

IN THE HIGH COURT OF JUSTICE
ONDO STATE OF NIGERIA
IN THE AKURE JUDICIAL DIVISION
HOLDEN AT AKURE
BEFORE HIS LORDSHIP HON. JUSTICE T. O. OSOBA – JUDGE
THIS TUESDAY, THE 28TH DAY OF JANURARY, 2014.

BETWEEN: -

SUIT NO: AK/33C/2006

FEDERAL REPUBLIC OF NIGERIA COMPLAINANT

AND

1. GBENGA OJO }
 2. LEYE ADEJUYIGBE } ACCUSED PERSONS

JUDGMENT

The two accused persons in this matter were charged on two counts of conspiracy and making false statement contrary to S.16 and 26(1) (c) of the Corrupt Practices And Other Related Offences Act 2000.

The 1st and 2nd accused persons were at all material times to this case official of Akure North Local Government of Ondo State. The 1st accused person was the Vice Chairman of the Akure North Local government which is a political office while the 2nd accused person is the Secretary to the Local Government. He is a carrier officer of over 33 years in service.

The prosecution called eight witnesses in proof of its case, while the 1st accused person called eight witnesses in his own defence. The 2nd accused person testified in his defence and tendered Exhibits kk¹ and k², and called two witnesses.

Briefly in September, 2004 the then Governor of Ondo State Dr. Olusegun Kokumo Agagu (now late) paid an official visit to the Akure North Local Government and towards the preparation for the visit of the Governor the sum of ₦1.3m was voted to cover all expenses incidental to the visit.

A Committee was set up with the 1st accused person as the Chairman and the 2nd accused person as the Secretary of the Committee.

The central issue in this matter is the sum of ₦90,000.00 (Ninety thousand naira Only) which was said to have been expended on the purchase of Ankara clothing. There was an Audit Report by the State Government on the finances of the Local Government during the Governor's visit.

The sum of ₦1,305,000.00 was released to the Committee through the 2nd accused person. Out of the said sum, the sum of ₦70,000.00 was for the security personnel and the sum of ₦90,000.00 was for the purchase of Ankara materials for the visit of the Governor.

The document (list) submitted by the 1st accused person for the retirement of the sum of ₦70,000.00 contained the names of people who testified in this matter and denied collecting the said sum.

The sum of ₦90,000.00 for the purchase of the Ankara material by the receipt of Mama Twins Boutique was sourced by both accused persons. The said receipt was a blank receipt which was filled by the 2nd accused person. The owner of Mama Twins Boutique denied filling the said receipt or selling the Ankara material as she does not deal in Ankara materials.

This in short is the summary of the facts established by the prosecution and the defence in this matter.

In the address of the prosecution two issues were formulated for determination thus:

- (a) Whether the prosecution has proved the counts of the information standing against the accused persons beyond reasonable doubt as to merit a favourable verdict from the Court?
- (b) Whether there exists any material doubt in the case for the prosecution as to warrant the discharge or acquittal of the accused persons?

The 1st accused person on his own formulated only one issue for the determination of the Court that is;

“Whether from the totality of the evidence before this Honourable Court, the prosecution has proved the charge against the 1st accused person beyond reasonable doubt?”

The 2nd accused person on his own part formulated two issues for determination and they are:

- (a) Whether the prosecution has successfully proved beyond reasonable doubt that the 1st accused person did actually conspire with the 2nd accused person in knowingly furnishing false statement in respect of ₦1.3m by claiming that the sum of ₦90,000.00 was used to purchase Ankara when no such purchase was made from Mama Twins Boutique?
- (b) Whether from the totality of the evidence adduced in this trial the prosecution has successfully discharged the burden of proof beyond reasonable doubt that the 2nd accused person did knowingly furnish false statement in respect of the said ₦1.3m by

claiming that the sum of ~~N~~90,000.00 was used to purchase Ankara when no such purchase was made from Mama Twins Boutique?

PW1 was Sworn on Holy Bible and elected to speak in English Language. His names are Samuel Stephen Lodam. He resides at NNPC Quarters, Area II Garki, Abuja. He is an investigator with the Investigation Department of ICPC.

He knows the accused person in this case. Sometime in 2004 the Department of State Service (SSS) forwarded an Audit report to the Chairman ICPC. It was an Audit of Akure North Local Government indicting Officials of the Local Government of Financial impropriety. After the report was forwarded to the Chairman, it was referred to him for discrete investigation to ascertain its truth or otherwise. Tabitha Bako and himself were detailed to investigate. They studied the Audit Report and among the investigation is that a sum of ~~N~~2.3m was expended by officials of Akure North Local Government in arrangement of a visit by the Executive Governor of Ondo State to Akure North Local Government.

They mapped out strategies. They travelled down to Akure North Local Government where they recovered documents from Akure North Local Government. Such documents included Payment Vouchers with supporting documents attached to it like receipts, minutes of meetings and approval, internal memos on Akure North Local Government letter headed papers. These documents were issued to them by the Treasurer of the Local Government who is the custodian of such documents. He gave them original copies as well as Certified Copies.

On count one of the charges, after recovering the documents he mentioned earlier, the 1st accused person was invited for statement taking,

based on what he told them that he gave the aides of the Executive Governor that is, the Chief Security Officer, ADC and Personal Assistant money. He gave these people, including the Driver to the Governor part of the ₦70,000.00 and part of the ₦70,000.00 for fueling.

They then invited the people involved that is, Chief Security Officer, ADC and Personal Assistant who all denied ever collecting any money from the 1st Accused. Also among the documents they recovered was an Akure North Local Government letter headed paper where the 1st accused person wrote a list of names claiming that those were the names of people he gave money. These names included the ones earlier listed. Their signature was purportedly inserted in front of their names. When they were confronted, they denied signing. The Chief Security Officer denied, the ADC to Governor denied, the Personal Assistant denied signing and they claimed that they never collected the money put against their names.

On count two of the charge – on the receipt that was purportedly used for the purchase of Ankara materials, there was an address on the receipt which they traced to NEPA Market, Akure. They were able to get in touch with one Mrs. Omoleye the owner of Mama Twins Boutique. When they confronted her with the receipt, she said she never had any dealings with Akure North Local Government. She also stated that she does not deal in Ankara and asked them to verify from the stock in her shop.

She however invited one of her friends Mrs. Oluwatosin who she said she may have given her shop receipt, so she wanted to confirm.

Mrs. Oluwatosin in her own statement admitted collecting a blank receipt which she gave to Officials of Akure North Local Government and she

denied responsibility for what was written on it.

The accused person volunteered their statement after he administered the cautionary words. He read it to them and they stated that they understood it, signed under and dated it, then they volunteered their statement, they then signed their statement written on ICPC statement form.

The witness identified the statement of the accused persons. They were written on ICPC statement forms. He administered the cautionary words, the accused persons volunteered their statements in their own handwriting, and they signed the cautionary words and the statements.

The statement of the 1st Accused person was tendered by the Prosecution. Counsel to the accused person does not object. Statement of the accused person dated 14/4/2005 was marked Exhibit 'A'.

Statement of 1st accused person dated 15/4/2005 Exhibit 'A¹', statement dated 25/4/2005 Exhibit 'A¹¹', statement dated 26/4/2005 Exhibit 'A¹¹¹', statement dated 22/8/2005 Exhibit 'A^{1v}'. Statement of the 2nd accused person dated 14/4/2005 was tendered and admitted and marked Exhibit 'B' the statement of 2nd accused person dated 15/4/2005 marked Exhibit 'B¹', statement dated 27/4/2005 marked Exhibit 'B¹¹', statement dated 23/8/2005 marked 'B¹¹¹'.

He identified Payment Voucher and supporting documents both Certified Copies and Originals. The Payment Voucher has Akure North Local Government written on top of it. It has Payment Voucher written on top, it has the name of the 2nd accused person as the beneficiary and Certified Copy was made by Treasurer to the Local Government. It also has supporting documents that is, receipts, a list of names of those purported to have

collected money for fueling from the 1st accused person on Akure North Local Government paper. Among the receipts is the one from Mama Twins Boutique.

The original Payment Voucher has Akure North written on top, also the Payment Voucher with the name of the 2nd accused person as beneficiary, and it also has supporting documents like receipts, minutes of meeting, a list of those purportedly given money during the Governor's visit for fueling.

Original of Payment Voucher and supporting documents tendered, the Certified True Copies were also tendered.

Original Payment Voucher and supporting documents numbering 41 were admitted as Exhibit 'C', Certified True Copies 41 in all Exhibits 'D¹' to 'D⁴⁰'. He cannot remember the name of the owner of the Boutique.

There were two women who were involved in the issue of the receipt. He cannot remember which is which among them unless he sees their statement.

Because of time, he cannot remember the exact names of the women. He might have mentioned wrong names.

Under Cross Examination of PW1 by Counsel to the 1st accused person:

PW1 said he did not know if Akure Local Government reported to him that their money was missing after the Governor's visit but an Audit Report was carried out by the Auditor General of Ondo State which was an order from the Deputy Governor and based on that, they were asked to investigate.

He said that the Audit Report is with the Prosecutor. Prosecutor says his brother knows the procedure if he wants Audit Report. PW1 said Audit Report was sent but it is not with him.

Counsel to the 1st accused person claims the document forms the basis of this case. It has to be tendered Mr. Kado Prosecutor objected to the request. He said that the witness has mentioned where the audit report is, if they feel it is vital, they have a duty to secure it by due process of law. He said that the Audit Report is with him. He will use it at the appropriate time. Mr. Kado says S. 98 of the Evidence Act did not ask that the adverse party must produce the document.

PW1 told the Court that the nature of indictment was that officials of the Local Government expended the sum of ~~N~~2.3m during the visit of the Executive Governor to Akure North Local Government, Ondo State. That the Chairman of Akure North Local Government did not present 2004 budget on time to the Legislative Council.

That the Akure North Local Government share of excess crude oil was diverted. That the Council was using money meant for capital votes for none capital votes and services. Counsel for the 1st accused person requests for the statement of the 1st accused person. In the course of his investigation, he said that a sum of ~~N~~1.3m was raised in favour of the 2nd accused person. Look at Exhibit 'C' No. 35. Witness confirms that a sum of ~~N~~1.3m was spent on Governor's visit. (Look at Exhibit 'C' ~~N~~30,000.00 - ~~N~~50,000.00 for SSS, Police, Civil Defence, ~~N~~70,000.00 for Government house and protocol).

PW1 said it is written there, that is, in the minutes of Finance and General Purposes Committee but he doesn't know how it got there. He does not know how it was expended.

He said the 2nd accused said ~~N~~1.3m in his statement. He said ~~N~~1.3m was approved and given to him (last paragraph of Exhibit 'B'). He said he

was not aware that over N2m was spent.

In Exhibit 'A3', the 1st accused person also confirmed that N1.3m was spent on Governor's visit not N2.3m.

PW1 said he would not know whether Ankara was purchased. He cannot remember that the accused told him the people that used the Ankara.

In the minutes of 2nd November Paragraph 31 Exhibit 'C' Ankara was budgeted for. The accused person showed them receipts of purchase but our investigation showed that Ankara was not bought. Statement 'A⁴' (Last Statement). He remembered they traced Madam Felicia Olaseni Shop Exhibit 'C¹²'. She agreed she sold Aso Etu and Guinea brocade.

It is not Olaseni Felicia that told them that she got a blank receipt from Mama Twins Boutique. It was the documents sent to them that they investigated, the list of those who were given the clothes were not sent to them so they did not investigate it. He carried investigation out at Mama Twins Boutique, the Ankara was not purchased. He doesn't know if Ankara was purchased from any other source.

Look at 'C²⁴'. He spoke to Mama Twins Boutique friend to whom she gave a blank receipt. She said she gave the blank receipt to officials of Akure North Local Government when he confronted the 1st accused person, he claimed the 2nd accused person brought the receipt to him after it had been filled. He doesn't know who filled it. The Payment Voucher for Ankara money was raised in the name of the 2nd accused person.

In Exhibit 'A⁴' line II (read) Mama Twins said she did not sell Ankara to Akure North Local Government. The accused person did make a false

statement because the blank receipt was given to them which they used to retire the money.

He said he was the Chairman of Planning Committee and also in charge of Security for the visit. Money was budgeted in Exhibit 'C³⁰' for Police, SSS, and Civil Defence. The 1st accused person told him in 'C⁶' that ₦70,000.00 was released to him for security. Looking at 'C⁶' the 1st accused person wrote (according to him) that he disbursed the money.

Numbers 1, 2 and 3 on Exhibit 'C⁶' signed for money collected by them, numbers 4-10 was signed by only one person that is, the 1st accused person. Numbers 4-10 worked directly with the Governor – ADC, Personal Assistant, who for purpose of Government visit are on official duty – none of them signed that they collected the money. They all insisted they did not collect the money. He works with ICPC. If they admitted collecting the money, they would have run afoul of ICPC Act.

Looking at Exhibit 'C^{29-C41}' no where it is specified that money was budgeted for fuelling. The 1st accused person told PW1 that he gave the money to those in numbers 4-10.

Cross examination of PW1 by Counsel to the 2nd accused person.

As it relates to the 2nd accused person, a voucher for ₦1.3m was raised and he collected the money. Charge against him is that he used ₦90,000.00 out of the ₦1.3m to purchase Ankara.

As Secretary of the Committee, the role of the Secretary was to disburse the money for the visit of the Governor. His duty apart from disbursement of money, he retired it and he also made some purchases directly by himself.

Exhibit 'B³' shows how he disbursed ₦1.3m that was in the Payment Voucher. The ₦90,000.00 for the Ankara was collected by the 2nd accused person. The 1st and 2nd accused persons collected the blank receipt from Mama Twins Boutique. Ankara was not purchased from Mama Twins Boutique who claimed she did not sell Ankara.

PW1 said he did not investigate if the Ankara was purchased elsewhere. From minutes of the meeting, it was stated that it was approved. Based on the Payment Voucher for ₦1.3m collected by the 2nd accused person, he would be able to tell how he disbursed the money.

Re-Examination: Concerning the purchases made by the accused person himself he referred to Ankara, Guinea Brocade and Ofi.

PW2 - sworn on Holy Bible and elected to speak in English Language. His names are Tunde Awanebi. He lives at Ondo State Government House Owena Chalet. He is the Chief Security Officer to the Governor of Ondo State. He knows why he is in Court.

Sometime in November 2004, a letter was endorsed to him by His Excellency Governor of Ondo State Dr. Olusegun Agagu (now late). The letter was written by ICPC that Akure North Local Government alleged that he was given ₦5,000.00 for petrol and the Governor directed that they should comply with contents of the letter because they were directed to Abuja to make statement. He said they were three that travelled to make statement. He, the ADC and Mr. Tony Ala were given statement paper to make statement. In his statement, he wrote that it couldn't have been possible for Akure North Local Government to give him money because on the day they visited Akure North Local Government, His Excellency and the Executive Members rode in a

Toyota Bus. He wrote that he is in charge of Government house petrol pump that before his Excellency leaves for any journey, his convoy must be given full tank.

He said the key to the pump is always with him. He filled the vehicle before they left for Akure North Local Government and says if anyone says he gave him ₦5,000.00, the person is lying.

He said he has never seen the 2nd accused person before. Witness is shown Exhibit 'C⁶' – He says it is the paper attached to letter written to His Excellency on it is written in number (9) - CSO to Governor ₦5,000.00.

He said he never saw any money. He was not given ₦5,000.00. He did not sign and that is not his signature on the paper.

When cross examined by Counsel to the 1st accused person PW2 said in the Local Government visited, they were not given any gift. He only knew that he did not receive gifts. He did not know if gifts were given to the Governor and the Executives when they visited Akure North Local Government. The visit to Akure North Local Government was an official visit. He does not collect gifts while they visit Local Government Councils.

The letter was endorsed to PW2; that he should comply. He went to meet the Governor who asked if they were given money. He said no.

PW2 - said he was in the entourage but he did not know the accused person. He said it is customary for the accused person to be present, but he does not know him. It is normal for political leaders to receive the Governor. He does not know who is who. He does not pay prior visit to anywhere Governor is to visit. It is not his duty. That is the duty of the Governor's

Personal Assistant He said he is aware of the ICPC Act. He said he didn't collect money.

No Re-Examination.

No Cross-Examination by 2nd accused person's Counsel.

PW3 - sworn on Holy Bible and elected to give evidence in Yoruba Language. Her names are Toyin Ojo Rufus. She lives at Ijoka. She sells Shoes and Clothes.

She knows why she is in Court. She is here because she sold goods – Guinea Material to Akure North Local Government. When she sold it, they asked for receipt. That receipt was blank. Then they said she should write receipt for Ofi and Guinea together.

The first receipt was from Mama Twins Boutique. It was blank. The other one was from Felicia Olaseni Shop on which was written Ofi and Guinea 'C¹²'. When ICPC Officers came, they brought the blank receipt 'C²⁴'. PW3 said she was not the one that filled it. She knows the 2nd accused person. When she asked the 2nd accused person twice, she told him that it had gotten lost. PW3 said she sold to them Guinea Brocade and Ofi. She didn't sell Ankara to them.

No cross-examination from Counsel to the 1st accused person.

Cross examination of PW3 by Counsel to the 2nd accused person.

PW3 - said the first accused person is her husband. They have been married for eight years. She knows the 2nd accused person. Her husband did not send her to collect Mama Twins Boutique receipt. The receipt for Ofi and Guinea Brocade belongs to her mother. Her mother also sells Ofi. PW3 sells Guinea. They combined the receipt. PW3 did not issue receipt for Ankra because she

does not sell Ankara. She said it is the Chairman's wife that sells Ankara. PW3 said she did not know who issued/filled the receipt from Mama Twins Boutique. She said she is not in a position to know who filled the receipt. She told the investigators so. She said she did not leave the first receipt because her husband told her to leave it. PW3 said it was only in respect of the blank receipt that she had dealings with the 2nd accused person. He said it was lost.

PW3 - said her husband paid for the guinea. She was paid by her husband for the guinea and the Ofi. She does not know if the Chairman's wife was given money.

No re-examination.

PW4 - sworn on Holy Bible and elected to speak in English Language. His names are Prince Tony Ala. He lives at 3, Anthony close, Alagbaka, Akure. He is a public servant. He is the Personal Assistant to the Governor on political matters in charge of Central Senatorial District. He knows why he is in Court.

Sometimes in 2005, he was invited by the ICPC to Abuja. At ICPC Abuja he was questioned about the visit of Governor to Akure North Local Government. He remembered that day he told ICPC Officials that they left Akure for Akure North Local Government by 10.30a.m. But before they left as part of his duty, he supervised the fuelling of Toyota Bus 38 Passenger at Government fuel pump. When they got to Akure North, they did the commissioning and other assignments.

Throughout their stay at Akure North Local Government, they did not collect any money from anybody. By 5.30 – 6p.m., they came back to Akure.

Look at Exhibit 'C⁶' – PW4 said he has not seen the paper before. He said his name is in number 5 on the paper. It is not true that Gbenga Ojo gave him money. He did not collect any money. The vehicles were fuelled at the Government house pump. The signature against his name is not his own. Cross examination of PW4 by Counsel to the 1st accused person. Letter from ICPC was routed through the Governor. The day PW4 went to ICPC Office in Abuja, five of them went. (1) ADC to the Governor (2) Himself (3) Principal Staff Officer to the Governor (4) The Chief Security Officer.

Some of them are mentioned in Exhibit 'C⁶', contain ten names. 1, 2 and 3 signed against their names. 4-7 are members of Governor Entourage – none of them signed.

PW4 - said he knows Gbenga Ojo very well. He used to come to his office. PW4 said he did not discuss ICPC matter with the 1st accused person. He knows Otunba Omoniyi Omodara. He is his friend. When PW4 received the ICPC letter, he did not discuss with him. The Governor did not ask him any question about the letter. He is aware of ICPC law against corruption. Their visit to Akure North Local Government was official. He knows that if he collects money, it will amount to corruption. He was not offered money.

No re-examination.

No cross examination from the 2nd accused person Counsel.

PW5 - sworn on Holy Bible and elected to speak in English Language. Her names are Mrs. Omoladun Oyewole. She lives at 9, Oluwaseun Close, Oke-ljebu. She sells clothes. She is a business woman in Nepa.

She saw some men from Abuja. They brought one receipt. Her shop receipts (Mama Twins Boutique). They asked if she is the one that sold some

Ankara for which the receipt was issued. She told them that it was one Toyin that collected a blank receipt that some customers wanted to buy goods from her. She gave her the receipt. She can identify the receipt.

C²⁴ – Witness identifies the receipt as hers. She said she did not write anything on the receipt. She gave her a blank receipt.

No Cross – Examination by Counsel to the 1st accused person.

Under Cross Examination by Counsel to the 2nd accused person. She is Mrs. Oyewole. She sells clothes in Nepa. She does not sell Ankara. She sells lace and other materials not Ankara. She gave her the receipt because of the help she rendered to her in the past. She does not know what she sells.

PW5 - said she does not know the number of her friend's shop. She has been in Nepa market for five years. She said she does not know the 1st accused person. She does not know Toyin Ojo's husband. She does not know the 2nd accused person. Toyin did not tell her where she was taking the receipt to. She does not know Mrs. Fagoriola. She does not know Toyin Ojo's husband is the Vice Chairman of Akure North Local Government. She does not know what Toyin Ojo sells. She used to buy bags, slippers, and skirt from her.

PW5 - said she was embarrassed and surprised when the men came. She accosted Toyin. She told her she used the receipt to 'sell market.' She does not know what she used it to sell. She said she had never given her receipt out before.

No re-Examination.

PW6 - sworn on Holy Bible and elected to speak in English Language. Her names are Tabitha Bako from ICPC, Abuja. She is a Superintendent of

Police attached to ICPC as an Investigator. Her schedule of duty includes investigation of corrupt practices and other related offences. She lives in Asokoro, Abuja. She knows the accused persons in this case.

Sometimes in 2004, a report was received by the Chairman of ICPC from the Department of SSS where an Audit Report was forwarded. The Chairman detailed the report to her team for investigation; so as to verify whether there is violation of ICPC Act.

The team travelled to Akure to ascertain whether there was any violation of the Act. In the course of investigation, the team requested for documents and statements were voluntarily made to the investigating team.

The Audit Report that was forwarded to the team for discreet investigation contained several items for the charges before this Court which is in respect of funds purported to be spent during the visit of Executive Governor of Ondo State to Akure North Local Government Council. Financial records were requested where the accused persons and officials of the Local Government Council gave us official records. The Payment Vouchers recovered in respect of visit of the Executive Governor to Akure North Local Government contained some receipts, minutes of meeting as to planning of visit of Governor and a letter headed paper where some names were listed in the letter headed paper, purporting that money was given to them.

In the course of the investigation, some of the persons whose names were included on the list were contacted. They are the Chief Security Officer to the Governor, the Personal Assistant to the Governor and the ADC to the Governor they all denied receipt of any money from the 1st accused person.

While one of the receipts attached to the voucher recovered was

traced to Nepa market and the owner of the shop was contracted and she denied ever giving receipt for Ankara bought from her shop as written in the receipt. She informed the investigating team that she gave a blank receipt sometime to one Mrs. Toyin Ojo. The investigating team was able to trace Mrs. Ojo who confirmed that Mama Twins Boutique gave her a blank receipt which she left with the accused persons.

Mrs. Ojo said that she sold guinea brocade to the accused person and that she used the receipt of one Madam Felicia who sold Aso Oke (Ofi) to the accused persons.

PW6 said if she sees a copy of letter from SSS to ICPC, she can recognize it. The letter was on letter headed paper of SSS National Headquarters, Abuja addressed to the Chairman ICPC Abuja while the Audit Report from the Office of the Auditor General of the State for Local Government has Ref. No. LG/AQUD/C5/23 written on it and the report was certified by the Petition Registrar of ICPC by name F. Popoola and there is a stamp (Secret) on it. The forwarding letter was signed by Adama for D.G SSS. Counsel seeks to tender the Certified True Copy of the letter from SSS to ICPC admitted in evidence as Exhibit 'E'.

PW6 said if she sees the statement of the accused person, she can recognize it. Witness identifies Exhibit 'A' and 'B'.

In the statement of the 1st accused person, he attached certain documents, on 15/4/2005 he forwarded minutes of meeting in relation to the visit of the Governor of Ondo State to Akure North Local Government. He also attached list of ten persons on Akure North Local Government letter headed paper persons to whom he claimed to have disbursed ₦70,000.00.

She can identify the list of 10 persons. It is on letter headed paper of Akure North Local Government 1st – 3rd persons signed individually, 4th – 10th was signed by one person whose signature looked like that of the 1st accused person and he certified the document (1st accused person).

Witness identified the said list (Certified True Copy) admitted as Exhibit 'F'. Other attached documents are minutes of meetings as to planning of visit of Governor of Ondo State certified by the 1st accused person. 1st accused person is the Chairman. List of purchases were listed. Admitted as Exhibit 'G' and 'G''.

Her findings on the ₦70,000.00 was that the 1st accused person claimed he gave out money to some persons with list of what was given out to them. They contacted some persons on the list and interviewed them to find out whether money was given to them. They denied receipt of money from 1st accused person or any other official from Akure North Local Government.

Person interviewed include CSO, Person Assistant and ADC to the Governor of Ondo State. In respect of purchase of Ankara, a receipt bearing Mama Twins Boutique, they traced the receipt to Nepa Market where owner of the shop denied selling Ankara to any official of Akure North Local Government and that the signature on the receipt is not hers. The owner of the shop is Omoladun Oyewole.

Under cross – examination of PW6 by Counsel to the 1st accused person.

PW6 said she was in the team that investigated this matter her investigation was because of Exhibit 'E'. The heading is financial impropriety against Chairman Akure North Local Government. The report of the SSS sub 4 says Chairman spent ₦2.3m for hosting of The Governor. They were asked to

look into it to see if it was expended judiciously. In the course of investigation, documents presented to them by Akure North Local Government officials was ₦1.3m.

From documents presented and statement of the 1st accused person he was Chairman of the Committee he said in the statement that ₦1.3m was spent not ₦2.3m see statement of 14/4/2005, Exhibit 'G' is one of the estimates made towards the Governor's visit. Her investigation did not show that 1.3m was spent. Look at pg. 3 of G¹ – there is provision for security ₦50,000.00 written against it.

Page 4 – there is provision for gift. Normally it is the duty of Planning Committee to plan, spend money and ensure a smooth visit.

They claim to spend ₦2.3m but they found that ₦1.3m was used based on documents presented to them. ₦1.3m was purported to have been spent. What they discovered was that even part of the ₦1.3m was not spent.

Once there is an allegation, they investigate and report back. She does not know anything about the balance of money. She was asked to investigate, that is all.

Her investigation was sequel to Exhibit 'E', allegation was against a specific person. The person alleged ₦2.3m was spent in hosting the Governor.

PW6 said she spoke with the 2nd accused person in the cause of her investigation. They said they spent ₦1.3m but PW6 and her team found that money spent was not up to ₦1.3m because people they claimed to give money which was not given.

Exhibit 'C³⁰' – Estimate was made for The Governor and Protocol ₦70,000.00. Investigation showed that the people they claimed received the money did not. The 1st accused person did not tell her that money was given to Ward Party Chairman. She is not aware that Ward Chairman was invited to Abuja. It is not true that she came to court to give evidence on the matter, she is not aware of.

PW6 said she saw the receipt from Mama Twins Boutique. Her team spoke with Mrs. Toyin Ojo. She said she did not fill the receipt but she left it at Akure North Local Government Office.

PW6 said she doesn't know who filled the receipt. She cannot remember who signed for the Ankara because a Payment Voucher Exhibit 'C' contains the total sum of ₦1,350,000.00.

The two accused persons accepted collecting money for the Ankara. The person on whose receipt paper Ankara was written said that she is not aware that it was purchased. Look at Exhibit 'C³¹' and Pg.4 as C¹. There are provisions for gift.

PW6 said Mrs. Ojo said she sold guinea and Aso Etu. They did not show her. They said they gave Governor and Commissioners gifts. When PW6 and her team confirmed that the items were bought, there was no need to go further.

Accused person did not show her part of the Ankara purchased. She came to Ondo State for this investigation. She was never informed about any Ankara – not even the one now being shown her in court no reference was made to anyone. She is seeing it in Court for the first time.

Counsel asked to tender the Ankara. Mr. Kado Counsel to prosecution vehemently opposed. Objection is based on fact that there was no foundation laid for tendering it. There is no one to identify the cloth for the purpose of the identification. He urged the Court to reject the tendering of the evidence at this stage. Witness has denied ever seeing this cloth. No one to identify it.

Court cannot admit the Ankara. See statement of the 1st accused person on 22/8/05. PW6 said they asked accused persons to write statement voluntarily. If they have any proof, they were to produce it.

They said they gave 'women' but no one in particular was named in the course of her investigation.

Concerning fuel, they investigated the fact, that ₦70,000.00 was used for fuelling. It is evident from the list in Exhibit 'F'.

The accused person made his voluntary Statement (page 13). It is written on the paper that numbers 1, 2, 3 signed and collected the money. Numbers 4 – 10 on the list work with the Governor. They did not sign against their names. She does not know if they would have committed an offence, if they agreed that they collect money.

Numbers 4 – 15 are Public Officers. She does not know if the others are Public Officer. She did not investigate number 1 - 3 because they were not suspected. Her investigation was perfect and conclusive.

Under Cross Examination of PW6 by Counsel to the 2nd accused person. The 2nd accused person voluntarily gave his statement under caution. Page 30 (4) read out. List of expenditure is different from minutes of meeting. Page 30 (4) refers to list of how expenditure on the Governor's visit was expended.

Counsel said what was given to her was minutes of meeting of the Committee on visit of the Governor. That is, the list, he is referring to.

PW6 said when they visited Mama Twins Boutique she said they, did not purchase from her shop and the accused person did not mention another venue of purchase, and they did not go further. The purpose for which the receipt was given is written on the receipt. Mrs. Ojo is the one who can say why she collected a blank receipt.

PW7 is Babatola Adeniyi Afolabi. He lives at Government House, Akure. He is a Police Officer attached to Government House, Akure. He is the ADC to the Governor. His schedules of duties are:

- (i) Providing security cover for the Governor and his family.
- (ii) He follows the Governor anywhere he goes except when he is sleeping.

He knows why he is in Court.

Sometime this year, he was in the office when a letter written from the Office of the Chairman ICPC, Abuja was directed to him by his Excellency Dr. Agagu (now late) – Governor of Ondo State that he should note the content contained therein. When he read it, he found his name was among some Ondo State Government officials summoned to ICPC office in Abuja for investigatory activities. Governor directed that they should proceed to Abuja to answer, which they did. When he got to Abuja, he was shown a document where he saw his name among others that he signed for and collected ₦5,000.00. The IPO said he should respond to the allegation.

He was duly cautioned and he wrote his statement denying the allegation that he knows nothing about the money or the allegation.

PW7 said when he checked the document shown to him, he saw where they wrote that the money was for fuelling of Governor's vehicle. When they are going anywhere, every morning, all vehicles in the convey go to the fuel dump and fill up on his instruction. Witness confirms that his name is No. 4 on Exhibit 'C⁶' that the signature is not his.

Cross examination of PW7 by Counsel to the 1st accused person.

PW7 said he was on the entourage of Ondo State Governor sometimes in 2004. He knows the 1st accused person as Vice Chairman of Akure North Local Government. He knows why he is in Court. He said it was an official tour he undertook with the Governor to Akure North Local Government.

He said he did not collect money from Akure North Local Government or from the accused person on that visit. He said he doesn't know if collection of money is an offence under ICPC Act. He said personally, he is not supposed to collect anything while on official duty.

No cross examination by Counsel to the 2nd accused person.

PW8 is Godwin Uche. He lives at Karu site, Abuja. He is a Police Officer attached to ICPC. As Police Officer attached to ICPC, his schedule of duty includes investigation of corruption and giving evidence in Court when necessary. He said he participated in the investigation of this case; when Mrs. Bako went on maternity leave. He stood in for her.

During the course of investigation, they recovered some documents from Akure North Local government. He said he came to Akure to investigate only once and he recovered some documents.

Mr. Ojo does not object.

Mr. Omotosho objects that what governs admissibility is relevance that all documents are in, except the last page. Document tendered by Mr. Uche are tendered and admitted as Exhibit 'H'.

| | | |
|---|---|---------------------------|
| Payment voucher | - | Exhibit 'H1' |
| Receipts | - | Exhibit 'H ² ' |
| Minutes dated 2/9/04 | - | Exhibit 'H ³ ' |
| Minutes dated 8/12/04 | - | Exhibit 'H ⁴ ' |
| Paper on distribution of responsibilities | | |
| Funds | - | Exhibit 'H ⁵ ' |

Cross examination of PW8 by Counsel to the 1st accused person Counsel's asks him to look at item 20 as Exhibit 'H5'. He looked at it and said it is so. He said apart from collecting this document, he did not take part in the investigation.

The 1st accused person opens his Defence.

DW1 sworn on Holy Bible testifies in English Language. His names are Bamidele Ezekiel. He lives at Igoba, Akure North Local Government. He is a teacher and Chairman PDP Ward 5 Akure North Local Government. He knows the 1st accused person. He said they were in the same party before. He was the Vice Chairman, Akure North Local Government.

He remembered 2004 in August. He knows why he is in Court. In August 2004, he said they were told that the then Governor will be visiting Akure North Local Government. The party hierarchy said they should mobilize their people for the visit. The 1st accused person was the Vice Chairman of Akure North Local Government. He was the Chairman of Committee for the

visit. He invited all Ward Chairmen and each of them were given ₦16,000.00 for the mobilization of their people. He said he gave them Ankara to be given to their wives for the visit and party Chairmen were given Ankara to give to their wives for the visit. The ₦16,000.00 given to them was to arrange for buses.

On 9th September, 2004 was the date of the visit. He said it was the 1st accused person that gave all these to them. They told him that ₦16,000.00 was to hire buses and prepare snacks/food for their people.

Cross examination by Prosecution.

DW1 said he teaches at Living God Nursery and Primary School, Aule, Akure. It is a private School. He said he is not an employee of Akure North Local Government and he was not part of the decision making body for the visit of the Governor. He said what he has told the Court is what happened, not what he was told. He said he was part of the entourage of the Governor.

Cross examination by Counsel to the 2nd accused person. He said he made a statement to ICPC. He said what he has said in Court now is what he stated to the ICPC in his statement to them. He said the ₦16,000.00 was for Bus and food. He does not know about gift to Governor. All party leaders were given Ankara. It was the first accused person that gave him the Ankara.

He said many people wore the Ankara that day. He said he does not know the number. He said he does not know how much the Ankara was worth. He said anyone who says no Ankara was purchased on that day would be a liar. He said only women wore Ankara that day. He said his wife wore it, Local Government Chairman Wife also wore, wife of the 1st accused person wore it.

DW2 sworn on Holy Bible and testified in Yoruba. His names are Michael Atobajaiye. He lives at No. 5, Oke-Aro, Akure. He is a Government Driver. He knows the 1st accused person. He was his driver when he was the Vice Chairman of Akure North Local Government.

In August/September 2004 during preparation for Governor's visit. He said when the Governor came, he was hurrying to leave. His boss enveloped money with Mr. Sumbo in the car. It was handed over to CSO to the Governor and Tony Ala said the money was too small. His boss said he will give more next time. Money was given to Police Officers and Security to Obas. They also brought drinks (Meat) on the instruction of his boss. He can't remember that people wore uniform.

Cross examination.

He is 53 years old. He was employed at Akure North Local Government in 1989. He was on GL 06. He used to drive car. When he was appointed, he wrote an application, he attached his Driving License, Grade 221 Certificate. He said he underwent training before he got his Certificate.

The envelope had logo of Local Government (Official Envelope). It was a Honda Accord. The car can take five people three of them were in the car on that day. The 1st accused person, Sumbo (Personal Assistant) and himself. Personal Assistant in front, his Boss at the back. He said he did not put money in envelope. He does not know the denomination when envelopes are given. They had a paper where people signed as collectors. He said not all of them were given the money in their vehicle. He said all the people were given money. The ADC to the Governor always follows him about. He, DW2 doesn't

enter everywhere with his boss. His Boss was with the Governor and the Chairman at the commissioning that day.

He can't remember that people wore uniform.

Cross examination by Wale Omotosho Esq. When Governor visited, Tony Ala and Security men hurriedly saw his Boss. Those from Government - Tony Ala, CSO hurriedly collected their envelope CSO and Tony Ala did not sign on that day. His Boss wife did not come on that day.

Re-Examination: Mr. Ojo was prevented from showing the witness a list of signatures.

DW3 sworn on Holy Bible testified in English Language. His names are Akinola Olasimbo Obe. He lives at No. 4, Atibiti Layout, Ijapo Extension, Akure. He is a Politician/Businessman.

He knows the 1st accused person. He was his boss. He was his Personal Assistant, when he was the Vice Chairman, Akure North Local Government. On August/4th September 2004, Governor visited Akure Local Government. His boss called him that he has been made Chairman visiting Committee of Governor and that he is in charge of preparation. DW3 remembered he told him that he has been asked to take care of Security i.e. give them what the Council has prepared for them (money). The money was ₦70,000.00 to disburse to security. They packaged the money inside Local Government envelopes four out of which is ₦10,000.00 six was ₦5,000.00.

A day before the visit, the Civil Defence (₦10,000.00) signed. Another person ₦10,000.00, another signed for ₦5,000.00. Photocopy Exhibit 'F'.
Package 'C6'

On the day Governor came, they were at Iju Town Hall. Their official vehicle that contained the money was parked outside the town hall. When Governor delivered his address and was about to leave, the CSO came to meet him and the driver in the vehicle. He came with his boss. He said Chairman directed him to his boss to take envelope. They gave him the money inside Local Government envelope. He came with Personal Assistant Tony Ala. His boss gave CSO ₦5,000.00, Personal Assistant ₦10,000.00 CSO said it's too small that they normally get more in other Local Government. His boss persuaded them to accept. They accepted. They did not sign. Tony Ala said he cannot sign; that he has not signed for money in any Local Government before. They left with the Governor. There was provision for white guinea brocade and Aso Etu and Ankara. White Guinea for Commissioners, Aso Etu for Governor and Wife and Deputy and Wife, Ankara for women that were present.

Cross examination by Mr. Kado: ₦70,000.00 was earmarked for security divided into ₦10,000.00 and ₦5,000.00. The Civil Defence collected their money and signed a day before the visit of the Governor the remaining seven envelopes were brought to the venue. It was kept in the safe of the car. Four people were in the car. It was a Honda Accord Car – DW2, 1st accused person, Oyedele Ologun (Security Officer for Vice Chairman) and himself. The Driver sat at the driver seat, Security in front, Chairman at back right side, himself on the left side.

He said apart from CSO and Tony Ala, money was given to the remaining seven people. Money was kept in the safe of the car. No one opens the safe unless instructed to do so. He said four of them were in the

car of the Vice Chairman on that day. Money was packaged a day before the event in their office – Name and amount was written at the back. The money was packaged in the office of the Vice Chairman. He was there, Vice Chairman, Secretary of Vice Chairman was there, Mrs. Omoriwo three of them were present when the money was packaged.

No cross examination by Mr. Omotosho.

DW4 sworn on Holy Bible and testified in Yoruba Language. His names are Ebenezer Ayeni. He lives at 66, Owode Street, Ita-Ogbolu. He is a plumber. He knows the 1st accused person. He was the Vice Chairman Akure North Local Government. He was a party Ward Chairman at that time (PDP). He said the 1st accused person was PDP at that time. In September 2004 when Governor was to visit the Vice Chairman came to them and gave them ₦16,000.00 per Ward; for the visit. 12 Wards to rent vehicle to convey people to the venue. He signed for the money. He did not issue receipt. He was Chairman Ward 7.

Cross examination: He was the Chairman and ₦16,000.00 was given to him. The money was sent from the Local Government to him. Apart from the money, he collected no other money.

The money was given to them separately. He can only testify about money given to him.

Cross examination by Mr. Omotosho: The money was given to him to hire bus to bring people to meet the Governor. He mobilized people. That was not the first time such mobilization would happen.

DW5 Sworn on Holy Bible and testified in Yoruba Language. His names are Samuel Ore. He lives at 3, Catholic Road, Ita-Ogbolu. He is a farmer. He is

also a politician. He held the post of Ward Chairman PDP Ward II. He knows the 1st accused person. He was the Vice Chairman of Akure North Local Government.

In September 2004 when Governor was to visit their Local Government, the 1st accused person brought ₦16,000.00 to him to hire bus to carry people to meet the Governor. He signed for the money. He was at the scene. People wore Ankara uniform.

Cross examination: He can't remember the colour but top people wore the dress. He is 48 years. He started Primary School in 1970. He finished in 1977. He entered Secondary School in 1979. He did not complete it. ₦16,000.00 was to hire bus and buy mineral. Four of them collected the money at Ita-Ogbolu.

1. Mr. Ebenezer Ayeni

2. Mr. Simeon Oluyaye

3. Ojo Funmilayo

He doesn't know if any other person collected. The Ankara was bought by wife of Council Chairman. He doesn't know how many wore Ankara. There are 12 Wards. Four are in Itaogbolu. It is not true they did not buy Ankara.

DW6 Sworn on Holy Bible and testified in English. Her names are Mayokun Nike Omoriwo. She lives at 25, Futa Road, Akure. She is a Secretary at Akure North Local Government. She knows the 1st accused person. He used to be her boss when he was Vice Chairman, Akure North Local Government.

In September, 2004 when the Governor visited, her boss called her to bring three envelopes one for the DPO, SSS and Civil Defence. He enveloped

the money and gave to them. They signed as the collectors (Page 6 Exhibit 'C'.)

She typed name, bank, and signature as heading.

Cross Examination – (Mr. Kado)

She gave the 1st accused person three envelopes in the office. The money was put in her presence. It was only her and him. She doesn't know how much. The money was not handed over in her presence. It was not given to them in their office.

DW7 Sworn on Holy Bible and testified in English Language. His names are Saka Yusuf Ogunleye. He lives at 26, Ayedun Street. Oba-Ile. He is a Politician.

He knows Mr. Gbenga Ojo. He remembers 2004 when Governor Agagu visited. He was not a staff at that time. He only accompanied the 1st accused person to the Office of Tony Ala – PW4 who was Personal Assistant to Governor Agagu. Two of them accompanied him. He and Adesola Oni. When they got there, they discussed about I. C. P. C. invitation on visit of Governor in September 2004. Tony Ala confirmed that he collected money and told Ala that he put it on record for account purposes.

Cross examination by Prosecution Counsel.

The 1st accused person was his boss. He followed him in most cases as Secretary of the Oba-Ile Ward. He was with him most of the day. They met Tony in the State Secretariat. There is protocol to see Tony Ala. (DW7) said that he doesn't need to follow protocol. He can see him anytime. He did not fill form on that date. He did not witness the 1st accused person give Ala money. He was with Gbenga Ojo at ICPC Office, Akure.

Cross examination by Wale Omotosho Esq.

He was not there during the Governor's visit.

DW8 is the 1st accused person. He sworn on the Holy Bible and testifies in English Language. His names are Ojo Olugbenga Samuel. He lives at No. 4, Adanikin Street, Off Oluwatuyi, Akure. He is a Politician. He was the Vice Chairman Akure North Local Government of Ondo State.

On 9/9/2004, the then Governor of Ondo State, Dr. Olusegun Agagu visited Akure North Local Government for an interactive session with people of the Local Government. During the visit, he was Chairman Planning Committee for the visit. In this position, he held meetings with members of the Committee, they made proposals for finance and general purpose committee which was approved by that Committee.

The proposal presented was for feeding of the people, transportation of party members from each of the 12 Wards to Iju town hall where the interactive session would take place, for gift items for the Governor and his Wife, the Deputy Governor and his Wife, Commissioners. They also made arrangements for the movement of Security men such as Police, SSS in Akure North Local Government, Civil Defence in Akure North Local Government.

They made arrangement for the Personal Assistant to the Governor. He identified Paragraphs 29-33 of Exhibit 'C'. Page 30 (Security) he identified pages 30 and 31 (that Ankara was bought for women.)

He said that the money for Security was given to the various bodies. That the ones that came a day before signed while those that came that day could not sign. Those that signed are:

- (a) SSS in Akure North Local Government

(b) DPO in Akure North Local Government

(C) Civil Defence in Akure North Local Government

He said those that came with the Governor but could not sign are:

(a) Personal Assistant to the Governor – Tony Ala

(b) ADC to the Governor

(c) Chief Security Officer to the Governor

(d) Press Crew

He said that for the purpose of retirement of the voucher, he signed on behalf of those people.

Page 6 Exhibit 'C' (Exhibit 'C' is the original of Exhibit 'H').

He said Mr. Tony Ala and Mr. Awonebi lied when they said they did not collect money. When the Governor arrived, Mr. Afolabi beckoned to the Chairman and asked "where is my settlement"? The Chairman said "your friend will see you". The Chairman pointed to me.

He said he instructed his Personal Assistant to give him an envelope which he gave him. There was ₦5,000.00 in the envelope. He opened, counted and said "I will see you later." It is a lie that he did not collect money.

PW4 – Tony Ala collected and said thank you. He said he gave him ₦10,000.00.

When the issue of invitation to Abuja came up, he was invited. He called DW8 and he went to his office with Saka Yusuf Ogunleye (DW7) and Sister Adesola Oni. He said Gbenga, "how could you have done such a thing – Security money does not appear on paper." He said he thank God he did not sign. He said he received an invitation from ICPC to Abuja through the Governor. He said he was going to Abuja to deny. That he cannot walk with

his legs to prison. He called Afolabi in his presence. They said they would go to Abuja to deny. Miss Oni begged him, he refused. Otunba Omoniyi Omodara a former Chairman called and appealed to him.

Awonebi (PW2) was a surprise to him that he denied. When he (DW8) gave him his envelope, he opened and counted it. He refused and said when he was at Ifedore they gave him ₦20,000.00. That if the money remains the same, he will not defend their Local Government with the Governor. DW8 said he told him, he is not a member of EXCO. He shouted. Chairman told DW8 to add something and he gave him ₦2,500.00 from his own pocket.

DW8 said when he met him at Governor's Office, he refused to let him enter if he don't "settle" him. He said he gave him ₦1,000.00. As Chairman of the Committee, other people who took part are:

Head of Personnel Management (2nd Accused person)

Adeola Fagoriola (Chairperson) handled Ankara.

₦90,000.00 was released to her for the purchase of Ankara.

Exhibit 'H'⁵.

He said he did not collect any money in respect of the Ankara. He identified page 24 of Exhibit 'D' (same as Exhibit 'C') being the Local Government receipt for the Ankara. He knows Mama Twins Boutique owner. Mama Twins Boutique did not supply Ankara. The Chairperson should have produced receipt for Ankara. He doesn't know how she got the receipt. All he knows is that Madam Felicia Olaseni who supplied Aso Etu and Guinea Brocade with her daughter came to the Council with this receipt and told him that they borrowed it from Mama Twins Boutique (blank receipt). They wanted to use it to cover Aso Oke and Guinea Brocade. They also came with

another receipt which was old and dirty but bear their name. It was a booklet. He told them to use their own receipt which they used for Aso Etu and Guinea Brocade. They collected money and left.

Page 12 of Exhibits 'C and D' identified as the receipt for Aso-Etu and Guinea Brocade. They were used for the visit. Aso Etu for Governor and his Wife, Deputy and his Wife Guinea Brocade for Commissioners. He said he doesn't know how Mama Twins Boutique got to the Chairperson.

He did not tell them money was for fuelling. He did not tell them he purchased Ankara. That it was purchased by the Chairperson.

Exhibit 'A' 'A^{IV}' (Pg. 20 of witness statement) is his position. He said there was no controversy between him and the 2nd accused person. He (DW8) was the Chairman of the Committee, while he was the Secretary and while sharing responsibilities they were not given money to purchase Ankara.

Cross examination - Mr. Igbadome seeks an adjournment to enable him go through the document, referred to.

The 2nd accused person opens his defence.

DW1 is Emmanuel Leye Adejuyigbe. He lives at 18B, Abusoro Quarters, Akure. He is a Civil Servant of Ondo State. He is the Head of Personnel Management Ondo West Local Government on Grade Level 16. He is the 2nd accused person in this case. He knows the 1st accused person as the Vice Chairman, Akure North Local Government when he resumed in Akure North Local Government in August, 2004 as Head of Personnel.

He attended St. Andrews Primary School, Owo, New Church Grammar School, Owo where he got Government Scholarship in 1976 – 1979. He had his Secondary School Testimonial.

Testimonial dated June 25th 1979 Exhibit 'J'. He had B.A. Hons Degree and P. G. Diploma in Local Government Studies.

He was employed in the Local Government in June 1980 as a Clerical Officer. He has worked in various Departments till he got to Head Personnel.

Prior to his posting to Akure North Local Government, he was working in Odigbo Local Government, Ore. When he left Odigbo Local Government from Akure North Local Government, he discovered that his salary account was wrongly credited to the tune of ₦13,454.50k. He wrote to draw attention of Council to it. He paid back the amount to the IGR account.

Letter of repayment Exhibit 'K', 'K' and 'K'. The Council wrote a letter of commendation to him – Exhibit 'L'.

Upon his resumption in Akure North Local Government, ₦67,000.00k was approved for him to purchase stationery for his office use. This he did and returned a sum of ₦9,600.00k.

Mr. Igbadome objects to the admissibility of cash receipt and the letter. It is a photocopy which is not certified. The cash receipt is photocopy where there are original entries. It is not a duplicate. He contests the admissibility of the cash receipt.

Mr. Omotosho says he concedes to the argument of Mr. Igbadome on the letter.

Cash receipt – Exhibit 'M'.

Letter dated 14//8/2012 to be marked 'R'.

As HPM of Akure North Local Government, the nature of his duty was to deputize for Director of Local Government Administration. He was in charge of Junior Staff Management Committee. He was to take minutes of

the Council that is Finance and General Purposes Meeting. Cash allocation meeting. Security and Intelligence Meeting e.t.c. He said he was in that position for 13 years before the incident. He served as Secretary/Chairman of Panels. He was Secretary of the Planning Committee set up by the Council for hosting of the Governor in September 2004.

His duties as Secretary to the Planning Committee was to take minutes of the meeting, take the bulk money approved by the Council for onward disbursement to others. He collected receipts for money disbursed and retirement of the whole money.

The Governor visited their Local Government on September 9, 2004. He said a total amount of ₦1.3m was approved and disbursed. It was expended on items such as feeding, drinks, clothing tent, chairs, tables advertisement, photographs etc.

For the Ankara, a sum of ₦90,000.00 was approved and allocated. How it was disbursed is already in evidence. He has another document to show how money was disbursed (His working paper) Exhibit 'N'.

Chairperson of Akure North Local Government Wife signed for the ₦90,000.00. The money DW1 paid out was retired by receipts presented to him as Secretary.

He said that ₦90,000.00 for Ankara was retired to him by Vice Chairman of the Council with receipt bearing Mama Twins Boutique, Akure. Receipts were also brought for Aso Etu and Guinea Brocade.

He said the Vice Chairman was in charge of clothing. It was him that asked him (DW1) to give ₦90,000.00 to Mrs. Fagoriola for Ankara. The Vice

Chairman also collected money for Aso Etu and Guinea Brocade. The Ankara was purchased.

He was in Court when PW3 gave evidence. He knows her as wife of 1st accused person. He said there was no relationship between him and PW3 on Ankara. He said she did not leave a blank Mama Twins Boutique receipt with him. He had no contact with her about the receipt.

He said the statement to ICPC by the Vice Chairman on the receipt is false. He did not discuss retirement of receipt with the first accused person.

The allegation that he (DW1) made a false statement on Mama Boutique receipt is not true.

To the best of his knowledge, the ₦1.3m and ₦90,000.00 was used for purposes they were meant for.

Cross Examination by Counsel to the 1st accused person: Shows the witness Exhibit 'C' pg. 24 – reply.

He said he doesn't know who signed the ₦90,000.00 receipt. He said the wife of the Chairman collected the money from him on the instruction of the Vice Chairman. Money for Aso Etu was collected by the 1st accused person. Also the Guinea Brocade.

The instruction from the Vice Chairman to him through Mrs. Fagoriola was verbal. He said he took minutes for preparation towards the visit.

Cross Examination by Mr. Igbadome (Prosecution Counsel).

He said he started as a Civil Servant in 1980. He was 23 years old. He has put in 32 years. He has 3 years left to retire. He wishes to retire honourably. He said he worked with the 2nd accused person in the Planning

Committee for the Governors visit. They had an official relationship. He said there were agreements on issues on the Governor's visit.

He said ₦70,000.00 was disbursed for security. A cheque for ₦70,000.00 was written in the name of the 2nd accused person. He said he did not take part in the expending of the ₦70,000.00. He did not witness the handing over of the money to those who were given.

He said Mrs. Fagoriola is not a staff of the Local Government. She was not a member of the Planning Committee. She was not on the payroll, but she collected imprest.

He said he did not give ICPC Exhibit 'N'. He did not give Local Government authorities. He kept it with himself. He said the signature on Exhibit 'N' is that of the Chairperson. The original of Exhibit 'N' is in his house.

50 pieces of Ankara was approved. He doesn't know how many were supplied. He did not witness the buying. He said one piece was given to his wife through him. He retired the whole money.

He said he knows PW3 as wife of the 1st accused person. He had no dealings with PW3 in respect of the Governor's visit. She did not give him empty receipt. He said he was not the one that filled the receipt. S.101 (2).

The witness writes on a sheet of paper Exhibit 'O' (compare with his statement).

Re-Examination:

He said it's not his duty to witness goods purchased.

DW2 (2nd Accused Witness) Sworn on Holy Bible in English Language. Her names are Mrs. Ibitoye Comfort Oluwafunmilayo. She lives at No. 17, Kajola Area, Fatuase Layout, Akure. She is a Civil Servant. She is Chief

Community Development Inspector in Ministry of Community Development, Ondo State. She has been in service for 35 years. She knows the 2nd accused person. She knows Mr. Ojo. She knows the 2nd accused person as her colleague in Akure North Local Government when she was there. He was the HOD HPM. She was HOD Community. Mr. Ojo was the Vice Chairman.

In September 2004, Governor Agagu paid an official visit to Akure North Local Government. She was involved in the visit. She was a member of the Planning Committee. The 2nd accused person was member of the Committee. They were eight. Their role was to see that the visit was successful. She was in charge of decoration of the venue. She can't remember who was in charge of security. The Vice Chairman was in charge of clothing.

She said the Committee had to buy clothes, rentage of chairs, entertainment. The total sum was ₦1.3m. Ankara – ₦90,000.00; Etu and Guinea Brocade – ₦213,000.00. The Ankara was purchased. She said it was distributed to women. She was given and it was used during the visit. She still has her Ankara. The Ankara is tendered and admitted as Exhibit 'P'.

She said she doesn't know where the Ankara was purchased. It is not part of her duty to know where it was purchased she said her Ankara was given to her by the Chairperson – Mrs. Fagoriola.

Mr. Ojo Cross examination:

She said she spent 6 years in Akure North Local Government 2003 - 2009. She doesn't know who purchased Ankara.

She said she is not familiar with hand writing of the 2nd accused person. The relationship between Chairman and his Vice was cordial. She said she is not aware that the Vice Chairman was to be removed by the Councilor.

Cross Examination by Mr. Igbadome:

She said she is on leave to retire. The Vice Chairman was in charge of clothing. She said it was the Chairperson that distributed the clothes.

She said she was closer to the 2nd accused person because they were both civil servant. She said she would not want to see him sent to jail. She said only Ankara was used - about 50 pieces. The Etu and Brocade were gifts. Other people wore other clothes.

DW3 Sworn on Holy Bible testified in English Language. His names are Akinbowale Festus Ibidapo. He lives at 35, Danjuma Street, Akure. He is a Civil Servant. He is a Director of Finance with Ondo State Local Government Service Commission at Alagbaka, Akure.

He knows the 2nd accused person. They worked together at Akure North Local Government between 2004 – 2008. He was then treasurer to the Local Government. The 2nd accused person was Head of Personnel Management.

As Treasurer of Local Government, he was Chief Financial Adviser to the Local Government. He is the Head of Treasury Department. He is responsible for all receipts and expenditure of funds in the Local Government.

In September 2004, the Governor – Dr. Agagu (now late) paid an official visit to the Local Government. He was involved in two capacities.

- (1) He was a member of the Planning Committee for the visit.
- (2) As Treasurer to Local Government, he was responsible for the release of the approved sum for the visit.

The 2nd accused person was a member of the Planning Committee for the visit. He was the Secretary by virtue of his position as HPM. ₦1.3m was

approved and released. The approving authority was the Finance and General Purpose Committee. The members of the Council are:

- (1) Chairman of the Council
- (2) Vice Chairman of the Council
- (3) Director of Administration
- (4) Treasurer
- (5) Political Supervisors
- (6) Head of Personnel Management
- (7) Secretary of the Local Government
- (8) The HPM is the recorder of the F & GPC

A sum of ₦1.3m was receipted for.

Cross examination by Mr. Igbadome:

He is a Chartered Accountant. He qualified in 2005. He became Treasurer of Local Government in 1991. As at 1991, he was not a Chartered Accountant but a trained Accountant.

He said he was not involved in the disbursement of the ₦1.3m. The detailed disbursement is the responsibility of Secretary to the Committee that is, the 2nd accused person.

He said the ₦1.3m was receipted for. The receipts were passed on with the audited payment voucher to the Treasury Department. He said he has no personal knowledge about the receipt.

He knows the accused persons. The 2nd accused person is not his bossom friend.

The 1st accused person Counsel says nothing incriminatory has been said about him.

No re-examination.

In this information the 1st accused person was charged with making false statement contrary to S. 16 of the I.C.P.C. Act 2000, he was charged with conspiracy along with the 2nd accused person to commit an offence under S. 26 (1) (c) of the I.C.P.C. Act, 2000 and with making false statement contrary to S. 16 of the I.C.P.C. Act 2000 provides:

"Any person who, being an officer charged with the receipt, custody, use or management of any part of the public revenue or property knowingly furnishes any false statement or returns in respect of any money or property received by him or entrusted in his care or of any balance of money or property in his possession or under his control is guilty of an offence and shall on conviction be liable to seven (7) years imprisonment."

This section takes care of counts 1 and 3 while count 2 is contrary to S.26 (1) (c) of the ICPC Act which provides:

"Any person who abets or is engaged in a Criminal conspiracy to commit an offence under this Act shall be guilty of an offence and shall on conviction be liable to the punishment for such offence"

Considering the defence of the 1st accused person on the 1st count, I am in agreement with the 1st accused person's Counsel that there are two ingredients to be established to sustain the count.

- (i) The accused person must be shown to be an officer entrusted with receipts, custody, use and management of any part of public revenue or property.

- (ii) The accused person knowingly furnishes any false statement or return.

Both ingredients, herein must be established before the Court can succeed. See the case of Onyia Vs. State (2002) 12 NWLR (PT 750) 225 AT 235-236.

Issue No 1

I hereby reproduce the submission of the 1st accused persons' Counsel concerning the first ingredient of the offence charged as follows:

"On the first ingredient it is admitted that the 1st accused person was a Vice Chairman of Akure North Local Government and Chairman Planning Committee on the Governor's visit to the Council in 2004 and was saddled with the responsibility of taking care of all security men including those on the Governor's entourage during the visit to the Local Government."

I consider the first ingredient as proved leaving the second ingredient. Counsel for the 1st accused person urged me to hold that the prosecution has failed to prove the second ingredient that is, the falsity of the statement or returns he made of the disbursement of the public funds in this case.

In his address, Counsel to the 1st accused person stated in respect of the second ingredient thus:

"The 1st accused person explained in detail both in his extra judicial statement that he gave this money to the affected officers and they were unable to sign the relevant documents because they were in a hurry to leave with the Governor."

This piece of evidence was corroborated by DW1, DW3

and other Defence witnesses."

The said Counsel further urged me to prefer the Defence witness to that of the prosecution in this matter. His ground for urging me to do so was in his words:

"Considering the circumstance of this case, no public officer would admit before the ICPC and my lord that he collected the money in question. PW2, PW3 and the ADC to the Governor were public officers who were protecting their job (sic)."

The said Counsel went on thus:

"What is more they admitted under cross examination that they were aware that if they admitted collecting the money they could be committing an offence.

1st accused person signed the Exhibit for the prosecution witnesses because they were in a hurry. If he has the intention of committing fraud, he would not have put his signature thereon."

The sum total of the arguments in respect of the second ingredient of the offence is a full admission of the offence, that is, that the 1st accused person knowingly furnished false statement or return for reasons he considered justifiable but which I find most untenable.

Coming to the reasons for the failure to sign for the monies, the 1st accused person claimed he gave to some people, that is, that they were in a hurry to leave with the Governor. I do not believe or accept this excuse in that recipients were not in a hurry to leave before accepting the money and

the 1st accused person knows the importance and implication of non-retirement of public funds.

The second reason urged on me seems more plausible, that is, that the recipients knew that as they were public officers, they feared the ICPC and the Court and so they could not admit taking the money.

I also reject this reason.

One would have thought that the 1st accused person would be the one to appreciate the implication of paying out such monies and what the ICPC and the Court would do to him than the recipients. It is quite evident, he appreciated this when he went ahead to procure a false and blank receipt filled it and used it to retire the sum of ₦90,000.00.

He knew that the receipt was not genuine and the contents were false.

The 1st accused person's Counsel has argued that if he had wanted to commit fraud, he would not have put his signature on his false list. He must have his reasons for signing for the receipt of money by other persons. He could be naïve or more like it fraudulent.

I find count one of this charge proved beyond reasonable doubt. I therefore find the 1st accused person guilty as charged in count one.

Issue No. 2

The second count is that of conspiracy by the accused persons in knowingly furnishing false statement in respect of ₦1.3m, that the sum of ₦90,000.00 was used to purchase Ankara when no such purchase was made from Mama Twins Boutique.

According to Counsel for the 2nd accused person in his address there are five ingredients to this offence, they are:

- (i) There must be two or more persons.
- (ii) They must form a common intention.
- (iii) The common intention must be towards prosecuting an unlawful purpose.
- (iv) An offence must be committed in the process and
- (v) The offence must be of such a nature that its commission was a probable consequence. See SODIYA Vs. STATE (2011) ALL FWLR PT (560) 1357 AT 1369.

In the case of Ajayi Vs. State (2011) ALL FWLR (PT 598) (937 at 95) conspiracy had been defined as "a meeting of the minds of the conspirators to carry out an unlawful act or to carry out a lawful act by an unlawful means and conviction for conspiracy is based on circumstantial evidence."

By this definition, there need not be a record or minute of the deliberation of the conspirators. It is enough if each conspirator plays a role which contributed to the common Criminal Act.

It is in the actualization of their criminal productivity Nwanko Vs. FRN (2003) (PT 809) 1 at 32. Both accused persons have denied the charge of conspiracy and contend that the offence of conspiracy was neither established nor proved. Both of them contend that there was no scintilla of evidence showing an agreement to do an unlawful or a lawful act by illegal means.

The 2nd accused person even referred to the evidence of the PW1 and PW3, the evidence of the DW8 (the 1st accused person) and the 2nd accused person to show that conspiracy was not established.

The PW1 in his evidence in Chief said "we were able to get in touch with one Mrs. Omoloye the owner of Mama Twins Boutique when we confronted her with the receipt."

"She denied issuing the receipt to the officials of Akure North Local Government and she claimed she never had any dealing with Akure North Local Government. She also stated that she does not deal in Ankara and asked us to verify from the stock in her shop." (Underlining mine)"

The PW1 continued thus:

"Mrs. Oluwatoyin in her own statement admitted a blank receipt of (sic) which she gave to the official of Akure North Local Government and she denied responsibility of (sic) what was written on it." (Underlining mine)"

The said Mrs. Oluwatoyin who is PW3 is also known as Toyin Ojo Rufus further stated as follows:

"I did not issue receipt for Ankara because I do not sell Ankara. It is the Chairman's wife that sells Ankara. I do not know who issues (sic) receipt from Mama Twins Boutique, I am not in a position to know who filled the receipt I told the investigator so"

The PW5 is the owner of the receipt and said in Court that she does not know the accused persons and Mrs. Fagoriola. She stated further that:

"It was one Toyin that collected blank receipt that some

customers wanted to buy goods from her. I gave her the receipt" She stated further that "She told me she used the receipt to "Sell Market." (Underlining mine)"

It was this same PW3 – Toyin Ojo Rufus who had denied issuing the receipt. She is the same person who collected the blank receipt to "Sell Market"

It is evident that the 1st accused person was the Chairman and the 2nd accused person was the Secretary of the Committee for the Governor's visit. According to the 1st accused person:

"The 2nd accused person did not purchase Ankara." Yet, he retired the money meant for the purchase of Ankara by the receipt from Mama Twins Boutique."

The 2nd accused person testified thus:

"There was no relationship between me and PW3 on Ankara, she did not leave a blank Mama Twins Boutique Receipt with me. I have no contract with her about the receipt."

He went further that:

"The money I paid out was retired by receipt presented to me as a Secretary."

The 2nd accused person had however not disclosed the person who presented the said receipt to him.

PW3 is the wife of the 1st accused person. She is Toyin and also known as Toyin Ojo Rufus, in her evidence she said:

"It was only in respect of the blank receipt that she had "dealings" with the 2nd accused person. He said it was lost."

In the circumstances of this case, what sort of "dealing" did the PW3 have with the 2nd accused person?

The PW3 was only a wife of the Chairman (1st accused person) and not an official of the Akure North Local Government. Her role in the procurement of a blank receipt from Mama Twins Boutique can only be at the instance of her husband and the 2nd accused person used the receipt to retire the said sum of ₦90,000.00.

I find without any doubt whatsoever that the PW3 obtained the blank receipt from Mama Twins Boutique not for herself to "Sell Market" but on behalf of the 1st accused person (her husband for the use of the 2nd accused person who used it.) I hold that the blank receipt was used by the 2nd accused person.

The two accused persons in my view conspired together to give false statement in respect of Government funds in their care in respect of ₦90,000.00 for the purchase through the commission of forgery of the receipt and uttering the forged receipt to the Treasury/Auditor.

I must observed that the 1st accused person has an itchy finger when it comes to handling Government money and has the criminal prodivity for dealing with such money and other crimes associated there with, for instance he admitted signing for people he purportedly paid some illegal money which the said persons denied.

From all the foregoing I find both accused persons guilty of the second count, that is conspiracy to knowingly furnishing false statement in respect of ₦1.3m by claiming that the sum of ₦90,000.00 was used to purchase Ankara when no such purchase was made from Mama Twins Boutique.

The third count is similar to the first count with only the sum as the difference, while on count 1, the sum increase was ₦70,000.00 while the sum in count 3 is ₦90,000.00.

The ingredients for the two counts are the same and they are:

- (i) The 2nd accused person is a Public Officer.
- (ii) He must be charged with receipt custody, use of any part of the public revenue.
- (iii) He must knowingly furnish a statement or a return.
- (iv) The statement must be false and
- (v) It must be in respect of any money received by him or entrusted to his care or under his control.

I hold that the 1st and 2nd accused persons are public officers is beyond any doubt. They were Head of Personnel Management and Director of Personnel Management of Akure North Local Government at the time of the alleged commission of the offence.

I also hold that a sum of ₦1.3m which was approved for the Governor's visit to Akure North local Government was under their care, control and management. These much was conceded by Counsel to the 1st and 2nd accused persons. The 2nd accused person was the Secretary of the Planning Committee with the responsibility of disbursing the said sum of ₦1.3m received from the Akure North Local Government. This is evidenced by the Payment Voucher of the Local Government.

In his defence the Counsel for the 1st accused person submitted that the 1st accused person was not linked to this count.

His argument was that the evidence of the prosecution witness revealed that the 1st accused person 'schedule' does not include the supply of Ankara.

He urged that the receipt used in retiring the Ankara was not filed by the 1st accused person. He further argued that the wife of the Chairman who supplied the Ankara would have resolved the issue of this offence but she was not called.

The said Counsel stated that the statement of the 1st accused person to the ICPC, Mama Twins Boutique did not supply them Ankara. He concluded thus:

"In all there was no evidence linking the 1st accused person with the purchase of Ankara retiring the receipt in question."

Of his own showing Mama Twins Boutique did not supply them with Ankara and that receipt used in retiring the money for Ankara was not filled by him but was blank from Mama Twins Boutique. Here laid the falsity of the information.

The falsity showed that:

- (1) Mama Twins Boutique did not sell Ankara
- (2) Mama Twins Boutique did not supply them with Ankara
- (3) Mama Twins Boutique neither issued nor fill exhibit 'C' ²⁴
- (4) Mama Twins Boutique issued a blank receipt.

The question however remained as to whether the 1st accused person knew about the procurement of the receipt or not.

Mrs. Oluwatoyin (PW3) admitted giving a blank receipt which was given to her by Mama Twins Boutique to officials of the Akure North Local

Government but denied responsibility for what was written on it. The PW3 is also known as Toyin Ojo Rufus. The PW5 confirmed that she gave the blank receipt to Toyin who claimed she wanted to use it to "Sell Market."

It turned out to be that the PW3 is the wife of the 1st accused person.

In her evidence, she said it was only in respect of the blank receipt that she had dealings with the 2nd accused person.

The evidence of PW3 gave the blank receipt to the 1st and 2nd accused persons in their Office. The evidence of PW1, PW3, PW5 and PW6 show very clearly that all the information on the receipts were false.

It is clear that PW3 and PW5 aided and abetted the procurement of the blank receipt whilst the 1st and 2nd accused persons furnished the information.

I find both accused persons is this charge guilty as charged and convict them accordingly.

ALLOCUTUS:

S. 16 under which the accused persons are charged prescribes seven years imprisonment for the offences in count 1 and count 3 and at the same time prescribes the same punishment for conspiracy to commit offences charged in counts 1 and 2 that is 7 years imprisonment.

However, having listened to the allocutus of Counsel and the length of time this trial has taken, I intend to use my discretion in favour of the convicts.

I hereby sentence the first accused person on the first count to 5 years imprisonment with an option of 2 million Naira fine.

I hereby sentence the 1st accused person to 5 years imprisonment on the 2nd count with an option of 2 million Naira fine.

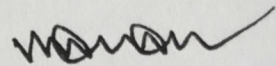
I hereby sentence the 2nd accused person to 5 years imprisonment on the 2nd count with an option of 2 million Naira fine.

I hereby sentence the 1st accused person to 5 years imprisonment on the 3rd count with an option of 2 million Naira fine.

I hereby sentence the 2nd accused person to 5 years imprisonment on the 3rd count with an option of ~~N~~2 million Naira fine.

The sentences are to run concurrently that is 5 years in all but the option fine shall be cumulative.

This is my judgment.



Hon. Justice T.O. Osoba

Judge

28/1/2014

G. Igbadome Esq. for the Complainant

Abayomi Ojo Esq. for the 1st Accused Person

Wale Omotosho Esq. for the 2nd Accused Person.