

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE NYANYA JUDICIAL DIVISION
HOLDEN AT NYANYA
BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE

SUIT NO.FCT/HC/CR/96/17

COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.

DATED: 25/11/2020

BETWEEN:

COMMISSIONER OF POLICE.....COMPLAINANT

AND

EKE EMMANUEL.....DEFENDANT

RULING

The charge against the Defendant is a one count charge dated 2nd day of February 2017 but filed on the 3rd of February 2017. It states:

“That you Eke Emmanuel ‘M’ of CBN Quarters Garki II, Abuja on or about 30/09/2016 did issue two first bank cheque valued N4 Million (Four Million Naira) totalling N8 Million to one Wale Agboola ‘M’ of 20A Policia Street, Karu Abuja which were to be presented on 7/10/15 and 27/10/15 respectively. Upon presentation of the two cheques, they were dishonoured and returned to the Complainant with

endorsement DrawerAttention Required. You thereby committed an offence contrary to and punishable under Section 1(1)(b) of the Dishonoured Cheque Act.

The charge was read to the Defendant and he pleaded Not Guilty.

The Prosecution opened his case and called three witnesses. At the close of the Prosecution's case, the Defendant counsel made a No Case Submission.

Section 1(1)(b) of the Dishonoured cheque offence Act states:

“Any person who obtains credit for himself or any other person by means of a cheque that when presented for payment not later than 3 months after the date of the cheque, is dishonoured on the ground that no funds or insufficient funds were standing to the credit of the drawer of the cheque in the bank on which the said cheque was drawn shall be guilty of an offence”.

Learned Counsel argues that a prima facie case has not been made out against the Defendant.

I have carefully gone through and considered the Defendant's No case submission and the

prosecutions' Reply thereto. By Section 302 of the Administration of Criminal Justice Act, "The Court may, on its own motion or on application by a Defendant, after hearing the evidence for the prosecution, where it considers that the evidence against the Defendant or any of several Defendants is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of the Defendant without calling on him or them to enter his or their defence and the Defendant shall accordingly be discharged...

A No Case Submission may be upheld where:

- (1) There is no evidence to prove an essential element of the alleged offence.
- (2) The evidence adduced has been so discredited as a result of cross examination and
- (3) The evidence is so manifestly unreliable that no reasonable tribunal or court can safely convict on it.

See ***AITUMA VS. STATE (2007) 5 NWRL (PT. 1028) 466.***
AMINU VS. STATE (2005) 2 NWLR (PT. 909) 108.

Learned Counsel to the Defendant has argued that no prima facie case has been made against the Defendant requiring him to enter his defence. The Prosecution on the other hand, argued that from the totality of the evidence adduced by the Prosecution,

the Prosecution has established a prima facie case of issuance of a dud cheque against the Defendant.

I have noted the evidence of PW 1 & PW2. He said the Defendant approached him for a friendly loan of N4 Million. He gave him two cheques of N4 Million each. That when it was time to redeem the cheques, he presented them for payment and they bounced. He said the accounts were not funded. The cheques are Exhibit A & A1. They are the cheques of Manek Integrated Services Ltd. The Defendant is the MD/Chief Executive of Manek Integrated Services which gave him the cheques.

I also note Exhibit D, the account of Manek Integrated Services Ltd. I have noted the date on the cheques Exhibits A & A1 and the said date in the Exhibit D.

In my humble view there is before the Court legally admissible evidence linking the Defendant with the commission of the offence with which he is charged. In other words, there is evidence sufficient enough to support the allegation made against the Defendant.

A no case submission is not the same as proof beyond reasonable doubt. In the circumstance of this case, the Nocase submission fails and it is

accordingly dismissed. The Defendant is hereby called upon to enter his defence.

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**HON. JUSTICE U.P. KEKEMEKE
(HOH. JUDGE)
25/11/20**