

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

THIS MONDAY THE 13TH DAY OF DECEMBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/CR/089/2023

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA..... COMPLAINANT

AND

SEGUN ROTIMI (AKA AHAMAD LUCKY)..... DEFENDANT

COURT: this matter is for arraignment.

Defendant present in court

Offence: section 95 of the penal code law.

Appearance: Sabina M. Dabak for the prosecution with Stanley Obila.

Defendant: Bobby Kadiri for the defence.

Prosecution: before the court is a one count charge dated 11-11-2023, we also have a plea bargain before the court file.

We seek the court's permission to read the charge to the defendant so that he can take his plea.

Court: defendant are you ready

Defendant yes we are ready.

Court: clerk read the content of the charge to the hearing of the defendant.

Court: the one count charge is read and explained to the defendant. The defendant called upon to reply to the said one count charge.

Court defendant: do you understand the said charge?

Defendant yes I understand the charge.

Court: defendant are you guilty or not guilty?

Defendant I am guilty.

Prosecution: the defendant haven pleaded guilty to the charge we apply that he should be convicted accordingly.

We have a plea bargain agreement filed on the 1-12-2023 and duly executed by the defendant and the prosecution, the defendant counsel and the investigating officer. Seek to adopt the term of the agreement and urge the court to give consideration on the terms of the agreement in sentencing.

We have two exhibits which are the instruments of crime recovered from the defendant Gionee Redmi Phone, iPhone 8 we seek to tender it before the court and we urge the court to consider the totality of the plea bargain and sentence the convict.

CONVICTION

I am satisfied that the Defendant before the court understood the content of the one count charge and admitted same knowing fully well the consequence of his admission, this court will accept the plea of guilty entered by the defendant and accordingly convict the defendant for the offence of attempt to cheat punishable under section 324 of the penal code law and triable by this court.

Court: did explain to the defendant as to whether he would like to call evidence of his good character or plead for mercy. The defendant decided to take the second option to plead for mercy otherwise called allocutus.

Allocutus:

I am deeply sorry over my heart, I know I brought shame to my country and will never ever attempt to do it again. A graduate of Joseph Ayo Babalola University Osun State. I have spent two weeks in EFCC custody.

Defence:

That the convict is a first time offender, that he pleaded that the convict be given a second chance.

Sentence reserved till 12:00 noon.

SENTENCE

The defendant one SegunRotimi Suleiman (aka Ahamad Lucky) was arrested sometimes in 2023 in Abuja within the Jurisdiction of this Honourable court for fraudulently used his Gionee Redmi to create a fake Facebook account and posed as Ahamad Lucky from Hong Kong and by so doing impersonated one Ahmad Lucky from Hong Kong with intent to obtain property from one Van New a lady from Hong Kong and thereby committed an offence contrary under section 324 of the penal code law.

Upon the charge read and explained to the defendant, he pleaded guilty to the one count charged he was convicted for the offence of attempt to commit/impersonation punishable under section 324 of the penal code law.

The defendant in his plea of mitigation of punishment pleaded to the court that he is deeply sorry from his heart, and that he knew he has brought shame to his country and will never attempt to do it again. That he is a graduate of Joseph Ayo Babalola University Osun state and have spent two weeks in the custody of the EFCC

The defence counsel one Bobby, Kadiri informed the court that the convict is a first time offender and urged the court to give the convict a second chance.

The prosecution on the other hand informed the court that they have a plea bargain agreement entered and executed by the defendant, the prosecution, the defendant counsel and the investigation officer of the EFCC and urged the court to adopt the terms of the plea bargain agreement in sentencing the defendant

Before I proceed to sentence the convict I will first of all refer to the provision of section 95 of the penal code law, it provides thus:

Whoever attempts to commit an offence punishable with imprisonment or to cause such an offence to be committed and in such attempt does any act towards commission of the offence shall, where no express provision is made by this penal code or by any other ordinance or law for the time being force for the punishment of such attempt be punished with imprisonment to one half of the longest term provided for that offence or with such fine as is provided for the offence or with both.

The ingredients are stated thus:

That under this provision which is a general provision dealing with attempts to commit offence and made punishable by any other section. It is limited to attempt to commit offence punishable with imprisonment.

It is also to be noted that in every criminal act there is

- a. An intention to commit it.
- b. Usually a preparation to commit it,
- c. An attempt to commit it.

if the attempts fail like in this case, nevertheless the code punishes the person making the attempt because morally the guilt of the offender is the same as if he had been successful. An attempt to commit a crime must therefore be something more than preparation to commit it.

Now to the plea bargain agreement, on this wish to referred to the case of Nwode V FRN (2016) 5 NWLR (pt. 1505) 471 at 526-527 defined plea bargain as

“a negotiated agreement between a prosecutor and criminal defendant where the defendant pleads guilty to a lesser offence or to one of multiple charge in exchange for some concession by the prosecution, usually a more lenient sentence or a dismissed of the charge.

This to be noted that there are grounds upon which a plea bargain agreement could be made. That is grounds of interest of justice, public interest (policy and abuse of process. See section 270 (3) be read along with subsection (5) of section 270.

The court in acting under section 274 of the ACJA 2015 accepted the plea of guilty of the defendant hence the sentence to be imposed based on the plea bargain agreement.

I say no more.

Having said so. I would have ordinarily declined to accept the plea bargain agreement forwarded by the prosecution.

But looking at the circumstance in which the offence was committed and the frequency of the crime in our country I shall accept the plea bargain agreement entered into to sentence the convict, he is hereby sentenced to 1 year imprisonment or an option of fine of N300,000.00.

Upon the application of the prosecution, for an order of this court for the forfeiture of the item record in the course of the investigation, I hereby ordered that the two phones 1. GioneeRedmi and iPhone 8 is hereby forfeited to the FGN with an ordered that the phone be sold auction and the proceed realized to be paid to the coffer of the FGN through CBN by the EFCC.

In addition, the convict is ordered to be reporting to the office of EFCC once a month for counselling and to depose to an affidavit of undertaking to be of good behaviour.

This is my sentence.

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Hon. Justice A. Y. Shafa