State insists on testing Nyanzi's mental status

BY FAROOQ KASULE AND MICHAEL ODENG

The state has objected to the trial of Makerere University researcher Dr Stella Nyanzi on charges of cyber crime before her mental status has been ascertained.

Yesterday, Buganda Road Court resident senior state attorney Jonathan Muwaganya requested court, presided over by Chief Magistrate James Eryeemye Mawanda, not to try Nyanzi before her sanity is ascertained. Muwaganya believes that Nyanzi is of unsound mind.

"It would be an abuse of the law by the prosecution to try a person who could be found to be of unsound mind," Muwaganya submitted.

He wants Nyanzi's mental status to be ascertained basing on her periodic and erratic episodes relating to unusual behaviour characterised by gross and incident utterances.

Muwaganya also told court that although Nyanzi's lawyers, led by Peter Walubiri, are complaining of delayed trial, prosecution's attempts for her speedy trial have been frustrated by her lawyers.



Dr Stella Nyanzi

"The High Court directed that the prosecution's application under the Mental Treatment Act of 1938 be heard so that Nyanzi's trial kicks off, but instead her lawyers petitioned the Constitutional Court and we are still waiting for its pronouncement," he said.

Muwaganya advised Nyanzi's lawyers to petition the Constitutional Court seeking interpretation of the Mental Treatment Act in order for her case to be heard expeditiously.

"The State brought the accused in court with clear reservations well-rooted under the law. Therefore, we pray that the matter be further mentioned until the Constitutional Court verdict," Muwaganya said.

In reply, Walubiri asked court to compel the prosecution to produce witnesses to testify against Nyanzi or have the case dismissed for want of prosecution. Walubiri was assisted by Isaac Ssemakadde.

"Nyanzi has a right to a fair and speedy trial. If the state has failed to produce evidence to testify against her, let it drop the charges. The Directorate of Public Prosecutions (DPP) still has power to reinstate the case if they get evidence," Walubiri stated. Meanwhile, Mawanda adjourned the case to August 21 to allow the state get further instruction from the DPP on how to proceed.

On April 10, 2017, Nyanzi, 42, was charged with two counts of cyber harassment and offensive communication under section 24 and 25 of the Computer Misuse Act, 2011 before the Magistrate's Court. Prosecution alleges that on January 28, 2017 in Kampala district or there about, Nyanzi used a computer to post on her Facebook page "Stella Nyanzi" and made a suggestion which is obscene or indecent under the law against President Yoweri Museveni.

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