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

BEFORE HIS LORDSHIP: **HON. JUSTICE MUAWIYAH BABA IDRIS**

SUIT NO. FCT/HC/CR/429/19

BETWEEN

FEDERAL REPUBLIC OF NIGERIA

APPLICANT

AND

OKAFOR DIVINE ONEKA

DEFENDANT

25/7/19

RULING ON SENTENCE

The convict pursuant to plea bargain agreement made on 24/6/19 and the plea of guilty to the one count charge, was convicted in 22/7/19.

The prosecution counsel urged the Court to sentence the convict in accordance with the plea bargain agreement.

In line with the plea bargain agreement an order of forfeiture of the proceed of crime. To wit: \$4,200 USD (N1,512,000) is made in favour of the EFCC.

The forfeited procedures shall be sold and proceeds of same shall be paid to the victim Mrs. Jonava as restitution.

The convict pleaded guilty to the one count charge punishable under S. 322 Penal code. S. 322 provides:

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

In the case of **ZACHEOUS vs. PEOPLE 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 otherwise 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 tamper justice with mercy. I have read the plea bargain agreement. Parties agreed on ridiculous term of one-month imprisonment. Let me say that it is not incumbent on the Court to adopt the agreement in Toto. Courts have a duty to enforce the provisions of the Act under which an accused is charged.

It is not in doubt that cybercrimes dent the image and affect the integrity of our dear nation. I must say that the appropriate law to charge the convict is the cybercrimes (protection, provision, etc.) Act, that has laudable provisions aimed at redeeming the image and integrity of this country. It has appropriate punishment that can deter persons from engaging in cybercrimes. My Lord Hon. Justice Hannatu Jummai Sankey JCA made a striking comment in the case of **JUBRIL vs. FRN (2018) LPELR – 43993(CA)** where my lord stated:

“It must be disheartening to all right thinking Nigerians that the rampant, atrocious and egocentric crime has unleashed dire consequences on the 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 appear harsh and draconian, it is hoped that it will deter like-minded persons from embarking on such criminal ventures.”

Cybercrimes are flourishing amongst the youth to the extent that even secondary school students engage in it. As a result of cybercrimes many have become hypertensive or mentally unstable with no resources to attend to their health.

It is most appropriate that our prosecuting agencies arraign accused persons under the provision of the relevant law, before the Court that has jurisdictional competence to try the case. I say no more.

S.270 (II) (c) ACJA, 2015 gives the court the power to impose heavier sentence other than the one agreed by the parties and I intend to go by that provision. It is my humble view that by charging the convict under the Penal Code Law, the convict had reaped the benefit of the bargain.

Consequently, the convict is hereby sentenced to a term of 3years imprisonment on the count charge.



Hon. Justice Muawiyah Baba Idris

Presiding Judge

APPEARANCES

ASHIBI AMEDU Esq. for the Prosecution

SIGIS-MUND AGHA Esq. for the Defendant.