

66

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ADO EKITI JUDICIAL DIVISION
HOLDEN AT ADO EKITI
ON MONDAY THE 1ST DAY OF JULY, 2019
BEFORE HIS LORDSHIP
HON JUSTICE U.N. AGOMOH (JUDGE)

SUIT NO: FHC/AD/22C/17

BETWEEN

INSPECTOR GENERAL OF POLICE-COMPLAINANT

AND

1. BIDE MI BASHIRU

2. ADEOSUN OLUWASEUN ADEWUMI - DEFENDANTS

JUDGEMENT

The defendants are standing trial on a three counts amended charge dated the 14th day of June 2017 and filed on the 15th day of June 2017 but amended on the 28th of February 2018. The amended charge reads thus:

1
CERTIFIED
12/16/19
REGISTRAR
FEDERAL HIGH COURT ADO-EKITI
OKINMOLO D.A. (ES) D.F.



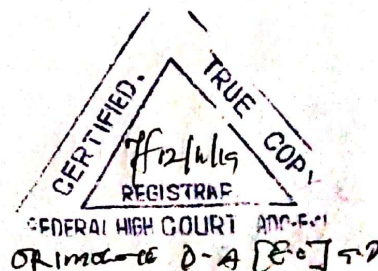
COUNT 1

That you Bidemi Bashiru, Adeosun Oluwaseun Adewumi 'f' and others still at large on 10th March 2017 in Ado-Ekiti in Ado-Ekiti Judicial Division, did conspire among yourselves to commit computer/internet fraud, thereby committed an offence punishable under Section 27 of Cybercrime (Prohibition Prevention ETC) Act 2015

COUNT 2

That you Bidemi Bashiru, Adeosun Oluwaseun Adewumi 'f' and others still at large on the same date in the aforesaid Judicial Division did fraudulently online defraud Mr. Onyeka Obiechina by transferred cash of One Million Naira (N1,000,000.00k) from his bank account without his consent, thereby committed an offence punishable under Section 14 of Cybercrime (Prohibition, Prevention ETC) Act 2015

2



COUNT 3

That you Bideimi Bashiru, Adeosun Oluwaseun Adewumi 'f' and other still at large on the same date, in the aforesaid Judicial Division did steal cash of One Million Naira (N1,000,000.00K) belonging to Mr Onyeka Obiechina thereby committed an offence punishable under Section 390 ((I) of the Criminal Code, Cap 77, Laws of the Federation, 2004.

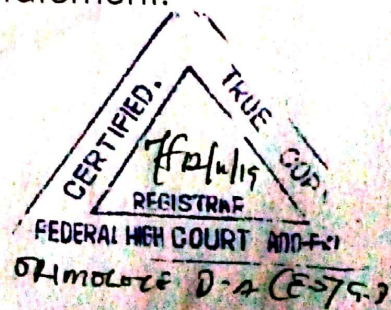
The amended charge was read to the defendants who took fresh plea wherein they pleaded not guilty on each count. The prosecution called 2 (two) witnesses to prove its case namely:

PW1 ONYEKA OBIECHINA

PW2 SGT ASAKE ADETUNJI

The prosecution tendered five Exhibits which included statements obtained from the defendants. Let me put on record the fact that none of the said statements is a confessional statement.

3



The defendants on their part each testified and closed their defence, they are;

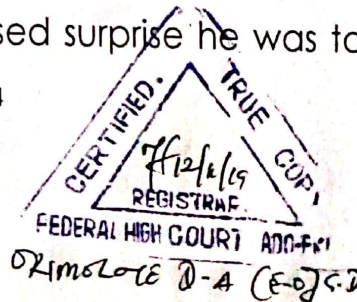
DW1 Bidemi Bashiru

DW2 Adeosun Oluwaseun Adewumi

Let me review briefly the evidence of the witnesses fielded on both sides of the divide to prove and defend this case.

PW1 Onyeka Obiechina who lives at Ado-Ekiti said he is a trader engaged in selling of goods he bought from Abia State. He said that he has a Bank account with Fidelity Bank Plc. situate at Ejigbo Round about Ado-Ekiti. He said that on the 10th of March 2012 he went to Aba to buy his goods as usual and that when he finished he went to the Fidelity Bank branch there to withdraw money for the payment of the goods he purchased. PW1 said that when he filled withdrawal teller and submitted he wastold by the cashier after checking that he does not have money in his account. When he expressed surprise he was told to

4

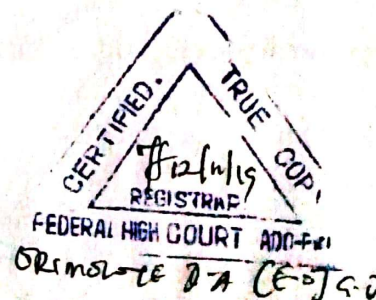


go and report at the customer care section which he did and he was told there that there was transfer of the sum of N1,000,000.00 (One Million Naira) from his account.

It is his evidence that the next day he travelled back to Ado Ekiti. On his return he went to his Bank at Ejigbo Branch Ado-Ekiti and reported the incident, and he was given a form to fill which he did, after which his statement of account was printed for him and he was asked whether he knows someone called Adeosun and he said no, and he was advised to go to Police Station and make report which he did.

PW1 said it was the police that arrested the accused persons and he knew they were arrested at Ikorodu Lagos State. His statement at the police Station and his statement of account were admitted without objection as **Exhibits 1 and 2** respectively.

5



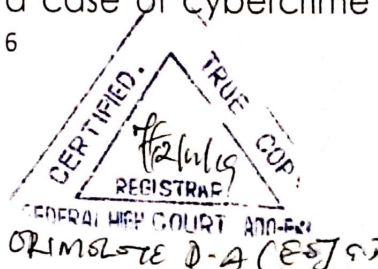
Scanned with
CamScanner

Under cross PW1 admitted knowing the defendants before that day of giving evidence in court and explained that he knew them when they were arrested by the Police but that he had no interaction with them before then. PW1 refused as correct the suggestion that in his statement of account there are indications of transfer of money before the one in issue as he said he has never transferred money from his account as he does not do money transfer.

PW2 is Sergeant Asake Adetunji a Police officer attached to State CID Ado Ekiti. It is his testimony that at the time he investigated this matter he was attached to the Ado Central Police Station and that he knows Onyeka Obiechina PW1 who is the complainant in this case. He also knows the two defendants.

He stated that on the 21st March 2012 while in his office at Okesa Ado Ekiti a case of cybercrime and

6



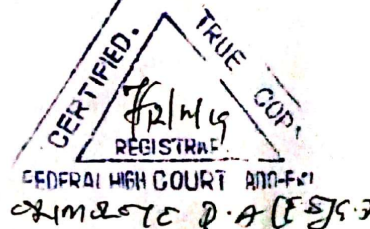
72

stealing reported by PW1 who came with his statement of account from Fidelity Bank Plc. was referred to him for investigation. PW2 said that he took the statement of PW1 which he made voluntarily in English language and signed as the author and he PW2 also signed as the recorder.

It is his evidence that on discovering after the study of the statement that there was a fraudulent transfer of the sum of N1,000,000.00 (One Million Naira) was fraudulently transferred into two Bank accounts, one at United Bank for Africa UBA and the other at First Bank of Nigeria, his office originated letters to the two Banks requesting the details of the account holders and that the two accounts should be frozen and placed on red alert for the arrest of the account owners.

He stated that after some weeks First Bank replied and forwarded details of the 2nd defendant. PW2 said

7

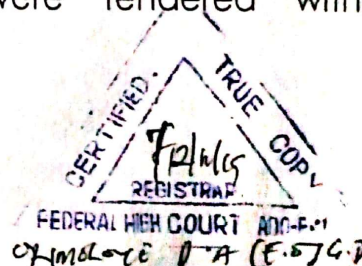


Scanned with
CamScanner

that when he discovered after some weeks that second defendant did not go to the Bank to enable her arrest. He used the 2nd defendant's telephone number which he recovered from her details from the Bank that he stored in his phone to search for her on Facebook and then sent a friendly request to her which she accepted and both of them started their friendship. PW2 stated that he booked appointment to meet her which she agreed and he was invited at an eatery called Tetrassini situate at Ikorodu Lagos State where he apprehended her.

It is his testimony that she led police to arrest 1st defendant. PW2 said after administering cautionary words to the defendants he obtained their statements which they made voluntarily.

PW2 identified the letters written to the Banks and their response. Also identified are the statements of the defendants. They were tendered without



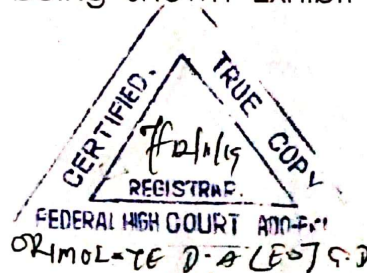
objection. Let me also put on record the fact that learned counsel for the defendants applied to show the defendants their statements to confirm that it was there's which was granted and they did confirm. It is the evidence of PW2 that they did not receive any response from UBA Plc.

The documents above said to have been tendered without objection were marked as follows;

- a. Letter to First Bank Plc is **Exhibit 3**
- b. Letter to UBA Plc. is **Exhibit 3A**
- c. Response from First Bank Plc. containing account details of 2nd defendant is **Exhibit 4**
- d. Statement of the 1st defendant is **Exhibit 5**
- e. Statement of the 2nd defendant is **Exhibit 5A**

Under cross PW2 said that he knows that PW1's money was transferred from his account to 2nd defendant's account. On being shown Exhibit 5A,

9



PW2 said that from the said Exhibit it is evident that on the 13th of March 2012 there were two transfers from PW1's account to 2nd defendant's account in the sum of N100,000.00 (One Hundred Thousand Naira) for each transfer. It is his evidence that on the 3rd column of this Exhibit 5 it is revealed that the withdrawals were done through ATM at First Bank Plc. Ijedelkorodu. He said it also shows that the money was withdrawn in tranches of Twenty twenty thousand naira in seven places. And then Ten Thousand naira and the last Fifty thousand naira was through POS (point of sale). He said the total amount transferred to 2nd defendant's account was N200,000.00 and the sum of N200,000.00 was also withdrawn from the same account. PW2 said that when 2nd defendant was asked she admitted that the said account belonged to her and that the said account is neither a joint, group or business account

10

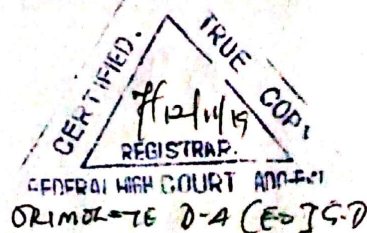
CERTIFIED. TRUE COPY
 REGISTRAR
 FEDERAL HIGH COURT ADI-ESI
 Orla-ESI O-A (E) J.C.D



76
but a personal account with her as the only signatory.

PW2 said when he inquired from the 2nd defendant how her ATM Card got to the 1st defendant she said that she was the person that gave same to him. PW2 said 2nd defendant explained that it was because she and 1st defendant are co-habiting in the same house i.e. they are living together. PW2 stated further that the 2nd defendant in explaining said that one day the 1st defendant asked her, her account details as his friend one Aminu Zakari now at large wants an account through which he can receive money, she obliged her account. She said later 1st defendant requested for her BVN (Bank Verification Number) which she also gave. That he then told her that whenever she receives credit alert she should tell him. PW2 said that when 2nd defendant showed 1st defendant credit alert on her phone, 1st defendant took her phone and ran to show same to his friend

11



Scanned with
CamScanner

Aminu Zakari and later returned her phone to her. She said that later she also received debit alert.

The above represents the evidence adduced by the prosecution.

After several adjournments, the defence opened their defence.

DW1 is Bidemi Bashiru, he said that he is into Lotto job. It is his evidence that he was in his house when one Aminu Zakari came and informed him that he worked for one of his friends and needed an account at First Bank of Nig Plc to collect his money. DW1 said he told his friend that he does not have account with First Bank but that his wife does. He said his friend pleaded with him to give him the account details of his wife in Allah's sake which he did. DW1 said that his friend told him that he should let him know when he receives alert. It is evidence that his friend called to know whether he has received credit alert and he told his friend to be patient and then put

12

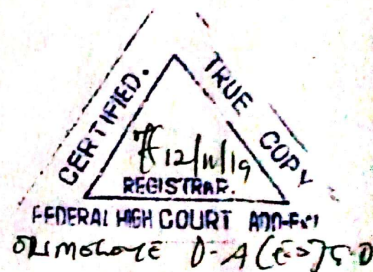


Scanned with
CamScanner



a call across to his wife who told him that some amount of money was mistakenly paid into her account. DW1 said he told her that it was not a mistake as he gave her account details to Aminu Zakari in order for him to collect money from his client. He said he then called Aminu and informed him that his wife has received credit alert and Aminu asked where he was and he said in his house and Aminu came to meet him in his house and told him to tell his wife to go and collect the money. DW1 said he replied Aminu that his wife will not be able to leave her place of work to go to the Bank. He said Aminu suggested that he should collect his wife's ATM Card so that they will go to the bank and collect the money. DW1 said he called his wife and asked her where she kept her ATM Card and she told him. It is his evidence that he took the ATM Card and went with Aminu and collected the money for him and he left that day.

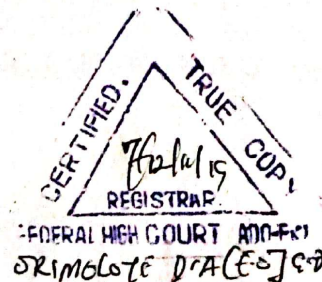
13



He stated further that after about 2 months his wife the 2nd defendant told him that she wanted to go and buy something for his son and she left. He said that it was at the point of buying something that the police arrested her. It is his testimony that his wife put a call to her boss at work that she has been arrested. DW1 said that his wife's boss called him and said he should come to his wife's place of work and when he got there his wife's boss told him that the police have arrested his wife and she has been taken down to Ekiti State.

DW1 said when he left that place he called his wife's phone and it was the police that answered and they told him that his wife has been taken to Ekiti State. DW1 also stated that the police man who spoke to him told him that his wife told them that he was the person that gave her account details to Aminu Zakari.

14



He stated further that they said he should call Aminu Zakari and get him arrested and after that call them. DW1 said he went to the Police Station and made a report and he was told that anytime he sets his eyes on the said Aminu Zakari he should call them. It is his evidence that he called Aminu to inquire where he was and he said he was at home and was about to leave the house. He said he called the police and told them that he was coming to call them so that they will go and arrest Aminu Zakari. DW1 said that when they got to Aminu Zakari's house they met him at the front of his house with the vehicle he was using and when he cited him with the police he took to his heels and the police took his vehicle to their station.

It is his evidence that the Police in Lagos put a call across to the Ekiti State Police informing them that they have impounded Aminu Zakari's car but could not arrest him. He said that the Ekiti Police came to Lagos and took the car and also carried him along to

Ekiti. He stated that on the 2nd day they were taken to court. He said as regards the car his people told him when they came to visit him that it is with Aminu Zakari who is using it. He said that the 2nd defendant did not have any share in the said money and it was him and Aminu Zakari that went and collected it.

Under cross DW1 said that he and 2nd defendant did introduction for their marriage but did not conduct marriage ceremony.

He admitted as correct the fact that PW1 did not introduce Aminu Zakari to him. He also admitted giving Aminu Zakari 2nd defendant's account number without her knowledge but that he does not know the account number off head. It is his evidence that he did not collect a dime from the said money. DW1 said he cannot remember the date Aminu Zakari came to collect account number but he knows that it was around 2pm. He admitted as correct the fact that he has a Bank account. He admitted that he

16

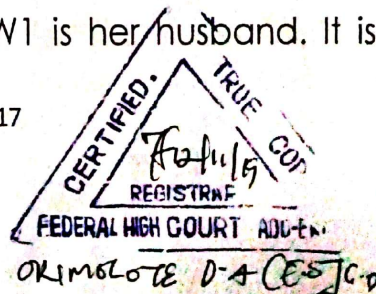


82

withdrew the money via an ATM machine. That he collected the whole money in one day. He stated that it was after collecting the money that they went to an eatery and there paid for the food with the ATM Card. He said that he did not buy any food for his son rather it was Aminu Zakari that bought food that he Zakari took home. DW1 said Aminu Zakari committed this offence alone. He admitted that his wife knows Aminu Zakari very well. DW1 said that he knew that the vehicle was brought to Ekiti as it was what was used to bring him to Ekiti. DW1 said he is not aware that a woman came claiming ownership of the said vehicle and that the said woman brought a court order that the vehicle should be released to her. DW1 maintained that he does not know anything about this case.

DW2 is Adeosun Oluwaseun Adewunmi. She said that she works at a Filling Station called Chongfi Filling Station. DW2 said that DW1 is her husband. It is her

17



83

evidence that she does not know why she is in court but that what she knows is that her husband came to her that she should give him her account details as he wants to collect money from someone and she gave. She said that after they did their transaction she got alert on her phone. She said that she was at work that day and was wondering how money entered her account with her colleagues when few minutes later she got a call from her husband asking whether she saw alert and she said yes. She said that the amount she received was N200,000.00 (Two Hundred Thousand Naira). DW2 said that it is not correct as stated by DW1 that Zakari is their neighbour and that they lived on the same street. DW2 said she does not know Zakari before but after her arrest when DW1 now described him to her.

Under cross DW2 admitted knowing DW1 very well. She repeated that Aminu Zakari is not their neighbour and if anybody comes to tell the court that Aminu

18

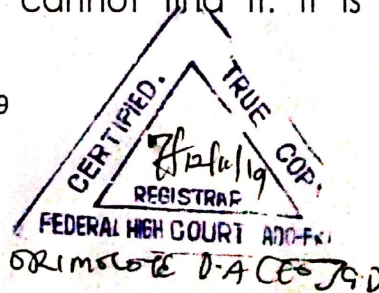
CERTIFIED TRUE COPY
7/12/19
REGISTRAR
FEDERAL HIGH COURT ADU-FK
OHMOLATE O.A (E-576-D)



84

Zakari is their neighbour then the person is a liar. DW2 said that she Attended Coroner Polytechnic where she studied Public Administration. She admitted that her account with the Bank is a personal account. She said it is not a joint account. She said that the very day she opened her ATM the pincode is known only to her. She also admitted giving the 1stdefendant her account number. DW2 also said that before this incident that DW1 knows her account number that when she was in school that DW1 used to pay money into her account. She said DW1 is her husband. She said that it was because DW1 knew her account number a long time ago that he was able to use it without her consent. She now changed when she was confronted with her previous story that she was the person that gave DW1 her account and said that when DW1 called her to give him her account number that she told him that he already has it and he said yes but that he cannot find it. It is her

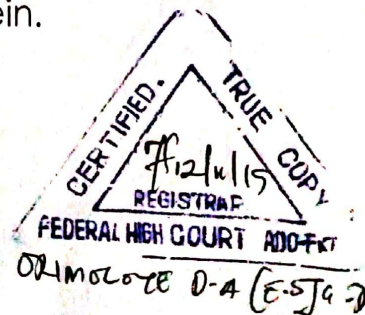
19



85

evidence that she told him that she does not have time for that now as she is at work. She also said that she did not give DW1 her ATM Card herself but described where it was to him. It her testimony that DW1 has her pin code before now. She stated that DW1 collected the money at the ATM located at Sezbama Filling Station. She said that they withdrew the money two times. She stated that in the 1st& 2nd instances they withdrew One Hundred thousand naira each. She said that she does not know the denomination of the currency withdrawn. It is her evidence that she was not given any share from the money. She admitted that when she received credit alert from somebody she did not report to the police. DW2 admitted as correct the fact that when she was arrested she was not going to buy things for her child. Above is my effort to crystallize the evidence adduced by the parties herein.

20



80

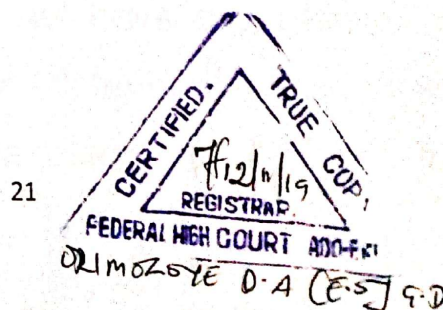
In his final written address learned counsel for the defendants Ayorinde Busuyi Esq. articulated a sole issue for determination thus;

Whether in view of the totality of the evidence before the court, the prosecution has proved the offence alleged against the defendants beyond reasonable doubt.

On his part learned prosecuting counsel also formulated a lone issue for determination to wit:

Whether the prosecution has proved the case against the defendants

I have perused the issues formulated by counsel on both sides; it is my view that both issues are the same it is only a question of expression. I have preference to the way the defence counsel captured it but may with respect rephrase it thus;

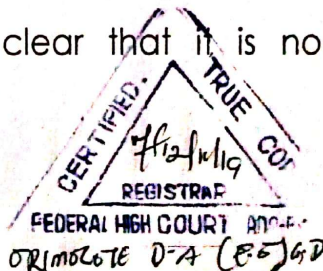


Whether from the evidence before the Honourable Court, the prosecution has proved its case beyond reasonable doubt.

The life issue herein in my view therefore is whether on the totality of the evidence before the court the offence charged have been proved beyond reasonable doubt.

It is the submission of **Busuyi Esq.** that the defendants herein acted in good faith as according to counsel they were out to help a friend and brother. Counsel submitted further in his paragraph 4.12 of his written address that where there is a joint criminal act, intention of the alleged criminals becomes important to measure the liability of each of the criminals. He relied on **State v Azeez (2008) 43 WRN 1 @ 41.**

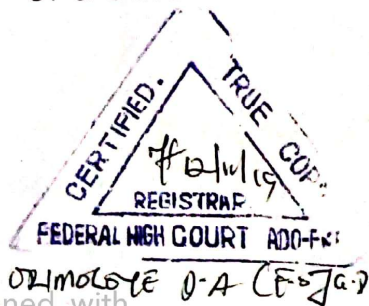
It is contended that the court should find and hold that 1st defendant does not have any intention to commit crime while the 2nd defendant is an innocent person. It must be made clear that it is not the



submission of counsel that settles the issue of the intention of the defendants but the facts established by the parties.

It is his submission that the prosecution has failed to discharge the burden on him as according to counsel the prosecution has concealed vital evidence. It is submitted that the questions the prosecution has failed to answer and which are fatal to the success of his case if not answered are:

- a. where is the vehicle seized from Aminu Zakare when he ran away from Police
- b. where was the order to release the vehicle given or made
- c. What was the name and the address of the person the vehicle was released to
- d. Was it the practice to release an object of investigation or an exhibit during the pendency of a case



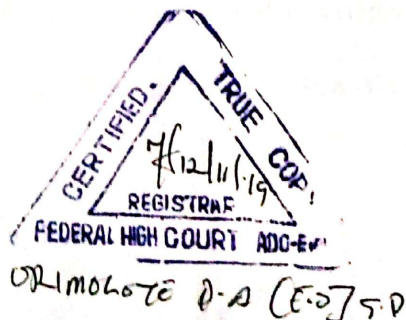
23



e. Was there report to the Police that the vehicle has been stolen from somebody earlier

Counsel submitted that the sudden release of the abandoned vehicle has created an incurable doubt to the credibility of the prosecution's case leading to his failure to prove his case beyond reasonable doubt. Court was urged to hold that these sundry gaps have created doubts in the case of the prosecution and that the resultant effect is to discharge and acquit the defendants.

Lest I forget let me say that above submission of counsel for the defendant on the bullet points highlighted above does not in any way form part of what the prosecution should prove in the discharge of the burden placed on them in proving the charge against the defendants.

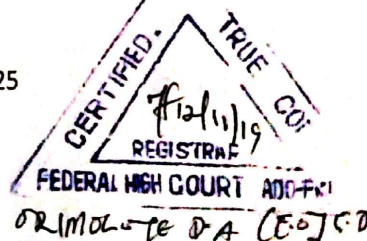


On his part learned counsel for prosecution **Osobu Esq.** submitted that the defendants including the one at large played separate roles, and made separate contributions in the commission of this offence which makes them liable under Section 27 of the Cybercrime Act.

It is submitted that it is also a count before the court that the defendants stole the sum of N1,000,000.00.

It is submitted that from the evidence adduced herein that there is no doubt that the defendants through the use of electronic device conferred economic benefits to themselves by transferring illegally the moneys from PW1's account to 2nd defendants account. It is submitted that the contention of defence counsel on the vital issues he tabulated is in a way suggestive of how and in the manner the Police should carry out its duty. Counsel submitted that it is settled that the way and manner the Police does their work is at the discretion of the

25



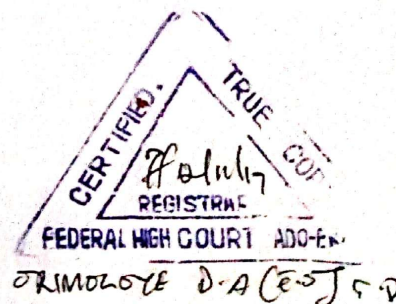
police investigator. He referred to **Olatinwo v State (2015) EJSC (V.11) pg 165.**

Court was urged to find and hold that the prosecution has proved its case offence beyond reasonable doubt.

Our law is firmly settled that the burden of proof in criminal cases lies, throughout on the prosecution and never shifts. Failure to discharge this burden renders the benefit of doubt in favour of the accused persons.

Let me commence by stating that conspiracy denotes an agreement between two or more persons to commit an unlawful act or a lawful act by an unlawful means. **Nwosu v. State (2004)15 NWLR (Pt.897) p.466.**

26

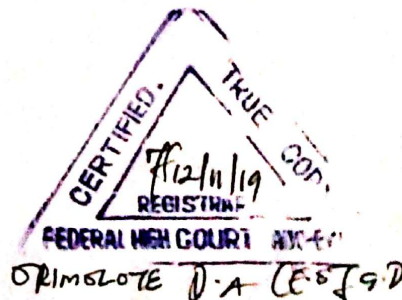


Conspiracy in itself constitutes a distinct offence from the predicate crime that is the object of the conspiracy. In essence, conspiracy ends when the unlawful act has been committed or the mutual agreement has been discarded (abandoned). Conspiracy does not come to an abrupt or automatic end merely because its object is defeated. See **Blacks Law Dictionary, 9th Edition, 2009 @ 351 to 352.**

It is an established principle of our law that the prosecution has the burden of proving the guilt of the accused persons beyond reasonable doubt. The evidence which the prosecution should adduce must prove the following to wit;

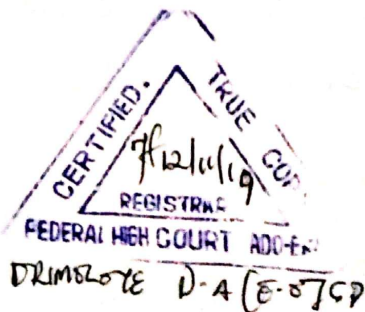
1. That there was an agreement between two or more persons

27



2. That the agreement was to do or cause to be done an illegal act or to do a legal act by illegal means. See *Aituama v. State* (2006)10 NWLR (989)452.

The agreement which constitutes the offence of conspiracy is seldom proved by direct evidence, but by inference from proved facts unless where the accused person confesses. Proof of how the conspirators connected with or among themselves or that the connection was made is not necessary, for there could even be cases where one conspirator may be in one town and the other in another town and they never have seen each other but there would be acts on both sides which would lead the trial court to the inference. *Erim v. State* (1994) 5NWLR (Pt.346)522.

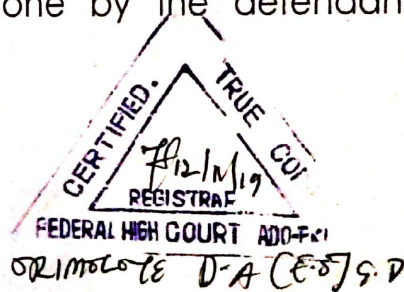


17

One of the counts herein is that the defendants with another person still at large conspired to commit computer/internet fraud. The burden is therefore on the prosecution to establish that the defendants herein with the person(s) at large conspired to commit the said offence in other words has the prosecution led evidence to establish the ingredients of this offence?

Let me quickly state that the evidence of PW1 & PW2 and Exhibits tendered particularly Exhibits 1, 2, 4, 5, 5A shows that there was communication between the 2nd defendant and one Aminu Zakari at large for the 2nd defendant to provide an account for the purpose of receiving money. The prosecution was able to establish that the said money was transferred into the account of the 2nd defendant which the 1st defendant with his friend Aminu Zakari went and withdrew. Prosecution witness PW1 also showed that apart from this transfer done by the defendants

29



Scanned with
CamScanner

herein he does not transfer money as he always collects his money's cash from the bank. PW1's evidence that he does not know the defendants herein and the persons at large and did not authorize the transfer from his account was also not dislodged by the defence.

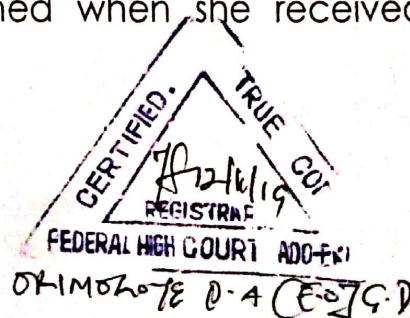
Having perused carefully the evidence before the court it is not difficult at all to come to the conclusion that there was an agreement between the 1st defendant and his friend Aminu Zakari to get an account where the illegal internet transfers of money from the account of PW1 will be deposited. It also appears to me from the evidence on record that among the parts played by the 1st defendant was to provide the account for the deposit of the transferred money. I say so because of the contradictions in the evidence of DW1 in his extra judicial statement and that of DW2 as regards both the knowledge of Aminu Zakari at large and the defendants. Why all the lies, I

CERTIFIED. TRUE COPY
8/12/19
REGISTRAR
FEDERAL HIGH COURT ADJUTANT
CRIMINAL D.A. (E-J.G.D)

ask. DW1 says in one breath that Aminu is well known to both him and the 2nd defendant. That Aminu is their neighbour as Aminu lives on their street. DW2 the 2nd defendant on her own says if anybody comes to say that Aminu lives on their street that person is a liar. What is interesting about this is that these two persons were in court when each person gave evidence. DW2 was there when DW1 gave evidence about Aminu Zakari and still she refuted the fact that Aminu is their neighbour, which was the evidence of her husband DW1. DW2 also said she got to hear about the person called Aminu Zakari after the fact of her arrest, whereas DW1 her husband testified that Aminu Zakari is well known to his wife DW2.

Again DW2 whose extra judicial statement is that she was asked by her husband to give him her account details for money to be paid into, now in her evidence of what happened when she received

31



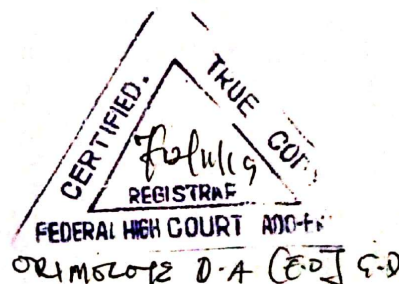
credit alert on her phone stated thus; Now listen to the person who said her husband asked her to give him her account details and she did;

"The only thing I knew was that my husband came to me that I should give him my account details that he wants to use it to collect money from someone and I gave it to him. That is all. After they had done the transaction I got alert on my phone, that day I was at work,

Now hear DW1 in his viva voce evidence on this same issue;

"I gave my wife's account number to him. After giving the account number to him, he told me that I should let him know anytime I receive alert on the account number. I told him that I have heard, he left. He put a call across to me and inquired if I have received any credit alert. I told him to be patient; I put a call to my life who told

32

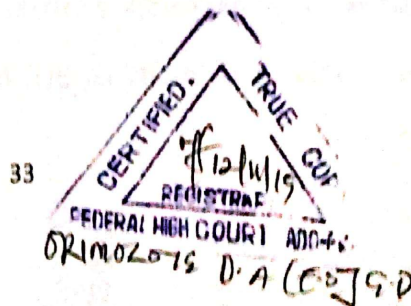


me that some amount of money was mistakenly posted to her account".

The question I ask is what mistake, when her evidence is that she gave her account for money to be paid into. She is aware that money is going to land into her account, so why the surprise and calling it a mistake. Anyway DW1 continued;

"I told her that no money was mistakenly posted to her account number, that I gave her account number to Aminu Zakari in order for him to collect money from his client"

Again the extra judicial evidence of the DW1 on his reaction when the alert was received is that he collected the phone from his wife and ran and showed it to Aminu Zakari. But in his viva voce evidence in court he said he called his wife who told him that some amount of money was mistakenly posted to her account.

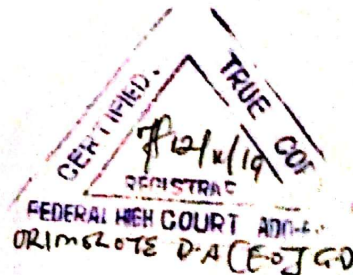


77

The question is where was the 2nd defendant when this credit alert dropped into her account? Was she in her working place or with her husband who said he collected her phone and ran to show Aminu Zakari. It is also part of their contradictory testimonies when DW1 stated that his wife DW2 was arrested when she went to buy things for their child but DW2 in her evidence denied that she was arrested when she went to buy things for her child.

The point being made from the above as stated earlier in this judgement is that the agreement which constitutes the offence of conspiracy is seldom proved by direct evidence, but by inference from proved facts unless where the accused person confesses.

Proof of how the conspirators connected with or among themselves or that the connection was made



100

is not necessary, for there could even be cases where one conspirator may be in one town and the other in another town and they never have seen each other but there would be acts on both sides which would lead the trial court to the inference. **Erim v. State supra.**

The inferences to be drawn in my firm view from all the proved facts herein is that the prosecution has been able to establish that there was conspiracy between the defendants herein and the person at large. There is evidence showing the meeting of the minds of the defendants to commit the offence alleged and I so hold.

On count 2 the charge before the court is that the sum of N1,000,000.00 was fraudulently transferred from the account of PW1 on various dates into First Bank of Nigeria Plc. and United Bank for Africa

Plc. The evidence adduced by PW1 shows that the said sum was transferred without his consent from his account to the said accounts in First Bank of Nigeria Plc. and United bank of Africa Plc. I refer to **Exhibit 1** which is the statement of account of the complainant PW1.

PW2 who investigated this matter gave evidence of the letters written to both First Bank of Nigeria Plc and United Bank for Africa Plc (UBA) for them to furnish detailed information of the said account owners. PW2's testimony is that First Bank responded but UBA did not respond. There is therefore no evidence that the defendants herein are the account owners in the UBA Plc. account or that they participated in any way in the transfer of the money into that account. It is evident through Exhibits 1 & 3A that the account holder of the UBA Plc account clearly not any of the defendants herein.

CERTIFIED TRUE COPY
 12/11/19
 REGISTRAR
 GENERAL HIGH COURT ADD-ON
 OKIMOLATE D-A (E) J.C.D

The investigating officer for whatever reason decided to proceed with the account holder in the First Bank account which is the 2nd defendant, which account shows from evidence adduced that it is only N200,000 (Two Hundred thousand Naira) that was transferred into it.

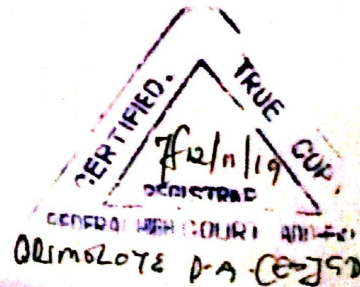
There is no evidence that the prosecution took any further step to do the needful as regards the UBA Plc. account. The prosecution in my firm view has failed to prove count 2 which alleges that the defendants herein transferred the cash of N1,000, 000.00 into their account. I hold that the prosecution has failed to prove the offence contained in count 2.

That is also the faith that befalls count 3 as the fact of the defendants herein stealing the sum of N1,000,000.00 was also not proved.

CERTIFIED TRUE COPY
7/12/19
REGISTRAR
GENERAL HIGH COURT
ORIMOLATE D.A (C-0) G-7

Before I conclude with this judgement I must register my displeasure with the lack of seriousness the investigator handled this matter. It must be made clear that the purpose of prosecution is not just to imprison offenders. It is also in my humble view to reform offenders, it is to persuade the convict to give up committing offence in the future, it is for rehabilitation, deterrence.

Let also say that equally very is that it is also for restitution of the victim. In this case how will the complaint who is alleged to have lost the sum of N1,000,000.00 get restitution when there was no investigation in the other account where the bulk of his money was alleged to have been transferred into was not investigated. It is gratifying to note that time does not run against offenders. I say no more on this.



In the final analysis I find and hold that the prosecution has proved the case against the accused person beyond reasonable doubt as required by law in only Court 1 and as such I convict you Bidemi Bashiru and you Adeosun Oluwaseun Adewunmi accordingly.



U.N. AGOMOH

JUDGE

1/7/2019

APPEARANCE

S.O. OSOBU ESQ.

For Prosecution

BUSUYI AYORINDE ESQ.

For Convicts



GENERAL HIGH COURT

39

02/02/2019 D.A (E-2)C.D

