

**SUPREME COURT OF NIGERIA**  
FRIDAY 18TH MARCH, 2016. SC. SC. 59/2014  
**CORAM:- M. MOHAMMED CJN, S. GALADIMA,**  
**O. RHODES-VIVOUR, N. S. NGWUTA,**  
**M. D. MUHAMMAD, JJSC**

OBINAH JOHN ..... APPELLANT  
V.  
STATE ..... RESPONDENT

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ARMED ROBBERY - Conspiracy - Proof - Exhibit B constitutes ingredient of conspiracy - As it expresses common intention of appellant and others - To commit armed robbery (H1)

ARMED ROBBERY - Ingredients - Proof - Prosecution is bound to prove that there was robbery - That appellant was armed at the time of the robbery - And that appellant participated in the crime (H2)

ARMED ROBBERY - Conviction - Confession - Besides appellant's confession - His conviction is a cumulative result of the confession - And evidence of the victims of the crime (H3)

ARMED ROBBERY - Conviction - Death sentence - Having found that prosecution proved its case against appellant - The sentence of death is the only option for the trial court (H4)

**FACTS**

Accused/appellant and six others were arraigned before the High Court of Oyo State Ibadan Judicial Division on one count charge of conspiracy to commit armed robbery contrary to section 5(b) and punishable under section 1(2)(a) of the Robbery and Firearms (Special Provision) Act. They pleaded not guilty to the charge. At the trial, prosecution/respondent called seven witnesses to support its case. A no case submission was made on behalf of the suspects.

Following the submission, 4<sup>th</sup> accused person was discharged and acquitted on the count charge of sheltering armed robbers. The remaining persons were called upon to enter their defence. At the end of the trial, the learned trial Judge in his judgment convicted

each of the accused persons and sentenced them to death by hanging. Dissatisfied with the decision, appellant appealed to the Court of Appeal Ibadan Division. The appeal was dismissed and judgment of the trial court affirmed. Still dissatisfied, appellant appealed to the Supreme Court.

### **ISSUES FOR DETERMINATION**

*“1. Whether the ingredients of the offences of conspiracy to commit the offence of armed robbery and armed robbery were proven beyond reasonable doubt in respect of the appellant?”*

*2. Whether the Court of Appeal could rightly sustain the appellant’s conviction and consequent sentencing based on the alleged confessional statement made by the appellant to (sic)?*

*3. Whether the death sentence on the appellant is warranted?*

**HELD** (Unanimously dismissing the appeal per

**NGWUTA JSC)**

*ARMED ROBBERY - Conspiracy - Proof*

**1. Conspiracy is an agreement by two or more persons to do or cause to be done an illegal act or to do a legal act by an illegal means. People who agree among themselves to embark on an illegal venture or to achieve a legitimate end by an illegal means do not invite a witness or witnesses to attest to their agreement.**

**Usually the facts surrounding the execution of the intention expressed in the agreement will determine whether those charged with the commission of crime acted individually or in pursuance of a prior agreement to effect an unlawful purpose or to effect a lawful purpose by unlawful means. Bare agreement to commit an offence suffices. While the actual commission of the offence is not a necessary ingredient of the offence of conspiracy, the actual commission of the offence may show common intention formed before it.**

**In my view, there can be no better evidence of conspiracy. Standing by itself Exhibit B constituted the ingredient of conspiracy when it was admitted in evidence without objection. Exhibit B expresses the meeting of the minds of the appellant and those named therein as well as their common**

**intention to commit armed robbery for which they made adequate preparation by selling drugged pure water to put their victims to sleep.** (pp. 2322 E/2323 C)

*ARMED ROBBERY - Ingredients - Proof*

**2. To succeed in establishing the commission of armed robbery, the prosecution is bound to prove:**

**(a) that there was robbery;**

**(b) that the appellant was armed at the time of the robbery or it was known to him or ought to be known to him that a member of his gang was armed at the material time, and**

**(c) that the appellant participated in the armed robbery.**

**Exhibit B is proof that there was a robbery and that the appellant was involved in it. He stated how much they robbed their victims of, his own share and what he spent it on. He said that he had no gun but there is credible evidence of the victim that those who robbed them fired firearms.** (p. 2323 E)

*ARMED ROBBERY - Conviction - Confession*

**3. The law of confession is concerned mainly with statements made by an accused person to the police or other law enforcement agents. Such statement may not necessarily amount to a full confession. In Exhibits B8 and B8A, the appellant confessed to preparation for armed robbery - the purchase of pure water which he and his gang drugged, sold to the passengers who fell asleep, the act of the robbery with the requisite intent of mens rea.**

**The appellant confessed to the overt acts as well as the actual commission of the crime of robbery in a passenger bus en route from Lagos to Onitsha in Anambra State.**

**Appellant said he robbed without a gun but credible witnesses testified that the appellant and his gang fired a gun during their robbery operation. It is immaterial that the appellant in his confession said he robbed a different bus on a different date. It was a calculated attempt by the appellant to divert attention from one of his crimes to another one. Though an accused can be convicted solely on his confessional statement, the conviction of the appellant is a cumulative result of**

**his confession and the evidence of his victims.**

**The confession is direct and cogent as to the robbery of a bus by appellant and his gang who bought seats as passengers in the bus. The confessional statements did not have to be made to a nicety. It is enough that the essential elements are admitted therein. The issue as framed created the erroneous impression that the appellant was convicted exclusively on his confessional statements. This is not correct.**

**The issue told a lie and learned Counsel for the appellant is warned not to massage proven facts but to state them as they are. The allegation of a shot on the leg is a belated attempt by the appellant to clutch at the last straw. He was represented by Counsel. The statements were admitted without objection and appellant cannot be heard to put the voluntariness vel non, of his statement in issue deny his defence. I resolve the issue against the appellant. (p. 2324 D)**

*ARMED ROBBERY - Conviction - Death sentence*

**4. Issue 3 questions the sentence of death passed on the appellant. The trial Court considered the confessional statement as well as the evidence of the victims. These are issues of fact the veracity of which the Court accepted. The Court of Appeal reviewed the case and had no reason not to agree with the trial Courts evaluation of the evidence and ascription of probative value thereto.**

**The trial Court found as a fact that the prosecution proved its case of armed robbery against the appellant. In the circumstances, sentence of death by hanging is the only option for the Court. See Section 1 (2) (a) of the Robbery and Firearms (Special Provisions) Act Cap. 398 Vol. XXII Laws of the Federation of Nigeria, 1990, as amended, under which the charges were laid.**

**In any case, the death penalty was imposed by the trial Court, not the Court of Appeal and this Court has no power to determine appeals from the trial High Courts. I resolve the issue against the appellant. (p. 2325 D)**

## **REPRESENTATION**

Olumide Aju, for the Appellant

Doyin Rhodes-Vivour with him Anthony Onwaeze, for the Respondent

## **CASES REFERRED TO**

Salami v. Lawal (2008) 6-7 SC (pt. 11) 242

Ugo v. Obiekwe (1989) 2 SC (pt. 11) 41

Omo v. J.S.C. Delta State (2007) 7 SC (pt. 11) 1

Oseni v. State (2012) 5 NWLR (pt. 1293) 351

Mohammed v. State (2014) 2 NWLR (pt. 1390) 44

Onuoha v. State (2002) 1 NWLR (pt. 748) 406

Balogun v. A-G Ogun State (2002) 6 NWLR (pt. 763) 512 SC

Ikemson v. State (1989) 3 NWLR (pt. 110) 455

Clark v. State (1986) 4 NWLR (pt. 35) 381

Arinze v. State (1990) 6 NWLR (pt. 155) 158

Eke v. State (2011) 1-2 SC (pt. 11) 219

Okosi v. A-G Bendel State (1989) 1 NWLR (pt. 100) 642

Obosi v. State (1965) NMLR 119

Adejobi v. State (2011) 6 - 7 SC (pt. iii) 65

Bright v. State (2012) 1 SC (pt. ii) p.47

## **STATUTES REFERRED TO**

Robbery & Firearms (Special Provision) Act, ss. 1(2)(a), 5(b)

Evidence Act 2011, ss. 28(1), 135 (1)

## **LEAD JUDGMENT BY NGWUTA JSC**

Appellant and six others were arraigned before the Ibadan Judicial Division of the High Court of Justice, Oyo State. Appellant and 5 other accused persons were charged with one count of conspiracy to commit armed robbery contrary to Section 5(b) and punishable under Section 1(2) (a) of the Robbery and Firearms (Special Provision) Act.

The 7th accused person was charged with one count of sheltering armed robber contrary to Section 5 (b) and punishable under Section 1 (2)(a) of the Act.

Before the commencement of the trial, two of the accused persons were reported dead and the third one was said to be at

large. On the application of the prosecuting Counsel, the names of the said three accused persons were struck out and the trial of the remaining four accused persons opened, each of them pleading not guilty.

The prosecution called seven witnesses and closed its case.

B Learned Counsel for one of the accused persons made a no-case submission-on behalf of the four accused persons. Based on the no case submission, the trial Court acquitted and discharged the 4th accused person on the charge of sheltering armed robber. The Court called upon each of the remaining three accused persons to enter upon his defence. Each of them gave a sworn testimony on his behalf but called no other witness. Learned Counsel for the parties addressed the Court.

D In its judgment delivered on 9th November, 2006 the trial Court convicted each of the accused persons in Counts 1, 2, 3, 4 and 6, having acquitted and discharged each of them in Count 5 of the information. The Court sentenced each of the convicts to death by hanging.

E Aggrieved by the judgment, appellant, Obinah John, appealed to the Ibadan Division of the Court of Appeal, which Court dismissed the appeal on 1st November, 2013. The Court below affirmed the judgment of the trial Court.

F Being dissatisfied with the judgment of the Lower Court, appellant appealed to this Court on the five grounds contained in his Notice of Appeal dated 28th November, 2013.

From the five grounds of appeal, learned Counsel for the appellant distilled the following three issues for determination:

G *“1. Whether the ingredients of the offences of conspiracy to commit the offence of armed robbery and armed robbery were proven beyond reasonable doubt in respect of the appellant? (Grounds 3 & 4)*

H *2. Whether the Court of Appeal could rightly sustain the appellant’s conviction and consequent sentencing based on the alleged confessional statement made by the appellant to (sic)? (Grounds 1 and 2)*

*3. Whether the death sentence on the appellant is warranted? (Ground 5)”*

In his brief of argument, learned counsel for the respondent,

having stated the facts of the case, said in Paragraph 3.1 of the Respondents Brief:

*“3.1. From the above facts, the following issues are, with respect, formulated for determination:*

*“1 Whether the confessional statements of the appellant were admissible and reliable and whether the Lower Courts were right to have convicted and affirmed the conviction, respectively, on the basis of the confessional Statements.*

*2. Whether the prosecution did not prove its case against the appellant beyond reasonable doubt and whether the Lower Courts were wrong to have held accordingly”*

My Lords, I have some serious reservations on the issues in the Respondents Brief. The two issues have sub-issues and there is no provision for sub-issues in the Supreme Court Rules. See *Salami & Anor v. Lawal* (2008) 6-7 SC (Pt. 11) 242. Sub-issues do not aid in the proper determination of the real issues in controversy.

In an appeal, a respondent has three options: to adopt the issues formulated by the appellant, to give the issues a slant in favour of his own side of the case or he may formulate his own issue but the issues so formulated must be derivable from the grounds of appeal.

Issues for determination formulated either by the appellant or the respondent must flow from the grounds of appeal. See *Ugo v. Obiekwe* (1989) 2 SC (Pt.11) 41.

Proliferation of issues should be avoided. The respondent's learned Counsel formulated the two issues not from the grounds of appeal but from the above fact, that is, from the facts of the case as narrated by learned Counsel for the respondent. Consistent with the assertion that the issues were formulated from the facts of the case, learned Counsel for the respondent did not marry the issues to any ground or grounds of appeal.

An issue for determination not formulated from, or based on, the grounds of appeal is completely useless and must be discountenanced in the determination of the appeal. See *Omo v. J.S.C. Delta State* (2007) 7 SC (Pt.11) 1. I will ignore the respondent's two issues and determine the appeal on the three issues canvassed by the appellant.

Issue 1 is on the proof beyond reasonable doubt of the ingredients of the offences of conspiracy to commit armed robbery and

the substantive offence of armed robbery. In dealing with this issue, learned Counsel for the appellant contended that the prosecution failed to prove the ingredients of the offences beyond reasonable doubt as required by Section 135 (1) of the Evidence Act, 2011. He referred to *Oseni v. State* (2012) 5 NWLR (Pt.1293) 351 at 386 and B stated that to prove armed robbery the prosecution must prove the following elements:

- (a) that there was a robbery;
- (b) that the robbery was an armed robbery;
- (c) that the accused while with arms participated in the robbery.

C He referred to *Balogun v. A-G Ogun State* (2002) 6 NWLR (Pt.763) 512 SC. Learned Counsel argued that there was no evidence linking the appellant with the alleged robbery of a bus belonging to GUO Transport Company on or about 7th May, 2003 at Id-Ayunre along Ibadan/Ijebu-Ode road, Ibadan. He added that there was no evidence that the appellant used arms to rob any bus belonging to GUO Transport Company. He said that none of the three witnesses made reference to, or identified, the appellant as one of the D people who robbed the passengers on the bus belonging to GUO Transport Company. E

He relied on the evidence of the PW4 who said that “the people who shot and took money from me were inside the vehicle with us but I could not recognise them because the light was off”? He referred to and relied on the evidence of PW5 who said, inter alia, the light was off and he could not recognise any of the robbers. He submitted that the entire evidence of the prosecution did not prove any of the elements of the offence charged nor did the evidence tie the G appellant to the offence charged.

He referred to the statements of the appellant, Exhibits B8 and B8A and argued that it was wrong to have convicted the appellant on the purported confessional statements for the following reasons:

H (a) the involuntary statement did not indicate that the bus robbed was GUO Luxurious Bus but stated that the bus robbed was Ifesinachi at Oremeji, Ibadan, and

(b) that the alleged robbery occurred on 7/5/2003 but the alleged confessional statements referred to the incident which oc-

curred sometime in the month of April, 2003 and not 7/5/2003.

He said that the trial Court was in error to have held that the appellant confessed that the alleged robbery of Ifesinachi Luxury Bus occurred on 7/5/2003, the date on which the incident involving the GUO Bus took place and that the Court below equally erred in its judgment which affirmed the judgment of the trial Court. B

He said that the contradictions in the alleged confessional statements vis-à-vis the case of the prosecution were glossed over by the two Lower Courts. He contended that there is a doubt as to whether the appellant committed the offence and urged the Court to resolve the doubt in favour of the appellant as required by law. He relied on Mohammed v. State (2014) 2 NWLR (Pt.1390) page 44. C

He referred to what he called assumption by the trial Court which he said the Court below accepted and argued that the assumption occasioned a miscarriage of justice. He relied on Onuoha v. State (2002) 1 NWLR (Pt.748) 406 at 424. He urged the Court to resolve the issue in favour of the appellant. D

Issue 2: learned Counsel for the appellant dealt with the statements of the appellant. He contended that the alleged confessional statements are invalid in law and cannot sustain the conviction of the appellant. He reproduced the definition of a confession in Section 28 (1) of the Evidence Act, 2011 . He said that the confession must relate to the offence charged which is the robbery involving a bus belonging to GUO Transport Company on 7th of May, 2003 while the alleged confession related to a different incident of unnamed date in April, 2003 which involved Ifesinachi bus. E F

He said that the confessional statement was not made voluntarily for which he relied on the evidence of the appellant that “ *I was shot in the leg before I signed the statement, Exhibit B*”. He urged the Court to set aside the conviction and sentence passed on the appellant based on the alleged confessional statements. He urged the Court to resolve issue 2 in favour of the appellant. G

Issue 3: Learned Counsel argued that in view of the fact that the case against the appellant was not proved as the purported confessional statements did not show that he committed the offence, the sentence of death passed on the appellant is unwarranted and ought to be quashed. He referred to *Oforlete v. The State* (2000) 12 NWLR (Pt. 681) 415 at 436. He urged the Court to resolve the issue in H

*favour of the appellant.*

*In conclusion, he urged the Court to allow the appeal for the following reasons:*

*(a) the elements of the offences charged were not proved beyond reasonable doubt;*

B *(b) confessional statement was invalid and cannot be used to convict the appellant;*

*(c) the alleged confessional statements did not relate to the crime charged, and*

C *(d) the sentence of death is unwarranted having regards to the total absence of evidence to prove the elements of the offence.*

*As I indicated earlier in this judgment, I will not countenance the issues which learned Counsel for the respondent “framed from the above facts”.*

D I will proceed to determine the appeal on the three issues which learned Counsel for the appellant distilled from the grounds of appeal.

E Issue 1- Whether the ingredients of the offences of conspiracy to commit offence of armed robbery and armed robbery were proved beyond reasonable doubt in respect of the appellant. (Grounds 3 and 4).

F ***Conspiracy is an agreement by two or more persons to do or cause to be done an illegal act or to do a legal act by an illegal means. People who agree among themselves to embark on an illegal venture or to achieve a legitimate end by an illegal means do not invite a witness or witnesses to attest to their agreement.***

G ***Usually the facts surrounding the execution of the intention expressed in the agreement will determine whether those charged with the commission of crime acted individually or in pursuance of a prior agreement to effect an unlawful purpose or to effect a lawful purpose by unlawful means. Bare agreement to commit an offence suffices. While the actual commis-***

H ***sion of the offence is not a necessary ingredient of the offence of conspiracy, the actual commission of the offence may show common intention formed before it.*** See Patrick Ikemson & Ors v. The State (1989) 3 NWLR (Pt.110) 455 at 477; Clark v. The State (1986) 4 NWLR (Pt.35) 381; Arinze v. The State (1990) 6 NWLR

(Pt.155) 158. Appellant made a confessional statement, Exhibit B, which was admitted without objection by the defence represented by Counsel at all material times. In Exhibit B, appellant said, inter alia:

*“...myself, Onyekachi Onyeye and one Okechukwu join (sic) went to Oremeji area of Mokola at about 7.00 pm with the intention to sell drug (sic) water for passengers in the vehicle. After buying one B bag of pure water all of us conspired together to drug the pure water and later sold it to the passenger (sic). The purpose of selling drug water to the passengers is to enable them get drug (sic) and sleep while the luxurious bus is moving. Having successfully sold the pure water to the passenger (sic) then I and three other (sic) then paid for C attachment seat among the passengers with the aim of robbing them of their money after the (sic) might have slept...”*

**In my view, there can be no better evidence of conspiracy. Standing by itself Exhibit B constituted the ingredient of conspiracy when it was admitted in evidence without objection. Exhibit B expresses the meeting of the minds of the appellant and those named therein as well as their common intention to commit armed robbery for which they made adequate preparation by selling drugged pure water to put their E victims to sleep.**

**To succeed in establishing the commission of armed robbery, the prosecution is bound to prove:**

- (a) that there was robbery;**
- (b) that the appellant was armed at the time of the robbery or it was known to him or ought to be known to him that F a member of his gang was armed at the material time, and**
- (c) that the appellant participated in the armed robbery.**

See Eke v. State (2011) 1-2 SC (Pt.11) 219 at 234-235 SC; Okosi v. A-G Bendel State (1989) 1 NWLR (Pt. 100) 642. G

**Exhibit B is proof that there was a robbery and that the appellant was involved in it. He stated how much they robbed their victims of, his own share and what he spent it on. He said that he had no gun but there is credible evidence of the victim H that those who robbed them fired firearms.**

PW4 swore that the people who shot and took money from me were inside the vehicle with us.

PW5 said, inter alia: *“The gun they used was inside the ve-*

hicle...” The evidence of PW4 and PW5 was not discredited. The evidence shows that at least one of the gang had a gun and it is incredible to argue that the appellant did not know of the gun after the elaborate plan they made to rob the passengers. It is my view, in the circumstances, that the appellant or one of his partner was armed.

B Issue 1 is answered in the positive. The ingredients of conspiracy to commit armed robbery and armed robbery were proved beyond reasonable doubt.

C Issue 2: Whether the Court of Appeal could rightly sustain the Appellant’s conviction and consequent sentencing based on the alleged confessional statements made by the appellant. (Grounds 1 and 2)

Section 28 of the Evidence Act, 2011 defines a confession as:

D “S.28: A confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime.”

***The law of confession is concerned mainly with statements made by an accused person to the police or other law enforcement agents. Such statement may not necessarily amount to a full confession.*** See Obosi v. State (1965) NMLR 119. ***In Exhibits B8 and B8A, the appellant confessed to preparation for armed robbery - the purchase of pure water which he and his gang drugged, sold to the passengers who fell asleep, the act of the robbery with the requisite intent of mens rea.***

F ***The appellant confessed to the overt acts as well as the actual commission of the crime of robbery in a passenger bus en route from Lagos to Onitsha in Anambra State.*** See Omisade & Ors v. The Queen (1964) 1 All NLR 233.

G ***Appellant said he robbed without a gun but credible witnesses testified that the appellant and his gang fired a gun during their robbery operation. It is immaterial that the appellant in his confession said he robbed a different bus on a different date. It was a calculated attempt by the appellant to divert attention from one of his crimes to another one. Though an accused can be convicted solely on his confessional statement, the conviction of the appellant is a cumulative result of his confession and the evidence of his victims.***

***The confession is direct and cogent as to the robbery of***

***a bus by appellant and his gang who bought seats as passengers in the bus. The confessional statements did not have to be made to a nicety. It is enough that the essential elements are admitted therein. The issue as framed created the erroneous impression that the appellant was convicted exclusively on his confessional statements. This is not correct.*** B

***The issue told a lie and learned Counsel for the appellant is warned not to massage proven facts but to state them as they are. The allegation of a shot on the leg is a belated attempt by the appellant to clutch at the last straw. He was represented by Counsel. The statements were admitted without objection and appellant cannot be heard to put the voluntariness vel non, of his statement in issue deny his defence. I resolve the issue against the appellant.*** C

***Issue 3 questions the sentence of death passed on the appellant. The trial Court considered the confessional statement as well as the evidence of the victims. These are issues of fact the veracity of which the Court accepted. The Court of Appeal reviewed the case and had no reason not to agree with the trial Courts evaluation of the evidence and ascription of probative value thereto.*** D E

***The trial Court found as a fact that the prosecution proved its case of armed robbery against the appellant. In the circumstances, sentence of death by hanging is the only option for the Court. See Section 1 (2) (a) of the Robbery and Firearms (Special Provisions) Act Cap. 398 Vol. XXII Laws of the Federation of Nigeria, 1990, as amended, under which the charges were laid.*** F

***In any case, the death penalty was imposed by the trial Court, not the Court of Appeal and this Court has no power to determine appeals from the trial High Courts. I resolve the issue against the appellant.*** G

Having resolved the three issues against the appellant, I hold that the appeal is without any substance and it is hereby dismissed. I H affirm the judgment of the Court of Appeal which had affirmed the judgment of the trial Court.

Appeal dismissed.

**MOHAMMED CJN**

My learned brother Ngwuta, JSC, had permitted me to read his lead Judgment in this appeal before today. I am in full agreement with him in the manner he considered and resolved all the 3 issues arising for the determination of the appeal as formulated by the Appellant in the Appellant's brief of argument.

The evidence on record in support of the conviction of the Appellant of the offences of conspiracy to commit armed robbery and the offence of armed robbery itself, is overwhelming. The confessional statement of the Appellant, admitted in evidence without any objection, is supported by evidence outside the statement, such as the money received by the Appellant as his own share in the proceeds of the armed robbery with which the Appellant bought two Motor Cycles one day after the event of the armed robbery operation. See *SILAS IKPO VS THE STATE* (1995) 9 NWLR (Pt.421) 540 at 554 where Iguh, JSC. (as he then was) said -

*"The law is clear that a free and voluntary confession of guilt, whether judicial or extra-judicial if it is direct and positive and properly established, is sufficient proof of guilt and is enough to sustain a conviction so long as the Court is satisfied with the truth of such confession."*

See also *R. VS. SYKES* (1913) 8 CAR 233 and *ACHABUA VS THE STATE* (1976) 12 S.C. 63 at 68-69.

In the instant case, the confessional statement of the Appellant in Exhibits B and B1 are direct, positive and unequivocal and therefore needed no corroboration at all to support the conviction of the Appellant. In any case, the evidence of the prosecution witnesses particularly, the evidence of PW.3 at pages 46-47 of the record, has removed any doubt as to the confession of the Appellant to the commission of the offences for which he was charged and convicted. It is for the above reasons and more comprehensive reasons contained in the lead Judgment of my learned brother Ngwuta JSC that I also saw no merit at all in this appeal which is hereby dismissed. The conviction of the Appellant of the offences of conspiracy to commit armed robbery and armed robbery itself by the trial High Court and sentenced to death as was affirmed by the Court below on appeal, are hereby further affirmed.

***GALADIMA JSC***

I have been obliged a copy of the judgment of my learned brother, NGWUTA, JSC just delivered. I agree with his reasoning leading to the conclusion that there is no justification for disturbing the concurrent findings of the Lower Courts that the appeal lacks merit and ought to be dismissed. I dismiss same. B

I too, affirm the judgment of the Court of Appeal which has affirmed the judgment of the trial Court. Appeal dismissed.

***RHODES-VIVOUR JSC***

My lords, I have the advantage of reading in draft the judgment of my learned brother, Ngwuta, JSC. I agree with it and for the reasons His lordship gives I, too would dismiss the appeal. C

The offence of conspiracy is committed where two or more persons agreed to do an unlawful act or to do a lawful act by unlawful means. Conspiracy is a continuing offence, other persons may join an existing conspiracy and become parties to it. So the conspiracy will continue to subsist as long as the parties to it agree. It comes to an end by performance or abandonment of the act. In all cases of conspiracy the Court must be satisfied with evidence of complicity of the accused person/s in the offence. See *Adejobi & anor v. State* (2011) 6 - 7 SC (Pt.iii) p.65. *Bright v. State* (2012) 1 SC (Pt.ii) p.47. D E

The Appellant and his co-conspirators met and agreed to rob passengers on a long distance bus. Their plan was to put some sleeping drugs in water they sold to the passengers on the bus. In this way the passengers would fall into a deep slumber after drinking the water. The appellant and his co-conspirators would then rob the passengers with ease. They had no difficulty carrying out their plan. The offence of conspiracy and armed robbery were thus proved beyond reasonable doubt, more so as exhibit B, the confessional statement of the Appellant and was tendered without objection from the Appellant or his counsel revealed the above in more detail. F G H

For these brief reasons as well as those more fully given by my learned brother Ngwuta JSC, I agree that this appeal should be dismissed. Appeal dismissed.

**MUHAMMAD JSC**

I read in draft the lead judgment of my learned brother Ngwuta JSC, just delivered. I entirely agree with his lordship’s reasoning and conclusion that the appeal lacks merit and dismiss same. I abide by the consequential orders made in the lead judgment.

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