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

BEFORE THE HONOURABLE JUSTICE MASHUD A. A. ABASS - JUDGE  
THIS THURSDAY, THE 10<sup>TH</sup> DAY OF MARCH, 2016

BETWEEN:

SUIT NO. 1/1/ICPC/2007

FEDERAL REPUBLIC OF NIGERIA .....

COMPLAINANT

AND

1. BASHIRU AKINOLA ( M) .....
2. SMART AJISAFE (M) .....
3. SEKINAT BELLO(F) .....

1<sup>ST</sup> ACCUSED  
2<sup>ND</sup> ACCUSED  
3<sup>RD</sup> ACCUSED

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Defendants are present

O. T. Akinsola (Principal Legal Officer ICPC) with Bisola – Bisi Balogun (Miss) for Prosecution.

Adebayo Adegbite for 2<sup>nd</sup> Defendant. Also hold Adekunle

Babalola's brief for 1<sup>st</sup> Accused

Olawale Sonibare for 3<sup>rd</sup> Accused with Hajia Zainab Uthman (Mrs).

## RULING

In the further amended charge filed by the Prosecution in this case dated the 21<sup>st</sup> of June, 2013, the 3 (three) accused person are being charged with the following offences:-

### “STATEMENT OF OFFENCE 1<sup>ST</sup> COUNT

Conspiracy to impersonate Public Officer contrary to Section 508 and Punishable under Section 108 (2) of

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the Criminal Code Cap 77 Laws of the Federation of Nigeria, 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November, 2006 and January, 2007 or thereabout at Ibadan did conspire to falsely represent themselves to Mr. Kolawole Oke, the Chairman of Egbeda Local Government Area of Oyo State, as officials of the Independent Corrupt Practices and Other Related Offences Commission.

**STATEMENT OF OFFENCE 2<sup>ND</sup> COUNT**

Impersonating Public Officer Contrary to and Punishable Under Section 108 (2) of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November, 2006 and January, 2007 or thereabout at Ibadan did falsely represent themselves to Mr. Kolawole Oke the Chairman of Egbeda Local Area of Oyo State as official of the Independent Corrupt Practices and Other Related Offences Commission.

**STATEMENT OF OFFENCE 3<sup>RD</sup> COUNT**

Conspiracy to impersonate Public Officer contrary to section 508 of the Criminal Code and Punishable

Under Section 108 (2) Cap 77 Laws of the Federation of Nigeria 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November, 2006 and January, 2007 or thereabout at Ibadan did conspire to falsely represent themselves to Mr. Kolawole Oyerinde the Director of Personnel of Egbeda Local Government Area of Oyo State as officials of the Independent Corrupt Practices and other Related Offences Commission.

**STATEMENT OF OFFENCE 4<sup>TH</sup> COUNT**

Impersonating Public Officer Contrary to and Punishable Under Section 108 (2) of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November, 2006 and January, 2007 or thereabout at Ibadan did falsely represent themselves to Mr. Kolawole Oyerinde the Director of Personnel Management of Egbeda Local Government Area of Oyo State as officials of the Independent Corrupt Practices and other Related Offences Commission.

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**STATEMENT OF OFFENCE 5<sup>TH</sup> COUNT**

Corrupt demand contrary to S. 8 (1) (a) and Punishable under S. 8 (1) (b) (ii) ICPC ACT 2000.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November, 2006 and January, 2007 or thereabout at Ibadan corruptly demanded for the sum of ₦2,000,000.00 (Two Million Naira Only) from Mr. Kolawole Oke and Mr. Kolawole Oyerinde being the Chairman and Director of Personnel Management respectively of the Egbeda Local Government Area of Oyo State on the pretext of helping to absolve them from the petition written against them to the Independent Corrupt Practices and other Related Offences Commission.

**STATEMENT OF OFFENCE 6<sup>TH</sup> COUNT**

Conspiracy to obtain money by false pretences contrary to Section 508 of the Criminal Code and punishable under section 419 of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) on or about the 30<sup>th</sup> January, 2007 at Ibadan Oyo State by false pretence and with intention to defraud did conspire to obtain the sum of

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₦300,000.00 (Three Hundred Thousand Naira Only) from Mr. Kolawole Oyerinde the Director of Personnel Management of Egbeda Local Government Area of Oyo State on the pretext of helping to absolve them from the petition written against them to the Independent Corrupt Practices and other Related Offences Commission.

**STATEMENT OF OFFENCE 7<sup>TH</sup> COUNT**

Obtaining money by false pretences contrary to and punishable under section 419 of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

**PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) on or about the 30<sup>th</sup> January, 2007 at Ibadan Oyo State by false pretence and with intention to defraud did obtain the sum of ₦300,000.00 (Three Hundred Thousand Naira Only) from Mr. Kolawole Oyerinde the Director of Personnel Management of Egbeda Local Government Area of Oyo State on the pretext of helping to absolve the official of the Egbeda Local Government petition written against them to the Independent Corrupt Practices and other Related Offences Commission.

### **STATEMENT OF OFFENCE 8<sup>TH</sup> COUNT**

Conspiracy to falsely assume office contrary to Section 508 of the Criminal Code and Punishable under Section 107 (2) of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

### **PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November 2006 and January 2007 or thereabout at Ibadan without authority assumed the powers of officials of the Independent Corrupt Practices and other Related Offences Commission by commencing investigation activities in relation to allegations of corruption against official of Egbeda Local Government Area of Oyo State.

### **STATEMENT OF OFFENCE 9<sup>TH</sup> COUNT**

False assumption of office contrary to and Punishable under Section 107 (2) of the Criminal Code Cap 77 Laws of the Federation of Nigeria 1990.

### **PARTICULARS OF OFFENCE**

Bashiru Akinola (M), Smart Ajisafe (M) and Sekinat Bello (F) between November 2006 and January 2007 at Ibadan without authority assumed the powers of officials of the Independent Corrupt Practices and other Related Offences Commission by commencing investigation activities in relation to

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allegations of corruption against official of Egbeda Local Government Area of Oyo State."

Suffice for now to say that the accused persons pleaded not guilty to the charges as a result of which the prosecution proceeded to call four (4) witnesses in proof of the charges against the defendants. The witnesses are:-

- "(1) Mrs. Tawa, Abiola Kolapo (a Principal Registrar, Litigation of this court)*
- (2) Mrs. Bolanle Odemakinde (an accountant with the Oyo State High Court.)*
- (3) Mrs. Rashidat Adunni Okoduwa (Head of Department of Education in ICPC, Abuja office) and*
- (4) Yusuf Olatunji (the Assistant Chief Superintendent, attached to Special duties department, I.C.P.C, Abuja who is the I.P.O in this case)."*

After the close of the case for the prosecution, the Learned counsel for the accused persons made no-case submissions on behalf of each of the accused persons.

The gist of the prosecution's case against the accused persons are that they conspired together and represented themselves as staff of the ICPC and met the complainant who was then the Chairman of Egbeda Local Government Council at his office, in Egbeda via Ibadan and intimidated him that there was a petition

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against his Local Government which was then pending at the I.C.P.C heard quarters in Abuja. The 1<sup>st</sup> accused who is alleged to have met the said chairman, is said to have told him that he will be coming with his boss (i.e.) the 2<sup>nd</sup> Accused to help the chairman to 'settle' the matter. It is also the case of the prosecution that the 1<sup>st</sup> and 2<sup>nd</sup> accused later went back to the chairman of Egbeda Local Government where they demand for payment of a sum of Two Million Naira (₦2M) in order "to Kill" the petition. At the request of the chairman, officials of the ICPC produced some 'Marked money of ₦300,000.00 which was presented to and collected by the 1<sup>st</sup> accused before he was arrested.

From the totality of the evidence led so far by the prosecution and the address of counsel for the accused persons and the prosecution (in the no-case submission), I am clearly of the view that the main issue for the determination of the court at this stage of the proceedings is whether or not the prosecution has led enough evidence that will pass the test which may warrant the calling upon of the accused person to enter into their defence.

A submission of no case to answer simply means:-

- " (a) That there has been no evidence produced by the prosecution to prove an essential ingredient of the alleged offence either directly or circumstantially.*
- (b) The evidence adduced by the prosecution has been so discredited during cross-examination or is so*



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*manifestly unreliable that no reasonable tribunal can safely convict on it.*

It is however to be noted that at the stage of the consideration of a no case submission, it is not open to the court to consider or resolve contradictions in the prosecution's case or to make pronouncement on the court's believe or disbelieve of the witnesses for the prosecution or their credibility. It will be sufficient for the court at this stage only to take a look at the web of evidence produced so far to see whether any evidence howsoever minute connecting the accused persons has been led which will require some explanation from them.

See:-

EKWUNUGO V. FRN (2008) 12 SCM (Pt. 1) 57

UGULU V. THE STATE (2012) 12 SCM (Pt. 2)

ABACHA V. THE STATE (2002) FWLR (Pt. 118) 1224.

The prosecution's case against the accused persons can be classified into two categories:-

- (1) *Conspiracy to commit certain offences.*
- (2) *Commission of the offences.*

I have considered the entity of the evidence led by the prosecution through its four witnesses and the Exhibits tendered in this case.

In respect of both the conspiracy and the substantive charges alleged against the accused persons. I have noticed that no iota of evidence was led that is suggestive of the participation of the 3<sup>rd</sup>

accused in either the offences of conspiracy and the substantive offences alleged by the prosecution against the accused persons. She was not at the Egbeda Local Government Secretariat at the time when the 1<sup>st</sup> accused was alleged to have visited, the chairman nor was she in the company of the 1<sup>st</sup> and 2<sup>nd</sup> accused persons when they were alleged to have repeated the visit to the same place and demanded for a sum of Two Million Naira (₦2M) bribe. In the same vein, nothing was said by any of the witnesses of the prosecution nor anything contained in the documents tendered by the prosecution which directly or indirectly connects the 3<sup>rd</sup> accused with the agreement, planning and execution of any of the ingredients of the offences alleged against the accused persons.

See:-

MOHAMMED V. STATE (2012) FWLR (Pt. 621) 1564

Where the evidence led by the prosecution is not sufficient to require an accused person to make his defence, it will be wrong for a court to over-rule a no case submission.

See:-

OKORO STATE (1998) 2 SC (Pt. II) 83

I am of the view, and I so hold that no **prima facie** case has been made against the 3<sup>rd</sup> accused and it will be wrong to subject her to the rigour of calling upon her to defence herself.

See:-

UBANATU V. COP (2000) FWLR (Pt. 1) 138.

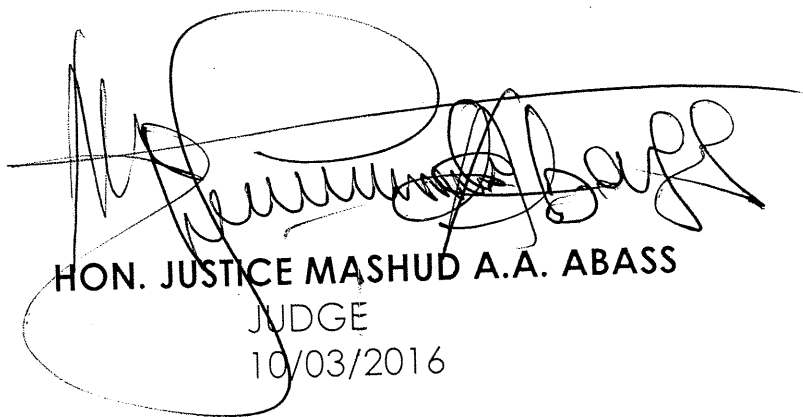
The 3<sup>rd</sup> accused is discharged .

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The 1<sup>st</sup> and 2<sup>nd</sup> accused are the persons alleged to have made direct contracts with the complainants. They are the persons who were alleged to have visited the victims of the alleged offences and demanded for a sum of Two Million Naira (N2M) as bribes. One of them is alleged to have collected a sum of N300,000.00 marked money in furtherance of the commission of the alleged offences.

Without the slightest intention of deciding at this stage whether or not the 1<sup>st</sup> and 2<sup>nd</sup> accused are culpable of the alleged offences, I am however of the view that enough **prima facie** case has been made out by the prosecution against the 1<sup>st</sup> and 2<sup>nd</sup> accused to warrant this court to call upon them to enter into their defence. I accordingly overrule the no-case submission of the 1<sup>st</sup> and 2<sup>nd</sup> accused persons. They are to enter into their defence of the offences alleged against them.

The 3<sup>rd</sup> accused is however discharged upon the basis of the success of the no case submission made on her behalf.



**HON. JUSTICE MASHUD A.A. ABASS**  
JUDGE  
10/03/2016