

Molly Katanga cross-examined

After a lunch break on Tuesday, the court reconvened for further cross-examination of Molly Katanga on her defence evidence-in-chief, mainly on her health and the loan indebtedness that the late businessman Apollo Nyegamehe, aka Aponye, had with her husband, Henry Katanga. Below is a slightly abridged version of what transpired.

BY ANTHONY WESAKA & JULIET KIGONGO

Samuel Wakooli (Assistant DPP): My lord, we are ready to proceed Jonathan Muwaganya (Chief State Attorney): So, on these loan issues, you closely worked with your husband on them, is it correct?

Molly Katanga (by suspect): No.

Muwaganya: What is the answer, please?

Molly: I beg your pardon.

Muwaganya: From your articulation of how your husband was managing the loan business, will I be correct to say you closely worked with him, or that he would share with you what was happening in the loan business?

Molly: He would share with me, but I was working with him.

Muwaganya: Was it in your knowledge that clients who were not friendly and were mean like Aponye, your husband would get security from them for the loans they obtained?

Molly: I beg your pardon.

Muwaganya: Would your husband take security? We all know what we call security before giving out money for the loans. Would he take security?

Molly: Sometimes he would take security, and sometimes he wouldn't. Actually, we would always talk about it, and I would advise him not to lend out money informally but to have agreements. I would always complain about that.

Muwaganya: So sometimes he would take security and sometimes he would not?

Molly: For long time clients like Aponye, he wouldn't take security?

Molly: Yeah.

Muwaganya: It's in your knowledge, isn't it, that your husband had lawyers who would act for him?

Molly: Sometimes not, sometimes yes. I was not involved in his everyday activities.

Trial Judge Rosette Comfort Kanja: What is the answer?

Molly: I'm not very sure.

Muwaganya: I think you have given me appropriate answers. You remember applying for bail in this court, do you remember?

Molly: Yes.

Muwaganya: How many times do you remember?

Molly: About three or four, I don't remember.

Muwaganya: Were you swearing affidavits to support your bail applications?

Molly: Yes.

Muwaganya: Madam Molly, you were presenting these affidavits as part of your evidence in this court to support your release on bail. Were you aware that affidavits were to act as evidence in support of those applications?

Molly: I was being guided by the lawyers. I don't understand.

Muwaganya: Were you guided to that effect?

Molly: I don't understand.

Judge: She says she doesn't understand. But were you aware that those affidavits would form part of your application?

Molly: Yes.

Muwaganya: Do you believe in the truthfulness of the information that you filed in this court in support of your bail application?

Molly: Yes.

Muwaganya: Please look at one of such applications. When you look at the first one, which I gave you, which you deposed on April 17, 2024, it has annexures 4A. Please move with me, it's your medical report procured by your lawyers. Attached by your lawyers. Do you identify it?

Molly: Yes.

Muwaganya: Go to the next annexure, which is A5. Do you recognise the author of this letter? Is he indicated?

Molly: Yes, my lord.

Muwaganya: Who is that author?

Molly: Dr James Kisambu.

Muwaganya: To whom is it addressed?

Molly: Tumusline Kabega & Co Advocates.

Muwaganya: Confirm that those are one of your lawyers you instructed in this matter and also in the bail applications?

Molly: Yes, please.

Muwaganya: When is the letter dated?

Molly: February 20, 2024.

Muwaganya: And this letter is giving your lawyers the status of your health?

Molly: Yes.

Muwaganya: What is the next document that you annexed to your affidavits?

Molly: Submission of a medical report of Ms Katanga.

Muwaganya: Who was submitting your medical report about you?

Molly: Dr Henry G Mwebesa.

Muwaganya: Confirm that it was for the doctors to approach you in prison to make a report to support your bail application. Dr Kisambu Denis, was he the intended recipient of the intended document?

Molly: I'm seeing this document for the first time, I don't know.

Muwaganya: The court can write that.

Molly: I don't know.

Muwaganya: So will I be correct to say that you never saw the evidence that you were filing in this court for your release on bail?

Molly: I never saw this document; this is my first time.

Muwaganya: Let's go to the next document, which is your actual medical report, being examined by these three physicians while you were in Mulago hospital. Did Luzira ever take you to Mulago hospital for a medical examination?

Molly: Yes, please.

Muwaganya: Who requested this examination? Was it you, your lawyers, or another person?

Molly: I did not request these examinations, but the situation I was in required them.

Muwaganya: So, who spoke to the doctors? Was it a living person, or would the situation have spoken to them?

Molly: The Luzira people saw that I needed this.

Muwaganya: So, who requested it?

Molly: I don't know.

Muwaganya: You were interviewed by these doctors when you were taken to Mulago, correct?

Molly: Yes.

Muwaganya: I apply to tender her application No. 93 of 2024, jointly with her affidavit deposed on the April 17, 2024, together with the attached annexures, A4 and A5.

Elison Karuhanga (One of the defense lawyers): My lord, the prosecution seeks to tender documents. However, Section One of the Evidence Act provides that this does not



Ms Molly Katanga in the dock at the High Court in Kampala yesterday. PHOTO/ ABUBAKER LUBOWA

apply to affidavits presented to any court. Insofar as it's a document signed by her, for purposes of her affidavit, we don't have an objection, but if he is using that affidavit to smuggle on record documents that would rather be introduced formally, we object.

Muwaganya: I really don't know the gist of my brother's objection.

Karuhanga: My lord, it's very brief. For a document to be tendered into this court, it has to be a primary or secondary document within the meaning of the provisions of the Evidence Act. For an affidavit to be tendered in, a document signed by her, we are okay, but if they are using her affidavit to tender in annexures, we object.

Muwaganya: Okay, my lord, with due respect, there is a misinterpretation of Section One of the Evidence Act. You cannot invoke the procedure in the Evidence Act where you rely on evidence that has to be presented by way of affidavits.

One cannot rely on the provisions of the Evidence Act when traversing evidence that has to be presented by way of an affidavit. The rationale should be that the affidavit in itself is evidence that is sworn. So where that evidence is required, you can't hide under any provisions of the Evidence Act.

We are tendering them as evidence previously offered by the accused, which the accused first offered. It was deposed by her. She has also said she believes in its content, and the content also includes the annexures. A witness cannot be made to approbate and reprobate; that I believe in this part when I want to use it for a specific purpose, but I don't believe in the same part if it's

being used against me. My lord, that would be a traverse of justice.

So, to the extent that she has admitted, authoring the affidavit and its annexures, and it was used in that application, which she admits, these documents should be admitted on record as exhibits for whatever their worth, my lord.

The technical objection as to the weight of the content, which is a matter for lawyers to address this court, my lord, in our submissions. We pray so, my lord.

Judge: In the affidavits, the annexures referred to, so the affidavit that this person deposed to...

Muwaganya: My lord, under paragraph four of the affidavit, she says on November 2, 2023, the same day that "my husband passed, I was admitted at C-Care/HR with multiple head, hand, and wrist injuries." Copies of the medical reports from C-Care and Mulago hospital are attached and marked annexures A1, A2, A3, A4, and A5.

So this affidavit can't be complete when you divorce A4 and A5 from her own averments. And my lord, in paragraph 24 the same affidavit of April 17, she was very unequivocal that whatever she had stated in her foregoing paragraphs was true and correct to the best of her knowledge.

Karuhanga: This is an incomplete affidavit. It's not the full affidavit deposed upon in the bail application. Certainly, not all the annexures are attached. So if he wants to tender in an affidavit, is it half or full affidavit with all the annexures?

Muwaganya: My lord, I expect that since these are defense documents, we don't

about her health

anticipate any objection to their own documents. I'm just using them as served on us. There are so many annexures on this affidavit, but my interest is only in A4 and A5, so I'm not traversing all.

But if the defense is interested in traversing all the other documents, including sureties, the beauty is that I don't have an interest, but they can make their case by traversing all those annexures; otherwise, I would be begging the court with useless things.

Karuhanga: And my lord, that is where the problem is, on one hand, what my friend is trying to do is introduce documentary evidence. If he wants to take in documents A4 and A5, what he should do is to bring the author of documents A4 and A5 for tendering.

Let's not have exceptions. My lord, let's have a ruling on whether we deal with the document as a whole or not.

Wakooli: This affidavit was provided for a proceeding of the court. And in the court proceeded on these documents, but if he is interested in the whole batch, in about 20 minutes, we can produce it.

Muwaganya: But what we are dealing with is a record of the court, which can be retrieved.

Karuhanga: My lord, I'm happy to take 20 minutes (laughter in court).

Judge: We are admitting subject to the record we have. Let's proceed.

Muwaganya: We invite the court to

verify by its own record.

Judge: Admitted in evidence, subject to the prosecution producing all the other affidavits.

Muwaganya: You were in full attendance during all your bail applications, correct?

Molly: Yes.

Muwaganya: Your counsel submitted here that you were sick, your doctors are in Nairobi (Kenya), and that your conditions had previously been managed in Nairobi?

Molly: No.

Karuhanga: Chorus of no.

Muwaganya: I cannot cross-examine you; this question is intended for the witness.

Molly: Which condition?

Muwaganya: Your condition (breasts and lumps).

Molly: I didn't say that.

Muwaganya: Have you ever been managed in Nairobi?

Molly: Yes, but I just did checkups for endoscopies, mammograms, among others.

Muwaganya: And you revealed this to your Mulago doctors?

Molly: I don't remember.

Muwaganya: I want to refresh your memory on whether you told your doctors about the mammogram. This is what the report reads: You complained of pain in the left breast, which has had lumps, for the past three years. This was reviewed with a mammogram in Nairobi, and the doctor advised that

MURDER OR SUICIDE?

It is almost three years since November 2, 2023 when Henry Katanga met his death at his home in the Kampala suburb of Mbuya, following what is believed to have been a domestic altercation with his wife, Molly.

The prosecution presented 25 witnesses. Some of these are Katanga's daughters, Patricia Kakwanda and Martha Nkwana, Dr Charles Ota and George Amanire, the family's shamba boy (he was deemed to have tampered with the evidence).

One of the witnesses, a scene-of-crime police officer, Assistant Inspector of Police Emmanuel Okuku, shared that the blood stains at the crime scene was complicated. What he meant was that the pattern of the blood scene needed a forensic expert. Apart from the blood stains on the floor on the master bed and on the walls, there was a ladder, pistol, cartridge, and a deformed cartridge placed on the bed. There was also a feature phone, a white envelope on a chair, which had a building's sales agreement.

you repeat this in a few years.

Molly: That is not true. Actually, it's Mulago that said I should review after three years.

Muwaganya: If I were you, I would wait (laughter in court).

Muwaganya: Your report also says that you are hypertensive and on drugs. Was that a true reflection of your condition then?

Molly: I was on drugs by the time I went to Mulago.

Judge: For pressure?

Molly: Yes.

Muwaganya: So, when did you first know you had pressure?

Molly: Before my husband's death, I would check and they would tell me it was on the borderline but while I was at BHK, it shot and became uncontrollable. Changed drugs but nothing was working for me. I had never gone through that in my life before.

Muwaganya: Therefore, it's not true that you first developed pressure after the incident with your husband?

Molly: The incident increased it.

Muwaganya: So, I will be fair, in your opinion, you actually had pressure, but just increased after the incident with your husband?

Molly: It was there, but mild, but I realised that too much pressure when I was in hospital.

Muwaganya: So your statement during the evidence-in-chief that you developed pressure because of this incident was not correct?

Molly: It was not bad.

Muwaganya: Was that accurate?

Molly: ... (No response)

Muwaganya: These affidavits were meant to portray you as very ill. (Hands her the affidavits). Your fingers are

shattered, incapable of signing, and you choose to thumbprint, and yet you possess a signature. Do you confirm that when you were deposing these affidavits, you simply thumb-printed them?

Molly: But there is a signature here on April 17.

Muwaganya: Did you cover that signature with a thumbprint?

Molly: There is a signature and a thumbprint.

Muwaganya: Of the signature and thumbprint, which one came first on that document?

Molly: I can't remember.

Muwaganya: But it's your document.

Molly: Yes.

Muwaganya: OK, go to the next one. Does it bear a signature or thumbprint?

Molly: A thumbprint.

Judge: The one with a thumbprint only is for which date?

Muwaganya: 9th.

Muwaganya: Confirm that by the 9th of December, 2024, you were capable of signing.

Molly: I don't remember.

Muwaganya: Could anything have impeded your capacity to sign as of this date?

Molly: I don't remember.

Muwaganya: You don't remember everything when you choose to.

Judge: But she says she doesn't remember.

Muwaganya: Before I put my next instructions, again, confirm to this court whether you had any joint business with your husband.

Molly: Yes.

Further cross-examination of Molly by the DPP's officers resumes on April 14.

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