

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA**

THIS TUESDAY, THE 2ND DAY OF MARCH, 2021

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

CHARGE NO: CR/48/2016

BETWEEN:

COMMISSIONER OF POLICECOMPLAINANT

AND

**1. ABUBAKAR MOHAMMED
2. MOHAMMED LAWAL BAPPA
3. JAFAR ADAMU** } **..... DEFENDNATS**

RULING

The Defendants were charged as far back as 16th February, 2017 on a five (5) Counts charge bordering on conspiracy to commit Armed Robbery and Armed Robbery. Their plea was taken same date.

On the records, the matter has suffered several adjournments at the instance of the prosecution. It is not necessary to state in details the different reasons given for the adjournments. What is interesting is that when the matter came up on **10th February, 2020**, counsel for the prosecution, H.O. Afom informed the court that their key witnesses are not interested in coming to give evidence despite their best

efforts. He sought for one more adjournment to see what steps he can possibly take to get the witnesses to change their minds. The said counsel never appeared in court again despite service of hearing notices on the prosecution. It is apparent that his efforts to make the witnesses change their minds did not succeed.

The matter then came up on 26th January, 2021 and 2nd March, 2021 and the prosecutor did not appear in court despite service of hearing notices.

The extant charge against defendants no doubt contains serious offences but this does not in any way derogate from the presumption of innocence which enures in their favour until the contrary is proved at hearing.

It is therefore strange that the prosecution chose to keep the extant charge in the court's docket when the witnesses have stated clearly that they are not interested in the matter. If there are no witnesses, how then can a case be effectively prosecuted? I just wonder.

This is a matter for which the prosecution should have long done the needful and thrown in the towel as is said in popular parlance instead of allowing the defendants wallow in Kuje prisons for this long. It is really sad and unfortunate. It is the hope of this court that the unfortunate experience these defendants have gone through in the five (5) years that they were confined at Kuje correctional facility for no apparent justifiable reason(s) has not damaged them irreparably. If it has and that will be unfortunate, it is the society that will bear the brunt. I say no more.

Since it is apparent that the prosecution is not prepared to diligently prosecute this matter, the court on its part will not allow itself to be used to ware house matters filed by unserious prosecutors.

One more point. The defendants are been discharged not on the merits but because of the apathy shown by the prosecution. This then presents a golden chance to the defendants to now better themselves, engage in hard work and positive pursuits and ultimately seek the face of Almighty God, who is ever merciful and forgiving.

The circumstances presented by this unfortunate case however calls for the immediate invocation of the provision of **Section 353 (1) of ACJA**. The justice of

this case dictates that the defendants no longer spend one second at Kuje Prison. I hereby accordingly strike out the extant charge and discharge the defendants.

Signed
Hon. Judge