washed her parts (vagina) which the knicker covers. He poured water outside and they came out of the house. He told her not to tell anybody. Before that he used his thing (penis) and inserted in my thing (vagina). He then locked the house of Tiffu and she went home. She told her sister Sofia Nakafeero PW2, and her brother Hajji.

PW2 testifed that upon being told by their brother Haji Abdalla Mulindwa that Fatuma is narrating a bad story to the children, called Fatuma and asked her where she was from. After the victim had told her about the incident, she checked her. She saw some drops of blood and sperm on the victim’s thighs. She then rang Mohamed Kafeero their father (PW1) who also checked the victim and saw some blood and sperm on her thighs. They then went to police and reported the matter. The prosecution also relied on exhibit **P1** which reveals that Nantongo’s vagina was penetrated and her hymen was raptured. The rapture was said to be one day old. The examination was done on 14th January 2010 by Dr. Bamudaziza of Iganga hospital and the incident is said to have occurred on 13th January 2010.

The defence disputes that there was any sexual act performed on the victim. It doubts that the victim, who failed to testify in court, could tell a coherent and consistent story both as regards her narration to PW1, PW2, and PW3, as well as her statement to Police exhibit **P3**.He also contended that the evidence of PW1 and PW2 that they saw blood and sperms on the victim were doubtful since they were not subjected to scientific examination, and that there is a possibility that the victim at that age could have been in her monthly periods or could have been discharging vaginal fluids which are normal for girls that age. Defence Counsel further alluded to inconsistencies in the prosecution evidence arguing that in any case sperms or fluids could not have been seen by PW1 and PW2 if the accused cleaned her private parts with water.

The evidence as contained in exhibit **P3** is not sworn evidence, and its veracity was not tested through cross examination. The need for corroboration is now an established practice that courts of law have adopted. The Assessors were warned about the need to corroborate this piece of evidence. Corroboration means some other additional independent evidence rendering it probable that the story of the victim must be true and reasonably safe to be relied upon.

For corroboration, the prosecution submitted that the evidence of PW1 and PW2 as to what the victim narrated to them and what they saw as sperms and semen on the victim, as well as exhibit **P1,** tocorroborate the evidence in the victim’s statement that there was a sexual act performed on the victim.

The prosecution evidence indicates that the Police requested for medical examination of the victim Nantongo on 14th January 2010. The victim was examined on that day by Dr. Bamudaziza at Iganga Hospital. He found signs of penetration of her vagina and found that her hymen had been raptured. The rapture was about one day old. He found injuries around her private parts also one day old. He entered his findings on PF3, exhibit **P1** in this case. This finding would be consistent with what PW1 the victim’s father and PW2 the victim’s elder sister described as what the victim told them happened to her. There is also the testimony of PW2 that when she examined the victim after the victim had narrated the story to her, she saw some drops of blood and sperm on the victim’s thighs. PW1 also testified that he checked the victim and saw some blood and sperm on her thighs.

I will at this point address Defence Counsel’s allusion to inconsistencies regarding the evidence of PW1 and PW2 as to what they saw on the victim yet the victim is stated to have cleaned her private parts with water; and the contention, which was also shared by Assessors, that the blood and fluids seen by PW1 and PW2 on the victim could have been her vaginal fluids or menstrual blood.

In criminal trials, inconsistencies in evidence often arise. Inconsistencies in evidence can be minor or major. Minor ones can be ignored or overlooked, unless they point to deliberate untruthfulness. A contradiction is minor if it does not go to the root of the case and where the witness never intended to lie. It is legitimate for the court to find that a witness has been substantially truthful even though he or she lied in some particular respect. Major contradictions are those considered to be going to the root of the matter. They may result in evidence being rejected. See **Tajjar V Uganda Criminal Appeal (EACA) No.** **167/1969**.

I do not find it inconsistent that sperms or fluids could not have been seen by PW1 and PW2 if the accused cleaned her private parts with water. The evidence of PW2 was clear that she saw some drops of blood and sperm on the thighs, and some blood on top of her private parts and inside her vagina. PW1 testified that he saw sperms and some blood on the private parts. It is possible for one to wash the private parts and blood or sperm remains on the thighs, or for one not to wash properly so that little blood and sperms remain, or even for the body to flush out blood or sperms even after one has washed after a sexual act. Besides, there is medical evidence, exhibit **P1,** that a sexual act had been performed on the victim.

From the above, I find that exhibit **P1** which is a medical report of the doctor who examined the victim amply corroborates the evidence in the victim’s statement in exhibit **P3** and is thus supportive evidence of an independent nature confirming that the act did occur. Apart from medical evidence, there are also the testimonies of PW1 and PW2 who testified that they examined the victim’s private parts and found some blood and sperms around the private parts. The examination of the victim’s private parts by parents or relatives constitutes cogent evidence in proof of penetration. It is as good as professional examination if done by experienced people, as per the decision in **Sebuliba Haruna V Uganda COA Cr. App No. 154/2002 unreported.** PW1 and PW2 were emphatic in their testimony that they are mature people and they know what sperms and blood look like, and that they have no qualms about checking the victim in her private parts because of her vulnerable condition of having a disability and her close connection with them. PW1 and PW2 are mature people and their findings on examining the victim are as good as medical evidence as was held in **Sebuliba’s case** cited above. In addition, medical evidence exhibit **P1** clearly indicates that the hymen was raptured, that this was fresh and only one day old, and that there were injuries and inflammations around the victim’s private parts. The time indicated in exhibit **P1** matches with the time the victim is alleged to have been defiled. This is so because the victim was medically examined on 14th January 2010 and the alleged defilement took place on 13th January 2010. It is trite law that a fact or document admitted or agreed upon in a memorandum filed under section 66 of the Trial On Indictments Act, as was done in this case, is deemed to have been proved. See **Abasi Kanyike V Uganda SCCA No. 23/1989 unreported.**

From the above evidence, I would differ from the Assessors who based their opinion on the fact that it is taboo for a father to look at the private parts of his child and that he should have called any woman at the neighbours or a woman leader to do that; and that the evidence was only one sided only from the victim’s relatives.For the same reasons, I differ from the Defence Counsel’s and the Assessors’ position that the victim could have merely been discharging vaginal fluids or menstrual blood.

The question of how the victim’s father obtained the evidence he adduced in court or whether it is taboo to do so; or on the fact that the it is only relatives of the victim who testified before court, does not affect the evidential value of such piece of evidence once it has been properly adduced before court. First, it is not correct to state that it was only the relatives of the victim who testified before court. Apart from PW1 and PW2 who are the father and sister of the victim respectively, there was PW3 a Police Officer who took statements in this case. There is no indication on the court record that he is a relative of that victim. The same goes for the doctor who prepared exhibit **P1** which was admitted as agreed evidence. Exhibit **P1** provided good corroborative evidence to the statement in exhibit **P3** and the evidence of PW1, PW2 and PW3 that a sexual act was performed on the victim. Besides, even if it were true that it is only relatives who testified, the law is that the evidence of a witness cannot be disregarded simply on account of his relationship with the victim in the case. See **Yofesi Piri V Uganda [1992 – 93] HCB 33.** I must also state that, with respect, the Assessors took into account ulterior factors that did not form part of my summing up to them. This was despite my warning to them in the said summing up not to address matters not connected with the case.

For the foregoing reasons, and based on the evidence adduced, I differ from the Assessors’ joint opinion. I am satisfied that a sexual act was performed on the victim, and that the prosecution has proved this ingredient beyond reasonable doubt.

**Whether the victim had a disability:**

Exhibit **P1** shows that Dr. Bamudaziza found the victim to be mentally retarded. It was also the testimony of PW1 the victim’s father, and PW2 the victim’s sister, that Nantongo does not understand at times.

The Defence does not dispute that the victim Nantongo Fatuma has a disability.

In the circumstances, I am satisfied that the victim Nantongo Fatuma had a disability at the time of being defiled.

**Whether the accused participated in the sexual act with the victim:**

On this the prosecution relies on the statement of the victim, exhibit **P3**, plus the evidence of PW1, PW2, and PW3.

PW1, PW2 and PW3 testified that Nantongo told them that Bogere took her to his house in Tiffu’s place where he inserted his penis into her vagina. It was also the testimony of PW2 that the accused was Tiffu’s tenant and that the accused was a close neighbour. The statement of the victim exhibit **P3**, which was treated by this court as unsworn evidence, was corroborated by the evidence of PW1, PW2 and PW3 who all testified that the victim told them it was the accused who sexually assaulted her. PW2 the victim’s sister testified that when the victim narrated to her the story she checked the victim in her thighs and saw sperms and drops of blood. PW2 the victim’s sister also testified that she rang PW1 the victim’s father who also checked the victim and saw sperms and drops of blood in the victim’s thighs. PW3, the police officer who carried out the arrest of the accused and recorded statements from the victim and her father and sister also testified that the victim told him the same thing and that is what he recorded in the victim’s statement. PW3 identified the victim’s thumbprint on the statement. During cross examination PW3 testified that the victim could talk, but that the father could clarify some things on her behalf since he was close to her. He stated that what the victim’s father was telling PW3 was from the victim not the father’s own story. PW3 further testified in cross examination that he was at close range from the victim and he could hear what the victim was saying, and that it would be wrong to say that he (PW3) took the father’s story not the victim’s. He testified that the victim was talking in Lusoga and the father was talking in both Lusoga and Luganda, and he (PW3) could understand both Lusoga and Luganda.

The accused pleads an alibi, total denial, and a grudge. Defence Counsel in his submissions disputed the evidence of PW1, PW2 and PW3 on what the victim told them as hearsay evidence which is not admissible.

It was the accused person’s testimony that on the dates of 13th January 2010 when the alleged incident happened at around midday, he had left home for school early that day at 8 am and returned at 6 pm. His mother DW2 also testified that her son Bogere was at his school the whole of that day between 8 am and 6 pm. His friend DW3 testified that the he was with the accused at their school the whole day on that fateful day. It was also the testimony of the accused, DW2 and DW3 that even the following day of 14th January 2010 the accused went to school at 8 am and returned home at 6 pm. The accused also disowned exhibits **P4** and **P5** which were statements he made to police after his arrest and testified that though he signed them, they had not been read over to him. The Prosecution contends that the accused is telling lies. The accused denies that he is lying.

An accused person who puts forward an alibi as an answer to a charge does not assume any burden of proving that answer. See **Uganda V Photo Oring HCCS No. 434/1994, Katusti J,** as he then was. The general rule is that the prosecution must stand or fail by the evidence they have given. In that case court has to consider whether the prosecution evidence has destroyed the alibi by placing the accused squarely at the scene of crime. If the prosecution evidence puts the accused on the scene of crime at the material time, then the alibi must be false and must be rejected.

The evidence of the participation of the accused in the crime is here dependent on identification by a witness who could not give evidence in court due to mental impairment. However she narrated her ordeal to her father (PW1), her sister (PW2) and PW3 the Police Officer who recorded her statement exhibit **P3** where she identified the accused as her assailant.

I have therefore to treat this evidence of the accused person’s identification by the victim with caution. I have warned the Assessors accordingly, as was advised in **Roria V Republic [1967] EA 583** which was cited with approval in **Bogere & Anor V Uganda SCCA No. 1/1997.**  The courts in the two cases warned of the danger inherent in identification evidence, and advised court to first satisfy itself in all circumstances that it is safe to act on such evidence. The Supreme Court emphasized the need to exercise care regardless of whether it was with respect to a single or multiple identification witnesses; and that the Judge should warn himself/herself and the Assessors on the need for caution as the witness(es), however persuasive could after all be mistaken. Their Lordships pointed out that:-

*“The Judge should then examine closely the circumstances in which the identification came to be made particularly the length of time, the distance, the light, the familiarity of the witness with the accused. All these factors go to the quality of the identification evidence. If the quality is good the danger of mistaken identity is reduced but the poorer the quality the greater the danger….*

*When the quality is good, for example, when the identification is made after a long period of observation or in satisfactory conditions by a person who knew the accused before, a court can safely convict even though there is no other evidence to support the identification evidence, provided the court adequately warns itself of the special need for caution.”*

In **Isaya Bikumu V Uganda SCCA No. 24/1989** and **Remigious Kiwanuka V Uganda Crim. Appeal No. 41/1995,** it was held that where the incident takes place during broad daylight, and the perpetrator is fully known to the witness, the conditions for proper identification are favourable, and exclude or reduce the possibility of error or mistaken identity.

This court was faced with a situation where not only did victim not testify but that she was also a single identifying witness who however narrated her ordeal and named the assailant to her father, her sister, and a Police officer who all testified in court.

For proof of any assertion or claim, as held in **Abdalla Nabulere & Ors V Uganda [1979] HCB 77,** there is no need for plurality of witnesses, or some formula based on numerical strength; but rather on the cogency of evidence adduced, and the credibility hence reliability of the witnesses. Indeed a single witness can adduce evidence of greater evidential value than a dozen witnesses could. Furthermore, court can, on the evidence available, find an accused guilty of an offence of defilement notwithstanding that the victim of that offence has not testified before it.

 In this case, there is evidence that he victim Nantongo Fatuma knew the accused as her neighbour. Their parents had been neighbours for about ten years. The accused testified that he would meet and talk to the victim whenever he went to their house. The accused himself, together with his mother DW2, admitted being close neighbors to the victim’s family. They also testified that they know the victim. The victim and the accused were living only a distance estimated to be between 10 (ten) and 70 (seventy) metres apart. The incident took place in broad daylight. They used to interact often as neighbours. This points out that the accused and the victim knew each other, or were familiar with each other as close neighbours. The conditions for identification were clearly favourable. Immediately after the sexual assault, the victim narrated the incident to her sister PW2 and her father PW1 naming the accused by his known name of Bogere as her assailant.

This brings in the issue of hearsay evidence alluded to by the defence as stated above. Hearsay evidence is evidence which the witness is merely reporting and not what he himself or herself saw or heard or came under the immediate observation of his or her bodily senses, but what he or she learnt respecting the fact through the medium of a third person.

Hearsay evidence is inadmissible and the court is under duty to exclude it from the evidence. Hearsay evidence which ought to have been rejected cannot be used as corroborative evidence. If the fact to be proved could be seen, heard, touched, tasted or smelt, the testimony could be of that person who actually saw, heard, touched, tasted or smelt it.

However, in **Mayombwe Patrick V Uganda Court of Appeal Criminal Appeal No.17/2002** it was held that a report made to a third party by a victim in a sexual offence where she identifies her assailant to a third party is admissible in evidence**.** In this case it has to be appreciated that the victim though under a disability, was communicating to people who were close to her, like her father (PW1) and her elder sister (PW2). These two who were prosecution witnesses had clearly told court that the victim at times does not understand, especially when attacked by malaria, and at times she understands, and that this started when she was three years old. PW2 stated that the victim communicates well to her family members. It came out clearly to this court through the evidence of PW1 and PW2 that the victim communicates to those who are close to her and they are able to understand her. Persons with disabilities, including deaf and dumb persons can be understood and can communicate with those people who are close to them or those who understand sign language, lip reading or other means of communication. The victim in this case was neither dumb nor deaf but according to exhibit **P1** which is medical evidence had a mild disability of being sluggish in speech. According to PW1 and PW2, this was at certain times especially when attacked by malaria. This court therefore appreciated and accepts the explanation that the victim could communicate with those close to her and they could understand her. PW1, PW2 and PW3 all gave their testimony in a straight clear and matter of fact manner. They did not falter even during cross examination. I found them to be truthful witnesses.

In the premises I find that the victim’s identification of the accused to PW1, PW2 and PW3 could not have been mistaken and is admissible in evidence. In effect therefore this prosecution evidence places the accused squarely at the scene of crime. In **Alfred Bombo V Uganda Criminal Appeal No. 28 of 1994 (Supreme Court),** it was held that as a principle once an accused has been positively identified during commission of a crime, then his claim that he was elsewhere must fail.

On the foregoing principle alone, the alibi put forward by the accused must fail. I must state however that though the accused bears no burden to prove his alibi once he raises it, I found this particular alibi to be full of loopholes, lies and contradictions. The accused as DW1 together with his mother DW2, and his colleague DW3 told court on oath that the accused on the said date of 13th January 2010 was at school at Comprehensive Senior Secondary School from 8 am to 6 pm. It was their evidence that the accused and DW1 were going to school during holidays and they were in senior five. When asked by court DW3 said they were on a second term holiday which he however changed to say it was a first term holiday. It cannot be true that 13th January 2010 fell during second term or first term holiday for senior five students in Uganda. It is a fact that the school program in Uganda is such that in the month of January, senior five students are yet to be selected awaiting the UNEB ordinary level results, and their first term normally starts around the month of March. This is common knowledge, and the year 2010 was no exception. The alibi was clearly an afterthought. More so it does not feature in the accused person’s statements to police albeit that the accused denied having made the said statements.

The accused also testified on oath that the PW1 the victim’s father had a grudge with him and at one time attempted to poison him because he the accused had gone against his advice to pursue Islamic studies and instead pursued conventional education. This was not proved by any other evidence on record. On the contrary PW1 and PW2 testified that the accused was their relative, thus embracing him as their own though the accused and his mother denied it. PW2 testified that they visit and interact with each other, and they have a burial group. DW2 the accused person’s mother was vague when cross examined on the grudge. She merely said that they got a misunderstanding and she does not know the reason. When probed further she said she just saw PW1 not greeting them. If the grudge was really existent as his son the accused had put it, there was no reason for her to be vague and evasive about it amid the serious charges her son is facing. Secondly the grudge was not between the victim and the accused. No evidence was adduced to show that the victim had been coached by her father or her sister or any other person to implicate the accused. The grudge appears to be a made up story. Just like the alibi defence, the grudge defence was not raised in the statements of the accused exhibits **P4** and **P5** which only raised a general denial**.** I therefore did not believe this piece of evidence.

I find the evidence of the defence witnesses to be lies and afterthoughts. The law is that an accused who gives untruthful evidence is no different from one who gives no evidence at all. In either case the burden remains on the prosecution to prove his guilt. But if, upon proved facts, two inferences may be drawn about the accused person’s conduct or state of mind, his untruthfulness is a factor which court can properly take into account as strengthening the inference of guilt. What strength it adds depends on all the circumstances and especially on whether there are reasons other than guilt that might account for the untruthfulness. The veracity of a witness must be assessed on his evidence as a whole. If he has been found to be untruthful in one part of his evidence, then, in the absence of a reasonable explanation, the reminder of his evidence should be accepted only with grave caution.

In this case as stated above the prosecution evidence has placed the accused squarely at the scene of crime. Besides, having considered the loopholes and lies in his alibi, I have no hesitation in rejecting the alibi. In this respect I differ from the Assessor’s opinion that the accused did not participate in the commission of the crime. The accused was properly placed at the scene of crime by the prosecution evidence.

Thus, considering the evidence of all witnesses, and the circumstances surrounding this case, and having warned myself and the Assessors about the dangers associated with basing a conviction on such evidence, the only inference to make is that the accused committed the offence as charged. The allegation of a family grudge was unfounded and must have been a mere afterthought to divert the course of justice. It is my conclusion therefore, differing from the Assessor’s opinion, that the participation of the accused in committing the crime has been established beyond reasonable doubt.

I do find that the prosecution has proved the case against the accused beyond reasonable doubt. I accordingly find the accused guilty as charged and convict him.

**PERCY NIGHT TUHAISE**

**JUDGE.**

**04/07/2012.**