

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO – ABUJA**

THIS FRIDAY, THE 9TH DAY OF JULY, 2021.

BEFORE: HON. JUSTICE JUDE O. ONWUEGBUZIE – JUDGE

CHARGE NO: FCT/HC/CV/CR/123/2021

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT

AND

JACOB SAMUEL - DEFENDANT

Defendant Present in court.

Fatima M. Mustapher appearing for the prosecution

M.K Agbontien appearing for the Defendant.

J U D G M E N T

The Defendant Jacob Samuel was arraigned before this Court on the 6th Day of July 2021 on one count charge of cheating contrary to **section 320 and punishable under section 322 of the Penal Code Act, Laws of the Federation 1990.**

The one count charge reads:

That you Jacob Samuel sometimes in 2021 at Abuja within the jurisdiction of this Honourable Court did cheat by fraudulently inducing one Rebecca of the sum of #103,000:00 (One Hundred and Three Thousand Naira) under the pretence that

you are a genuine priest and spiritualist, you thereby committed an offence contrary to **section 320 and punishable under section 322 of the Penal Code Act, Laws of the Federation 1990.**

When the matter came up for arraignment on the 6th day of July 2021 before this court, the Prosecution informed the court that they have filed an amended charge due to the fact that the Defendant offered Plea Bargain Agreement to the Prosecution, and in the interest of Justice and to save the time of the court they have accepted the plea bargain and filed same before the court. That in the circumstance they applied to the court to substitute the initial charge dated 31/3/2021 and filed on the 1/4/2021. The Court ruled on the application and ordered that the amended charge dated 2/7/2021 be substituted with the initial charge dated 31/3/2021 and filed 1/4/2021 and ordered that the amended charge be read out to the hearing and understanding of the Defendant.

The amended charge was read out to the hearing of the Defendant, the court asked the Defendant whether he understood the charge read against him in English Language. The Defendant answered in the affirmative. The court asked the Defendant whether he is guilty of the offence or not. The Defendant pleaded guilty to the charge.

In view of the plea of guilty by the Defendant, Prosecutor adopted the Plea Bargain Agreement that was mutually signed by the Defendant, his counsel and the Prosecution. That the plea bargain was agreed on the terms in line with **section 270 paragraph 2 (b) of the Administration of Criminal Justice Act, 2015.** That the Defendant returned all the proceeds he obtained from his crime and he has agreed to forfeit the sum of #103,000:00 (One Hundred and Three Thousand Naira) to the Federal Government of Nigeria, and urged the court to consider the terms of the Plea Bargain Agreement while sentencing the Defendant.

Pursuant to **section 270 subsections(9) & (10) of the Administration of Criminal Justice Act, 2015**, the court asked the Defendant to confirm the terms of the agreement. The Defendant admitted all the allegations contained in the amended charge to which he pleaded guilty and agreed entering into the plea bargain agreement voluntarily without any influence or coercion. The defence counsel confirmed being part of the plea bargain agreement.

It is on this premise, that the Defendant pleaded guilty to the charge preferred against him; that this Honourable Court after being satisfied that the Defendant is guilty of the charge preferred against him, convicted Jacob Samuel the Defendant in this case for cheating by fraudulently inducing one Rebecca to deliver to him the sum of #103,000:00 (One Hundred and Three Thousand Naira) under the pretence that he was a genuine priest and spiritualist.

The Defence Counsel pleaded *alocutus* for the convict. The counsel told the court that the convict is very remorseful and still a juvenile of seventeen (17) years old and a first time offender, that out of that remorse he decided to own up to his mistakes and not to waste the time of this honourable court by going through the rigorous proceedings of the trial. That the convict just took JAMB examination and intends to go to the university and make the best out of himself. The counsel told the court that he has spoken with the convict on many occasions and that he is a very bright human being. That he intends to impact on the society positively. The Counsel humbly prayed the court to temper justice with mercy and give the convict the most liberal of sentencing and reminds the court that the spirit of the law is reformatory and should take into account the sum of money involved to which the convicted has forfeited to the Federal Government. He concluded that the convict has now been reformed and will impact positively on the society.

It was at this point that the court adjourned this matter to today for the sentencing. The convict was ordered to be remanded in the Economic and Financial Crime Commission pending his sentencing today.

I have carefully considered the nature of offence in which the Defendant was convicted; which is the offence of cheating. I have also taken into consideration the age of the convict and the plea bargain agreement filed or entered and signed by the convict.

The essence or the main purpose of plea bargain is to ensure that the system of administration of criminal justice promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interest of suspect, the Defendant and the victim. See **BELLO & ORS V. ATTORNEY GENERAL OF OYO STATE (1986) 1 SC @pg. 70, para. A-B.**

Under the Nigerian law, the judge has power to give a sentence lower than the sentence prescribed by the law unless it is a mandatory sentence or a minimum sentence is prescribed by the law. See the case of **SLAP V. ATTORNEY GENERAL OF THE FEDERATION (1986) NMLR 326.**

Hence there is a plea bargain agreement filed and adopted before this court, it is a negotiated agreement between the prosecution and a criminal Defendant whereby the Defendant pleads guilty to lesser offence or to one multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the other charges. See the case of **PML (SECURITIES) CO. LTD. V. FRN(2018) LPELR-47993 (SC).**

In the instant case, the convict had forfeited the said sum of 103,000:00 (One Hundred and Three Thousand Naira) the proceeds of his crime which is the only reason why he was charged to court on one count.

This court taking full consideration of **section 270 of the Administration of Criminal Justice Act, 2015** and the punishment section; which is **section 322 of the Penal Code Act, Laws of the Federation 1990**, which states thus:

Section 322 “**whoever cheats shall be punished with imprisonment for a term which may extend to three years or with fine or with both.**”

Having considered all the factors in this case ranging from the provisions of the instant laws applicable in this case, the conduct of the convict since inception of this case, the plea bargain agreement adopted by the prosecutor before this court, I use this medium to commend the conduct of the prosecutor (prosecution) in this case, the age of the convict and the humble *alocutus* pleaded by the Defence Counsel, Jacob Samuel the Defendant in this case having been convicted for the offence of Cheating contrary to **section 320** and punishable under **section 322 of the Penal Code Act, Laws of the Federation, 1990**, is hereby sentenced to six (6) months imprisonment with an option of #50,000:00 (Fifty Thousand Naira) fine.

This is the Judgment of the Court.

Hon. Justice Jude O. Onwuegbuzie