

THE HIGH COURT OF JUSTICE SOKOTO STATE

IN THE SOKOTO JUDICIAL DIVISION

HOLDEN AT SOKOTO

ON 24TH DAY OF NOVEMBER, 2022

BEFORE HIS LORDSHIP

HON JUSTICE ABUBAKAR ABUBAKAR ZAKI (JUDGE)

SUIT NO: SS/146^c/2022

BETWEEN:

THE STATE-----COMPLAINANT

AND

AMINU IBRAHIM-----DEFENDANT

APPEARANCE:

JAMILU MALAMI: FOR STATE.

ADEOLA ADEDIPE: FOR DEFENDANT. (WITH LOVETH MORKA).

RECORD OF PROCEEDINGS

Jamilu Malami: For State.

Adeola Adedipe: For Defendant. (With **Loveth Morka**).

Defendant in Court and speak Hausa.

Court: Shehu Abdullahi Registrar affirmed to interpret the proceedings from English to Hausa Language and vice versa.

Jamilu: It is a case of Culpable Homicide not punishable with death contrary to Section 194 SSPCL 19.

The matter is slated to today for mention and possible hearing. We seek the leave of the Court to read the charge to the defendant in order to take his plea.

Adeola: No objection.

Court: Leave granted. The charge has been read and explained to the defendant in the language he understood to the satisfaction of the Court. The charge is Culpable Homicide not punishable with death punishable under Section 194 SSPCL '19. The defendant is asked to plead.

Defendant: Yes I understand the charge read to me. I plead not guilty.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

Jamilu: Having the defendant pleaded not guilty the prosecution intend to call 6 witnesses out of which 2 are presently in Court and ready to proceed.

Adeola: In view of the nature of the offence charge and having regard to the fact that the prosecution already has witnesses in Court I hereby apply for an order of accelerated hearing and urge the Court to permit the prosecution to open his case.

Court: Leave granted. PW1 called and Court cleared.

PW1: Male, Adult, Muslim, affirmed and states as follows in English.

My name is Insp. Musa Abdullahi Tyson with number 191301. I am a Police Officer attached with the State C.I.D. I have been with SCID for more than 2 years. Yes I can recall the defendant's face. His face came into picture on a case that was transferred to SCID in May 2020 by Nigerian Security & Civil Defence Corp (NSCDC) I cannot recall the division of NSCDC but is within the Metro. That on the 18th May, 2020 the defendant had a misunderstanding with Abubakar (now deceased). Though they were separated along the line and a few days later his corpse was discovered in a bush along Usmanu Danfodiyo University where the defendant was accused to have been the perpetrator of the offence. The statement of the defendant was voluntarily recorded under word of caution in Hausa Language and later translated it into English Language. The statement was read out to the defendant and after comprehension

the statement was signed by the defendant. I recorded the statement myself. I can identify the statement through my handwriting and signature as well.

Jamilu: We seek the leave of the Court to show PW1 the statement for identification.

Court: Leave granted. The statement was shown to PW1 for identification.

PW1: Yes it is the statement that I am referring.

Jamilu: Having identified the statement, we seek to tender same in evidence.

Adeola: I have no objection.

Court: The statement of the defendant is hereby admitted and marked as Exh. A for the Hausa Version and Exh. A1 for the English Version.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

PW1: I was involved in all the role of investigation in this case.
That is all.

Cross-Examination: (Adeola) (Exh. A and A1 shown to the witness). No, there is nowhere in the Exh. that the defendant admitted committing the offence.

Re-Examination: Nil.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

Jamilu: Permission to call PW2.

Court: Leave granted. PW2 called.

Jamilu: The witness is not found within the Court premises. We apply that the case be stand down to 11:30am.

Adeola: No objection.

Court: Case stand down to 11:30am.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

Resumed: 11:30am

Jamilu Malami: For State.

Adeola Adedipe: For Defendant.

Jamilu: We seek the leave of the Court to call PW2.

Court: Leave granted. PW2 called.

PW2: Male, Muslim, Adult and states as follows in Hausa Language.

My name is Abubakar Maizuma. I lived at Gidan Igwai Area, Sokoto. I am 75years old. I am a farmer. No I don't know Abubakar Muhammed. I don't know the defendant too. Yes I know why I am in Court today. The reason is to give evidence in respect of a corpse that was found in my area by some boys inside a farm. When the corpse was found around Magrib time the O.C. Civil Defence called me on phone asking me whether we found any corpse in our area. I and one Civil Defence Officer and some one that I cannot recall his name went to Local Government that is Sokoto North Local Government Headquarters where we met the D.O. NSCDC. We went to the place where the corpse was found by one Almajiri boy. We saw the corpse and the body was already decomposed and we cannot pick it. We then came back to the Local Government Headquarters and explained to the D.O. the position of the corpse. He then referred us to State CID. We went there together with the D.O. and he informed the SCID officers that the corpse is rotten and cannot be taken. He then seeks the police permit to bury the corpse where it was found. The SCID gave the permission to bury the corpse at the scene. I cannot say which department of SCID but

I know it is SCID that we went to. From there after we get the permit we went to the scene and dug a grave, we use shovel and put the corpse inside coffin and after prayers we buried it there. That is all I know.

Cross-Examination (Adeola): Yes I told the Court that I don't know the defendant. Yes I don't know what killed the deceased and who killed him. It was the relatives of the deceased that invited me. There is no autopsy on the corpse as the corpse cannot be taken anywhere.

Re-Examination: Nil.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

Jamilu: That is all for today. We humbly apply for another date to call more witnesses. We agreed on 02/12/2022.

Adeola: No objection.

Court: Case adjourned to 02/12/2022 for continuation of hearing. The remand of the defendant shall continue.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
24/11/2022

02/12/2022

JAMILU MALAMI with A. DAHIRU: For State.

ADEOLA ADEDIPE with LOVETH MOROKA: For Defendant.

Defendant in Court and speak Hausa Language.

Court: Shehu Abdullahi, Registrar affirmed to interpret the proceedings from English to Hausa Language and vice versa.

Malami: It is a case of Culpable Homicide not punishable with death contrary and punishable under Section 194 of the Sokoto State Penal Code Law 2019. The matter is for continuation of hearing. Two witnesses have testified and we presently have one witness in Court now and ready to proceed.

Adeola: We are ready.

Malami: Permission to call PW3.

Court: Leave granted. PW3 called.

PW3: Male, Muslim affirmed and states as follows in Hausa Language.

My name is Bello Muhammad. I lived in Gangaren Kofar Kware Sokoto. I am a trader. I sell mattresses. I am 51years old. Yes I know one Abubakar Muh'd. He is now deceased. He is my younger brother same mother and same father. Yes I know the defendant.

His name is Aminu Ibrahim. We lived in the same area with the defendant. One day the deceased went out with his motorcycle for his normal Okada business on the 18th May 2020. And it took time he did not return. We looked for him everywhere but we could not find him including Police Station. We then went to Civil Defence Office at Gidan Haki Area. At the Civil Defence Office we were informed that the deceased has lodged a complaint that he had a misunderstanding with the defendant and that they went to look for the defendant but could not find him. We further our search for him until I met one Bilyaminu Sanusi who explained to me that the deceased fought with the defendant and the defendant brought out a knife with intention to stab the deceased. Later on when we were searching for the deceased we were told that a corpse was found at Kwalkwalkawa Area in Sokoto. I went there and discovered that it was my brother the deceased. I then went and informed the Head Area Hakimi and went to the scene with him. The deceased was buried there in accordance with Islamic rites.

Cross-Examination (Adeola): No Autopsy was conducted on the corpse found. Yes I don't know the cause of his death. The issue that the deceased fought with the defendant is something that I was informed. Yes I am aware that Police were informed about the corpse. Yes I am aware that there is no Police Report that the defendant killed the deceased. No I am not here to see that the defendant was convicted. I am here only because Court will verify and I know the Court will do justice and find out who is right and

wrong. No, I did not want the Court to convict the defendant just like that without finding him guilty.

Re-Examination: Nil.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
02/12/2022

Malami: That is all for today. And the prosecution intends closing its case and hereby dispense with the evidence of the remaining witnesses.

Adeola: We have just one witness and it is the defendant. We wish to call him to the witness box and testify.

Malami: No objection.

Court: Leave granted. The defendant is called to the witness box as DW1.

DW1: Male, Muslim affirmed and states as follows in Hausa Language.

My name is Aminu Ibrahim. I am currently at Correctional Centre. Before my arrest I sell mangoes. Yes I was arrested because I was suspected to have killed one Abubakar Muhammed. What I know honestly is that one day I was coming back from Fadama to

buy mangoes the deceased poured water on me while he was washing his motorcycle. Dispute arose between us and chatted bitterly with him. We were separated and we all left. About 4 weeks later I was met and asked if I know Abubakar Muhammed and I responded 'yes' because we lived in the same area. His relatives then accused me that when we had a dispute that I said I will kill him and now he is nowhere to be found and that I am the one that took him away. My parents then handed me to the deceased relatives that they should go with me till after investigation and verifying the whereabouts of the deceased. After sometime the D.P.O. of the Police Station intends to release me when the relatives of the deceased came and informed the DPO that the corpse of the deceased is found around Kwalkwalawa. The knife that was seen with me is the one that I am using in cutting rotten mangoes. I am selling big mangoes and any one that is not good I use the knife to cut it out. They met me at my selling point with my business going on. The knife was with me at home after I closed and went home and the knife was on top of the mangoes I am selling.

Cross-Examination (Malami): Yes I lived at Kofar Kware.

Re-Examination: Nil.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
02/12/2022

Adeola: That is the case of the defence. We agreed on the 19th Dec. 2022 for adoption of our addresses.

Malami: That is the position of the case. The defendant is in custody.

Court: Case adjourned to 19/12/2022 for adoption of addresses. Remand of defendant shall continue.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
02/12/2022

22/12/2022

JAMILU MALAMI: For State.

A.B. UMAR (Holding brief of ADEOLA ADEDIPE): For Defendant.

Defendant in Court and speak Hausa Language.

Court: Shehu Abdullahi, Registrar affirmed to interpret the proceedings from English to Hausa Language and vice versa.

Malami: It is a case of Culpable Homicide not punishable with death contrary and punishable under Section 191 SSPCL 2019. The matter is slated to today for adoption of written addresses.

Umar: We are equally ready.

Court: Leave granted.

Umar: The defendant's written address was filed on 05th Dec. 2022. A sole issue for determination was formulated at page 4 of the defendant's written address wherein arguments were canvassed. We humbly adopt same. We thus urged the Court to discharge the defendant.

Malami: The prosecution filed a written address dated 7th Dec, 2022 and filed same date. We formulated one issue for determination at page 3. We adopt same as our final argument. We finally urged the Court to convict the defendant as charged.

Court: Case adjourned to 18th Jan, 2023 for judgment. The remand of the defendant shall continue.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
22/12/2022

10/02/2023

JAMILU MALAMI: For State.

Defence Counsel absent.

Defendant in Court and speak Hausa Language.

Court: Shehu Abdullahi, Registrar affirmed to interpret the proceedings from English to Hausa Language and vice versa.

Malami: It is a case of Culpable Homicide not punishable with death contrary to Section 194 SSPCL 2019. The matter is slated to today for judgment and we are ready.

Court: Judgment written overleaf was read.

Signed
Hon. Justice Abubakar Abubakar Zaki
Judge
10/02/2022

Certified True Copy

Fatima Saidu Mohammed
Director Litigation,
High Court of Justice,
Sokoto.

THE HIGH COURT OF JUSTICE SOKOTO STATE

IN THE SOKOTO JUDICIAL DIVISION

HOLDEN AT SOKOTO

ON 10TH DAY OF FEBRUARY, 2023

BEFORE HIS LORDSHIP

HON JUSTICE ABUBAKAR ABUBAKAR ZAKI (JUDGE)

SUIT NO: SS/146^c/2022

BETWEEN:

THE STATE-----COMPLAINANT

AND

AMINU IBRAHIM-----DEFENDANT

APPEARANCE:

- 1. JAMILU MALAMI: FOR STATE.**
- 2. ADEOLA ADEDIPE: FOR DEFENDANT.**

JUDGMENT

The defendant was arraigned before this Court on the following one count charge as follows:-

“That you Aminu Ibrahim on or about 18th May, 2020 at about 1400hrs at Gandaren Abu Dankure Area of Sokoto North Local Government Area of Sokoto State

within Sokoto Judicial Division did commit the offence of Culpable Homicide not punishable with death in that you fought and intimidated one Abubakar Muhammed with a knife that you would kill him, an act which you knew was likely to cause him death, but the said Abubakar Muhammad left to his normal business of commercial motorcycle operation “kabu-kabu but he did not return back home until when his decomposed corpse was found along Usmanu Danfodiyo University, Sokoto and you thereby committed an offence punishable under Section 194 of the Sokoto State Penal Code Law, 2019.”

The above charge was read, interpreted and explained to the defendant in Hausa Language, being the Language he speaks and understand, and pleaded not guilty to the charge.

Having the defendant pleaded not guilty to the said charge, this case proceed to full trial. The prosecution in a bid to prove its case beyond reasonable doubt against the defendant called a total number of 3 (three) witnesses and tendered 2 (two) exhibits i.e. Exhibit A and A1, being the defendant’s statements in Hausa and English Language respective; then the prosecution closed its case.

The defendant, on the close of the prosecution’s case, entered into defence and testified in his own defence and called no other

witness and did not tendered any exhibit. The defence then closed its case.

I now summarise the evidences adduced by the prosecution.

PW1: Musa Abdullahi Tyson, an Inspector of Police currently attached to State C.I.D. Sokoto. He identified the defendant as suspect transferred from Nigeria Security and Civil Defence Corpse (NSCDC) Sokoto to State C.I.D, and his team was assigned to investigate the case. He recorded the statement of the defendant. He narrated how the statement was taken in Hausa Language and later translated it into English Language. The statements were tendered unopposed and marked as Exhibit A and A1 respectively.

Under cross-examination, PW1 testified that there is nowhere in Exhibit A and A1 that the defendant admitted committing the alleged offence.

PW2: Abubakar Maizuma. The Ward-Head of Gidan-Igwai Area, Sokoto. He testified before the Court that he did not know the defendant neither the deceased. He narrated to Court how a decomposed corpse was found in his area whereupon he reported the matter to NSCDC office in Sokoto North Local Government. PW2 and officers of the Civil Defence went to the place where the body was found by one Almajiri boy. The corpse was already decomposed and cannot be picked to anywhere. The matter was thence referred to State C.I.D Sokoto where they sought police permission and buried the body where it was found, and it was done in accordance with Islamic rites.

Under cross-examination PW2 reaffirmed that he don't know the defendant and that he don't know what killed the deceased and who killed him. And that it was the relatives of the deceased that invited him, and that no autopsy conducted on the body found.

PW3: Bello Muhammad, an Elder Brother to the deceased Abubakar Muhammad. He testified that he knows the defendant. He informed the Court that on 18th May 2020 the deceased went out with his motorcycle for his normal okada business “kabu – kabu” but did not return home. All efforts in search of the deceased including Police Stations proved abortive. At the Civil Defence office they were informed that the deceased has lodged a complaint that he had a misunderstanding with the defendant but that the defendant could not be found then, PW3 stated further that he met one Bilyaminu Sanusi who told him that the deceased fought with the defendant and the defendant brought out a knife with the intention to stab the deceased. According to this witness a decomposed body was later found at Kwalkwalawa Area Sokoto where he went and discovered that it was that of his brother. Upon seeing it he went and informed the Ward Head (PW2) and went to the scene with him to see the body found.

Under cross-examination PW3 reaffirmed that no autopsy was conducted on the body. And that he don't know the cause of the death; and he was informed that the deceased fought with the defendant; and that he is aware that there was no Police Report that the defendant killed the deceased.

This ends the prosecution's case. Having the prosecution closed its case; the defence opens its case where the defendant testified in his own defence as DW1. He testified that he was arrested because he is suspected to have killed one Abubakar Muhammad. He further testified that one day while he was coming back from Fadama to buy mangoes, the deceased poured him water while he was washing his motorcycle. A dispute arose between them and they quarreled bitterly and later on were separated and they all left. About 4 weeks later DW1 was met by someone and asked him if he knows Abubakar Muhammad and he responded 'yes' because they lived in the same area. The relatives of the deceased met him and accused him of taking the deceased away as he once said he would kill him when they had a fight days back. DW1 was handed to the police by his parents for investigation of the whereabouts of the deceased. After sometime when he was about to be released by the police, the relatives of the deceased came to the station and informed the DPO that the corpse of the deceased was found along Kwalkwalawa Area, Sokoto. DW1 stated that the knife that was seen with him is the one that he is using in selling mangoes. That he is using the knife in cutting out rotten mangoes; and that the knife was with him on top of his mangoes as he closed for the day and went home.

Under cross-examination, he affirmed that he lived at Kofar Kware, Sokoto.

This ends the defence case.

Before going further to determine this case, it is imperative to take a look at the issues raised by both the prosecution and defence counsels in their final written addresses for the determination of the Court in this case.

The issue raised by the Defence Counsel is, viz:

“Deriving from the evidence led in this, whether a case of guilt has been established against the defendant, beyond reasonable doubt.”

The prosecution on the other hand raised the following issue:

“Whether from the totality of evidence adduced by the prosecution could it be said that, the prosecution proved its case against the defendant beyond reasonable doubt as required by Law.”

The above two issues are all the same but differently couched. Therefore the issue before the Court for determination is:

“Whether the prosecution has proved its case beyond reasonable doubt from the evidence before the Court.”

The law is trite that the burden of proving the guilt of person, suspected of committing an offence, lies on the prosecution. The

proof must be beyond reasonable doubt. See Section 135(1) of the Evidence Act, 2011 (as amended).

The Defence Counsel in his written address submits that it becomes imperative for the complainant to discharge the burden of proving the charge against the defendant beyond reasonable doubt. That this burden of standard of proves are as exemplified in Sections 132 and 135(1) of the Evidence Act, 2011. That the import of these provisions is consistent with the presumption of innocence which the defendant enjoy by virtue of Section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

It is the submission of the Prosecution Counsel that in any criminal trial the burden of proof lies on the prosecution beyond reasonable doubt, but beyond reasonable doubt does not means beyond all shadow of doubt. Reference was made to the cases of **BEN VS. THE STATE (2005) 1 NCC at P. 270; ASUQUO BASSEY VS. STATE (2012) 7 NCC P. 477;** and Section 135 of the Evidence Act 2011.

The above submissions are in tandem with the provision of the law as earlier stated and thus as also provided by the provision of Section 135(1) of the Evidence Act 2011 (as amended) and I so hold.

In order to secure a conviction for the offence of Culpable Homicide not punishable with death contrary to Section 194 of the Sokoto State Penal Code Law 2019, the prosecution is required to prove the following ingredients:

1. That the death of a human took place;
2. That such death was caused by the defendant;
3. That the defendant intended by his act to cause death or that the defendant intended by his act to cause bodily harm or injury as was likely to cause death or that the defendant caused death by a rash or negligent act: See **MUSTAPHA V. STATE (2021) LPELR – 56471 (CA)**; and
4. That, in the circumstances of the case, the act of the defendant was not such as would amount to Culpable Homicide punishable with death: See **SALEH V. STATE (2015) LPELR – 40399 (CA)**.

Lest we not forget that the burden of proving the above ingredients rest solely on the prosecution. That burden never shifts. In discharging the said burden placed on the prosecution by the law, the prosecution can do so in any of the following:

1. By direct evidence of witnesses;
2. By the confession of the accused person; and
3. By circumstantial evidence.

See AGOOLA V. THE STATE (2016) JELR 37013 (CA); (2013) SCNJ 683 at 688.

In the case at hand, putting into consideration the ways mentioned above that the prosecution should follow in proving the ingredients of an offence, it is on record that the prosecution called 3 witnesses i.e. PW1, PW2 & PW3. Thus, on the first ingredient it is the submission of the provision that from the evidence before the

Court it is clear that the death of the person in question Abubakar Muhammad was cause by the defendant; that this fact was also established through the testimony of PW1, PW2 and PW3, and Exhibits A and A1 which are the statements of the defendant in Hausa and English Language respectively. That the first ingredient of the offence is proved beyond reasonable doubt and urge the Court to so hold. References was made to Section 126(a) and (b) of the Evidence Act 2011 (as amended) and the case of FEDERAL REPUBLIC OF NIGERIA V. SARAHI (2017) LPELR 43392 CA. which is to the effect that the evidence of an investigating police officer (I.P.O.) with regard to what he did or saw is not hearsay and is admissible.

The Defence Counsel submits on the first ingredient that the prosecution led no single evidence of the identity of the deceased alleged to have been killed. That the prosecution failed to give a pictorial evidence of the fact that Abubakar Muhammad died.

The second ingredient is that such death was cause by the defendant. On this, the prosecution submitted that the death of the deceased was caused by the defendant and that the prosecution can rely on the following forms of evidence to proof that:

1. Confessional statement;
2. Circumstantial evidence; or
3. Evidence of eye witness.

Reference was made to the cases of IGABALLE V. STATE (2004) 34 WRN 38 at 98; AKINMOJU V. STATE (1995) 7 NWLR (pt. 406) 204 at 212.

The prosecution further submit that from the evidence before the Court particularly the evidence of PW1 that such death was caused by the at of the defendant in his testimony that the defendant had misunderstanding with the deceased and they were separated along the line and that feq days his corpse was discovered along the bush around Usmanu Danfodiyo University Sokoto