

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT ABUJA  
BEFORE HIS LORDSHIP, HON. JUSTICE A.A.I BANJOKO – JUDGE  
SUIT NO: FCT/HC/CR/262/13**

**BETWEEN**

**COMMISSIONER OF POLICE.....COMPLAINANT**

**AND**

**PASTOR ISAIAH OKOYE.....DEFENDANT**

**JUDGMENT**

**COUNT ONE**

That you Isaiah Okoye 'M' 35 years of Dape Village Life Camp, Federal Capital Territory Abuja, and Mrs. Ngozi Ogbonna 'F' 42 years of Angwan Shehu Karmo Village, Federal Capital Territory Abuja, that on the 24<sup>th</sup> May 2013 at about 19:20 hours at Dape Village Life Camp Abuja, within the jurisdiction of this Honourable Court, you conspired among yourselves to wit committing a felony of Criminal Conspiracy in the Sabbath Church Pastor by you Isaiah Okoye 'M' 35 years does by tying up the hands and legs of one Miss Ogechi Osita 'F' for the purpose of deliverance from witchcraft and her sister Chiemere Osita does staving them for three days without food which eventually resulted to the death of Ogechi Osita while the second victim Chiemere Osita was rush to hospital for treatment. You thereby committed the offence of Criminal Conspiracy punishable under Section 97 of the Penal Code Law.

**COUNT TWO**

That you Isaiah Okoye 'M' 35 years of Dape Village Life Camp, Federal Capital Territory Abuja, and Mrs.. Ngozi Ogbonna 'F' 42 years of Angwan Shehu Karmo Village, Federal Capital Territory Abuja, that on the 24<sup>th</sup> May 2013 at about 19:20 hours. At Dape Village Life Camp Abuja, within the jurisdiction of this Honourable Court, you conspired among yourselves to wit committing a felony



of culpable homicide in the Sabbath Church, Pastor by you Isaiah Okoye 'M' 35 years for tying up the hands and legs of one Miss Ogechi Osita 'F' for the purpose of deliverance from witchcraft and staving her for three days without food which eventually resulted to her death while the second victim Chiemere Osita was rush to hospital for treatment. You thereby committed the offence of Culpable Homicide punishable with death and under Section 221 of the Penal Code Law.

Upon arraignment, the Prosecution called five (5) Witnesses to testify in regard to the charges.

At the close of the case for the prosecution, learned counsel for the defence both raised a No-case submission in respect of the allegations. After a considered Ruling delivered by this Court, the 2<sup>nd</sup> defendant, Mrs. Ngozi Ogbonna was discharged by her submission, while Pastor Isaiah Okoye, was ordered to enter into his defence, which he did, testifying as the sole witness.

The Defence Counsel filed his Final Written Address on the 26<sup>th</sup> of February 2016, dated same day, and the Prosecution filed his own Final Written Address on the 23<sup>rd</sup> of March 2016.

On the 24<sup>th</sup> of March 2016, both Counsel on record, adopted and argued their Written Submissions.

In his own Written Address, Learned Counsel for the Defence set out the facts of the case and raised a sole issue for determination:-

**"Whether a case of culpable homicide is made out against the Defendant"**

Learned Counsel for the Prosecution likewise raised a sole issue for determination namely:-

**"Whether the Prosecution has proved his case against the Accused Person beyond reasonable doubt"**

The case for the Prosecution commenced with the testimony of Mr. Osita Obi, the father of the deceased, who stated on Oath that on the 24<sup>th</sup> of May 2013, the Defendant came to his residence carrying



his deceased daughter and together with the crowd that gathered, they went to make a report at the Police Station.

At the Police Command the parties were told to settle the matter but for over four occasions, no one approached him for settlement. He stated that he did not worship at the Church administered by the Defendant Pastor.

Under cross-examination by Learned Counsel to the Defendant, he stated that it was one Ngozi, the erstwhile 2<sup>nd</sup> Defendant who took her to the Pastor's Church.

It was also Ngozi who informed both him and his wife that up to five children were chained inside the Pastor's compound at Mpape, and that the deceased child's "star had been collected" and that was what influenced him to send his two daughters, including the deceased back to the Church for deliverance.

He agreed that it was his duty and responsibility to feed his children and added that he was forced through his wife to take his children to the Defendant's Church for deliverance.

According to him, the only surviving daughter was present when the sister died as well as the said Ngozi Ogbonna and her husband.

**PW 2**, I am Obi a hawker by trade, the mother of Chimerie and the deceased child, Ogechi Osita, who until her death was 7years old, testified on Oath knowing the Defendant. More particularly, she knew Ngozi, who took care of the deceased child and Chimerie, at the time when she was in hospital for injuries she sustained from an accident in Gwagwalada. Without her knowledge and that of her husband, Ngozi took the deceased child and Chimerie to a white garment church.

PW 2 further stated that Chimerie and Ngozi's children came to visit her and Chimerie came with "akara". When she told Chimerie to eat her "akara", she refused because she was on fasting. PW2 enquired the reason for the fasting, to which Chimerie replied that Ngozi Ogbonna took her to a pastor who takes care of children and added that the pastor gave them fasting to do. Ngozi explained that



her reason for taking her children to a white garment church was because the pastor told her, the children were into witchcraft. Ngozi also told her she would return Chimerie to the pastor so that he could pray for all the children.

According to PW2, when Ogechi died, the pastor called her and told her to meet him at Faith Hospital, Old Karmo. She met Ngozi and the pastor, the Defendant, at the hospital's gate and enquired from Ngozi, who told her the deceased child was not in the hospital. She ran into the hospital premises where she met a doctor, who told that Ogechi was already dead when the Defendant brought her to the hospital and nobody touched her corpse. The doctor also told her that he chased away the Defendant with the corpse from the hospital premises.

According to her, the deceased who died at the Defendant's place was laid on a mat, which mat the Defendant's wife pulled away retorting and questioning why a dead body would be laid on her mat. PW2 added that when Ogechi died, the Defendant began to shout that a python had swallowed Ogechi, the deceased child, and Ngozi's daughter was one of the pythons that swallowed the deceased. According to her, when Ogechi died, a whitish substance oozed out of her nose and there were tears in her eyes. The Defendant began to ring bell into the ear of the deceased child, and thereafter, he placed the corpse of the deceased child into the boot of his car and took off to the hospital.

At the Police Station, the Defendant denied owning certain chains shown to him. Upon his denial, the Police Officer brought out a camera phone and was shown a 16year old girl whose legs were chained, to which the Defendant acknowledged knowing her. The Police Officer then brought out another and showed it to them.

According to PW2, before the deceased child died, she requested for water, which the Defendant and his wife refused to oblige,



calling her a witch and it was for that reason she would not be given water.

Under cross-examination by Learned Counsel to the Defendant, she testified that neither the deceased child nor the Defendant visited her in Faith Clinic on 24<sup>th</sup> of May 2013. She could not tell if Ogechi had died on this date but at the time, she was in hospital, Ogechi had not dead. She was in Gwagwalada Hospital when the Defendant called her that Ogechi was sick and she should come to the Faith Hospital immediately. She arrived seeing the corpse of Ogechi outside the hospital, with tears and substance oozing from the nose of the deceased child, which incident was also witnessed by a Police Officer. She began to scream, holding on to the Defendant, who told her to stop crying, as he would wake up the deceased child.

When asked, she could not tell the name of the Police Officer who showed her both the camera phone and chain. She reiterated the fact of the Police Officer bringing out the chain from his drawer, adding further that it was the chain recovered from the Defendant's house though she did not actually witness the Police Officer taking the chain from the Defendant.

She agreed her she and entire family are Christians and it was not wrong to fast, however she queried the fasting on a child. When asked, she stated that she did not present the deceased child's Birth Certificate at the Police Station. She stated two of her daughters were at the Defendant's house and her surviving daughter told her the Defendant killed Ogechi, which she also narrated at the Karmo Police Station. PW2 stated not seeing or hearing the Defendant's wife pulling away her mat from under the corpse of the deceased child.

According to her, Ngozi takes food to the children and at other times, Ngozi would call her to send some food. However, she got to know that the Defendant's wife collects and throws away the food.



It was her testimony that she forced the children to return to the Defendant because she was not at home when the entire incident happened and throughout the period, her children were at the Defendant's church for deliverance, she never visited them because of her leg injury for which she could not walk.

PW3 was Inspector Anthony Akerele attached to the Homicide Section Department of Information of the Nigeria Police, Federal Capital Territory Abuja. On Oath, he acknowledged knowing the Defendant and Ngozi Ogbonna, who were transferred to his Office from Karmo Police Station in respect of a case of Culpable Homicide for investigation. The scene of crime was visited and after interrogating the Defendant and Ngozi Ogbonna, they volunteered Statements. He personally recorded the Defendant whilst Assistant Superintendent of Police, Godwin Gonam recorded that of the Ngozi Ogbonna. For logistic reason, autopsy could not be performed on the deceased child and there was no money from the Nigeria Police to pay for the Pathologist. Alternatively, he wrote to the Faith Medical Centre, Karmo, on the 3<sup>rd</sup> of June, 2013 requesting for a Medical Report in respect of the deceased child, Ogechi, and the Faith Medical Centre sent a Reply Letter dated the 6<sup>th</sup> of June 2013.

He identified the Statement of the Defendant and that of Ngozi Ogbonna, which Statements were tendered and admitted as Exhibits B and C respectively. He tendered the Letter written on the 3<sup>rd</sup> June 2013 to the Faith Medical Centre, which objection of not being certified was overruled, and the Letter was admitted as Exhibit D. He also tendered the Reply Letter from Faith Medical Centre, which objections as to not being the maker or the said Letter not emanating from a Government Pharmacist were overruled and admitted as Exhibit E.

During his investigation, he discovered from witnesses that the deceased child, Ogechi, was put on dry fasting by the Defendant for seven (7) days in order to deliver her from witchcraft. As a result



of the dry fasting, the deceased before her death begged for water, which was refused. She and other children were chained in order to prevent them from going out to search for something to eat. Eventually, she collapsed and was taken to the hospital by the Defendant and Ngozi but Ogechi died before reaching the hospital.

PW3 stated the surviving sister of the deceased child was among the other children that were chained and put on dry fasting. The surviving sister fell sick as a result of the compulsory dry fasting and was taken to hospital where she was admitted for treatment for some days; she survived the sickness and was later discharged from the hospital.

Under cross-examination by Learned Counsel to the Defendant, he stated that Exhibits D and E did not reveal the cause of death of the Ogechi and an autopsy could have established the cause of death. According to him, the Defendant admitted putting them on fasting from 6am to 9am. The Defendant also administered Paracetamol on the deceased, which self medication was wrongful. When asked, he did not know, whether the Defendant took steps to bathe the deceased. He also did not know whether the deceased child died in the Defendant's church or house, but she died before she got to the hospital.

He stated the deceased refused to eat because she was already at the point of death, due to the dry fasting and the Defendant would not have allowed the children to eat during the fasting period. He discovered from witnesses that the deceased was already sick, at the point of death but she refused to eat. When asked, he identified one of the witnesses to be the surviving sister of the deceased child, who volunteered her Statement. He testified that the sickness of the deceased was unnatural because it was due to the seven days (7) dry fasting and the nature of the sickness is dehydration.

**PW4**, Chiemere, the surviving sister of the deceased child, Ogechi was a Child Witness summoned to testify and due to the fact of her



age, the proceedings resumed in Chambers in accordance with Section 209 of the Evidence Act, which stipulates that a child under fourteen (14) called as a Witness shall not be sworn.

The Court had the duty to ascertain whether she possessed sufficient intelligence to understand questions put to her by giving rational answers to them.

### **CHIEMERE TESTIMONY**

**1. What did you have for breakfast?**

Ans: Eggrolls

**2. What is it like?**

Ans: It has got egg in it.

**3. Is it nice?**

Ans: Yes

**4. Can you cook?**

Ans: Yes

**5. Can you fry an egg, what is used in frying egg?**

You will use groundnut oil and egg

**6. Do you fry it with the shell?**

Ans: No

**7. What is your name?**

Ans: Chiemere

**8. What does it mean?**

Ans: I do not know

**9. How old are you?**

Ans: 10 years

**10. What School do you go to?**

Amazing Grace Karmo

**11. What class are you?**

Ans: Primary 3

**12. What subjects do they teach?**

Ans: Social Studies, English, Computer Science, Cultural Science, Religion, Math's, and Basic Science.

**13. What is your best subject?**



- Ans: Computer Science
14. **Where is your mum?**  
Ans: She is here, pointed at her
15. **What is her name?**  
Ans: Oscar
16. **Did they teach you about God?**  
Ans: Yes
17. **How many Gods do you know?**  
Ans: God of the Father, Son and Holy Ghost
18. **Do you have Sunday school in your church?**  
Ans: She does not go
19. **What do you know about telling lies, and saying the truth, what is the difference?**  
Ans: A lie is not good; it is the truth that is good.
20. **Why?**  
Ans: On judgment day you will go to hell fire.
21. **Do you know Ogechi?**  
Ans: She is my sister
22. **Where is she?**  
Ans: she is dead
23. **What happened to her?**  
Ans: Mrs. Ngozi (she pointed at 2<sup>nd</sup> Accused Person)
24. **Who is Mrs. Ngozi?**  
Ans: She is our neighbor  
She took us to Church, Sabbath, this Pastor said I am a witch, before she started giving me dry fasting for seven (7) days, I finished the fast, and there is no water and food. I went to our house, these women take me there with my sister, they are giving me dry fast for seven days (this man gave us deliverance she points at the 1<sup>st</sup> Accused Person). He flogs us dagger, all of us were crying, he cut our hair, kill goat and dropped the blood on our head before he started giving us food, and he had been eating the food. The woman Ngozi will be bringing the food to come and give us, this Pastor or wife will throw the food away.



Before the Pastor wife throw the food away, she would ask me how many children that I have born in my kingdom, I would say I have not but out of fear, I would say two children. The Pastor's wife would say that Mrs. Ngozi's daughter is a python. The Pastor before my sister is sick, I told the Pastor he should call my mother and father, he would say he is calling them before my sister started vomiting and she refused eating any food

25. **Why?**

Ans: Because her body is hot well. Before the Pastor said that they should go and pluck a cane for him, they should flog my sister, they flog her, her body is very hot. The Pastor carried his bell and be doing "Holy Holy Holy" before my sister is gone that time. The Pastor threw her inside the boot and took her away.

26. **Was she alive?**

Ans: No

27. **And what happened?**

Ans: it is finished.

28. **When the Pastor put your sister inside the boot and took her away where did they leave you?**

Ans: In the Pastor's house.

29. **How did you go home?**

Ans: My sister came and took me home, since that day she has not seen her sister Chiamaka

30. **Did you give statement to Police?**

Ans: Yes

Both the Prosecution and Defence Counsel were satisfied with Witness

**PW5**, Sergeant Mathew Akwu working with Nigeria Police Karmo Division, under the Surveillance Department, acknowledged knowing the Defendant. He narrated that on the 24<sup>th</sup> May 2013, at the hour 17:20, one Osita Obi, the father of the deceased child, came to the Police Station to report a case of murder. According to

him, Osita Obi, the Complainant, stated he entrusted his two children to one Mrs. Ngozi Ogbonna, because his wife was receiving medical treatment at a hospital following an accident. Mrs. Ngozi took the two children to an unknown Church and immediately the wife of the Defendant set her eyes on two children, she said the younger one was possessed with evil spirit. The Defendant chained the two children and put them on dry fast for three (3) weeks. The Complainant stated that anytime he visited his children with food, the children were not allowed to eat the food he brought. According to the surviving sister of the deceased, before Ogechi her sister died, in the morning, the deceased cried of stomach pain to her. The surviving sister then told the Defendant's wife, who prepared "indomie" but the deceased child refused to eat. Later on, she too, the surviving sister tried to force the deceased child to eat, yet again she refused. As the condition of the deceased worsened, the surviving child drew the attention of the Defendant and his wife and they told her to dress up the deceased. After she had dressed the deceased, the Defendant began ringing his bell and sprinkling water on the deceased. Sometime afterwards, the deceased child was rushed to Faith Clinic in the boot of the Defendant's Mercedes Benz.

According to PW5, when he and other three-team members arrived the scene of the crime, they discovered Ogechi had already died, with white foam spewing out of her mouth. They took photographs of the deceased but could not tell the whereabouts of the negative of the photographs that were taken. The Photographs were tendered with the objection overruled and were admitted as Exhibit G1 to G3.

Under cross-examination by Learned Counsel to the Defendant, he agreed a chain was recovered from the Defendant's house but the chain is not before the Court. Though he could not recall at what particular time the deceased died on the 24<sup>th</sup> of May 2013, but on this day, she was on dry fasting. He confirmed that in the morning of the 24<sup>th</sup> of May 2013 at 9am, she was given food. Shown Exhibit



B, the Statement of the Defendant, he replied it was because the deceased complained she was unwell that made the Defendant's wife cook food for only the deceased. On this 24<sup>th</sup> of May 2013, the deliverance ended, the children were no more fasting and they were waiting for the Mrs. Ngozi Ogbonna. He stated that the deceased child died in the church before her corpse was taken to Faith Clinic and the cause of death was not because she was put in the Defendant's boot. He claimed being responsible for transporting the corpse of the deceased from Agwar Shehu, paying for the mortuary and it was at the Maitama General Hospital that a doctor confirmed Ogechi was dead. However, he did not request or obtain an autopsy report for the purposes of ascertaining the cause of death.

When asked, he stated there was two (2) weeks of fasting in the month of April and the children were not eating for the two week duration of the fasting period. He discovered that the deceased, her surviving sister and the children of Ngozi Ogbonna were in the church. In the course of his investigation, there was no food, the children slept on the floor of the church, chained to the altar. Mrs. Ngozi Ogbonna, who was arrested on the same day with the Defendant, did not allow him to see her children but only the surviving sister of the deceased, who could not talk because she was too weak with bruises like rashes all over her body. He finally, stated the Defendant never admitted that the deceased died in his church.

No further questions were asked, there was no re-examination and the Prosecution applied to close his case. The Defendants entered a No-Case Submission and after considering their Submission, Mrs. Ngozi Ogbonna was discharged and acquitted and the 1<sup>st</sup> Defendant was told to enter his defence.

On the 23 of March 2015, the Defendant, Pastor Isaiah Okoye DW1, opened his defence and on Oath he stated he lives in Tape Life Camp-Abuja, he is a Minister of God and a Missionary with Christ Decides Sabbath Mission. He knew the deceased Ogechi Osita, her



surviving elder sister Chimerie Osita and Ngozi Ogbonna. During the month of April 2010, the church at Tape had the Feast of Passover, which Ngozi Ogbonna attended. She got healed of her stroke and was attending his church with three (3) children every Saturday.

As the Passover was going on, he told the three (3) children, a Spirit usually disturbed them at night when they are sleeping and so they needed prayer in order to be delivered from that Spirit. When the Passover ended on the 21<sup>st</sup> of April 2013, the children were in Church for the month of May, for prayers and he put them on fasting from 6am to 9am for seven (7) days. After 6am to 9am, the children eat food and Ngozi Ogbonna usually brings food for the children. On the third day, he heard the children shouting inside the church and house, when he got to where the children were; Ngozi son confessed being the cause of both his mother's stroke and his father's drunkenness. The boy stated that the day his mother, Mrs. Ngozi Ogbonna was brought to the Defendant's church was the day he wanted to kill her and he was responsible for initiating his younger sister.

Thereafter, Chimerie also began to confess that her teacher initiated her with "buns", she, Chimerie, was the cause of her mother's accident, she pursued her father from his job, now he was jobless and she also initiated one of her sisters because she was stubborn to her.

After their confessions, he put a call to Chimerie's father to enquire if he knew his daughter was in his church for prayer and fasting for three (3) days to which her father replied being aware and he requested from her father that food should be brought to her. However, he never showed up or located the whereabouts of his children. He also informed Chimerie's father that if he did not want his daughter to stay with him, he could return but Chimerie's father hang-up on him. He narrated this incident to his wife and instructed his wife to return the children back to Mrs. Ngozi Ogbonna, to which she complied by dropping the children at Karmo.



The next day, as early as 6:30am, he saw Chimerie, her younger sister and their father, who knelt down begging to have his children spiritually delivered. The Defendant told their father that he would have come along with food as feeding was the problem and he would not want the children to starve. Their father offered N3, 000 which he rejected insisting that food was what was needed and in order to encourage the children, he, the father, should be visiting them.

Following the confession that were made by the children, DW1 claimed he called Mrs. Ngozi Ogbonna informing her that he was going to give the children hourly prayer or chain-prayer, which chain-prayer means, children were gathered in one place and none was allowed to roam about. Every morning, he would seat and preach to the children the word of God. When it is 9am, he would conclude with prayer and allow the children to go out to eat and to play. On the last day of the seven (7) days prayer, he called Mrs. Ngozi Ogbonna to inform her that the children were delivered and the prayer had finished. He also put a call to the Chimerie's father, whose phone was switched off and thereafter he put another call to Chimerie's mother. Mrs. Ngozi Ogbonna called back that she wanted to do thanksgiving on Sunday, which the mother of the deceased also agreed. But the children chose rather to wait in church till the day of thanksgiving in order to learn songs, plays and drama.

On Friday, the 24<sup>th</sup> of May 2013, around 8am to 9am, he was in church about to prepare for service for the next day, some of the children ran to him that Ogechi, the deceased refused to eat her bread and "akara", which "akara" the husband of the Mrs. Ngozi Ogbonna brought for the children. The children pestered him they wanted to eat Ogechi bread since she did not want to eat it. According to the Defendant, since the children were no longer fasting, they were permitted to eat anytime. He asked the deceased child her reason for not eating, she replied she had eaten but would finish the remaining bread later. He noticed she did not eat and upon touching the deceased body, he discovered her body was



too hot, and enquired from her when the fever started. He sent Chiemere to nearest chemist to buy Paracetamol. He gave the deceased a tablet of the Paracetamol, and the deceased held the Paracetamol but refused to take it. He collected the Paracetamol from the deceased, and bathed her. Thereafter, he informed the mother and Mrs. Ngozi Ogbonna that the deceased body was hot and wanted to take the deceased to the Wuse General Hospital and either of them could escort him to the hospital. He ran inside his house to change his clothes only to realize his wife was in labour. He became confused on what to do, as he was consoling his wife, the children came to him disturbing him of the deceased condition. He told the children to put the deceased in his car. As he reversed his car, he saw Mrs. Ngozi Ogbonna disembarking from an "okada" and together they went to the hospital. But Mrs. Ngozi Ogbonna suggested they go to Faith Clinic was nearer than Wuse General Hospital. When they arrived, the Clinic Attendant helped them to take the deceased into the Clinic. But he and Mrs. Ngozi Ogbonna waited at the corridor because they were not allowed to go into the treatment room. After awhile, a doctor came out and enquired about Ogechi but was told she had died. He refused to believe and rushed into the Clinic and both he and Mrs. Ngozi Ogbonna began to pray and challenging God. Due to the noise of their prayer, they were told to walk out of the Clinic with the corpse of the deceased to which they complied. Whilst continuing their prayers and the mother of the deceased, whom he had earlier called, arrived crying and people were consoling. He enquired from her what was to be done, to which replied that the corpse of the deceased should be carried to her house. While conveying the corpse of the deceased to the mother's house, he kept praying for God's mercy, and when they arrived, people gathered round consoling them.

He acknowledged Mrs. Ngozi Ogbonna brought food for the children, he quarreled with those parents who did not bring food for their children. He denied chaining the hands and legs of the children, when they were observing their prayers, he denied administering seven (7) days dry fasting. He denied the deceased died in his church, claiming she entered his car by herself.



Shown Exhibit E- the Medical Report, he stated the deceased was alive when he handed her over to the Clinic. According DW1, he used anointing oil to pray, which oil cannot be regarded as poison. He was also shown page BC of his Statement marked Exhibit B, he stated the chain-prayer he referred to, was not the use of physical chain. Concerning the issue of chain, he testified seeing the Investigating Police Officer (IPO) carrying a chain, padlock and keys at the State Criminal Investigation Department, the Officer told him, the chain recovered from his residence to be used as evidence. It was testimony that the chain in question was bought by the parents of a mad girl aged 16 or 17years, who was brought to his church with police escort for prayers. But he disallowed her from entering his church because she was in her monthly period. Finally, he denied bathing the deceased with blood as narrated by Chiemere instead he prayed for them with the blood of Jesus and further denied brutalizing any child.

Under cross-examination, he admitted he is pastor, trained at Christ Healing Sabbath Mission and he had a License or Certificate, though his Certificate was before this Court. On the 24<sup>th</sup> of May 2013, he stated the surviving sister, Chiemere claimed she was possessed, and he prayed for her deliverance from witchcraft. He placed her on fasting for seven (7) days from 6am to 9am, just for three (3) hours. He claimed God has given power to cast out demons. When referred to his Statement Exhibit B, he denied chaining deceased upside down. During deliverance, he did not have any chain. Shown his Statement- Exhibit B at page BC, he stated no chain was recovered from his church, adding that he only gathered people for chain-prayer but no physical chain was used. He maintained that it was the person who wrote his Statement that was using the word "chain". He denied chaining the deceased but gathered children in one place in order to concentrate on their prayer, so they would be running around. He maintained that both he and wife never denied the children food, he never stopped people from bringing food and the children were fed three (3)



times daily, even when they were praying. He stated as untrue that he denied the deceased child water or killing Ogechi. He maintained administering Paracetamol to the deceased, which she refused to take and she was alive when he took her to the hospital.

No further questions were asked and there was no re-examination.

In his written address, learned counsel for the defendant in arguing his submission, stated that the only charge that concerns the defendant was the 2<sup>nd</sup> count of offence and added that the crux of the allegation was that the defendant tied the hands and legs of the deceased in the course of deliverance and starved her for three (3) days without food. He set out the facts of the case and stated that it was the duty of the prosecution to prove that the defendant caused the death of Ogechi Osita beyond reasonable doubt, citing Section 135 (1) and (2) of the Evidence Act and the case of **MOSES VS THE STATE (2003) FWLR PT. 141 1969 AT 1987 (CA)**.

According to counsel, the direct positive evidence against the defendant was elusive because the only eyewitness evidence was the testimony of an unsworn child and surrounding circumstances of positive, cogent and compelling evidence linking the defendant with the commission of the crime was lacking, noting that the statement made by the defendant to the Police was not confessional.

He set out the ingredients of murder as laid down in the case of **MUSA VS THE STATE (2009) 15 NWLR PT. 1165, 467 AT 486 PARAS C-F (S.C.) USMAN KAZA VS THE STATE (2008) 7 NWLR PT 1085 AT 125 AT 163; AND GEORGE VS THE STATE (1993) 6 NWLR PT. 293 AT 41 (S.C.)** and stated that the death of the deceased must be directly traceable to the act of the defendant. By his submission, the prosecution failed to show that the defendant caused the death of Miss Ogechi Osita, citing the case of **OGBU VS THE STATE (2007) 5 NWLR PT. 1028, 635 AT 666-667, PARAS F-B AND THE STATE VS NATHANIEL OKPALA (2012) LPELR-7845 (S.C.)** and **ANTHONY THOMPSON EBONG & ANOR VS THE STATE (2011) LPELR-3789 (CA)**



Learned counsel argued that the cause of death is a medical issue or question that demands to be established on the evidence of a medical practitioner, and the prosecution never took further steps to lead a medical practitioner or call medical evidence to ascertain the cause of death. The report only confirmed the fact of death. He referred to the evidence of PW3 under cross-examination and stated that since the prosecution could not establish the cause of death, the prosecution's case is speculative, citing the case of **OCHE VS THE STATE (2007) 5 NWLR PT. 1027, 214 AT 233 AT PARAS D-G (CA)**. Therefore bereft of any autopsy report or other medical evidence, the prosecution's case was hearsay, divergent and contradictory. According to counsel, the charge states that the defendant caused the deceased to fast for three days and chained for deliverance, and none of the prosecution's witnesses testified on this fact but instead PW3 had stated that the fast was for seven days. The father of the deceased had also acknowledged the fact that it was up to him to feed the children, and the nature of the fast was not stated to the mother of the deceased. Further, he argued that PW2's knowledge of the death and circumstances was dependent on information given to her by the children and she was not present in the church. Regard was had to the cases of **IWEKA VS FRN (2010) LPELR-4344 AT PAGE 21, PARAS B-C (CA) AND KASA VS THE STATE (1994) 5 NWLR PT. 344 AT 269** on the fundamental rule of evidence that hearsay evidence is inadmissible.

He noted that PW3 had agreed with the defence that the fasting time of 6 a.m. to 9 a.m. was not dry fasting and that by the time the deceased had refused to take her meals, they were already done with the issues of fasting, prayers and deliverance. PW3 had however maintained the point that the sickness of the deceased was not natural because of the 7 days dry fast, and she had suffered from dehydration. She had been begging for water, which was denied her. He referred to an apparent contradiction in the prosecution's case, when he stated that the police investigation report in Exhibit F had concluded that the deceased fasted dry for two weeks. He pointed out PW5's evidence under cross-



examination, which stated that as at the 24<sup>th</sup>, the date of death, they were no longer fasting and the deliverance was over. They were waiting for the erstwhile 2<sup>nd</sup> defendant's deliverance session. To this end, learned counsel concluded that the prosecution was confused with the issue and circumstances of the starving or fast and the testimonies of the prosecution witnesses and the documentary evidence were discredited and unreliable. He relied on the cases of **NWATURUOCHA VS THE STATE (2010) LPELR-4646 (CA) AND AGBOR ELE VS THE STATE (2006) LPELR-11649 (CA)**.

Further, it was argued that the findings in Exhibit F had stated thus: "During investigation the following facts emerged: -

1. That Ogechukwu Obi "f" six (6) years old was certified dead at Faith Hospital, Karimo Abuja on 24/5/2013.
2. That prior to her death, she was hale and hearty..."

Therefore, since the conclusion was that prior to her death she was hale and hearty, there was no place for the issues of maltreatment, through chaining, flogging, sprinkling of blood and starvation in determining the cause of death. On this contention the case of **SAIDU VS THE STATE (1982) 4 S.C. 41 AND QUEEN VS ITULE (1961) ALL NLR AT 462**, was relied on by counsel.

Learned counsel set out the evidence on record in regard to the allegation of chaining and analyzed the evidence of PW2, PW3, PW4, and PW5 and discounted them as nonsensical. According to the witnesses, chains were recovered from the defendant's house but they were not tendered into evidence during the trial.

Therefore, he argued that the non-tendering of the chain purportedly recovered, amounted to withholding evidence as it would have helped in ascertaining the type and size of the chain, more so no evidence was led as to the type and size. A mere assertion of the chaining therefore cannot determine the cause of death or ground a conviction for murder.

Learned counsel stated that despite the admission of the defendant in Exhibit B, that he used to chain the children in the church, the chain recovered by the Police is not the one used to chain them. He



pointed out that the elder sister of the deceased, aged eleven (11) years old also never asserted that she or any children were chained. Since her evidence was unsworn, corroboration, which was unflawed, undoubtful or undiscredited, was compulsory in accordance with Section 209 (3) of the Evidence Act 2011. He relied on the cases of **NWAMBE VS THE STATE (1995) 3 NWLR PT 384, AT 385; IKO VS THE STATE (2001) 14 NWLR PT. 732, 240-241 AT PARAS H-C and CPL ISAH VS THE NIGERIAN ARMY (2011) 1 NWLR PT. 1227, 89 AT 96.**

Learned counsel summarized the testimony of the surviving sister on record and pointed out that her evidence was devoid of facts such as her assertion that the defendant killed her sister, and that the deceased had been begging for water and was chained and that she had been ill as a result of the dry fast, and therefore died of dehydration. She also did not testify as to her hospitalization or complaint of stomach-ache or of the sprinkling of water or sleeping on the floor and that she had brushes all over her body like rashes. He hinged his submission on the fact that the report had stated that prior to her death, she was hale and hearty.

The cases of **AUDU VS THE STATE (2016) 1 NWLR PT. 1494, 557 AT 564 AT PARAS C-D as well as DUNG VS THE STATE (2015) 9 NWLR PT 1465, 503 AT 516** were cited, wherein it was stated that once there is a doubt in the prosecution's case, the defendant must be acquitted and discharged by the Court and he culled it into relevance in this case. The conduct of PW3 and PW5 during their investigation stopped at the stage of suspicion, which did not translate to necessary proof sufficient to ground a conviction. According to counsel, the prosecution witnesses were in agreement that the purported acts were done for the purposes of deliverance. The narration as told by the defendant was that the deceased had fever and he tried to give her paracetamol and bathe her before taking her to the hospital for treatment. His wife was in labour and he was confused.

Finally, he concluded that assuming without conceding that the acts of tying up the hands and legs of the deceased for the purpose of deliverance from witchcraft was true, there was no evidence or



proof of intention that the act was done with the intention of causing death. He finally urged the Court to find the defendant not guilty of murder and to discharge and acquit him.

In the prosecution's scanty and inelegantly written address, learned counsel argued that proof beyond reasonable doubt does not mean proof beyond every shadow of doubt, and cited the cases of **CHUKWUDI UGWANYI VS FRN (2012) 7 NCC VOL. 7 AT PAGE 108 PARA 2; NJOKU VS THE STATE (2013) 2 SCNJ PART 1 PARA 5 AT PAGE 150 AND CHIKAODI MADU VS THE STATE (2012) 7 NCC AT PAGE 557 PARA 9.**

He referred to the evidence of PW3, PW4 and PW5 as sufficient as having sufficiently discharged the burden of proof and having proved the ingredients of the offence under Section 221 of the Penal Code.

He submitted that Miss Chiemere Osita, the PW4, testified as to how the defendant subjected her and the deceased to a seven day dry fasting and how the defendant chained their legs and tortured them, resulting in the death of the deceased. The extra-judicial statement of the defendant, Exhibit B, also corroborated these facts. As regards the evidence of PW5, he submitted that the victim was brought to his hospital dead and he tendered Exhibit E, the Medical Report he issued confirming her death. Exhibit F was tendered through PW3, who testified that the defendant confessed in his statement unequivocally to chaining them in order to prevent them from escaping out of the premises and depriving the victim of food, on the grounds that the food would be wasted and this eventually resulted in the death of the deceased child.

He referred to the evidence of PW4, the elder sister to the deceased, who was subjected to similar torture by the defendant, with the sole aim of casting out witchcraft from the children. Reference was made to Sections 34 (1) (a) and Sections 35 (a) (a) (sic) of the 1999 Constitution and added that the act of the defendant was intentional.



Learned counsel submitted that the evidence of PW3, and PW4 clearly established torture against the deceased by the act of the defendant, resulting in death. He further submitted that the defendant knew that the probable consequence of starving the deceased and subjecting her to torture by chaining her legs and hand would result in death. Finally, he urged the Court to hold that the prosecution has proved their case against the defendant.

With the discharge of the 2<sup>nd</sup> defendant from this charge and bearing in mind the peculiar set of circumstances surrounding the charge of conspiracy and the facts leading up to her discharge, the 1<sup>st</sup> count of the offence of Conspiracy under Section 97 (1) of the Penal Code was not substantiated against the sole defendant on record, and without further ado, the defendant is accordingly found not guilty under this 1<sup>st</sup> count of conspiracy.

As regards the second count brought under Section 221 of the Penal Code Act, the Section states thus: "Except in the circumstances mentioned in Section 222, culpable homicide shall be punished with death:

- a) If the act by which the death is caused is done with the intention of causing death, or
- b) If the doer of the act knows or had reason to know that death would be the probable and not only a likely consequence of the act or of any bodily injury, which the act was intended to cause.

The essential ingredients of the offence are as follows: -

1. The death of the deceased;
2. That the deceased is identified with the person defendant
3. That the death resulted from the act of the defendant and
4. That the defendant knew that his act will result in death or did not care whether the death of the deceased will result from his act. The death was due to unlawful violence or criminal negligence. See the cases of **BAKARE VS THE STATE (1987) 1 NWLR PT. 52 AT 579, SCN AND JIRE VS THE STATE (1965) NNLR 52. KADA VS THE STATE (1991) 7 NWLR PT 208, 134 AT 144.**



The legal burden of establishing beyond doubt the elements necessary for a conviction is on the prosecution, even where the law casts a burden on the defendant to prove the existence of circumstances, which bring the case under any exceptions or proviso that may exist. See the case of **WOOLMINGTON VS DIRECTOR OF PUBLIC PROSECUTIONS (1935) A.C. 462.**

To this end, the prosecution must adduce evidence proving that the death was unnatural and unlawful and further must link the defendant with the death of the deceased, which must be evidence of some positive act or negative omission of the defendant which resulted in injury to the deceased and that the death of the deceased was the direct result of that injury. Regard is had to the case of **ONAH VS THE STATE (1998) ACLR 642 AT 656 SCN AND AIGBANGBEE VS THE STATE (1998) ACLR 168 AT 206.**

It is also clear that the defendant's action allegedly causing the death need not be immediate but it must either by unequivocal direct evidence or such cogent and irresistible circumstantial evidence be connected with the defendant's act as held in the case of **KADA VS THE STATE (1991) 7 NWLR PT 208, 134 AT 146.** Circumstantial evidence, in the context of this charge, means a combination of facts creating a network through which there is no escape for the defendant because the facts taken as a whole do not admit of any inference but of his guilt. Where there is a reasonable and probable explanation of the fact, which is consistent with the innocence of the defendant, then the defendant, will be given the benefit of doubt

The fact of circumstantial evidence grounding a conviction can be proved by such circumstances as to render the commission of the crime certain and leave no ground for reasonable doubt. This must be so cogent and compelling there leaves no rational basis other than to show that on those state of facts, murder resulted. See **JOSEPH LORI VS THE STATE (1980) 8-11 S.C; IGBOJI ABIEKE & ANOR VS THE STATE (1975) 9-11 S.C. 97 AT 104; SAKA**



**OLADEJO VS THE STATE (1987) 7 S.C.N.J. AT 218 AND STATE VS NAFIU RABIU (1980) 1 NCR PG 47 AT 71.**

Naturally, where such evidence is capable of two interpretations, one against the other in favour of the defendant, then there is no proof beyond a reasonable doubt.

In this instant case, the first question to ask, is whether the person alleged to be killed is dead?

The prosecution in proof of this fact summoned witnesses who gave uncontroverted evidence that Miss Ogechi Osita died on the 24<sup>th</sup> day of May 2013 and tendered documentary and eyewitness evidence in this regard.

PW1, the father of the deceased child said the defendant came to his residence on that fateful day with the dead body of his child and they went to the police station with the crowd that gathered. PW2, the mother of the deceased stated that she was called on the phone by the defendant and told to meet him at the Faith Hospital, Old Karmo. At the hospital she was told of the death of her daughter and under cross-examination by the defence, she stated she actually saw the corpse of late Ogechi outside the hospital with tears in her eyes and substance oozing from her nose.

PW3, Inspector Anthony Akerele, the detective from the Homicide Section of the Department of Information of the Nigeria Police, FCT, visited the scene of crime and stated that for logistic reasons, an autopsy on the deceased could not be performed due to lack of funds to pay the Pathologist. He also received the Medical Report from the Faith Clinic in Karmo on the 6<sup>th</sup> of July 2013.

PW4, Chiemere Osita, the surviving sister testified as an unsworn witness and confirmed the fact of her younger sister's death and also the fact that her sister was placed in the boot of the defendant's car.

PW5, Sergeant Mathew Akwu, the Police Officer from Karmo Police Station division, visited the scene and discovered the deceased with white foam spewing out of her mouth. They also took photographs of the dead body. He was responsible for transferring the corpse from Agwar Shehu and paying the mortuary fees at the



Maitama General Hospital. There, the doctors also confirmed that Ogechi was dead.

The defendant himself testified that on Friday the 24<sup>th</sup> of May 2013 between 8 a.m. and 9a.m. some children told him that Ogechi was ill. He went on to narrate the sequence of events, which narration incorporated the death of Ogechi.

Therefore, it is established beyond reasonable doubt that Miss Ogechi Osita is dead.

The next element to be established is what is the cause of Ogechi's death?

As aptly held by **AYOOLA J.S.C. IN SULE AHMED VS THE STATE (2003) ACCR 145 AT 157**, the primary enquiry into the cause of death is an enquiry into the biological cause of death. The question is what caused the death and not who or when. When what caused the death has been ascertained, the question who caused the death is one of casual connection between the act of the defendant and the biological cause of death. Medical evidence was held to be direct evidence and a fact in issue when given by a doctor who carried out the autopsy or by a doctor who treated the deceased. Typically, the medical certificate would show the cause of death, without any intervening factor as would create the possibility that the cause of death was something else other than the injury inflicted on the deceased by the defendant.

While the law is settled that medical evidence is the primary and best form of evidence of the cause of death, it is not the only way of establishing the cause of death, especially in the instance where because of poverty and lack of funds, an autopsy report could not be generated. In the instance where the deceased was brought into the clinic dead and there is no autopsy evidence ascertaining with precision the cause of death, recourse has to be had to very strong circumstantial evidence to indicate the likely cause of death?

From the charge sheet, the cause of death was attributed to tying up the hands and legs of the deceased for the purpose of



deliverance from witchcraft and starving her for food for three days. PW1, the father of the deceased testified that he was informed by the erstwhile co-defendant that five children had been chained inside the Pastor's compound at Mpape. The defendant in his written statement to the police confirmed the fact of five children. PW2, the mother of the deceased testified that whilst she was on admission at a hospital, her daughter, the PW4, had refused to eat, telling her that she and some other children were fasting. She was told that on the day of her death, Ogechi had requested for water from the defendant and his wife but was denied because they said she was a witch. PW2 queried the ordering of a fast for children. She got to know that the defendant's wife threw the food taken to the children in the church by Ngozi Ogbonna, away. PW3, who tendered the statement of the defendant and the medical report from the hospital, stated that in the course of his investigation, he discovered from interviewed witnesses that the deceased had been placed on a dry fast of seven days. She had begged for water but was denied and had been chained in order to prevent them searching for food to eat. The deceased collapsed in the church and was taken to the hospital. Her surviving sister suffered the same fate, but luckily recovered at the hospital she was taken to. The deceased, at the late stage had refused to eat because she was at the point of death and he attributed her death to be caused by dehydration and unnatural due to the seven days fast imposed. PW4, the only eyewitness, after the Court tested her to discern whether she possessed sufficient intelligence and more importantly, understood the importance of telling the truth, stated that both she and her late sister were taken to the defendant's church by Ngozi Ogbonna where they were said to be witches and placed on dry fast for seven days, with no water or food. According to her, they were flogged, with their hair cut and the blood of a killed goat dropped on their head. This dropping of blood was before they were given any food. She stated that anytime Ngozi Ogbonna brought them food, the defendant and his wife would throw them away. Her sister started vomiting and refused to eat anything and had a very high temperature. According to her,



during the time of her temperature, the defendant flogged her, and carried a bell saying "Holy, Holy Holy" but her sister had died by then. He then threw her into the boot of his car and drove away. PW5, the IPO confirmed the fact of a dry fast but differed on the number of days. His investigation revealed that anytime the father brought food for his children, they were not allowed to eat it. On the morning of her death, late Ogechi had complained of stomach pain and even though the Pastor's wife prepared indomie, she refused to eat it. As late Ogechi's condition worsened, the PW4 drew the pastor's attention to her and the defendant began ringing his bell and sprinkling water on the deceased and later rushed her to the hospital in the boot of his car. He testified that a chain was recovered from the house, although it was not tendered as evidence before the Court. It was only after the deceased complained of stomach pains that preparation for food was made. She died in the church and he discovered that there was no provision for food for the children, who slept on the church floor and were chained to the altar.

The defendant, in his own testimony confirmed the fact that he said the children were possessed by a Spirit and needed deliverance. He confirmed the evidence of PW5 to the effect that the children were in church during the month of May for prayers and fasting. The fast was from 6a.m. to 9a.m. he confirmed that Ngozi Ogbonna usually brought food for the children. On the 3<sup>rd</sup> day of the deliverance session, the children started confessing to acts of witchcraft and he stated that the father of the children had offered him N3000, which he refused, telling him to instead bring food for them. He admitted telling Ngozi Ogbonna that he was going to give the children hourly prayer or chain prayer, where they were gathered together and none of them were allowed to roam about. After the deliverance session was over, the defendant stated that the children still stayed on in the church for six extra days to await a thanksgiving and on the next day, the 7<sup>th</sup>, Ogechi refused to eat and the saga began.

From the documentary evidence before the Court, particularly the medical report, it stated inter alia thus "...the above named person



was NEVER brought into this hospital sick before she later died same day but was brought in DEAD. She was brought to our hospital on the 24<sup>th</sup> of May 2013, around 12 noon by two men and a lady with foam and oil (anointing oil) on the face, mouth and head. On examination, there was no pulse, no heart rate, no respiratory rate, pupil fixed and dilated and not reactive to light. She was certified dead and the men were asked to take the corpse immediately."

This medical report certainly disputed the fact that the deceased was still alive at the time she was taken to the hospital, and when this fact is pitted against that of the defendant who denied that she died in his church, the Court believes the evidence of the hospital. They had nothing whatsoever to gain by claiming that she was brought in dead. This is in effect, the medical report relating to the deceased and not the conclusion reached in the investigative report. Learned counsel to the defendant had laboured unnecessarily to dwell on the investigation report that stated that the deceased was prior to her death, hale and hearty. That statement in itself does not say anything in that the time period of hale and hearty was not stated and since the report did not say that the deceased was personally known by the Investigating Officers prior to her death, all arguments in this regard holds no water. The issue is that she died before being taken to the hospital and the reasons for her most premature death is what this Court is concerned about. It is logical and reasonable to believe that she would have been hale and hearty before she attended the church; as if she was ill prior to that time, it is unlikely that she would have been well enough to attend church in the first place.

A careful regard to the investigation report in Exhibit F will show that the testimony of the prosecution witnesses before the Court were confirmed and the Court notes that other witnesses not summoned to testify, but whose evidence makes up the report, such as Ebuka Ogbonna and Ngozi Ogbonna stated that the children were chained in the church. Ngozi Ogbonna confirmed that there was dry fast for seven days without food and water. In her written statement admitted in evidence as Exhibit B2, Ngozi



stated that she saw the children chained when she went to the church. This is real and primary evidence and is not just the evidence of an unsworn child as argued by learned counsel to the defendant. The defendant, in his own written statement confessed to chaining the children. The finding in the investigation report was that Ogechi aged 6 years was certified dead at Faith Clinic and that prior to her death she was hale and hearty. In Paragraph X of the Report, the main cause of death was attributed to be as a result of fasting and maltreatment by the pastor and his wife.

In the defendant's voluntary statement to the police, admitted as Exhibit B, without any objection whatsoever, and in his evidence in chief, he admitted ordering a seven days in a seven days prayer and deliverance session for five children where they were made to fast for three hours each day. On the 3<sup>rd</sup> day of the fast, some of the children confessed to be witches and on the 7<sup>th</sup> day after the deliverance session was over, the deceased complained of stomach ache and refused to eat with her body being very hot. He stated that the father did not bring food to his children but admitted sending the deceased's elder sister back with the food she brought because according to him, Ngozi Ogbonna had brought enough food for all the children. He stated that the deceased did not eat and was hot. He admitted also that because of their playfulness, the children were chained to prevent them from running around so they could concentrate on their prayers, and added that the chain he used was in his church.

The fact of the seven days programme was confirmed by Ngozi Ogbonna in Exhibit B2 and more importantly, she confirmed seeing the children chained when she visited the church, because "they does not follow the prayer condition" sic.

The denial of the defendant that the chain was a spiritual chain is belated and is an afterthought and he provided no evidence to substantiate his denial. The arguments of learned counsel to the defendant as regards the inconsistency in the number of days of the fast stated in the charge and that of the prosecution witnesses is immaterial to the fact that she was subjected to a fast, and



whether she was made to fast for one day or fifty days the resultant effect is what the Court will look at and consider.

Therefore, all in all, the Court is satisfied that the cause of death of the late Ogechi is attributed to the arrant neglect of the deceased by the defendant when she was placed in his care.

The question of what caused the death in this instance through all the direct and circumstantial evidence led by the witnesses and including the defence is that the deceased died in the church residence of the defendant and had undergone a gruelling session of a dry fast ordered by the defendant, and was certainly maltreated with the evidence of her being chained whilst under the custody of the defendant and so the second element of the offence is established beyond a reasonable doubt.

As regards the third element of whether the defendant knew that his act will result in death or did not care whether the death of the deceased will result from his act and whether the death was due to unlawful violence or criminal negligence, this element constitutes the mens rea or the malice aforethought of the offence, it is important to look at the mindset of the defendant when he ordered the fast. It is clear that mens rea simply means a guilty mind that is the act contemplated by the defendant to bring about the desired result. The intent to commit murder can be proved positively by proof of the defendant's declaration as to his intent or by inference. The issue of religious belief tenuously held on to by individuals is personal and private and understandable but the question has to be asked where and when the boundary of reasonable belief is crossed. The whole unfortunate incident arose somewhere in the recess of the mind of the defendant that certain children were witches. He took the law upon his hands to mete out justice on them in the guise of what he termed deliverance. He has not explained to the Court how he formed the belief or described what form or how witches look like. This is metaphysical and he would really need to go himself to that metaphysical realm or state to describe his experience whilst there and must do so convincingly.



There is no doubt whatsoever that torturing a child of the tender age of six, chaining and subjecting her to a dry fast, whether for a day, three days or even seven days is despicable, inhumane and callous and likely to result in very grave consequences.

The defendant was criminally negligent in his treatment for these children and the trauma of what these innocent children went through in his hands is best imagined when one contemplates what an ADULT would experience if he were to go without food and water for seven days. That adult would barely survive the experience. These children were also chained to prevent them from roaming around as he calls it and that must have accentuated their torture and distress. From the evidence before the Court, the deliberate intention to kill these children by the defendant was not presented or proved by the defendant's words or acts but he ought to have known that death was a likely occurrence if children of tender age are subjected to the treatment he meted. At the stage late Ogechi was crying for water and had a high temperature refusing to eat and had stomach pains, a reasonable and sensible adult would have taken more positive steps to see that she received adequate and proper medical attention immediately. Instead he was ringing his bell and sprinkling water on her and oil on her face shouting Holy! Holy!! Holy!!!

In A 1932 CAL. 815 AT 816; 33 CriLJ 663 (FB) CITED, THE A.I.R. MANUAL, VOL. 28, AT PAGE 407, it was held that where a person was killed by the defendant, who is of primitive belief and low intelligence in the belief that the victim was a sorcerer, the extreme penalty of death is not necessary. Reference is also made to the case of **ADAMU VS THE STATE (1986) 3 NWLR PT. 32, 865 AT 876.**

Malice aforethought was not established and to that end, the defendant is found Not Guilty of Murder under Section 221 of the Penal Code but is found on the preponderance of evidence to be guilty of Culpable Homicide not punishable with death, otherwise termed as Manslaughter under Section 222 (7) of the Penal Code Act Cap 532, which is where a person causes the death of another by doing any rash or negligent act.



This offence must be deterred otherwise other self-ordained spiritual religious people would act on their "received vision" and cause havoc in society. He is therefore guilty of sentenced to seven (7) years imprisonment with hard labour for the unlawful death of little Ogechi Osita aged six years at the time of her death from the date of this Judgment.

HON. JUSTICE A.A.I. BANJOKO  
JUDGE