



**IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CRIMINAL DIVISION**

CONFIRMATION CASE NO. 912 OF 2021

(Being Criminal Case No. 379 of 2021 before the Senior Resident Magistrate Court sitting at Blantyre)

**THE REPUBLIC
V
JANE BANDA**

Coram: Justice Vikochi Chima

Mr Mkweza, Senior State Advocate

Mr Mpombeza, Chief Legal Aid Advocate

Mrs Moyo, Court Clerk

ORDER ON CONFIRMATION

Chima J

Jane Banda who is aged 40 years was convicted of four offences: forgery contrary to section 358 of the Penal Code; uttering a false document contrary to section 360 of the Penal Code; obtaining credit by false pretences contrary to section 322 (a) of the Penal Code; and use of identity card other than the one issued contrary to section 42 (e) of the National Registration Act.¹ This was after a full trial. She was sentenced to 18 months' imprisonment with hard labour for the forgery; three months' imprisonment with hard labour for the uttering; nine months' imprisonment with hard labour for the obtaining credit; and 24 months' imprisonment with hard labour for the use of the national identity card other than the one issued to one.

The convict had met a Sales Representative of MyBucks Bank, a Mr Katunga, in Limbe and she had expressed interest to obtain a loan from the Bank. Mr Katunga asked her to provide her details

¹ Chapter 24:01

by filling an application form. The convict produced a national identity card bearing another's name of Caroline Moto but showing the convict's picture which also had other details that did not pertain to her identity. She also filled in information as an employee of Ministry of Education, Science and Technology under employment number 47405. An amount of K1, 434, 000 was paid to the convict as a loan. MyBucks Bank started to make the loan payment deductions from the account of a Mrs Caroline Chipvinga Mwale, the complainant.

When Mrs Mwale lodged a complaint with the Bank that she had never taken a loan from them, they checked their system and discovered that the details on her national identity card differed from those on the national identity card of Caroline Moto. The name on her card was Caroline Chipvinga Mwale. The date of birth was different from that on the identity card of the Caroline Moto document that the convict had used. The Bank then had to reimburse her money.

An officer at the National Registration Bureau stated that in their database, the national identity of the fake Caroline Moto that the convict used has the date of birth as 2 December 1972. It was issued on 7 April 2018. Its expiry date is 2 December 2028. Its identity number is NTJS8K2W. This same identity number, however, belongs to the real Caroline Moto's identity card which has the date of birth as 1 January 1975 and having been issued on 26 November 2020. Its expiry date is 1 January 2025. There was also produced the national identity card of the convict in her real name of Jane Banda which had details different from those she provided on the loan application form. Thus it is clear that the convict had used someone else's name to obtain the loan.

The offences herein were clearly planned. The Bank has lost the money. All these offences are with the exception the obtaining credit one are felonies. She forged a very important document, a national identity card and indeed the consequences were dire as she victimised an innocent soul, robbing her of her money in her bank account. She dared to use someone else's employment number. There was no show of remorse as evidenced by the fact that the case went for full trial. The maximum sentence for forgery under section 358 of the Penal Code is ten years imprisonment; that of uttering the said false document is the same ten years imprisonment; that of obtaining credit by false pretences is one year imprisonment; and that of using a national identity card other than the one issued is a fine of K1, 000, 000 and imprisonment for five years. Looking at the aggravating factors of the offences committed and bearing in mind that from the same facts, the convict committed quite a number of offences, the court is of the view that the fact of her being a first offender pales into insignificance and that the sentences imposed by the lower court were manifestly inadequate. I set them aside. I thus sentence Jane Banda to seven years' imprisonment with hard labour for the forgery, seven years' imprisonment with hard labour for the uttering, a year's imprisonment for the obtaining credit and three years' imprisonment with hard labour for the use of a national identity card other than the one issued to one. The sentences are to run concurrently.

Made in open court this day the 2nd of April 2022


Chima J