

**THE REPUBLIC OF UGANDA**

IN THE CHIEF MAGISTRATE'S COURT OF BUGANDA ROAD AT KAMPALA  
CRIMINAL CASE NO. 271 OF 2007

UGANDA ..... PROSECUTOR

VERSUS

KAMYA ALEX: ..... ACCUSED

**BEFORE HER WORSHIP AMABILILS STELLA ESQ  
MAGISTRATE GRADE ONE:**

**15/03/07:** Accused present  
Dennis court clerk  
Ojambo for state

**Pros:** Case for plea

**Court:** Charges read and explained to accused in English.

**Accused:** It is true.  
CT.I

**Court:** Plea of Guilty

Accused: It is true  
CT:II:

**Court:** Plea of Guilty

Accused: It is true  
CT: III

**Court:** Plea of guilty

**State:** It was on 26<sup>th</sup> day of February, 2007 when the complainant one Sebagala Ibrahim the Operations Manager of Uganda Music Publishers Associations went to Avemar Shopping Centre to a shop known as Seasons, Video and Music Zone where accused works to find out if they were involved in music pirating of video and audio C/Ds.

Sebagala tricked the person in the shop that he wanted selected music, he negotiated and they agreed at 5,000/= per CD which he paid. The CD was then recorded with the following songs:

Shida za Dudnia by Jose Chameleon

Sigwe Onsimila

Wabanswaliza

Empeta

Omutima gwange

Va kubampalana

Rights of all these songs belongs to Kasiwukila Ltd. Others songs were also recorded and they are the following:

Kipepewo - Jose Chameleon whose rights belong to Lusyn Enterprises.

Another song – Nsanyuka nawe and Kambere nawe who rights belong to Dick productions and other songs recorded include Befuula, Nabikoowa whose rights belong to XY 2 studios.

The complainant after acquiring these CDs took them to CPS reported this matter, police was dispatched to seasons video and music equipment impounded which included a music home theatre, a key board, a supra DVD player, a monitor and a CPU. These items on being recovered were exhibited at police. Accused was then arrested and he never produced any evidence of having the rights to reproduce this music he was there after charged.

**Accused:** The facts are all true and correct.

**Court:** I find you guilty as charged and I convict you accordingly on all the three counts.

**State:** No past criminal record. His act led to great loss economically to the producers of this music and those who acquired the right to reproduce. There is need to stop this act which is so rampant in Kampala so that we can give chance to the

talented musicians to gain their talent. Accused is reaping where he did not sow.

S.47 (5) in addition to the punishment prescribed, the court shall order the proprietor of the apparatus article or thing which is the subject matter of the offence or which is used in connection with the omission of the offence. In the facts the 2 CDs and the apparatus be forfeited to the state,

**Accused:** I pray for pardon.

**Allocutus:** I pray that the machines be given back to me. I will not commit this offence again.

**Sentence:** This court has heard the submissions of the prosecutor as regards S.47(5) of the copy right and Neighboring Rights Act and has this to say S. 47 (5) is not applicable to S.47 (1) (a) where the accused is charged on all the three counts. This section is only applicable to subsection (4) of the copy rights and Neighbouring Rights Act.

The accused is a first offender who has shown remorse by pleading guilty thus saving court's time valuable time and meager resources. The state submitted that the accused's act has led to great economic loss to the producers of the music and those who acquired the rights to reproduce. The accused on his part prayed for pardon that he will not commit the offence again. Considering all the above this court is of the opinion that the accused deserves leniency thus court hereby sentences the accused as follows:

This court sentences the accused to pay a fine of 200,000/= and in default to 1 year imprisonment.

In the second count a fine of 100,000/= and in default 1 year imprisonment.



And in the third count a fine of 100,000/= and in default 1 year imprisonment. The fines shall run consecutively and the prison sentences to run concurrently.

I so order

*Amabilis Stella*  
**Sgd. Amabilis Stella**  
**Magistrate Grade One**  
**15/3/07**

Right of Appeal against sentence fully explained.

*Amabilis Stella*  
**Sgd. Amabilis Stella**  
**Magistrate Stella**  
**15/03/07**

