IN THE HIGH COURT OF THE FEDERAL CAPITAL TERITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT APO

CLERK: CHARITY

COURT NO. 16

SUIT NO: FCT/HC/CR/08/14

DATE:21/01/2020

BETWEEN

COMMISSIONER OF POLICE …….. COMPLAINANT

AND

ABDULKARIMU ……. ACCUSED

JUDGMENT

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

The Defendant, Abdulkarim Zubairu, is standing trial before this Honourable Court on a one count charge of culpable Homicide punishable with death under section 221 of penal code.

The prosecution called three(3) witnesses in proof of the case.

The first Prosecution Witness(PW1) by name HusseiniZubairu testified on affirmation. His brief evidence under examination -in-chief was that on 1-10-13,he travelled to Lokoja. While there, he was called on phone that the Defendant killed his younger brother. His evidence in the main runs thus:

> *"I am a cattle rearer. I live in Kwali. I know the the Defendant. On 1-10-13, I travelled to Lokoja. I was called on phone that this boy killed his younger brother I*

then chartered a vehicle backed to Kwali. I met them at the police station together with the corpse and the Fulani Leader. We then brought out the corpse and he was buried according to Islamic rites. The dead boy is the biological son of my younger brother. The Defendant is my own biological son"

Under cross-examination, this PW1, was emphatic that he was told that the Defendant killed his younger brother and that he did not witness the killing because he was at Lokoja.

PW2- was one Sgt Simon Ezekiel, attached to criminal investigation and intelligence Bureau (C.I.I.B), FCT police command, Abuja. His testimony on affirmation runs thus:

"on 3-10-13, a case of culpable homicide was transferred from Kwali Division. My team headed by A.S.P GwodyNkanna was detailed for investigation. We were 4 i.e. GwodyNkanna, (ASP Rtd) Insp Toyin Akerele(now in Lagos) I my self and Sgt Nasir Hassan. The case was transferred along with the suspect and exhibit. The exhibit was a cutlass. One Cpl Adetiba Emmanuel (now late) brought the suspect, the exhibit and case file. The suspect (Deff) was interviewed by my OC i.e. CSP Balarabe. My team leader also interviewed him. We were then directed to record his statement. My team leader recorded the statement of other witnesses the IPO that

brought the suspect also volunteered to make a statement. He wrote his statement by himself"

Therefore, the two statements of the Defendant made on 14-10-13 and 3-10-13 at the SCID were admitted in evidence and marked as exhibits A&B respectively. Further under examination -in- chief, this PW2,- a police investigating officer – said:

"Our findings during investigation was that it was fight of two brothers. The deceased accused the Defendant of having sexual intercourse with his sister. That there are 2 eye witnessesi.e Ibrahim Oseni and Usman Oseni who were with the deceased in the farm when the Defendant came with cutlass and killed him."

Under cross-examination, this witness was clear in saying that they (investigators) were told two witnesses were there when the incident happened. Also, he didn't know the date of the incident and could only remember that he and his team of investigators visited the scene of the crime sometimes in October 2013. Lastly, the witness said the cutlass, exhibit C was not retrieved from the Defendant but was only transferred to them along with the Defendant.

PW3 – by name Sgt Nasiru Hassan Force No 247187, attached to SCID FCT police command testified under oath with the Holy Qur'an. This witness said as follows under Oath:

"sometime in 2013, there was a case of culpable homicide transferred from Kwali to

our office for investigation, accompanied with the Defendant and exhibit i.e. cutlass. I recorded the eye witness statement. During investigation, we visited the scene of crime. We met the eye witness, the father and their Grand Mother. We interviewed them orally. The eye witness stated as he wrote in his statement. We saw blood stain on the grass we went back to office. We don't know where the witnesses are now. We visited the scene again. We saw nobody again."

The cutlass i.e. Exhibit C, that was transferred to them was admitted in evidence through this witness.

Under the cross-examination, this PW3 was categorical that he did not witness the crime, and that all he told the court were what the father of the deceased told him.

With the end of the testimony of the PW3, the prosecution closed their case against the Defendant.

The Defendant testified in his own defence. He called no additional witness and gave evidence under Oath with the Qur'an. His defence in a total denial of the allegation. In the witness box, this Defendant who claimed to be a farmer and a cattle rearer said:

"it is not true that I killed anybody with cutlass. I went to my farm to check my crops. Then the deceased follow me and started abusing me. I warned him not to abuse me again. I continued with my business. I left him. He had been accusing me of having relationship with his

sister. The deceased is my younger brother and all the accusation is not true. I was never shown the corpse since they arrested me. We were just two on the farm on that day I and deceased. I did not kill him. He is my younger brother"

The Defendant's answers to question under cross-examination are not different from what he stated in his evidence-in-chief. He reiteratedthe fact that the Deceased had accused him of sleeping with one Hawa; that he did not kill the deceased and that when the deceased abused him, he left him with God and went his way.

At the end of the defence's case, learned counsel to both parties filed written addresses.

Both counsel, in their written addressesdistilledone issue each. It is the sameissue as framed by both counsel that I too agreed calls for determination in this case. The issue is this:

> **"whether having regard to the totality of the evidence before this Honourable court, the charge of culpable homicide punishable with death filed and prosecuted against the Defendant has been prove beyond reasonable doubt"**

Chief Olusola Oke SAN with whom are Debo S. Ikuesan Esq and OluwaseyiBamgboye Esq defended this action. The final address filed by the learned SAN and dated 13-4-18 was filed the same day. There was also a Defendant's Reply address on points of law. That is dated 27-6-18.

Mr.DeboIkuesan adopted the written address of the Defendant's counsel as their argument in this case. He submitted orally in court

that no witness from the prosecution informed the Court of any corpse and secondly that the extra-judicial statement of the Defendant is consistent with his testimony in Court that he did not kill anybody.

In the written address of the Defendant's counsel at page 7,and 8 vide paragraphs 4.10 and 4.11, the learned counsel had argued that the PW1 gave a half- hearted evidence that he saw the corpse of the deceased at the police station but did not inform the court of any injury, ether in the arm or body of the deceased from which inference of machete injury could be inferred.

Furthermore, learned counsel submitted that PW2 and PW3 who investigated the case never informed the court of, either sighting the corpse of the deceased or observing any wound on his body on the basis of which a charge of culpable homicide could have been laid.

Making reference to the "doctrine of last seen", the learned SAN wrote at page 11, paragraph 4:20 as follows:

> *"it may be argued that the "doctrine of last seen" be invoked against the Defendant given his own direct testimony to have met the deceased in the farm. We submit that the doctrine of "last seen" is not operable at large but upon production of overwhelming circumstantial evidence sufficient to draw a conclusion that the Defendant (sic) could not have died from any other extraneous factor but on the contact with the Defendant alone. Submit expressly that such circumstantial facts have not been supplied in the relevant case. Submit that the doctrine, though good law,*

would be grossly misapplied in the relevant case, if invoked "

The learned Senior Advocate of Nigeriafinally submitted that on the scores of the prosecution's woeful failure to establish by evidence, the cause of death of the deceased or specific action of the Defendant that occasioned death, vital ingredient of the offence of culpable homicide punishable with death was not proved. He urged the count to discharge and acquit the Defendant. For all his arguments, the learned SAN had referred to the cases of **AKPA VS STATE (2007) 2 NWLR (PT. 1019)500; ADAVA VS STATE (2006)9 NWLR(PT.984)152; MAIGARI VS STATE(2010)16NWLR(1220)439; ABADOM VS STATE(1997)1 NWLR(PT. 479)1, IFEJIRIKA VS STATE (1999)3 NWLR (PT. 593)59, OFORLEVE VS STATE (2000)12 NWLR (PT. 631)417; AUDU VS STATE(2003)7 NWLR (PT. 820)516; UGURU VS STATE (2002) 9 NWLR (PT. 771)90; OCHE VS STATE(2007)5 NWLR (PT. 1027)214; ONWUJUBA VS OBIENU(1991)4 NWLR (PT. 183)16; IGABELE VS STATE (2006)6 NWLR(PT. 975)100 AND EMEKA VS STATE (2001)14 NWLR (PT. 734)670.**

On his part, Mr. O.M.Atoyebi SAN who led the prosecution, the Defendant should be convicted of the offence charged.

The learned prosecuting counsel, after adopting his written final address as his argument in urging for a conviction, submitted orally that the court should invoke the principle of last seen against the Defendant.

Dissecting the 3 ingredients of the offence charged and picking them one by one, the learned SAN submitted in his written submission that they have proved the fact that somebody died, that

the Defendant caused the death by using the cutlass to inflict injury on the deceased and lastly that he(the Defendant) intended or knew or ought to knowthat the consequences would be death. The learned counsel submitted that although no eye witness, the circumstantial evidence present is enough to lead to conviction.

The learned SAN submitted variously at pages 3, 4,5 and 7 vide paragraph 3.4,3.6, 3.11 thus:

> *"looking at the evidence of PW1 and the statement of the Defendant himself has confirmed to the fact that the person who died is Hussein Umoru, a cousin brother to the Defendant. We humbly urge my Lord to so hold that the first ingredient has been proved by the prosecution …… the first ingredient was not challenged by the Defendant neither did the Defendant prove that the deceased did not die……."*

> *" it is our submission that the evidence of PW2 & PW3 is unimpeachable and squarely fixed the Defendant to the commission of the offence…. The evidence of PW2 & PW3 shows that investigation revealed that the Defendant was seen in the farm with the deceased and the Defendant himself admitted in his two statement that he went to farm and met the deceased & confronted the deceased. There is need for the Defendant to explain the where*

about of the deceased as they were seen last together."

It was the above submission that led Mr.Atoyebi SAN to urge me to apply the doctrine of last seen to this case. He put it this way at paragraph 3.6, page 5;

> *" on the doctrine of last seen like this instant case where the Defendant was the last person seen with the Defendant, the Onus is on the Defendant to explain, where the deceased went to or what circumstances or events that took place that made it impossible for him to have killed the deceased ……."*

At page 7, paragraph 3.11, the learned SAN concluded thus:

> *" …….. from the fore going, the prosecution did prove all the essential elements of the charge of murder against the defendant beyond reasonable doubt. It is not imperative that their must be an eye witness account to prove offence of murder"*

Submitting further, Mr.Atoyebi SAN said;

> " it is our contention my Lord that the defendant has failed to give satisfactory account of the deceased well being in the farm necessitating the invocation of the doctrine of last seen which will lead to the inference from all the circumstances of this case that the defendant killed the deceased"

For all his written arguments, the learned prosecuting counsel cited *inter alia* the cases of **OKOLO OCHEMAJE VS STATE (2008)15 NWLR (PART 1109)57, GODSGIFT VS STATE(2016) LPELR- 4054 (SC) PAGE**

29, HARUNA VS THE A.G OF THE FEDERATION(2012) LPELR-7821 SC PAGE 22;MADU VS STATE(2012)ALL FWLR(PT.641) 1416;OMOTAYO VS STATE (2012) LPELR-9358(CA) PAGE 31;BAJULAYE VS STATE(2012) LPELR-7995(CA) PAGE 29; DELE VS STATE(2011)I NWLR(PT.1229)508;BADDEY AKPAN ARCHIBONG VS STATE(2006)14 NWLR(PT.1000)349;NWANDI OSUAGWU VS STATE (2013) I SCNJ 33; ALHAJI MU'AZU ALI VS STATE(2011) LPELR-3728(CA).

I must add at this juncture, that the full arguments of both counsel for both sides are on record and are hereby deemed in corporated in this judgment. I would refer to them where ever relevant hence forth.

Now,this is a case of culpable homicide punishable with death. The one count charge reads thus:

> **" that you AbdukarimuZubairu 'M' 28 years of PanguVillage, Kwali Area Council,Abuja on or about 1st October,2013 at about 1300hrs at PanguVillage Kwali Area Council Abuja within the Abuja Judicial Division Committed culpable homicide punishable with death in that, you caused the death of one Husseni Umaru 'M' of the same address by cutting his arm and body with a machete which resulted to his death when you know that death will be the probable consequence of your act, you thereby committed an offence contrary to S.220 of the Penal Code"**

The ingredients of the above quoted offence and charge which must be proved by the prosecution against the defendant by virtue of S.221 of the Penal Code are:

(1)The death of a human being actually occurred.

(2)The death was caused by the act of the Defendant.

(3)The act of the Defendant that caused or resulted in death was done with the intention of causing death on that the Defendant knew that death would be the probable consequence of his act.

See **MAIGARI VS STATE (2010)16 NWLR (PT. 1220) 439; ADAVA VS STATE (2006)9 NWLR (PT. 984)152.**

The prove of the above 2 ingredients in all that would ensure conviction must be beyond reasonable doubt. All the 3 ingredients must co-exist before conviction.

I assent or restate again, all the 3 ingredients must be proved to exist before there can be a successful prosecution and pronouncement of guilt.See **S.135 (I) OF THE EVIDENCE ACT, 2011**.**ABADOM VS STATE (1997)1 NWLR (PT.479)1, AKPA VS STATE (2007)2 NWLR (PT. 1019)500 UWAGBOE VS STATE (2007)6 NWLR (PT. 1031)606.**

It is long settled in our criminal law jurisprudence that the prosecution may prove the guilt of a defendant in any criminal case such as one under scrutiny in any of the following three(3) ways:

(1)By Confessional Statement of the person charged with the offence or crime.

(2)By Direct Evidence; Either being caught in the act or by evidence of person(s) who saw the killing or crime or offence being committed.

(3)By Circumstancial Evidence. This is the aggregate of facts established before the court and from which a solid inference of guilt can logically and clearly be drawn.

See AKINBISADE VS STATE(2006)14 NWLR(PT. 1000) 717.

The prosecution in this case has chosen the last option to prove their case. I mean, no confession and no direct or eye witness or evidence laid before this court.

It is pertinent here to quickly run through the salient prove facts established in this case. And agreeable to all the parties.

(1)The Defendant and the deceased are from the same family. They are cousin.

(2)The Defendant and the deceased had quarrel over immoral or incestuoussexual dealings.Specifically, the deceased had accused the defendant of engaging in sexual escapades with one of their sisters name Hauwa.

(3)The two of them met on the fateful day in a farm not far from their village.

(4)The deceased was later found dead in a pool of blood. However, the exact date and time not known.

(5)On investigation and visit to the scene of crime by police investigators some days after report of the incident, blood stained grass was seen and cutlass recovered.

(6) No eye witness to what had happened between the Defendant and the deceased. Although, the prosecution and indeed the police investigators claimed two(2) persons witness the fatal incident, they were not called to give evidence.

(7) PW2 & PW3; the investigating police officers could not ascertain the date they visited the scene of crime. PW2, at best just said “sometimes in October,2013”.

(8) The police investigators did not visit the scene of crime on the day of the incident.

(9) Exhibit ‘C’ (the cutlass) was not retrieved from the Defendant.

(10) Somebody by name Hussein Umaru died.

For all the above facts, you can see the evidence of PW1,PW2,PW3, DW1 and exhibit A, B & C.

I now come to the narrow area of factual disputes between the parties. And it is this. According to the Defendant, the farm incident or meeting he had with the deceased ended only in abusive words at each other and after which he left him to God.

On the contrary however, the prosecution claimed they engaged in a fight during which the Defendant used cutlass to cut the

deceased in the arm and body.Serious injury occurred and the deceased died after wards.

Which one should I believe? This is the crux of this judgment. I come back to this shortly in this judgment. But we should not forget in a hurry that somebody died and the problem is who killed him? Or what was the cause of his death? I now advert to the ingredient of the offence or the alleged crime;

From the evidence given by the prosecution, there is no doubt that one HusseinUmaru died on a farm on 1st October 2013. By this, the first ingredient of culpable homicide is established.

The next element or ingredient is whether the Defendant caused the death of the deceased. This is the element that has direct bearing on the issue in controversy between the parties. It is the hotly disputed fact.

Now in the absence of any confessional statement and direct evidence or eye witness, the prosecution has been forced to rely heavily on circumstantial evidence. And related to the circumstantial evidence is the "doctrineof last seen" this is the strong pillar upon which the case of the prosecution has been rested. Can it stand? This is the germane question.

The learned prosecuting counsel, Atoyebi SAN, put the point powerfully at page 6, paragraph 3.7 & 3.8 when he wrote:

> *"------- although there was no eye witness account in evidence before the court, the defendant was the last person seen with the deceased …… and the eye witness ran to look for help since the eye witness would not separate both the*

defendant and the deceased when they were fighting and when they came back with other persons, <u>the deceased was not found</u> or seen alive again with the where about of the defendant unknown at that time"

Paragraph 3.8 of same page reads

"---------- the only irresistible inference from the circumstances presented by the evidence in this case is that the defendant killed the deceased person……"

The learned defence counsel, chief Olusola Oke SAN, replied the above contention of the learned prosecuting SAN. I had quoted his reaction earlier in this judgment. I think it is worth repeating. This is what he said;

"it may be urged that the "doctrine of last seen" be invoked against the defendant given his own direct testimony to have met the deceased in the farm. We submit that the 'doctrine of last seen' is not operable at large but upon production of overwhelming circumstantial evidence sufficient to draw a conclusion that the defendant(sic) could not have died from any other extraneous factor but on the contact with the defendant alone. Submit expressly that such circumstantial facts have not supplied in the relevant case ……"

What is my view or findings both on facts and law as regards these beautiful submission of both learned Senior Advocates of Nigeria? I am invariably going to take a very passionate and holistic view of the entire facts and circumstances of the case vis-à-vis the principles of law applicable. no room for any rigmaroling at all.

In every case where it is alleged that death has resulted from the act of any person, there must be an unbroken link between the act of that person and the death that has occurred must be established and proved beyond reasonable doubt. The first and logical step in the process of such proof is to prove the cause of death. Where there is no certainty as to the cause of death, the matter ends there. But where the cause of death is known, the next step is to link it, if possible, with the act of death. See OFORLERE VS STATE (2000)12 NWLR (PT. 631) 415.

Now what is the cause of death here? According to the prosecution, it is the injury that resulted in the machete cut on the arm and body of deceased by the Defendant. But is that proved in evidence?

Cause of death can be proved by direct or circumstantial evidence. See **UGURU VS STATE (2002) 9NWLR (PT.771) 90.**

However, for circumstantial evidence to ground a conviction, it must lead to one and only one conclusion, which is the guilt of the defendant. This means that where there are other possibilities in the case other than that the Defendant had the opportunity of committing the offence, then such defendant cannot be held responsible for it. See **Akinbisade Vs State** (supra)

Lat me quickly say something on the all important 'doctrine of last seen'. The doctrine means no more than that the law presumes that

the last person last seen with or in company of the decease bears full responsibility for his or her death. But that is not all. Being in the company or last seen with deceased must be backed up with an overwhelming circumstantial evidence or other sundryrelated facts as to lead to no other conclusion except the guilt of the Defendant. See **IGABELE VS STATE (2006)6 NWLR (PT. 975) 100**. This leads me to series of questions. Was the Defendant the last person seen with the deceased and by whom? Agreed, that the Defendant said he met the deceased in the farm on the fateful day. Is that a conclusive proof of the fact that he was the last person that was with the deceased before he died? These are pertinent questions that the prosecution must provide answers as a matter of compulsion.

In this case, no one has come forward to say he saw the defendant and the deceased together shortly before the deceased passed on. Like I said before and I repeat again that the defendant said he was with the deceased in the farm yes, he said so. But the point is that what is the intervening period between when he was in the farm and when the deceased died? This question must be answered in terms of minutes, hours and days etc! in fact so many questions must crop up for definite answers. Who discovered the corpse and when? Who removed the corpse-*corpus delicti* –from the farm and when? Where was the defendant arrested and when? Was the defendant arrested so soon after coming from the farm or on the way from the farm or days or weeks after coming from the farm? Was the Defendant arrested in his house, in the farm or on the road or path leading to the farm? No one has provided answers to these questions in evidence. The prosecution left these questions begging obviously for answers.

Perhaps, if the court had been provided with the answers or facts of who, when and where the Defendant was arrested, and when and by

who it was thatremoved the dead body from the farm, then the cause of death would have been inferred to some degree of certainty. But regrettably, that was not done and this is fatal to the case of the prosecution.

I vehemently disagree with the submission of the learned prosecuting SAN as par paragraph 3.26, page 14 of his written address. This is what he put on paper.

> *"PW3 gave evidence and testified to fact that investigation revealed that the defendant appeared holding cutlass in his hand which he use it and hit the deceased on the left hand side and he fell down then blood started rushing out and that was when the eyewitness ran and called for help. Based on this evidence, there is no dispute or doubt as to the cause of death of the victim"*

(underlined mine)

With due respect to the learned SAN, I do not agree with this submission.

PW3 said no such thing in evidence. I gleaned severally at the evidence in chief and under cross –examination of the PW3, I could see nowhere that he said such a thing. To my mind, the cause of death in this case remain UNKNOWN. No medical evidence, no direct evidence of attack on the deceased by the Defendant and no circumstantial evidence leading to an irresistible conclusion or inference that was the case. No autopsy was carried out on the *corpus delicti* and no evidence of even a layman's examination or discovery of injury and extent of same on the corpse of the deceased.

Mr.Atoyebi SAN had cited the case of **Alhaji Mu'azu Ali Vs State** (supra) where it was held that;

> *"----with or without medical report, trial court can still infer the cause of death provided there is a clear and sufficient evidence that death of the deceased was the direct result of the unlawful act of the exclusion of all other reasonable possible causes"*
>
> (underlined mine)

With great respect to the Learned Senior Advocate of Nigeria, this case do not apply here. In this case under reference, no clear and sufficient evidence that death of the deceased was the direct result of consequence of the act of the defendant.

I agree with the learned defence counsel, chief Olusola Oke SAN, that the who gave evidence of ordering the corpse to be buried when he visited the police stated did not give enough facts as regard the condition of the corpse. It was half-hearted or limited evidence. The witness did not tell the court that he saw any injury,either in the arm or body from which inference of machete or cutlass injury could be inferred. Ditto the PW2 & PW3. They did not even give any evidence of sighting the corpsetalkless of observing or noticing any injury on same.

Another angle to insufficiency of prosecution's evidence isthat of the cutlass recovered from the farm. When was it recovered?How many days after the incident? Who recovered same? Why was it (cutlass) not subjected to forensic and physical examination or analysis as regard the blood stain on it? Equally No finger print examination or report or analysis by print expert. Perhaps if all these had been done, there would have been a link with the hand of the Defendant and the blood of the deceased. The extent of the injury and cut would have revealed so much as regard the cause of death. But alas, all these was not done. No Autopsy, nothing on the recovered corpse by the police. From what am I then expected to infer the cause of death? In fact there is no slight.

I must make it abundantly clear that even if the prosecution had proved that there was a fight between the deceased and the defendant as a result of which the deceased sustained injury for a cutlass cut, the prosecution must, I repeat must still go ahead to prove that the gravity of the injury or cut or wound was such that the deceased died invariably from it. See **AUDU VS STATE (2003) 7 NWLR (PT. 820) 516, UGURU VS STATE (2002)9 NWLR (PT771)90, OCHE VS STATE (2007)5 NWLR (PT. 1027) 214.**

Infact, there was no scintilla of evidence of injury on the body of the deceased before this court. Couple with the fact of no autopsy, I hold the strong view of no evidence of cause of death.

The prosecution was laid much emphasis on the doctrine of last seen. I agree essentially and intoto with Chief Olusola Oke SAN that that doctrine is not at large. It is not a magic phrase. For that doctrine to operate and fix a defendant with the alleged crime, there must be heavy and weight, circumstantial evidence to support it. Such type of circumstantial evidence is clearly speaking absent in this case. See **IGABELE VS STATE (2006)6 NWLR (PT. 975)100**.

I mince no word in saying the aggregate or cumulative force of the testimonies of PW1,PW2 and PW3 is not strong or overwhelming enough as to lead to only one conclusion that the defendant killed the deceased. I dare say for the upteenth time that none of the prosecution witnesses testified as to when the deceased ‘s body was found to enable the court ascertain to some extent whetherit was immediately after the defendant left him in the farm. To compound the problem and lead credence to the flaws obvious in the case of the prosecution, PW2 that claimed there were two(2) eye witnesses at the scene and who eventually told them stories,were not called to give evidence. None of the supposed eye witness gave evidence in court. They also disappeared from the “scene”.

Having regard to all the foregone, I ask the question, is it safe to reach the conclusion that no other person could have caused thedeath of the deceased except the defendant? I do not think so.

No person has testified that he saw the deceased lying dead IMMEDIATELY after the defendant left him. Surely, none of the witnesses said they saw the deceased alive at a moment and then suddenly he died after encountering the defendant. These and many others I have said before are gapping holes in the case of the prosecution.

I therefore holding firmly in the light of the scanty evidence before this court that it is not impossible that another person could have met the deceased after the defendant left him in the farm. He could have been attacked by some dangerous animal, he could have been bitten by some dangerous reptiles or stung by some deadly flying insect. These are all possibilities that could have happened much especiallythat the cause of death remains largely unknow.

In effect and by way of conclusion, the evidence the prosecution has led in this case is not concrete, is not weighty, it is shallow and court cannot resort to that to convict the defendant in this culpable homicide case.

It is my view that a judgment of decision that would send a man to the gallows must be seen to be painstakingly considered, must be product of a logical thinking based upon clear facts and deep legal deductionsor inferences that are unassailable or unimpeachable.

I have not seen anything in this case put forward by the prosecution which clearly and sharply connect the defendant with the offence charged. He is thus discharged & acquitted.

…….
Suleiman Belgore
(Judge) 21-1-2020.