

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA- ABUJA

DATED THE 9TH NOVEMBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE ALIYU YUNUSA SHAFI

SUIT NO: FCT/HC/CR/210/2017

BETWEEN:

INSPECTOR GENERAL OF POLICE.....COMPLAINANT

AND

1. ISA IMAM JEGA	}	DEFENDANTS
2. TONY OKELEKE		
3. UJU MADUEKE		
4. ARTHUR AKWARANDU		
5. UMAR SHU'AIBU		
6. FRNACIS ILOANI		

Court: case adjourned for hearing

All the Defendants are present in

Court:

Appearance: D. A. Afolayan for the 4th Defendant

Godwin Diegwu with P. U. Onuh for the 2nd & 3rd & 6th Defendant.

Court: the 5th defendant absent in court.

O. S. Ajani for the 4th Defendant.

AyankwuNgbadaWataly holding the brief of the Nominal Complainant

Prosecution absent.

Court/clerk that the prosecution forwarded a letter of adjournment this morning.

Counsel to the 2nd, 3rd, & 6th Defendants what is your reaction on the letter of adjournment sent by the prosecution that at the last adjourned date the prosecution counsel sent the message that he was incarcerated.

Throughout the setting of this court, the matter has been adjourned over six times and it has always been at the instances of the prosecution. This is a matter involving the IGP where we have a lot of legal officers. Reference to section 351 of the ACJA 2015. In the said section and asked for a discharge of the defendants with an order that the defendants should not be re-arrested without the leave of this court.

Counsel to the 4th defendant I alien myself to the submission of the counsel equally all the defendants agree with the submission of the counsel and apply that this matter be struck out.

RULING

This is an oral application by the counsels to the defendants to strikeout this matter the said application is pursuant to the provision of section 301 of the ACJA 2015, which said section provides thus

“where the case is called, the defendant appears voluntarily in obedience to the summon or is brought before the court under a warrant, and if the complainant having to the satisfaction of the court had due notice of the time and places of hearing, does not appear in person or in the manner authorized by a written law, the court may dismiss the complaint”

A careful perusal of the case from the date the defendants were charged and took their plea there has not been any seriousness on the part of the prosecution, I say this for the following reasons;

On the 25/10/2022 when this matter came up for mention, all the defendants were in court while the prosecution was absent. the matter was adjourned to 23/11/2023.

On the 23/11/22 the prosecution was in court and the defendant's also and again the matter did not go on and the matter was adjourned to 12 & 14 December, 2022.

On the 13/12/2022 when the matter came up for hearing, all the defendants were in court while the prosecution was absent and the matter was again adjourned to 14/12/2022.

On the 14/12/2022, both defendants their counsels were in court including the prosecution on this date the prosecution intimated the court that steps were taken to effect service on the absentee defendants but he is surprised that

they were not in court, he then applied for another date, and the defendant counsel did not object and the matter again adjourned to 14th & 15th day of March, 2023.

On the 14th March, 2023 the 5th defendant and his counsel were not in court and the prosecution where in the prosecution made an application to the court that the 5th defendant one Shuaibu is not in court, upon the absence of the 5th defendant, steps were taken to allow other defendants to take their plea. This was done and the defendants were granted bail and the matter adjourned for hearing.

On the 7th day of June the 1st, 2nd, 3rd, 4th 6th defendants were in court with their defence counsel, the prosecution was absent, as it was stated that the prosecution was detained at the pleasure of the IGP hence the matter was adjourned to 9-11-2023.

Here we are today again the same application this time around with a letter of adjournment by the prosecution that he was assigned on an official assignment to proceed to the State I.e. Bayelsa, Imo and Kogi for the coming Gubernatorial election.

I have perused the said application for an adjournment forwarded by the prosecution. I am not satisfied with the reason given.

This is a year 2017 case and up till this moment nothing has been done, to see to the prosecution of this case to its logical conclusion there must be an end to justice.

On this vein I just want to say, that the prosecution is not ready and will never be ready to prosecute this matter to its logical conclusion.

In view of the forgoing I shall not hesitate to discharge the defendant.

Hence all the defendants are hereby discharged with a strong warning to the prosecution that the defendants should never be re-arrested without the prior consent or leave of this court sought.

Hence case No: CR/200/17 is hereby struck out and the defendants are hereby discharged.

This is my ruling

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Hon. Justice A. Y. Shafa

