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IN THE HIGH COURT OF JUSTICE OF KWARA STATE

IN THE ILORIN JUDICIAL DIVISION

HOLDEN AT ILORIN

ON TUESDAY THE 24TH DAY OF JANUARY, 2023

BEFORE HIS LORDSHIP:-HON. JUSTICE I.A. YUSUF.....JUDGE

SUIT NO: KWS/71C/2022

BETWEEN:

FEDERAL REPUBLIC OF NIGERIACOMPLAINANT

AND

AMEDARI HALILU BALADEFENDANT

JUDGMENT

On 2nd August 2022 the complainant filed a one count charge against the defendant, it is dated 1st August 2022 and it reads as follows:

"That you Amedaru Halilu, on or about the 1st day of July 2022, at Ilorin, Kwara State, within the jurisdiction of this Honourable Court, did dishonestly convert to your personal use, the sum of N3, 300,000 (Three Million, Three Hundred Thousand Naira) property of Abdullahi Bello and thereby committed an offence contrary to section 308 of the Penal Code and punishable under section 309 of the same law."

The defendant denied the charge. To prove its case, the complainant called two witnesses who testified as PW1 and PW2, and tendered the following documents in evidence:

- i. Petition written to the EFCC by the nominal complainant – Exhibit 1.

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- ii. EFCC's letter addressed to Access Bank PLC requesting for the statement of account of the defendant – Exhibit 2.
- iii. The statement of account of the defendant with Access Bank PLC – Exhibit 3.
- iv. Eleven extra-judicial statements made by the defendant on 8th April 2021, 9th April 2021, 31st May 2021, 1st July 2021, 6th August 2021, 8th September 2021, 10th November 2021, 9th December 2021, 9th March 2022, 9th May 2022 and 30th August 2022 – Exhibits 4 – 4J respectively.
- v. Bank draft in the sum of N950, 000.00 in the name of EFCC – Exhibit 5.

PW1 is Abdullahi Mohammed Bello, the nominal complainant. He is a patent medicine dealer and resides at Gambari quarters, Ilorin. He started his evidence by telling the court that he had forgiven the defendant in this case. He said the defendant is a sales representative of a particular Pharmaceutical company and was paid the sum of N3.3 Million to supply a particular drug which he failed to supply or return the money after several demands. That at a stage the defendant stopped picking his phone calls. He said he decided to forgive the defendant based on his promise to return the money collected.

PW1 was not cross-examined by the defence counsel.

PW2 is Ganiyat Ayoku, an operative of the EFCC, Ilorin Zonal Command, attached to Advance fee fraud section. She told the court that on 20th July 2020, the Ilorin Zonal Command of the EFCC received a petition from PW1 against the

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defendant. The petition was accepted and it was assigned to the Advance Fee Fraud section for discreet investigation. According to her, the defendant is a staff of Olpharm Nigeria Limited; that he fraudulently collected the sum of N3.3 Million from PW1 under false pretence to sell Lavite 24 drug. She said it was discovered in the course of investigation that the defendant received PW1's money and converted it to his personal use. She told the court that the defendant has started paying back the money. She identified exhibits 1 to 5 to the court, they were tendered and admitted in evidence without any objection.

PW2 was also not cross-examined by the defence counsel. Thereafter, the case of the complainant was closed, learned counsel to the defendant rested his defence on the case of the complainant. Learned counsel to the complainant subsequently asked for judgment in the circumstance.

The court has carefully considered the charge against the defendant, the evidence of the two witnesses called by the complaint, the documents tendered and admitted in evidence as exhibits 1 to 5 and all the processes filed in this case. The nominal complainant told the court on 28th November 2022, in his evidence as PW1 that he decided to forgive the defendant because he promised to give him back the total sum of N3.3 Million he paid for the purchases of the drug that was not supplied. He had earlier on 26th September 2022 written a letter to the court to withdraw the charge against the defendant. The said letter is reproduced below:

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*"Abdullahi Mohammed Bello
G.117, Gambari Road
Ilorin, Kwara State.
26th September, 2022*

*The Registrar,
Honourable Justice Yusuf's Court,
High Court of Justice,
Ilorin, Kwara State.*

Dear Sir,

LETTER OF WITHDRAWAL

*I, Abdullahi Muhammed Bello the nominal complainant in the case of
Federal Republic of Nigeria v. Amedari Halilu Bala with charge no
KWS/71/2022 hereby seek (sic) to withdraw the case against the said
Amedari Halilu Bala having duly reached amicable settlement.*

I humbly ask the court to grant my request. Thank you sir.

Yours faithfully,

Signed

Abdullahi M. Bello"

The defendant was charged under the Penal Code Law. Considering the circumstances of this case it qualifies to be disposed under section 445 of the Kwara State Administration of Criminal Justice Law, 2018. The section gives the court discretion to dismiss a charge or discharge a defendant based on his

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character or antecedents. In view of the letter of withdrawal of the case against the defendant and the testimony of PW1 that the defendant has paid back the total money he collected from him, hence he has forgiven the defendant, the charge against the defendant is hereby dismissed under section 445 (2) (a) of the Kwara State Administration of Criminal Justice Law, 2018. The defendant is discharged.

The sum of N950, 000.00 covered by exhibit E, being the sum recovered by the EFCC from the defendant on behalf of the PW1 is ordered to be paid to PW1.

[Signature]
HON. JUSTICE I.A. YUSUF
JUDGE

24/01/2023.

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Certified by me
Olasanball-O. Perinde
Registrar
[Signature]
7/2/2023

C.T.C. 970
[Signature]
7/2/2023

HIGH COURT OF JUSTICE
KWARA STATE
Date: 7/2/2023
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