

CERTIFIED TRUE COPY

IN THE HIGH COURT OF JUSTICE OF KANO STATE OF NIGERIA
IN THE HIGH COURT OF KANO JUDICIAL DIVISION
HOLDEN AT KANO

SUIT NO.K/89C/2021

BEFORE:-

HON. JUSTICE FAROUK LAWAN ADAMU JUDGE

BETWEEN:-

THE STATE.....COMPLAINANT
AND
MUHAMMAD MUBARAK BALA.....DEFENDANT

CERTIFIED TRUE COPY

RECORD OF PROCEEDING

3/8/2021

Defendant not produced

K. A. Hashim (SC):- For the State.

Ibrahim A. Buba appearing with A. T. Halleluyah for the
Defendant.

Prosecution:- The case is coming up for the 1st time is coming
up for Mention. There was a mix up for the issuance
for the production warrant. I hereby apply for a date
for Further Mention. A fresh production warrant to be
serve to G/Dutse Correctional Centre, Kano.

Defence Counsel:- instead of taking a date for mention, I apply
that it should be for arraignment, since his location is

CERTIFIED TRUE COPY

known now.

Prosecution:- no objection

Court:- The Matter is adjourned to the 13/10/2021 for arraignment, and a fresh production warrant be issued for the production of the Defendant from G/Dutse Correctional Centre, Kano.

SIGNED

HON. JUDGE

3/8/2021

1/2/2022

Defendant in Court speak English

K. A. Hashim (SC):- For the State.

Ibrahim A. Buba appearing with A. T. Halleluyah for the Defendant.

Prosecution:- The case is for arraignment I am ready to proceed.

Defence Counsel:- we are ready

Court:- proceed

Prosecution:- by virtue of the powers confirmed on the Attorney General Kano State Under Section 121 (1) & (2) of the ACJL 2019 which powers were delegated to me,

I hereby apply that the 10 head of charge contained on the Defendant dated 23/6/2021 be read to the Defendant so his plea be taken.

Defendant counsel:- no objection

Court:- each of the 10 charge read and interpret to the Defendant in both English and Hausa Language and vice-visa and he said he understand the content of the charge fully well.

Court to Defendant:- How do your plea?

Guilty or not Guilty

Defendant to the Court:-

1st Count:- I am not guilty

2nd Count:- I am not guilty

3rd Count:- I am not guilty

4th Count:- I am not guilty

5th Count:- I am not guilty

6th Count:- I am not guilty

7th Count:- I am not guilty

8th Count:- I am not guilty

9th Count:- I am not guilty

10th Count:- I am not guilty

Prosecution:- in view of the Defendant's denied of all the 10 charges. We humbly adopt the summary of

evidence contained on the charge sheet as our opening statement in line with section 302 (1) of the ACJL 2019. We urge the court to take the custody of the Defendant and apply for a date for Hearing.

Defendant Counsel:- We are not objecting to the date for Hearing but I have an application for the bail of the Defendant, we humbly apply for the duplicate of the facilities the Prosecution are going to use to prepare for our defence subject to the court's convenience we are ready to move our application.

Prosecution:- We are ready. We have an application dated 8/10/2021 to file our counter affidavit out of time. We are ready to move same.

Defence Counsel:- We concede to the grant of the application.

Court:- proceed

Prosecution:- The application is dated 8/10/2021 & filed on the 11/10/2021, we move the application in terms in view of the defence is not opposing the application.

Court:- Application for extension of time dated 8/10/2021 filed on the 11/10/2021 by the Applicant to file their counter affidavit for the Motion filed by the Defence

is hereby granted.

Defence Counsel:- we have filed a reply on point of law & further and better affidavit. We are ready to move our application.

Prosecution:- we are ready

Defence/Applicant Counsel:- Summons to admit to bail is dated 2/8/2021 filed on the 3/8/2021 and prays for an order admitting the Applicant to bail pending trial. or

- Omnibus prayer
- Attached is a 17 paragraphs affidavit duly sworn to by the Applicant's wife-Amina Ahmed with an annexure Exhibit A. we rely on the paragraphs of the affidavit & the annexure. We equally filed a written address, we seek to adopt the said written address as our argument in support of the application. we urge the court to grant our application.

We filed a further affidavit of the paragraphs in response to the counter affidavit filed by the prosecution/respondent. There is Exhibit. We have attached written address. We adopt same and urge the court to discountenance the submission

of the Prosecution/Respondent in his written address.

Prosecution/Respondent Counsel:- In opposing the application the Respondent filed a counter affidavit which is attached to the Motion on Notice. We rely on all the averments. The counter affidavit has a written address dated 8/10/2021 and filed on 11/10/2021 we adopt it as our oral argument. We urge the court to refuse the application.

Court:- The Matter is adjourned 4th & 5th of April, 2022 for Ruling and commencement of Hearing.

SIGNED

HON. JUDGE

1/2/2022.

4/4/2022

Defendant in court speak Hausa

M. S. Ahmad appearing with K. Hashim and Aminu Bello:- for the State.

James Ibor appearing with I. A. Buba and H. T. Amaka:- for the Defendant.

Prosecution:- The case is for Hearing. However we filed an application dated 31/3/2022 to amend some charges that appeared in the 3rd, 5th and 6th

count.

2ndly to add additional count to the charge sheet, to add count 11, 12, 13, 14, 15, 16 and 18th count. There is almost count 9 & 10. But count 15, , 17 & 18 did not appear. We are applying for a date to regularise our position. We are applying that the case be adjourned since it is for today and tomorrow. There is also a ruling in respect of bail application, we are sorry for the inconvenience.

Defence counsel:- no objection, we are ready for the ruling.

Court:- Ruling read in the presence of all the counsel & the Defendant.

Prosecution:- we are grateful

Defence counsel:- we are also grateful.

Court:- the matter is adjourned to tomorrow the 5/4/2022 for Hearing.

SIGNED

HON. JUDGE

4/4/2022

5/4/2022

Defendant in court speak English

K. A. Hashim (SC) for the State/Complainant

James Ibor appearing with Ibrahim A. Buba and H. T. Amaka:- for the Defendant

Prosecution:- The case is originally slated for Hearing. However, we have 2 applications before the court all dated 31/3/2022.

First one filed on the 1/4/2022 while the other was filed on the 4/4/2022, we want withdraw the application filed on the 1/4/2022.

Defence counsel:- no objection

Court:- Application by the prosecution to withdraw application filed on the 1/4/2022 is hereby granted.

Prosecution:- we have another application dated 4/4/2022 which we just serve the a Defendant with a copy yesterday, subject to the court convenience, we are ready.

Defence counsel:- no objection

Court:- proceed

Prosecution:- Our application is dated 31/3/2022 & filed on the 4/4/2022, brought pursuant to section 223 (2) & (3) of the ACJL 2019 Kano State.

The application is seeking for 4 prayers as contained on the face of the motion paper. The

application has a 7 paragraphs affidavit which we rely on, with 1 annexure the proposed amended charge marked as Exhibit B.

The application has a written address we adopt same as our oral argument and urge the court to grant the application.

Considering the fact that the defence are not opposing the application.

Court to Defence counsel:- no objection

Court:- the application filed by the prosecution dated 31/3/2022 and filed on the 4/4/2022 to amend the charge before the court is hereby granted as prayed.

Prosecution:- we have filed a fresh amended charge dated 31/3/2022 and application under section 224 of the ACJL Kano State 2019 for the charge to be read to the Defendant.

Defence counsel:- no objection

Each of the 18 head count charge read and explained to the Defendant in English language and he said he understood the content of each of the 18 count very well.

Court to Defendant:- How do your plea to each of the 18 count

charges? Are you guilty or not

Defendant:-

1st Head: I am guilty

2nd Head: I am guilty

3rd Head: I am guilty

4th Head: I am guilty

5th Head: I am guilty

6th Head: I am guilty

7th Head: I am guilty

8th Head: I am guilty

9th Head: I am guilty

10th Head: I am guilty

11th Head: I am guilty

12th Head: I am guilty

13th Head: I am guilty

14th Head: I am guilty

15th Head: I am guilty

16th Head: I am guilty

17th Head: I am guilty

18th Head: I am guilty

Prosecution:-

In view of guilty made by the Defendant to each of the 18 count charge. We adopt the proof of

Evidence attached to the charge sheet as the summary of the facts of this case.

In line with section 276 (1) (b) of the ACJL 2019 Kano State, we urge the court to convict the Defendant as charged.

Defence counsel:- we would be objecting to the application. We have reviewed the proof of evidence and we intend to challenge the proof of evidence, for the Defendant extra judicial statement attached to the charge.

I am applying for a stand down of 15 minutes to have a word with defendant.

Prosecution:- no objection

Court:- the matter is stood down to 12:45pm

SIGNED

HON. JUDGE

5/4/2022

12:45pm

Appearances as before

Defence counsel:- we have no any further application to make.

Defendant:- I still maintain I am guilty to each of the count read to me.

Court to Defendant:- do you know the implication of pleading guilty that you have committed the offence?

Defendant:- my pleading guilty means punishment

Court to Defendant:- Did any one put pressure on you to plead guilty or promise you anything or you tortured?

Defendant:- Me on my own I decided to plead guilty no one put any pressure on me, and no one promised me anything, no one influenced me. I reached this conclusion yesterday, I was not tortured by any one.

Court to Defendant:- Do you have anything to say for the court not to convict you.

Defence counsel:- I just plead for leniency.

Court:- The Defendant is charge with the offence of posting blasphemous statement in his facebook page at various times which is an insult to a particular religion which is punishable under section 210 of the Penal Code for count 1, 2, 3, 4, 5, 11, 13 & 17.

Again for count 6, 7, 8, 9, 10, 12, 14, 16 & 18 acts calculated to cause a breach of public peace therefore committed an offence punishable under section 210 & 114 of the

Penal Code.

The defendant pleaded guilty to each of the 18 count charges. The court asked him if he know the implication of pleading guilty which he assured that the result is punishment.

He is asked again if he was influenced, put on pressure, influenced or induced to admit committing the offence, he assured no one put any pressure on him, influenced him, promised him anything or induced him, when asked to show cause, the Defendant just pleaded with the court to be lenient and pleaded for mercy.

From the facts of the case I am of the opinion that the Defendant has not show any cause of why he should not be convicted.

The Defendant understands fully well the content of each of the charge read to him.

Accordingly he is hereby convicted of each of the 18 count charge. He is convicted as such.

ALLOCUTUS

Court to convict:-

Anything to say in mitigation of sentence?

Convict:-

The intent of the post was not to cause any violence, but I have seen now the implication, I would take care in the future.

Defence counsel:-

The convict has shown remorse. He has not put sources of the State into the long wait of trial what can we give a repentance child. He is 1st offender; he has served substantially his sentence. He can't repeat the offence again.

Court to prosecution:- Any previous record?

Prosecution:-

To the best of our knowledge there is no any previous conviction.

Court to Defence counsel:- Do you want call evidence of character?

Defence counsel:-

We don't intent to call any evidence of good character, since already the prosecution has stated there is no previous conviction.

Court:-

The court has considered to the plea of mitigation of sentence by the convict himself and also the Defence counsel.

One important thing I want draw the attention of the convict is that:

No one stops him from any religion, but he should understand that where his intent stops, the intent

of another person start, therefore the intent that he is thinking that he has to say whatever he wants to say or put anything is not absolute. He should be careful. There are a lot of people that may have the same ideology but not expose themselves like that.

He should go and believe in his own faith and allow others to believe in their own faith. There is no compulsion in religion not to take of insulting any particular religion for that matter.

I hope his stay in correctional center would sure serve him a great lesson and others.

Section 114 of the Penal Code which is for action to cause disturbance of public peace it provide:

"Whoever does any act with intent to cause or which is likely to cause a breach of the peace **SHALL** be punished with imprisonment which may extend to 3 years or with fine or which may extend to 300 Pounds or with both"

The punishment has been amended by Penal Code Amendment Law of 1964 NN no. 11 of 1964. The convict is hereby sentenced to 3 years imprisonment without option of fine for each of

the offence under count 6, 7, 9, 10, 12, 14, 16 & 18 counts cumulative 24 years imprisonment.

And for Section 210 of the Penal Code which is putting blasphemous statement to insult a particular religion.

"Whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to breach of the peace shall be punished with imprisonment or a fine which may not extend to 2 years or with fine or both"

This is for count 1, 2, 3, 4, 5, 11, 13 & 17.

The convict is sentenced to 2 years imprisonment for each of the offence- cumulative 16 years imprisonment without option of fine.

On other words: for the offence under section 210 of the Penal Code- count 6, 7, 9, 10, 12, 14, 16 18 counts the convict is to serve 3 years imprisonment for each of the count cumulative 24 years imprisonment.

24 years and 16 years are run concurrently. Therefore the convict is to serve 24 years imprisonment without option of fine, taking into consideration, the period of his incarceration while

awaiting trial.

With the hope that this will serve as deterrence to the convict and others.

SIGNED

HON. JUDGE

5/4/2022

Prosecution:- We are grateful

M. S. Ahmed for the prosecution now appeared:-

I sincerely apologize for appearing late. I am supposed to be the lead counsel, but I was called for promotional interview this morning. We are grateful with the judgment.

Defence counsel:- We are equally grateful.

SIGNED

HON. JUDGE

5/4/2022



By Mr:-
Aq. P. Aszullah
PNSR-8/Comy No 5
Audy Rako Seer, Kano
18/8/2022