IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT COURT 9, AREA 11, GARKI, ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE S. B. BELGORE

FCT/HC/CR/966/2010

DATE: 20-11-2024

BETWEEN

INSPECTOR GENERAL OF POLICE } **COMPLAINANT**

AND

YUSUF YAHAYA } **DEFENDANT**

J U D G M E N T

(DELIVERED BY HON. JUSTICE S. B. BELGORE)

The instant no case submission is made pursuant to **Sections 302 and 303 of the Administration of Criminal Justice Act, 2015 and 191(3) of the Criminal Procedure Code and Section 36(5) of the**

Constitution of the Federal Republic of Nigeria, 1999 (As Amended).

Following the conclusion of evidence both oral and documentary tendered by the Prosecution in the trial of this Defendant, Yusuf Yahaya on the 6th of June, 2024. Mr. J. S. Agada, the Learned Counsel to the Defendant filed a no case submission.

The Prosecution had earlier called 3 witnesses and tendered Exhibits A, B, C, D1, D2, D3, D4, E1, E2, E3 and E4 respectively.

Mr. J. S. Agada of Counsel to the Defendant filed a No Case Submission dated 27th day of June, 2024 but filed on the 2nd day of July, 2024.

Learned Counsel to the Defendant adopted it as his arguments and urged me to hold that the Prosecution has not established a prima facie case to warrant the Defendant being called upon to enter his defence. He urged me to discharge and acquit the Defendant. Learned Counsel relied on **Sections 302 and 303 of Administration of Criminal Justice Act, 2015.**

May I state as a reminder that under the Criminal Procedure Code, when the Prosecution are done with their witnesses, 3

options are opened to the defence. A no – case submission can be made as we have in the instant case, the case of the Defendant can be rested on that of the prosecution without the Defendant uttering a word or calling witnesses and lastly, the Defendant may elect to give evidence and also call witnesses.

The Defendant was initially arraigned before Honourable Justice K. N. Ogbonaya on the 23rd day of September, 2020 on a nine (9) count charge filed on the 4th day of September, 2020 after the Defendant detention at the facility of the Nigerian Police since the 5th day of August, 2020 before his arraignment and was later sent to the Suleja Correctional Centre and remained so incarcerated despite repeated bail application on different circumstance. However, following the Chief Judge's directive to re-assign this instant matter on the Petition/Application of a Non-Government Organization, the matter was now re-assigned to this Courtwhich by implication started ***de novo.*** While the first sitting before this court happened on the 28th day of February, 2022 for arraignment, the Defendant expressly pleaded 'not guilty' to all the Count of the total of nine (9) charges against him

and was graciously granted bail upon a new application of the Defendant by this court on the 15th day of March, 2023.

The offences over which the Defendant was being arraigned for, are offences such as sexual offences/rape; harmful traditional practices and acts of gross indecency before the Court contrary to **Sections 5(1); (2); 20(1) of the Violence Against Persons (Prohibition) Act, 2015**, and **Section 285 of the Penal Code Law** respectively. Thus the prosecution led evidence through PW1 – PW3 in purported Prove of these allegations accordingly as opposed to the plan to call nineteen (19) witnesses.

The Prosecution/Complainant commenced trial, by opening its case on the 9th day of November, 2023. It is noteworthy to observe that in the course of opening its case, the prosecution called two (2) out of the nineteen (19) witnesses listed in the charge sheet and an additional proof of evidence and its witnesses to substantiate its case. The three (3) witnesses called by the prosecution are:

PW1 – Salamatu Ali (The eldest of the Defendant's niece who lived with him at the time of the alleged offense); who testified on the 9th November, 2023;

PW2 – DSP OffiongNsa (One of the Investigating Officer who records statements of the Defendant); she testified from 13th February, 2024 – 10th June, 2024.

PW3 – ASP Caleb Hamid (The Forensic Expert who analysed the phone of the Defendant); testified on the 10th June, 2023.

It is equally pertinent and germane to point out at this stage that the above mentioned witnesses were thoroughly cross-examined while their credibility was put to the test.

Furthermore, the prosecution, in support of its case, tendered a number of documents. While some were admitted, others were rejected and marked as Exhibits A, B, C, D1, D2,D3, D4, E1, E2, E3 & E4 respectively.

On the 10th day of June, 2024, the Prosecution/Complainant closed its case as a result of which the Defendant informed the Court of his intention to exercise his right under Section 191(1) – (5) of Criminal Procedure Code by applying that the Defendant be discharged on the ground that the Prosecution's evidence

against him is not sufficient to justify the continuation of the trial or to justify him entering a defense. Upon the aforesaid application of the Defendant, the Court gave the Defendant up till 3rd June, 2024 to file a written submission in support of their application while the Prosecution is also required to file their reply upon service of the said proposed no-case submission.

The learned counsel to the defendant submitted that the sole issue that calls for the determination of this application is simply put thus:

> ***"Whether, from the totality of evidence adduced by Prosecution so far in proof of the charge against the Defendant before this Honourable Court, a prima facie case has been disclosed/made out against the Defendant to warrant him entering a defense"***

In arguing the solitary issue, the point must be made at the outset that no citizen of Nigeria should be put to rigors of trial of this sort of crime without an eye witness or without credible

evidence, and we dare say needless defense, unless available evidence, points prima facie to his complicity in the commission of the crime. See **IKOMI & ORS. VS. STATE (1989) 1 N.S.C.C. 730.**

Furthermore, the essence of a submission of a no case to answer lies in the contention that the evidence of the prosecution called in the discharge of the burden of proof placed on them by law has failed to establish a prima facie case against an accused person. See **SUNNY TONGO & ANOR VS. COMMISSIONER OF POLICE (2007) 4 S.C.N.J. 221.**

He submitted that having regard to the above definitions of the expression prima facie case, a criminal trial is not based on analogies. Therefore, before a prima facie case can be said to be made against an accused person, the essential elements of the offence (s) against which he is charged must be established against him by credible, irrefutable and sufficient evidence. There must be no doubt in the mind of the Court that all the facts point to only one conclusion that it was only the accused who committed the offence charged. Where there is doubt at all, then it must be resolved in favour of the accused person, to

sustain the contention that no prima facie case has been established. He urged the court to hold so.

It is the Defendant's contention in the instant case that the charge against him ought to be dismissed and he be discharged and acquitted on the ground that he has no case to answer in view of the insufficient, incredible, refutable and unreliable evidence adduced by the Prosecution/Complainant before this Court.

The reason for the Defendant's application on the ground of no case to answer is not far-fetched, but simply that in view of the evidence adduced, the Prosecution has failed woefully to produce and establish the essential ingredients/elements of the offence with which the defendanthas been charged. In other words, all the Defendant is saying, is that the Prosecution's evidence in support of its case against him has been shown to be manifestly unreliable to warrant him to enter any defense, same having not linked him with the offence as contained in the charge or having been discredited by them as a result of cross-examination. See **EMEDU VS. STATE (2002) 15 N.W.L.R. (PART**

789) 196 at 203 paras. H – A; UBANATU VS. COMMISSIONER OF POLICE (2000) 2 N.W.L.R. (PART 643) 115 at paras B – D.

The law has now become crystalized in our case law/authorities regarding what the Court will consider in determining the success or otherwise of a no case submission and a few will suffice. The Exhibits, the oral testimonies of witnesses and the charge(s) stating the nature of the offence are what the Court ought to consider in determining whether to uphold or dismiss a no case submission. Courts should not go outside the Exhibits and oral evidence adduced by the Prosecution to determine same. See **HERMAN HEMBE VS. FEDERAL REPUBLIC OF NIGERIA (2014) L.P.E.L.R. – 22705 (CA).**

Now, considering the oral testimonies of PW1 – PW3 called by the Prosecution as well as documentary evidence (such as Exhibits A, B, C, D1, D2, D3, D4, E1, E2, E3 & E4) tendered by the Prosecution, the relevant question that comes to mind at this juncture is;

(1) has there been evidence adduced at all by the Prosecution proving the essential elements in the alleged offences of sexual

offences/rape; harmful traditional practices and acts of gross indecency against the Defendant?

(2) If evidence has been adduced at all, is the said evidence credible and manifestly reliable enough to link the Defendant to the commission of the alleged offences? The answer to these posers is with respect, in the negative as will be demonstrated hereunder.

It would, therefore, be proper for the Defendant in the instant case, having shown to this Court that there is no credible evidence to prove the essential elements of the alleged offence against the Defendant to be discharged and acquitted. More so, in a situation here the evidence adduced by the complainant has not in any way linked the Defendant to the offences against which he was charged or where the evidence led, has been so badly discredited under cross examination such that it is manifestly unreliable and no reasonable Court will convict on same. In appreciation of this point, the Supreme Court in **UBANATU VS. COMMISSIONER OF POLICE (2000) 2 N.W.L.R. (PART 643) 115 at 141 paras. B –D** held thus:

"A submission of no case to answer may be properly made and upheld:

a) ***Where there has been no evidence to prove an essential in the alleged offence, or***
b) ***Even when evidence has been adduced on the essential elements, the evidence has been so discredited as a result of cross-examination or is so manifestly unreliable that no reasonable tribunal could surely convict on it, the distinction between the two conditions should be noted. This is because, if an element is missing, the question of discredited evidence through cross-examination will not arise"***

See also **IBEZIAKO VS. COMMISSIONER OF POLICE (1963) 1 ALL N.L.R. 61 at 69; ABOGEDE VS. STATE (1996) 5 N.W.L.R. (PART 448) 270 at 280; UBOTU VS. STATE (2002) 2 N.W.L.R. (PART 643) 115 at 141; EMEDO VS. STATE (2002) 15 N.W.L.R. (PART 789) 196; AITUMA VS. STATE (2006) 10 N.W.L.R. (PART 989) 542 at 566; ONAGORUWA VS. STATE (1993) 7 N.W.L.R. (PART 303) 49.**

The learned counsel submitted, as a starting point that it is pertinent to draw your Lordship's attention to the fact that the

evidence adduced by the Prosecution so far in proof of all the nine (9) counts contained in the charge did not establish a link/nexus or correlation to counts 1 – 9. In other words, if from the evidence adduced by the Prosecution has not proved or established any of the essential elements of any of the offences as contained in the above referred counts. See **ONAGORUWA VS. STATE (1993) 7 N.W.L.R. (PART 303) 49 at 83, paras. D – H.** See also the case of **AJOSE VS. FEDERAL REPUBLIC OF NIGERIA (2011) 6 N.W.L.R. (PART 1244) 465 at 476 paras. G – H.**

The counts relevant to this offence in the charge upon which the insufficient, discredited and unreliable evidence (both oral and documentary) has been acclaimed to be adduced are counts, 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the charge. The allegation contained therein are against the Defendant.

He further submitted that the provisions of **Section 1(2); 5(1); 20(1) of the Violence against persons (prohibition) Act, 2015** and **Section 285 97 of the Penal Code Law** defines the offence of "Rape; Harmful Traditional Substance and Acts of Gross Indecency" as follows:

"(1) A person commits the offence of rape if –

(a) He or she intentionally penetrates the vagina, anus or mouth of another person with any part of his or her body or anything else;

(b) The other person does not consent to the penetration; or

(c) The consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or addictive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse;

(2) A person convicted of an offence under subsection 1 of this section is liable to imprisonment for life except;

a) Where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years of imprisonment.

b) In all other cases, to a minimum of 14 years of imprisonment.

c) In the case of rape by a group of persons, the offenders are liable jointly to maximum of 20 years imprisonment without an option to pay fine.

5(1) A person who compels another by force or threat to engage in any conduct or act, sexual or otherwise, to the detriment of the victim's physical or psychological wellbeing commits an offence and is liable upon conviction to a term of imprisonment not exceeding two years or to fine not exceeding N500,000.00 or both.

(2) A person who commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to fine not exceeding N300,000.00 or both.

(3) A person who carries out harmful traditional practices on another commit an offence and is liable to a term of

imprisonment not exceeding 4 years or to fine not exceeding N500,000.00 or both.

Section 285 of the Penal Code Law; whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threats compels a person to join with him in the commission of such acts, shall be punished with imprisonment for a term of which may extend to seven years and shall also liable to fine.

Provided that a consent given by a person below the age of sixteen years to such an act when done by his teacher; Guardian or any person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.

It is, therefore, trite that before an accused person is convicted for an offence of rape, the prosecution must prove either of the following elements:

1. That the Defendant had sexual intercourse with the women or victim in question; or

2. That the act was done in circumstances envisaged in any of the three paragraph of Section 282(1) of the Penal Code Law;
3. That the women was not the wife of the Defendant, or if she was the wife, she had not attained puberty; or
4. That there was penetration. See **OKOYOMON VS. THE STATE (1972) 1 N.M.L.R. 292; EZIGBO VS. STATE (2012) 16 N.W.L.R. 30; IBE VS. ZARIA NATIVE AUTHORITY (1962) N.M.L.R. 30; JOS NATIVE AUTHORITY VS. GANI N.M.L.R. 8;** See also Section 282(1) & (2) of the Penal Code; 2(1) and 5(1).

He submitted therefore that once the Prosecution has not been able to prove either of the aforementioned essential elements/ingredients by any available evidence which successfully overcome the rigors of cross-examination to the extent that same is not deprived of credibility and credence, it is not worthwhile for the Court to continue with the proceeding by asking the accused person to open his defense. Therefore, such as accused person ought to be discharged. And he so urged the court.

It is also submitted that in the instant case, all that is needed to be established by the prosecution in proof of its allegation of rape under the extant laws against the Defendant is to adduce credible evidence that can make this Court to conclude that an illegal act has been done or caused to be done and to draw an inference that the Defendant has committed the said alleged offence. See **ADEYEMI VS. STATE (1991) 6 N.W.L.R. (PART 195) 1 at 35; ERIM VS. STATE (1994) 5 N.W.L.R. (PART 346) 522 at 533.** However, this was never being done by the prosecution in this case.

He contended that even the documentary evidence i.e. Exhibits B, D1 – D2, D3 and D4 tendered by the prosecution have worsen the situation of the oral testimony of PW2 before this Court.
A calm perusal of the said Exhibits referred as tendered by the prosecution will reveal that there is nowhere in the said documents where it is shown either expressly, by inference or by implication that the medical examination or anything whatsoever suggesting to link the Defendant to the said offences so alleged. If there is anything to go by, the document falls under what is

called in law "a documentary hearsay" by the rendition and the choice of words used in the said report.

For instance, he reproduced a wording in Exhibit D1 which is the report in respect of RASHIDAT OJOCHIDE/F/19YRS/HOSP. NO.: 000387 where in paragraph 2 of the report line 5 – 7 reads thus:

> ***"The victim was apparently well until about two years ago her uncle started having unconsented forced sexual intercourse with her, intercourse has been regular, about twice a week until last year"***

He, therefore, argued that the said remark being not a deduction as per a scientific proof but a hearsay which source was not stated in the report. To make matter worse, the medical expert who authored the report though listed as PW15 was never called but the prosecution chose to use a police officer not trained in medical science to tender and answer questions regarding what she had no understanding of. He urgedthe court to use these said Exhibits as a hanger to test the veracity of the oral testimony of PW2 in determining whether prosecution has established a

prima facie case against the Defendant seeing that the said witness is a police officer incapable of understanding the technical meaning ascribed to the analyses in the report sought to be relied upon.

He argued further that the evidence of PW2 vis-à-vis the content of Exhibits D, D2, D3 & D4 respectively by their very content goes to no issue considering the fact that same is essentially a semblance of the alleged history against the Defendant instead of emphasis on the Defendant's connection to the said finding.

It is important to note that the evidence of PW2 relied heavily on was what she was told by others which she failed to mention especially as to the charm which she confirmed not to have seen. She equally did not state the name of the officer who told her about the charm nor have the prosecution placed any materials suggesting otherwise especially that the PW1 have vehemently maintained the contrary during her oral testimony. He therefore, urged this Court not to rely upon it or better still not convict on same.

He submitted further, that the evidence of PW2 regarding Exhibits C, D1, D2, D3, & D4 on these allegations against the Defendant and all her oral testimony amount to nothing but both a hearsay/documentary hearsay. Thus, this Court cannot countenance same in determining that the Defendant has a case to answer. See **IKARIA VS. STATE (2014) N.W.L.R. (1389) 639 at 651 PARAS. F – H; NYESOM VS. PETERSIDE (2016) 7 N.W.L.R. (PART 1512) 452.**

Moreso, when the testimony of PW2 has not linked the Defendant to the alleged offences.

In the same vein, PW2 under cross-examination while attempting to tender a document purportedly electronically generated but failed to comply with the provisions of Section 84 of the Evidence Act, which required a certificate of compliance as an electronically generated evidence for it to be admitted. Therefore, the failure to comply which prompted the Defendant's objection was graciously upheld by this Court and the said document heavily relied on was tendered but rejected. Therefore, the sole evidence purportedly relied on proof of

Count 9 on the charge sheet fails and he therefore urged the Court to so hold.

The said document being a material evidence the prosecution is ought to put before the Court in proof of the allegation having been thrown out is fatal to the proof of the said allegation as per count 9 of the charge. The prosecution having failed to bring forth additional evidence so crucial and vital (in prove of the required element/ingredients of the offence) has no prima facie case against the Defendant as far as the said transaction is concerned. See **OPOLO VS. STATE (supra) at 317,** where, Bello JSC (as he then was) opined as follows:

> ***"In this connection, the file was the primary evidence which, although it formed part of the depositions, for some inexplicable reason, the prosecution failed to produce at the trial. The effect of the non-production of the file was to invoke the presumption under Section 148(d) of the Evidence Act that the evidence contained in the file would have been unfavourable to the prosecution. If it had been produced. The learned trial Judge therefore erred in his assessment of the***

depositions by his failure to resolve the presumption in favour of the Appellant"

See also **FARARIN VS. STATE (1995) 1 N.W.L.R. (PART 371) 313 at 322 paras. F – H,** where Mukhtar, JCA (As she then was) held as follows;

> ***"The Prosecution seem to be silent on the fact that it was the scene. Secondly, none of the other people who came to the scene was called to testify. Could it be that they were trying to withhold vital evidence. I am not mindful of the fact that the prosecution is not bound to call all or a number of persons who were present in the scene of crime, see ODELE VS. STATE (1986) 4 N.W.L.R. (PART 38) 756.<u>But when the evidence to establish a case against an accused is not adduced then I believe one can safely presume that the evidence if produced would have been unfavourable to the case of the Prosecution</u>"***

The above decision is premised on the fact that the onus on the Prosecution to proof its case beyond reasonable doubt rests on

it, and it does not shift to the accused person in this case, to produce evidence to the contrary regarding his innocence, rather it is the burden duty of the Prosecution to tender sufficient/cogent evidence in proof of their allegations against the Defendant, in proving beyond reasonable doubt the essential elements of the offence charged. In **NNOLIM VS.STATE (1993) 3 N.W.L.R. (PART 283) 569 at 580 paras. H – A,** Uwaifo, JCA, emphatically held, in appreciation of this issue, as follows:

> ***"It is a cardinal principle of law that the Prosecution has a duty to prove its case beyond reasonable doubt. Where there is reasonable doubt or put different where there is any lingering doubt, it should be resolved in favour of the Accused.*** *See* ***BAKARE VS. THE STATE (1987) 1 N.W.L.R. (PART 52) 579 at 587 – 588*** per Oputa JSC;***ONAFOWOKAN VS.THE STATE (1987) 3 N.W.L.R. (PART 61) 583 at 544 – 545*** per Kazeem JSC,***KALU VS. THE STATE (1988) 4 N.W.L.R. (PART 90) 503 at 513***

perNnamaniJSC, failure to discharge the burden of proof will automatically lend to the acquitted and discharged of the accused. See ***IKEMSON VS. THE STATE (1989) 3 N.W.L.R. (PART 110) 455 at 466"***PerBelgore JSC.

In the Prosecution of a criminal case, if there is a vital issue either from the nature of the case or from the evidence led and there is one witness whose evidence would settle it one way or another, that witness ought to be called. It follows that if the Prosecution makes a piece of evidence, oral or documentary, part of its case bit that evidence calls for more exploration in order to resolve a vital issue then it is the duty of the prosecution to undertake such exploration. If it fails to do so, the vital issue will remain unresolved. Consequently the prosecution would have failed to prove is case beyond reasonable doubt. (underlining ours for emphasis).

He submitted that all the above mentioned essential elements of these offences must be established conjunctively before it can be

concluded by the Court that the Prosecution has established a prima facie case against the Defendant, otherwise the Defendant is entitled to be discharged by the Court. See **ONAGORU VS. STATE (1993) 7 N.W.L.R. (PART 303) at 83, paras. D – H; ADEYEMI VS. STATE (1991) 6 N.W.L.R. (PART 195) 1.**

It is equally submitted that the evidence adduced by the complainant in proof of the essential elements of the said offence of either rape; use of harmful traditional practices and acts of gross indecency as per the 9 counts of the charge sheet against the Defendant, has not proved any of the essential elements of the offense, and therefore, it is so manifestly unreliable, that no reasonable Court could surely convict on it. In other words, the said evidence is such that is worth concluding by this Court that credibility cannot be given to the case of the prosecution.

It is also contended regarding PW3 that in the cause of trial, one ASP Caleb Hamid equally testified while attempting to tender a photocopy of a purported report without a proper foundation laid. As a result, the Court rejected the said document on the

Defendant's application. It is equally important to reproduce some vital testimony of PW3 thus:

- ***I cannot say if the phone was used by another person apart from the Defendant.***
- ***I was not concerned about the person who downloaded the videos.***
- ***I don't know the person the nude videos and images relate to.***
- ***I don't know if the Defendant personally downloaded the pictures in his phone."***

It is his submission that the testimony of PW3 woefully failed to proof any of the alleged offences obviously as can be revealed during cross examination he neither cannot ascertain nor confirm to the Court whether the Defendant was the first user of Exhibit B. He equally added in his testimony on cross-examination that he did not know the identity of those in the said Nude videos and images as he did not know if it is the Defendant that downloaded the said content on Exhibit B.

It is his position/submission that the totality of the evidence is not sufficient to sustain conviction of the Defendant. Ranging from the statements of the minors that were not even present to testify and tender their own statement as in Exhibits E1 – E4 and that of other evidence. All that the law requires is that the evidence must be credible enough for the Court to safely convict on it, even if it is the evidence of a single witness provided same is reliable. As a general "no particular number of witnesses is expressly provided by law. However, in rape cases the Courts often will not convict on the sole evidence of the victim. This has become the popular practice. Thus, in **IKO VS. STATE (supra),** Supreme Court noted thus:

> ***"The fact that PW1 said that the Appellant inserted his penis into her vagina is not ipso facto sufficient proof of penetration in the absence of corroborative evidence in a case of this nature. This is because as I said earlier, the evidence of the prosecutor, PW1 in this case needs in practice to be corroborated in material particular implicating the Appellant before he could be found guilty of rape. I find support in this view in the case of SIMON***

OKOYOMON VS. THE STATE(1972) 1 N.M.L.R. 292, (1972) 1 SC 21 at page 33. In that case the accused was charged with the offence of having unlawful carnal knowledge (rape) with a girl under 14 years without her consent. The evidence was that "the accused fell her down, removed her pant and his own pair of shorts, and started to have carnal knowledge of her. She shouted and hailed PW3, the accused covered her mouth with a piece of cloth. She was lying on her back as the accused lay on her an inserted his penis into her vagina. Shaking his waist up and down on her. The Supreme Court considered the whole evidence and finally found that there was no evidence of penetration just because the complainant said the accused inserted his penis into her vagina"

Recently, the Supreme Court, confirming that corroboration is a rule of practice, concluded that a trial Court after warning itself that it unsafe to convict solely on the evidence of the prosecutor, can proceed to convict if after paying due attention to the warning, he is satisfied with the truth of her evidence. NGWUTA

JSC decision in **AFROLUCKY VS. STATE (supra) page 35 paras. B – D**.

In the instant case, all the Prosecution was doing was doctoring evidence after the Defendant was already charged to Court. More so that there is no single eye-witness to the alleged offences but only a figment of the imagination of some busy body individual who was invariable not contacted to testify for the prosecution.

He therefore submitted that the prosecution did not investigate the facts and circumstances of the alleged offence, and therefore could not provide evidence to support the nine (9) counts of the charge against the Defendant.

On the whole we submit that the Prosecution has not in any way established prima facie case against the Defendant. He therefore urged this Court to so hold.

The Prosecuting Counsel did not file any written reply to this written no case submission for the reason best known to him.

For the numerous reasons adduced by the Learned Counsel to the Defendant legally and factually which I agree with, I find that the prosecution's case is so weak and has not linked this Defendant to any Count of the 9 charges proffered against this Defendant.

I therefore find considerable merit in this No case submission and it is thereby upheld.

The Defendant in this case, Yusuf Yahaya is hereby discharged and acquitted.

Signed
S. B. Belgore
(Judge) 20-11-2024

APPEARANCES:

Rimamsomte Ezekiel CSP for Prosecution

J. S. Agada for Defendant