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**THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA AT KAMPALA
CRIMINAL APPEAL NO. 31 OF 2019**

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*[Coram: Katureebe, CJ; Arach-Amoko; Tibatemwa-Ekirikubinza;
Mugamba; Chibita; JJ.S.C]*

BETWEEN

KIGOYE FRANCIS APPELLANT

15

AND

UGANDA RESPONDENT

20

*[Appeal against the judgment of the Court of Appeal at Kampala
before (Kiryabwire, Musota and Tuhaise, JJA) in Criminal Appeal No.
327 of 2016 dated 8th August, 2019].*

Representation:

Mr. Henry Kunya represented the appellant on private brief while Ms. Caroline Marion Acio, Acting Principal State Attorney, in the office of the Director of Public Prosecutions represented the respondent.

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JUDGMENT OF COURT

Background of the appeal

This second appeal is against the judgment of the Court of Appeal. The case for the prosecution is that the appellant (Kigoye Francis) was an employee of the New Vision Publishing and Printing

5 Company working as a Principal Accountant. It was alleged that in
the period of January 2009 to November 2013, Kigoye Francis stole
Ushs.336, 597,398/= which was the property of his employer. It
was further alleged that during the period of 14th January 2009 to
17th April 2012 Kigoye knowingly and fraudulently made false
10 entries on carbon copy receipts purporting that different sums of
monies at different dates had been paid to his employer by different
distributors/agents whereas not. It was also alleged that the
appellant would approach a distributor/agent with a false
statement of account indicating that their account with New Vision
15 had been credited and thereby demand for cash which he would
take for his personal benefit without transmitting the same to his
employer.

Consequently, Kigoye was indicted on one count for embezzlement
contrary to **Section 19 (b) (i)-(iii)** and **37 counts of fraudulent**
20 **false accounting** contrary to **Section 23 (b)** of the **Anti-corruption**
Act.

The High Court found Kigoye guilty of embezzlement on count one
and on the 37 counts of fraudulent false accounting under the Anti-
corruption Act. He was duly convicted and sentenced to a term of
25 imprisonment of 5 years on count one and 3 years in respect of
each of the 37 counts. The sentences were to run concurrently.

Dissatisfied with the decision of the High Court, the appellant
appealed against both his conviction and sentence to the Court of
Appeal on the following grounds:

- 5 1. *That the learned trial Judge erred in law and fact when he found that prosecution had proved all the ingredients for the offence of embezzlement beyond reasonable doubt whereas not.*
- 10 2. *That the learned trial Judge erred in law and fact in failing to subject the evidence on record to a thorough evaluation thereby coming to a wrong conclusion that the offence of fraudulent false accounting had been proved beyond reasonable doubt.*
- 15 3. *That the learned trial Judge erred in law and fact when he engaged in speculation and conjecture.*
4. *The learned trial Judge erred in law and fact when he imposed a manifestly harsh and excessive sentence on the appellant.*

20 The Court of Appeal addressed grounds 1, 2 and 3 together but resolved ground 4 separately.

The Court of Appeal agreed with the trial Judge that there was overwhelming evidence both circumstantial and direct that was relied on before that court came to the finding that the ingredients
25 of the offence of embezzlement against the appellant had been proved beyond reasonable doubt.

Similarly, in regard to the 37 counts of fraudulent false accounting, the Court of Appeal agreed with the trial Judge that the evidence proved that it was the appellant who had written and signed
30 receipts containing the fraudulent accounts.

5 In the result, the first appellate Court dismissed the appeal and upheld the conviction as well as the sentence of the appellant.

Still dissatisfied with the Court of Appeal decision, Kigoye appealed to the Supreme Court on the following grounds:

10 **1. The learned Justices of Appeal erred in law in upholding the trial court's decisions without thoroughly re-evaluating the evidence on record.**

15 **2. The learned Justices of Appeal erred in law when they failed to satisfactorily consider the trial court's findings regarding speculation and conjecture.**

The appellant prayed that the appeal be allowed, that the conviction be quashed and the sentences be set aside.

Ground 1

20 **Appellant's submissions**

The appellant's counsel submitted that whereas the Court of Appeal was mindful of its duty to re-evaluate the evidence, it did not thoroughly carry out its duty. Counsel argued that there was failure in re-evaluating critical gaps in the prosecution evidence. Counsel
25 cited the Prosecution's failure to avail the original copies of payment vouchers or cheque dispatch records to confirm that it was indeed the appellant who had made the false entries and consequently embezzled funds.

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5 Furthermore, counsel argued that the agents, advertisers and distributors who had knowledge of the transactions in question and which could thus give direct evidence have strengthened the prosecution case were not brought in court to testify. He argued that inspite of that, the Court of Appeal confirmed in its judgment
10 that the investigations revealed that the distributors, agents and advertisers' accounts were fraudulently credited by the appellant and that cash was handed over to him. He added that the court's confirmation was not borne out of credible evidence and that it was therefore erroneous for the Court of Appeal to make such a finding.

15

In regard to the offences of fraudulent false accounting, the appellant's counsel submitted that the Court of Appeal reached an erroneous conclusion in absence of original copies of receipts and the original specimen signature of the appellant for comparison
20 purposes. He stated that the evidence of the Prosecution witnesses in respect to these counts did not directly link the appellant with the missing amount of money. Counsel argued that this cast a lot of doubt on the prosecution case as to who the author of the carbon receipts adduced in court was.

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The appellant's counsel also argued that there were inconsistencies in the amount of money alleged to have been stolen by the appellant. He submitted that the indictment stated the amount stolen as Ug. shs. 336,597,398/= but pointed out that the amount
30 did not tally with the aggregate sum of Ug. shs. 246,247,589/=

5 constituted in the 37 counts. On this basis, counsel argued that had the Court of Appeal subjected this evidence to thorough re-evaluation, they would not have upheld the appellant's conviction.

Respondent's reply

10 On the other hand, the respondent's counsel argued that the evidence admitted by the trial Judge during the trial and confirmed by the Justices of Appeal was found credible. The evidence was sufficient to prove the case against the appellant beyond reasonable doubt and there was therefore no need to strengthen the

15 Prosecution's case.

Counsel contended that the learned Justices of Appeal considered exhibit 'P9' which comprised of carbon receipts whose entries were in favour of distributors who never paid the money attributed to them. They also referred to the evidence of (PW7) Sebuwufu Erisa-
20 the handwriting expert who testified that he did not find any challenges examining the carbon copies because they were clear and that the handwriting and signatures on the carbon copies positively matched those of the appellant.

Counsel added that the learned Justices of Appeal also referred to
25 the evidence of (PW3) Francis Ejegu (the Manager Internal Audit) who had worked with the appellant for years and could recognize the appellant's handwriting with ease.

5 Counsel argued that the above evidence was abundant and provided ample corroboration and confirmation of the Prosecution's case.

10 In regard to the appellant's argument that the learned Justices erred in opining that his resignation from New Vision was not a coincidence, the respondent's counsel contended that the learned Justices of Appeal arrived at their opinion after evaluating various pieces of evidence. Counsel stated that the findings were based on the evidence of (PW1) Zubair Musoke who received a complaint
15 regarding the suspicious transactions. She added that PW1 had requested the appellant to sit an exit interview and handover his office officially but the appellant did not respond. Counsel argued that this evidence regarding the appellant's irregular resignation was never discredited nor challenged in any way.

20 In respect to the failure to adduce direct evidence of distributors and agents as well as original receipts linking the stolen money to the appellant, counsel for the respondent relied on the authority of **Kifamunte Henry vs. Uganda, Supreme Court Criminal Appeal**
25 **No.10 of 1997** and argued that it is not open to the appellant to question the credibility of evidence admitted during the trial on a second appeal. She said that it is not the duty of a second appellate court to make a finding whether the evidence was credible or not, this being a finding of fact.

5 Furthermore, counsel argued that relevant evidence need not only
be direct evidence but can also be circumstantial. Counsel pointed
out the evidence of (PW5) Jengo Edward which showed the scheme
allegedly used by the appellant to steal the money. PW5 was one of
the distributors on whose account the appellant made false credit
10 entries in the carbon receipts. Counsel stated that the receipt
showed that PW5 had made payments yet the payments were made
by advertisers. She added that much as the records of New Vision
indicated that the appellant had made payments, he had not in fact
made any such payments yet the appellant had been given the cash
15 equivalent. This in counsel's view was direct evidence pinning down
the appellant on the stolen funds.

Ground 2

Appellant's submission

20 Counsel for the appellant faulted the Court of Appeal for failure to
distinctly address the ground on speculation and conjecture.
Counsel argued that the trial Judge had engaged in speculating
that:

- 25 (i) the appellant was solely responsible for collecting the
cheques and cash from the advertisers;
- (ii) the advertisers' accounts were never credited after reversal
entries from the distributors;
- (iii) the Advertisers were no longer complaining;
- (iv) alleged fleeing the country by the appellant;

5 (v) alleged dramatic resignation by the appellant from his position;

(vi) benefitting from appellant's conduct by some agents.

Counsel submitted that the Court of Appeal failed to decide on the above points of speculation but instead chose to address the points
10 by combining the distinct ground on speculation with the other 2 grounds relating to embezzlement and fraudulent accounting. He contended that the Court of Appeal reasoned that its premise for combining the ground on speculation and conjecture was that it was common to the grounds on false accounting and embezzlement.

15 Counsel contended that this was a grave omission and constituted an error in law. To buttress this argument, counsel relied on the authority of **Salongo Sentumbwe vs. Uganda Supreme Court Criminal Appeal No.03 of 2014** wherein the Court reiterated what was stated in *Bogere Moses vs. Uganda SCCA No.1 of 1997* that:

20 “... where a material issue of objection is raised on appeal, the appellant is entitled to receive an adjudication on such issue from the appellate court even if the adjudication be handed out in summary form ... failure to evaluate the material evidence as a whole constitutes an error in law.”

25 Counsel submitted that the learned Justices of Appeal should have distinctly addressed their minds to the ground on speculation and conjecture instead of combining it with other grounds.

5 **Respondent's reply**

The respondent's counsel contended that the Court of Appeal adequately and satisfactorily addressed the appellant's concerns on the ground of speculation and conjecture. She argued that in fact this ground is a repetition of the issues raised in ground one.

10 Counsel was in agreement with the approach adopted by the learned Justices of Appeal in combining this ground with the rest of the grounds.

In that respect, counsel prayed that this Court dismisses the appeal and confirms the appellant's conviction as well as the sentences.

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Appellant's Rejoinder

In rejoinder, the appellant's counsel submitted on ground 1 that the absence of cogent and direct evidence of the concerned distributors, agents and advertisers adversely affected the credibility of the

20 Prosecution case. He argued that it was therefore erroneous on the part of both the lower courts to ignore such glaring anomalies.

Furthermore, counsel contended that it was against the established rules of evidence particularly **Section 64** of the **Evidence Act** for a
25 court of law to base its findings on carbon copies of vital documents whereas the originals could have been retrieved from the concerned parties. He argued that similarly, the alleged records of payment of cash by PW5 to the appellant ought to have been exhibited in court in order to corroborate his evidence.

5 He added that the alleged failure by the appellant to hand over and sit an exit interview cannot lead to an irresistible inference of guilt as this was a manifestation of untenable circumstantial evidence.

On ground 2, counsel reiterated his earlier submissions.

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Consideration of Court

In resolving this appeal, we will first consider the issue raised in ground 2 on conjecture and speculation that the appellant alleged was never considered by the Court of Appeal.

15

We agree with what this Court stated in **Bogere Moses (supra)** that an appellate court ought to adjudicate on any material objection raised on appeal.

In the written submissions made at the Court of Appeal, the
20 appellant highlighted the following aspects to constitute conjecture and speculation made by the trial Court:

- (i) That part of the appellant's functions as a member of the credit control unit was to collect cheques or cash from advertisers who owed the company funds for services rendered. Yet during cross-examination the trial Court clarified from the appellant that his role was merely supportive.
- (ii) The finding that the advertiser's accounts had been credited after money was reversed and yet no such evidence was
30 ever adduced from the affected advertisers.

- 5 (iii) The judge dismissing the importance of evidence from
advertisers on the premise that they did not need to testify
because they were no longer complaining.
- (iv) The description of the appellant's resignation through
electronic mail as dramatic.
- 10 (v) The conclusion by the trial Court that the disappearance of
agents like Gitta led to an irresistible inference that Gitta
benefited from the appellant's sinister scheme.

The Court of Appeal in addressing the grounds of appeal stated as follows:

15 *"Having read the grounds, we find that ground 3 on speculation and
conjecture is common to grounds 1 and 2. We shall therefore take into
account ground 3 when addressing grounds 1 and 2 ..."*

In dealing with ground 1, the Court of Appeal in tandem addressed
ground 3 on speculation and conjecture in the following manner:

20 *"Counsel for the appellant submitted that by the Judge relying on the
appellant's sudden disappearance from work and the appellant's
signature on carbon receipts does not (sic) prove the allegation of
embezzlement of the sum of shs. 336,597,398/=. This we disagree
with as clearly the prosecution unveiled the entire process of the
25 scheme by the appellant to embezzle the money due to his employer.*

*The trial Judge not only drew evidence from the appellant's sudden
disappearance from work and signature on carbon receipts but also
drew evidence from Zabair Musoke (PW1), Francis Ejegu (PW3),*

5 *Jengo Edward (PW5), Sebuwufu Erisa the document examiner (PW7) and the appellant (DW1).*

A re-evaluation of the evidence clearly shows the following: Zabair Musoke (PW1) who testified in court that on the 13th day of December 2013 when he received a complaint from the credit manager of
10 *suspicious transactions done by the appellant, at nearly the same time he received an email from the appellant resigning from his job. Ordinarily, the appellant was supposed to give one month's notice of the intention to resign and or sit an exit interview with the human resource manager, handover company property and sign off but he*
15 *did none of the above.*

We agree with the trial Judge that this was no coincidence and the conduct of the appellant was very wanting.

The Judge also found that Francis Ejegu (PW3), Manager Internal Audit, while investigating the fraud in the credit control department,
20 *examined all the carbon receipts and found that shs. 628,604,821/= had been diverted from the advertisers accounts and wrongly credited on the distributors accounts. The main culprits were the appellant and a one Peter Mubale. The accused was found to have collected 44 cheques from advertisers such as Moringa, Straight talk,*
25 *Lowe, Scanad and OMD Uganda totalling to Shs. 336,597,398/=.*

This money was instead credited through carbon slitting method by the accused to newspaper distributor's accounts for Mr. Jengo ...
Investigations reveal that these distributors whose accounts were fraudulently credited paid the money in cash to the accused. Francis
30 *Ejegu (PW3) further testified that the carbon copies were falsified by*

5 *the appellant. Francis Ejegu elaborated on the fraud in respect of*
each receipt that formed the basis for counts 2-38. Francis Ejegu
(PW3) further testified that the carbon receipts were written by the
appellant whose signature he was conversant with. This evidence
was corroborated by Sebuwufu Erisa (PW7 –the handwriting expert)
10 *who examined the handwriting and the signatures on the 37 carbon*
receipts and attributed authorship to the appellant.”

We find no fault in the above approach that the Court of Appeal
adopted in resolving the ground. From the excerpt above, we find
15 that the court resolved the issues of conjecture and speculation
raised in ground 3 with the rest of the grounds of appeal.

We therefore find no merit in Ground 2 of the appeal.

20 We now proceed to consider Ground 1 of the appeal.

The point that arises for consideration under this ground is whether
the Court of Appeal failed in its duty to re-evaluate the evidence of
carbon copies of receipts purportedly containing fraudulent
accounting by the appellant.

25 The appellant objected to the carbon copies on grounds that:

- (i) it violated the best evidence rule and
- (ii) the evidence failed to link the stolen money to the appellant

5 To decide the above point, the relevant provisions of law for
consideration are **Sections 63** and **64** of the **Evidence Act** which
provide as follows:

Section 63

Proof of documents by primary evidence

10 “Documents must be proved by primary evidence except
in the cases hereafter mentioned.”

Section 64

**Cases in which secondary evidence relating to documents may
be given**

15 “(1) Secondary evidence may be given of the existence,
condition or contents of a document in the following
cases—

(a) when the original is shown or appears to be in the
possession or power of the person against whom the
20 document is sought to be proved, or of any person out of
reach of, or not subject to, the process of the court, or of
any person legally bound to produce it, and when, after
the notice mentioned in section 65, that person does not
produce it;

25 (b) when the existence, condition or contents of the
original have been proved to be admitted in writing by the
person against whom it is proved or by his or her
representative in interest;

30 (c) when the original has been destroyed or lost, or is in
the possession or power of any person not legally bound
to produce it, and who refuses to or does not produce it
after reasonable notice, or when the party offering
evidence of its contents cannot, for any other reason not
35 arising from his or her own default or neglect, produce it
in reasonable time;

- 5 (d) when the original is of such a nature as not to be easily movable;
- (e) when the original is a public document within the meaning of section 73;
- 10 (f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in Uganda, to be given in evidence;
- 15 (g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in court, and the fact to be proved is the general result of the whole collection.
- (2) in cases (a), (c) and (d) of subsection (1), any secondary evidence of the contents of the document is admissible.
- 20 (3) in case (b) of subsection (1), the written admission is admissible.
- (4) in case (e) or (f) of subsection (1), a certified copy of the document, but no other kind of secondary evidence, is admissible.
- 25 (5) in case (g) of subsection (1), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

What can be deduced from the above provisions of law is that, it is a general rule that documents adduced in court are to be proved through primary evidence [Section 63 (supra)].

According to **Section 61** of the **Evidence Act**, primary

5 evidence means the document itself is produced for inspection
by court.

However, Section 64 (supra) provides for secondary evidence
as an exception to the general rule. Secondary evidence
according to **Section 62** of the **Evidence Act** means and
10 includes-

“(a)certified copies given under the provisions hereafter
contained;

15 (b) copies made from the original by mechanical processes
which in themselves ensure the accuracy of the copy, and
copies compared with those copies;

(c) copies made from or compared with the original;

(d) counterparts of documents as against the parties who
did not execute them;

20 (e) oral accounts of the contents of a document given by
some person who has himself or herself seen it.”

In order for secondary evidence to be admitted, the scenarios
described in **Section 64 (supra)** have to be fulfilled. In this
particular case, the Prosecution’s reason for not adducing the
original receipts in court was that some of the advertisers and
25 agents who were in possession of the originals were not co-
operative with the Prosecution. And that although some of the
original receipts had been retrieved, they were misplaced by
the investigating Police Officers. These circumstances fall
under **Section 64 (1) (c) (supra)**.

5 Furthermore, we are also alive to jurisprudence to the effect that carbon copies are taken as duplicate originals and there is no need to first account for the non-production of the original.

In the persuasive Manila Supreme Court decision of **The**
10 **People of the Philippines vs. Hon. Bienvenido A. Tan as Judge of the Court of First Instance of Manila, Pacita Madrigal-Gonzales, Angelita Centeno, Julia Carpio, Calixto Hermosa and Crispula R. Pagaran alias PULA (G.R. No. L-14257 Supreme Court of Philippines (Manila)**, the court
15 held as follows:

“The admissibility of duplicates or triplicates has long been a settled question and we need not elaborate on the reasons for the rule ... When carbon sheets are inserted between two or more sheets of writing paper so that the writing of a contract upon the outside sheet, including the signature of the party to be charged thereby, produces
20 *2 facsimile upon the sheets beneath, such signature being thus reproduced by the same stroke of the pen which made the surface or exposed impression, all of the sheets so written on are regarded as duplicate originals and either of them may be introduced in evidence*
25 *as such without accounting for the non-production of the others.*

In another persuasive authority-**People vs. Quinones, 44 Off. Gaz., No. 5, 1520, 1525** the US court in dealing with the argument that a confession marked Exhibit B was not admissible because it was merely a carbon copy stated as follows:

5 *“The said confession Exhibit B, being a carbon copy of the original and bearing as it does the signature of the appellant, is admissible in evidence and possesses all the probative value of the original, and the same does not require an accounting for the non-production of the original.”*

10 Wharton's Criminal Evidence, Vol. I at page 661 also states that,
“Where letters are produced by mechanical means and, concurrently with the original, duplicate are produced, as by placing carbon paper and writing on the exposed surface at the same time, all are duplicate originals, and any one of them may be introduced in
15 *evidence without accounting for the non-production of the other.”*

Similarly, H.C Underhill in Underhill's criminal evidence: A treatise on the law of criminal evidence (1956), 5th edition, Vol. I, at page 168 states that, *carbon copies when made at the same time and on the same machine as the original, are duplicate originals, and have*
20 *been held to be as much primary evidence as the originals.*

In **Prithi Chandi vs. State of Himachal Pradesh (Criminal Appeal No.738 of 1981)**, the Supreme Court of India held that a signed carbon copy of a document is as good as the original document and is admissible as primary evidence.

25

From the foregoing persuasive jurisprudence, it can be safely concluded that even without the Prosecution accounting for the non-production of the originals, the carbon copies would still be admissible in evidence.

5 Therefore, we find that the appellant's faulting of the Court of Appeal for relying on the evidence of the carbon copies in the absence of direct evidence is not sustainable.

We now move to address the argument raised by the appellant's counsel that the testimony from the handwriting expert was not
10 credible because there were no sample signatures extracted from the appellant for comparison purposes.

It is on record that the appellant himself during examination in chief testified that receipt "D66" marked exhibit "P9" was his handwriting although he denied the signature on the receipt being
15 his.

Furthermore, according to **Section 45** of the **Evidence Act**, the evidence of persons acquainted with the handwriting of an individual under question is taken as a relevant fact. The Section provides that:

20 **"When the court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person is a relevant fact.**

25 ***Explanation.* —A person is said to be acquainted with the handwriting of another person when he or she has seen that person write ... or when, in the ordinary course of business, documents purporting to be**

5 **written by that person have been habitually
submitted to him or her.”**

PW1, PW2, PW3 and PW4 who were employees at New Vision stated that the signature on the carbon copies was that of the appellant and they were able to recognize it because they had worked with the
10 appellant for some time and knew his handwriting and signature. The testimony of these witnesses clearly falls within the ambit of **Section 45 (supra)**.

Further still, the testimonies of the above witnesses were corroborated by the handwriting expert, who stated that there was
15 similarity of the signature characters on the carbon receipts with the sample extracted from the appellant. The Laboratory report signed by the expert marked “p12” at page 2 shows that there were original specimen signatures provided by the appellant which were used to compare with that on the carbon copies.

20 Arising from the above, we do not find the appellant’s argument tenable. The evidence on record clearly indicates that sample signatures were obtained from the appellant for comparison with the signature on the carbon receipts. It therefore follows that the laboratory report prepared by PW 7 is credible.

25 We however wish to note that the Laboratory report by the expert at page 5 states that, “there is no evidence to show that the author of the sample handwriting is the one who wrote the questioned handwriting on exhibit ‘D73’. In his opinion, there were fundamental differences between the sample handwriting on exhibit

5 'D73' in handwriting style and skill, letter designs in the letters 'G',
'R', 'D' and 'E' as well as the spacing between characters.

We note that the Court of Appeal did not specifically address the
expert's opinion regarding exhibit 'D73'. Nevertheless, although the
expert's opinion regarding exhibit-D73 differed from his view about
10 the other exhibited carbon receipts, we are alive to jurisprudence
which is to the effect that the opinion of a handwriting expert is not
binding on the court because they are not witnesses of fact. (See for
example: **Kimani vs. Republic [2000] EA 417**). The expert's
evidence therefore ought to be corroborated by other evidence. The
15 corroboration can be by either direct or circumstantial evidence. We
note that before the Court of Appeal came to the conclusion that the
handwriting expert attributed authorship of **all** the carbon copy
receipts to the appellant (albeit in error), it referred to the direct
evidence of (PW3)-Manager Internal Audit who testified to the 37
20 counts of false accounting pinning the appellant.

In respect to circumstantial evidence, the Court of Appeal
considered the appellant's conduct to assess if it was that of an
innocent person. In **Simon Musoke v R [1958] EA 715**, the court
stated that, "*in a case depending exclusively or partially upon*
25 *circumstantial evidence, the Court must before deciding upon a*
conviction find that, the inculpatory facts are incompatible with the
innocence of the accused and incapable of explanation upon any
reasonable hypothesis than that of guilt."

5 The Court of Appeal found the appellant's conduct of not responding to the call by his former employer to sit an exit interview as that of a guilty person. For emphasis, the appellant's conduct was considered by both lower courts which came to a similar conclusion that the appellant was not innocent.

10 For the reasons given above, we find that the Court of Appeal having re-evaluated the evidence, came to a correct finding that the appellant was guilty.

Ground 1 also fails.

15 In the result, this appeal fails on all the grounds. We uphold the conviction as well as the sentences confirmed by the Court of Appeal.

Dated at Kampala this ..24th... day ofJuly..... 2020.

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.....
HON. BART KATUREEBE,
CHIEF JUSTICE.

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.....
HON. STELLA ARACH-AMOKO
JUSTICE OF THE SUPREME COURT.

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Lillian Tibatemwa
.....

**HON. PROF. LILLIAN TIBATEMWA-EKIRIKUBINZA
JUSTICE OF THE SUPREME COURT.**

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Paul Mugamba
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**HON. PAUL MUGAMBA
JUSTICE OF THE SUPREME COURT.**

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Mike Chibita
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**HON. MIKE CHIBITA
JUSTICE OF THE SUPREME COURT.**

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