IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT HIGH COURT MAITAMA – ABUJA

BEFORE: HIS LORDSHIP HON. JUSTICE S. U. BATURE

COURT CLERKS:	**JAMILA OMEKE & ORS**
COURT NUMBER:	**HIGH COURT NO. 24**
CASE NUMBER:	**SUIT NO. FCT/HC/CR/230/2019**
DATE:	**16/6/2022**

BETWEEN:

COMMISSIONER OF POLICE.....COMPLAINANT

AND

HASSAN IBRAHIM.....DEFENDENT

APPEARANCES:
C. Udo Esq for the Prosecution
Rebecca S, Tyogyer Esq for the Defendant
T. Y. Aondo Esq for the Defendant.
Defendant present in Court.

JUDGMENT

The Defendant Hassan Ibrahim was arraigned before this Court on the 29th day of April, 2021, for the offences of Criminal Conspiracy and Culpable Homicide contrary to Sections 97 and 224 of the Penal Code Law. The two charges were read to the hearing of the Defendant and he pleaded not guilty to each of the Charges framed against him by the Prosecution in this case.

The two Count Charge reads as follows:

COUNT 1:
That you, Hassan Ibrahim male, and others now at large on or about 23rd November, 2018 at about 7:30hrs at Galadimawa Fulani Camp, FCT,

Abuja, within the Abuja Judicial Division did conspire among yourselves to commit a felony to wit: culpable homicide and same act was carried out pursuant to your agreement and you thereby committed an offence punishable under Section 97 of the Penal Code Law.

COUNT 2

That you, Hassan Ibrahim male, and others now at large on or about 23rd November, 2018 at about 7:30hrs at Galadimawa Fulani Camp, FCT, Abuja, within the Abuja Judicial Division, stabbed one Mrs. Hafsat Sunday Ahmadu 'F' (now deceased) and you knew death will be probable consequence of your act. You thereby committed an offence punishable under Section 224 of the Penal Code Law.

At the trial, the Prosecution called four (4) witnesses and tendered the following Exhibits namely:-

"(1). Photographs of the deceased – Exhibits A1 – A5.

(2). Statement of the Defendant-Exhibit B

(3). Statement of Pw2 Sani Aliyu – Exhibit B1

(4). Statement of Pw4 Asma'u Nuhu – Exhibit B2

(5). Statement of Pw3 Ahmadu Nuhu – Exhibit B3

(6). A Certificate of Compliance Exhibit B4

(7). A pair of slippers – Exhibit C

(8). A matchete – Exhibit C1

(9). A Police Investigation Report – Exhibit D."

The Defendant on his part called one witness his younger brother Gambo Mohammed who testified as Dw1, and also testified for himself as Dw2.

Final Written Addresses of both the defence and the Prosecution were adopted on the 24th day of March, 2022.

Now, in every criminal trial, the law places a burden on the Prosecution to prove its case beyond reasonable doubt in line with the provisions of Section 135(1) of the Evidence Act, 2011, which provides thus: -

> ***"If the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt."***

I equally refer to the case of ***ANI V STATE (2009) 4 NCC, Page 382 particularly at 396,*** where the Supreme Court held as follows:-

> ***"In criminal cases, the guilt of the accused must be established beyond reasonable doubt which means that the facts proven must by virtue of their probative force, establish guilt" per Niki Tobi JSC.***

It follows therefore, that for the prosecution to succeed in securing conviction in this case, it must establish all the essential elements of the alleged offences beyond reasonable doubt.

On the first Count of Criminal Conspiracy punishable under Section 97 of the Penal Code Law, the prosecution must prove:

> ***"(1). That two or more persons agreed to do or cause to be done an illegal act or an act that is legal by illegal means.***
>
> ***(2). That an act besides the agreement was done by one or more of the accused in furtherance of the agreement.***
>
> ***(3). That each of the accused persons individually participated in the conspiracy."***

I refer to the case of ***ABDULLAHI V STATE (2019) LPELR-48146 (CA) per Akomolafe Wilson, J.C.A, @ PP. 38 – 40, Para B.***

In the case of ***OGBU V FRN (2020) LPELR-50273 (CA), the Court per Tobi, J.C.A held at PP. 76 – 77, Para F – B,*** as follows:

> ***"For the offence of Conspiracy, the law is settled that the ingredients of the offence of Conspiracy are the agreement of***

two or more persons to do an unlawful act or a lawful act by unlawful means. This offence is mostly proved by circumstantial evidence which is one of the ways of proving criminal liability."

See ***MARTINS V STATE (2019) LPELR - 1139 148; OSETA & ANOR V STATE (2012) 17 NWLR (Pt.1329) 251; AFOLABI V STATE (2013) 6 -7 (SC) Pt. 1.1.***

I shall adopt the three issues raised by the defence in its address. This is the first issue out of the three issues formulated by the defence in its address to wit:

"Whether having regard to the totality of the evidence before this Honourable Court, the prosecution has proved the case of conspiracy against the Defendant."

In arguing the issue learned defence Counsel Terkaa O. Aondo Esq submitted that in this case the prosecution has failed to establish or prove beyond reasonable doubt that there was a conspiracy and that the Defendant was part of it.

Submitted in that regard that the actus reus of the offence of criminal conspiracy is the agreement. Learned Counsel cited in support, the cases of ***JIBRIN V FEDERAL REPUBLIC OF NIGERIA (2020) 4 NWLR (Pt. 1715) 315, at 228; MARTINS V STATE (2020) 5 NWLR (Pt.1716) 58 @ 78.***

It is further argued that all the ingredients of conspiracy being conjunctive and not disjunctive, must be proved and the prosecution's case is built on a pile of worthless hearsay. That evidence of the prosecution throughout the gamut of the whole trial did not establish the illegal agreement as one person cannot commit the offence of conspiracy. Further reliance was placed on the case of ***MARTINS V STATE*** (supra) as well as the case of ***ISMAIL V FRN (2020) 2 NWLR (Pt. 1707) 85, 109,*** in urging the Court to discharge the Defendant of the count of criminal conspiracy accordingly.

Meanwhile, the prosecution on its part, framed three issues on the two counts respectively and formulated one issue thus:-

"Whether or not the Court can safely convict the Defendant on the basis of his free and voluntary confessional statement?"

Learned prosecuting Counsel Okokon Udo Esq submitted on this issue that it is well settled that a voluntary confession alone is sufficient to ground conviction once it is proved to be direct, positive and unequivocal and amounts to admission of guilt of the offence even if the accused person retracts it at trial. Reliance was placed on the cases of the ***STATE V YAHAYA (2019) 197 LRCN 132 @ 140, 3 & 5; ISAAC STEPHEN V THE STATE (1986) 12 SC, 450 @ 470 per KARIBI WHYTE JSC.***

Learned Counsel further argued that even where a confessional statement is retracted it still remains voluntary even though it is desirable that the Court looks for corroborative evidence outside the confession to ascertain the truth of such statement. Counsel cited the Supreme Court decision in the cases of ***THE STATE V YAHAYA (supra) @ page 14, R 788; NALADO V THE STATE (2019) LRC, 82 @ 85 – 86, R2.***

Prosecution further relied on the evidence of the four prosecution witnesses to form basis of the corroborative evidence or evidence outside the confession of the Defendant to show that the Confessional Statement is true.

Learned Counsel also relied on ***DAJO V STATE (2019) 2 NWLR (Pt. 1656) 281, SC*** in response to defence, Counsel's submissions in paragraphs 5:00 and 5:04 to the effect that the Defendant's Confessional Statement taken in English language was not the translated version in Hausa language during Police Investigation.

Learned prosecuting Counsel argued that the person who recorded the Statement of the Defendant in this case also speaks and understands Hausa language fluently. And that sometimes the person who recorded the Statement is also the interpreter as seen in the case of ***DAJO V STATE (supra).*** Learned Counsel urged the Court to so hold and convict the Defendant on the basis of his Confessional Statement.

Now, first of all, since the prosecution relies on the Confessional Statement of the Defendant in prove of its case, it is pertinent to treat the issue raised by learned Defence Counsel. I shall consider issue one and two together

in the address in paragraph 5:00 and 5:04 thereof; which is similar to issue no. 3 formulated in the address to wit:

> ***".....The retracted Confessional Statement taken in English language was not translated version in Hausa language during Police investigations. In particular learned Counsel argued in paragraph 5:04 of the address that in the instant case, the Defendant on no occasion did he sign or thumbprint the Confessional Statement in Hausa language (vernacular) to lead credence to its voluntariness."***
>
> Another argument in paragraph 5:02 is that under the law the Statement will only be admissible in evidence through an interpreter. Learned Counsel relied on the following cases in support of his arguments i.e:
>
> ***(1). OLALEKUN V STATE (2001) 12 (SCNJ) 94, per Ogundare JSC at Page 109 and 110.***
>
> ***(2). STATE V USMAN (2021) 16 NWLR Part 1801 (SC) 73 (PP: 93-94) Paras H – C.***

The prosecution tendered Exhibit B the Statement of the Defendant i.e Exhibit B, through Pw1 the I.P.O one Cpl. Kutmang Useni, attached to the Criminal Investigation Department of the F.C.T. Police Command.

He informed the Court that during investigation of this case, the statement of the Defendant was recorded. He proceeded to inform the Court that he could identify it by the name and signature on the statement. Same was tendered and admitted in evidence without any objection. Although Learned Counsel informed the Court that he would reserve any objection until his final address.

Likewise, the Defendant testifying as Dw1 denied giving any statement to the Police or signing or thumbprinting any statements both in his evidence in-chief and evidence during cross examination.

Well, I've considered the arguments canvassed on both sides on this issue, and I must state that the line of defence clearly shows that the Defendant is merely retracting his statement to the Police.

On the effect of retraction of a Confessional Statement and the duty of the Court in that regard, the Supreme Court has held in the case of ***ALAO V STATE (2019) LPELR-47856 (SC) pages 23 -23, Paras E –F, per Oko JSC*** as follows: -

> ***"It is trite law that a Confessional Statement made by an accused person, which is properly admitted in evidence is, in law, the best pointer to the truth of the role played by such accused person in the commission of the offence.....the fact that an accused person denies making a Confessional Statement to the Police does not render such extra-judicial statement inadmissible merely because the accused person denies having made it. What the Court is expected to do to determine the weight to be attached to a retracted Confessional Statement is to test its truthfulness and veracity by examining the said statement in the light of other credible available evidence...."***

See the case of ***MBAGHA V C.O.P (2020) LPELR-51466 (CA).***

Now before I consider the issue of retraction, let first of all consider the arguments of learned Defence Counsel on the statement of the Defendant on failure of his extra-judicial statement to be made and tendered through an interpreter.

Exhibit B i.e the Defendant's extra-judicial statement was recorded in English. It shows a thumbprint impression on both words of caution and at the tail end of the statement.

Indeed the Supreme Court has held in the case of ***Olanipekun V State (2016) LPELR-40440 (SC) per Akaahs JSC at Pg8, Paras B – D*** thus:

> ***"Statements should be, wherever practicable, recorded in the language in which they are made. This is a practical wisdom directed to avoid technical arguments which could be raised. It is not an invariable practice but one to ensure the correctness and accuracy of the statements made by the accused person...."***

In the instant case and from the evidence available to the Court, the statement of the Defendant was not made through an interpreter. It was

the I.P.O Cpl Kutmang Useni who recorded the statement of the Defendant.

The question to ask here is whether the failure to record the statement of an accused in the language he understands and failure to call an interpreter will render the statement inadmissible?

In the case of ***ILIYA V STATE (2019) LPELR-47728 (CA), the Court per Aliyu J.C.A at PP: 35 – 36, Paras B – D,*** held thus:-

> ***"With regards to the recording of the statement of the Appellant in the Hausa language he spoke, which is the central complain of the Appellant under issue two; the Apex Court in BELLO V C.O.P (supra) at page 331 Para F, held thus: "fair hearing always arises if the appellant does not understand English at all and his statement has to be recorded in the language he speaks and understands and is later translated into English. This Court in OLALEKAN V STATE (2001) 18 NWLR (Pt.746) 793 advised that Statements should whenever practicable, be recorded in the language in which they are made to avoid technical arguments, which could be raised. It also ensures the correctness and accuracy of the statement made by the accused in this case, aside from the fact that neither the interpreter nor the recorder of the statement of the Appellant made at C. I.D Ilorin was called as a witness, the statement was not recorded in Hausa language understood and spoken by the Appellant. Though it is desirable that the statement of an accused person should be recorded in the language he understands and in which he makes it before being translated into English language, however not doing so does not make the statement inadmissible where it was recorded through the person who recorded and who indeed spoke and understood the language spoken by the accused person....."***

See also the cases of ***SUNNY v STATE (2014) LPELR-24415 (CA); OLANIPEKUN V STATE (2016) LPELR-40440 (SC),*** where the Court held as follows:

> ***"In other words, where the Police records the statement of an accused in a language other than that in which the accused***

made his statement and later interpretes it to the accused in the language in which he spoke, the statement may still be admissible in evidence despite the fact that it was not recorded in the language in which he made the statement. It is necessary to point out that there are two scenarios that may arise in the process of recording the statement of an accused person. The first scenario that may arise where both the recorder and the accused, who makes the statement do not understand each other; and a third party interpretes the statement between the accused and the recorder and vice-versa. In such a scenario, for the statement to be admissible, both the Interpreter and the Policeman who did the recording must testify. The second scenario arises where the recorder understands the language in which the accused makes the statement. He listens to the accused speak in that language which both he and the recorder understand; and the recorder simultaneously translates and writes down whatever the accused says in the official language of the Court; which is the English language. In such a scenario therefore, the Police officer is both the Interpreter as well as the recorder, thus playing the dual role of an Interpreter and recorder. In such circumstance, the statement made and recorded is admissible, once it has been duly proved..."

In the instant case Pw1 the recorder of the statement was called as a witness. The defence had the opportunity of asking him questions in relation to the statement of the Defendant as well as any issues it had with the statement. But, only one question was asked on the Defendant's statement. Learned Defence Counsel asked Pw1 whether he recorded the statement of the Defendant and Pw1 said yes.

The statement was already admitted in evidence without any objection though Counsel reserved his arguments till final address.

It is trite law that the best time to raise any objection regarding statement of an accused is when it is being tendered in evidence and not in the address. Please see the cases of ***STEPHEN V STATE (2018) LPELR-48321 (CA); KALIMBO V STATE & ANOR (2020) LPELR-50540 (CA).***

In the circumstances therefore, it is my view that calling of an interpreter in this case is not a requirement considering the facts and circumstances of

the case. And failure to call an Interpreter does not render the statement in question as inadmissible. I so hold.

The question to ask now is whether the Defendant has admitted conspiring with others towards the commission of the alleged offences?

It was argued for the Defendant in the address particularly in paragraph 3.08 that evidence of Pw2 talks about hearing the Defendant say he saw the supposed killers of the deceased, but that the seeing alone cannot be interpreted as partaking in the act, bearing in mind the essential ingredients of conspiracy.

The prosecution in relying on this piece of evidence has urged the Court to consider it as corroboration to the Defendant's confessional statement i.e. Exhibit B.

Well I have carefully looked at Exhibit B where the Defendant mentioned that he saw two women and three men whom he suspects killed the deceased Hafsat Ahmadu. Aside from that there's nothing in the said statement to show that the Defendant had conspired with others to kill the deceased.

Therefore, it is trite that for conspiracy to be proved, it must be proved beyond reasonable doubt that there was an agreement between two or more persons that share a common criminal purpose.

I refer to the cases of ***STATE V SULEIMAN & ORS (2018) LPELR-45636 (CA) Pages 20 – 22, paras B - E, per ABIRU, J.C.A; OSASEREN V FRN (2018) LPELR-43839 (SC)***. The gist of the offence of conspiracy is the meeting of minds of the conspirators, as held in the case of ***NDOZIE V STATE (2016) LPELR- 26067 (SC).***

Moreso, one person cannot commit the offence of conspiracy as held by the Court in the case of ***OSHO V STATE (2011) LPELR-4804 (CA) @ PP. 34, Para A – F, per GARBA JCA*** where the Court held thus:

> ***"It is also clear that by the provisions, a person cannot alone commit the offence of conspiracy because he is not capable of conspiring with himself...."***

See also the cases of ***MOHAMMED V STATE (2010) LPELR-9019 (CA) per Oredola, J.C.A at PP: 22-23, Para B – A; IGWE V STATE (2021) LPELR-53499 (CA), Per OGAKWU, J.C.A, PP. 36 -38 Para B –A.***

In the instant case the prosecution has not provided any details on alleged conspirators or their identities and neither did the Defendant make any confession in that regard.

In the circumstances therefore, it is my humble view that the prosecution has failed to prove the essential ingredients of the offence of criminal conspiracy against the Defendant beyond reasonable doubt, I so hold.

The first issue canvassed by the defence is hereby resolved in the Defendant's favour against the prosecution.

This brings me to the 2nd Count which is culpable homicide punishable under Section 224 of the Penal Code Law.

The defence raised its 2nd issue for determination to wit:-

> ***"Whether from the facts and circumstances of this case, the prosecution has proved the guilt of the Defendant beyond reasonable doubt to secure a conviction for the offence of culpable homicide under Section 224 of the Penal Code Law.***

For the prosecution to secure a conviction on the 2nd Count it must prove the following ingredients of the offence of culpable homicide punishable under Section 224 of the Penal Code Law as follows:-

> ***"(a). The death of the person in question.***
>
> ***(b). That such death was caused by the act of the accused.***
>
> ***(c). That the accused intended by such act to cause death or that he intended by such act to cause such bodily injury as was likely to cause death or that he knew that such act would likely cause death or that he caused the death by a rash or negligent conduct."***

On the first ingredient of the offence, the prosecution has presented evidence that on or about the 23rd November, 2018 at about 7:30 hours at Galadimawa Area, within the jurisdiction of this Court, one Mrs. Hafsat Sunday Ahmadu (the deceased) left her home for a nearby market in the neighbouring settlement and didn't return home that day.

According to Pw3 and Pw4 (Husband and mother-in-law of the deceased) in their respective testimonies before the Court as well as their statements to the Police i.e Exhibits B3 and B2, that following the disappearance of the deceased Hafsat Sunday Ahmadu on the 23rd November, 2018, a search party, comprising of the deceased's family and others spread out in the Area looking for her, and later discovered her body in the grass. Pw3 testified before the Court that they reported to the Police who came and took the deceased to Federal Staff Hospital where the Doctor on duty pronounced her dead.

Same is corroborated by the evidence of the I.P.O (Pw1) Cpl. Kutmang Useni who equally informed the Court that he took photographs of the deceased, tendered in evidence as Exhibits A1 – A5 respectively.

From the above pieces of evidence it becomes clear and indisputable that the death of a person has occurred in this case the deceased Hafsat Sunday Ahmadu. Therefore, the prosecution has successfully proved the 1st ingredient of the 2nd Count beyond reasonable doubt. I so hold.

The 2nd ingredient to be proved by the prosecution is that the death of the deceased was caused by the act of the Defendant.

It is well settled now that the prosecution has three methods of proving the charge against an accused i.e (1) by the evidence of an eye witness. (2) Confessional Statement (3) Circumstantial evidence.

Please see the cases of ***EMEKA V STATE (2001) LPELR-1125 (SC), per ONU, JSC at P. 14 Paras B – E; BALOGUN V FRN (2021) LPELR-53185, at PP. 33-34, Paras E-A.***

In the instant case, it is clear from the evidence adduced by the prosecution, particularly the evidence of Pw1, Pw2, Pw3 and Pw4 that none of them is an eye witness to the alleged crime.

Pw1 Cpl. Kutmang Useni is a Police Officer attached to the Homicide Section, Criminal Investigation Department, F.C.T. Police Command.

His evidence is to the effect that on the 27th November, 2018, a case of Culpable Homicide was transferred from Galadimawa Divisional Police Headquarters to C.I.D and his team was detailed to investigate.

Pw1 informed the Court that his team investigated this case. He informed the Court that during investigation, took photographs of the deceased i.e Exhibits A1 – A4, and transported the body of the deceased to the Federal Medical Centre Jabi, and later the Defendant was arrested. He was interrogated and his statement was recorded i.e Exhibit B.

Pw1 informed the Court that Statement of witnesses were also recorded, namely Ahmadu Nuhu Pw3, Sani Aliyu Pw2 and Asma'u Nuhu Pw4.

According to Pw1, following the information given to the Police on 3rd January 2018 from Sani Aliyu Pw2 that while the Defendant was with him in the farm discussing, he told Pw1 that he (the Defendant) saw and confirmed the killers of the deceased Hafsat Ahmadu. And when the Defendant was arrested the Rubber slippers of the deceased was found in his possession as well as a matchete (tendered in evidence marked as Exhibits C and C1).

Pw2 is Mohammed Sani Aliyu. He testified that he's a student and a farmer. He also informed the Court that he knows the Defendant who is his neighbour and they live close to each other. He also confirmed to the Court that he knew the deceased Hafsat Ahmadu.

According to Pw2 the deceased was killed on a Friday on 23rd November, 2018. That she went out in the afternoon and up till 5-6pm they went to check on her and found her room was looked and she was not there. He said they immediately started to look for her. Pw2 said he himself went to the hospitals one after the other to check if she had had an accident with a motor cycle or a car but he didn't get any news or information about her.

Pw2 stated that the deceased had very good character and he Pw2 was like her father because her husband is his senior brother's son.

Pw2 testified further that when they searched for the deceased up till 11pm on that faithful day and she was nowhere to be found, they search was stopped. But that he called some boys the next day to help in the search, that Pw3 also joined them i.e Hafsatu's mother-in-law. But according to Pw2 before the arrival of the boys, he suddenly saw the mother-in-law of the deceased (i.e Pw3) running towards them screaming that they had seen the corpse of Hafsat.

Pw2 state:

> ***"We all went along to see the corpse, and I swear to God, the Defendant was with us then...."***

Pw2 testified further that the case was reported to the D.P.O, and about 4 or more police officers came and took the deceased to the mortuary. He said she was later buried at about 5:00pm that day.

Pw2 said they all cried and cried and were extremely sad as if the pain will never go away, but they left everything to God.

However, according to the witness, three weeks after the burial of the deceased or about a month thereafter, the Defendant came and sat by Hafsat's room under a tree and was staring at her door. Pw2 stated that he had come out of his house then because her room was just next to his wife's room i.e Pw2 and he saw the Defendant seated there.

Pw2 said, he asked the Defendant to escort him to the farm to harvest guinea corn. And that while the Defendant got his knife and started harvesting when the following conversation ensued:-

> ***"He said to me "Mallam" and I answered "yes". He called me three times and I answered three times. He asked me "God is how many" I said God is one.***
>
> ***He said he saw the people who killed Hafsat. Then I said he should tell me between him and God did he see them? He said yes between him and God he saw them. I asked did you see them? He said yes he saw them. I said between you and your God you've seen it and he said: Have I ever lied to you, I said No: I said to him this is a big statement that is beyond me. I***

asked him, if I ask him to show me who did it will he do so? He said yes. I asked him, how many people did it? He said they were five people. I said if I bring it up will he show me these people because I don't want us to be arguing? He said yes he can show them to me. He assured me that he will show me. He swore to God that he knows them and will show them to me. I started crying and said we should leave the farm and the cows should be left there to feed. I said that the statement made me weak...."

According to Pw2, when he met Hafsat's mother -in-law later that evening i.e Pw4, he told her what transpired between him and the Defendant. He said he told her because he didn't want to be the only person that heard it. Pw2 stated that after that he travelled to Kogi State for about two weeks and upon his return he was outside behind his house when the Defendant met him. He said the Defendant said:

"Mallam I told you something and you went and told people....I said I only told one person i.e Dada and when you assured me on that day you will say the truth".

According to Pw2, he entered the house and called Pw3's husband of the deceased, who said Pw2 should further confirm from the Defendant because he has never had any business with him.

Pw2 swore that the reason why he didn't mention it to Pw3 husband of the deceased, was to prevent any fight between Pw3 and the Defendant .

According to Pw2, the Defendant has never mentioned the names of the killers. He also informed the Court that the Defendant had a matchete with him on the day he accompanied him to the farm. That the name of the matchete is "mai kada" "crocodile", a long matchete the type fulanis hold when they go to the farm.

He however confirmed that he was not there when the Defendant was arrested because it was at night. But, he confirmed the Court that the slippers of the deceased were shown to them at the Police command and that the Police told them they were recovered from the Defendant. Pw2 said they gave their statements there and that the Defendant did not deny it.

However, Pw2 said if he says the Defendant did it and he doesn't have proof, he will be responsible because he never caught him in the act. But, he said he was sure the Defendant told him he saw who killed Hafsat.

He said the Defendant never showed him who did it.

Pw3 Ahmadu Nuhu is the husband of the deceased Hafsat. He informed the Court that the Defendant is his neighbour.

He informed the Court that on 23rd November, 2018 he received a call that his wife was missing. He said he was aware she would be going to Galadimawa on that faithful day. Pw3 said the deceased had called him on that day at around 3:00pm but since he was driving he couldn't pick up the call.

He informed the Court that upon his return to the house on that fateful day he checked her room and everything was intact.
He testified further that he first of all went to look for the deceased at her relatives house who informed him that they hadn't see her. Pw2 then decided to report the case to Police. He said the Police then asked him to go back home and wait till the next day.

Pw3 testified that at around 11-12 in the night the deceased's phone rang once, someone picked the call but didn't say anything. And when Pw3 talked there was no response on the other side and eventually the phone was switched off. Pw4 said he decided to go and report to the Police.

Pw3 stated that on the next day being 24th November, 2020 while on their way to report the matter to the Police, they saw the dead body of the deceased beside the road inside grass. He stated that he reported the matter to the Police, photographs of the deceased were taken and her body was taken to the Federal Medical Centre where the Doctor confirmed she was dead.

Pw3 also confirmed to the Court what Pw2 and Pw4 told him about their conversations with the Defendant and that the Defendant said he saw who killed the deceased.

Pw2 testified that after he reported to the Police, he led the Police to the Defendant's house. That when the Police searched the house he was not

there, but was later arrested in another man's house where he used to keep his cows.

Pw4 said the owner of the house asked them to check and the Defendant was sleeping around the cows. That upon his arrest a search was conducted and the Police found the shoes of the deceased in the Defendant's bag and a cutlass.

However, Pw3 also informed the Court that the first time they went looking for the Defendant, his younger brother told them he had travelled three days prior. Pw3 said he was surprised because he saw the Defendant that day and they greeted each other. He stated further that, that was why the Police arrested the Defendant's brother. And that when the Defendant was arrested the Police confronted his brother about what he told them earlier that the Defendant had travelled. Pw3 was shown Exhibit C (slippers of the deceased) and he identified it as the shoes he had bought for his wife the deceased.

Pw4 is Asmau Nuhu mother-in-law of the deceased. She informed the Court that she knows the Defendant and the deceased was her son's wife.

According to the witness that when Pw2 Sani Aliyu told her about this conversation with the Defendant about the killers of the deceased, Pw4 said Pw2 told her that the Defendant said he knows who killed Hafsat.

According to the witness, one day she had gone to Galadimawa and was at the River washing her plates when the Defendant met her there by the river with his cows and they greeted. She said she pleaded with him in the name of God to please confirm to her what he had told Pw2 that he knows who killed Hafsat. She said she held the Defendant's hand and asked him to tell her the truth.

According to Pw4, the Defendant said they were five in number. Three males and two females.

Pw4 said:

> ***"I said among those five who are you going to bring for me? He said to me that he's going to bring the two women. I asked him if he'll bring them to me in three days and he said yes.***

Then, he turned as if to go and he came back to me and said he is the one who took her shoes. i.e. the deceased. I asked him if the shoes were with him and he said yes that he prayed magrib prayers with the shoes that night for evening prayers with the shoes.

It is the prayer before the last prayer in the night. I said I've heard your statement just go. There will be a day I will hold your hand and you will bring those two women. From there I told my son and advised him to report to the Police so that the Defendant will produce those people. But, up till today he has not brought a single person. That is all I know. And, if I tell lies against him God is watching me..."

Pw4 also said she'd seen the deceased wearing exhibit C prior to her death.

As stated earlier none of the witnesses had said they saw the Defendant committing the alleged offence.

Likewise, although the prosecution has tendered the statement of the Defendant i.e Exhibit B. A close look at the contents of Exhibit B will clearly show that the Defendant never admitted to causing the death of the deceased.

On when the Court can convict on Confessional Statement, the Supreme Court has held in the case of ***OLABODE V STATE (2009) V4 NCC, Page 199, @ 203 Ratio 5*** as follows:-

"It is settled law that a confessional statement made by an accused person and properly admitted in law is the best guide to the truth of the role played by him and upon which alone the Court can convict. See OGOOLA V STATE (1991) 2 NWLR (Part 175) 509 at 534. Furthermore, where there are facts and circumstances outside the confession which make it probable that the confession is true, the Court can convict upon the confession and those additional facts and circumstances. F.F. Tabai JSC, at Pages 216 - 217."

I also refer to the case of ***MATTHEW V STATE (2018) LPELR-4551 (CA); AMOSHIMA V STATE (2008) 4369 (CA); ONYENYE V STATE (2012) LPELR-7866 (SC).***

Therefore, for a Court to convict on a confessional statement, it must be direct, positive and unequivocal.

However, in this case, it is my considered view that Exhibit B does not qualify as an unequivocal admission of guilt by the Defendant, I so hold.

Therefore, the prosecution in this case is left with only the last and final method of proving the guilt of the Defendant which is by circumstantial evidence. The prosecution in their paragraph 5.04 of the address submitted that they placed heavy reliance on circumstantial evidence in this case and urged the Court to convict the Defendant based on same.

On the meaning and nature of circumstantial evidence, I refer to the case of ***OWOLABI V SATE (2019) LPELR-49366, per OJO JCA at PP. 60 – 62, Para F – E,*** where the Court held as follows:-

> ***"....Circumstantial evidence is evidence garnered from surrounding circumstances from which logical inference can be made linking the accused person with the commission of the crime. It is evidence which in certain circumstances is stronger than evidence adduced by an eye witness...."***

On the conditions to be met before a conviction can be sustained by circumstantial evidence, the Court in the case of ***MOHAMMED V STATE (2016) LPELR-41328 (CA), per Abiru, J.C.A, held at PP: 24 -27 Paras F –A,*** as follows:-

> ***"Now, circumstantial evidence is evidence of surrounding circumstances which by undersigned coincidence is capable of proving a proposition with high level of certainty and the accuracy and or/precision of mathematics. It is not a derogation of evidence to say that it is circumstantial. However, to be sufficient to ground a conviction in a criminal trial, circumstantial evidence must be complete and unequivocal. It must be compelling and must lead to the irresistible conclusion that the Defendant and no one else did the deed and as such, it***

is only the Defendant and no else who should be criminally culpable for the offence alleged or charged."

See the case of ***LORI & ANOR V STATE (1980) LPELR-7794 (SC), per Nnamani JSC @ PP.8-9, Paras E - D.***

In this case, it is submitted for the Defendant in paragraph 4:08 of the address that the evidence of Pw2 and that of Pw4 is that the Defendant told them he saw the killers of the deceased. But that assuming, but not conceding to the evidence of the prosecution, the Defendant saw the killers of the deceased, is this charge of culpable homicide preferred against him as a punishment for his refusal, neglect or failure to tell them and the Police who he saw were the killers of the deceased?

Learned Counsel submitted most respectfully that the evidence by Pw1 amounts to hearsay and the Court is urged to distance itself from same when considering this judgment. On Exhibit C1 – the matchete, learned Counsel drew the Court's attention to the inconsistencies in the evidence of Pw2 on description of Exhibit C1, the matchete said to have been recovered from the Defendant.

It is submitted that according to Pw2 the matchete has a crocodile symbol but admitted under-examination that there was no crocodile symbol on Exhibit C1. It is further argued for the Defendant that the prosecution's evidence which is largely circumstantial has not connected the Defendant to the death of the deceased, that the case of the prosecution is largely speculative and cannot be a basis to ground a conviction for the offence of culpable homicide.

It is argued that in such cases, the Doctrine of last seen is usually invoked. And in the instant case, the Defendant was not arrested at the scene of the crime. Learned Counsel urged the Court to consider the evidence of Dw1 and Dw2 as having been uncontradicted in any material form.

Now, first of all, let me consider Exhibit B, the Statement of the Defendant recorded during Police Investigation.

The Defendant in his statement describes himself as a Fulani born to the family of Ibrahim. He also stated that he resides in Galadimawa in Abuja.

He stated on 23rd November, 2018 on a Friday on his way back from the mosque he saw a woman's rubber slippers at the exact point where they found the body of the deceased Hafsatu Sunday; He said he took it and wore it. He said that on reaching home he kept it in his room. He states thus:

> ***"...about 1600hrs when I still saw the slippers and I pick it and before (I saw) when I was going home to change the clothes I wore for Friday prayer I saw two women and three men standing separately while one among the women was making a phone call...."***

He stated further that he did not notify anyone that he took the slippers and that he did not notify anyone that he found it. He further stated however, that the next day he told his younger brother's wife one Fureira that he found the slippers where the body of Hafsah Ahmadu was found and she said to him that its Hafsatu Ahmadu's slippers. He said he immediately removed it and kept it then threw it far away from the house.

According to the Defendant on 16th December, 2018 at about 12:00hrs while he was rearing his cattle he went to where he kept the slippers and picked it up and wore it because of a wound on his leg. He states further thus:-

> "***....Then on 28th December, 2018 in the night some Policemen from Galadimawa came and arrested me with the deceased's slippers."***

In his additional statement of 31st December, 2018 the Defendant said he doesn't know the three men and two women but could point out the house of one of the men.

The Defendant further stated in an additional statement recorded on 3rd January, 2019 that he himself met one Sani Aliyu and told him that on the day the deceased was killed he (the Defendant) saw two women and three men that he suspect killed Hafsat Ahmadu and that he also told Asmau Nuhu mother-in-law of the deceased that he saw two women and three men that he suspect killed the deceased.

It is clear from the contents of Exhibit B that the Defendant has admitted knowing about the death of the deceased. He even mentioned her name. He admitted taking her slippers, wearing the slippers after she was killed, throwing them and picking them up again. Likewise, according to Pw2, the Defendant was present with them when the deceased was found dead in the grass.

Again the Defendant in his statement of 31st December, 2018, stated categorically that he saw two women and three men at the scene of the crime.

But, in the additional statement recorded on 31st December, 2018 he stated that he doesn't know them but could point out the house of one of them.

Then in his additional statement of 3rd January, 2019 he yet again confirmed what he told Pw2 and Pw4 that he saw two women and three men he "SUSPECT" had killed the deceased Hafsa.

It is imperative to state here that the Defendant himself has corroborated the evidence of Pw2 and Pw3 that he told them he saw the killers of Hafsah although it is noteworthy to point out that in his statement, he said he "suspects" them to be the killers. But, Pw2 and Pw3 in their respective testimonies in-chief- stated clearly that the Defendant told them he saw when the deceased was being killed, that he saw the killers and was ready to show them the killers. But, according to Pw2 and Pw3 as well as the I.P.O Pw1 the Defendant never disclosed the identity of the killers of Hafsat Ahmadu the deceased.

I have observed that the evidence of Pw2 and Pw3 were unshaken under cross-examination. Their statements to the Police i.e Exhibits B1 and B2 are in tandem with their evidence on oath.

In fact according to Pw2 in his statement to the Police i.e Exhibit B1, when the Defendant found out he had told Pw4 about their conversations about killers of Hafsah which the Defendant said he saw, Pw2, said in Exhibit B1 that the Defendant started warning him that why will Pw2 reveal what he told him in secret that almost three people met him that Pw2 told them. Pw2 said in Exhibit B1 ***"....the next day he met me in my house holding cutlass, stick and a knife warning me and when I called Ahmadu***

gangan brother he ran away and he keeps on going to my house looking for me....”

Pw2 also stated in his evidence-in-chief that the Defendant had met him asking him why he told Pw4 about the killers of Hafsah when it was meant to be a secret.

Pw2 also stated in his evidence –in-chief that one day after the death of the deceased and on the day the Defendant gave him that information, he saw the Defendant staring at the door of the deceased.

On his own account, when he gave evidence as Dw2, the Defendant informed the Court that he does not know any of the prosecution witnesses. Although it is clear from his Statement to the Police Exhibit B that he mentioned the names of Pw2 and Pw4.

He stated in his evidence-in-chief that around 12th of December, 2018 after he had returned from cattle rearing and was asleep, he felt someone hit him when he woke up he saw someone flashing a torch light at him and he was accused of killing he said “Hafsah”.

Mentioning the deceased by name in his evidence.

Dw1 stated that the men who arrested him wore black khaki and he has not seen anyone of them in Court. When shown Exhibits C and C1 by learned Defence Counsel, Defendant said they were not found in his possession, contrary to his admission in Exhibit B.

When shown Exhibits A1 – A5 photographs of the deceased, the Defendant said he had never seen the deceased ever in his life.

The Defendant equally denied making any statement to the Police, nor affixing his thumbprint on the statement, i.e Exhibit B.

The Defendant also alleged that he was tortured by the Police and that he sustained injuries on his face, near his nose and on his chest.

During cross-examination, the Defendant denied going to the mosque on the 23rd November, 2018 the day of the alleged offence, contrary to his statement i.e Exhibit B.

Equally further denied knowing Pw2, Pw3 and Pw4 or ever seeing them prior to 23rd November, 2018. Dw2 also told the Court that he doesn't know what Exhibit B is. He further denied ever knowing the deceased. Still under cross-examination, the Defendant denied picking the slippers of the deceased contrary to his admission in Exhibit B that he did so.

When asked why he mentioned Fureira his younger brother's wife in Exhibit B, the Defendant stated that he never mentioned her even though according to learned Prosecuting Counsel the IPO who recorded Exhibit B never knew the said Fureira nor any of the prosecution witnesses. The Defendant replied that he did not know them.

When asked further about Pw2 Sani Aliyu and Pw4 Asmau Nuhu and the deceased, the Defendant stated that he did not mention their names.

Dw1 equally denied owning a matchete and stated that Exhibit C1 is not his matchete, although Pw1 had informed the Court that it was recovered from the Defendant and the time of his arrest. When learned prosecuting Counsel asked the Defendant about Dw1 his brother and how come Dw1 knows Hafsat Ahmadu while he Dw1 doesn't know her? The Defendant said:

> ***"I don't stay home all day I go out for rearing my cattle. It may be possible that he knows her but I don't know her."***

According to Dw1 Gambo Mohammed brother of the Defendant, when a search was conducted in their house no gun, slippers or matchete was found there and that nothing was found in the Defendant's room.

But he stated that he didn't see any sign of beating on the Defendant contrary to evidence of the Defendant that he was tortured. He also stated that his brother did not kill anyone and that he has never seen Exhibits B, C and C1.

Under cross-examination Dw1 denied knowing Pw2, Pw3 and Pw4 and he also stated that his wife's name is Aisha and not Furera.

But he admitted that on the 23rd November, 2018 he was not with the Defendant in the bush so he wouldn't know whether he encountered Hafsah the deceased. He also admitted since he was not there with the

Defendant, he wouldn't know whether there was any encounter between them or how many people he encountered on that day.

He admitted also that he wouldn't know why the Defendant picked the slippers of the deceased. He equally admitted that since he was not with the Defendant on that fateful day, he wouldn't know if the Defendant had killed the deceased.

Now, although I've noted the arguments of learned Defence Counsel on inconsistencies between the evidence of Pw2 Sani Aliyu and Pw1 Sgt. Kutmang Useini on the description of the matchete i.e having a crocodile symbol, during cross examination on his issue Pw2 did say that some matchetes that Fulani carry have mai kada "crocodile" symbol while others do not have the crocodile symbol.

It is trite that not every inconsistency is fatal to the prosecution's case. In the case of ***JOHN AGBO V STATE (2007) V 2, NCC, Page 158 @ 189, the Supreme Court per Mukthar JSC held that "Before an inconsistency or contradiction in evidence of Prosecution witnesses can have such effect it must be material, substantial and has led to a miscarriage of justice."***

Now, although Pw2 mentioned in his evidence that the Defendant's matchete had a crocodile symbol on the day he accompanied him to the farm, it is on record that Pw1 the I.P.O did not mention this fact in his evidence. It is also noteworthy to point out that Pw2 admitted he was not there when the Defendant was arrested.

Therefore, in my view this discrepancy if any is a minor discrepancy which has no effect on Exhibit C1 since both Pw1 and Pw2 mentioned matchete in their evidence. I so hold.

On the argument of the defence that there's nothing connecting the Defendant to the commission of the alleged offences, let me state here that when considering circumstantial evidence the Court has a duty to look at the entire evidence adduced by the prosecution which in this case includes the statement of the accused, the slippers of the deceased recovered in his possession as well as a matchete also found in his possession on the day of his arrest.

Moreso, his denial of any knowledge of Exhibit B and its contents, and even denying knowing the deceased, taking and wearing her slippers and his conversations to Pw2 and Pw3 about seeing and knowing the killers of the deceased clearly shows that he is merely retracting his statement. Therefore, I quite agree with the prosecution on this issue.

On retraction of a Confessional Statement, it is trite that retraction of a Confessional Statement by an accused does not affect its admissibility. And that once it is admitted, the trial Court is bound to consider its probative value as held by the ***SUPREME COURT in the case of MOHAMMED V STATE (2019) LPELR-46420 per Okoro JSC @ P. 31, Paras C – E.***

See also the case of ***AINA V STATE (2021) LPELR-54417 (CA) per OGAKWU J.C.A, @ PP. 9 - 10, para F; OGUGU & ORS V STATE (1990) LPELR-19873, Per Babalakin J.C.A @ P.21, Para A – D; AMOSHIMA V STATE (2009) V4, NCC Page 280 @ 344 – 345.***

Granted and agreed that in this case the Defendant was not arrested at the scene of the alleged crime. However, in this case, it is the Defendant that has placed himself at the scene of the crime where he alleges witnessing the death of the deceased.

It is therefore my humble view that in this circumstance, it is the duty of the Defendant who said he witnessed the killing of the deceased on the faithful day to state how the deceased met her death, and who actually killed the deceased.

This is because of his own admission in Exhibit B, which supports the evidence of Pw2 and Pw4. All these pieces of evidence show that the last person who claims to have seen the deceased alive is the Defendant.

When considering the Doctrine of last seen the Supreme Court held in the case of ***GODWIN IGABELE II V STATE (2007) V2 NCC, Pages 154 -155, per Ogbuagu, JSC, Ratio 18*** as follows:-

> ***"It must be stressed and this is settled, that in view of the said doctrine of last seen", it is the duty of the accused person to give an explanation relating to how the deceased met his or her death. Surely, in the absence of an explanation by an accused***

person (as in the instant case) leading to this appeal, a trial Court and even an Appellate Court, will be justified in drawing the inference that the accused killed the deceased".

See also the case of ***ARCHIBONG V STATE (2007) V 2 NCC, Page 286 @ 316 -317, the Supreme Court per Ogbuagu JSC.***

See the cases of ***DIKE V STATE (2014) LPELR-23539 (CA); MBANG V STATE (2009) LPELR-8886 (CA).***

Therefore in this case, this Court can properly infer that the Defendant and no one else caused the death of the deceased. I so hold.

Therefore it is clear that the Defendant had the opportunity of following the deceased, assaulting and inflicting injury on her neck consistent with a cut but not a stab as argued by learned Defence Counsel. The photographs of the deceased i.e. Exhibits A1 – A5 clearly prove that the cut is a cut inflicted with a sharp weapon consistent with a matchete. I so hold.

Likewise, Pw1 stated in his evidence under cross-examination that even though there's no medical report, their investigations show that the cut was consistent with injury by a matchete.

By his actions therefore the Defendant no doubt intended to cause the death of the deceased.

All the above pieces of circumstantial evidence irresistibly point to the guilt of the accused. I so hold.

In addition, it is trite that where an accused makes two statements such as in this case, (i.e. Exhibit B and his evidence as Dw2) a trial Judge will be right to take the one less favourable to him, all things being equal and particularly when that one is first in time. Per ***NIKI TOBI JSC*** in the case of ***SULE V STATE (2009) V4 NCC Page 456, at 486 – 487.***

I am therefore satisfied that the prosecution has proved the 2nd ingredient of the offence that the act of the Defendant caused the death of the deceased beyond reasonable doubt. I so hold.

On the last ingredient of the offence which is:

> ***"That the accused intended by such act to cause death or that he intended by such act to cause such bodily injury as was likely to cause death or that he knew that such act would likely cause death or that he caused the death by a rash or negligent conduct."***

In this case, the manner in which the deceased met her death, the grievous injury/cut to a vital part of her body the neck, clearly shows that the Defendant knew that his act was likely to cause death of the deceased Hafsah.

Thus, the prosecution in this case has successfully proved mens rea and actus reus of the alleged offence. On this premise, I refer to the case of ***IDAGU V STATE (2018) LPELR-44343 (SC) per Augie JSC at Pages 18 - 19, Para A.***

In the case of ***OKORO V STATE (2012) LPELR-19793 (CA),*** the Court of Appeal held as follows: -

> ***"....An Intention to cause grievous bodily harm is the mens rea for murder. There is thus no need to prove that the Appellant intended to cause death of the deceased so long as he acted wilfully in doing the act which led to his death..."***

Per Ogunwumiju JSC @ P.28 Paras B – E.

Similarly the Court of Appeal has held in the case of ***ADEPOJU V STATE (2014) LPELR 23312 @ page 35, Paras D –E, per NIMPAR, J.C.A*** as follows:

> ***"Mens rea simply means a guilty mind. Put in another way, a guilty mind propels a guilty act or flows into a guilty act. See ABEKE V STATE (2007) LPELR – 31 (SC). Usually it is the actus reus that draws out the mens rea just like in this case."***

In this case, the Defendant's guilty mind and guilty conscience was eating at him when he couldn't help it and he told Pw2 a concocted story about two women and three men who killed the deceased but never revealed their identifies like he promised. In fact, he even threatened Pw2 when he revealed his dirty secret.

All these clearly proves the mens rea and actus reus and the fact that the Defendant had intended the natural and probable consequences of his act. I so hold.

Please see the cases of ***EGWU V STATE (2019) LPELR-48499 (CA); ONYA V STATE (2019) LPELR-48500 (CA).***

In conclusion therefore, I am satisfied that the prosecution has proved the last ingredient of the offence beyond reasonable doubt. I so hold.

On the meaning of proof beyond reasonable doubt, the Supreme Court held in the case of ***DIBIE V STATE (2007) V2, NCC Page 475 @ Page 497, Ratio 9 per Niki Tobi, JSC*** as follows:

> ***"Proof beyond reasonable doubt does not mean proof beyond any shadow of doubt. Once the proof drowns the presumption of innocence of the accused, the Court is entitled to convict him, although there could exist shadows of doubt. The moment the proof by the Prosecution renders the presumption of innocence on the part of the accused useless and pins him down as the owner of the mens rea or the actus reus or both, the Prosecution has discharged the burden placed on it by Section 138(3) of the Evidence Act...."***

Therefore issue 2 formulated by the defence is hereby resolved in favour of the prosecution against the Defendant. I so hold.

However, having found that the prosecution in this case has failed to prove the 1st Count of the Charge, the Defendant is found not guilty and he's acquitted and discharged for the offence of conspiracy punishable under Section 97 of the Penal Code Law. But, I find that the prosecution has proved the Second Count of the Charge of Culpable Homicide not punishable with death under Section 224 of the Penal Code Law beyond reasonable doubt. I find the Defendant guilty as charged and he's hereby convicted accordingly.

ALLOCUTUS

Defence Counsel: On our part, we sincerely want to make the plea of clemency on behalf of the convict. The entire proceedings that the conduct

of the convict has not shown anything in doubt that he's someone of ungovernable character. He has always been calm. He is a young man unmarried and the only son of his mother aside from Gambo. Standing before you my Lord, the convict is the future of the Ibrahim family. We urge the Court to temper justice with mercy. We urge the Court to consider that even when granted bail, his aged mother could not come to take him on bail. The essence of incarceration is reformation. Even the holy books say that, most especially the Bible. It is only the Court that can consider. We urge the Court to consider the scenario and circumstances of this case.

Authorities are legion that it is the duty of the Court in sentencing to consider the time spent in prison and the condition in the Nigerian prisons.

In view of these and all the circumstances, to exercise its discretion by virtue of Section 6 of the CFRN and also to tamper justice with mercy.

There's also no evidence of previous conviction, we urge the Court to consider that a plus for the prosecution. We also urge the Court to decide whether the family of Ibrahim will live on or be extinct. We are most grateful.

Prosecuting Counsel: Socrates says pardoning one offence will open doors for commission of others. Justice is a three way traffic, for the state, the victim of the crime and the defendant. We urge the Court to consider the provision of Section 224, on the punishment. We also rely on Section 401(1) (b) (f) of ACJA, 2015, in urging the Court to exercise its powers as stipulated by the law being a young man who brutally takes the life of a young woman. We urge My Lord to invoke the above provisions and properly. The punishment is life imprisonment, the heaviest of the punishment under Section 224.

SENTENCE

In passing this sentence, I've considered the passionate plea of Learned Counsel to the Convict Mr. T. J Aondo Esq, who urged the Court to tamper justice with mercy among other things.

Well, in considering its sentence when it relates to punishment of imprisonment, the ACJA 2015 by Section 401 (1) (2) (f) (on retribution), the Court shall consider the objective of giving the convict the punishment he deserves, and giving the society or to the victim revenge.

In this case, I have considered the aggravating factor which is that the convict has caused the death of the deceased in a brutal manner.

Nevertheless, I have also considered the mitigating factor which is that the convict has been calm throughout the trial, is a young person who has an aged mother.

However, the nature and gravity of the offence committed cannot easily be overlooked by the Court. The family of the deceased victim has been deprived of a loved one in a most horrendous manner and therefore deserve to be assuaged.

In view of this I hereby sentence the convict to serve life imprisonment.

Signed:

Hon. Justice S. U. Bature
16/6/2022.