THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE'S COURT OF BUSHENYI AT RUBIRIZI

BUS-24-CR-CO- 074 – 2018- CRB – 160 - 2018

UGANDA ..... PROSECUTOR

VERUSUS

TUJUNE VICENT ..... ACCUSED

JUDGMENT BEFORE H/W BOSSA MICHAEL GRADE ONE.

The accused person was charged with 2 counts I/e unlawful possession of government stores and unlawful passion of wild life protected species. He allegedly committed the offences foregoing on 12/02/18 at Katara II village in Rubirizi District when his home was searched by police recovering 9 rounds of amnition and 2 pieces of what is believed to be wild meat.

At trial, the state represented by B Patrick called 5 witnesses including an expert on wild life forensic matters Ludwigsiefet. The accused on the other hand pleaded not guilty, appeared by himself and called one witness.

Through their witnesses, the prosecution alleged that a coalition of police, UPDF and rangers conducted a search and operations at the accused's. They apparently recovered the highlighted items.

Note; in all criminal cases/burden of proof lies with the prosecution. This burden is dispensed with at a standard beyond reasonable doubts.

See; weoolmington Vs DPP
Section -101 Evidence Act

Ingredients of unlawful possession of Government stores c/s 316 (2) PCA.

1. Being found with restricted government stores
2. Without authority.

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Ingredient of unlawful possession of wildlife protected species c/s 75 (b) cap 200 UWA Act

1. Being found with protected wild life species.
2. Without authority.

Note; By the nature, the offences herein are strict liability offences in a far as the intention of the accused is immaterial. Once a person is found in un authorized possession of such material, it does not matter what his intentions were, he committes the offense.

ISSUES

1. Whether the evidence on record is enough to sustain a conviction against the accused in the charged offences.
2. What remedies are available to the successful party.

RESOLUTION

Count 1 and 2 to be delt with simultaneously.

Pw1 , PW2 , 3 a nd 5 all testified in court, that police and sister agency carried a search and operation on the dawn of 12/2/18 at the accused's home. They further mentioned during this operation which was attended by the LC I chairperson of Katara II Boleka Vicent (DW2) led to the recovery of 9 live rounds of amnition as well as 2 pieces of meat. It is the 2 pieces of meat that were allegiedly submitted to PW 4 a forensic expert for analysis. His conculsion was that the samples were specimens belongings to Buffalo meat. (See search certificates, Exhibit slip as well as PW 4 's forensic report PE 1 all on record .

On the other hand the accused in his defence totally denied the charge. His and DW2 evidence challenging the prosecution . They both testified that it is possible for the items were recovered during the operation were merely planted to frame the accused. Why any one would do this, remains un answered.

In my case I do not disagree with PW 4's forensic report. It is definitely accurate as the gentleman appear to be an honest man with integrity.

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On the other hand what is quationable, are the desperaties in the evidence of the other prosecution witnesses leading to the recovery of items on the search certificates PE2 7 PE3.

According to Pw1, PW3 and PW5 the 2 pieces of meat were recovered from Kitchens of the accused and the 9 bullets from behind the kitchen. PW2 on the other hand told court the 9 bullets were recovered from kitchen.
PW2 Kirunda James indeed told court that he and the other witnesses were present at S.O.C Of course both positions can not be true only one of them is.

DW2 on the other hand told court the 2 pieces of meat were recovered from a wooden shark in the accused's compound. He also went ahead to mention that if this were true, there is no way the meat could have survived outside in a attended given the number of stray dog move around the entire village in the night.

Whether the 2 pieces submitted to PW4 were found on the Timmber rack outside the accused's house or in the kitchen, court can not be so sue since all the prosecution witnesses saying so as well as DW2 were all present at the time.

Count notes however that being that the forces invited Dw2 as neutral, they should have done more to ensure that result of the operations is well alined so as no doubt is left in the mind of court. Finally when evidence is brought to court. Otherwise it is confusing when people who were present during an operation have difficult perspective of what happened. One must note as already indicated here in the burden of proof in criminal cases in on the prosecution & the standard that which this is dispensed with is one beyond reasonable doubt. In other words any doubts are the evidence of the prosecution plays in favor of the accused.

Therefore given the gaps and inconsistences is the evidence of the prosecution , the accused person is hereby acquitted of charges both in count I and count 2.

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21/10/2019

Acc - Present
State - Mpaka
Simon- C/C
Pros - Matters is 4 Judgment
Ct- Judgment delivered in open court before the prosecution, accused and the public
Right of appeal explained

14/10/2021

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HW BOSA MICHAEL
MAGISTRATE GRADE ONE
02/10/19

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