

IN THE HIGH COURT OF SIERRA LEONE

HOLDEN AT FREETOWN

INDICTMENT No. DPP/2016/227

THE STATE

VS

1. IBRAHIM TURAY ALIAS PUPA

2. MOHAMED FADIKA

3. GASSIMU KOROMA ALIAS KASSIM

PROSECUTION: AUGUSTINE SHEKU ESQ

DEFENCE; C. TUCKER AND LATER ACCUSED PERSONS  
WERE UNREPRESENTED

JUDGMENT DATED THE 9<sup>TH</sup> DAY OF July 2016

INDICTMENT

The Accused persons are charged on a count of Robbery contrary to section 23(2) of the Larceny Act 1916, as repealed and replaced by section 2 of Imperial Statutes (Criminal Law) Adoption (Amendment) Act No. 16 of 1971. The Particulars of Offence states that Ibrahim

Turay alias Pupa, Mohamed Fadika and Gasssimu Koroma alias Kassim on the 5<sup>th</sup> day of September 2015 at Freetown in the Western Area of the Republic of Sierra Leone robbed Yalie Conteh one mobile phone valued Four Hundred Thousand Leones and the sum of One Million Two Hundred Thousand Leones. The Accused persons pleaded not guilty to the Charge.

The Prosecution filed a Trial by a Judge alone application on the 21<sup>st</sup> day of June 2016 and same was granted by the Court.

Trial:

In the case of the Prosecution just one witness testified. In his testimony to the Court the PW1, Alimamy Bangura, a Detective Police Constable 14078, attached at the Anti-Robbery Unit Ross Road, Police Station, Freetown, told the High Court (hereinafter refers to the Court) inter alia, on the 21<sup>st</sup> day of June 2016, he was on duty when a transferred case and enquiry filed involving the Accused persons before the Court was assigned to him.

Statements were obtained from the Complainant and available witnesses. On the 8<sup>th</sup> day of September 2015, a contemporaneous interviewed was conducted on the

person of the 1<sup>st</sup> Accused. The 1<sup>st</sup> Accused person was cautioned and questioned and the protocols were all observed. The said Voluntary Cautioned Statement of the 1<sup>st</sup> Accused Person tendered as Exhibit A1 to 5. The PW1 resumes his testimony on the 25<sup>th</sup> day of June 2016 before the Court. That, on the 8th September 2015, the 2<sup>nd</sup> Accused person was also cautioned and questioned and all the protocols were duly observed. The Voluntary Cautioned Statement of the 2<sup>nd</sup> Accused person was produced and tendered as Exhibit B1 to 4. It was the very day, the 3<sup>rd</sup> Accused person was Cautioned and questioned and all the protocols observed. The Voluntary cautioned Statement of the 3<sup>rd</sup> Accused person produced and tendered as Exhibit C 1 to 5. On the 13<sup>th</sup> day of September 2015, the PW1 went on, all three accused persons were cautioned and questioned separately and the protocols duly observed separately. The accused persons were all charged with Robbery with Aggravation by the Police. The Charge Statements of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Accused persons were tendered as Exhibits D 1 to 2, E 1 to 2 and F 1 to 2 respectively.

In Cross, the PW1 told the Court that he obtained statements from the Complainant and a witness.

The Prosecution, on this note, closed its case. The Prosecution informed the Court that a Preliminary Investigation was conducted at the Magistrate Court and on the 9<sup>th</sup> day of December 2015, this matter was committed to the High Court. The Committal Certificates were produced and tendered as Exhibits G 1 to 2, H 1 to 2 and J 1 to 2 for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Accused persons respectively.

#### Commencement of Defence

The Accused persons elect to testify from the witness stand. Each Accused person informed the Court that they do not have a witness.

On the 2<sup>nd</sup> July 2016, the Defence Counsel, herein, step down.

The 1<sup>st</sup> Accused person was led by the Registrar of the Court. In his testimony to the Court, the 1<sup>st</sup> Accused person denied the allegation. He said that on the 5<sup>th</sup> September 2015, he was in the company of the 2<sup>nd</sup> and 3<sup>rd</sup> Accused persons. After he has done his day's

business, he was assisted by the 2<sup>nd</sup> and 3<sup>rd</sup> Accused persons at 6am to carry his things home. But whilst going home they were arrested and taken to the Police station

In Cross, the 1<sup>st</sup> Accused person told the Court that in a Complaint made against him by one Mary he admitted to committing an offence.

The 2<sup>nd</sup> Accused person told the Court, that he is a taxi driver. That he decided to parked the car at 3am.

Thereafter he went to the 1<sup>st</sup> Accused person and assisted him in carrying his things. On their way, they met the 3<sup>rd</sup> Accused person who is his younger brother. As they were going, they were arrested and taken to the Kissy Police barracks and thereafter to the Ross Road Police Station. In Cross, the 2<sup>nd</sup> Accused person maintained his position in Chief.

The 3<sup>rd</sup> Accused person told the Court that he is a driver and after the parked the car he went to the 1<sup>st</sup> Accused person to help him carry his business home at 6am. As they were going they were arrested and taken to the Police Station. In Cross, the 3<sup>rd</sup> Accused person testified that he has forgotten the name of the place where the 1<sup>st</sup>

Accused person is doing business. That was the close of the case of the Defence.

The Prosecution relied on the Evidence. The Accused persons relied on their sole testimonies.

The file was thereafter withdrawn by the Court for Judgment.

The Law in issue is that of Robbery contrary to section 23 (2) of the Larceny Act of 1916 as amended. By this section 'Every person who robs any person shall be guilty of felony and on conviction thereof liable to penal servitude for life'. The Voluntary Caution Statements of the Accused persons before the Court is mainly confessional Statements. The accused persons gave a graphic circumstance in a corroborative fashion as to how they were coming from a night club and then came across the Complainant robbed her successfully and thereafter robbed the wife of a pastor and then escaped and but they <sup>were</sup> pursued and thereafter arrested and taken to the Police station. In Court the Accused persons  mainly elect to testify but up to the time of even stepping down from the Defence, there was no

contention of the Confessional Statements made by the ~~Defence Counsel~~. *Accused Persons.*

A Confessional Statement as far as the Law is concern for as long as it was made voluntarily without force, coercion, threat or persuasion it is admissible in Law as was established by the Court in the case of R V. Isequilla (1975) 1 All E.R.77. This exactly is my interpretation of the Confessional Statement made by the Accused Persons and I so hold. The Accused Persons mainly stated in Chief, what suited them the most with any independent evidence or defence of Alibi.

I further hold that the prosecution has proved its case beyond reasonable doubt as was established by the <sup>Court</sup> case in the celebrated case of Wilmington v. Director of Public Prosecutions (1935) A.C. 462. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>

Accused persons are guilty as Charged for the Offence of Robbery contrary to section 23 (2) of the Larceny Act no. 32 of 1965, as repealed and replaced by section 2 of the Imperial Statutes (Criminal Law) Adoption (Amendment) Act no.16 of 1971.

ALLOCUTUS:

- 1<sup>st</sup> Accused person asked for Mercy
- 2<sup>nd</sup> Accused person asked for Mercy

- 3<sup>rd</sup> Accused person also  
for Harry

## Sentence

- The 1<sup>st</sup> Accused person  
is sentence to ten  
years imprisonment

- The 2<sup>nd</sup> Accused  
person is sentence  
to ten years imprisonment

- The 3<sup>rd</sup> Accused person  
is sentence to ten  
years imprisonment

~~AA 1/1~~

9-7-16  
Stewart J.