

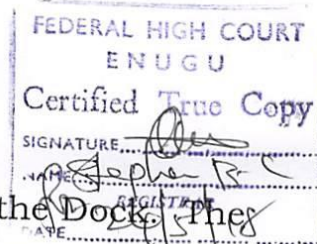
IN THE FEDERAL HIGH COURT OF NIGERIA  
HOLDEN AT ENUGU  
ON THURSDAY THE 16<sup>TH</sup> DAY OF JUNE, 2016  
BEFORE THE HON. JUSTICE M.N. YUNUSA  
JUDGE

CHARGE NO.FHC/EN/CR/51/2016

BETWEEN:

FEDERAL REPUBLIC OF NIGERIA - COMPLAINANT  
AND  
DURU SAMUEL IKECHUKWU - DEFENDANT

J U D G M E N T



The Accused person was placed in the Dock. The charge was read and explained to him in English Language. He indicated to the Court that he understood the charge and pleaded guilty.

Learned Counsel for the prosecution reviewed the facts of the case by tendering certain items which includes the statement of the Accused person, the bulk exhibit seized and recovered from the Accused and other relevant documents.

Learned Counsel for the Defendant did not raise



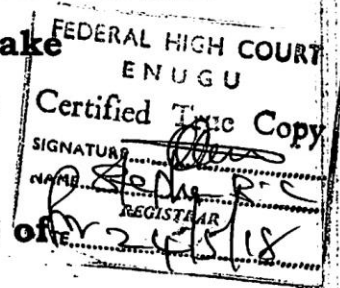
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any objection to the admission of the items tendered and were thereafter admitted in evidence and marked as exhibits.

Learned Counsel for the prosecution thereafter, referred the Court to a plea Bargain entered and executed by the parties and filed in Court and also relied on the Provision of Section 270 of the Administration of Criminal Justice Act 2015 and urged the Court to convict the Accused person based on his plea, the evidence before the Court on the terms of the plea Bargains.

The provisions of Section 270 (2) of the ACJA 2015 has a proviso which stated that the all the following conditions must be present in a plea Bargain.

- (a) The evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt.**
- (b) Where the Defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative; or**
- (c) Where the Defendant, in a case of**



**conspiracy, has fully co-operated with investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.**

After a careful perusal of the charge before the court it is my considered opinion that the Provisions of Section 270 (2) (a) and (c) are not applicable in the instant case.

This is because the position of the law is that in a summary trial, once the Accused has pleaded guilty, the next procedural duty of the Court is to proceed and convict him. In the instant case, apart from the plea of guilty, the prosecution presented certain materials which were not objected to by Learned Counsel for the Defendant and consequently, they were admitted in evidence and marked as exhibits. After reviewing these exhibits it is my considered opinion that there is enough evidence to convict the Accused particularly in view of his plea of guilty.

Subsection 2(c) is also not applicable as the case before the Court is not a case of ~~conspiracy~~.





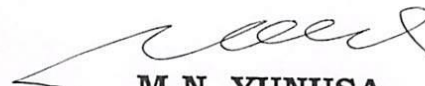
In the light of the clear provisions of the law, I am unable to accept the plea Bargain entered by the parties as it will amount to expanding the law for me to state that all the 3 condition under Section 270 (2) (a) – (c) have been complied with by the parties.

However, the Court is entitled to use the evidence before it in order to determine whether or not the prosecution has proved it's case beyond reasonable doubt as required by the law.

In this regard, I took into consideration the plea of guilty entered by the Accused person coupled with the evidence presented before the Court and I am of the view that the prosecution has discharged it's duty as required by the law.

In the light of the above therefore, the Accused is hereby found guilty and accordingly convicted.



  
**M.N. YUNUSA**  
Judge  
16/06/2016

### **ALLOCUTUS**

The convict is family man and has Aged parents that he is taking care of. He has children and a wife.

The convict is a first offender. He is also a genuine businessman.

I pray the Court to temper Justice with mercy and sentence the convict based on the plea Bargain entered.

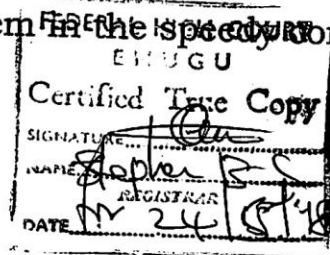
**COURT:** Any previous conviction.

Gwani: It is worthy of note that in the course of investigation our operatives found as a matter that Defendant is, a genuine businessman with chains of business at Aba and Ariaria Market and the business is duly registered at the CAC. The Defendant showed remorse and confessed to the commission of the offence and aided the speedy completion of Investigation in this case.

**SENTENCE**

I have considered the plea for leniency at the Allocutus stage of the proceedings. It is a valid procedure that is recognised in a criminal trial.

Learned Counsel for the prosecution in his response also informed the Court that, there is no evidence of previous conviction and that the convict has shown remorse and also co-operated with EFCC Operatives which helped them in the speedy conclusion



of Investigation.

However, It is the duty of the Court to determine the term of imprisonment. The punishment provided on conviction for an offence of this nature is the forfeiture of the entire sum of the money undeclared or imprisonment for a term of two years or both.

Now Section 416 (1) of the ACJA 2015 provides that on conviction, a Court may sentence the convict to a term of imprisonment as prescribed by the law.

This is an innovation that introduced the issue of the exercise of discretion in sentencing by the Court. By provisions of Sub-Section (2) which provides

**“In the exercise of its discretion  
of sentencing or review of sentence,  
the Court shall take into consideration  
the following facts in addition to the  
provision of Section 401 of the Act.**

- (a) Each case shall be tried on its own merit.**
- (b) The objective of sentencing including the principles of reformation, should be borne in mind in sentencing a convict**

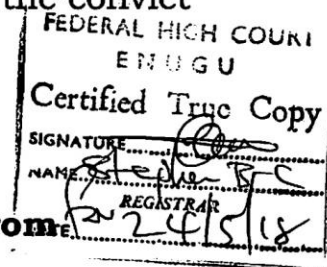


- (c) **An Appeal Court may also profer and reduce the sentence imposed by the trial court especially where it is exercised or tried on wrong principles or an Appeal Court may increase the sentence imposed by the trial court especially when it is inadequate.**
- (d) **A trial court shall not pass the maximum sentence on a first offender.**
- (e) **The period spent in prison custody awaiting or undergoing trial shall be considered and computed in sentencing a convict.**

Section 401 provides that the provisions of this section shall apply to sentence of death imprisonment, fine and non-custodial sentence.

After considering all the above issues, the convict is hereby sentenced to

- (a) **Six month imprisonment from the date of his arrest.**



- (b) The entire sum of the money undeclared shall be forfeited to the Federal Government of Nigeria as part of punishment.



**M.N. YUNUSA**

Judge

16/06/2016

