

IN THE MAGISTRATE COURT OF ONDO STATE
IN THE ONDO MAGISTERIAL DISTRICT
HOLDEN AT ONDO

CHARGE NO: _____

BETWEEN

COMMISSIONER OF POLICE COMPLAINANT

AND

1. ABC } } DEFENDANTS
2. DEF }

REPLY TO NO CASE SUBMISSION DATED 23RD DAY OF NOVEMBER 2021

1.0 INTRODUCTION

- 1.1 The Defendants were brought to this Honourable Court on 3 (Three) Count Charge to wit: (a) Conspiracy pursuant to Section 516 of the criminal code law of Ondo State (b) Stealing pursuant to Section 390 (9) of the criminal code law of Ondo State.
- 1.2 Upon arraignment, the defendants were granted bail by this honourable court in the most liberal terms.
- 1.3 The prosecution opened her case and called 3 (Three) witnesses to wit: (a) The nominal complainants and the Investigating police officer.

2.0 STATEMENT OF FACTS

- 2.1 The nominal complaints led evidence that on the 16th day of September 2021, at about 5:20 am, they woke up and were unable to find their two individual Honda Motorcycle parked in their compound where they live as tenants.
- 2.2 They raised alarm and alerted other neighbors of the situations, sadly among the persons living in the compound, the landlady's son being the 1st Defendant wasn't present at that time of the day.
- 2.3 The nominal complaints led evidence that 1st Defendant was the last person to enter the compound at about 11 pm and is in possession of the keys to the big and small gate securing the compound.
- 2.4 That the 1st Defendant was not sighted anywhere near the street until about 8 am while the nominal complaints were on their way to report to the police station.
- 2.5 That 1st Defendant was in the company of the 2nd Defendant with Engine Oil stains all over their cloths.

3.0 ISSUES FOR DETERMINATION

- 3.1 The prosecution in reply to the NO CASE SUBMISSION has raised a single issue for determination before this honourable court and that is:

Whether the prosecution has led evidence against the defendants that there is a prima facie case requiring at least some explanation from the Defendants?

3.2 Humbly sir, the position of the law is trite with regard No Case Submission when raised by the Defence and position in herein reproduced.

3.3 **"When a Court is giving consideration to a submission of no-case, it is not necessary at that stage of the trial for the learned trial Judge to determine if the evidence is sufficient to justify a conviction. The trial Court only has to be satisfied that there is a prima facie case requiring at least some explanation from the accused person."**

CITATION: ABOGEDE v. STATE (1996) LPELR-45(SC) Per YEKINI OLAYIWOLA ADIO, JSC (Pp 16 - 16 Paras B - E)

SEE ALSO: AJIDAGBA V. I.G. (1958) 3 F.S.C. 5; (1958) SCNLR 60."

3.4 Similarly, in FRN v. ADEMOLA (2021) LPELR-52831(CA) Per MOHAMMED BABA IDRIS, JCA (Pp 74 - 80 Paras B - A) the reasoned thus:

"To my understanding, when a no case submission is made, the trial Court is called on to look at the oral and documentary evidence analytically, to detect whether the evidence adduced by the prosecution implicates the defendant to warrant him putting in his defence. Essentially, when a Court is faced with a no case submission, it must look to see if a prima facie case has been established."

3.5 Also, in UZOAGBA & amp; ANOR VS. COP (2012) LPELR - 15525 (SC), the Supreme Court gave the meaning of prima facie and held thus:

"A prima facie case therefore means that the prosecution's case against an accused person has raised some serious questions linking the accused person to the crime and so calling for some explanation from the accused person and which only the accused person from his personal knowledge can give..."

3.6 Humbly your Worship, the Supreme Court in UZOAGBA (supra) commends trial courts posed with Submission of No-Case to look at the oral and documentary evidence analytically. On the face of the correlating oral evidence of the PW1 and PW2 respectively, we strongly and most humbly submit that there appears to be facts in which the Defence needs proffer some explanation and which is residual to the personal knowledge of the defendant. (Most especially the 1st Defendant)

3.7 Most humbly your Worship, it is uncontroverted to wit:

- a. that the 1st defendant and his mother are the only persons in possession of the keys to the two main gates securing the compound where the motorcycle of the nominal complaints were stolen to the exclusion of others except the key to the smaller gate which is in possession of the PW1.

- b. that the 1st defendant was the last person to enter the house at about 11 pm and was the first person to leave the compound prior to 5:20 am when the nominal complainants discovered their motorcycles were missing.
 - c. That the 1st defendant in company of the 2nd defendant were returned at about 8 am with stains of engine oil all over his cloths while the nominal complaints were on their way to the police station to make report.
- 3.8 Humbly your Worship, although as canvassed by the Defence in the No Case Submission, suspicion, no matter how strong, cannot base a conviction. *This is more so in the face of concrete evidence neutralizing such a suspicion.*" See: Shehu vs State (2010) 3 SCNJ 343. Per JUMMAI HANNATU SANKEY, JCA (Pp 44 - 44 Paras A - B)
- 3.9 Humbly, the position above canvassed by the Defence relates to **Conviction** and not circumstances and/or suspicion cogent and compelling as to facts so calling for some explanation from the accused person and which only the accused person from his personal knowledge can give. *The Supreme Court in UZOAGBA (supra).*
- 3.10 Mindful saying your Worship, as held in ABOGEDE v. STATE (supra) **It is not necessary for the learned trial Judge to determine if the evidence is sufficient to justify a conviction. The only consideration is, are there facts needing some explanations?**
- 3.11 Again, we most humbly submit that there are uncontroverted facts herein x-rayed in this reply needing some explanation from the Defence, having not so discredited same during cross – examination. We most humbly commend your Worship to FAGORIOLA v. FRN (2013) LPELR-20896(SC); Per MUHAMMAD SAIFULLAHI MUNTAKA-COOMASSIE, JSC (Pp 13 - 13 Paras A - G)

4.0 CONCLUSION

- 4.1 We urge this Honourable Court in utmost regards to the interest of justice in this case to disregard the Defence No Case Submission and sustain the Prosecution's Reply maintaining that there are facts the Defence needs proffer some explanation which is residual to the personal knowledge of the defendant. (Most especially the 1st Defendant)

5.0 LIST OF AUTHORITIES

- 5.1 ABOGEDE v. STATE (1996) LPELR-45(SC) Per YEKINI OLAYIWOLA ADIO, JSC (Pp 16 - 16 Paras B - E)
- 5.2 AJIDAGBA V. I.G. (1958) 3 F.S.C. 5; (1958) SCNLR 60."
- 5.3 FAGORIOLA v. FRN (2013) LPELR-20896(SC); Per MUHAMMAD SAIFULLAHI MUNTAKA-COOMASSIE, JSC (Pp 13 - 13 Paras A - G)
- 5.4 Shehu vs State (2010) 3 SCNJ 343; Per JUMMAI HANNATU SANKEY, JCA (Pp 44 - 44 Paras A - B)

- 5.5 FRN v. ADEMOLA (2021) LPELR-52831(CA) Per MOHAMMED BABA IDRIS, JCA (Pp 74 - 80 Paras B - A)
- 5.6 SHEHU VS STATE (2010) 3 SCNJ 343; Per JUMMAI HANNATU SANKEY, JCA (Pp 44 - 44 Paras A - B)
- 5.7 UZOAGBA & amp; ANOR VS. COP (2012) LPELR - 15525 (SC)

DATED THIS _____ DAY OF NOVEMBER 2021

PROSECUTION
Magistrate Court 3,
Oka, Ondo,
Ondo State

FOR SERVICE ON

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