

PROSECUTION v. MUNYAMBIBI

[Rwanda SUPREME COURT – RPA 0062/ 10CS (Mutashya, P.J., Kanyange and Hitiyaremye, J.) June 16, 2014

Criminal law – Murder – The offender is not criminally liable because he was insane at the time of the commission of the crime – Decree law n° 21/77 of 18/08/1977 instituting the penal code, art. 70.

Criminal law – Re-integration into the society – Re-integration of an insane offender into the society is determined by the neuro-psychiatric hospital which admitted him/her for treatment.

Facts: Munyambibi Gilbert was found guilty of homicide by the High Court, Chamber of Nyanza. He committed this crime after missing an old woman called Nyiramajyambere Adeline whom he was running after and she escaped him, then he accidentally met Kambibi Alivera and hit her with a piece of wood on the head and she died. The appellant was sentenced to 20 years of imprisonment based on his guilty plea and even on statements made by witnesses. He appealed to the Supreme Court stating that he had no intention to commit an offence because he committed it while he was mentally disorganised.

The Prosecution disputed that the defence of Munyambibi stating that he committed the crime while he was suffering from mental disorders must be proved to Court that he had it before the commission of the crime and must only be confirmed by the psychiatrist.

Held: 1. The psychiatrist confirmed that shortly after the commission of the offence, Munyambibi had a disorganized behaviour and a reflex which confirms that he was insane. This is emphasized also by the fact that he killed the deceased after missing the old woman he was running after, who managed to escape and based on the fact that he knew none of them before, to assume that he might have been in conflict with them. Therefore, the appellant is not criminally liable since it is proved that he committed an offence while he was insane.

2. The re-integration of the insane offender into the society is determined by a neuro-psychiatrist hospital which admits him/ her for treatment.

Appeal granted.

The appellant is not criminally responsible.

The judgment rendered by the High Court is quashed.

The appellant should be admitted to the neuro – psychiatric hospital for treatment.

The court fees to the public treasury.

Statutes and statutory instruments referred to:

Decree law n° 21/77 of 18/08/1977 instituting the penal code, art. 70.

No case law is referred to

Judgment

I. BRIEF BACKGROUND OF THE CASE

[1] On December 1, 2008 Munyandinda Télesphore reported a crime to the Judicial Police against Munyambibi Gilbert stating that on that same day at 9 am, while in Mukarabage Village, Bugari Cell, Ntyazo Sector, Nyanza District, Southern Province, the latter killed KAMBIBI Alvéra, his mother. . This has been witnessed by an old woman called Nyiramajyambere Adeline who stated that Kambibi became her sacrifice, because she was the one who met Munyambibi first and he ran after her holding a piece of wood wanting to kill her and when she escaped, he then found Kambibi and hit her with a piece of wood on the head, then she died.

[2] After the investigation were done, the Prosecution filed a case against Munyambibi Gilbert in the High Court, Chamber of Nyanza which found him guilty of homicide and sentenced him to 20 years of imprisonment. In taking the decision, the Court based on the witnesses given and the guilty plea of the accused who did it so many times without any external influence .

[3] Munyambibi Gilbert appealed to the Supreme Court stating that though he pleaded guilty, he had no intention of committing the crime since he was mentally disordered.

[4] The case was heard in public on November 25, 2013 Munyambibi Gilbert assisted by Counsel Kamota Amédé, while the Prosecution was represented by Ntawangundi Béatrice, a National Prosecutor.

II. ANALYSIS OF THE LEGAL ISSUES

Whether Munyambibi Gilbert was insane when he committed an offence

[5] Munyambibi Gilbert started seeking forgiveness for omicide he is prosecuted for and states that he had lost his mind when he committed the offence. He added that it is justified by the fact that after being imprisoned the Authorities of the Prison took him to the hospital at CARAES Huye branch and that his neighbours knew he was insane.

[6] Kamota Amédé, the counsel states that the accused was not mentally fit the time he committed the offence because at the same day he tried to kill another old woman called Nyiramajyambere Adeline and when he failed, he killed Kambibi Alivera whom he met on the way walking while he knew none of them. He keeps on stating that evidence justifying that his client had a mental incapacity when he committed the offence can be found within the administration of the Prison and CARAES Huye branch because soon after he arrived to the prison he was taken to the Hospital for treatment. He adds that to produce that evidence they requested the Court to issue an order for authorization but the first trial judge refused. Lastly he prayed the Court to consider article 70 of Rwandan penal code which stipulates that there is no criminal liability when the accused was suffering from insanity during the commission of the offence in case it is confirmed that his client was insane and in case the Court finds it otherwise, he states

that article 35 of the code relating to the code of criminal procedure and 83 of the penal code would be the base of the Court to reduce the penalties in favour of him.

[7] The Prosecution disputes that even though Gilbert pleads guilty stating that he was suffering from insanity, he should prove to Court that he had that before the commission of the offence so as not to be punished basing on article 70 of the Rwandan penal code. He adds that it should be confirmed only by the psychiatrist. This, he adds, differs from the statement made by his counsel that the fact that he was taken to the hospital after the commission of an offence is evidence that he is insane given that he may have become insane after he killed a person

[8] With regard to the statements made by Munyambibi's counsel about the penalty reduction, the Prosecution states that the judge who rendered the appealed judgement reduced the penalty that he should have been sentenced to life imprisonment, while, he was sentenced to 20 years imprisonment only.

[9] Considering the ground of appeal filed by Munyambibi Gilbert stating that he was suffering from insanity when he committed an offence, and the opinion of the Prosecution thereon, the Court decided to request for all treatment records from the psychiatrist who examined Munyambibi Gilbert or the Administration of the Hospital to estimate the time when his treatment may have started and his state of mind the time when he was admitted to the hospital.

[10] The report which was signed by Dr JMV Sebjuri staff at CARAES Butare subsequently explained before the Court on April 4, 2014, indicates that Munyambibi Gilbert was firstly examined on February 23, 2009. He had had disorganized behaviour and suffered sleeplessness for 2 years. The report indicates further that, he came back for treatment being accompanied by care givers on May 7, 2009 stating that he was suffering from sleepless and had, social withdrawal, psychomotor inhibition, hallucination and unmotivated laughs. It concludes that Munyambibi Gilbert at that day, he looked like he was in depressive mood but coherent and able to carry out daily activities and that from his first examination he kept on taking medicine.

THE VIEW OF THE COURT

[11] The case file indicates that on December 1, 2008 Munyambibi Gilbert ran after the old woman called Nyiramajyambere Adeline with intention to kill her. The latter asserts that they do not know each other. When she escaped, he killed Kambibi Alivera whom he did not know too. It is very clear that there is no motivation behind this killing because they never knew each other as it is asserted by Munyandinda Téléphore the son of the deceased who filed a claim stating that he had never known Munyambibi Gilbert.

[12] Article 70 paragraph one of the decree law instituting the Rwandan penal code which was into effect when the offence was committed stipulates that there is no criminal liability when the accused was suffering from insanity during the commission of the offence or if he was under duress or if it was to execute a law.

[13] Regarding this case, the fact that on December 1, 2008 Munyambibi killed Kambibi Alvéra while he was suffering from insanity as it is confirmed by the psychiatrist who treated him

shortly after the commission of the offence he is prosecuted for, and this is emphasized by the fact that he killed this old woman after missing another old woman whom he was going to kill as well and escaped. It is testified that he never knew these two old women before to assume that there might have been some conflict between them. The Court finds that Munyambibi is not criminally responsible for the homicide against Kambibi Alvéra since he committed it while he was insane as it has been explained.

[14] However, since the causes which caused Munyambibi Gilbert to kill a person persist, as the Psychiatrist explained it before the Court on April 14, 2014, the Court realises that he should be admitted to a neuro – psychiatric hospital for treatment which should determine his reintegration into the society.

III. THE DECISION OF THE COURT

[15] Decides that appeal filed by Gilbert has merit.

[16] Decides that he is not criminally liable.

[17] Holds that the judgment n° RPA 0002/09/HC/NYA rendered by the High Court, Nyanza Chamber is quashed.

[18] Orders Munyambibi Gilbert's release after the judgment delivery and then be taken to the neuro – psychiatric hospital CARAES Ndera, Branch Butare for treatment

[19] Orders the court fees to be charged to the public fund.