

**IN THE HIGH COURT OF JUSTICE OF THE  
FEDERAL CAPITAL TERRITORY ABUJA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT JABI - ABUJA**

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU & GODSPower EBAHOR**

**COURT NO: 10**

**SUIT NO: FCT/HC/CR/346/2019**

**BETWEEN:**

**COMMISSIONER OF POLICE.....PROSECUTOR**

**VS**

**1. SUNDAY ABRAHAM (m) 33 YRS**

**2. SUNDAY OBI (m) 35 YRS**

**3. CHIBIKE CHUKWU (m) 28 YRS**

**4. SHALON YUSUF (m) 23 YRS.....RESPONDENTS**

**RULING**

This is a Ruling on the Admissibility of a document; Statements of Witness/Accused, made at Lugbe Police Station on 23/01/2019 by Mrs. Olanma Dike, sought to be tendered in evidence by PW1; Mrs. Olauma Dike 1<sup>st</sup> Defendant's Counsel objects to the Admissibility of the said document on the ground that Extra Judicial Statement form part of the official act and records of the police and therefore a public document and to evidence that the documents are Certified True Copies.

2<sup>nd</sup> Defendant's Counsel aligns his objection along the argument of the 1<sup>st</sup> Defendant's Counsel. Also aligning with the objection of the 1<sup>st</sup> Defendant's Counsel and submits further that the documents in issue are in admissible

in law under Section 89 and 90 of the Evidence Act. Refer to the case of Baraka Vs Egbhe (2003) LPELR – 532 (SC).

Responding Prosecution Counsel submits relying on Section 4,7,8,5, and 86 of the Evidence Act. That the document is relevant to the proceeding, and laid foundation as the maker of the statement at the police Station, submits further that the documents are not secondary document and being original document they need not be certified, therefore urge court to admit the document and refuse the objections.

Having considered the submission of Counsel the Judicial Authorities cited I find that the issue which calls for determination is;

“Whether the set of document is indeed capable of being admissible in evidence”

The criteria which govern the Admissibility of documentary evidence have been held to be the folds that is;

1. Is the document pleaded?
2. Is the document relevant?
3. Is the document admissible in law?

See Okonji & Ors Vs George Njokanma (1999) 12 SCNJ 254 @ 273.

I have taken a careful look at the document in issue vis-à-vis the amended charge dated 6/3/2020 and I find that the witness is mentioned and the document attached to the charge, I also find the document is relevant to this case before the court. The question which follows is whether the document is admissible in law.

Section 85 of the Evidence Act stipulates that the contents of documents may be proved either by primary or by secondary evidence. Section 86 of the same act defines primary evidence as the document itself produced for the inspection of the court. While Section 87 (a)-(e) defines in details the meaning of secondary evidence. And Section 89 of the Act prescribes cases in which secondary evidence may be given in the instant case the grounds for the objection by the 1<sup>st</sup> 2<sup>nd</sup> and 3<sup>rd</sup> Defendant's Counsel is that the document ought to be certified to make it admissible on the other hand Prosecution Counsel contends that the document being in its original form read not be certified before being admitted in evidence. A look at the document in issue reveals that the document in issue is in its original form, that being the case I am of the firm view that the document is admissible under Section 85 and 86 of the Evidence Act having satisfied the meaning of Primary evidence thereof and can be admitted as primary evidence I so hold. The court finds the document in issue admissible.

In conclusion the document; witness Statement of Witness/Accused made by Mrs. Olanma Dike @ Lugbe Police Station on 03/01/2019 is hereby admitted in evidence and marked Exhibit A1-A2 accordingly the objection to its admissibility by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendant's Counsel is hereby dismissed.

**HON. JUSTICE O. C. AGBAZA**  
Presiding Judge  
03/12/2020

**APPEARANCE:**

O. UDO FOR THE PROSECUTION

ADEOLA SALAKO FOR THE 1<sup>ST</sup> DEFENDANT

A.G IBRAHIM FOR THE 2<sup>ND</sup> DEFENDANT

ABDULFATAI OYEDELE FOR THE 3<sup>RD</sup> DEFENDANT