

IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT IKEJA
CRIMINAL DIVISION
BEFORE HON. JUSTICE O.H. OSHODI
JUDGE
TODAY MONDAY THE 20th DAY OF MARCH 2017

SUIT NO: ID/1735C/2016

BETWEEN

FEDERAL REPUBLIC OF NIGERIA

....PROSECUTION

AND

1. EMEKA OTIKA

....DEFENDANT

2. CHIMAY OIL & GAS LTD

....DEFENDANT

1st & 2nd Defendants present.

A.A. Adebayo esq for the Prosecution.

No appearances for the Defendants.

JUDGMENT

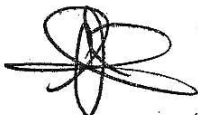
Before the Court are 2 (two) Defendants. The 1st Defendant is charged along with the 2nd Defendant, which is a legal entity. By the amended information dated 18th January, 2016 the 1st and 2nd Defendants are charged as follows:

STATEMENT OF OFFENCE – 1ST COUNT

Stealing contrary to section 285(1) of the Criminal Law of Lagos State, No. 11, 2011

PARTICULAR OF OFFENCE

Emeka Otika, Chinyere Otika (now at large) and Chimay Oil & Gas Ltd., sometime in August, 2013 at Lagos within the Ikeja Judicial Division, dishonestly converted to your own use the sum of N1, 768,000.00 (One Million, Seven Hundred Sixty Eight Thousand Naira) property of Salem Petroleum Limited being part of the proceeds of sale of 33,000 (Thirty –Three Thousand) litres of Black Oil which was entrusted to you for sale.



Initially, when the Defendants were arraigned before the Court on 7th November 2016, and after the charge had been read out, the 1st Defendant pleaded not guilty to the count. The case was subsequently adjourned for trial.

On the resumed date, 20th December 2016, trial could not go on because the Defendants were not represented by counsel. On this day, the 1st Defendant requested for an adjournment, and it was granted.

On the next date, being 6th March 2017, the 1st Defendant informed the Court that he will want to change his plea. As a consequence of the request of the 1st Defendant, the amended charge was read out to the Defendants to which the 1st Defendant pleaded guilty.

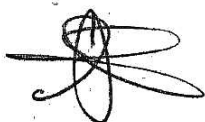
The summary of the case, as reviewed by learned counsel for the Prosecution is as follows:

Sometimes on 22nd November 2013, the Economic and Financial Crimes Commission received a petition from one Jide Olubusi of Salem Petroleum Limited alleging stealing by conversion against the 1st and 2nd Defendants and 2 others, who are now at large. Upon the receipt of the petition, the Economic and Financial Crimes Commission invited parties for interview. Letters were written to banks to assist in the investigation. Upon the analysis of the interview, investigation revealed that the Complainant actually financed the LPO brought to him by the Defendants for supply of 33,000.00 liters of black oil to a Company called Nichemtex Ltd.

By their agreement, the Complainant is to buy the black oil at the rate of N60 per liter which amounts to N1, 980,000.00 (one million nine hundred and eighty thousand naira). The Defendants also introduced the seller to him. The Complainant will also pay N80, 000.00 (eighty thousand naira) for transportation of the product to Ikorodu.

The Defendants will take the black oil to Nichemtex and sell at the rate of N85 per liter which will amount to N2, 805,000.00 (two million eight hundred and five thousand naira). It is also in their agreement that out of the N2, 805,000.00 (two million eight hundred and five thousand naira) the Defendants will be entitled N165, 000.00 (one hundred and sixty five thousand naira) as commission, i.e. N5 per liter, while the Complainant's gain will be N530, 000.00 (five hundred and thirty thousand naira) as agreed.

Based on this agreement, money was transferred to the seller introduced, one Buhari Haliru, and the product was supplied and taken to Nichemtex. It was in the course of investigation that it was discovered that the LPO was not directly issued to the Defendants as it was represented to the Complainant. The LPO was issued to one Ajayi Bodunde. Ajayi Bodunde upon interview said the money was paid back to the Defendants both in cash into a bank account provided by the Defendants. The Economic and Financial Crimes Commission could not establish the money paid in cash as there were no documents. The Defendants did not deny this cash payment, but the Economic and Financial Crimes Commission centered on the money paid to the bank. The money paid to the bank, in the presence of the Complainant, was paid into the account of one Charles Alachebe in Zenith Bank, the amount paid is N1,768,000.00 (one million seven hundred and sixty eight thousand naira), which is the crux of this charge.



From that moment the problem began. The 1st Defendant was arrested, subsequently bailed and a petition was written to the Economic and Financial Crimes Commission. The Defendants standing trial continued to use the money for business until when the Economic and Financial Crimes Commission got his truck impounded and through the efforts of the Association of Petroleum Suppliers, they compelled the buyer to raise the draft in the said sum for the Complainant. The said draft was released to the Complainant. The Defendants were subsequently charged to court on the one court. The Defendants have pleaded guilty.

The 1st Defendant admitted the summary of the facts as stated by the Prosecution.

The charge against the Defendants is brought under section 285 (1) of the Criminal Law of Lagos State, 2011. The section of that law provides as follows:

"Any person who steals any property is guilty of a felony, and liable, if no other punishment is provided, to imprisonment for 3 years".

The 1st and 2nd Defendant have pleaded guilty to this charge, and the 1st Defendant is liable to serve prison sentence.

I am satisfied that the 1st Defendant understands the charge he pleaded guilty to. I therefore accept his plea of guilt.

In his allocutus, the 1st Defendant stated that when the transaction began, there was no fraud claims or criminal claims from the beginning. The 1st Defendant admitted that the Complainant paid the money and the process of getting the product lasted for over a month. The 1st Defendant explained that their LPO from Nichemtex was for 2 weeks. The 1st Defendant stated that that was where the problem started as the price of black oil, which is a product that was difficult to save as it will turn to water, crashed. The 1st Defendant stated the Complainant did not see any reason with him and his office was shut down. The 1st Defendant stated that due to this problem, his wife became paralyzed. The 1st Defendant seeks for leniency and informed that he has been in custody since 7th November 2015.

I have listened to the allocutus of the 1st Defendant.

From the records before the Court, the 1st Defendant had earlier been detained by the Economic and Financial Crimes Commission. The 1st Defendant was first detained by the Economic and Financial Commission. His detention started on 27th November 2015. From the records of the Court, the Defendants were first brought to Court on 7th December 2015. From the records, though granted bail by the Court, the 1st Defendant had been in prison custody. All these will count in favour of the 1st Defendant in imposing sentencing.

Accordingly, the 1st Defendant is hereby sentenced to 3 (three) years imprisonment. The term of the imprisonment shall commence from 7th November 2015.

This is the judgment of the Court.



Hon. Justice Olatunde H. Oshodi

Judge

