

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON THURSDAY, THE 30<sup>TH</sup> DAY OF MARCH, 2021**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**

**JUDGE**

**SUIT NO. FCT/HC/CR/331/18**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA -----COMPLAINANT**

**AND**

**1. BIODUN ILESANMI**

**2. BASHIR YUSUF-----DEFENDANTS**

**JUDGMENT**

On the 19/9/2018 the Prosecution-ICPC instituted this case against the Defendants. They proffered a 4 Count charge which were predicated on criminal conspiracy to convert Thirty One, Million, Two Hundred and Forty Seven Thousand, Nine Hundred and Fifty Two Naira Fifty Kobo (~~₦~~31, 247,952.50) in excess of Rent of Officer Accommodation which is an offence under S.19 Corrupt Practices and Other Related Offences Act 2000.

The 2<sup>nd</sup> Charge is on conferred corrupt advantage, converting the said sum contrary to the same Act.

The 3<sup>rd</sup> Count Defendant they made statement that the Sum of Fifty Five Thousand, Two Hundred and Fifty Naira (~~₦~~55, 250.00) was erroneously paid to Tunji

Olugbon partnership for Nigeria hospitality and Thompson for office accommodation instead of ₦24,000,000.00 (Twenty Four Million Naira). An offence to S. 25(1)a of Corrupt Practices Act.

Count 4 was on conversion of ₦350, 000.00 (Three Hundred and Fifty Thousand Naira) death benefit of late Augustine Chikoli Ojukwu an offence under S.19 of the same Act.

The matter was filed in 2018. It pended before my learned brother V.V.M. Venda who retired a year ago. The matter was recently transferred to this Court sometime in 2019.

The parties had before now informed the Court that the 1<sup>st</sup> Defendant had died. They had presented a photocopy of the Death Certificate issued by the Lagos State University Teaching Hospital on the 8/4/19 as evidence of the death of the 1<sup>st</sup> Defendant.

This Court had reserved the matter for trial denovo. Today the Prosecution Counsel had informed the Court that they cannot go on with the matter because it will be difficult for them to establish the offence of conspiracy in the absence of the 1<sup>st</sup> Defendant who is the lead Offender/accused person in this case.

He had based his application of the provision of S.355 of the ACJA 2018 and urged the Court. That they want to close the case against the Defendant based on the said provision.

The Defendant Counsel had not challenged the application. He had thanked the Prosecution Counsel for

the timely application and had urged the Court to grant the application as made by the Prosecution Counsel.

The provision of S.355 ACJA is to the effect that:

“Where a complainant at any time before a final Order is made in a case, satisfies the Court that there are sufficient grounds for permitting him to withdraw his complaint, the Court may permit him to withdraw the complaint and shall thereupon acquit the defendant.”

Going by the use of the word “may” it means that where there is such an application, it is still at the discretion of the Court to be convinced that there should be an acquittal.

This Court having considered the submission of the Prosecution Counsel in this application is convinced that there is need to grant same.

That being the case this Court hereby grants the said application and the Court therefore acquits the 2<sup>nd</sup> Defendant and as such matter is therefore closed.

**This is the Judgment of this Court.**

**Delivered on the \_\_\_\_ day of \_\_\_\_\_ 2021 by me.**

---

**K.N. OGBONNAYA**  
**HON. JUDGE**