

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE GWAGWALADA JUDICIAL DIVISION  
HOLDEN AT GWGWALADA  
BEFORE HIS LORDSHIP HON. JUSTICE A. S. ADEPOJU  
THIS 29<sup>TH</sup> DAY OF APRIL, 2024**

**SUIT NO: FCT/HC/CR/30/2017**

**BETWEEN:**

**COMMISSIONER OF POLICE ..... COMPLAINANT**

*AND*

- |   |   |                               |
|---|---|-------------------------------|
| <p><b>1. SOLOMON YOMI (ALIAS SLAY)<br/>2. WALE OWOLABI (ALIAS WALIU)<br/>3. HASSAN SIKIRU</b></p> | } | <p><b>.....DEFENDANTS</b></p> |
|---|---|-------------------------------|

*THADEUS CLETUS for the 1<sup>st</sup> Defendant.*

*A.A. ABDULRAHEEM for the 2<sup>nd</sup> defendant.*

*Matter is for Ruling.*

*3<sup>rd</sup> Defendant is in Court.*

**RULING**

The three defendants are standing trial for the offence of Criminal conspiracy and culpable homicide contrary to Section 97 (1) and 221 of the Penal Code Law respectively. The prosecution in proof of its case called four (4) witnesses and thirty three exhibits. The 3<sup>rd</sup> defendant submitted that the prosecution has not made out a prima-facie case against him for the court to call upon him to defend himself. In trying to exonerate the 3<sup>rd</sup> defendant, Counsel to the accused person argued that it was only the PW3 that tried to link the 3<sup>rd</sup> defendant to the crime. That he said he knew the 3<sup>rd</sup> defendant before the crime and in his testimony, he tried to link him with the name Ejima which he could have done when recording his extra judicial statement as an alias as he did with the 1<sup>st</sup> defendant.

That this piece of evidence is manifestly unreliable if juxtaposed with the evidence of PW1 and PW2.

On the other hand the prosecution argued that in the testimony of the PW2, he specifically mentioned amongst other persons who were present at the scene of crime during the murderous act on the deceased to include amongst others 1<sup>st</sup> defendant, Solomon Yomi alias ‘Slay’, 2<sup>nd</sup> defendant, Wale Owolabi alias ‘Waliu’, and the 3<sup>rd</sup> Defendant Hassan Sikiru popularly known as ‘Ejima.’ And that the PW3 also mentioned him and his activities in the murder of the deceased. The prosecution submitted that from the totality of the evidence both oral and documentary, there is no gainsaying the fact that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> defendants were linked to the offence as charged.

At this stage of no-case submission it is trite that it is not the duty of the court to evaluate the testimonies of the prosecution witnesses. The only duty of the court is to decide whether a prima-facie case is established against an accused person. Whether there is a piece of evidence linked to the accused person with the commission of the offence. There are plethora of authorities to this effect one of which is the case of FRN V SANI & ORS (2022) LPELR 57241 CA, where the Court of Appeal held:

***“By virtue of Section 303 (3) of the Administrative of Criminal Justice Act, ACJA 2015, a no-case submission will be sustained where:***

- (1) Whether an essential element of the offence has been proved.***
- (2) Whether there is evidence linking the defendant with the commission of the offence with which he is charged.***

***(3) Whether the evidence so far led is such that no reasonable court or tribunal would convict on it and if any other ground on which the court may find that a prima-facie case has been made out against the defendant for him to be called upon to answer.”***

The testimony of PW2 that the 3<sup>rd</sup> defendant was at the scene of crime was not challenged by the defence counsel. The PW2 in his testimony stated:

***“The first person I identified and standing before me was the 1<sup>st</sup> accused (Slay). The 2<sup>nd</sup> person was called Ejima by name, the 3<sup>rd</sup> person was called Danwasa by name and the fourth person, I cannot identify his name but I can identify his face and the 5<sup>th</sup> person was Waliu.”***

It is also important to state that the 3<sup>rd</sup> defendant from the record of the court was arrested and arraigned after the initial arraignment of the 1<sup>st</sup> and 2<sup>nd</sup> defendants. And I do not think there was any issue as to his identity and name as the person called Hassan Sikiru with the alias ‘Ejima’ as the Learned Defence Counsel wants the Court to believe.

On the whole, I agree with the prosecution that a prima-facie case was made out against the 3<sup>rd</sup> defendant to warrant his putting in his defence. Consequently, the no-case submission is hereby dismissed.

Matter is adjourned to 13/5/2024 for defence. Defendants to be further remanded at the correctional center.

**Sign**

**Hon Judge  
29/4/2024**