

**THE REPUBLIC OF UGANDA**  
**IN THE CHIEF MAGISTRATE'S COURT OF BUGANDA ROAD AT BUGANDA ROAD**  
**MISCELLANEOUS APPLICATION NO. \_\_\_\_\_ OF 2024**  
**(ARISING FROM KLA-00-CR-CO-0913-2024)**

<b>ISAAC KIMAZE SSEMAKADDE</b>	]	<b>APPLICANT</b>
<b>-VERSUS-</b>		
<b>UGANDA</b>	]	
<i>[Private Prosecution by Byamazima Joshua and Tonny Tumukunde]</i>		<b>RESPONDENT</b>

**NOTICE OF MOTION**

*(Under Articles 28(1) and 44(C) of the Constitution of the Republic of Uganda, 1995, and Section 11(2) of the Magistrates Courts Act, Cap. 19)*

**TAKE NOTICE** that this Honourable Court shall be moved on the 04th day of December 2024 at 9am O'clock in the fore/afternoon or soon thereafter, as Counsel for the Applicant will move Court for orders that;

1. The complaint jointly filed by Byamazima Joshua and Tonny Tumukunde be dismissed.
2. Costs of this Application be provided for.


**TAKE FURTHER NOTICE** that the application is supported by an affidavit of the Applicant, **ISAAC KIMAZE SSEMAKADDE**, which shall be read and relied upon at the hearing but briefly the grounds of this Application are;

1. On 22<sup>nd</sup> November 2024, Byamazima Joshua and Tonny Tumukunde filed a complaint on oath and an affidavit in support thereof seeking summons against the Applicant to appear and plead to the proposed charge of insulting the modesty of a woman contrary to section 115(3) of the Penal Code Act.
2. The impugned complaint on oath and supporting affidavit do not, prima facie, disclose commission of the proposed offence.
3. The proposed offence is manifestly victim-centred and the intending prosecutors, Byamazima Joshua and Tonny Tumukunde, have unjustifiably not engaged the alleged victim.
4. In the absence of the testimony of the alleged victim, Ms. Jane Frances Abodo of Karamoja, there is manifestly no reasonable and probable cause to believe that the proposed offence was committed.
5. The impugned complaint and supporting affidavit are grossly incompetent, frivolous and vexatious, a mockery of concern for women's rights, a breach of

the right to freedom of opinion and freedom of expression, and an abuse of court process.

6. The facial accusatorial information on record is manifestly insufficient to warrant a formal charge.
7. The impugned complaint on oath and supporting affidavit falsely and misleadingly present the alleged victim as a judge, whereas she is not.
8. The impugned complaint on oath and supporting affidavit falsely and misleadingly present the alleged victim as a woman of unimpaired modesty, whereas she is not.
9. The intending prosecutors, Byamazima Joshua and Tonny Tumukunde, stand in a pre-existing position of animosity with the Applicant which they have deliberately concealed from this Honourable Court and the investigative and prosecutorial authorities that would have expectedly checked this bias and abuse of process.
10. The intended prosecution was manifestly brought in bad faith to harass and/or embarrass the Applicant.
11. This Honourable Court is, in the totality of the circumstances, deprived of jurisdiction save for dismissal of the impugned complaint.
12. Having regard to the public interest, the interest of the administration of justice and the need to prevent abuse of legal process, this application ought to be granted with costs to be paid by the intending prosecutors, Byamazima Joshua and Tonny Tumukunde.

DATED at Kampala this 2nd day of December, 2024.

  
\_\_\_\_\_  
**M/S GEM ADVOCATES**  
**(COUNSEL FOR THE APPLICANT)**

Given Under my Hand and Seal of this Honourable Court this 03rd day of December 2024.

  
\_\_\_\_\_  
**CHIEF MAGISTRATE**

**DRAWN & FILED BY:**

Gem Advocates

Gem Chambers

Plot 43, Kanjokya Street

P.O Box 8144

Kampala.

THE REPUBLIC OF UGANDA  
IN THE CHIEF MAGISTRATE'S COURT OF BUGANDA ROAD AT BUGANDA ROAD  
MISCELLANEOUS APPLICATION NO. \_\_\_\_\_ OF 2024  
(ARISING FROM KLA-00-CR-CO-0913-2024)

ISAAC KIMAZE SSEMAKADDE	]	APPLICANT
VERSUS		
UGANDA	]	
<i>[Private Prosecution by Byamazima Joshua and Tonny Tumukunde]</i>		RESPONDENT

**AFFIDAVIT IN SUPPORT**

I, **ISAAC KIMAZE SSEMAKADDE**, C/o M/s Gem Advocates, Gem Chambers, Plot 43 Kanjokya Road, P.O BOX 8144, Kampala, do solemnly make oath and state as follows;

1. I am a male adult Ugandan of sound mind, the Applicant herein and swear this affidavit in that capacity.
2. It is true that I am an advocate of the High Court of Uganda and all Courts subordinate thereto, and the President of the Uganda Law Society.
3. I am also a multiple award-winning senior legal practitioner, having been presented, inter alia, with the honour of '**Outstanding Public Interest Litigation Lawyer**' by the Uganda Law Society on 28<sup>th</sup> March 2018 and the '**Impact Leadership in the Legal Profession Award**' by the East African Law Society on 29<sup>th</sup> November 2024.
4. I am a seasoned advocate who has taken on numerous high-profile cases, often tackling public interest litigation that others shy away from.
5. I know that on 22<sup>nd</sup> November 2024, a cantankerous couple of mischievous advocates, Byamazima Joshua and Tonny Tumukunde, filed a complaint on oath seeking summons for my appearance to plead to a proposed charge of insulting the modesty of a woman, to wit Ms. Jane Frances Abodo of Karamoja, contrary to section 115(3) of the Penal Code Act. (***A copy of the Complaint on oath, affidavit in support thereof, Local Council 1 letter and submissions in support of the complaint are attached hereto and marked "A", "B" "C" and "D" respectively.***)
6. I know that this is a mischievous allegation for which there is not a shred of evidence, and this Honourable Court thereby lacks jurisdiction to authorize the intended private prosecution against me.
7. I know that the proposed offence is manifestly victim-centred and the intending prosecutors have unjustifiably not engaged the alleged victim.

8. I know that the impugned complaint and supporting affidavit are purely based on hearsay and speculation.
9. I know that the alleged victim, Ms. Jane Frances Abodo of Karamoja, has not given any information on record upon which this Honourable Court may be satisfied that there exists reasonable and probable cause that the proposed offence was committed.
10. I know that in the face of this glaring defect, the impugned complaint is manifestly frivolous and vexatious, a mockery of concern for Ms. Jane Frances Abodo of Karamoja, and an abuse of court process.
11. I know that the impugned complaint on oath and supporting affidavit falsely and misleadingly present the alleged victim as a judge, whereas she is not.
12. I know that it is plainly repugnant for a judge to purport to hold out as a prosecutor in a constitutional democracy.
13. I know that Ms. Jane Frances Abodo of Karamoja vacated judicial office, which falls under Chapter Eight of the Constitution, when she joined the executive branch in April 2020 as Uganda's Director of Public Prosecutions, an office which falls under Chapter Seven of the Constitution.
14. I also know that the impugned complaint on oath and supporting affidavit falsely and misleadingly present the alleged victim as a woman of unimpaired modesty, whereas I know that she is not.
15. I know that the cantankerous couple has unjustifiably deprived me of an opportunity to confront the alleged victim on the ingredients of the proposed offence before an independent investigator, thereby violating my constitutional right to a fair pre-trial investigation.
16. I know that the information on record before this Honourable Court is grossly deficient and does not disclose, prima facie, that the proposed offence has been committed.
17. I know that the grievance purportedly perceived by the cantankerous couple on behalf of the alleged victim with whom they admittedly do not share a relationship of intimacy or *loco parentis* cannot at any rate be a substitute for what the victim herself would perceive as insult to her modesty or intrusion upon her privacy.
18. I know that the authorship, integrity, authenticity and reliability of the alleged video extract have not been established to justify judicial endorsement of a formal charge proposed by the cantankerous couple.
19. I know that the cantankerous couple, having not done any investigations, has deliberately and unjustifiably deprived this Honourable Court of the background

and context that would rule out intention to insult the modesty of the alleged victim or intrusion upon her privacy.

20. I know that the facial accusatorial information on record is manifestly insufficient to warrant the drawing up and signing of a formal charge by an impartial and judicious court.
21. I know that the alleged transcription discloses criticism of a public official holding a Chapter Seven Executive office which is protected under the Constitution of the Republic of Uganda, The African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights and other international human rights instruments.
22. I know that the cantankerous couple, Byamazima Joshua and Tonny Tumukunde, are meddlesome busy bodies on the internet and the courts of law where they have so far filed **Miscellaneous Cause No. 0228 of 2024**, **Miscellaneous Application No. 1134 of 2024** and **Miscellaneous Application No. 1135 of 2024** against me and the Uganda Law Society in the High Court Civil Division, gratuitously claiming grievance on behalf of the Attorney General and Solicitor General who we expelled from the ULS Council vide **Executive Order RNB No. 1 of 2024**.
23. Uganda Law Society and I filed High Court **Miscellaneous Application No. 1178 of 2024** to add the Attorney General as a party to **Miscellaneous Cause No. 0228 of 2024**, **Miscellaneous Application No. 1134 of 2024** and **Miscellaneous Application No. 1135 of 2024**.
24. I know that the cantankerous couple then withdrew **Miscellaneous Application No. 1134 of 2024** and **Miscellaneous Application No. 1135 of 2024** after being a nuisance to ULS and I for nearly a month.
25. I know that on account of the foregoing, the cantankerous couple, in bad faith and in blatant abuse of court process, seeks to further harass by commencing a baseless private prosecution of their idol.
26. I know that this Honourable Court has a duty to put an end to this mockery of concern for women's rights and prevent the blatant abuse of court process.
27. I know that having regard to the public interest, the interest of the administration of justice and the need to prevent abuse of legal process, this application ought to be granted with costs to be paid by the intending prosecutors, Byamazima Joshua and Tonny Tumukunde.
28. I swear this affidavit in support of a motion to dismiss the complaint jointly filed by Byamazima Joshua and Tonny Tumukunde.

29. Whatever I have stated herein is true and correct to the best of my knowledge and belief, save for information whose source is disclosed herein.



**DEPONENT**

**SWORN** electronically ]  
by the said **ISAAC KIMAZE SSEMAKADDE** ]  
This 2<sup>nd</sup> day of December, 2024 ]

**VIRTUALLY APPEARED BEFORE ME AT KAMPALA;**

**COMMISSIONER FOR OATHS**



**DRAWN & FILED BY:**

Gem Advocates  
Gem Chambers  
Plot 43, Kanjokya Street  
P.O Box 8144  
Kampala

**A**

**THE REPUBLIC OF UGANDA**  
**IN THE CHIEF MAGISTRATES COURT OF KAMPALA AT BUGANDA**  
**ROAD**  
**CRIMINAL CASE NO.....OF 2024**

UGANDA [Private Prosecution by **Byamazima Joshua and Tonny Tumukunde**]:..... **PROSECUTORS**

**VERSUS**

**ISAAC KIMAZE SSEMAKADDE**:..... **ACCUSED**

**COMPLAINT ON OATH**

(Made under Section 42(1) (C) & (3) of the Magistrates Court Act, Cap. 19)

We, **BYAMAZIMA JOSHUA AND TONNY TUMUKUNDE** of C/O Byenkya, Kihika & Co. Advocates, Plot 22, 4<sup>th</sup> Floor, Spear House, P.O. Box 16401, Kampala, hereby make this complaint on oath and state as follows: -

1. **THAT**, we, **Byamazima Joshua and Tonny Tumukunde** (hereinafter jointly referred to as "Complainants") do hereby lodge this complaint as hereunder;
2. **THAT** we are practicing Advocates in the Courts of Judicature of Uganda and our address for the purposes of service shall be Byenkya, Kihika & Co. Advocates, Plot 22, 4<sup>th</sup> Floor, Spear House, P.O. Box 16401, Kampala.
3. **THAT** the accused person, Isaac Kimeza Ssemakadde, is an Advocate of the High Court of Uganda and the President of the Uganda Law Society.
4. **THAT** the Complaint against the accused person is for indecent assault against the person of the Hon. Lady Justice Jane Frances Abodo, the Director of Public Prosecutions, under Section 115 (3) of the Penal Code Act, Cap. 128.
5. **THAT** on the 18<sup>th</sup> day of November 2024, while addressing the members of the People's Freedom Front (PFI) party at a "symposium on the state of the Rule of Law, Constitutionalism & Human Rights: The Kisumu 36 Tales" held at Katonga Road in Kampala Central, Kampala District; uttered the following words, "*...that all these things like your particular Kaffir form is then given legal dressing by this vagina from Karamoja.... I have made a case before that we have a pumpkin for a DPP, but some lawyers continue to pretend that she is actually the DPP... she is dead wood...*".





6. **THAT** the said utterances were made by the accused person in full glare of the media that was covering and broadcasting the symposium.
7. **THAT** the said utterances were intended to insult the modesty of a woman, and intrude on the privacy of the person of Her Lordship Jane Frances Abodo, the Director of Public Prosecutions.
8. **THAT** under Section 115(3) of the Penal Code Act Cap. 128 it is provided that, *“Any person who, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture or exhibits any object, intending that that word or sound shall be heard, or that the gesture or object shall be seen by that woman or girl, or intrudes upon the privacy of that woman or girl, commits a misdemeanor and is liable to imprisonment for a term of one year.”*
9. **THAT** we believe that the above utterances by the accused person are of a criminal nature and are sanctionable under Section 115(3) of the Penal Code Act Cap. 128.
10. **THAT** as citizens of Uganda, and as members of the Uganda Law Society, we have a civic duty to promote the rule of law, promote the dignity and privacy of women and all people, and have an interest in ensuring that those who commit crimes of whatever nature are held accountable as per law established.
11. **THAT** the utterances by the accused person have widely been circulated on social media and are now a matter of public knowledge and the accused person should be criminally held liable for his utterances.
12. **THAT** at the time of filing this complaint, we have no knowledge that the responsible state institutions have taken any action against the accused person.
13. **THAT** we are aware that the law mandates us as a private citizen to commence private criminal prosecutions against any person who has committed any criminal offence under the laws of Uganda.
14. **THAT** we make this complaint on oath so that this Honorable Court may be pleased to summon and/or issue a warrant of arrest for the production of the accused person to appear and plead to the preferred charge of Insulting the modesty of a woman contrary to section 115 (3) PCA.



15. **THAT** whatever is stated herein is true and correct to the best of our knowledge and belief.

DATED this 20<sup>th</sup> of November 2024

BY:

  
.....  
BYAMAZIMA JOSHUA (1<sup>ST</sup> COMPLAINANT)

  
.....  
TONNY TUMUKUNDE (2<sup>ND</sup> COMPLAINANT)

**BEFORE ME:**

**BARNABAS DYADI KAMYA Esq**  
ADVOCATE & COMMISSIONER FOR OATHS  
P.O. BOX 72118, KAMPALA  
TEL: 0772865818 / 0752865818  
Email: barnabasdyadi@gmail.com

.....  
**COMMISSIONER FOR OATHS**

**JOINTLY DRAWN AND FILED BY:**

- a) M/s Byenkya, Kihika & Co. Advocates,  
Plot 22 Spear House,  
4<sup>th</sup> Floor – P.O.Box 16401, Kampala.
- b) M/s Tumukunde & Co. Advocates,  
Plot 21 Ntinda, Kakungulu Road,  
P.O Box 30391, Kampala – Uganda.  
Tel. +256 394850561  
Email: [info@tumukundeadvocates.com](mailto:info@tumukundeadvocates.com)
- c) M/s Trust Law Advocates,  
Plot 25, Kampala Road,  
DTB – Building, Level 4,  
Tel: +2560200908988.  
Email: [infor@trustlawadvocates.com](mailto:infor@trustlawadvocates.com)

**B**

**THE REPUBLIC OF UGANDA**  
**IN THE CHIEF MAGISTRATES COURT OF KAMPALA AT**  
**BUGANDA ROAD**  
**CRIMINAL CASE NO ..... OF 2024**

**UGANDA [Private Prosecution by Byamazima Joshua and Tonny Tumukunde]..... PROSECUTORS**

**VERSUS**

**ISAAC KIMAZE SSEMAKADDE..... ACCUSED**

**AFFIDAVIT IN SUPPORT OF THE COMPLAINT ON OATH**

**I, BYAMAZIMA JOSHUA**, of C/O Byenkya, Kihika & Co. Advocates, Plot 22, 4<sup>th</sup> Floor, Spear House, P.O. Box 16401, the 1<sup>st</sup> Complainant herein and well versed with the matter herein and do hereby swear and depone this affidavit in that capacity:

1. **THAT** I am a practicing Advocate in the Courts of Judicature of Uganda and my address for the purposes of service shall be C/O Byenkya, Kihika & Co. Advocates, Plot 22, 4<sup>th</sup> Floor, Spear House, P.O. Box 16401.
2. **THAT** I together with Mr. Tonny Tumukunde have initiated a complaint on Oath before this Honorable Court against Mr. Isaac Kimaze Ssemakadde for a charge of indecent assault contrary to section 115(3) Penal Code Act Cap 128.
3. **THAT** the accused person in the above complaint on oath is Mr. Isaac Kimeza Ssemakadde, an Advocate of the High Court of Uganda and the President of the Uganda Law Society.
4. **THAT** the Complaint against the accused person is for indecent assault against the person of the Hon. Lady Justice Jane Frances Abodo, the Director of Public Prosecutions, under Section 115 (3) of the Penal Code Act, Cap. 128.
5. **THAT** on the 18<sup>th</sup> day of November 2024, while addressing the members of the People's Freedom Front (PFF) party at a "symposium on the state of the Rule of Law, Constitutionalism & Human Rights: The Kisumu 36 Tales" held at Katonga Road in Kampala Central, Kampala District; uttered the following words, "... *all these things like your particular Keruffle is then given legal dressing by this vagina from Karamoja....*

*I have made a case before that we have a pumpkin for a DPP, but some lawyers continue to pretend that she is actually the DPP... she is dead wood...". (A flash drive containing the video content of the said utterances is here to attached and marked **annexture "A"**).*

6. **THAT** the said video clip containing the utterances was submitted for transcription at the Uganda Broadcasting Corporation (UBC) through M/s Tumukunde & Co. Advocates. *A copy of the request letter dated 21<sup>st</sup> November 2024 is herewith attached and marked **annexture "B"***
7. **THAT** a transcription of the said video recording was provided by UBC on the 24<sup>th</sup> November 2024. *A copy of the said video transcription is herewith attached and marked **annexture "C"***
8. **THAT** the said utterances were made by the accused person in full glare of the media that was covering and broadcasting the symposium.
9. **THAT** the said utterances were intended to insult the modesty of a woman, and intrude on the privacy of the person of Her Lordship Jane Frances Abodo, the Director of Public Prosecutions.
10. **THAT** under Section 115(3) of the Penal Code Act Cap. 128 it is provided that, *"Any person who, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture or exhibits any object, intending that that word or sound shall be heard, or that the gesture or object shall be seen by that woman or girl, or intrudes upon the privacy of that woman or girl, commits a misdemeanor and is liable to imprisonment for a term of one year."*
11. **THAT** I believe that the above utterances by the accused person are of a criminal nature and are sanctionable under Section 115(3) of the Penal Code Act Cap. 128.
12. **THAT** as a citizen of Uganda, and a member of the Uganda Law Society, I have a civic duty to promote the rule of law, promote the dignity and privacy of women and all people, and have an interest in ensuring that those who commit crimes of whatever nature are held accountable as per the law established.
13. **THAT** the utterances by the accused person have widely been circulated on social media and are now a matter of public knowledge and the accused person should be criminally held liable for his utterances.
14. **THAT** at the time of filing this complaint, I have no knowledge that the responsible state institutions have taken any action against the accused person.

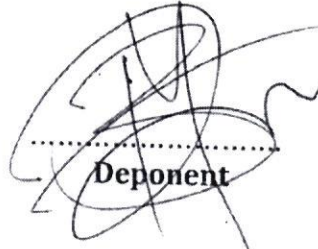
15. THAT I am aware that the law mandates me as a private citizen to commence private criminal prosecutions against any person who has committed any criminal offence under the laws of Uganda.

16. THAT I make this complaint on oath so that this Honorable Court may be pleased to summon and/or issue a warrant of arrest for the production of the accused person to appear and plead to the preferred charge of Insulting the modesty of a woman contrary to section 115(3) Penal Code Act, Cap. 128.

17. THAT whatever is stated herein is true and correct to the best of our knowledge and belief.

DATED THIS 30<sup>th</sup> OF November 2024

By **BYAMAZIMA JOSHUA**

  
Deponent

Before Me;

  
A commissioner for Oaths

**KIWANUKA PETER SAMUEL**  
ADVOCATE & COMMISSIONER FOR OATHS  
P.O. Box 1178 KAMPALA  
Tel: 0702-896424 / 0773-896424  
Email: [psam@lawyer@gmail.com](mailto:psam@lawyer@gmail.com)

**JOINTLY DRAWN AND FILED BY:**

- a) M/s Byenkya, Kihika & Co. Advocates,  
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Email:[info@tumukundeadvocates.com](mailto:info@tumukundeadvocates.com)
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Email: [infor@trustlawAdvocates.com](mailto:infor@trustlawAdvocates.com)



# TUMUKUNDE & Co. Advocates

Plot 21 Ntinda, Kampala - Kakungulu Road - **NEB**  
 0393 254406  
 info@tumukundeadv.com  
 www.tumukundeadv.com

"B"

### PARTNERS:

#### TUMUKUNDE TONNY

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### LEGAL CLERK:

#### LORAH KWAGALA

DIPLOMA LAW (LDC)  
 0778 114351 / 0709 621 278  
 lorah@tumukundeadv.com

### ADMINISTRATOR:

#### TULINA CATHERINE

0759993156  
 catherine@tumukundeadv.com

Date: 21<sup>st</sup> November 2024.

The Managing Director,  
 Uganda Broadcasting Cooperation (UBC)

### RE: REQUEST FOR VIDEO TRANSCRIPTION.

Please refer to the above matter.

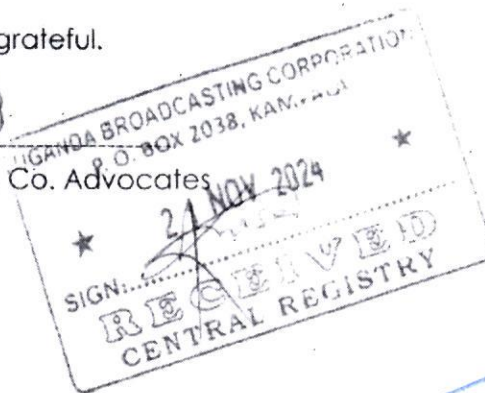
Attached is a flash disk with a short video clip which we intend to attach on our pleadings for court purposes.

This is to request you to urgently professionally transcribe the above video and avail us a copy of the transcription for the above purposes.

We shall be most grateful.

M/s Tumukunde & Co. Advocates

*[Handwritten signature]*



Values: Integrity, Efficiency, Effectiveness, Fidelity

EXPERTS IN: Commercial Law • Public Law & Regulation • Dispute Resolution • Energy Law

"C"

November 24, 2024


To: TUMUKUNDE  
& Co. Advocate

**TRANSCRIPTION SERVICES**

Refer to yours with reference **TCA/TL/01/24** dated 21st November 2024, requesting for transcription services with contents on a Flash Disk.

Kindly, receive the transcribed copy as requested.

Yours faithfully,

  
PP WINSTON DAVID AGABA,  
MANAGING DIRECTOR.

  
  
the attachment  
referred to as annexure  
in the Affidavit of  
Commissioner for Oaths

**VIDEO TRANSCRIPTION**

**00:00:01 VIDEO STARTS**

**MALE VOICE 1(MV1):** All these things like your particular kerfuffle is then given legal dressing by this vagina from Karamoja

Audience: (laughter then applause)

MV1: I have made a case before that you have a pumpkin for a DPP

Audience: (light murmurs)

MV1: But some lawyers continue to pretend that she is actually a DPP and for some they take it very seriously because they think it is an attack on womanhood or it is an attack on being Karamajong, that is absolute nonsense.

*Handwritten signature*



She is a pumpkin. She is dead wood. She is a dimwit. She is a careerist, shameless careerist.

She is a cuckoo in the nest of our criminal justice system."

You can not in 20.....

**00: 01: 04 Video Ends.**

*Handwritten signature*

C.

KAMPALA CAPITAL CITY AUTHORITY CENTRAL DIVISION  
NAKASERO 1 KATONGA VILLAGE

TEL: 0782 877830

November 21, 2024

The chief Magistrate,  
Buganda Road Court

**RE: ALLEGATIONS OF INSULTING THE MODESTY OF THE  
LADY JUSTICE JANE FRANCES ABODO**

Please refer to the above matter:

My attention has been brought to a video recording with utterances by a one Isaac Kimaze Ssemakadde the president of the Uganda Law Society insulting the person of the DPP.

This is to confirm that the offices of the People Front for Freedom (PFF) where the incident is alleged to have taken place are in my area of Jurisdiction.

The PFF occasionally holds functions where member of the press attend, including one held on the 18<sup>th</sup> November 2024.

This information is availed to you for your further necessary action.

.....  
**Kabarungi Elizabeth**  
CHAIRPERSON KATONGA LCI  
0782 877830

KAMPALA CAPITAL CITY AUTHORITY  
CENTRAL DIVISION  
NOV 2024  
CHIEF MAGISTRATE  
NAKASERO 1 KATONGA VILLAGE

*AS*  
I have attached  
to as annexure  
in the Affidavit of  
*Isaac Kimaze Ssemakadde*  
Commissioner for Oaths

B

**THE REPUBLIC OF UGANDA  
IN THE CHIEF MAGISTRATES COURT OF KAMPALA  
HOLDEN AT BUGANDA ROAD**

CRIMINAL CASE NO. KLA-00-CR-0913-2024

**UGANDA** [Private Prosecution by **Byamazima Joshua** and **Tonny Tumukunde**]:.....  
**PROSECUTORS**

**VERSUS**

**ISAAC KIMAZE SSEMAKADDE**:.....  
**ACCUSED**

**SUBMISSIONS ON PREMA FACIE CASE.**

(Under Section 42 (1) (C)(3)(5) Magistrates Court Act, Cap. 19)

Your Worship,

**INTRODUCTION**

Following our lodgment of a private prosecution case, by complaint on oath under section 42 (1)(c) & (3) of the Magistrates Court Act (MCA), against Mr. Isaac KIMAZE Ssemakadde (hereinafter the "accused person"), we are obliged to file the following brief submissions in support of our complaint.

Under **Section 42 (5) MCA**, it is required that upon receiving the complaint, the court is required to satisfy itself that *prima facie the commission of an offence has been made, and that the complaint is not frivolous or vexatious.*

It is upon the above finding that court is mandated to draw up/approve a formal charge containing a statement of offence alleged to have been committed by the accused person.

We accordingly submit as below;

**THE LAW ON PRIVATE PROSECUTION**

The law as provided under **Section 42(1)(C) of the MCA** allows the commencement of criminal proceedings by any person, other than a

This is the attachment referred to as annexure in the Affidavit of Isaac Ssemakadde K. Commissioner for Oaths

Isaac Ssemakadde K.

public prosecutor by making a complaint in the terms provided under subsection 3 of section 42.

Under **section 42(3) of the MCA**, the person(s) who has reasonable and probable cause to believe that an offence has been committed by any person may make a complaint in the manner provided thereunder. In this case, a complaint on oath has been duly filed by the two complainants, namely; Byamazima Joshua and Tonny Tumukunde. The details of our complaint are also provided in the affidavit of Byamazima Joshua accompanying the complaint o oath.

Under **Section 42 (4) MCA**, the court is required upon receipt of such complaint to consult the local chief [leader] of the area in which the complaint arose. However, the section provides that where the complaint is supported by a letter from the local chief, the magistrate may dispense with the consultation and thereafter put the letter on record. In this case, the complaint is accompanied by a letter by Ms. Kabarungi Elizabeth, the chairperson Katonga LC1, the jurisdiction in which the offence took place. We thus submit that all the necessary preliminary requirements for entertainment of the complaint have been fully complied with. *See— Uganda [private prosecution by Male H. Mibirizi Kiwanuka] -Vs- Hon. Mao Nobert & 2 others, Criminal Appeal No. 8 of 2023 at page 8.*

#### **EVIDENCE OF PRIMA FACIE COMMISSION OF AN OFFENCE.**

As indicated in the affidavit of Byamazima Joshua, the complaint against the accused person is for a charge of indecent assault contrary to section 115(3) Penal Code Act Cap 128.

In the said affidavit, it is adduced that on the 18<sup>th</sup> day of November 2024, while addressing the members of the People's Freedom Front (PFF) party at a "symposium on the state of the Rule of Law, Constitutionalism & Human Rights: The Kisumu 36 Tales" held at Katonga Road in Kampala Central, Kampala District; the accused uttered the following words;

*"... all these things like your particular Kerfuffle is then given legal dressing by this vagina from Karamoja ... I have made a case before that we have a pumpkin for a DPP ... but some lawyers continue to pretend that she is actually a DPP... she is a pumpkin. she is dead wood .... She isa careerist, a shameless careerist ... "*

A video recording containing the accused person utterance the above words from his own mouth has been attached to our evidence as contained in the affidavit of Mr. Byamazima Joshua as **Annexure "A"**.

Your worship, in compliance with the rules on admissibility of such video evidence, the video recording has been transcribed by a language expert at the Uganda Broadcasting Corporation (UBC) A copy of the transcription is also provided in our evidence as **Annexure "C"**.

**Section 115(3) of the Penal Code Act Cap. 128** it is provided that, "*Any person who, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture or exhibits any object, intending that that word or sound shall be heard, or that the gesture or object shall be seen by that woman or girl, or intrudes upon the privacy of that woman or girl, commits a misdemeanor and is liable to imprisonment for a term of one year.*"

To sustain such an offence, one has to prove that;

- a) An indecent word was uttered against a woman (victim)
- b) The word(s) was intended to be heard by the victim or the word intruded on the privacy of the victim
- c) The accused uttered the said word(s).

In our complaint, reference to the person of the Director of public Prosecution, who is a woman, in the terms, among others, that she is "a vagina from Karamoja", such an utterance/word is indecent.

In the Oxford dictionary, indecent (word) means (a word) *not conforming with generally accepted standards of behavior especially in relation to sexual matters*. Its also refers to grossly improper or offensive language. It is our submission, that by all ordinary standards, reference to a woman as a vagina from Karamoja is an act of indecency.

As to whether the words were intended to be heard by the person of lady Justice Jane Frances Abodo, the Director of Public Prosecutions, as reflected in the local leader's letter, the PFF function is before the full glare of the media. The video recording was also widely circulated on social media.

It is therefore, obvious that the accused must have intended that such utterances get to the person of the DPP. In law, knowledge can equally be

inferred through any wanton or reckless or reckless conduct as to whether a particular result occurs or not. Once a statement is made to the press, the maker obviously intends the same to be known or viewed by the entire world, including the victim.

The video clearly shows the accused as the person making the said utterances and there is no doubt as to his participation in the making of the said utterances.

It is therefore our submission that all the required ingredients for the offence of Insulting the modesty of a woman contrary to section 115(3) Penal Code Act, Cap. 128 are well established in our complaint on oath, the accompanying affidavit and the relevant annexures.

### MEANING OF PRIMA FACIE CASE

At this stage of the case, the court is required to simply make an inquiry to establish whether on the face of it, the complaint discloses a prima facie case. At this stage, the evidence on record need not be evaluated to meet the standards of proof beyond reasonable doubt.

A definition of a prima facie case was also given by Sir Newhan Worley D, in **Ramalal T. Bhatt v R (1957) E.A 332 ABR 335**, as follows:

*"It may not be easy to define what is meant by a prima facie case, but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence."*

Lord Paker concluded thus -

*"It is clear from the above [two authorities] that the test of a prima facie case is objective and that a prima facie case is made out if a reasonable tribunal might convict on the evidence so far adduced. Although the court is not required at this stage to decide whether the evidence is worth of credit or whether if believed is weighty enough to prove the case conclusively, a mere scintilla of evidence can never be enough nor any amount of worthless discredited evidence. But it must be emphasized that a prima facie case does not mean a case proved beyond reasonable doubt; Wilbiro v R. (1960) E.A. 184."*

Your Worship, we submit that the evidence so far placed on record meets the required standard and is capable of establishing a prima facie case warranting the charging of the accused person.

We accordingly pray that this court be pleased to issue criminal summons to the accused at the earliest opportunity, to appear and take plea on the charge.

We shall be most obliged.

  
.....  
**COMPLAINANT**

THE REPUBLIC OF UGANDA  
IN THE CHIEF MAGISTRATE'S COURT OF BUGANDA ROAD AT BUGANDA  
ROAD`

MISCELLANEOUS APPLICATION NO. \_\_\_\_\_ OF 2024  
(ARISING FROM KLA-00-CR-CO-0913-2024)

ISAAC KIMAZE SSEMAKADDE

]

APPLICANT

-VERSUS-

UGANDA

]

[Private Prosecution by Byamazima Joshua and Tonny Tumukunde]

RESPONDENT

**SUMMARY OF EVIDENCE**

The Applicant shall show that this Application is meritorious and ought to be granted with costs.

**LIST OF DOCUMENTS**

1. All annexures to the affidavit in support
2. Any other with leave of Court.

**LIST OF WITNESSES**

1. The Applicant
2. Any other with leave of Court

**LIST OF AUTHORITIES**

1. The Constitution of the Republic of Uganda, 1995
2. The Magistrates Courts Act, Cap. 19
3. Case law
4. Any other authorities to be adduced with leave of Court.

DATED at KAMPALA this 2<sup>nd</sup> day of December, 2024.



\_\_\_\_\_  
GEM ADVOCATES  
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