THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT JINJA

CRIMINAL APPEAL NO. 230 OF 2011

(Coram: Elizabeth Musoke, Cheborion Barishaki and Hellen Obura, JJA.)

1. **MULONGO YEFUSA**
2. **WANGOLO MUHAMED**
3. **HIDANGHULE FESTO JAGENDA:::APPELLANTS**

VERSUS

UGANDA :::RESPONDENT

(Appeal from the decision of Hon. Justice Mike Chibita holden at Tororo High Court Criminal Session Case No. 33 of 2011 delivered on26/09/2011)

JUDGMENT OF THE COURT

Introduction

This is an appeal against the decision of Mike Chibita, J (as he then was) in which he convicted the appellants of the offence of murder contrary to Sections 188 and 189 of the Penal Code Act and sentenced each of them to 21 years imprisonment.

Background to the Appeal

The facts giving rise to this appeal as per the prosecution case are that the appellants and two others, Byanghangho Edirisa (hereafter referred to as Edirisa) and Singa Siraje on the night of 22nd June, 2010 waylaid Wadidi Lulenti (the deceased) while he was from his drinking joint and hacked him to death where after they stacked his body in polythene bags and dumped it in Manafwa river from where it was recovered. As a result, the appellants were arrested and charged with the offence of murder. At the trial, the learned trial Judge found that the prosecution had proved its case beyond reasonable doubt and he accordingly convicted the appellants and sentenced each of them to 21 years imprisonment.

Being dissatisfied with the decision of the trial Judge, the appellants appealed to this Court against both conviction and sentence on the following grounds;

1. *"That the learned trial Judge failed to evaluate the evidence on record when he held that the circumstantial evidence had been sufficiently corroborated thereby arriving at wrong and unjust conclusions occasioning a miscarriage of justice upon the appellants.*
2. *That without prejudice to the foregoing, the learned trial Judge erred in law and fact when he passed a sentence of 21 years imprisonment upon each of the appellants, which is manifestly harsh and excessive thereby occasioning a miscarriage of justice."*

Representations

At the hearing of this appeal Mr. Richard Kumbuga represented the appellants on State Brief while Mr. Sam, Oola Senior Assistant Director Public Prosecutions represented the respondent. The appellants were not physically present in court, due to the challenge of the Covid 19 pandemic and the Standard Operating Procedures (SOPs) given by the Ministry of Health which prohibit crowding in a place. However, the appellants were facilitated to attend the proceedings from prisons using zoom technology.

Case for the Appellants

On ground 1, counsel submitted that the ingredient of participation of the appellants was not sufficiently made out and it was erroneous for the learned trial Judge to hold otherwise. He argued that none of the prosecution witnesses had direct evidence of how the deceased met his death with the exception of the charge and caution statements of the 2nd and 3rd appellants, which he argued were wrongly admitted. He added that this would in a way leave the only evidence against the appellants as circumstantial evidence which would ordinarily require corroboration before the appellants could be convicted.

Counsel also contended that had the learned trial Judge paid attention to certain details regarding the charge and caution statements, he would have discarded them. He pointed out

that the charge and caution statements were recorded on two different days by the same recording officer. He also added that the dates on which these statements were recorded were tampered with which indicates that they were pre written and the appellants only signed on them. Further that, the statements had striking inconsistencies and yet they were alleged to have been made by persons who participated in the commission of the offence.

Counsel also added that the 2nd and 3rd appellants are illiterates who could not countersign charge and caution statements in English without the Lunyole version. He also pointed out inconsistencies and contradictions in the evidence of PW2, PW3 and PW7 and faulted the learned trial Judge for believing the evidence of PW7 with all its contradictions.

In conclusion, counsel submitted that this was a case of circumstantial evidence tainted with contradictions and the leaned trial Judge should not have relied on it to sustain a conviction.

On ground 2, counsel submitted that the learned trial Judge did not properly take into account the mitigating factors thereby arriving at a harsh and excessive sentence. He also argued that the learned trial Judge departed from the conventional rule of uniformity in sentences and thus arrived at a very excessive sentence. He relied on the case of ***Aharikundira Yustina vs Uganda, SCCA No. 27 of 2005*** to support his submission. He prayed that this Court reduces the sentence of 21 years imprisonment imposed on each of the appellants to 15 years imprisonment.

The Respondent's reply.

Counsel opposed the appeal on the 1st ground, he submitted that the learned trial Judge properly evaluated the evidence on record and found that although it was circumstantial, it was overwhelming to prove the offence of murder against the appellants and therefore no miscarriage of justice was occasioned to them. He added that the court considered several pieces of evidence as adduced by the prosecution which included the charge and caution

statement made by the 2nd and 3rd appellants, the evidence of PW2, PW7, PW8, and PW10. He contended that although there was no prosecution eye witness to the murder, there was overwhelming circumstantial evidence which led to no other explanation except that A1, A2, A3 and A4 participated in the murder of the deceased. He concluded that the learned trial Judge meticulously and properly analyzed the evidence on record before convicting the appellants.

Regarding the second issue, counsel submitted that the record of the trial Court does not show that it considered the period the appellants spent on remand before sentencing them as required under Article 23 (8) of the Constitution and as decided in ***Rwabugande Moses vs Uganda, SCCA No. 25 of 2014.*** Counsel invited this Court to invoke its powers under section 11 of the Judicature Act and determine an appropriate sentence for each of the appellants. Considering the aggravating and mitigating factors alongside the sentencing range in cases of a similar nature, he proposed a sentence of 21 years imprisonment from which the period of 1 year and 2 months the appellants spent on remand should be deducted and as a result, a sentence of 19 years and 10 months imprisonment be imposed on each of the appellants. He relied on the cases of ***Latif Buulo vs Uganda, SCCA No. 31 of 2017; Mboneigaba James vs Uganda, SCCA No. 25 of 2017*** and ***Muhoozi Denis & anor vs Uganda, SCCA No. 29 of 2014*** to support his submissions.

Decision of Court

We are aware of our duty as the first appellate Court under ***Rule 30 of the Judicature (Court of Appeal Rules) Directions.*** We have the onus to re-appraise the evidence and draw inferences of fact. This duty of the first appellate court was elaborately stated by the Supreme Court in ***Baguma Fred vs Uganda, SCCA No. 7 of 2004*** as follows;

> *"The first appellate court should reconsider all material evidence that was before the trial court, and while making allowance for the fact that it has neither seen nor heard the witnesses, come*

to its own conclusion on that evidence. In so doing, the first appellate court must consider the evidence on any issue in its totality and not any piece thereof in isolation. It is only through such re-evaluation that it can reach its own conclusion, as distinct from merely endorsing the conclusion of the trial court."

It is also trite law that an accused person is convicted on the strength of the prosecution case, and not on the weakness of the defence as was held in ***Akol Patrick & Others vs Uganda, Court of Appeal Criminal Appeal No. 60 of 2002.*** We are also alive to the cardinal principle of law that the prosecution has to prove the case beyond reasonable doubt.

Bearing in mind the above principles of law, we shall proceed to consider the 2 grounds of appeal. On ground 1 the appellants fault the learned trial Judge for relying on weak circumstantial evidence to convict them thereby occasioning a miscarriage of justice.

The records indicate that PW2, No. 22626 D/SGT Michael Gidudu, testified that on 26/06/2010 the LC Chairman of Mulandu village called Musa reported a suspected murder of Lulenti Wadidi and PW2 proceeded to the crime scene where they found blood stains under a jackfruit tree, a trail of blood into the bush and green sandals which belonged to the deceased. The residents were interrogated and investigations were made which revealed the involvement of the appellants. They were arrested and the 2nd appellant revealed that they first had meetings at the home of the 1st appellant in which a plan to murder the deceased was hatched. He mentioned all the people who were involved including the appellants. Both the 2nd and 3rd appellants revealed that they were present when the 1st appellant and Edirisa murdered the deceased under the jackfruit tree. PW2 further testified that the interrogation of the 2nd appellant helped to recover the motorcycle which had been used to transport the deceased's body from the crime scene. It was found at a one Sheikh Bruhan Muyonjo's home and upon arrest of a one Hussein Muyonjo whom Edirisa had called on the night of the murder, he revealed that it was a one Magidu who

rode the motorcycle. On 27/06/2010 the deceased's body was discovered in river Manafwa at Bunghaji village.

In cross examination, PW2 stated that after the murder Edirisa rang his friend (Hussein Muyonjo) to come and take away the body. PW2 also established that indeed a land dispute and issues of adultery existed between the parties.

PW3, D/IP Otyeng Vincent the OC/CID Butaleja District testified that when the murder case was reported on 23/06/2010 they visited the crime scene at Mulandu under a jack fruit tree, led there by the LC Chairman of Mulandu. There was a blood trail to the bush and at the end of the trail, there were tyre marks of a motorcycle and plastic shoes which belonged to the deceased. On 3/08/2010, the 2nd and the 3rd appellants were arrested by PW2 to whom they revealed what had happened after they realized that Edirisa whom they feared most had been arrested. PW3 further stated that he recorded the 2nd and 3rd appellants' charge and caution statements and the 2nd appellant stated that prior to the murder, they had a meeting called by Edirisa and the 1st appellant whose agenda was collecting money for Christmas meat and later it zeroed on plans to kill the deceased. Further that, on the fateful night, Edirisa together with the 1st and 3rd appellants took cover under the jackfruit tree while the 2nd appellant tracked the deceased's movement. Edirisa and the 1st appellant killed him with an axe and thereafter they put his body in a polythene bag and Edirisa rang his friend who came with a motorcycle and transported the body away. PW3 stated that in recording the charge and caution statement of the 3rd appellant he said the same thing to him.

PW4 Hussein Bin Bruhan Muyonjo testified that on 22/06/2021 he received a phone call from Edirisa asking for his motorcycle to take him to treat some people but PW4 informed him that he was sick. He then heard a knock on his door by a one Magidu who told him that Edirisa had sent him to pick up the motorcycle.PW4 gave him (Magidu) the motorcycle

in the presence of his (PW4) parents and he went away. That night Magidu did not return the motorcycle so PW4 went to his home the next day and picked it. After about two months, he was arrested and upon interrogation, he remembered that the dates which were mentioned to him were the same ones when his motorcycle was borrowed by Edirisa.

PW5 Sheikh Bruhan Muyonjo testified that on 22/06/2010 he was sleeping when PW4 and Magidu called him and told him that they wanted to borrow the motorcycle because Edirisa had requested for it to go and treat. The motorcycle was given to Magidu but he did not return it that day so PW4 went and picked it the next day. On 6/08/2010 he was informed that PW4 had been arrested for killing somebody in Mulandu.

PW6 Wapigo Levi testified that Edirisa went to his home and told him that he was fleeing from the police because he had killed somebody. PW6 advised him not to run and he put him on a bicycle and took him to the police and handed him over to the authorities. In cross examination, PW4 stated that he never looked for the deceased's killers because the killer himself had confessed to him.

PW7 Musenero Anna testified that on 22/06/2010 at around 8:00pm she was with a one Namugabo Jenifer coming from the Trading Center to pick paraffin and meat for her father (the deceased.) On their way home, they found Edirisa, the 1st appellant and Mageyo Michael whom they identified using the moonlight, standing under the jackfruit tree. There were also other people whom they were not able to recognize because they were standing at a distance. The deceased did not return home that day and in the morning as they were going to dig, they found blood stains at the spot where they had found the afore mentioned persons the previous night. They also found the deceased's sandals at the crime scene. After 5 days, the deceased's body was found in Manafwa river and the 1st appellant was arrested.

PW8 Hamilina Muyobe testified that there had been a long lasting land dispute between Edirisa and the deceased and that the former had pointed a panga at the deceased saying that if that panga did not finish the deceased's head then he was not Edirisa. She also added that Edirisa said that within a few minutes the deceased would be dead and he had only given him 3 days. Indeed before the end of the 3 days, the deceased was murdered. PW8 added that one day as she was at home in the morning, the 2nd appellant came and told her that those defecating in his land must be from the deceased's home and that he would kill their old mother and the entire family like they killed her son (the deceased). PW8 went and reported the matter to the LC Chairman who came and arrested the 2nd appellant and while at the Police station, he admitted that they had slaughtered the deceased.

PW9 Halanghi Moses testified that in March, Edrisa went to his place threatening to harm the deceased. Three months later, the deceased was killed and his body was dumped in the Manafwa river. When PW9 reported the matter to police he also found out that Edirisa had been taken to police by PW6. He added that the deceased's mother had reported at the sub-county that the 2nd appellant had threatened her. He summoned the 2nd appellant and he called the police who came and picked him up. Upon his arrest, the 2nd appellant confessed that Edirisa had summoned them and took a one Mukwata Anthony and Mageyo under a tree where they laid ambush for the deceased. His confession led to the arrest of all the other appellants.

PW10 Hamede Ezera testified that he knew about the grudge between the deceased and the 1st appellant about a love affair with the 1st appellant's wife. He also stated that one day, the 1st appellant called him at his home and sent him to the deceased to tell him to leave his wife alone or else he would be killed. PW10 stated that the same day he delivered the message is the day the deceased was killed.

In his defence, the 1st appellant stated that on 21/06/2010 he was at home sleeping and he heard a knock. Edirisa told him that he had arrested a man with his wife and when they went to his house, they did not find the woman. When he proceeded to where he had been called he found his wife crying and there was a dead body. He asked for an alive body but Edirisa informed him that there was a way they had dealt with him and that since nobody knew, they were going to hide the body. The 1st appellant added that the 2nd and 3rd appellants were not involved and they were not present at the scene of crime. He stated that he was arrested the next day.

The 2nd appellant testified that on 21/06/2010 between 9-10pm he found the 1st appellant with his wife and the body of the deceased on the way. Edirisa stopped him and asked if he knew him but he answered in the negative. He then slapped him and told him that if he ever says anything about what he had witnessed he would also be killed. In the morning, he went and reported to the deceased's wife and on 31/07/2010 he was arrested.

The 3rd appellant stated that on 22/06/2010 he was at home and he heard the sound of a drum. He responded and he was informed that someone was missing. The police came but they advised against using sniffer dogs since the crime scene had been tampered with. On the 4th day, he heard that the body had been found. He was then arrested on 1/08/2010 from his home.

The learned trial Judge correctly observed that there was no direct evidence to point to the person or persons who took part in the killing of the deceased. However, he observed that there was overwhelming circumstantial evidence which led him to the conclusion that the appellants had participated in the offence and he accordingly convicted them. The learned trial Judge at page 51 of the court record stated as follows;

> *"Though there was no prosecution eye witness to the murder there is overwhelming circumstantial evidence. There is evidence of a grudge between the deceased and A1 and A2.*

There is evidence of the sighting of the two and others at the scene of the murder, the discovery of blood and the deceased person's sandals the next morning.

There is evidence of the threat to the deceased person's mother by A3 that led to his arrest and to the discovery of the getaway motorcycle and to the implication of A4. There is the testimony that indeed a call was placed by A1 to procure the said motorcycle.

All this evidence leads to no other explanation except that A1-A4 participated in the murder of the deceased person. I accordingly, in agreement with the assessors, find that prosecution has proved the case against the four accused persons of murder c/s 188 and 189 of the PCA and convict them."

It is clear from the evidence adduced in court and the observation of the learned trial Judge that this case was based purely on circumstantial evidence. The principles which courts apply in deciding cases based on circumstantial evidence were summarised by the Supreme Court in ***Akbar Hussein Godi vs Uganda, SCCA No. 03 of 2013***, as follows:

"There are many decided cases which set out the relevant principles which courts apply in deciding cases based on circumstantial evidence. In the case of Simon Musoke vs R. (1958) E.A. 715 at page 718H, the Court of Appeal for East Africa held that in a case depending exclusively upon circumstantial evidence, the Court must, before deciding upon conviction, find that the inculpatory facts are incompatible with the innocence of the accused, and incapable of explanation upon any other reasonable hypothesis than that of guilt. See also Teper vs R. (1952) 2 ALLER 447. Also see Andrea Obonyo & Others vs R. (1962) E.A. 542 where the principles governing the application by courts of circumstantial evidence were considered."

The Supreme Court in ***Janet Mureeba and 2 others vs Uganda, Supreme Court Criminal Appeal No. 13 of 2003*** stated that;

"Generally, in a criminal case, for circumstantial evidence to sustain a conviction, the circumstantial evidence must point irresistibly to the guilt of the accused."

To find a conviction based on circumstantial evidence, the circumstances must be such as to produce moral certainty to the exclusion of every reasonable doubt. See: ***Bogere Charles vs Uganda, Supreme Court Criminal Appeal No. 10 of 1998***.

The above authorities clearly set out how courts ought to deal with circumstantial evidence. Having stated that position of the law, we now proceed to re-appraise the evidence on record and come up with our own conclusion as to whether the inculpatory facts in this case are incompatible with the innocence of the appellants, and incapable of explanation upon any other reasonable hypothesis than that of guilt.

As regards the 1st appellant, PW2, PW3, PW7 and PW10 gave evidence that implicated him in the murder of the deceased. PW2 stated that when he proceeded to the crime scene there were blood stains under a jackfruit tree, a trail of blood into the bush and green sandals which belonged to the deceased. He also stated that when the 2nd appellant was arrested he revealed that they first had meetings at the home of the 1st appellant in which a plan to murder the deceased was hutched. In addition, he testified that both the 2nd and 3rd appellants revealed that they were present when the 1st appellant and Edirisa murdered the deceased. PW3 testified that he recorded the 2nd and 3rd appellants' charge and caution statements in which they revealed that prior to the murder, they had a meeting called by Edirisa and the 1st appellant in which plans to kill the deceased were made. Further that, on the fateful night, Edirisa together with the 1st and 3rd appellants took cover under the jackfruit tree while the 2nd appellant tracked the deceased's movement. PW3 also testified that Edirisa and the 1st appellant killed the deceased with an axe and thereafter they put his body in a polythene bag and Edirisa rang his friend who came with a motorcycle and transported the body away. PW7 testified that on the fateful night as she returned from the trading center with her friend, they found Edirisa, the 1st appellant and Mageyo standing under the jackfruit tree. There were also other people whom they were not able to recognize because they were standing at a distance. PW7 also stated that the

deceased did not return home that day and in the morning as they were going to dig, they found blood stains at the spot where they had found the fore mentioned persons the previous night. PW10 testified that one day, the 1st appellant called him at his home and sent him to the deceased to tell him to leave his wife alone or else he would be killed. He added that the same day he delivered the message is the day the deceased was killed.

Although the 1st appellant denied this in his evidence and stated that when Edirisa picked him from his home and took him to the crime scene, he found the deceased already dead, we find that the above vital pieces of evidence point irresistibly to his guilt and the inculpatory facts are incompatible with his innocence. We accordingly uphold the 1st appellant's conviction on that basis.

As regards the 2nd appellant and 3rd appellants they both recorded charge and caution statements at the police station upon their arrest. However, during trial, they claimed that the statements were extracted through force, duress and promises. A trial within a trial was conducted and the learned trial Judge found that the charge and caution statements were made willingly and admitted them in evidence.

We have ourselves looked at the charge and caution statements on court record as well as the trial within trial proceedings that was conducted by the learned trial Judge. It is our finding that the contention by counsel for the appellants that the dates on which they were recorded was tampered with has no basis since no proof has been presented to that effect. As regards the inconsistencies mentioned, we find that they were minor and did not prejudice the appellants' case since there were other pieces of evidence that pointed to the appellants' guilt. Regarding the omission for the learned trial Judge to caution himself and the assessors before acting on the 2nd and 3rd appellants' charge and caution statements, we note that section 131 of the Evidence Act does not require corroboration in support of an accomplice's evidence.

However, as a matter of practice courts require corroboration or in its absence a warning by the learned trial Judge to himself and assessors on the danger of basing a conviction on uncorroborated evidence of an accomplice (***See: Fabiano Obel & Others vs Uganda (1965) EA 622*****).** From the court record, it is true that the learned trial Judge did not warn himself or the assessors before acting on the charge and caution statements of the appellants, however, there was sufficient evidence corroborating the appellant's statements and from the above observation, either of the two can suffice.

We therefore accept counsel for the respondent's submission that the trial Judge's omission was a mere irregularity which did not occasion a miscarriage of justice to the appellants since he found that corroboration was provided by the other pieces of evidence. In the premises, we find that the charge and caution statements were rightly admitted onto the court record and relied upon by the trial Judge to support the appellant's conviction.

In his defence, the 2nd appellant claimed that he found Edirisa, the 1st appellant and his wife together with the deceased's dead body. However, in his charge and caution statement, he admitted that he was there at the crime scene and witnessed the murder of the deceased. It is the evidence of PW2 and PW3 that the 2nd appellant in his charge and caution statement implicated himself in the murder of the deceased and placed himself at the scene of crime on the fateful night. Further, PW8 testified that one day as she was at home in the morning, the 2nd appellant came and told her that those defecating in his land must be from the deceased's home and that he would kill their old mother and the entire family like they killed her son (the deceased). PW8 went and reported the matter to the LC Chairman who came and arrested the 2nd appellant and while at the Police station, he admitted that they had slaughtered the deceased.

PW9 testified that PW8 had reported at the sub-county that the 2nd appellant had threatened her. He summoned the 2nd appellant and he called the police who came and

picked him up. Upon his arrest, the 2nd appellant confessed that Edirisa had summoned them and took Mukwata Anthony and Mageyo under a tree where they laid an ambush for the deceased. His confession led to the arrest of all the other appellants.

Upon our careful re-evaluation of both the prosecution and defence evidence, we find there is ample evidence on record as given by PW2, PW3, PW8 and PW9 that the 2nd appellant was at the scene of crime and participated in the murder of the deceased, which evidence corroborates his charge and caution statement in which he implicated himself.

As regards the 3rd appellant, he implicated himself in the charge and caution statement he made to PW3. There is also the evidence of PW2 who arrested him and testified that upon his arrest, he (the 3rd appellant) revealed that he was present when the 1st appellant and Edirisa murdered the deceased under the jackfruit tree. We cannot therefore fault the trial Judge for convicting the 3rd appellant based on the circumstantial evidence on record which irresistibly pointed to his guilt.

In the result, we find that there was sufficient circumstantial evidence to convict the appellants and as a result we do not fault the learned trial Judge for doing so. Therefore, ground 1 of this appeal fails and we uphold the conviction of the appellants.

On ground 2, counsel for the respondent pointed out that the learned trial Judge did not take into account the period the appellants had spent on remand during sentencing. He invited this Court to do so and subsequently sentence each of the appellants to 19 years and 10 months imprisonment. We have ourselves perused the record of sentencing proceedings and we confirm that the learned trial Judge was silent on the period the appellants had spent on remand.

Article 28 (3) of the Constitution enjoins court during sentencing to take into account the period an accused person has spent in lawful custody.

The Supreme Court in the case of ***Rwabugande Moses vs Uganda(supra)*** held that a sentence arrived at without taking into account the period spent on remand is illegal for failure to comply with a mandatory constitutional provision.

For that reason, we set aside the sentence of 21 years imprisonment imposed on the appellants for being illegal and invoke ***section 11 of the Judicature Act,*** which permits this Court to exercise the powers of the trial court to impose a sentence of its own.

Before arriving at an appropriate sentence, we shall proceed to consider the mitigating and aggravating factors and the range of sentences in cases of a similar nature. The mitigating factors pleaded for the appellants were that; the appellants were 1st offenders, they were remorseful and they are family people. A lenient sentence was prayed for. The aggravating factors presented were that the murder of the deceased was pre-meditated, the people of the area were traumatized by the murderers. A death sentence was prayed for.

We have also considered the cases cited to us by counsel for the respondent which include ***Latif Buulo vs Uganda (supra)*** in which the appellant was convicted of murder and this Court upheld his sentence; ***Mboneigaba James vs Uganda (supra)*** in which the appellant was sentenced to death and during mitigation proceedings, he was re-sentenced to 28 years and 7 months. He appealed to this Court which sentenced him to 30 years whereupon he lodged a second appeal to the Supreme Court which reduced his sentence to 26 years and 6 months; ***Muhoozi Denis & anor vs Uganda (supra)*** in which the appellants were convicted of murder and sentenced to 30 years imprisonment which sentence was upheld by this Court and the Supreme Court on appeal.

Taking into account the above mitigating and aggravating factors and the range of sentences in similar offences, we accept counsel for the respondent's proposal that a sentence of 21 years imprisonment will meet the ends of justice. We now deduct the period of 1 year 3

months and 4 days which the 1st appellant spent on remand, the period of 1 year 1 month and 26 days which the 2nd appellant spent on remand and the period of 1 year 1 month and 25 days which the 3rd appellant spent on remand from the 21 years imprisonment. We accordingly sentence the appellants as follows;

1. The 1st appellant is sentenced to 19 years 8 months and 27 days imprisonment.
2. The 2nd appellant is sentenced to 19 years 10 months and 5 days imprisonment.
3. The 3rd appellant is sentenced to 19 years 10 months and 6 days. Imprisonment.

The sentences are to run from the date of conviction which is 26/09/2011. On the whole, the appeal against conviction is disallowed and the appeal against sentence is allowed in the terms stated above.

We so order.

Dated at **Jinja** this 22nd day of Dec 2021

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Hon. Lady Justice Elizabeth Musoke

JUSTICE OF APPEAL

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Hon. Mr. Justice Cheborion Barishaki

JUSTICE OF APPEAL

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Hon. Lady Justice Hellen Obura

JUSTICE OF APPEAL