

IN THE HIGH COURT OF SIERRA LEONE

HOLDEN AT FREETOWN

THE STATE

VS

1. MOHAMED BAH (ALIAS TAPIA)
2. IBRAHIM BANGURA (ALIAS ABEBAYOH)

INDICTMENT NO: DPP/ 2015/ 361

PROSECUTION: AUGUSTINE A SHEKU ESQ.

DEFENCE: C. TUCKER

JUDGMENT DATED THE 23<sup>rd</sup> DAY OF AUGUST 2016

Following the amendment of the Indictment, the Accused Persons herein are now arraigned for the offences of Conspiracy on Count 1, and Robbery on Count 11 contrary to section 23(2) of the Larceny Act 1961 as repealed and replaced by section 2 of the Imperial Statute (Criminal Law) Adoption (Amendment) Act no. 16 of 1971. The Particulars of Offence alleged that the Accused Persons herein , on the 30<sup>th</sup> day of September 2014 at Freetown in the Western Area of Sierra Leone robbed Mariama Gborie of fiscal cash the sum of Ten Million Leones (Le 10,000,000/00), one Honda Jeep Vehicle registration number SMG 002 of the value of Seventeen Thousand United States Dollars (\$17,000/00) equivalent to Seventy Six Million Leones (Le76,000,000/00), one Toshiba Laptop computer of the value Four Million Five Hundred Thousand Leones (Le 4,500,000/00), One HP Laptop computer of the value of Four Million Five Hundred Thousand

Leones (Le 4,500,000/00), One Samsung Tablet of the value of Two Million Eight Hundred Thousand Leones, One Samsung Mobile Phone of the value of Three Million One Hundred and Fifty Thousand Leones (Le 3, 150,000/00), One Play Station of the value of Eight Hundred Thousand Leones (Le 800,000/00), one set of engagement and wedding ring of the value of Seven Million Six Hundred and Fifty Thousand Leones (Le 7,650,000/00), Eighteen Carats gold chain of the value of Three Million One Hundred Thousand Leones (Le 3,100,000/00), one gold watch of the value of Three Hundred Thousand Leones (Le 300,000/00), One external drive of the value of Five Hundred Thousand Leones (Le 500,000/00), assorted wearing for adults and children of the value of Five Million Leones (Le 5,000,000/00), and Nine pair of sandals of the value of One Million Three Hundred and Fifty Thousand Leones (Le 1,350,000/00) all to the total value of One Hundred and Twenty Three Million One Hundred Thousand Leones (Le 123,100, 000/00) property of Mariama Gborie.

Both Accused Persons pleaded not guilty to the Charges on the 5<sup>th</sup> May 2015.

The matter thereafter proceeds to trial. Two witnesses testified in the case of the Prosecution. In the Testimony of the PW1, Mariama Gborie, she informed the Court that on the 29<sup>th</sup> September 2014, she was at home; she went to bed at about 9pm and was woken up by a loud noise around 1:30am to 2:00am i.e. the early hours of the 30<sup>th</sup> September 2014. The PW1 further told the Court that she saw bright light and she shouted 'thief', she was surrounded by four men who asked her to cooperate. The PW1 said she was ordered to lay on the ground and in the process she recognized the 2<sup>nd</sup> Accused person who was disconnecting her phones from her room and another person



interfered with her box scattering her things and she later realized that Ten Million Leones was missing. The PW1 said the 2<sup>nd</sup> Accused Person forcefully removed her married ring from her and her chain from her neck and the keys to the vehicle with registration number SMG 002 was taken. The PW1 said after a while, she realized the parlour was quiet and she came out in the open and she realized that her vehicle with registration number SMG 002 was missing. The PW1 said she shouted for help and neighbours came and the matter was reported to the Kissy Police Station. The PW1 said she received information later about the arrest of the Accused persons.

In Cross Examination, the PW1 told the Court, her house was not completely dark and she identified the 2<sup>nd</sup> Accused person clearly and her vehicle which was stolen by the Accused persons was later retrieved.

The second Prosecution witness, DPC8593 Sesay of the Criminal Investigation Department, Kissy Police Station testified that the PW1 made complaint to the Police on the 30<sup>th</sup> September 2014. Upon information received, the 1<sup>st</sup> Accused person herein was arrested on the 28<sup>th</sup> January 2015 and a contemporaneous interview was conducted on the Person of the 1<sup>st</sup> Accused Person. The Voluntary Cautioned Statement of the 1<sup>st</sup> Accused person was tendered in Court as Exhibit A 1 to 10. But the Cautioned Statement is a confessional statement in which the 1<sup>st</sup> Accused person gave an account of how he teamed up with one Kallay John and they went to Kossoh Town, and after a while, Kallay John asked him to come and collect a Jeep, which he drove off the vehicle with Kallay, John, the 2<sup>nd</sup> Accused person herein and other man he cannot recognized. The 1<sup>st</sup> Accused person said as he moved the vehicle, they were confronted by the Police and

he sustained gunshot on his right arm and he fled the scene but later regained consciousness at the Emergency Hospital, Freetown. The 1<sup>st</sup> Accused Person was charged by the Police and the said Charge Statement tendered as Exhibit B1 to 2

The PW2, also produced and tendered the Voluntary Cautioned Statement of the 2<sup>nd</sup> Accused person herein as Exhibit C 1 to 10, but the 2<sup>nd</sup> Accused person denied his statement and instead claimed he was not at the scene of crime but at his home. The 2<sup>nd</sup> Accused Person was also charged by the Police and same tendered as Exhibit D1 to 2.

The PW2 informed the Court in Cross Examination that the protocols were duly observed in the interview of these Accused persons.

The Prosecution produced and tendered the Committal Certificates of both Accused Persons as Exhibit E1 to 2 and F1 to 2 respectively. The Prosecution closed its case.

In the Defense Case, both Accused persons relied on their Voluntary Cautioned Statement made to Police. The 1<sup>st</sup> Accused person made a confessional statement. The manner of the confession made by the 1<sup>st</sup> Accused person is very clear that it was Voluntary and that I submit is the yardstick in Law. The 2<sup>nd</sup> Accused person made a denial Statement to the Police. There is a legal difficult in the case of the 2<sup>nd</sup> Accused person because when he raised a defence of alibi I.e. he was not at the scene; the 2<sup>nd</sup> Accused person did not produce any evidence or even a sole witness to support the said alibi. Again, the 1<sup>st</sup> Accused person has also implicated the 2<sup>nd</sup> Accused person as a partner in the crime. The situation is very simple in Law; the 2<sup>nd</sup> Accused person ought to have realized that the Statement of a co-Accused person will definitely affect the standing of the other in a Criminal Prosecution.



The Accused Persons are arraigned on two Counts: Conspiracy and Robbery. Conspiracy means an agreement by two or more persons to commit an unlawful act. Robbery on the other hand has to do with the unlawful taking of one's property with the help of violence or threat.

By the explanation of the meaning of the Offences for which the Accused persons are indicted by the State, it is absolutely clear that the Prosecution has proved its case beyond reasonable doubt as was established in the case of Woolmington Vs. DPP (1935) A C 462, and I hold that both Accused persons are guilty on both Counts 1 and 2.

The 1<sup>st</sup> Accused Person has made a Confessional Statement and has implicated the 2<sup>nd</sup> Accused Person who raised a false and unjustifiable alibi i.e. that he was not at the crime scene but at home. The substantive offence is Robbery and its carries a maximum of life sentence, but since the 1<sup>st</sup> Accused person has let us know the truth I shall used my discretion in handing down sentence.

But the truth of the matter is that both Accused persons have disappointed themselves. As very young men in their youthful carrier these Accused persons must have learnt their lessons and get themselves involved in productive engagement that will bring respect and prosperity to their family. But if the Accused persons has the audacity to put the Complainant in fear and forcefully taking her properties in her presence amounting to One Hundred and Twenty Three Million , Hundred Thousand Leones including one Honda Jeep Vehicle with registration number SMG 002 valued Seventeen Thousand United States Dollars, then is a shame to their persons. I also want to commend the armed wig of the Police who made a chase of these Accused persons on the Rokupa /Kissy High way otherwise it will have

been difficult for the defectives to know the whereabouts of these convicted criminals before this Courts. I also wish to advice the general populace that the Lawful thing to do is that whenever a person is arrested and accused of having committed an offence is to hand over the said person to the Police rather than imposing mob justice on such person, because that particular arrested person has a Constitutional Rights to Fair Trial.

Allocutus:

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

## Sentence

- On Count I, the 1<sup>st</sup> Accused person is sentence to five years imprisonment
- On Count II, the 2<sup>nd</sup> Accused person is sentence to fifteen years imprisonment.



On Count I, the <sup>7</sup> 2nd  
Accused person is sentenced  
to five years imprisonment

On Count II, the 2nd  
Accused person is sentenced  
to fifteen years imprisonment

MD 15

23-8-16

Julius Stoney