

IN THE HIGH COURT OF JUSTICE OF KADUNA STATE OF NIGERIA
IN THE KADUNA JUDICIAL DIVISION
HOLDEN AT KADUNA

BEFORE: THE HON. JUSTICE M.T.M. ALIYUJUDGE
SUIT NO:KDH/KAD/1/ICPC/2017

BETWEEN:

FEDERAL REPUBLIC OF NIGERIACOMPLAINANT

AND

ABUBAKAR SANI CHINDODEFENDANT

16 - 11 - 2018

Defendant in court, speak English.

Ibrahim Garba for prosecution.

Y. Umar Sanda for defendant.

R U L I N G

The defendant filed a No Case Submission after the prosecution has called 2 witnesses and closed its case. The No Case Submission was filed on 23rd May, 2018. The prosecution filed a reply on 29th June, 2018. Parties are advised in relation to the issues for determination. The issues are:-

1. Whether the prosecution has proved the essential elements of the two offences charged.
2. Whether prosecution has established a prima facie case against the defendant to require him to enter a defence.

The defendant invoked the provision of section 314 of ACJL of the Kaduna State as the law applicable to this proceeding. The prosecution on the other hand invoked the provision of section 303 of the ACJL.

I think the applicable law of procedure in relation to the charge in this case and in this court is the ACJL and not the ACJL. A community reading of the provision of section 2 of the ACJL and the explanatory note on the first page of the Act leaves one in no doubt that the Act applies to courts of the Federal Capital Territory and other Federal Courts in Nigeria. The ACJL 2017 of Kaduna State came into effect on 29th May, 2017 and it applies to proceedings in this court. In any case the provision of section 303 of the ACJA is similar to the provision of section 314 of the ACJL. It is a provision which gives the defendant the right to make a No Case Submission, the prosecution the right to reply and which spell out what the court should consider in the application. The court should have regard to whether:-

- a. An essential element of the offence has been proved.
- b. There is evidence linking the defendant with the commission of the offence with which he is charged.
- c. The evidence so far led is such that no reasonable court or tribunal would convict on it; and

- d. Any other ground on which the court may find that a prima facie case has been made out against the defendant for him to be called upon to answer.

The elements of the 2 offences punishable under sections 64 (3) and 25 (1) (b) of the Corrupt Practices and Other Related Offences Act 2000 have been ably identified in the prosecution address.

The actus reus of both offences is the making of false statement or information knowing same to be false, to an officer of the commission or in the case of the offence under section 25, to any other public officer.

To prove this important ingredient the prosecution presented PW1 who testified that he is an officer of the commission and that the defendants presented a petition (Exhibit 1) to the chairman of the commission wherein he stated that "looted money" was kept in a house along Alimi Road, Unguwar Rimi GRA, Kaduna. A search warrant (Exhibit 3) was duly issued and executed on the 28th of June, 2017. The looted money was not found. The defendant was accused of making false statement and he made two statements to the commission. These two statements are not exactly the same. The defendant's counsel had argued that the search conducted by the commission was not done promptly and also that the failure to tender the

video coverage of the operation during the search is fatal to the case of the prosecution. I think this argument did not take into account the confidential value of the search warrant Exhibit 3.

On the reverse side of the warrant, as is usually done, endorsement of what took place during the operation is recorded including inventories taken if any and the endorsement of the occupants. The evidence of the video coverage is therefore unnecessary evidence.

I agree that the operation was not conducted promptly by the commission. That in my view is not evidence to look at, at this stage of the case. It is my humble view that having regard to the inconsistency in the various statements made by the defendant before and after the search in exhibit 3, I am of the opinion that a prima facie case has been made against the defendant to require him to enter defence. Consequently, I hereby overrule the No Case Submission and the defendant shall call evidence in defence.

Signed

HON. JUSTICE M.T.M. ALIYU – JUDGE

16/11/2018