

**IN THE HIGH COURT OF THE FEDERAL CAPITAL  
TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION (APPELLATE DIVISION)**

**HOLDEN AT COURT 14, APO ABUJA ON THE 29<sup>TH</sup> DAY OF  
SEPTEMBER 2016.**

**BEFORE THEIR LORDSHIPS: HON. JUSTICE U.P. KEKEMEKE (PRESIDING JUDGE)**

**HON. JUSTICE V.V. VENDA (HON. JUDGE)**

**APPEAL NO: CRA/51/15**

**COURT CLERKS: AMINU ZAKARI**

**BETWEEN:**

**MARTINA ONYELEKWE .....APPELLANT.**

**AND**

**COMMISSIONER OF POLICE.....RESPONDENT.**

**JUDGMENT**

By a Notice of Appeal dated the 3<sup>rd</sup> day of August, 2015 but filed on 06/08/15, the Appellant being dissatisfied with the Judgment of the Chief Magistrate Court delivered on the 6<sup>th</sup> of August, 2015 by HIS WORSHIP OBA CHRISTOPHER ESQ doth hereby appeal to this Court upon the following ground:

That the Trial Court erred in Law by convicting the Defendant/Appellant by admitting in evidence proceedings of the previous court even the matter started *denovo* before it.

The particulars of error enumerated on the Notice of Appeal are:

1. The Trial Court ought not to have placed reliance on the evidence/testimony of the Prosecution Witnesses from the proceedings of the former Court.

2. The Trial Court erred in law when it denied the Defendant's Counsel the opportunity of recalling the Prosecution Witnesses that had earlier testified.
3. That the Trial Court failed to expunge the testimony of PW1 – PW4 despite the Defendant's Counsel's application dated the 5<sup>th</sup> of August 2014.

The Notice of appeal was served on the Respondent on 22/09/15.

By Order 43 Rule 3(1) of the High Court of the FCT (Civil Procedure) Rules 2004, a Registrar of the Lower Court shall within three months of the decision appealed from, prepare as many certified copies of the proceedings required for the consideration of the appeal as there are parties on record.

By Order 43 Rule 5 of the rules of Court, when notifying a party of the day fixed for hearing of the appeal, a Registrar of Court shall send to the party a copy of the proceedings.

We have searched the record of the Court. The record of proceedings has not been compiled and or transmitted from the Lower Court to this Court. There is no Affidavit that the Respondent has been served with a copy of the Record of Proceedings.

In the circumstance of this case, the appeal is incompetent and it is struck out.

**HON. JUSTICE U.P. KEKEMEKE**

**HON. JUSTICE V.V. VENDA**

**(PRESIDING JUDGE)**

**(HON. JUDGE)**

**29/09/16**

**29/09/16.**