

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/9/EFCC/2017

BETWEEN:

FEDERAL REPUBLIC OF NIGERIACOMPLAINANT

AND

LINUS OGBONNADEFENDANT

07 - 12 - 2018

Defendant in court speak English.

Emeke Okwoezor for prosecution.

E. Yayok holding M.C. Ajoku for defendant.

R U L I N G

The defendant is standing trial on a charge of obtaining the sums of ₦2,838,000 from one Yunusa Abubakar by false pretence, an offence punishable under section 1 (3) of the Advance Fee Fraud And Other Fraud Related Offences Act, 2006. He pleaded not guilty to the charge and in the bid to prove the case, the prosecution called two witnesses. The prosecution also tendered 4 documents as exhibits. The documents include the two statements of the defendant, the petition filed against him and a copy of an undertaking he made on 10th April, 2017.

After the prosecution had closed its case, the defendant filed a No Case Submission on the 31st of July, 2018. The prosecution filed its written address in reaction to the No Case Submission. It was submitted by the defendant that what existed between the nominal complainant and the defendant was a contract transaction and the defendant had intention to repay the balance of the roofing sheets the nominal complainant supplied to him. That there was no manifest intention in the evidence of the 2 PWs and exhibits 3 and 4 to show manifest intention to defraud the nominal complainant.

On the other hand, the prosecution submitted in the written address dated 27th September, 2018 that the prosecution had presented a case through its witnesses that the defendant made representation to the nominal complainant (PW1) that he will pay for the roofing sheets on delivery at Jaji Barracks and he failed to pay after delivery and further pretended that the Director of logistics who was to make payment was not around.

I have carefully reviewing the various pieces of evidence adduced by the prosecution in this case vis-à-vis the charge and the ingredients of the offence of obtaining property by false pretence punishable under section 1 (3) of the Advance Fee Fraud And Other Fraud Related Offences Act.

The evidence given by the PW1 the victim of the alleged offence is that he supplied the roofing sheets to the defendant when the defendant promised to pay for the supply on delivery. Apart from this there's also the evidence that the defendant made statement that he was not paid for the roofing sheets by the persons he worked for and that investigation revealed that he was actually paid along time ago. I think this is sufficient evidence that would require an explanation from the defendant.

See **ADEYEMI V. THE STATE** (1991) 7 SC (pt. 11)1. Accordingly, I hereby overrule the No Case Submission and call upon the defendant to enter his defence.

YAYOK – We ask for a date for defence.

OKWOEZOR – No objection.

COURT – Adjourned to 21/02/2019 for defence.

Signed

HON. JUSTICE M.T.M. ALIYU – JUDGE

07/12/2018