

IN THE HIGH COURT OF SIERRA LEONE

HOLDEN AT FREETOWN

INDICTMENT NO. DPP/2016/218

The State

Vs.

Abu Bakarr Mansaray

PROSECUTION: AUGUSTINE SHEKU ESQ

DEFENCE: C TUCKER

JUDGMENT DATED THE 30TH JULY 2016.

INDICTMENT:

The Accused person is charged with the offence of Obtaining Money By False Pretences, contrary to section 32(1) of the Larceny Act, no.32 of 191⁶~~16~~⁶⁵. According to the Particulars of Offence, the Prosecution alleged that the Accused Person, on a date unknown between the 1st day of November 2013 and the 31st day of July 2015 in Freetown, with intent to defraud obtained from Ibrahim Kabba the sum of Four Million Five Hundred Thousand (Le 4,500,000) by falsely pretending that he will facilitate documentations and travelling of the said Ibrahim Kabba to the United Kingdom, knowing same to be false. The Prosecution before the closed of its case made an amendment for the present amount of money herein on the Particulars to be endorsed in words and figures and same was granted by the Court.

The Accused person pleaded not guilty.

The Prosecution also made an application pursuant to section 144(2) of the Criminal procedure Act 19⁶⁵~~15~~ as repealed and replaced by section 3 of the Criminal procedure Act, No. 11 of 1981, for an order that the Accused person be tried by a Judge alone instead of a Judge and Jury. The said application was granted by the Court.

Trial:

The Prosecution produced one witness. In her testimony to the Court, the PW1, Nana Kamara, a Police detective, told the Court that she recalled the 10th day of August 2015, when she was on duty at the Fraud Unit, Criminal Investigation Department, Head Quarters Freetown, the Complainant, Ibrahim Kabba, made a report of Obtaining Money against the Accused person herein. The PW1 further stated following the arrest of the Accused person, the Accused person was cautioned and the Protocols duly observed. The Voluntary Cautioned Statement of the Accused person is produced and tendered as Exhibit A1-7. In the said Exhibit A1- 7, the Accused Person made a confessional Statement that he indeed received the said Four Million Five Hundred Thousand Leones from the Complainant, Ibrahim Kabba, however this money according to the Accused person, he gave this money to one Fatmata Sallu who later disappeared. The Accused person was thereafter charged by the Police for Obtaining Money by False Pretences. The said Charged Statement was produced and tendered as Exhibit B1-2.

In cross, the PW1 told the Court among other things that she did not talk to the said Fatmata Sallu. But the Court takes judicial notice of the fact that it was impossible for the Police to talk to Fatmata Sallu, when the Accused person has said in Exhibit A1 to 7 that Fatmata Sallu

disappeared. The Court further takes judicial notice of the fact that the Complainant Ibrahim Kabba has no knowledge about the existence of Fatmata Sallu.

The Prosecution produced and tendered the committal Certificate as Exhibit C. On the face of the Committal certificate this matter was committed to the High court from the Magistrate Court on the 24th March 2016.

Commencement of Defence Case:

The Accused person told the Court that he relied on his Voluntary Cautioned statement made to the Police and same was produced and tendered as Exhibit A1 to 7. The Accused person further told the Court that he has no witness.

The Prosecution Addressed the Court , and in same drew the attention of the bench of the said confession made by the Accused person and which by itself has satisfied the elements of the offence for which the Accused person is charged.

The Law for determination is an offence under section 32(1), and by that section an offence is committed when a person with intent to defraud, obtains from any other person any chattel, money, valuable security or causes or procures any money to be paid or any chattel or valuable security to be delivered to himself or to any other person for the use or benefit or on account of himself or to any other person. From the wordings of this said section 32(1) of the Criminal Procedure Act 1916 it is crystal clear and unambiguous that the Confessional statement made by the Accused person falls within the meaning of what amount to an offence. For instance, the Accused person obtained

money from Ibrahim Kabba with the pretext that he will facilitate the movement of Ibrahim Kabba out of Sierra Leone but that never happens, the Accused person never returned the money of the Complainant but instead told the Police that the money he received was given to one Fatmata Sallu, who according to the Accused person has disappeared. The question then is was this money that was given to Fatmata, was it done with the knowledge and acquiesce of the Complainant, the answer is a big no. The Complainant relied on the advised of the Accused person and he acted on the faith of same.

The issue of Confession, the Law says is must be Voluntary. From my interpretation about confession in Law, the confessional statement made by the Accused person satisfied the test, which is, it must be made voluntarily. In the Ghanaian case of Billa Moshie v. The Republic (1977) 2 GLR 418, CA, it was established by the Court that a Confession alone, without more, is sufficient to found a criminal conviction.

I hold that the Prosecution has proved its case beyond reasonable doubt as required in the case of Woolmington Vs. DPP, (1935) and in that regard the Accused person is guilty as charged. The Accused person is therefore guilty of the offence and accordingly convicted.

ALLOCUTUS:

Defence asked for
Mercy.
Sentence - The
Accused Person is

to four years
imprisonment.

M. J.

30-7-2016

Justice Aghaji Steven
High Court Judge