**Namuddu v Uganda**

**Division:** Supreme Court of Uganda at Mengo

**Date of ruling:** 17 January 2001

**Case Number:** 3/99

**Before:** Wambuzi CJ, Oder, Tsekooko, Karokora and

Mukasa-Kikonyogo JJSC

**Sourced by:** LawAfrica

**Summarised by:** M Adriko

*[1] Criminal procedure – Appeals – Third appeal – Leave to appeal granted by Court of Appeal when*

*appeal raises matters of public or general importance – Meaning thereof.*

*[2] Criminal procedure – Appeals – Third appeal – Leave to appeal granted by Supreme Court –*

*Hearing an application to Supreme Court for leave to appeal – Whether Supreme Court is confined to*

*matters before the Court of Appeal when it refused to grant leave for third appeal.*

*[3] Criminal procedure – Appeals – Third appeal – Third appeal requires certificate of Court of Appeal*

*granting leave to appeal – Leave granted when appeal raises matters of great public or general*

*importance – Section 6(5) Judicature Act (Chapter 13).*

**Editor’s Summary** The applicant and another were jointly charged with and convicted of causing financial loss contrary to section 258(1) of the Penal Code and abuse of office contrary to section 83 of the Penal Code. They appealed successfully to the High Court against their convictions and sentence but this appellate decision was overturned on second appeal by the Court of Appeal. Despite not having the requisite leave of the Court of Appeal, the appellants lodged a third appeal to the Supreme Court. Thereafter, they applied to the Court of Appeal for a certificate to enable them pursue their appeal to the Supreme Court. The Court of Appeal declined to grant leave on the grounds that the issues raised in the application were not points of law of considerable public or general importance and were not novel. The applicant, decided to apply for leave for a third appeal to the Supreme Court. She brought her application under section 6(5) of the Judicature Act, 1996 and rules 37(1)(*b*), 41(1) and 42(1) of the Supreme Court Rules of 1996.

**Held** – The Court of Appeal may grant a certificate for a third appeal to the Supreme Court only when it is satisfied that the appeal raises a question or questions of law of greate public importance or that it raises a question or questions of law of general importance. However, section 6(5) of the Judicature Act empowers the Supreme Court to grant leave for a third appeal, if in its overall duty to see that justice is done, it considers that the appeal should be heard. Therefore, when hearing an application for a third appeal, the Supreme Court is not bound by the above restrictions imposed on the Court of Appeal when it is considering an application for a certificate. While the Court of Appeal is restricted to questions of law, the Supreme Court has power to consider other matters. For an appeal to raise a question of great general or public importance, that question should be sufficiently general or public in outlook (*Rex v Mohammed Shah s/o Lal Shah* [1939] 6 EACA 103 quoted, *R v Daines, R v Williams* [1961] 1 All ER 290, *Ashdon v R* [1973] 58 Cr App R 339 and *Verries v DPP* [1966] 50 Cr App R 315 distinguished). The applicant had been convicted on two courts, which stemmed out of the same transaction contrary to section 20 of the Penal Code. Thus her appeal raised a significant question of great public or general importance. (*R v Doobs* [1951] EACA 319, *Santokh Kehar v R* [1955] 22 EACA 440 followed). Application allowed.

**Cases referred to in ruling**

(“**A**” means adopted; “**AL**” means allowed; “**AP**” means applied; “**APP**” means approved; “**C**” means

considered; “**D**” means distinguished; “**DA**” means disapproved; “**DT**” means doubted; “**E**” means

explained; “**F**” means followed; “**O**” means overruled)

***East Africa***

*Kassim Mpanga v Uganda* Supreme Court criminal appeal number 30 of 1994 – **D**

*Muiruri v Republic* [1973] EA 86 – **C**

*Republic v Dobbs* [1951] 18 EACA 319 – **F**

*Rex v Mohamed Shah s/o Lal Shah* [1939] 6 EACA 103 – **C**

*Santokh Singh Kehar v Republic* [1955] 22 EACA 440 – **D**

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***United Kingdom***

*Ashdon v Republic* [1973] 58 Cr App R 339 – **D**

*Attorney-General for Northern Ireland v Gallagher* [1963] AC 349 – **D**

*Gelberg v Miller* [1961] 1 All ER 291 – **C**

*Republic v Williams, R v Daines* [1961] 1 All ER 290 – **D**

*Verrier v DPP* [1966] 50 Cr App R 315 – **D**