

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO. 4, MAITAMA ON THE**

**3<sup>RD</sup> DAY OF OCTOBER, 2023**

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

**CHARGE NO. FCT/HC/CR/06/2022**

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

**BETWEEN:**

**INSPECTOR-GENERAL OF POLICE ..... PROSECUTION**

**AND**

**AWAL ABUBAKAR ..... DEFENDANT**

**JUDGMENT**

The Defendant was charged with a three-count Charge of conspiracy under Section 6 (b) of the Robbery and Firearms (Special Provisions) Act, Laws of the Federation of Nigeria.

(2) Armed robbery contrary to Section 1 (2) (a) & (b) of the Robbery and Firearms (Special Provisions) Act and culpable homicide contrary to Section 220 and punishable under Section 221 of the Penal Code law.

The Defendant pleaded Not Guilty to the Charge. In proof of the case, the Prosecution called two (2) witnesses, one Mrs. Naomi Danladi, the wife of the deceased and Isaac Michael, an Investigating Police Officer.

At the end of the Prosecution's case, the Defendant's Counsel made a No-Case Submission. His Written Address in support of the No-Case Submission is dated 25/05/2023 but filed in the 26/05/2023. He raised a sole issue for determination:

*Whether or not the Prosecution has made out a prima facie case against the Defendant to necessitate him being called to enter a defence.*

Learned Defence Counsel submits that the Prosecution has not made out a *prima facie* case against the Defendant that will necessitate him being called upon to enter his defence for the following reasons:

- (i) The Prosecution failed to lead evidence to prove the ingredients of the charges spelt out in the Charge to link the Defendant in any way.

(ii) That the evidence of the Prosecution has been so discredited under Cross-Examination such that no reasonable Court can be called upon to act on it as establishing criminal guilt.

He canvassed that the Statement of PW1 which was tendered in evidence is undated. That the law is clear as regards the position of an undated document. He submits that an undated and unsigned document is a worthless piece of paper.

That the evidence that she told the Police about the deceased phone and how to track same was not contained in her Statement. That her evidence is inconsistent with her Written Statement to the Police.

That no evidence of conspiracy was led. That no evidence was led to support the Charge.

The Prosecution failed, refused or neglected to file a Reply Address to the No-Case Submission.

The PW1's evidence is that the deceased is her husband. She is also a Police Officer. That on 28/02/2022 around 6 O'clock in the evening, she did not see her husband. He was working at Dei-Dei Police Outpost.

She called him but his phones were switched off. She took okada to go to Dei-Dei Outpost. She saw people gathered. She stopped and found her husband on the ground.

She told the crowd to help her carry him to the hospital. She discovered that the back of his head was cut. The Doctors confirmed him dead.

She called SARS to track the phone. She saw the phone in the hand of the Defendant. She called the Police to ask if he was the person who killed her husband. The phone pack is Exhibit A.

The PW2's evidence is that PW1 reported the case in their Station. That the robbed phone of the deceased

who was a Police Officer was still active. That the team tracked the phone. The Defendant was arrested. The Defendant's Statement is Exhibit D.

Under Cross-Examination, he said he does not know the telephone number of the deceased. He does not have the call logs of the deceased.

He did not record the Statement of **Abdullahi Taboa** neither did he record the Statement of any other persons.

He is not the one who tracked the phone. That the Nominal Complainant mentioned the five names of five persons suspected to have a hand in the death of her husband but they don't have resources to investigate the case.

That the Nominal Complainant is a widow, so the Police could not go round to carry out investigation. That the case was reported on 01/04/2022.

A No-Case Submission may be upheld where:

- (1) There is no evidence to prove an essential elements of the offence.
- (2) Where the evidence adduced has been so discredited as a result of Cross-Examination.
- (3) Where the evidence is manifestly unreliable that no reasonable tribunal or Court can safely convict on it.

See **AMINU vs. STATE (2005) 2 NWLR (PT. 909) 108.**

The only evidence linking the Defendant to the Charge is that the deceased phone was found with him.

According to her evidence, “I found the phone with this boy” and Defendant said he picked the phone on the ground.

The PW1, the wife made a Statement to the Police. The Statement is undated. The Defendant’s Statement was made on 8/04/2022 more than two (2) months after the alleged incident.

In Exhibit A, the Written Statement of the PW1, the wife of the deceased, she met a crowd at the scene where her husband was lying helpless. She took him to the hospital. It was early in the evening around 6.00 p.m. She did not give evidence of what she was told by the persons surrounding her husband.

The PW1 said they tracked the phone. There is no evidence that the Defendant conspired with any person to commit any offence of conspiracy. No agreement was proved neither was its inference placed before the Court.

On the second Count, which is armed robbery, an essential element of the offence is that there was an armed robbery. That Defendant was armed. That Defendant while armed participated in the robbery. There was no iota of evidence to prove the essential elements of the offence.

In respect of the third Count, which is culpable homicide, there is oral evidence by PW1 that her husband was

confirmed dead in a hospital. The name of the hospital is not in evidence. There is no Death Certificate. There is also no evidence to suggest that the death was caused by the Defendant. No medical report of the cause of death or even there is, no scanty evidence of what happened or transpired leading to the death of the deceased.

It is pathetic that the Police treat one of their own ASP this way. The PW1 is also a Police Officer. No investigation was carried out. The IPO lamented openly they do not have the capacity to carry out any investigation.

The cause of death of the deceased is still a mystery. The person suspected to have killed the deceased was not unravelled by the Police.

If this could happen to Police Officers, then the general public and Nigerians are on their own. Unless a complainant has financial capacity, he cannot call for the aid of the Police no matter how dire the criminal atrocities against him may be.



The Police have failed to investigate the cause of death of their own or investigate and apprehend perpetrators. The government is advised to adequately fund the Police in the public interest.

In totality, no *prima facie* case was made out against the Defendant to require the Court to call upon him to enter his defence.

In the circumstance, the No-Case submission succeeds. The Defendant is accordingly discharged.

The Spark Go Techno phone and pack, Exhibits A & C are ordered to be released to PW1, Mrs. Naomi Danladi, the wife of the deceased.

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**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
03/10/2023

Defendant present.

Suleiman Abdullahi, Esq. for the Defendant.

**COURT:** Judgment delivered.

(Signed)  
**HON. JUDGE**  
03/10/2023