

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT COURT 8, NYANYA ON THE 29TH DAY OF APRIL 2020
BEFORE HIS LORDSHIP: HON. JUSTICE U.P. KEKEMEKE
FCT/HC/CR/95/18

BETWEEN:
COMMISSIONER OF POLICE.....COMPLAINANT

AND

SAMPSON PAULDEFENDANT

JUDGMENT

The charge against the Defendant is a four Count charge dated 19/01/18 and filed on the 22nd of January 2018.

It reads:

Count ONE;

“That you Sampson Paul (M) 30 years old hotelier of Dutse Zone One, FCT Abuja and one other now at large on or about 6 July 2017 at about 0800 hours along Dawaki Road within the jurisdiction of this Court did conspire among yourselves to commit an offence to wit: Armed Robbery and you thereby committed an offence punishable under Section 6 of the Robbery and Firearms (Special Provisions) Act 2004.

COUNT TWO:

That you Sampson Paul 'M' 30 years old, hotelier of Dutse Zone One, FCT Abuja and one other now at large on or about 6 July 2017 at about 0800hrs along Dawaki Road within the jurisdiction of this Court did commit an offence of Armed Robbery while you were armed with dangerous weapons robbed one Francis Ejiakuamu 'M' of his Toyota Car with Reg. No. GWA466 GX you thereby committed an offence punishable under Section 1(2) Robbery and Firearms (Special Provisions) Act 2004.

COUNT THREE:

That you Sampson Paul 'M' 30 years old hotelier of Dutse Zone One , FCT Abuja and One other now at large on or about 6 July 2017 at about 0800hrs along Dawaki Road within the jurisdiction of this Court did attempt to cause the death of One Francis Ejiakuamu 'M' by stabbing him with a knife, you thereby committed an offence of Attempted Culpable Homicide punishable under Section 229 of the Penal Code law.

COUNT FOUR:

“That you Sampson Paul ‘M’ 30 years old Hotelier of Dutse Zone One, FCT Abuja and One other at large on or about 0800hrs along Dawaki Road within the jurisdiction of this Court, without provocation voluntarily caused grievous hurt to one Francis Ejiakuamu ‘M’ by stabbing him with a knife and made away with his Toyota Corolla with Reg. No. GWA 466 GX, you thereby committed an offence punishable under Section 250 of the Penal Code law.

The charge was read to the Defendant and he pleaded Not Guilty to each of the four Count charges.

On the 10th day of April 2018, the prosecution opened its case.

It called three witnesses in proof thereof. The 1st Prosecution Witness is Sgt. Kumodi Ozovehe. He is a Police Officer attached to Dutse Alhaji Police Station. He knows the Defendant.

That on the 6/07/17 at about 11:30 hours, he was detailed by the DPO CSP Mohammed Ndagi to join

O.C. Dawaki (out station) SP Sha-nu at the scene of crime at Galadima Kubwa Expressway. He met him and they went to the scene of crime where he saw a young man later identified as Francis Ejiakuamu 'M' lying on his pool of blood.

He brought out his phone and took his photograph. He saw a knife at the scene. He took the victim to the Kubwa General Hospital for medical attention.

At the General Hospital he also took his photograph with his digital phone showing the position he was in bed. He was later referred to the Specialist Hospital Gwagwalada where he was given proper treatment. When he met him, he discovered that his neck was cut. They stitched the cut throat together and he could talk.

The Victim told him and the Doctor that he was robbed by a young man that called him to come and pick a passenger to the Airport.

That he was robbed of his vehicle and money. He called the name of the person Sampson (the Defendant).

He also said the sum of N350,000 was in his car, Nokia Cell Phone, ATM and drivers Licence were also in his car.

That the said Sampson was a staff of Interconnect Hotel Gwarinpa.

That they were two in number that robbed him.

While the victim was in the hospital, he left for Interconnect Hotel. The chief Security Officer told him that Sampson was on casual leave to attend wedding and introduction of his wife.

Three days later, he was called by the CSO of the Hotel that Sampson was around.

They went to arrest him.

They took him to his house and met the fiancée and brother.

They all followed them to the Police Station. He was confronted with the allegation. He denied earlier and later agreed and confessed to the crime.

His statement was recorded in the presence of his fiancée.

The fiancée also volunteered a statement.

They proceeded to the Specialist Hospital, Gwagwalada where the victim was receiving treatment with the Defendant and fiancée.

On seeing the Defendant, the victim started crying. He wanted to stand up to hold him. They calmed him down and moved the suspect to the station.

At the station, he said while on their way with the car Toyota Camry along Gegu Lokoja Road, they had an accident and that the vehicle was there.

He moved with him and two others to the scene of the accident where the car was recovered from one Abubakar whom he sold the vehicle to at the rate of N50,000. That N40,000.00 was paid leaving a balance of N10,000.00.

They invited Abubakar and towed the car to Gegu Divisional Police Headquarters for safe keeping.

That the car is still there. He came with the Defendant and Abubakar to the Police Station. After

investigation, the matter was transferred to the State CID for further investigation.

4 photographs and Certificate of Compliance is Exhibit A – A5.

He went to State CID with the case file, suspect, Exhibits and made a statement at the State CID.

The statement of witness is Exhibit B. He finds that the offence was committed by the Defendant and one other at large. The Toyota Camry was snatched and it was recovered through the Defendant. He took them to Gegu where it was recovered.

The Nokia Phone and monetary sum left by the Nominal Complainant was not seen.

The knife used by the Defendant was recovered at the scene.

The vehicle is presently at Gegu Police Station.

The Defendant made three Written Confessional Statements. The three Written Confessional Statements are Exhibits C- C2.

Under Cross-examination, he answered that what he investigated is what he told the Court. He did not see him commit the offence.

To a question, he answered that he did not take the photograph of the Defendant.

The Defendant called him and confessed. He did not do anything to him.

He did not torture him. That he did not record the statement in a video.

The 2nd Prosecution witness is Francis Ejiakuamu. He runs a car hire service in Gwarinpa. He also lives in Gwarinpa.

He knows the Defendant. He was working at Interconnect Hotel Gwarinpa.

The Defendant called him to come and pick somebody from the Hotel to the Airport.

When he got there, he said the man did not lodge in the hotel but was at Kubwa.

He entered his car and they started going.

At Dawaki, he told him to stop to pick his brother. He said as soon as they pick the intending passenger they would drop.

As they were going around 5:30 a.m. They diverted to Dawaki inside the bush. The Defendant who was sitting in front matched the brake and the vehicle

stopped. The brother who was sitting at the back held his neck to the seat.

The Defendant brought out a knife and stabbed him on the neck.

After stabbing him, they opened the door, pushed him out and drove the car away.

The Police came and took him to the Hospital.

After the treatment, the Police looked for the Defendant, arrested him and brought him to the hospital to enable him confirm he was the person. He confirmed. He was in hospital for one week.

He was later informed that on his way to Kogi State, the car had an accident and it was packed at a Police Station in Kogi State.

He made a statement at the Police station.

The statement is Exhibit D.

Under Cross-examination, he answered that all the Defendant did was to snatch his car.

To another question he answered that his oral testimony is a continuation of what he told the Court.

He knew the Defendant for about a year and three months before the incident.

That he regularly called him to come and pick passengers and he normally settles him.

To another question, he answered that all the Defendant wanted was to kill him and carry the car away.

The 3rd Prosecution Witness is Inspector Yohanna Dayen. He is a Police man attached to CIID FCT, Abuja. He knows the Defendant.

On 13/07/17, a case of Criminal Conspiracy, attempt to commit Culpable Homicide etc was transferred from Dutse Alhaji Division to CIID Abuja.

It was directed to Special Anti Robbery Squad where he was detailed to investigate.

He narrated the story of the victim. I do not intend to repeat same as it is hearsay.

He recorded the statement of the Defendant. The Defendant signed and he also countersigned as the recorder.

The Confessional Statement was taken before his superior for endorsement.

He compiled the case file and forwarded same for the next action.

In his investigation, he finds that Defendant collected the vehicle and was heading towards Kogi when he had an accident at Gegu village at Koton Karfi Local Government.

The vehicle is presently packed there. It is badly damaged. The Defendant later came back to Abuja where he was arrested by the Police.

The statement of the Defendant made at CIID are Exhibits E and E1.

The knife and Plate Number of the vehicle GWA466GX are Exhibits F and F1.

Under Cross-examination, he answered that he did not start the investigation.

That the DPO Dutse Alhaji recovered the knife on 06/07/17.

That after the transfer, he recorded the Statement of the Defendant under words of caution and he confessed to the crime.

The above is the case of the Prosecution.

The Defence opened his defence and the Defendant gave evidence for himself and called no other witness.

He is Sampson Paul. He lives in Dutse Alhaji. He is a contractor and Hotelier. He has never seen the person who reported him to the Police before. He does not know why he is in Court. He does not know the allegation against him. He did not make statement to the Police both at Dutse Alhaji and SARS.

On the 6th day of July 2017, he was with his fiancée in Auchi. They went to Auchi for her elder sister's traditional marriage.

They travelled by Peace Mass Transit Motors from Utako.

That he was with her throughout.

That Hotel Interconnect gave him four days leave.

He was to resume work on 11/07/17 being Monday.

They returned on the 10th. On reaching Abuja, one of his friends called him to meet him in a beer parlour. When he got there, his friend said he was stranded that he had no place to go. That he wanted to go to his house.

On his way to his house in front of Dutse Police Station, he pushed him into the said station and he started shouting thief, thief.

He asked him what he stole, he said he should not worry.

The Dutse Police asked them to take him away because there was no concrete allegation. They took him to FCDA Police Station Kubwa where he spent two nights.

They brought him out on 12/07/17 and gave him a paper to sign.

They did not allow him to read what was there.

He asked to see his Counsel before signing, they said he has no right. They started beating him. They tied him to a drum. They brought a hot knife and burnt his shoulder.

He is diabetic so he had to agree with them. He signed the paper.

The following day, the case was transferred to SARS.

It was handed over to Jonah.

Jonah decided to follow the statement written at Kubwa Police Station. He used pipe to break his knee and insisted he should sign or else they will kill him.

He pleaded to know what was in the paper but they started slapping him with his other team members.

He was forced to sign. He told them his story at the Police station but they said they don't want to listen.

That case was further handed over to Inspector Yohana.

He said all he needed is his signature or else he would be killed.

He signed to save his life. He does not know anything about the allegations.

That he brought a car plate number and a knife and asked him to snap with it. He was so sick. He was beaten. He had to snap with the said knife and plate number.

His house was searched and nothing was found.

He was arrested with his cheque book, ATM and ID Card.

Under Cross-examination, he answered as follows:

Before his arrest, he was working with Hotel Interconnect, Plot 115/116 1st Avenue, Gwarinpa.

He has SSCE.

All his Certificates were seized from him.

To a question, he answered that he was not with two working ID Cards.

He said he did not say Police took his School Certificate and School ID Card.

That on 6/07/17, he was in Auchi with his fiancée. They travelled on 4/07/17. He was given a note of approval for the casual leave. It has the stamp of the Hotel. It was in his wallet that was taken by the Police. He answered that a ticket was given to him by Peace Mass transit but he lost it when he was taking his bath in the evening of 4/07/17.

As he was putting on his clothe, it fell off. It was wet.

The name of the friend who told him to meet him in the beer parlour is Uzoma Eze. The name of the beer parlour is Yellow Page

That his younger brother is in Abuja. He is staying with his uncle in Apo. He is Daniel Paul. He does not know if he is wanted. He did nothing. They spent six days in Auchi. That since he started the trial nobody from the hotel came to Court. He believes they do not know where he is.

To a question, he answered that he never heard of Abubakar from Gegu in Kogi State. He does not know anything about the Confessional Statement which Police said he wrote.

The above is the case of the Defendant.

Parties were ordered to file their Final Written Addresses. The Prosecution failed, refused and neglected to file its Final Written Address.

The Defendant's Final Written Address is dated 4/12/19.

Learned Counsel to the Defendant adopted same as the Defendant's Final Written argument. He raised only one issue for determination which is whether the

Prosecution is entitled to conviction in view of the Defendant's testimony before the Court that his statement was obtained under duress and that he was not at the scene of the crime. That the alibi of the Defendant was not investigated by the Police.

That the statement of the Defendant was obtained by the Police without due process of law as he was beaten. He was not at the scene of crime. He was in Auchi at the time of the alleged crime.

In respect of the statement, Counsel refers to Section 17(1)(5) of the Administration of Criminal Justice Act 2015. He contends that the Prosecution did not follow the procedure laid down in the above Section of the law.

That the Court should discountenance the Confessional Statement and fall back on the Defendant's testimony freely made in open Court.

He urges the Court to resolve the lone issue in favour of the defence and discharge and acquit the Defendant.

I have read the evidence and considered the Written Address of the Defendant's Counsel.

The issue for determination in my view is whether the Prosecution has proved its case against the Defendant beyond reasonable doubt. However, the Defendant raised a Preliminary issue in his Written Address relating to the Confessional Statement of the Defendant, Exhibits C2, E and E1. He canvassed that the said statements are inadmissible as they were obtained by threat and duress.

He refers to the evidence of the Defendant which says he was beaten and slapped to sign the said Confessional Statement.

Learned Counsel urges the Court to discountenance and reject the said statement.

He further argued that the statements were not obtained in accordance with Section 17 (1) of the Administration of Criminal Justice Act.

Section 17(1) of the Administration of Criminal Justice Act states:

- (1) “Where a suspect is arrested on allegation of having committed an offence, his statement shall be taken, if he so wishes to make a statement.**
- (2) Such statement may be taken in the presence of a legal Practitioner of his choice or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council of Nigeria or an official of a civil society organisation or a Justice of the Peace or any other person of his choice...”**

The evidence is that the statement was obtained in the presence of his fiancée and brother.

I have also carefully read the statements tendered by the Prosecution.

Exhibit C is one of the statements made by the Defendant.

It is not a Confessional Statement.

Exhibit C1 is also another statement made by the Defendant in the course of investigation. It is not a Confessional Statement.

The 3rd statement made by the Defendant at Dutse is Exhibit C2 which is a Confessional Statement. All the three statements made by the Defendant are Exhibits C, C1 and C2.

In the circumstance of this case, Section 17(2) used the word '**may be taken**'.

It is permissive. It is not mandatory.

Therefore, taking the statement of the Defendant without a Legal Practitioner of his choice, a member of the Legal Aid Council or civil society organisation cannot vitiate the voluntariness or authenticity of the Confessional Statement of the Defendant.

The Defendant further made two Confessional Statements i.e. Exhibits E and E1 at the SARS. They contain a graphic explanation of the event that took place on that fateful day.

It is my humble view that the evidence of the Defendant that he made the statement under duress or that he was beaten is an after-thought.

The Exhibits C, C1, C2 E and E1 were voluntarily made and I so hold.

The standard of proof in a criminal trial such as this is proof beyond reasonable doubt. There must be evidence which identified the person accused with the offence and that it was his act which caused the offence.

See **AKINYEMI VS. STATE (1999) 6 NWLR (PT. 607) 449.**

The guilt of a Defendant in a criminal trial such as in this case can be proved by:

1. The Confessional Statement of the Defendant.
2. Circumstantial evidence.
3. Evidence of eye witness of the crime.

See **IGABELE VS. STATE (2006) 6 NWLR (PT.975) 100 SC.**

In the instant case, the Defendant made three statements at the Police Station of 1st instance, the Dutse Police Station. They are Exhibits C, C1 and C2.

Exhibit C2 is a Confessional Statement.

It reads:

“ On 6/07/17 at about 04 00hours, I call the said Francis the Cab man to come and take a passenger to airport and he eventually

came to meet me at Galadima Junction. There I entered his car.

When he wanted to move, I used the knife in my possession to strangle the man and forcefully took his Toyota Camry from him.

After I committed the act, I went with my woman and younger brother to Auchi for traditional introduction before we had an accident on the road. Thereafter we were treated. I went ahead to sell (sold) the car for N40,000 to one man at Gegu village to balance N10,000...”.

In Exhibit E he stated thus:

“...On the 6th of July 2017 at 06:30 Hours in the morning, I call Mr. Francis taxi man to meet me in Dawaki Abuja when he came and met me, I told him to follow the road and pick the passenger, on getting to the point, I ordered him to stop the car, I told him that I need the car. Immediately I started dragging the key with him before I used the knife on him. The moment I collected the

car, I took off to my home town at Kogi State, on reaching Gegu road, the car got accident. The registration Number is GWA 466GX...”

Further in his statement he said his co-conspirator is Mr. Samson his friend.

In his further statement on the same date he said

“...to my home town along Gegu village Kogi State, the car had an accident, I sold the car at the rate of N50,000 but the man who bought the accident car from me gave me forty thousand Naira only, the balance of ten thousand Naira. The man who bought the car is called Abubakar Alhassan Adamu ...”

That the moment he took the car away from Francis Ejiakuamu he said:

“I went to my house at Zone 1 Dutse Alhaji Abuja and carried my Fiancee with her sister and my junior brother.

On our way home to Kogi State along Gegu Kogi State, the car has (had) an accident.”

In Exhibit E1 (the latest) made on 14/08/17 by the Defendant, he stated:

“.....I wish to confess that on 6/07/17 at about 0600 hours, I called a friend of mine named Francis to drive the car to my place of work to pick a passenger to Airport. When he arrived the Hotel, I was working. He met me together with my younger brother named Sunday Paul.

Before he came, I was with a knife hidden on my waist. We entered the vehicle. I was sitting by the side of the driver Francis, while my younger brother was at the back seat. When he was at the tarred road, I told him to drive to the track road to enable us pick the guest. After some minutes, I asked him to stop. Immediately he stopped, I demanded for the car key, he refused, then I told my brother Sunday Paul to hold him. He held his

head then I brought out a knife and stabbed him on the neck and blood began to ooze out then I pushed him out of the vehicle and I took my brother and we drove off to my house. I met my fiancée Grace Ideyi. I told her to dress up, we will go to the village. She dressed together with her younger sister, brother Sunday Paul and Dorcas Ideyi (sic), we now started going to Kogi State, we had an accident at Gegu village under Koto Karfe Local Government Kogi State. None amongst us sustained injury, then on 10/07/17, I was on my way to Abuja because I thought Francis is dead...”.

The above statements are direct and positive.

There is no evidence stronger than a persons own admission or confession.

NWAEBONYI VS. STATE (1994) 5 NWLR (PT.343) 130

The statement of the Defendant reproduced above are free and voluntary confession of guilt.

See ***IHUESEKA VS. STATE (2000) 4 SC (PT.1) 203.***

Aside the above Confessional Statements, the PW2 Francis Ejiakuamu is the victim of the crime.

He gave a graphic detail of how the Defendant called him to pick a passenger from the hotel. He narrated how he told him to stop at Dawaki to pick a passenger. The vehicle was directed to a bush. The Defendant matched the brake.

The brother who was sitting at the back held his neck to the seat and the Defendant brought a knife and stabbed him on the neck.

They opened the door thereafter, threw him outside and drove away.

This is the evidence of an eye witness, the victim.

The PW1 is Sgt Ozovehe Kumodi of the Dutse Alhaji Police Station. He was the Investigating Police Officer. After the Defendant's confession, he moved with him and two others to the scene of the accident. The vehicle was recovered from one Abubakar who he claimed to sell it to for N50,000.

The vehicle was towed to Gegu Divisional Police Station for safe keeping.

These pieces of evidence corroborate the Confessional Statements of the Defendant.

A free and voluntary confession which is direct and positive and properly proved as in this instance is sufficient to sustain a conviction without a corroborative evidence so long as the Court is satisfied with its truth.

I have also examined the said statements in the light of the statement of the victim and the investigating Police Officer the PW1 who recovered the victim's (PW2's) car that was snatched by the Defendant

The 1st Count is the offence of Conspiracy to commit Armed Robbery, while the 2nd is an offence of Armed Robbery. The third Count is an offence of attempt to commit Culpable Homicide while the 4th Count is causing grievous bodily harm.

The knife used in stabbing the victim is Exhibit F. The vehicle Plate Number is Exhibit F1.

Conspiracy is a matter of inference from the acts of parties. The evidence is that the Defendant with one other committed the offence. While the other held the neck of the victim, the Defendant stabbed the victim with his knife. All that is needed is the meeting of the minds to commit the said offence. From the evidence and Confessional Statement, it is my view that the Defendant and another conspired to commit Armed Robbery.

Count 2, which is Armed Robbery, there is no doubt that there was an armed robbery.

The Defendant was armed with a knife.

The defendant while with the arm participated in the robbery.

From the evidence, the Defendant knows the victim. The victim was a cab man in the hotel where the Defendant worked.

The Defendant had a traditional marriage to perform. He wanted to go to the ceremony probably with a beautiful car which he does not have. He therefore planned in his heart to forcefully take the car of the Defendant. He stabbed him on the neck with a knife

snatched the vehicle but on his way he had an accident with it.

He earlier on asked for the key but the Defendant refused. He threw the victim PW2 out of the car but as fate would have it, he never arrived at his destination with the beautiful car as could be seen in Exhibit A4. The sin of covetousness and the need to please his prospective in-laws led him to this quagmire.

The offence of armed Robbery was also proved beyond reasonable doubt and I so hold.

I have also considered the element of attempted Culpable Homicide.

The Defendant in his Confessional Statement said he thought the victim had died.

He slashed the victim's throat and pushed him out of the vehicle and drove off.

He intended him to die. The Defendant's defence is that he travelled to Auchi for his traditional wedding with his fiancée, fiancée's younger sister and brother. None of them was called to corroborate same.

The alibi was not availed Police at the earliest opportunity.

The evidence is that the offence was committed on the same date he travelled with the snatched vehicle. He also said he entered Peace Mass Transit bus. He could not produce the receipt of transportation. He said it got wet and was lost.

The manifest of the passengers of that date was not availed the Court.

The alibi is an afterthought.

The defence is unbelievable.

The offence in Count III is also proved beyond reasonable doubt.

Count four is unnecessary in view of the findings of this Court in Count 1, 2 and 3.

In totality, I find the defendant guilty in Count 1, II and III.

He is accordingly convicted.

SENTENCING PROCEEDINGS:

Defendant's Counsel: We do not intend to call evidence. He is a first time offender. He is remorseful of his act. He is a young man. He has

promised not to partake in such act. He promised to be a pastor after this.

We urge the Court to temper justice with mercy.

Prosecution: We appreciate the Court for the judgment.

We urge the Court to give the Defendant maximum punishment in accordance with the law. We urge the Court to consider the frequent occurrences of this crime. He should serve as deterrent to others.

SENTENCE:

The Counts for which the Defendant was convicted are capital offences.

The penalty is stiff. It is death.

What purpose does it serve sentencing the Defendant to death.

God gave man a second chance when he fell in the Garden of Eden. Man ought to give his fellow man a second chance.

It is true the Defendant is a young man who was beclouded with the sin of covetousness.

Howbeit, I am only to interpret the law. I cannot make law.

Our Colonial Laws particularly the Penal Code has not changed since 1963.

My hands are therefore tied by the Penal Code. I cannot do what I had wanted to do. I am left with no choices.

Consequently the Defendant is sentenced as follows:

1st Count: The Defendant is sentenced to death.

2nd Count: The Defendant is sentenced to death.

3rd Count: The Defendant is sentenced to life imprisonment.

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HON. JUSTICE U.P. KEKEMEKE
(HON. JUDGE)
29/04/20