

IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT VACATION COURT 2,NYANYA, ABUJA

SUIT NO. FCT/HC/CR/422/19

**BEFORE HIS LORDSHIP:**

**HON. JUSTICEMUAWIYAH BABA IDRIS**

**BETWEEN**

**FEDERAL REPUBLIC OF NIGERIA**

**COMPLAINANT**

**AND**

**CHINAKA CHIJOKE PROMISE**

**DEFENDANT**

25/07/2019

Defendant in court. He understands English

**RULING ON SENTENCE**

The convict pursuant to the plea bargain agreement made on 19/7/19 and the plea of guilty of the 4 count charge was convicted on 22/7/19. The prosecution counsel urged the court to sentence the convict in accordance with the plea bargain agreement.

In accordance with the plea bargain agreement an order of forfeiture of the convict properties, to wit:

1. Ash colour 2014 Toyota Camry Car.
2. One Apple I phone
3. One Apple Laptop
4. One Dell laptop

The items are considered to be proceeds of crime hereby made. The properties are forfeited to Federal Government of Nigeria. The forfeited

properties shall be sold and proceed derived from shall be paid to the victim as restitution.

The convict pleaded guilty to the 4 count charge punishable under S. 324 of the penal code.

Section 324 provides:

“Whoever cheats by personation shall be punished with imprisonment for a term which may extend to 5 years or with fine or with both”

In the case of ZACHEOUS VS. PEOPLES OF LAGOS STATE (2015) LPELR-24531 (CA) it was held that in sentencing a convict “the Judge is bound to consider factors, such as the seriousness or other wise of the offence, the prevalence of the offence, whether the convict is a first time offender, and prevailing attitude of the populace to the offence.”

Learned counsel for the convict urged the court to temper justice with mercy. That the convict has been helping the EFCC to arrest other persons in the act. The learned counsel for the prosecution pleaded with the court to consider paragraphs 6& 7 of the plea bargain agreement.

Having read the terms of the plea bargain agreement, I have noted that there is no mention of sentence therein, either for a terms of imprisonment or a fine. It seems to me that the purport of the agreement is to allow the convict to go home without any form of punishment, simply because he agreed to report to the commission every Wednesday on weekly basis for a period of one year, to assist in investigation.

Let me say here, that it is not incumbent on the court to adopt the agreement of the parties. Courts have a duty to enforce the provisions of the Act under which an accused is charged.

It is not in doubt that cyber crimes dent the image and affect the integrity of our dear country. I must say that the appropriate law/act to charge the convict is the Cyber crimes (protection and prohibition etc ) Act that has laudable provisions aimed at redeeming the image and integrity of this nation. It has appropriate punishment that can deter young persons from engaging in cybercrimes. **My Lord Hon. Justice Sankey JCA** made a striking comment in the case of JUBRIL VS. F.R.N (2018) LPELR- 43993 (CA) thus:

"It must be disheartening to all right thinking Nigerian that the rampant, atrocious and egocentric crime has unleashed dire consequences integrity and image of the country. This has both short and long term effects on the society and the nation as a whole. Therefore although the punishment prescribed by law..... may be appear harsh and draconian, it is hoped that it will deter like-minded persons from embarking on such criminal ventures."

Cybercrimes are flourishing amongst our youth to the extent that even secondary school students engage in it.

It is most appropriate that our prosecution agencies arraign accused persons under the provisions of the right law, before the court that has jurisdictional competence to try the case. I say no more.

Though the ACJA, 2015 has codified plea bargain, I do not think the intention of the law makers is to give an accused or a defendant a pat on the back by the prosecution agencies in a form of an agreement for a ridiculous sentence of terms of imprisonment or no sentence at all.

S.270 (II) (C) ACJA gives the court the power to imposed a heavier punishment other that the one agreed by the parties and I intend to go by that provision.

Consequently, the convict is hereby sentenced to a terms of 4 years imprisonment on each of the 4 counts to run concurrently.



HON. JUSTICE MUAWIYAH BABA IDRIS

Presiding Judge

25/7/19

Appearances:

G.C Ofulue Esq. for the prosecution

T.O Omotayo Ojo Esq. for Convict.