THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE'S COURT OF PALLISA AT PALLISA
CRIMINAL CASE NO. 021 OF 2025
(Arising from Pallisa CRB 442/2024)

UGANDA ..... **PROSECUTOR**

VERSUS

AMUGE BRENDA ..... **ACCUSED**

BEFORE: H/W KYEMBE KARIM, MAGISTRATE

RULING ON WHETHER A CASE TO ANSWER HAS BEEN MADE OUT

Introduction

1. **Amuge Brenda** is charged with malicious damage to property contrary to section 312(1) of the Penal Code Act, Cap. 128. It is alleged that on 23 October 2024 at Kasabio Village, Kaukura Sub-county, she and others still at large wilfully and unlawfully damaged a banana plantation valued at UGX 33,300,000/=, the property of **Opolot Ferdinand Ronald**. She pleaded not guilty. The State was represented by **Ms. Asiimwe Recheal** and the accused by **Ms. Musuya Alice Florence**. The prosecution called six witnesses and closed its case. The defence submitted that there is no case to answer.

The law

2. If the evidence at the close of the prosecution case is not sufficient to require the accused to make a defence, the court must dismiss the charge (section 73, Magistrates Courts Act). A prima facie case exists where a reasonable tribunal, properly directing itself, might convict on the evidence if the defence offers no explanation: ***Ramanlal Trambaklal Bhatt v R [1957] EA 332***; ***Uganda v Alfred Ateu [1974] EA 278***. Credibility is not fully weighed at this stage, unless the evidence is so discredited that no reasonable court could act on it. The prosecution must prove damage to property, that the property belonged to another, that the damage was wilful and unlawful, and that the accused took part, directly or by procuring or counselling it (sections 19 and 20, Penal Code Act).

Evidence and findings

3. **Damage. PW2 Olupoto Simon**, the gardener, found the bananas and other crops cut on the morning of 23 October 2024. **PW4 Olebo Emmanuel**, the District Agricultural Officer, found the stems cut and bundled, and measured 2.5 acres by GPS. **PW5 Kigaye Nelson**, the scene of crime officer, found the plantation cut down and ploughed, and drew the sketch plan (**PEX3**). **PW3 Akwach Jorem** and **PW6 Omoding Godfrey** also saw the damage. Damage is established. PW4's valuation of UGX 33,300,000/= rests on an

estimate of 3,330 plants at UGX 10,000 each, because the plants could not be counted. That goes to the value and sentence, not to whether the offence happened.

4. **Ownership and unlawfulness. PW1 Opolot Ferdinand Ronald** said he has held the land as caretaker since 29 December 2013, under the clan distribution (**PEX1**) and Fernando Papakonyang's letter (**PEX2**), and that his workers had tended and harvested the plantation. A person in lawful possession who planted and tended a crop has enough interest in it for this charge. Who owns the land is a civil question and is not decided here. The defence relies on section 7 of the Penal Code Act and the evidence that the land was redistributed among all the children at mediation. That shows a family dispute, but there is no evidence that the accused honestly believed she could destroy a crop another person had planted. Whether she did is for her defence. This ingredient is established prima facie.

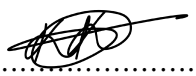
5. **Participation.** This is the decisive issue. PW1, PW2, PW4 and PW5 did not see the accused do anything. PW1 admitted he has no evidence of any admission by her at police. **PW3**, her uncle, said that on returning to the garden at about 11:00 a.m. he found Amuge and Isabel Aujo commanding the people who were cutting and removing the stems. His evidence was given in cross-examination and is short. He first found no one there at 9:00 a.m. But he places the accused at the scene directing the work. Directing others to destroy property is procuring or counselling the offence, and a person who does so is treated as a principal offender.

6. **PW6** said he saw the accused carrying stems and, in re-examination, that she "was the one commanding". His police statement (**DEX2**) of 25 October 2024 names Isabel Aujo, Tom Papakonyang and Ogaram Peter, but not the accused. He also gave 7:00 a.m. in chief and 9:00 a.m. in cross-examination, admitted that he drinks, and was noted to be shaking. These are real weaknesses, and I treat his evidence with caution. They go to weight and are better tested once the accused has been heard. They do not make his evidence incapable of belief. PW3 and PW6 are both her uncles, and neither shows a grudge. They agree that she was at the scene on 23 October and had a leading part in the work, and their timing agrees that a tractor was ploughing around 11:00 a.m., which PW1 says continued until 2:00 p.m. The evidence on participation is thin, and the accused's answer will matter. I find that it is enough for a reasonable court, if it believed it and nothing was offered in answer, to convict.

Ruling

7. A prima facie case has been made out or etablished against the accused on each ingredient. The submission of no case to answer is overruled. She is informed of her rights under section 73 of the Magistrates Courts Act: she may give evidence on oath, make an unsworn statement or remain silent, and she may call witnesses. The matter is fixed for defence hearing on a date to be given.

Delivered online at Pallisa this 12th day of October 2026.



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KYEMBE KARIM
MAGISTRATE