

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA ON THE 8<sup>TH</sup> DAY OF NOVEMBER, 2022**

**BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE**

**SUIT NO.FCT/HC/NY/CR/07/21**

**COURT CLERK: JOSEPH ISHAKU BALAMI & ORS.**

**BETWEEN:**

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

**AND**

- 1. MOHAMMED ABDULSALAM**
- 2. UMAR MUSA**
- 3. NAZIFI IBRAHIM**
- 4. SAIDU MUBARRACK (A.K.A MAJOR)**
- 5. AMINU UMAR**
- 6. NAFIU IBHRAHIM**
- 7. SHUKURA BALA**
- 8. SHAMSI IBRAHIM**
- 9. UMAR MOHAMMED**
- 10. ABDULBASSI ABUBAKAR**

**.....DEFENDANTS**

**RULING**

The charge against the Defendants is of 6 counts. It is dated 20<sup>th</sup> Day of April 2020. The offences charged are conspiracy and armed robbery. The Prosecution called three witness and closed its case. The Defendants' Counsel filed a No Case Submission dated 23/05/22. He adopted same as his argument in support of his contention that the Defendants have no case to answer. He argues

that the Prosecution's evidence is conflicting in several respects. That the essential ingredients of the offences charged are not proved. There was no evidence of an agreement. That the evidence before the Court is bereft of a prima facie case.

The Prosecutor also adopted his Written Address. He submits that the Prosecution has made out a case against the Defendants warranting them to enter their defence. That the Prosecution has proved all the essential elements of the offences against the Defendants. That all the Defendants are successfully linked with the commission of the offence. That the Written Address of the Defendants does not in any way represent the purport and intent of Section 303 of the Administration of Criminal Justice Act. He urges the Court to dismiss same.

It is now trite that a No Case Submission in a criminal trial postulates one or two things.

- (a) There has been throughout the trial no legally admissible evidence of whom the submission has been made, linking him in any way with the commission of the offence.

(b) Whatever evidence there was which might linked the Defendant has been so discredited that no reasonable Court can be called upon to convict on it.

See ***AKWA VS. COP (2003) 4 NWLR (PT. 811) 461.***

In other words, there is no prima facie case against the Defendants. A prima facie case is said to exist where there is evidence sufficient enough to support the allegation made against a Defendant.

At this point, I am only enjoined by law to make a brief ruling, without making any observation on the facts. I am not to express any opinion on the evidence before me. I am to take note and rule accordingly. Evaluation of evidence is not at this stage.

The burden on the Prosecution at this stage is not proof beyond reasonable doubt. I shall note the following evidence:

- (1) PW2's is evidence identifying the 4<sup>th</sup> Defendant and two others that they took his phone and wallet, ATM Cards of Access & Zenith Bank and ran away.
- (2) I also note the evidence that the 4<sup>th</sup> Defendant was holding an axe while the others held a gun and a cutlass. He does not know the other members.

(3) The PW3 stated in evidence that he could recognise 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 9<sup>th</sup> Defendants as persons who robbed him on 30/03/20 with dangerous weapons. They came with his torchlight which they robbed from him on the previous day. That it was the 9<sup>th</sup> Defendant that was holding it. That 1<sup>st</sup> Defendant raised a matchet to cut him.

In the circumstance, it is my view and I so hold that the Prosecution has made out a prima facie case against the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>& 9<sup>th</sup> Defendants. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>& 9<sup>th</sup> Defendants are hereby called upon to enter their defence.

I find as a fact that there is no evidence linking the 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Defendants to the Charge. Consequently, no prima facie case has been made out against them neither is there any legally admissible evidence linking them to the commission of the crime. The 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Defendants are accordingly discharged.

.....  
**HON. JUSTICE U.P. KEKEMEKE**  
**(HON. JUDGE)**  
**8/11/22**