**Watete v Uganda**

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

**Date of judgment:** 20 November 2000

**Case Number:** 10/00

**Before:** Oder, Tsekooko, Karokora, Mulenga and Kikonyogo JJSC

**Sourced by:** B Tusasirwe

**Summarised by:** M Kibanga

*1] Criminal law – Accomplice – Meeting resolving killing of witches and wizards – Witness and*

*Appellants present at meeting – Witness disapproving of resolution – Appellants killing deceased –*

*Witness testifying at trial – Whether witness an accomplice to murder.*

*[2] Criminal law – Alibi – Appellants implying defence of alibi in charge and caution statements –*

*Statements produced as defence exhibits during trial – Whether statements constituting defence of alibi in the absence of a direct defence of alibi.*

*[3] Criminal law – Witness – Witness and Appellants present at meeting – Resolution passed to kill witches and wizards – Witness a government security officer – Appellants charged with murder of alleged wizard – Witness testifying against Appellants – Whether witness had purpose of his own to serve.*

*[4] Evidence – Evidence of witness with own purpose to serve – Whether evidence liable to corroboration as a rule of law.*

**Editor’s Summary**

Some days before 6 December 1995 elders of a certain location convened a meeting attended by, among others, the Appellants, where it was resolved that some young man be selected to kill witches and wizards in the area. On 6 December 1995 a mob comprising, among others, the Appellants visited the premises of the deceased, a tailor, and removed her from there forcefully while assaulting her. The mob then marched the deceased, while continuing to assault her, towards a Sub-County Headquarters first and then towards a police station. Along the way she collapsed and was dragged to the police station where she died.

A medical examination conducted on the deceased the following day indicated that she had died of internal head haemorrhage. The Appellants were charged with and convicted of the murder of the deceased and sentenced to death by the High Court. The case against the Appellants rested on the testimony of the two eye witnesses namely the deceased’s daughter who had been with the deceased at the premises and another person who had been at the elders’ meeting prior to the attack and had also been at the county headquarters when the mob went there with the deceased. He was also a government official concerned with security matters.

At the trial only one of the Appellants pleaded alibi in defence. Three other Appellants had implied that they were not at the scene of crime when the offence was committed in their statements to the police which were later produced as defence exhibits but the defence of alibi was not repeated in defence during trial. The Appellants’ appeal to the Court of Appeal was dismissed.

They appealed to the Supreme Court on the grounds that (i) the defence of alibi by some Appellants was not considered, (ii) the evidence of one witness ought not to have been used to convict the Appellants because the witness, being a government officer, had a purpose of his own or alternatively, was an accomplice, having attended the meeting aforesaid, and (iii) the Court of Appeal did not properly re-evaluate the evidence of the trial court.

**Held** – The defence of alibi ought to have been directly put by the Appellant at the trial in answer to the charge against them. The Appellants’ respective charge and caution statements produced in evidence did not make the contents thereof the maker’s automatic answer to the charge he faced at the trial. Three of the Appellants, therefore, did not raise the defence of alibi and there was none to consider.

An appellate court would have had to quash a conviction based on accomplice evidence, if it was uncorroborated and the trial court failed to warn itself accordingly; *Obeli v Uganda* [1965] EA 622 cited with approval. A witness would be an accomplice if he participated as a principal or an accessory, in the commission of the offence, and the evidence of an accomplice would not be relied on to convict without corroboration; *DR Khetan v R* [1957] EA 563 cited with approval. There was no evidence that the witness was an accomplice; *Kamau v R* [1965] EA 501 followed.

The legal requirement for a warning on the need for corroboration was in respect of accomplice evidence only. There was no rule of law requiring the court to warn itself of the need not to rely on uncorroborated evidence of a person who might have been regarded as having some purpose of his own to serve; *R v Prater* [1960] All ER 298 explained, *R v Stannnard* [1964] 1 All ER 34, *R v Becks* [1982] 1 All ER 807 followed.

There was no evidence to show that the witness had an interest of his own to serve in testifying. The

appeal was dismissed.

**Cases referred to in judgment**

(“**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***

*DR Khetan v R* [1957] EA 563 – **APP**

*Kamau v Republic* [1965] EA 501 – **F**

*Obeli vUganda* [1965] EA 622 – **APP**

***United Kingdom***

*R v Becks* [1982] I All ER 807 – **F**

*R v Prater* [1960] All ER 298 – E

*R v Stannard* [1964] 1 All ER 34 – F

*Woolmington v Director of Public Prosecutions* [1935] AC 462