

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS MONDAY THE 26TH DAY OF JUNE, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/GWD/CR/75/2023

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

ADEGBAYI TUNDE YUSUF.....DEFENDANT

Court: case for arraignment.

Offence: cheating provided under section 321 of the penal code law.

Defendant present in court.

Prosecution: Gabrielle I. Ushee for the prosecution.

Defense counsel: M. S Dennis for the defendant.

Prosecution: The business for today is arraignment, we file a one count dated the 2-06-2023 the and filed on the 7-06-2023. We apply that the court read the charge to the defendant to enable him take its plea.

Court: Read the charge to the defendant.

Court: The charge read and explained to the defendant. The defendant called upon to reply to the allegations.

Court: Do you understand the charge?

Defendant: Yes I understand the charge.

Court: Are you guilty or not Guilty?

Defendant: I am guilty.

Prosecution: giving the defendant plea of guilty apply that he be convicted and sentenced accordingly.

CONVICTION

I am satisfied that the defendant understood the charge read and explained to him in English language, admitted same, knowing fully the consequence of its admission. I shall accept the plea of guilty made by the said defendant and convict the defendant for the offence punishable under section 324 of the penal code cheating by impersonation and triable by this court.

Court: defendant do you understand the charge read against you?

Defendant: Yes I do.

Court: before conviction, I shall proceed to hear an allocutus and plea of mercy.

What do you have to tell this court to be lenient with you when passing it's sentence.

Convict: I shall like to plead to allocutus myself.

Court: proceed

Allocutus:

I am begging for mercy and urge this court to temper justice with mercy because after the death of my mother things became difficult to the extent that my father lost his job. Before then I was learning tailoring and fashion designing, within the process my friends introduced me to the crime of which I benefited the sum of \$200.

That three days after I came to Abuja in the month of April, the EFCC raided our apartment and we were caught. That after the arrest by the EFCC I went back to my tailoring and fashion design and promised to never go back to same crime and I am a changed person.

Defence counsel:

The convict at the earliest possible opportunity plead guilty to the charge and thereby not wasting the time of the court.

Pray to the court to construe the timeous plea of guilty as a serious sign of remorse on the part of the convict.

The convict is a first time offender with no Criminal record what so ever, and pleads for the use of it's good conscience to temper justice with mercy.

We urge the court to invoke section 416(2) paragraph K of the ACJA 2015, in line with that we appeal to the court to use it's good office to invoke the section in favor of the convicted, give the defendant a second chance in sentencing him

Court: case stood down for sentencing.

SENTENCING

The convict, one Adegbayi Tunde Yusuf was alleged to have committed the offence of cheating by impersonation by pretending to be one Phillip Marra 330, via the Facebook platform wherein he benefitted the sum of \$200 Dollars which he expended for his personal use under false representation after collecting the sum from Sonia Marim. The charge with No; CR/75/2023 was hence assigned to this honorable court and was filed on the 7th day of June, 2023 and arraignment was fixed for the 26th day of June, 2023.

On the day of arraignment, the charge was first read to the defendant and he informed this court that he understood the charge and thereafter pleaded guilty. The prosecution counsel then applied that the defendant should be convicted and sentenced accordingly.

Upon the plea of guilty i.e admission to the commission of the crime, and the application of the prosecution counsel this court proceeded to convict the defendant for the offence of cheating by impersonation punishable under section 324 of the Penal Code Act.

The convict then asked to plea for an allocutus and begged this honorable court for mercy because of the death of his mother, he also narrated the ordeal of his family, stating further that he was already learning the process of becoming a fashion designer before his friends introduced him into the crime of which he benefitted

the sum of E200. He also stated that after his arrest and release, he went back to his tailoring job and stated that he promises never to go back into crime again and that he is a changed person now.

The defense counsel speaking further, on the convict resolve not to go back into crime stated that the convict pleaded guilty immediately the charge was read to him and did not waste the time of the court, adding that the convict is now remorseful and also that the convict is a first time offender and urged the court to temper justice with mercy In sentencing the convict.

Having listened with keen attention to the plea of allocutus by the convict and also the plea of counsel to the defense, wherein the convict has stated that he is currently working as a fashion designer implying that he now earns a means of living the legal way and also trying to prove he is remorseful, this is a good step for his personal development if true however this does not change or takeaway the fact that he has committed the offense and he therefore has to be punished in line with the extant laws. The court has indicated severally that the statements indicating that crimes are committed as a result of peer pressure or as a result of friends introducing them into crimes does not serve as a ground to venture into same, as he who commits a crime must be punished for some and he is accountable for any actions taken by him.

The convict is hereby sentenced to one month in prison with an option of fine of Two hundred thousand Naira only.

The iphone X which is the instrument of criminality should be destroyed with the court premises, a staff of the court and a police officer, evidence of the destruction should immediately be submitted to the court and placed in the court file, in line with section 331 ACJA.

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HON JUSTICE A. Y. SHAFI

