

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO 20, GUDU - ABUJA
ON THE THURSDAY 30TH DAY OF JUNE, 2019
BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI
SUITE NO.FCT/HC/CR/266/2019

FEDERAL REPUBLIC OF NIGERIA..... PLAINTIFF

AND

YAU IBRAHIM

..... RESPONDENT

JUDGMENT

Defendant was arraigned before this court on a 3 counts charge.

COUNT 1

That you **YauIbrahim**, (M), 29 years old, of Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja, on or about the month of January 2018, at Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja within the jurisdiction of this Honourable Court, intentionally penetrated the vagina of **Precious Okere(F)**, 14 years old of American School, Side, nearDurumi Opposite Christ Embassy Church, Abuja with your penis, whose consent was obtained by false representation, and thereby committed an offence contrary to **Section 1(1) and punishable under Section 1(2) of the violence Against Persons (Prohibition) Act, 2015.**

COUNT 2

That you **YauIbrahim**, (M) 29 years old, of Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja, on or about the month of January 2018, at Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja within the jurisdiction of this Honourable Court, intentionally penetrated the vagina of **Wisdom Uche (F)**, 14 years old of Area 1, Back of Christ Mission, Durumi, Abuja, with your penis whose consent was obtained by false representation, and thereby committed an offence contrary to **Section 1(1) and punishable under Section 1(2) of the violence Against Persons (Prohibition) Act, 2015.**

COUNT 3

That you **YauIbrahim**, (M) 29 years old, of Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja, on or about the month of January 2018, at Opposite Mountain of Fire Ministries Durumi, Area 1, Abuja within the jurisdiction of this Honourable Court, intentionally penetrated the vagina of

Mbah Precious Ifebuche (F), 15 years old of 15 Cadastral Zone B2, Area 1 Durumi, Abuja, with your penis whose consent was obtained by false representation, and thereby committed an offence contrary to **Section 1(1) and punishable under Section 1(2) of the violence Against Persons (Prohibition) Act, 2015.**

Defendant pleaded not guilty to all the charges. Trial commenced on the 15th January, 2020 with prosecution calling 2 witnesses, PW1 and PW2. The following is the case of prosecution: That Precious Okere (PW1) is a 14 years old girl who hawks sachet water after school hours with her friends. That Defendant has a shop around the area where PW1 hawks and defendant is quite known to PW1. That one-night PW1 had gone to hawk sachet water as is her practice when she realized she was running late as it was 12 midnight and had to get home. That PW1 ran towards the road where Defendant had his kiosk when suddenly defendant pulled PW1 into a nearby bush and threatened her with a knife. That PW1 was so scared that she screamed but defendant threatened to stab her with the knife if she screamed again. That she saw defendants face and very certain it was defendant. That defendant tore her cloths, zipped down his pants, removed his penis and forced it inside her vagina and forcefully had sex with her, that after he finished, defendant simply stood up and went away leaving PW1 alone. That nobody come to her rescue despite her cries and scream. That PW1 could not recount the incident to her mother because she was afraid. The next day of the incident, PW1 had gone to school when one of her teachers noticed she was not concentrating in class. That the teacher had enquired from her why she was not concentrating and PW1 had explained the rape incident to the teacher. That her teacher had taken her to the office of the head teacher who contacted NAPTIP. That PW1 was taken to NAPTIP, interviewed and statement written for her. That PW1 was put in a shelter by NAPTIP. That PW1 got pregnant from that singular incident and delivered a baby boy who was a year and 5 months as at time she gave testimony being 15th January, 2020.

PW2 testified that he works with NAPTIP as an investigator. That early 2018, NAPTIP had received a call from the school PW1 attends. That PW2 and other official by name Mr. Sadiq Usman and two policemen attached to NAPTIP proceeded to the school PW1 attends. That PW1 was brought to NAPTIP office by PW2 and interviewed. That PW1 authorized PW2 to write her statement on her behalf which PW2 wrote. That PW1 had taken PW2

and some policemen to defendant's kiosk where defendant was arrested after PW1 pointed him out. That the squad head of the team that arrested defendant had asked defendant if defendant knew PW1 to which defendant replied in the affirmative. Thereafter the rights of defendant were read to him and placed under arrest. PW1 also pointed to defendants' kiosk as the place where defendant had sex with her and other girls. That upon opening the kiosk the team of investigators saw only a small mattress on the floor. That defendant was promptly arrested and taken to NAPTIP office where he confirmed that he could not read nor write but could only understand little English although he was comfortable with Hausa language being his native language. That an interpreter was called who interpreted all that transpired during investigation to Defendant. That cautionary words were administered to defendant in Hausa Language and his statement was promptly taken in Hausa Language but interpreted and written down in English. That just when defendant was about concluding his statement, NAPTIP counselling and rehabilitation department brought in two girls into the interview room. That upon sighting the two girls, defendant identified one of the girls as someone he had once raped and to this effect defendant voluntarily gave additional statement to NAPTIP which was again read over to him in English but translated to him in Hausa Language, defendant confirmed the signature. PW2 also testified that two other girls Wisdom Uche (14) years and Ifebuche Mba Precious (15) years also confirmed that they are victims of rape and both girls voluntarily gave their statements to NAPTIP stating that defendant raped them. Both girls were interviewed by PW2 at NAPTIP office on separate days and both confirmed that defendant raped them.

Under cross-examination PW2 said that it was only Precious Okere that accused the defendant of rape that Precious Okere going by Exhibit PO1 had informed PW2 that one Esther who is her friend had told her how the relationship with defendant "works", precious agreed and both went to defendant. PW2 further confirmed Precious Mba and Wisdom Uche informed him that they willingly approached defendant for money whenever they were in need. Also, PW2 confirmed under cross-examination that Mba Precious in Exhibit PO4 had informed PW2 that the sex with Precious Okere happened in the presence of Mba Precious. When asked under cross-examination that Mba Precious had told PW2 that there was no duress during alleged rape with Precious Okere PW2 had replied **"that was her statement"**.

Defence opened its case with defendant as the sole witness. Defendant was sworn on Holy Quran in Hausa Language and interpreted in English Language that he did not rape Precious Okere nether did he rape any of the girls named in the charge before the court. That both Precious Okere and Precious Mba sell sachet of water and at the end of the day defendant normally buys the remaining sachet water left unsold. That both girls are in a habit of coming to see him whenever they were in need of money. That in January, 2018 he “slept” with both girls and gave them N500.00 each. That they had lost their money, proceeds of their sales on that fateful day and had come to defendants’ shop for money in exchange for sex. That after that day, he did not have sex with them again. That he had never threatened Precious Okere nor any of the girls with knife or harmful instrument. Defendant insisted that Precious Mba witnessed the whole scenario when he had sex with Precious Okere as it all happened in her presence. That he slept with Precious Okere in January but arrested in May. Under cross-examination, defendant confirmed that indeed he had sex with Precious Mba and Precious Okere but that he did not know they were minors as both Precious Okere and Precious Mba told him they were 20years old and 18 years old respectively. Defendant also admitted that the baby Precious Okere gavebirth to is his biological child. Defendant concluded his cross-examination by saying that he only knows Precious Mba and Precious Okere but does not know the person named Wisdom Uche. There was no re-examination.

The following exhibits were tendered by prosecution

- 1) Exhibit PO1 statement of Precious Okere (PW1)
- 2) Exhibit PO2 statement of Defendant
- 3) Exhibit PO3 statement of Wisdom Uche
- 4) Exhibit PO4 statement of Precious Mba Ifebuchi

Both Prosecution counsel and Defence counsel adopted their final written addresses. Learned counsel for the Defendant raised three (3) issues for determination to wit;

1. In light of the evidence before the court, have the prosecution not failed to prove the offence alleged in Count One (1) of the Charge beyond reasonable doubt?
2. In light of the evidence before the court, have the prosecution not failed to prove the offence alleged in Count Two (2) of the Charge beyond reasonable doubt?

3. In light of the evidence before the court, have the prosecution not failed to prove the offence alleged in Count Three (3) of the Charge beyond reasonable doubt?

Counsel submitted that the prosecution's evidence (through the PW1, Exhibit POI and Exhibit P04) regarding the circumstances in which the Defendant had sexual intercourse with the PW1, allege opposite facts that cannot exist together or be true at the same time. Counsel further submitted that, when faced with contradictions in the Prosecution's case, the court lacks jurisdiction to pick and choose which version of the evidence to believe or to proffer an explanation of the contradictions. Counsel submitted that the prosecution failed to prove the allegation of rape against the Defendant beyond reasonable doubt by their failure to call material witnesses such as Mbah Precious Ifeabuchi. That, having joined issues on the subject of age, the burden of proving that the PW1 was a minor at the time rested on the prosecution by virtue of **Section 135 of the Evidence Act 2011**. Counsel submitted that the prosecution failed to prove the allegations contained in Counts 2 and 3 of the Charge against the Defendant and urged the court to discharge and acquit the defendant of all the offences charged as the prosecution has failed to prove the charge beyond reasonable doubt. Counsel cited the following cases amongst other; **Taiwo v. FRN (2019) LPELR-47635 (CA)**; **Section 1(1) of the VAP Act 2015**; **State v. Adu (2021) LPELR-56616(SC)**; **Adegbite v. state (2017) LPELR-42585(SC)**; **State v. Salawu (2011) LPELR-8252(SC)**; **Modupe v. State (1988) LPELR-1888(SC)**; **Morufu Bolanle V. The State (2009) LPELR-788(SC)**; **Lawrence v. Olugbemi&Ors (2018) LPELR-45966(CA)** and **Ahmed v. Belgore (2013) 8 NWLR (pt.1235) 60 at 100 paragraphs B – D**.

Learned counsel to the prosecution likewise raised three (3) issues for determination to wit;

- a. Whether from the totality of the evidence led by the prosecution and the defence put up by the defence in this charge, whether the prosecution has proved the offence of rape charged beyond reasonable doubt to entitle this honorable court to convict the defendant as charged.
- b. Whether the failure of the prosecution to call a particular witness is fatal to her case
- c. Whether the defendant cannot be convicted for lesser offence of offensive conduct which he admitted of having sexual intercourse with the victims.

Summarily counsel submitted that all essential elements of rape are inherent in the case of the prosecution as put forth before this Honourable Court to sustain the conviction of the defendant for the offence of rape

charged. Counsel submitted that the prosecution is not under a duty to call a particular witness and that failure to call a particular witness in this proceeding does not render the evidence fatal. Counsel submitted further that the fact that prosecution did not field one of the victims as a witness does not amount to withholding of evidence. Counsel submitted that none of the authorities cited by the defence counsel in their final written address are applicable. Counsel urged the court to discountenance written address of defence counsel and convict the defendant as charged. Counsel relied on the following authorities amongst others; **STATE V. MUSA (2018) LPELR-46318 (CA)**; **IDI vs. STATE (2018)4 NWLR (PT.1610) 359 AT 38-39**; **NATSAHA V. STATE (2017) LPELR-42359(SC)**; **EMOGA v. THE STATE (1997) 7 SCNJ 578**; **Section 231 of Administration of Criminal Justice Act, 2015** and **OMOFADEZI v. STATE (2015) LPELR-40879 (CA)**.

The issue for determination is:

“Whether prosecution has proved the offence of rape beyond reasonable doubt to be entitle to a conviction”

Defendant was arraigned on a 3 counts charge of rape contrary to **Section 1 (1) and punishable under Section 1(2) of the violence Against Persons (Prohibition) Act 2015**. Defendant was charged with raping 3 underage girls namely Precious Okere (14 years), Wisdom Uche (14 years) and Mba Precious Ifebuchi (15 years) only Precious Okere and the investigating NAPTIP officer testified as witness for the prosecution. Both Wisdom Uche and Mba Precious Ifebuchi did not testify.

From the Prosecution evidence Precious Okere gave evidence that she had gone to sell sachet water but did not realize it was midnight. That she immediately made her way home upon realizing it was about midnight, that while she was running home, defendant dragged her into a nearby bush, brought out a knife to threaten her because she was screaming, tore her clothes, ordered her to keep quiet, unzipped his trousers, removed his penis and forced it into her vagina, and had sex with her forcefully. PW2 who is the investigating NAPTIP officer testified that PW1 had taken PW2 and his team of investigators to the shop of the defendant and positively identified defendant by pointing to him. That defendant was arrested and he confirmed that he did not rape PW1 but sex between them was consensual. Prosecution through PW2 also gave evidence that apart from Precious Okere (PW1) that defendant had also raped 2 other girls Mba Precious Ifebuchi and Wisdom Uche. Prosecution tendered statements of the 3 girls' i.e Precious Okere (PW1) Mba Precious Ifebuchi and Wisdom

Uche. Although both Mba Precious Ifebuchi and Wisdom Uche did not testify before this court as prosecution failed to field them as witnesses, it is essential that their statements be evaluated as all 3 underage girls sell sachet water and have a cordial and common relationship. From statements of the 3 girls Exhibit PO1, PO3 and PO4. Mbah Ifebuchi (15 years) stated that someone (whom she cannot remember by name) introduced her to Defendant and was told that defendant usually have sex with “small girls” and give them money whenever they were unable to sell their sachet water due to low sales. According to the statement of Mba Ifebuchi she was a regular at defendant’s shop who in turn will have sex with her and give her N500.00 anytime she was low on sales of sachet water. That their respective mothers would beat them up if they failed to sell sachet water hence the need to have sex with defendant in order to get N500.00 to add up to the proceeds of sale to her parents whenever she had low sales. Mba Ifebuchi in her statement said she introduced Wisdom Uche and PW1 to the defendant. That they had willingly gone to him for sex in exchange for money to add to the proceeds of sales of sachet water else each girl’s mother would beat her up if they failed to sell all the sachet water they had. That on the faithful day, defendant first had sex with her in the presence of PW1 by penetrating her vagina with his penis thereafter PW1 who stood there and witnessed the whole scenario also willingly consented to defendant removing her clothes and intimate apparels and allowed defendant to likewise penetrate her vagina with his penis. That there was no element of force, nor threat nor knife as alleged by PW1. That both of them willingly slept with Defendant for money to make up for the shortfall in their sale of sachet water in order to avoid the wrath of their respective mothers who was likely to beat them up if they did not finish selling all their sachet water. This evidence was corroborated by PW2 under cross-examination. Wisdom Uche on the other had stated in her written statement Exhibit PO3 that indeed Mba Ifebuchi had introduced her to defendant but defendant had forcefully penetrated her vagina, had sex with her and refused to give her money until she threatened to shout, thereafter defendant gave her N500.00 Wisdom also confirmed in her statement that Ifebuchi Mba had taken PW1 and a certain Folake to defendant who in turn had sex with both of them. PW1 (Precious Okere) in her statement simply reproduced her exam-in-chief. It is worthy to state that PW1 had a rough childhood after the death of her father when she was barely 10 years old. PW1 in her statement stated that her mother had given her out as house help to four different homes, three in Abuja and

one in Imo State and collected money for house help services she rendered to the four families. That her mother mandated her to bring N1,500.00 – N1,000.00 home on a daily basis from her sachet water sales else her mother would beat her and deny her food. Defendant on his part made a confessional statement that indeed he slept with both Ifebuchi Mba and PW1 but on no occasion did he use force rather that it was consensual. Confessional statement of defendant was corroborated by his oral testimony before this court wherein he stated that he did not use force on any of the girls rather they all came to him willingly and consented to have sex with him for money. **Section 1(1) of the Violence Against Persons Act 2015** states:

1. (1) *A person commits the offence of rape if:*
 - (a) *He or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;*
 - (b) *The person does not consent to the penetration; or*
 - (c) *The consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of fraud and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person in the case of a married person by impersonating his or her spouse.*

Going by the above, it is pertinent for prosecution to prove (a) penetration (b) Nonconsensual sex (c) Consent was obtained by force or use of threat, intimidation or fraudulent misrepresentation. Evidence in corroborating the charge of rape must be independent of the testimony of the victim and must connect the accused to the crime. From evidence of Defendant and the statement of Ifebuchi Mba Precious (Exhibit P04) both testimonies are to the effect that sex between the defendant and the PW1 was consensual with no element of force, threat or intimidation present. From evidence of PW1 and statement of Wisdom Uche (Exhibit PO3) sex between defendant and PW1 was not consensual as it was alleged that defendant threatened PW1 and forcefully penetrated her vagina.

The question that comes to fore is whether a girl under the age of 18 years is capable of consensual sex? Without Much ado, **Section 1 of the Childs right Act** states that the best interest of a child should be paramount in all

cases involving children whilst **Section 31 of the Child's Right Act** Provides as follows:

1. *No person shall have sexual intercourse with a child*
2. *A person who contravenes the provisions of Subsection (1) of this Section commits an offence of rape.*
3. *Where a person is charged with an offence under this Section, it is immaterial that*
 - a. *the offender believed the person to be of or above the age of 18 years or*
 - b. *The sexual intercourse was with the consent of a child.*

Section 272 Child Right Act defines a child as a person *“under the age of 18 years”*. From the above provision it is immaterial whether the victim who was 14 years old at the time of incident gave her consent or not as proof of consent are ingredients that are non-existent in cases concerning sex with a minor. Sex with a child is statutory rape simpliciter. The case before this court is quite unique and peculiar as the defendant did not deny having sex via penetrating the vagina of Ifebuche Precious Mba and Precious Okere hence defendant himself has not only corroborated but also confirmed the ingredients of penetration as required by law. It is important to note that there is no medical report tendered in this matter which would have been a surplus as defendant in his written statement to NAPTIP and in his evidence before this court confirmed that he indeed had sex with Ifebuchi Precious Mbah and Precious Okere. As earlier stated, defendant's main defence is that sex with both girls was consensual. Going by **Section 1(3) of the Child's Right Act**, it is immaterial that defendant believed the victims to be above the age of 18 years and likewise immaterial that the sexual intercourse was with the consent of the child. The Child's right act has defined a child to be anybody under the age of 18 years old. In **DAGAYYA VS THE STATE (2006) NWLR (Pt.980) 637** the Supreme Court treated the evidence of a girl of 14 years old as a child but **Section 209 (1) Evidence Act 2011** states: *“In any proceeding in which a Child who has not attained the age of 14 years is tendered as a witness such child shall not be sworn and shall give evidence otherwise than on oath or affirmation if in the opinion of the court, he is possessed of sufficient intelligence to justify the reception of his evidence and understands the duty of speaking the truth”*.

From **Section 209 Evidence Act 2011** anybody under the age of 14 years ordinarily should not give evidence on oath. PW1 at the time of commission of offence was 14 years old and had been delivered of a baby which resulted from the sexual intercourse with the defendant. Defendant in his oral testimony before the court confirmed that the child was as a result of the sexual intercourse he had with PW1. PW1 (14 years) gave sworn evidence before this court which was aptly corroborated by defendant and also statement of Wisdom Uche as in Exhibited PO3. Confessions is described under **Section 28 Evidence Act** as “*an admission made at any time by a person charged with a crime, stating or suggesting the inference that he committed that crime*”. Nowhere in the evidence of defendant did he state that he was tortured or his confession made under duress. Consequently, I am of the view that defendant indeed penetrated the vagina of PW1. Although defendant was also charged with the rape of Wisdom Uche and Precious Ifebuchi Mbah not minding the fact the defendant indeed confessed to having sex with Precious Ifebuchi Mbah. Prosecution failed to field Precious Ifebuchi Mbah as a witness. It is trite that prosecution has the onus of proving its case beyond any reasonable doubt and not rely on the weakness of the defendant’s case. Precious Ifebuchi Mbah is a vital witness who should have been fielded by prosecution. Failure of prosecution to call a vital witness might be detrimental to the case of the prosecution considering the circumstances of the case See **STATE VS IBRAHIM (2021) LPELR - 55204 (SC) per Ogunwunmija J.S.C** the learned jurist on failure to call vital witnesses held thus:

“It is true that the prosecution is not obliged to call all listed witnesses nor is there need for a host of witness to get a conviction but where there is a particular vital witness whose evidence is very crucial and important to the case of the prosecution in proof of the guilt of the accused, then such a witness must be called as failure to do so would occasion a fatality in proof of the charge....stated another way, is that the vital witness is that witness whose evidence is fundamental as it determines the case one way or the other and failure to call that vital witness by the prosecution is fatal to this case.”

Prosecution having failed to field Precious Ifebuchi Mbah and Wisdom Uche who also accused defendant of sex with her is fatal to the case of the prosecution and it is trite that prosecution cannot rely on the weakness of case of defendant. Moreover, by failing to field Ifebuchi Precious Mbah and

Wisdom Uche, prosecution did not give defendant the opportunity to cross-examine both girls which contravenes the defendants constitutional right to fair hearing. Prosecution has the onus of proving its case beyond reasonable doubt which prosecution has failed to do in the case of rape of Precious Ifebuchi Mbah and rape of Wisdom Uche, I therefore hold that defendant is not guilty of the second and third count charge of rape. Before proceeding with the guilt or otherwise of the 1st count, it is pertinent to state that these 3 girls' victims of rape are victims of circumstances. One common factor in the statement of all 3 under aged girls is that they were all scared of being beaten up by their mothers and denied food as punishment if they failed to sell all sachet water given to them by their mothers. It is obvious that their respective mothers gave them a target of either selling all their sachet water or face punishment. It is definitely not surprising that these girls had no option than to turn to defendant and offer him sex for money to make up their proceeds of sale of sachet water in order not to incur the wrath of their respective mothers. If this is the true situation as culled from the statements of the 3 under aged girls then it is not out of place that such mothers are irresponsible, money conscious parents who do not mind the length their under aged daughters would go in order to bring money home to feed the family. It is more disheartening when defendant in his oral testimony said that the under aged girls were the ones who walked up to him in his kiosk and willingly gave up their bodies for sex for a meagre sum of N500.00 just to make up for the proceeds of sale of the sachet water. I do not see any reason why 3 under aged school girls would be out till midnight selling sachet water bearing in mind that they would be going to school the following day.

Be that as it may, evidence that defendant indeed penetrated the vagina of Precious Okere, had sex with her which resulted in the 14 years old having a baby boy is uncontradicted by the defendant as defendant gave written statement backed by his oral testimony to the effect that he indeed penetrated the vagina of Precious Okere and had sex with her. Putting the totality of all the evidence together, a common element in all statements of the 3 girls is fear; the fear of their respective mothers if they fail to sell off all the sachet water they had and go home without money. Another common element in all statements of the 3 girls is that they all went willingly to meet the defendant in his shop for money. Observing the demeanor of the defendant in the dock and witness box and his testimony where he did not deny sleeping with the girls, that they came to him willingly and that there

was no force nor threat nor intimidation. This is corroborated by Exhibit PO4 which is statement of Ifebuchi Precious Mbah that they normally go to defendant to offer to have sex with him in exchange for N500.00. I am convinced that all three girls including the PW1 willingly went to defendant for sex and there was no element of force involved, rather the fear of their mothers pushed them into it. I am also of the view that the element of force as included in the testimony and statement of PW1 which she made at NAPTIP office was simply as a result of the fear of her mother as there is evidence before me that the mother of PW1 was present during interrogation of PW1 at NAPTIP office.

Moreover, PW2 the investigating NAPTIP officer under cross-examination confirmed that during interrogation evidence that there was no duress/force in sex with PW1 was apparent from the interview NAPTIP had with Mbah Precious Ifebuchi. A culmination of **Section 1 of Child's Right Act, Section 31 Child's Right Act and Section 2(1) of the Violence Against Persons (Prohibition) Act, 2015** is to the effect that prosecution must prove penetration; non-consensual sex and force/threat/intimidation. As earlier stated, whether victims gave their consent or not is immaterial where the victim is under aged. I am of the view and I therefore hold that prosecution has proved the offence of rape of Precious Okere by the defendant beyond reasonable doubt. The offence of rape is punishable under **Section 2(1) of the Violence Against Persons (Prohibition) Act, 2015** which states:

“A person convicted of an offence under subsection 7 of this section is liable to imprisonment for life except:

- (a) Where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years imprisonment.*
- (b) In all other cases, to a minimum of 12 years imprisonment without an option of fine.*

The question that comes to force is which of the sentencing is adequate for the defendant? In my view the ingredient of force/threat/intimidation of the victims before having sex with them is missing. All under aged girls had willingly gone to defendant for sex in exchanges for money.

Consequently, I am of the view that with the element of force/threat/intimidation missing in prosecution's case, defendant is hereby found guilty of the offence of having sexual intercourse with a minor otherwise known as statutory rape. You are hereby found guilty of count 1.

Allocutus by Defendant:

“I thank God for the judgment; my father is late died in 2021. I am the Senior Child, I have 8 junior ones and our mother is aged. I am begging this court to have mercy on me”

Sentencing: Having failed to establish the ingredient in **Section 1(c) of the Violence Against Persons (Prohibition) Act, 2015** defendant qualifies to be sentenced under **Section 2(a) of the Violence Against Persons (Prohibition) Act 2015**. Defendant is hereby sentenced to 12 years imprisonment without an option of fine.

Parties: Defendant is present.

Respondent: J. I. Maliki-Esonu appearing for the Prosecution. Ugochukwu Njoku for the Defendant.

HON. JUSTICE MODUPE R. OSHO-ADEBIYI
JUDGE
30/06/2022