

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 24
CASE NUMBER : CHARGE NO: CR/15/17
DATE: : MONDAY 27TH JANUARY, 2020

BETWEEN:

COMMISSIONER OF POLICECOMPLIANANT

AND

1.MARYAM SANDA
2. ALIYU SANDA
3. MAIMUNA ALIYU
4. SADIYA AMINU

DEFENDANTS

JUDGMENT

The Defendant and 3 others were arraigned before this Honourable Court on two count charge to wit;

COUNT ONE:

That you Maryam Sanda Female, adult of No. 4 Pakali Close Wuse 2 Abuja, on or about the at 19th November, 2017 at about 0150 hours at No. 4 Pakali Close, Wuse Zone 2, Abuja within the jurisdiction of this Honourable Court, did commit the offence of Culpable Homicide punishable with death. In that you caused the death of one Bilyaminu Bello Halliru, male adult of No. 4 Pakali Close, Wuse 2, Abuja by stabbing him on the chest and other parts of the body with a knife and other dangerous weapons which eventually led to his death and you did so with the knowledge that his death would be the probable and not only the likely consequence of your act; you thereby committed an offence punishable under **Section 221 of the Penal Code Law.**

COUNT TWO:

That you, AliyuSanda, Male, MaimunaAliyu, Female and SadiyaAminu, Female, all adults of FCT Abuja, on or about the 19th November, 2017 at about 0300 hours at No. 4 Pakali Close, Wuse Zone 2, Abuja within the jurisdiction of this Honourable Court, did commit an offence. In that while you knew and had the knowledge that an offence of Culpable Homicide has been committed did cause evidence of the offence to disappear, to wit; cleaning the blood from the scene of crime with the intention of screening one Maryam Sanda from legal punishment. You thereby committed an offence punishable under **Section 167 of the Penal Code Law.**

When the charge was read to the accused persons they all pleaded not guilty to the respective counts charge. The case was then set down for hearing.

Prosecution led its PW1 in evidence on the 19th day of April, 2018.

Evidence of Witnesses

PW1, (Ibrahim Mohammed) informed the court that he is a business man and that he resides at Maitama, No. 5 Rio – negro Close, and that he is a friend to Bilyaminu Ahmed Bello (Deceased). For clarity, his testimony is hereby reproduced.

“On the 18th November, 2017, we were together with the deceased Bilyaminu Ahmed Bello in the afternoon at about 3:00pm on 18th November, 2017 till the 1:00am of the 19th November, 2017. The deceased asked me to meet him at the mechanics where he was repairing his wife’s car. We then returned to his house at about 7:00pm. We were in his house watching television and taking shi-sha till after 8:00pm. We were in the living room when his wife called him up stair. He returned after a while. His wife (1st Defendant) came back again for the second time to call him upstairs. It took a while and suddenly there was

noise. I was still in the living room when the 4th Defendant came to call me at the instance of the 1st Defendant. Later I then saw the deceased and the 1st Defendant holding themselves.

I advised them to stop having issues. 1st Defendant then asked me to tell the deceased to divorce her. I pleaded with both of them to stop the problem. 1st Defendant then said the deceased will not step out until he divorced her. I proceeded to plead with them to forgive themselves. I then forced the grip of the 1st Defendant on the neck cloth of the deceased. By the side of the door, there was groundnut bottle, 1st Defendant picked it and broke it, and wanted to stab the deceased. I then grabbed the hand of the Defendant. The deceased then came behind and retrieved the broken bottle from the hands of the 1st Defendant. The deceased then came downstairs.

I was still with the 1st Defendant upstairs, pleading with her to be patient with themselves. 1st Defendant insisted she be divorced by the deceased or she would sever his private part. I pleaded with her to be patient till the next day so we can involve parents to determine the desirability of staying together or separating them.

1st Defendant insisted she will not wait till the next day. She insisted on being divorced. The deceased then went upstairs to the bedroom. I was there when the 1st Defendant then followed the deceased and insisted that she be divorced.

1st Defendant attempted again to stab the deceased with cover of insense wine she broke. The deceased held her and retrieved the broken glass from her. 1st Defendant and deceased then began to fight. The deceased then pushed on the bed and went downstairs. 1st Defendant again followed him and she went into her kitchen. I followed her.

She then picked knife which I collected back from her. 1st Defendant again picked table knife. She attempted picking knives three to four times which I retrieved from her. I then blocked the kitchen door. I then saw the 4th Defendant coming down stair. I then requested that 1st Defendant's mother be called. 4th Defendant said she did not have her number. I then requested that 1st Defendant's brother Aliyu be called.

She said, she did not have his number but that she had that of the 1st Defendant younger brother. When she called him, I then took the phone and spoke with him. I told him I was Ibrahim and not Sadiya, the deceased's friend. I then informed him there was problem at the residence of the 1st Defendant with her husband, the deceased, Bilyaminu. I then used my phone to call Abba Bello, the deceased's brother.

I narrated what was happening at the deceased's house. He promised to come as soon as his car was available. I was still pleading with the 1st Defendant.

Thereafter, Auta, her mother's son arrived. 1st Defendant upon sighting her brother, started crying and pleading for divorce. Auta, her mother's son, said she will not be divorce whilst she was with her brother, I then went over to the deceased in the living room and requested if he could go out.

The deceased then advised that we visit the nearest ATM machine so he could take money and pay the mechanics that night. The deceased also requested that we visit any place for his bitten finger to be dressed, where 1st Defendant bit him. I then advised we go to a place in Wuse 2 where his finger was dressed. He was given tetanus

injection and pain reliever. We then returned back to the deceased's home.

The 1st Defendant was not at home when we got home, we were at the sitting room when the 1st Defendant returned back. She was playing with her daughter upstairs. We were still there when one Usman Aliyu, the deceased's brother arrived. We were all in the parlor together. 1st Defendant then came through the dining area, saw us and went back. Usman Aliyu then requested that we should allow the deceased with his wife so the 1st Defendant does not blame us for keeping her husband.

On our request to exit the house, the deceased insisted we wait for him to perform his Isha' prayer. When we were about to exit the house, the deceased showed me his phone which the 1st Defendant broke. I gave him my phone for him to insert his sim card. He was in the guest toilet

performing ablution, when we left the house. After we left the house, I was still not at rest.

I then decided to park my car and Aliyu also parked his car. I then informed Aliyu that there was problem. I then informed Aliyu that 1st Defendant and the deceased had issues. Aliyu then told me we would not have left the house if he knew there was problem.

I then advised the Aliyu to return back to the house on the pretext that we forgot something, Aliyu then asked me to call the deceased. I did three (3) times without any response. We then agreed that I will call him once my call is returned by the deceased and there is no problem. We then parted and I left for my house.

I barely arrived home when Abba Bello, the deceased's brother call me. He requested to speak to the deceased but I told him I was not with the deceased but in my house. Within thirty minutes,

the same Abba Bello called me to request that I meet them at Maitama Hospital, and that Bilyaminu was death.

I went to the hospital and saw the deceased in front of the hospital. I could see stab wound on his upper abdomen by the direction of the heart, stab around his neck, bitten spots on his stomach, deep cut around his lower thigh which was stitched and stab-wound on his back. His remain were then deposited in the mortuary in the hospital, the families of the 1st Defendant and that of the deceased were both at there... We were on our way to the police station, the 1st Defendant's mother, 2nd Defendant and a police man diverted to the 1st Defendant's house. We eventually were informed by one Alhassan who was in front.

We then followed them to the deceased house on reaching the house, the police was in the car while the 2nd and 3rd Defendants were inside the

house. When we entered the house, the 2nd and 3rd Defendants were both up stairs. Me and Usman Aliyu were in the sitting room and observing by the dining area, where the deceased usually pray, we saw praying mat, his slippers beside a window. We discovered the widow fell down. We were still there when the 2nd and 3rd Defendants came down stairs with the deceased's daughter and the 4th Defendant. We then left for the police station. That's all I know about the case."

Cross – examination of PW1

Qus:- You are 38 years old?

Ans:- Yes.

Qus:- You are a Muslim and a businessman?

Ans:- Yes.

Qus:- How many statements did you make to the police in this matter?

Ans:- I signed one statement.

Qus:-You stayed with the deceased in his home from
3:00pm – 1:00am?

Ans:-Yes.

Qus:-Is that how you visit people without allowing him
have time with his wife.

Ans:-No.

Qus:-You told this court that you disarm the 1st
Defendant how manytimes?

Ans:-I collected knives three-four times, the deceased
collected broken bottle from her.

Qus:-You never sustained injuring all the while you
were disarming the 1st Defendant?

Ans:-I did not.

Qus:-The deceased did not also sustain injury when he
retrieved the broken bottle.

Ans:-He did not.

Qus:-At the time you left the deceased's house with Aliyu, he was alive?

Ans:-Yes, he was alive performing ablution.

Qus:-You do not know what caused his death. You did not witness what caused his death?

Ans:-I do not know. The cause of his death.

Qus:-You told the court that the deceased's phone was damaged and that you'll be repairing it the next day?

Ans:-Yes.

Qus:-You gave the deceased phone to use?

Ans:- Yes.

Qus:-What is the make of the phone?

Ans:-Nokia 2310.

Qus:-What is the telephone number of the phone?

Ans:-I removed my sim to allow the deceased use his sim on the phone.

Qus:-What is your own telephone number that you used to call the deceased?

Ans:-08036137450.

Qus:-You have no experience of medicine as a surgeon or pathologist?

Ans:-No.

Qus:-You told this court what you saw at the mortuary, that they saw you leaving the hospital to the house of the deceased. Are the things contained in your statement?

Ans:No. but I was asked to say what I know.

Qus:-Where did you say you and the deceased went to for his finger to be dressed.

Ans:-It is somewhere behind Adam's Restaurant, in Wuse 2 Abuja. I can't remember the name.

Qus:-You did not inform the police of the fact that you accompanied the deceased for his finger to be dressed and other things you said in the cause of your evidence?

Ans:-I told the police.

Qus:-You said you had shi-sha with the deceased in his house.

Ans:-Yes.

Qus:-What is this thing call shi-sha?

Ans:-It is like cigarette.

Qus:-What is shi – sha made of.?

Ans:-It is from seed of fruit and flavour.

Qus:-Does it affect the brain in the form of intoxication?

Ans:-No.

Qus:-For how long did you take the shi – sha with the deceased?

Ans:-Not more than ten-twenty minutes. The deceased left me when his wife called him.

Qus:-You said the deceased went upstairs to see his wife and returned back to you did he come back with any injuries?

Ans:-No.

Qus:-What was the length of time it took the deceased to come back to you from upstairs?

Ans:-I can't remember.

Qus:-You said everything was intact when you returned back to the deceased's house. Did you enter the house?

Ans:-Everything was intact. But around the dining area, we saw the praying mat, slippers of the deceased and window removed.

Qus:-The deceased was asthmatic?

Ans:-I am not a doctor so I don't know.

Cross - examination by Jolawo

Qus:-You were in the house when the deceased and the 1st Defendant were quarrelling and fighting for most of the day?

Ans:-Yes.

Qus:-You said you separated them on a number of occasions?

Ans:-Yes.

Qus:-I will be correct to say that 1st Defendant did not say she will kill the deceased when they were having the quarrel and fight.

Ans:-She only said she will cut his private part.

Qus:-At time you left the deceased's house, he did not say he feared for his life?

Ans:-He did not.

PW1 was not re- examined. He was discharged.

PW2 (Hamza Abdullahi) informed the court that he is a watch man at Wuse II, Aminu Kano, Pakaki close. His evidence is hereby reproduced;

“What I know is that on the 17th November, 2017, I was lying down when I heard my name being called at about 1-2am. I heard the voice of Bilyaminu. I came out quickly from room and met him laying down.

I then asked Bilyaminu what was the problem but he could not talk and all effort to lift him up, I could not because he is heavy. He had a shirt that he used to cover his chest. I didn't know what happened to him but I called Ayuba to come give me a hand. We two could not lift him so we called Alabi. However, before Ayubawhom I called could come, there was a man who came out from the house..few minutes later, the wife of Bilyaminu then came out with car keys urging us to help her put him in the car. When we lifted

Bilyaminu, the whole place was littered with blood. We (myself, Hamza, Alabi) then lifted Bilyaminu into the car and his wife drove the car to the hospital. On our way, the wife then asked me the nearest hospital, to which I said we should go to Maitama Hospital. She suggested Maitama Clinic. When we got to the Hospital, a nurse came out and asked us what happened, she then proceeded to call the Doctor. When the Doctor came out, he asked the wife of Bilyaminu what happened, three times she could not respond.

The doctor then declined to attend to the patient and asked them to go to another hospital. We then brought him back to Maitama Hospital.

At Maitama Hospital, we were asked what happened by the Doctors. The wife of Bilyaminu said they were fighting since morning, and then she took a knife and in the process of trying to collect the knife from her, it stabbed him. A female doctor then demanded to know why

fighting since morning. The wife started crying and pleaded for phone to make a call. She said there phones were both damaged. The nurse then gave her phone to make calls. She was then held and taken into the hospital, the wife of Bilyaminu (Maryam) then suddenly ran outside towards the gate of the hospital to which she was held and dragged back to the hospital. She said she wanted to go and call people. The Doctors then made call to the police when the doctors discovered Bilyaminu had died. Eventually, her relations arrived the hospital. I then collected his wife's veil and covered the dead body.

The mother of the deceased also later arrived the hospital. I then lifted the veil I used to cover the death body for his mother to see him. The mother noticed knife stab on the left and evidence of teeth bite on the right chest. His finger was cut and so also his private part. The deceased body was

covered and we left the area. His relation also came over and had a talk with the Doctors and he was eventually taken to the Mortuary. We then returned back home. When we got back home, we discovered that the blood of the deceased which littered the whole floor had been cleaned – up. When I asked Alabi who cleaned the blood, he said he did not know. I later went in to take my bath. That is all I know about the case my lord.”

Cross – examination of PW2

Qus:-At the time you answered the call of the deceased, you did not know what happened to him?

Ans:-Yes.

Qus:-You said you made statement to the Police. Everything you said today is contained in your statement?

Ans:-Yes.

Qus:-Where did you meet the deceased when he called you?

Ans:-In front of his house.

Qus:-When the doctors were discussing about the deceased, you were not in the hospital?

Ans:-I was in the hospital.

Qus:-You did not enter the deceased house when you got back from the hospital?

Ans:-I did not.

Qus:-Which day did he die?

Ans:-On Sunday, the 18th

Qus:-When did you write your statement?

Ans:-On the 21st.

Qus:-You said you know the four Defendants?

Ans:-Yes.

Qus:-Have you ever had any interactions with them?

Ans:-I pray with the Male Defendant.

Qus:-You said you are a launderer?

Ans:-Yes.. I operate from my boss' house (Abdulsamad).

Qus:-What is the number of the house?

Ans:-B6.

Qus:-On the day of the incidence, you were working at your boss' house?

Ans:-Yes.

Qus:-What is the address of the deceased's house?

Ans:-C6.

PW2 was discharged.

PW3 (ASP Simon Okko) a Police Officer attached to Maitama Police Station, Divisional Crime Office testified as stated as thus;

On the 19th November, 2017 at about 03:45 hours, I was on night duty when I received a distressed call from Maitama General Hospital that a lady was there with a lifeless body of her husband. On arrival, I saw Maryam standing near her husband who was already covered with a veil. I removed the veil and took some photographs...I took custody of Maryam (accused) by handing her over to my colleagues. I then handed over the dead body to the mortuary attendant for autopsy.

I then took the accused person to the police station and she volunteered her statement...She told me that she had misunderstanding with her husband and that while they were fighting, she said she broke a shisha bottle and because of the fact that the floor was slippery, the husband fell on the floor and was choked by the bottle. She signed the statement and I countersigned. She was then detained and I then moved to the scene of crime in company of both families. At the scene, I saw some broken bottles in the sitting but there was no blood – stain in the sitting room where she said they fought. I

recovered the broken bottles after I searched their bed rooms without any stain of blood. All this took place around 4 am in the morning. When I got back to the office whilst preparing for autopsy, the relation of the deceased applied in writing for the release of the bodies of the deceased for burial according to Islamic rites. The corpse was eventually released to them and same was buried. I was then directed to handover the case to Homicide Section of the State CID, FCT Abuja for investigation which I did...that is all I know my lord.

PW3 tendered the statement of Defendant and his statement as Exhibit “A” and “B” respectively.

Cross - examination

Qus:-You said you secured the body for autopsy to be conducted..was it done?

Ans:-No.

Qus:-You said you took pictures of the deceased?

Ans:-Yes..they are six shots I took.

Qus:-You did not recover anything apart from the broken bottles?

Ans:-Yes.

Qus:-You took the pictures before the body was sent to the mortuary?

Ans:-Yes.

Qus:-The pictures of the wounds on the body were fresh?

Ans:-Yes.

Qus:-They were not stitched

Ans:-No.

Qus:-Where were the wounds on the body?

Ans:-There was knives stab on the left chest to the heart and bruises on the deceased stomach and bite on the chest.

Qus:-You were the 1st policeman to see the corpse.

Ans:-Yes.

PW3 was discharged after cross – examination.

Usman Aliyu testified as PW4. His evidence is hereby reproduce;

On the 18th November, 2017 I called the deceased at about 1:30 Pm with the intention of knowing whether he was at home to which he said he was not at home.

He then asked me what was the problem to which I said I wanted to come over and watch football. He said his wife (Maryam) was at home. When I got to the house at about 2:00pm, the house maid opened the door for me to enter.

I was watching football in his parlour, at about 4:30pm, the door was then knocked and I opened..it turned out to be Maryam's friend (1st Defendant) that came. She went upstairs and came down and when 1st Defendant was seeing her off was when she knew I was in their

parlour...we greeted and 1st Defendant then went upstairs.

At about 6:10pm, the deceased came back with one Ibrahim and went upstairs to have his bath after having dinner. He later came downstairs to meet me. At about 7:45pm, I got up and prayed I'shai and returned the praying carpet and left the house 8:15 Pm. I later called the deceased at about 12am and asked where he was to which he said yes. I then returned back to the house and met him with Ibrahim. They were discussing about the 1st Defendant's car. At about 1:10 am, I was sited, I saw someone peeped through the kitchen and retreated. I then told the deceased I was going home for fear of any insinuation from the 1st Defendant that we are disturbing her husband. Ibrahim who was with the deceased also said he was leaving. The deceased pleaded with us to allow him say his prayer. He performed ablution whilst talking with Ibrahim, I then left the house and Ibrahim also came after me with his car. Ibrahim then flashed his lights for me to stop to

which I did. Ibrahim then informed me that at about 8:15pm, the deceased and 1st Defendant fought. I then told Ibrahim we would have remained in the house if we knew they fought. I then asked Ibrahim to call the deceased to which he did, twice without any response. We then left with the understanding that Ibrahim would find out whatever the situation and report to me. I then went to meet Alhassan. We were together when mama called Alhassan requesting him to come over and pick her to the hospital to see the deceased.

Alhassan then collected my car keys and proceeded to pick mama. Alhassan then sent me a text message requesting me to come to the Hospital. At the hospital, I met people, my relations with the 1st Defendant.

After we deposited the remain of the deceased, we were then asked to move to Maitama Police Station. On our way to the hospital, I then saw 3rd Defendant's car. Alhassan then called me notifying me that 3rd Defendant's car was diverting away from Maitama

Police Station. It ended up that 3rd Defendant was going to 1st Defendant's house. I then followed them and asked Ibrahim to also follow me behind. When we arrived the house, outside the house, we saw one police officer, Hidat's father and Mars..when we entered the house, 3rd Defendant and 2nd Defendant were both upstairs.. whatwe saw downstairs was shisha pot which was not broken, laid praying mat, shoe near the praying carpet with fallen curtain behind. The parlour was in order.

After the 2nd and 3rd Defendants came downstairs with Baby Aisha, they called the maid, we then came out and they locked the house and they left with the house key within their possession.

We then proceeded to Maitama Police Station with Ibrahim. At about 6am, police then asked us to all go back to the deceased house with the respective family members. When we arrived one mass then opened the house..when we entered the house, we found out that

the shisha pot had been broken, broken flower vase and the parlour was scattered.

Before he left for the deceased's house, 1st Defendant was writing statement at the police station that the deceased fell on shisha pot. That is all I know.

Cross – examination

Qus:-When you got back to the house, Baby Aisha was home?

Ans:-Yes.

Qus:-You were not there when 1st Defendant was writing her statement?

Ans:-I was.

Qus:-What is your profession?

Ans:-I work with Kaduna Electric.

Qus:-What is your qualification?

Ans:-I have BSC Political Sciences.

Qus:-You have never had police training?

Ans:-I have not.

Qus:-You then saw 3rd Defendant carried Baby Aisha from the house?

Ans:-I saw her carried Baby Aisha downstairs.

Qus:-You did not observe the couple fighting?

Ans:-I did not.

Qus:-As at the time you got to the hospital, were there police there?

Ans:-Yes.

Qus:-Was there wound on the body of the deceased?

Ans:-Yes.. He was not with shirt there was cut in the heart region of the chest with plaster on the finger, cut on the lap and fresh bites with other bite wound healing.

Qus:-When you saw 3rd Defendant's car drove towards the deceased house, you followed them?

Ans:-Yes.

Qus:-There was no way you could have known why they changed direction towards the deceased's house?

Ans:-Yes..that is why we followed them.

PW4 was discharged after cross – examination.

PW5 (Umar Mohammed) testified as thus;

I am a driver...I work with the father of the deceased. I was in my house when one of our workers called me to say Bilyamin was dead. It was around 5:00am in the morning when I went for morning prayers I then left my house for the deceased father's house. My Oga lives at No. 1 Cadastral Maitama, when I got to the house there was nobody. When called, they said they were at the Police Station in Maitama where I met them. We then proceeded to General Hospital

Maitama. The remain of the deceased was then brought wherein he took him to the Central Mosque...we then bathed his remain in preparation for his burial. I saw wounds on his body...stabs of wounds on the lap, neck, teeth bites on the chest..the wound on the neck region was sutured and that on the lap. That is all I know about the case.

Cross examination

Qus:-Did you personally bathed the deceased?

Ans:-Yes.

Qus:-Are you aware that it is the family of the deceased that should bath the deceased Islamically?

Ans:-Yes.

Qus:-What does it entail to bath a deceased person for burial?

Ans:-We have to remove the cloth, get water in the bucket and bath the body. We wash the whole body.

Qus:-Are you aware that you need to cover the body of the deceased from waist to knee?

Ans:-Yes..but that will be after bathing the body of the deceased.

Qus:-You recall you made statement to the police in this matter?

Ans:-Yes.

Qus:-Did you tell the police that you were at the MaitamaPolice Station and from there you went to the hospital (Maitama Hospital)?

Ans:-No.

Qus:-You said in your statement that you saw the body of Bilyaminu (deceased) when he was brought for burial?

Ans:-I did not say that.

Qus:-You would not know who inflicted the injuries on the body of the deceased?

Ans:-I do not.

Qus:-You made your statement two days after the death of the deceased.

Qus:-How many people were at Maitama Police station. Were the Defendants at the police station?

Ans:-Many people. I saw the 1st and 3rd Defendant.

Qus:-You then proceeded to the hospital. Where was the corpse given at the hospital?

Ans:-Yes. His body was fully wrapped.

Qus:-Did you see any injury on the body of the deceased?

Ans:-No.

Qus:-You said some of the wounds were stitched?

Ans:-Yes.

Qus:-Did you carry him (deceased) to where he was bathed?

Ans:-Yes.

Qus:-It was at the central mosque that you saw the injury on the deceased body?

Ans:-Yes..he had stitches on the neck region and his thigh.

Qus:-Would you know who did the stitches?

Ans:-No.

Qus:-Did you know where the stitches were made?

Ans:-No.

PW5 was then discharged.

PW6 Josephine Oyendu an Inspector of Police with Homicide Department of FCT Police Command was led in evidence and she stated as follows:

“On the 19th November, 2017, at about 11:00am hour, a case of culpable homicide was transferred from Maitama Division vide letter No. AR 3100/FCT/NT/Vol. 4/22 dated 19th November, 2017

together with one Maryam Sanda female of No. 4 Kpahaki Close, Wuse 2 Abuja.. Immediately it was transferred to the Homicide Section. Our team of investigation led by inspector OkperuHussaini and myself was detailed to investigate by the Deputy Commissioner of Police, Abuja Command, Now Commissioner of Police, BalaGomna. We then proceeded to No. 4 Kpahaki close, Wuse 2 Abuja, together with one Ibrahim and Alhassan, the deceased's friends. On getting to the house, we went inside the house where we met the curtain on the ground and a praying mat on the floor. There was also water on the floor we then came back to the office where we then asked Maryam Sanda to make her statement. She wrote her statement by herself, she stated in her statement that she was from Goza in Borno State and married to Bello Bilyaminu on August 2015. 1st Defendant stated in her statement that there was a lady that sent nude picture to her husband that later resulted to fight between the two of

them, she stated further that there was a shisha pot which got broken and made her husband fell on the glass and that her husband was confirmed dead at the hospital by the Medical Doctor. The deceased was buried according to Islamic rites by the time the case was transferred to the Homicide Section. Ibrahim, one of the deceased's friend made statement that it was the 2nd, 3rd and 4th Defendants went to the deceased's house to sanitize the house. We then obtained statement from the 2nd, 3rd and 4th Defendants."

The statements of 1st, 2nd, 3rd, 4th Defendants Medical Report were tendered and admitted as Exhibits "C", "D", "E", "F" and "G" in that order.

Cross – examination

Qus:-You gave evidence that you got report of the crime at 11:00am or pm?

Ans:-Sunday, 11:00am.

Qus:-How long have you been in the Homicide Section?

Ans:-Three (3) years.

Qus:-Were you the first officer at the crime scene?

Ans:-No.

Qus:-Were the other officers who were at the crime scene from your department?

Ans:-They were not from Homicide Section.

Qus:-Do you know what it means for a police officer to secure a crime scene?

Ans:-Yes.

Qus:-Did you cite the victim's body at home?

Ans:-He has been buried before the matter was referred to us.

Qus:-You have been a detective for three (3) years. Have you come across forensic medical reports?

Ans:-Yes.

Qus:-Have you obtained forensic medical report with respect to this case?

Ans:-No.

Qus:-What is the difference between medical report and forensic report?

Ans:-Forensic is always made by our special unit who would do report often within a crime scene, whereas medical report is always after examining a person.

At the close of the case of the Prosecution, Defendants filed NO CASE TO ANSWER which the court upheld in favour of 2nd, 3rd and 4th Defendants and consequently discharged them, but asked 1st Defendant (Maryam) to enter her defence as her argument was refused by the court.

DEFENCE

The Defendant opened her defence on the 16th October, 2019 wherein one Abubakar Usman was led in evidence as DW1.

His evidence is herein re-produced:-

“On 19th November, 2017 that day, I received a call from unknown number. I answered the call and I heard the voice of Maryam crying asking me to come to the hospital. She said she lost her husband and asked me to tell her mother to come to Maitama Hospital. I then rushed upstairs and knocked at her mum’s door and we together drove to the hospital. At the hospital, I saw Maryam standing by the deceased (husband) holding his hand and crying.

As soon as she saw us, she rushed to embrace her mother. I then walked up to the deceased who was on a stretcher, covered. I opened his face, held his hand and prayed.

I later walked back to Maryam at that time the deceased's mum, brother and cousin arrived at the hospital. We then all walked up to the deceased (Bilyaminu) where we met the doctor who sought to know whether we were relations of the deceased. The brother of the deceased was asked if he wanted an autopsy which he declined but sought to have the body in the morning for burial.

The doctor then advised us to open a file which I did and brought back the hospital card to the Doctor when I returned to the doctor I then met him with policemen asking the doctor questions. The police sought to take picture of the deceased and requested for better light in view of the fact that the place was dark. I then used the torch light on my phone for the police to take the picture. When the police moved the deceased to take the picture, I saw a cut on the deceased's chest and a bite mark on his stomach and also a plaster on one of his finger.

The police asked me to pull down his trouser for him to also take pictures which I did...when the deceased was turned, the police also took pictures. The police then took Maryam (Defendant) to the police station and we then left.”

Cross – examination

Qus:-I will be correct to say that the Defendant being your cousin you like her so much?

Ans:-Yes.

Qus:-Would I be correct to say that you are not happy seeing her in condition facing trial for the death of her husband?

Ans:-I am not happy.

Qus:-Would I be correct to say that you then can do anything humanly possible to get her out of the present condition?

Ans:-Yes.

Qus:-Would I be correct to say that one of the duty is the reason why you are in court today to give evidence?

Ans:-I am in court to say what I know about the matter.

Qus:-Please confirm to this court that you were not there when the Defendant and deceased fought?

Ans:-I was not.

Qus:-You then can't tell the reason of the cut on the deceased's body?

Ans:-Yes.

Qus:-What was the name of the Doctor you met at the hospital tell the court the names of the Doctor and the police officer?

Ans:-I don't know their names.

DW1 was discharged after cross – examination.

DW2 (Maryam Sanda) the Defendant herself testified as follows;

“On the 18th November, 2017, I woke up and took my bath and fed my daughter. I later went upstairs with my cousin (Sadiya) who was staying with me aid with domestic work and went downstairs to watch movies till about 2pm and later went to say prayer, came back to the living room and went to say our prayer at about 4pm.

At about 5pm my husband came back home and went downstairs to welcome him and I met him with his friend (Ibrahim). We chatted together and I reminded him that I wanted to go for a wedding and wanted to make a call because I didn't have credit on my phone, my husband gave me his phone. I went upstairs to pick my phone and get the number where I met our daughter crying. I calmed her down. My husband had an Iphone. When I wanted to make a call, a picture up on the screen, and I saw nude

girl's picture. There was a message above the picture which suggested that it was my husband that requested for the picture. I cried for a while because I was seeing a naked girl's picture on his phone for the first time. I now rushed downstairs to call my husband so we could talk about it. My husband came upstairs with me. We started talking and it became an argument. We both started yelling and screaming. I could not take it and I asked him to divorce me so I can go back home. I now called my cousin (Sadiya) to call his friend (Ibrahim) who was downstairs to come over and interfere. My husband became very angry and that he did not want a third party.

Ibrahim came and my husband wanted to leave the room but I blocked him so we can talk about it. When I stated telling Ibrahim what had happened, my husband now pushed me and went to the kitchen. I followed him to the kitchen and Ibrahim followed us. I kept nagging and telling him to devoice me. My husband now held my neck and I chucked before his hand was

removed from my neck by Ibrahim. My husband then left the kitchen and Ibrahim followed him and locked me inside the kitchen. I sat on the floor and was crying..After a while the door of the kitchen was opened by Ibrahim and I saw my uncle whom I rushed to hug and requesting him to tell my husband to divorce me.

My uncle (Mustapha) held my hand and took me upstairs where he calmed me down and told me he was going to inform our parents the following day. My uncle left our house at about past 7pm. I now decided to get ready for the wedding I was meant to attend. My friend came to pick me up for the wedding and I sent a message to my husband that I was going and that I was leaving our daughter at home. I came back home at about past 11pm. I met him with his friend in the living room. I greeted them and I went upstairs. I met our daughter awake. I fed her and put her to sleep. I then went to the kitchen to make tea..when I was going downstairs, my husband heard footsteps and sought to

know who and I said I was the one. I made tea and went back upstairs. I then came back downstairs to the kitchen to drop the cup. I met my husband in the kitchen and he started yelling at me, asking why I involved his friend into the matter. I ignored him as he kept yelling at me. I left the kitchen and went to the living room to get my charger but his friends were not there anymore. I plucked my charger and wanted to leave but my husband was angry and that I should not walk out on him. He dragged me from behind. I wanted to leave, he now pushed me and as I was falling, I mistakenly pushed sisha bottle..the sisha bottle broke and the water inside spill off my husband pinned me to the ground and I bit him.. He also bit me in retaliation I could hear our daughter crying and I asked him to allow me so I attend to our daughter. I struggled to my feet when he loosened up... I was walking way, he wanted to hold me again and he fell. He was calling me to come and help him and I thought he was pretending, when I went upstairs, he was calling me and

I now asked my Cousin (Sadiya) to go downstairs and see and she rushed back up to say that she saw him holding his chest. I then gave her our daughter and ran downstairs to him and I met him holding his chest with a bottle on his chest. I removed the bottle and I put my scarf there. I then rushed upstairs to get help, I met Ayuba outside and sought for help. He came and we put him in the car and left for Abuja Clinics.

At Abuja Clinic, we brought him out and the nurse checked him and said there was no pulse...I was in shock and could not believe it, I then took him to another hospital (Maitama Hospital) at Maitama Hospital, I went to everyday, I kept crying and seeking for help..when they checked him, they said the same thing.

I could not talk to the doctors any further because I was in shock. A nurse came to me and sought to know if I wanted to call anybody, and I gave her my mom's number and there was no response, the same with my

brother's number.. I now gave mycousin's number (Sadiya) and he phoned her and asked her to call my mother.

I told him Bilyaminuwas gone..I told him I was at Maitama Hospital, I later saw my Cousin with my mom, I rushed to hug her in tears... I was asked to also pray for him..later on, myhusband's mom and brother came to the hospital, I held her and was crying.

Two policeman later walked up to us and requested me to follow them to Maitama Police Station to give a statement. When the police man was asked why a statement, he said the deceased died of an injury and that I needed to tell them why. We now went to Maitama Police Station where I write my statement. I did not kill my husband.

I will never do such a thing. We loved each other despite our differences. That is all I know.”

Qus:-What do you have to say with respect to the evidence of PW2?

Ans:-He didn't say the truth.

Qus:-PW1 said you attempted to stab the deceased with kitchen knife four times and broken bottle?

Ans:-That is not true.

Qus:-What did you have to say about the charge before the court?

Ans:-It is not true my lord..the charge is not true... I did try to kill my husband.

Cross – examination

Qus:-How long were you married to your late husband before hisdismiss?

Ans:-Two years.

Qus:-Is it true that the fight between you and your husband happened in your living room i.e downstairs of your house?

Ans:-It started from my room before we continued downstairs.

Qus:-I'll be correct to say that the argument that led to death of your husband occurred in the ground floor of your house?

Ans:-Yes.

Qus:-The ground floor where your husband was injured have your kitchen?

Ans:-That is not the only living room in our house..that is where most of our guests stay.

Qus:-Have a look at Exhibit 'C' (statement of the Defendant) you broke the sisha bottle out of anger?

Ans:-No.

Qus:-Have a look at Exhibit 'A' (statement of Defendant made at Maitama Police Station) from the statement, you broke the sisha bottle out of anger?

Ans:-No.

Qus:-I would be correct to say that you drove your husband to the hospital?

Ans:-Yes.

Qus:-Confirm to this court that the broken bottle and water from the sisha pot was on the floor before you left the house and also blood stain on the floor?

Ans:-There was broken sisha bottles and water on the floor but there was no blood on the floor..he had blood on his shirt but I later covered it with my scarf.

Qus:-Is it true that what led to the death of your husband is as a result of the fight between two of you was the fact that you saw a naked picture on his phone?

Ans:-Yes.

Qus:-You said you removed a bottle and brought him to the hospital which bottle was that?

Ans:-Sisha bottle and drove straight to Abuja Clinics.

Qus:-What then did you do with the bottle?

Ans:-I left it there.

Qus:-From Exhibit 'A' do you still maintain that you did not break the sisha bottle out of anger?

Ans:-I did not..my body mistakenly pushed the sisha bottle.

Qus:-You had previously requested for divorce several times?

Ans:-No.

Qus:-On this day that you saw the nude pictures on your husband's phone, you asked for divorce?

Ans:-Yes.

Qus:-You weren't the only one who lifted your husband out of your house into the car to the hospital?

Ans:-Yes.

Qus:-Is it true that you did not render help to your husband when he called on you?

Ans:-It is not true. It was when I sent my Cousin (Sadiya) that I knew he was injured.

Qus:-From Exhibit 'C' I will be correct to say that your marriage was fraud with disagreement?

Ans:-No...every couple have disagreement.

Qus:-Confirm your husband was dead when you carried him into your car?

Ans:-I don't know.

Qus:-You drove your husband to the hospital?

Ans:-Yes.

Qus:-You have mentioned Ibrahim several times in the course of your evidence. I'll be correct to say that the Ibrahim knew everything that had happened that led to the death of your husband?

Ans:-Yes.. I mentioned everything to him and I thought he (Ibrahim) was coming to court to tell the truth.

Qus:-Can you tell the time frame between when your husband called for help and when you eventually helped him?

Ans:-I don't know..maybe two, three or five minutes.

Qus:-Where was your Cousin (Sadiya) when you were having this fight?

Ans:-I left her downstairs with our daughter.

Qus:-I'll then be correct to say that you were the last person with the deceased when he fell and sustained the injury?

Ans:-Yes.

Defendant was not re-examined.

Defendant's counsel at this point closed the case of the Defendant to pave way for filing and adoption of final written address.

Learned counsel for the Defendant in their final written address formulated a sole issue for determination, to wit; whether the totality of evidence adduced by the Prosecution/Complainant can sustain the said count against the Defendant to warrant a conviction.

Canvassing argument on the lone issue afore-formulated, learned counsel for the Defendant, Regina Okotie – Eboh contended that for a charge of culpable homicide punishable with death to be sustained, the Prosecution must prove the ingredients of the offence as set out in *ADAMU VS STATE (2014) 10 NWLR (Pt. 1416) Page 441 at 460, ILIYASU VS STATE (2014) 15 NWLR (Pt. 1430) Page 245 at 263 paragraph F-H*, i.e the death of the Deceased, that the death resulted from the act of the Defendant, that the Defendant

caused the death of the Deceased intentionally or with the knowledge that death or grievous bodily harm was its possible consequence.

It is the contention of learned counsel for the Defendant that Prosecution must meet the above ingredients for conviction to be grounded through credible evidence.

It is further the submission of the learned counsel for the Defendant that the evidence proffered by the prosecution did not support the alleged offence of culpable homicide against the accused as all the Prosecution witnesses did state that the Defendant caused the death of Bilyaminu Bello Haliru (deceased).

Learned counsel for the Defendant R. Okotie – Ehoh, contended that PW1 in his evidence did not link the Defendant to the death of the deceased and that PW2 (Hamza Abdullahi) in his evidence before the court also did not state that he saw the Defendant kill the deceased or cause the death of the deceased.

Counsel submit that the only vital witness to ascertain or corroborate the evidence of PW2 is the Doctor whom the PW2 stated that the Defendant allegedly told what happened and in the absence of same, the court cannot rely on the evidence of PW1 and PW2 same having been denied by DW2 (Defendant).

R. Okoie – Eboh of counsel submit that the position of the law is settled that any doubt created in the mind of the court must be resolved in favour of the accuse. The case of *OMOLEYE VS STATE (2014) 3 NWLR (Pt. 1394) page 234 at page 333* was relied upon by the counsel.

Counsel contended that, there is no evidence in Exhibit “A” and “B” that show that the Defendant caused the death of the Deceased or the act of the Defendant resulted in the death of the Deceased as PW3 told the court that he recovered only broken bottles in the scene of the crime and not knife as alleged.

Learned counsel maintained that PW6 (Inspector Josephine Oyendo) of the FCT Command Homicide section, Abuja told the court that she did not see the body of the deceased and that whatever she did was after the body of the Deceased was buried. She told the court that she did not obtain forensic medical report with respect to Deceased.

Counsel further stated that the position of the law is settled that a court will dispense with medical report or not bound by its in a situation where the death was instantly caused by the act of the accused. ***GALADIMA VS STATE (2017) 14 NWLR (Pt. 1585) Page 187 at Page 206 – 207*** that the situation stated in the aboved case is not applicable as there is no evidence that the death of the Deceased was caused by the Defendant.

It is further the submission of the learned counsel that Exhibit “G” stated cause of death as suspected severe haemorrhage secondary to penetrating wound on the

chest wall and that the said Exhibit “G” did not categorically state that the deceased died as a result of the act of the Defendant.

Counsel argued further that, suspicion however strong will not lead to a conviction. *SHEHU VS STATE (2010) 8 NWLR (Pt. 1195) page 112 at page 135 paragraph F.*

Learned counsel submit that Exhibit “G” advised that autopsy should be carried out and that same was not carried out and therefore, it is impracticable and impossible for the prosecution to determine the object that inflicted injury that caused the death of the deceased.

Counsel contended further that the Defendant is not bound to prove her innocence and that the evidence of Defendant before this Honourable court and Exhibit “A” and “C”, remain uncontroverted by the prosecution. R. Okotie – Eboh of counsel stated further that circumstantial evidence must be positive,

compelling and with mathematical precision pointing to the guilt of the Defendant and that there is no evidence linking the Defendant with the death of the Deceased and that where there is no evidence to prove an essential element in alleged offence, such an alleged offence cannot be sustained against a Defendant. ***NWAKWO VS SHITTA – BEY (1999) 10 NWLR (Pt. 621) page 84 – 85.***

Counsel submit that the prosecution did not tender any knife or the police who investigated the case, never stated that the Defendant stabbed the Deceased with knife. PW1 and PW4 also confirmed that there was a shisha bottle in the house of the Deceased and PW1 confirmed that he was in the house and smoked shisha with the Deceased. Counsel argued that the above evidence created doubt and the position of the law is settled that any doubt created in the mind of the court must be resolved in favour of the Defendant. ***OMOYELE VS STATE (2014) 3 NWLR (Pt. 1394) Page 232.***

It is further the argument of learned counsel that the Prosecution has failed to provide evidence to establish the ingredients of the alleged offence against the Defendant to warrant her conviction. Counsel referred the court to the decision of my learned brother, Hon. Justice H.B Yusuf in suit No. FCT/HC/CR/100/2013 between C.O.P V. Amina Dauda delivered on the 7th of June, 2019 in urging the court to discharge and acquit the accused.

Upon receipt of Prosecution final written address, Defendant's counsel filed a reply on points of law wherein learned counsel argued that there was no circumstantial evidence to link the Defendant to the death of the Deceased and that the reasons adduced by the complainant as circumstantial evidence are not cogent and compelling to sustain the alleged offence in the charge against the Defendant.

Defendant's counsel also maintained that the court of law will operate in the realm of facts before it and not

on speculations or abstracts. A trial court must not base its decision on extraneous matters not supported by evidence before it. *ISAH VS STATE (2007) 12 NWLR (Pt. 1049) page 582 at 614.*

Learned counsel argued by way of reply that the case of *ENEWOH VS THE STATE (1989) 5 NWLR (Pt. 119) page 98 cited* by the Prosecution is totally different from the facts of the case before this Honourable Court in the present case from PW1 to PW6 that testified before the court, none of witness saw the accused killed the deceased.

Learned counsel contended further that there was no confessional statement by the Defendant that she killed the Deceased as there was no admission in Exhibits “A” and “C”, the two statements of the Defendant and that the case of *VINCENT ACHUKU VS STATE (2014) LPELR – 22651* cited by the complainant was not applicable to the facts before the court as there is no confessional statement.

In urging the court to discharge and acquit the Defendant, Defendant's counsel commended the case of *C O P VS AMINA DAUDA (Supra)* where the Defendant was discharged and acquitted for the offence of culpable homicide punishable with death in view of the fact that Prosecution which called five witnesses could not prove the guilt of the Defendant through eye witness account of how the fire which burnt the deceased was caused and that there was no strong circumstantial evidence to nail the accused person.

Learned counsel for the Defendant on the whole, urge the court to discharge and acquit the Defendant.

On their part, learned counsel for the Prosecution formulated a lone issue for determination to wit; whether from the totality of evidence led by the prosecution and the Exhibits tendered, the prosecution has proved its case against the Defendant beyond reasonable doubt?

Arguing the lone issue, it is the argument of prosecution that it has made out a case of culpable homicide punishable with death against the Defendant.

Learned counsel for the Prosecution argued that on the authority of *UMARU VS STATE (2015) LPELR 40901 CA*, the Prosecution is expected to prove the following ingredients in a case of culpable homicide, as follows;

- a. That the deceased died,
- b. That the death of the deceased resulted from the act of the Defendant and,
- c. That the Defendant caused the death of the deceased intentionally or with knowledge that death or grievous bodily harm was its probable consequence.

Counsel contended that Prosecution can prove its case by concrete evidence, direct eye witness account or by confession of the Defendant if same could be adjudged to be voluntary and acceptable by law or by cogent,

circumstantial evidence pointing directly at the guilt of the Defendant.

The authority of *USMAN VS STATE (2014) LPELR 2287* was cited in support of above position of the law.

It is further the submission of learned Prosecuting counsel in their final address that from the evidence of PW1, PW2, PW3, PW4, PW5 and PW6 on the one hand, DW1 and DW2 and the Exhibits tendered, there are convincing evidence to the effect that one Bilyaminu Bello Halilu is death and that his death was caused by the act of the Defendant in this case. Counsel maintained in their argument that regardless of the fact that there was no eye witness to the actual commission of the offence, there is strong circumstantial evidence substantially linking the Defendant to the crime due to the testimony of PW1 which has been reproduced in the preceding part of this judgment wherein Defendant severally attempted to stab the deceased and that it was the presence of PW1 that prevented her.

Prosecution counsel also contended that there is evidence on record showing that the earlier attack on the deceased by the Defendant caused the Deceased some bodily injury and that PW1 accompanied the deceased to a chemist for medical treatment, and that from the evidence of PW1 and DW2, fight between the Deceased and Defendant only abated after a while and continued into the night after PW1 left their home where Defendant claimed the Deceased fell on a broken shisha bottle which caused him injury and his eventual death.

Prosecution counsel contended that the evidence of PW1 was not in any way controverted by the defence and urge the court to take same as the actual position prelude to the death of the deceased in this case. Counsel also argued that it is not in all cases of culpable homicide punishable with death that Prosecution is required to prove the cause of death by medical certificate or report. Counsel contended that where death is instantaneous, medical report as to the cause of

death is not necessary. Counsel cited the case of *ENEWOH VS STATE (1989) 5 NWLR (Pt. 119) 98*. Counsel argued that from the evidence before the court, the Deceased died before they got to the hospital and that Defendant re-iterated above position in her examination in chief and under cross – examination.

Learned prosecuting counsel argued that although Defendant made a lame attempt to exonerate herself from culpability in the killing of the Deceased when she said the Deceased held her neck when they were fighting which eventually left the shisha bottle broken spilling the water content which Deceased stepped on and fell on the pieces of the shisha bottle which injured him on the chest, her extra judicial statement to the police at Maitama Police Station and the homicide section of the Criminal Investigation Department (CID) FCT Police Command tendered as Exhibits “A” and “C” proves the contrary... Learned counsel argued that Defendant made a confessional statement to the Police,

and cited the case of *JAMES CHIOKWE VS THE STATE (2013) 8 NCC 185 AT 190 holden 6.*

Prosecution counsel also argued that production of autopsy to show cause of death is not mandatory and further maintained that Exhibit “G” was sufficient in that Deceased died almost immediately and that Exhibit “G” shows that kind of injuries sustained by the Deceased. On the whole, Prosecution urged the court to hold that it has proved its case against the Defendant beyond reasonable doubt and convict the Defendant.

Reasoning of court and decision

I have read with keen interest, the respective addresses of both learned counsel for the Prosecution, on the one hand and that of the Defendant, on the other hand. I have equally abreast myself with the evidence before the court (oral evidence and documentary evidence).

It is instructive to state at this point that a good final written address may provide a judge a clear mental

opinion to perceive either the tenuousness in what had appeared impregnable or to see the veneer and discover the hard core of a party's case. There are however occasions when such an address becomes a formality – they may not diminish or add strength or weakness in a party's case.

I wish to also add that judicial authorities are legion on the fact that final address no matter the brilliance exhibited in writing same cannot take the place of evidence adduced.

The authority of ***JOHN VS STATE (2015) LPELR – 4042 (CA)*** is instructive on the issue.

From the available evidence (oral and documentary), both Prosecution and Defence have dangled issues of law bothering on circumstantial evidence, lack of autopsy, unavailability of weapon used, lack of eye witness to the crime, lack of confessional statement, etcetera etcetera.

I shall in the course of this Judgment touch on all the issues and more of such issues of law that I am most convinced will direct us to a legally acceptable destination.

To do this, the issue formulated by learned counsel for the Defendant for determination, to wit:-

Whether the totality of Evidence adduced by the Prosecution/Complainant can sustain the said count against the Defendant to warrant conviction, has been adopted as lone issue for determination by this court.

Culpable homicide punishable with death is the charge against the Defendant (Maryam Sanda).

The law is settled on the ingredients of the offence which Prosecution is under a duty to establish by credible evidence before the court for conviction to be secured. The proof is always beyond reasonable doubt. See the case of *ORJI VS STATE (2008) VOL. 6 M.J.S.C 168 at 183 Paragraphs D-F.*

For an accused person to be sentenced to death for culpable homicide under section 221 of the penal code, as in the present case, the Prosecution is under an obligation to prove the following:-

- a. The death of the deceased
- b. That the death resulted from the act of the accused
- c. That the accused knew that his act will result in death or did not care whether the death of the deceased will result from his act.

On above, I rely on ***AKPA VS STATE (2008) LPELR 368 SC or 4-5 SC (Pt. 11)***1. ***BAKARE VS STATE (1987) 1 NWLR (Pt. 52) 579, KADA VS STATE (1991) 8 NWLR (Pt. 208) 134.***

Prosecution called a total of six witnesses and tendered exhibits which have been mentioned in the preceding part of this judgment.. Defendant on the part of the defence called two witnesses.

I shall again make elaborate reference to the oral and documentary evidence in the course of this judgment.

I further wish to mention that Prosecution in proving the guilt of a Defendant may from the available evidence lead either concrete evidence, direct eye witness account, confession of the Defendant or circumstantial evidence which must be cogent, pointing directly at the guilt of the Defendant.

I find solace for above in the case of ***USMAN VS STATE (2014) LPELR 2287.***

From the available evidence before me, there was no eye witness who saw how the deceased died; the Defendant who is the wife of the deceased (Bilyaminu) did not confess to killing her husband (Bilyaminu). The court therefore is left with two options i.e consider the concrete nature of the evidence adduced by both Prosecution and Defendant to be able to draw inference from the surrounding circumstances of the case.

The Defendant (Maryam Sanda) is presumed innocent, until her guilt is established. This is enshrined under section 36(5) of 1999 Constitution of Federal Republic of Nigeria as amended. See *ALHASSAN VS STATE (2010) LPELR 8674 (CA)*.

This policy of entitlement of accused person to the benefit of doubt indeed derives from the fact that human justice has its human limitations.

It is not given to human justice to see and know, as the almighty creator knows, the thoughts and actions of all men. Human justice has to depend on evidence and inference.

Dealing with the irrevocable issue of life and death, caution must be exercised lest an innocent person is sent to an early and ignoble death.

I wish to state that I have a duty thrust upon me to investigate and discover what is in any particular case will satisfy the interest and demands of justice.

And the interest and demands of justice be dictated by the peculiar facts and the surrounding circumstances of each case.

Before I proceed further, permit me to disabuse the mind of learned counsel for the Defendant who have made heavy weather on the issue of lack autopsy to determine what was the cause of death of Bilyaminu, lack of eye witness account, lack of confessional statement and absence of weapon used.

It is not the law that failure to produce the murder weapon is fatal to the case of the Prosecution. It is most inequasiqueatial.

Above position was re-iterated by SC per Odili JSC, in the case of ***ELUJI KINGSLE EZE VS STATE ELC (2018) 3037 SC Page 1.***

Above position was earlier similarly stated by court of Appeal in ***ADAMU VS STATE (1991) 4 NWLR (Pt.187)530*** where Tabai JSC (as he then was) was

quoted in *OLAYINKA VS STATE (2007) 4 SC (Pt. 1) 210* to have said there is no law requiring for tendering of a murder weapon to secure conviction of an accused person.

The position of the law is also not different with respect to medical report on the cause of death of a deceased, depending on when such a deceased actually died.

In *ADAMU VS KANO NATIVE AUTHORITY (1956) 1 FSC 25, (1956) SCNLR 65*, the Federal Supreme Court held that the court could infer cause of death from the circumstances surrounding the death, where there is lack of medical evidence. See also; *AYINDE VS STATE (1972) 3 SC 153, EDIM VS STATE (1972) 4 SC 160; THE STATE VS EDOBOR (1975) 9 – 11 SC 69*.

It is worthy of note that in these cases referred above, the body of the deceased was not even found and produced for possible autopsy.

The Supreme Court, yet held in each of the aforementioned cases that the fact of the death was probable by circumstantial evidence. In *ESSIEN VS STATE (1984) 3 SC 14 at 18*, the Supreme court, per Mohammadu Bello, JSC (as he then was) observed as follows:-

“It is trite law that although medical evidence as to the cause of death is desirable, it is not essential in all cases of homicide. Where medical evidence is not available as to the cause of death, the court may infer the cause of death upon circumstantial evidence adduced before it.”

Nnamani JSC (as he then was) however has this to say in *LORI & ANOR VS STATE (1980) 12 NSCC 269 at 272*.

“But circumstantial evidence sufficient to support a conviction in a criminal trial especially murder, must be cogent, complete and unequivocal. It must be compelling and must lead to the irristible

conclusion that the prisoner and no one else is the murderer.

The fact must be incompatible with innocence of the accused and incapable of explanation upon any other reasonable hypothesis than that of his guilt.”

It is now fully established that where there is no other evidence upon which the cause of death can be inferred, it is not vital to have resort to medical report.

A court can also, in the absence of a medical report, properly infer the cause of death from the evidence and circumstances of the case.

Ogbuagu, JSC in Page 30 Paragraphs G-B in the case of *OGBU VS STATE (2007)5 NWLR (Pt. 1028) 635 at 666 – 667 paragraphs F – B.*

Ogbuagu, JSC, in Ogbu (supra) also has this to say.

“When there is other evidence upon which the cause of death can be inferred, it is not vital to

have resort to medical report. A court can also, in the absence of medical report, properly infer the cause of death from the evidence and the circumstances of the case. Where the cause of death is obvious, medical evidence ceases to be of any practical or legal necessity in homicide cases. Such a situation arises where death was instantaneous or nearly so. Medical evidence, though desirable in establishing the cause of death in a case of murder, is not indispensable where there are facts which sufficiently show the cause of death to the satisfaction of the court. See ADAMU VS KANO N.A (1956) SCNJ 65, BAKOK VS STATE (1980) 8 – 11 SC 81, UGO VS AG BENDEL STATE (1986) 1 NWLR (Pt. 17) 418, OFORLETE VS STATE (2000) 12 NWLR (Pt. 681) 415, ALALAPE VS STATE (2001) 5 NWLR (Pt. 705) 79, LORI VS STATE (1980) 8 – 11 SC 81, BWASHI VS STATE (1972) 6 SC 93.”

May I also state at this juncture that the case of *COP VS AMINA DAUDA (Supra)* heavily relied upon by learned counsel for the Defendant, same being a case decided by a judge of the FCT High Court is not on all force with the present case in that, the deceased died after morethan one week after being taken on medical voyage to WuseGeneral Hospital Abuja, National Hospital Abuja andGwagwalada Specialist Hospital Abuja before he was later taken to Kaduna State where he later died.

In the present case, the deceased from available evidence died almost immediately and confirmed lifeless from the evidence of DW2 (Maryam Sanda) the Defendant, when the deceased was taken to Abuja Clinics and Maitama General Hospital.

As I stated from the preceding part of this judgment, the Prosecution is under an obligation to establish the guilt of the Defendant in view of the constitutional presumption of innocence.

The above constitutional provision has an exception..the exception isthe DOCTRINE OF LAST SEEN.

The doctrine of last seen means that the law presumes that the person last seen with the deceased bears full responsibility for hisorher death. Thus where an accused person was the last person to be seen in the company of the deceased and circumstantial evidence is overwhelming and leads to no other conclusion, there is no room for acquittal.

It is the duty of the accused person to give an explanation relating to how the deceased met his death. In the absence of any explanation, a trial court and even an appellate court will be justified in drawing the inference that the accused person killed the deceased.

Above was stated in the case of *MADU VS STATE (2012) LPELR – 7867 (SC)*.

The doctrine of Last Seen therefore, is an exception to the watertight provision of presumption of innocence

provided under section 36(5) of the 1999 Constitution of FRN as amended.

The doctrine of Last Seen therefore lays a burden on the accused to give an explanation on how the deceased met his death. *MADU VS STATE (Supra)*.

Under cross – examination, Maryam Sanda (Defendant) was asked the following question which she answered, as follows:-

“I’ll then be correct to say that you were the last person with the deceased when he fell and sustained the injury?”

Ans:- Yes.”

Whereas the deceased (Bilyaminu) is no more, whereas there was no eye witness, the Defendant (Maryam Sanda) by her admission is under an obligation and not the Prosecution to explain truthfully what happened to the late Bilyaminu (her husband) under the Doctrine of Last Seen.

It is again expedient to refer to the evidence before me.

It is the evidence of PW1 (Ibrahim Mohammed) that he was in the deceased's house with him when his wife called the deceased upstairs, and that there was noise after sometime and that at the instance of the Defendant, PW1 was called upstairs by Sadiya (house help) where he met both Defendant and Deceased holding themselves.

PW1 also stated in his evidence that Defendant who had groundnut bottle in her room, picked and broke same with intent to stab the deceased, but that he grabbed Defendant's hand before the broken bottle was retrieved from the Defendant.

Deceased then came downstairs and I was pleading with the Defendant but she insisted that she be divorced or that she will sever the private part of the deceased. It is further the evidence of PW1 that Defendant also attempted to stab the Deceased with cover of insense wine she broke but same was retrieved by the deceased.

It's further the evidence of PW1 that Defendant attempted picking kitchen knife three to four times but for his intervention as he kept retrieving same from her

PW1 also stated that he and the deceased at the instance of the deceased left the house to the nearest ATM to withdraw money and pay the Mechanics and also have his bitten finger dressed, and that by the time they both got back to the deceased's house, Defendant was not at home but later returned to meet them. Usman Aliyu (deceased's brother) later joined them and later requested that they allow the deceased with his wife so she does not blame them for keeping her husband. They both left the deceased's house when Abba Bello (deceased's brother) called to tell him Bilyaminu was dead and that he should meet them at Maitama Hospital.

PW1 stated in his evidence that at the hospital, he saw the deceased with stab wound on his upper abdomen by the direction of the heart, stab around the neck, bitten

spots on his stomach, deep cut around his lower thigh which was stitched and stab wound on his back.

It is also the evidence of PW1 that on their way to the Police Station from the hospital after the remains of the deceased was deposited on the mortuary, when the mother of the 1st Defendant (3rd Defendant) and 2nd Defendant with the Policeman detailed to follow them to the Police Station then diverted to the Maryam Sanda's house wherein the Policeman was left in the car while the 2nd and 3rd Defendants were inside the house. He discovered when he and Usman entered the deceased's living room that the window fell down and that they saw deceased's praying mat and his slipper beside a window.

PW2 (Hamza Abdullahi) a watchman who works and lives at Wuse II, Aminu Kano, Pakaci Close gave evidence on how the deceased called his name at about 1 – 2am and how he came out and found the deceased laying down but could not talk, holding his chest and

covering same with a shirt and that eventually 1st Defendant came out and requested that PW2, one Hamza and Alabi help to put the deceased in her car whereof she drove to the hospital. There was blood all over the place. PW2 stated further that for lack of satisfactory explanation on the part of the 1st Defendant (Maryam Sanda), request for examination of the deceased was turned – down and at Maitama Hospital where the deceased was eventually taken to, he was pronounced death.

PW2 also stated in his evidence that Maryam Sanda (Defendant) was asked what happened to the deceased by doctors, she said they were fighting since morning and then she took a knife and in the process of trying to collect the knife from her, it stabbed him.

PW2 in his evidence stated that he collected Defendant's veil to cover the deceased's body and that when his mother arrived the hospital, she lifted the veil so she could see him, and that there was knife stab on

the left and evidence of teeth bite on the right chest, his finger was cut, so also his private part. I covered him and left, when I got back home, the blood of the deceased which littered the whole place had been cleaned-up.

PW3, Assistant Superintendent of Police (ASP) Simon Okho of Maitama Police Station, Division Crime also gave account of the wounds on the deceased's body under cross examination, as follows:-

Qus:-“Where were the wounds on the body”?

Ans:-There was knife stab on the left chest to the heart and bruises on the deceased's stomach and bite on the chest”.

On the part of the 4th Prosecution Witness (Usman Aliyu) who was earlier at the deceased's house to watch football, stated in his evidence that he left deceased's house at about 8:15pm after he prayed Isha'i only to be informed by One Alhassanvide text message to meet them at the hospital where he saw the deceased.

It is further the evidence of PW4 that they were all asked to go to Maitama Police Station from Maitama Hospital after the remains of the deceased was deposited in the Mosque.

It is also his evidence that 3rd Defendant's car on their way to the Police Station diverted to the 1st Defendant's house to which he and PW1 also followed them. He said at the residence of the 1st Defendant, he saw shisha bottle which was not broken, laid praying mat and shoe near the carpet with fallen curtain blind but the parlour was in order.

The said 2nd and 3rd Defendants (Mother of the 1st Defendant and her brother) who were upstairs later came downstairs and together they all left the house to Maitama Police Station after 2nd and 3rd Defendants locked the house. PW4 also stated in his evidence that at about 6:00am, the Police then requested that all of them should go back to the deceased's house which they did. PW4 stated that when they arrived deceased's

house, for the second time from Maitama Police Station on the instruction of the Police, he discovered that the shisha pot was broken, broken flower vase and scattered parlour.

It is further his evidence under cross examination that he saw cut in the heart region of the chest of the deceased, plaster on the finger, cut on the lap and fresh bites on the deceased. This piece of evidence was also given by PW1 under cross examination.

PW5 (Umar Mohammed) on his part said in his evidence that he drove the father of the deceased and was called by a co-worker to be informed of the death of Bilyaminu.

It is further his evidence that he participated in bathing the body of the deceased at the National Mosque in preparation for burial. It is his evidence that he saw stab wounds on his lap, neck, teeth bites on the chest and that the wound on the lap and neck region was stitched.

On her part, PW6 (Inspector Josephine Oyendo) of FCT Command gave evidence on how the case was transferred to the Command on the 19th November, 2017 vide letter AR 3100/FCT/NT/Vol. 4/222 dated the 19th November, 2017 together with Maryam Sanda. It is the evidence of PW6 that when her team visited the deceased's house at No. 4 Kpakaci Close, Wuse II, Abuja with one Ibrahim and Alhassan (deceased's friends), they saw the curtain on the ground and a praying mat on the floor, and that there was water on the floor. That they returned back to the Command where Maryam Sanda (Defendant) and other Defendants made statements.

Maryam Sanda wrote her statement by herself. Same was tendered and admitted in evidence as Exhibit 'C' medical report was tendered and admitted as Exhibit 'G'.

The law is already established peradventure, where a piece of evidence is unchallenged or remained

unshaken after cross - examination. Where a piece of evidence is neither challenged, and such is relevant to the facts in issue, the Court is under a duty to rely upon such evidence.

I rely on *AMAYO VS ERINMWINGBOVO (2006)5 SC (Pt. 1)1*.

Maryam Sanda (Defendant) in her oral evidence before the court which is captured in the preceding part of this Judgment stated how the deceased (Bilyaminu) slipped and fell as a result of water that spilled from a shisha bottle that got broken when she mistakenly pushed same.

I have put the evidence of Maryam Sanda side by side with that of PW1 and PW4 on the issue of “broken shisha bottle or pot,” and I wish to ask the following questions:-

- a. Was the shisha bottle broken before or after the death of Bilyaminu?

- b. How come both PW1 and PW4 in their respective evidence never mentioned shisha bottle or pot being broken when they visited deceased's house on their way to Maitama Police Station after the death of Bilyaminu?

It is not in doubt that both PW1 and PW4 were together with the mother and brother of Defendant at the house of the deceased after they both left Maitama Hospital on their way to the Police Station. Mother and brother of the Defendant did not deny the fact that these two persons were with them at the residence of the deceased before they all later left for Maitama Police Station after they locked Defendant's house.

In their respective evidence, PW1 and PW4 both described what they noticed in the living room of the deceased before they left deceased's house and after they came back with the Police officers at 6:00am from Maitama Police Station.

Their evidence is unanimous on what they saw, i.e fallen window curtain blind, praying mat and shoe near the window.

There was no evidence of broken shisha bottle or scattered parlour.

I am curious to know that is why I have asked the afore questions. I am further disturbed that learned counsel for the Defendant did not ask PW1 and PW4 under cross examinations any questions on the state of the parlour of the deceased or broken shisha bottle which hitherto was not the same when they all visited the house on their way to Maitama Police Station. This piece of evidence has remained unshaken and undiscredited.

The law is very firm in this area of our jurisprudence. I rely on *AMAYO (Supra)*. I am fortified by the unshaken evidence of PW1 and PW4 to conclude that the “*almighty shisha bottle*” was broken and living room scattered to serve as a smoke screen all carefully

stage managed to cover Maryam Sanda's action. This, I must say, is an affront on the collective intelligence of this court, society and morality.

Needless to say that the shisha bottle in question which was later broken, was broken after the death of Bilyaminu.

I shall again ask the Defendant (Maryam Sanda) the next question;

Qst..Now that the question of shisha bottle has been resolved, what inflicted the wounds on the chest, back and thigh of the deceased, Bilyaminu in view of the fact that you were the only one last seen with him, and now that your story of shisha bottle has been discredited as same was broken after the death of Bilyaminu?

I ask you above question in view of the evidence of PW1, PW2, PW3, PW4 and Exhibits 'A, C' and 'G' which are unanimous on the injuries inflicted on the deceased and the fact that you threatened to cut the private part of the deceased. Your extra judicial

statement to the police has corroborated the evidence of (Ibrahim) PW1 and PW2 (Hamza Abdullahi). I herein reproduce relevant portions of Exhibits 'A & C' i.e statements to Police and Exhibit 'G' i.e Medical Report.

For the purposes of clarity and posterity, I herein reproduce relevant portion of Exhibit 'C' i.e extra judicial statement of the Defendant (Maryam Sanda) to the Police on the 19th November, 2017 as follows:-

“I Maryam Sanda of Gwoza Local Government Area of Borno, studied in university of Maiduguri. I married to Bilyaminu Ahmed Bello since 2015. Yesterday being 18th November, 2017 at about 8:30 started arguing with my husband pertaining a girl that sent her naked picture to my husband, this led to us fighting and hitting each other. Letter on I called Ibrahim (his friend) he came and apologized but I told him no way my husband has to divorce me or I will cut his private part, so the fight continued and I carried knife

and Ibrahim collected the knife from him and I said I was going to cut his private part.”

In another statement to the Police which was tendered and admitted in evidence as Exhibit ‘A’ Defendant also mentioned the fact that she threatened to cut the private part of the deceased with knife.

I now reproduce a portion of Exhibit “A” i.e another extra judicial statement of the Defendant;

“So Bilyaminu my husband went down to the kitchen and I followed him, so I now brought out the knife saying he should either divorce me or I will cut his private part.”

The said extra judicial statements which were tendered as Exhibits ‘A&C’ were not objected to by Learned Counsel representing the Defendant.

I hereby reproduce relevant portions of Exhibit ‘G’ i.e medical report of Bilyaminu Ahmed Bello (deceased).

“Above named patient was brought into the accident and emergency of this facility at 2:00am on the 19th of November, 2017 was brought in by his wife with no evidence of life in him. Examination findings; a tall, but athletic built man, lying prostrate on the stretcher, not conscious with cold clammy extremities with a penetrating wound located at the anterior-superior aspect of the left chest wall around the 2nd left intercostals space mid clavicle line measuring 4X5cm with active bleeding mixed with clots. There was also presence of superficial concentric marks on both upper limbs and abdomen. Eye: pupil were fixed and dilated cardiovascular system: pulse was undetectable, blood pressure was undetectable, no chest movement, undetectable apex beat, no heart sound was detected.

Abdomen: flat and soft, with concentric marks (three in number and superficial) around the

epigastrium, and another two concentric marks at the back and flanks. The wounds were bleeding actively, one measuring 3X4cm and another one measuring about 3X4cm.

Urogenital System: could not be examined because patients wife was crying while lying on the patient groin and didn't heed my advice to allow examination. Patient was certified death at exactly 2:30am after examination was completed.

Cause of death was suspected severe hemorrhage secondary to a penetrating wound on the chest wall.”

What more, Defendant's Cousin whom she called as witness and who testified as DW1 (AbubakarSadiq) also stated in his evidence the fact that he saw a cut on the deceased's chest and bite mark on his stomach and also plaster on one of his finger, of immense interest in the evidence of PW1 (Ibrahim) who was also mentioned in Defendant's evidence in court and her extra judicial

statement to the Police which is in evidence she stated that the said PW1 (Ibrahim) was in their house with the deceased. She stated how PW1 joined them upstairs when they were having issues with her husband at her instance arising from the nude picture of a girl she saw on his phone and how she requested for divorce from her husband.

Whereas PW1 stated in his evidence before this court that Defendant attempted three-four times to pick kitchen knife which he retrieved from her after she attempted to use the broken groundnut bottle and broken incense bottle on the deceased was also blocked, Defendant never mentioned the fact that she attempted to pick kitchen knife three to four times, broken groundnut and incense bottle in her evidence before the court, which is inconsistent with the extra judicial statement she made to the police which I have reproduced its relevant portion in this Judgment earlier whereof Defendant stated the fact that she wanted to use the knife to cut the private part of the deceased. In

MAIGAKI VS STATE (2010)LPELR – 4457 CA, it was held that, “it is settled law that when an accused person makes a statement to the police and in his evidence in court gives something contrary to it, such testimony is usually treated as unreliable and is therefore ignored. See ***NATHANIEL NBEME & ANOR VS STATE (1988)17 SCNJ (Pt. 11) 211/220; AMUSA VS STATE (2002)12 NWLR (Pt. 750)73 and OKAFOR VS STATE (2006)4 NWLR (Pt. 969)1. Per Oredola JCA (P46, Paras a – b)***.

On the strength of above case laws, coupled with the fact that the said shisha bottle was just a smoke screen, the evidence of Defendant is clearly becomes manifestly unreliable. What is more, the evidence of PW1 on the issue of knife was corroborated by Defendant in her extra judicial statement to the police which she wrote herself and which were both tendered without any objections.

Corroboration in law entails the act of supporting or strengthening a statement of a witness by fresh evidence of another witness. Corroboration does not mean that the witness corroborating must use the exact or very like words, unless the matter involves some mathematics. Above was stated by Tobi Judicial Service Committee (JSC) (blessed memory) in ***DAGANNA VS STATE (2006)LPELR – 912 (SC) (P. 29, Paras B – C).***

As I stated from the preceding part of this Judgment, even though there was no eye witness account, confession on the part of the Defendant, this court being a court of justice is under an obligation to investigate from the evidence before it to arrive at a just and fair decision, one of which is draw inferences from the circumstances surrounding the case. This brings us to the realm of circumstantial evidence which the law allows in the absence of an eye witness account, confession on the part of the Defendant of the Commission of the offence in question.

Circumstantial evidence is the proof of circumstances from which, according to the ordinary course of human affairs the existence of some fact may reasonable be presumed. Circumstantial evidence is also that evidence of surrounding circumstances which by undersigned coincidence is capable of proving a proposition with the accuracy of mathematics. See *AKINMOJU VS STATE (1995)7 NWLR (Pt. 406) 204 Page 212*. Aderemi, JSC (as he then was) in Akinmoju (Supra) described circumstantial evidence in Criminal Law as the narration of surrounding circumstances which by undersigned coincidence is capable of proving with clear-cut accuracy the guilt of the person.

Now, whatwere the surrounding circumstances which ought to form the crucial wedges necessary to drive conviction into the mind?

What were the possibilities and probabilities, which ought to induce belief in the testimony of DW2 (Maryam Sanda)? All men stand as probable of

improbable that which they themselves would or would not have said or done under similar circumstances.

Things that are inconsistent with human knowledge and human experience are properly rated as improbable and as Aristotomas put it many, many year ago –

“Probability is never detected bearing a false testimony” where therefore the facts deposed to by a witness look probable when considered in relation to all the surrounding circumstances, they induce belief. But when they look improbable they should not induce belief and in such a case, it will be unsafe to believe.

It is necessary to mention that not every event happens in a vacuum, happened with causing or influence other events or explaining them.

The events, its antecedent and its subsequent events, all form the surrounding circumstances of the case. A witness's testimony to be credible will completely accord with its surrounding circumstances.

Above was applied in the case of *ONUOHA VS STATE (1989) 2 NWLR (Pt. 101) 23 at 32.*

The law is very settled on conviction based on circumstantial evidence. Indeed where conviction is wholly and properly based on circumstantial evidence, such evidence in support must be cogent, compelling and direct, and must lead to one and only one conclusion, the guilt of the accused.

KALGO, JSC (as he then was) reiterated above position of the law in the case of *DURWODE VS STATE (2000) 15 NWLR (Pt. 691) 467 at (2000) LPELR – 973 (SC).*

From the totality of the evidence of Defendant who was the last person to be seen with deceased when he sustained the fatal injuries and died, coupled with the surrounding circumstances that led to the death of the deceased and the evidence of PW1, PW2, DW1 and DW2 as reproduced in the body of this judgment, is it not very irresistibly clear that the Defendant fatally

injured the deceased by stabbing him in the heart region, thigh, back using the same knife which she had threatened to use on the Deceased with the pre-meditated intention of killing him.?

The evidence before me certainly points very irresistibly to the Defendant and non-other as being responsible for the ordeal of the Deceased.

The concept of justice is triplet in nature, justice for the victim (Bilyaminu) whose life was cut short in a brutal manner and whose innocent blood cried to high heavens for vengeance, justice to the perpetrator of the crime who cannot be denied the benefit of the procedure ordained by God in the Garden of Eden (i.e fair trial/fair hearing) and justice to the society whose membership has been depleted by one by desecration of its values.

I am left in no doubt that Defendant has not just failed, but woefully failed to explain the death of the Deceased bearing in mind her discredited colourfully dressed evidence which was stripped naked. I am more than

convinced that Defendant fatally stabbed the Deceased with the same knife she threatened him with which she has also mentioned in her statement to the police with the full knowledge and premeditated intention that death was not just probable, but certain.

Defendant clearly chose spots on her victim.

This is so sad when I come to terms with the fact that the person involved here is Defendant's lawfully married husband and who has a baby with the Defendant at the time of his gruesome death and who also was pregnant with another baby.

This is not just sad and unfortunate, but wicked and inhuman.

While I am in sympathy with the position of the Defendant, being a young mother with two children whose father by her inhuman action sent to an early grave, my sentiments will not go far to free the Defendant from the long arms of the law.

Afterall, it is indeed good law that sentiments have no place in the judicial process, particularly when the sentiments are against the law. The judge that I am, I must bow to the law and I so bow.

Having come to this conclusion, Defendant is hereby convicted under section 221 of the Penal Code, as charged.

SENTENCING

From the entire circumstances of this case, justice to the society and to the deceased (Bilyaminu) of the crime outweigh the other element of justice to the Defendant (Maryam Sanda) who should reap what she has sown, blood for blood.. for it has been said that thou shall not kill and whoever kills in cold blood deserves death as his/her reward or punishment.

Moreover, the rising crime against the mindless and senseless killing of both men and women, leaves much to be desired and must be seriously frowned upon.

Convict clearly also deserves to die. Accordingly, I hereby sentence the convict to death by hanging her on the neck until she dies.

This, I have done, believing that the justice of this case is better served, and believing that the soul of the deceased who has been crying for justice and whom I believe has also been attending the proceedings in this matter, may now return to his grave and rest in peace.

Before I put a full stop to this judgment, I'll like to say a word or two about the conduct of the police who were involved in the investigation of this crime.

PW4 in his evidence stated how he helped a policeman at Maitama General Hospital by turning the deceased and even removing his trousers for pictures of all the injuries to be taken and that six pictures shots were taken. Surprisingly, no such pictures were tendered. The only picture that was attached to the prove of evidence had undergone several photocopy, which was

deliberately done to fade out the photo image. This is shameful and most unprofessional.

I wish to thank the lawyers who Prosecuted and defended this case for the immeasurable contributions both in the form of time management and argument which made my work easy.

I have benefitted from all..May the good Lord bless. Amen.

The convict shall be remanded in Suleja Correctional Service.

Signed
Hon. Judge
27th January, 2020

APPEARANCE

Fidelis O. – for the Prosecution.

R. Okotie – Eboh with B. Tarfa – for the Defendant.