

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE NYANYA JUDICIAL DIVISION**  
**HOLDEN AT NYANYA ON THE 12<sup>TH</sup> DAY OF NOVEMBER, 2018**  
**BEFORE HIS LORDSHIP, HON. JUSTICE U. P. KEKEMEKE**  
**SUIT NO:FCT/HC/CR/234/15**

**COURT CLERK: JOSEPH BALAMI ISHAKU**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA .....COMPLAINANT**

**AND**

**BRIMMY ASEKHARUAGBON UZIMEGHAN OLAGHERE ...DEFENDANT**

**JUDGMENT**

On the 11<sup>th</sup> day of June 2015, the Prosecution filed an Information against the Defendant dated 10<sup>th</sup> June 2015. It is a two Count Charge. It reads.

**COUNT 1**

That you Brimmy Asekharuagbon Uzimeghan Olagere sometime in July 2014 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory did with intent to defraud obtained various goods worth the sum of Twenty Million, Two Hundred and Thirty Two Thousand Naira only (N20,232,000) from Okwosu Chinedu under false pretence that the said goods were meant for United African States which you knew to be false and thereby committed an offence contrary to Section 1 (1) (a) of the Advance Fee Fraud and Other Fraud Related Offences Act 2006 and punishable under Section 1 (3) of the same Act.

## COUNT 2

That you BRIMMY ASEKHARUAGBON UZIMEGHAN OLAGHERE sometime in July 2014 at Abuja in the Abuja Judicial Division of the High Court of the Federal Capital Territory did, with the intent to defraud obtained Eight Cars/goods worth the sum of Thirty Five Million, Eight Hundred Thousand Naira only (N35,800,000) from Joyjoe Global link Limited under false pretence that the cars were meant for United African Diaspora States, United African States, New Africans World Bank and FEDERATED UNITED AFRICAN STATES which you knew to be false and thereby committed an offence contrary to Section 1 (1) (a) of the Advance Fee Fraud and Other Fraud Related Offences Act 2006 and punishable under Section 1 (3) of the same Act.

The two counts Charge was read to the Defendant on the 13<sup>th</sup> of October 2015. He pleaded Not Guilty to the two count charge.

The Prosecution opened its case on the 18<sup>th</sup> of November 2015. The First Prosecution Witness is one Mrs Modupe Philips. She stated that she is a business person and the Managing Director of Joyjoe Global Link Limited. That sometimes in April 2014, she was introduced to the Defendant, Prof Brimmy through HON HALIMA AGBATUTU who was the Head of Human Relation affairs of United African States.

She had been her church member in Jos. She took her to Defendant and requested that she should supply Defendant and his organization cars. She supplied the United African States eight cars namely:

1. 2012 Toyota Camry.
2. landcruiser 2003
3. Toyota Rav 4.
4. mazda 5 2009.
5. Toyota Sienna 2005.
6. Mitsubishi Lancer 2008.
7. Ford Focus 2000
8. Mercedez ML 320 2003.

That she has evidence of supply. That there was a letter written acknowledging receipt of the cars. It is Written in the name of African United States and signed by the Defendant. The letter is Exhibit A. That after the supply, they promised to pay. She went to their office severally but the money was not paid. The Defendant said the money was to be transferred from the United State of America. He advised her to open an account with Union Bank to receive the said sum on the pretext that USA would only deal Union Bank as all other banks are involved in money laundering. She opened the said account yet the money was not transferred into it.

When she started troubling him, he said he would pay when they inaugurate the New African World Bank in Nigeria. They gave her a Certificate of appointment as supplier of cars. The Certificate of registration of Joyjoe

Global Limited issued by Federated United African States with United African Diaspora States is Exhibit B.

The New Africa World Bank was inaugurated at the International Conference Centre Abuja where she was also to help them with a song since Onyeka Onwenu was supposed to sing, could not. They promised to pay all the expenses she incurred in the process. She brought people from Lagos and Jos. She bought uniforms to grace the occasion of the inauguration. That her expenses were not paid. The Defendant later called and offered her appointment as an Executive Commissioner in the United African State, Africa Diaspora States and New Africa World Bank. The documents evidencing the said appointment got burnt in a fire incident but she has a copy of the registration letter. The said letter is Exhibit C.

She also wrote a letter asking for the release of the cars to her because she has all the original documents pending payment. The letter of withdrawal of cars is Exhibit D. Nothing was given to her in respect of the offices she occupied in the Defendant's organization. She did not receive any salary.

The Defendant instructed her to bring about 100 car dealers to register with the body. She was not too sure she could get 100 car dealers. He shouted on her and consequently drove her out of his office. She reported to her Uncle who is a Police Officer who followed her to the Defendant, he promised to pay. She later travelled out of the country. She was able to recover two of the cars before she travelled. By the time she came back EFCC was able to recover 5 of the cars. It is the Toyota Camry that has not been recovered. She

applied to EFCC for the cars to be released to her. They have been released to her. She made Statement at the EFCC.

Under cross examination, she answered that she did not go into any agreement before she supplied the cars. That she was told to supply cars so that she would be paid that same week.

On a question she answered that she got information that the Defendant has sold the remaining car with him. She instructed her Solicitor to write EFCC that she supplied cars and Defendant refused to pay. That even if she recovers all the cars, she would still complain because he has done a lot of damage to her business and her children's school fees.

The Prosecution failed to call further Witnesses after the cross examination of PW1 on 28/06/16. It has been one adjournment or the other principally due to the absence of the Prosecution and its Witnesses. The Court was forced to foreclose the Prosecution and adjourned for Judgment.

The two count charge against the Defendant has earlier been reproduced in this Judgment.

It is a case of obtaining goods and cars under false pretences under Section 1(1)(a) and punishable under Section 1(3) of Advance Fee Fraud and Other Fraud Related Offences Act 2006. It is well settled that the standard of proof in a Criminal Trial such as this is proof beyond reasonable doubt. This means

that it is not enough for the Prosecution to suspect a person of having committed a criminal offence. There must be evidence.

See *ADADON VS. STATE (1997) 1 NWLR (PT. 479) 1.*

*AKINYEMI VS. STATE (1999) 6 NWLR (PT. 607) 449*

*AIGBADON VS. STATE (2000) 4 SC (PT. 1) 1 AT 15.*

In a criminal trial, the burden of proof lies throughout, upon the Prosecution to establish the guilt of the Defendant beyond reasonable doubt and it never shifts. Even where a Defendant in his Statement to the Police admitted committing the offence, the Prosecution is not relieved of the burden, failure to discharge this burden renders the benefit of doubt in favour of the Defendant.

Section 1 (1)(a) of the Advance Fee Fraud and Other Fraud Related Offences Act State:

“(1) Notwithstanding anything contained in any other enactment or law, any person who by any false pretence and with intent to defraud.

- (a) Obtains, from any other person, in Nigeria or in any other country, for himself or any other person commits an offence under the Act”.

The ingredients of the two count charge are:

1. False pretence.
2. Intention to defraud.
3. The person must have obtained or taken.

Only one Prosecution Witness gave evidence.

On Count One, the goods worth about N20,232,000 were said to have been obtained from OKWOSU CHINEDU. The said OKWOSU CHINEDU was not called in evidence.

There is no evidence of false pretence, intention to defraud and taken. There is no shrewd of evidence whatsoever linking the Defendant with the Count One. The Prosecution in my humble view failed to discharge the onus placed upon it by law.

In the circumstance, the Defendant is discharged and acquitted on Count one.

On Count Two, the evidence is that the PW1 (the Nominal Complainant) supplied the Defendant's organization eight cars which the Defendant and his organization failed to pay for despite repeated demands. However the Nominal Complainant and the Economic and Financial Crimes Commission were able to retrieve seven out of the eight cars.

There is no evidence that the said cars were obtained by false pretence and with the intention to defraud. The PW1 concluded the agreement for the supplies of the cars in the office of the Defendant.

There is not evidence to suggest that the organisations mentioned by the PW1 do not exist and or are fake. It is my humble view that what is diclosed by evidence, is a case of breach of contract.

The Prosecution has also failed to prove the essential elements of the offence as contained in Count 2. The Count also fails and it is dismissed.

In totality, the Prosecution has failed to prove its Charge against the Defendant beyond reasonable doubt. The Defendant is therefore discharged and acquitted on both Counts.

There is an Amended Charge dated 21<sup>st</sup> day of June 2018. It was dumped on the Court. After filing same the Prosecution fizzled out. The said Amended Charge is accordingly struck out.

**HON. JUSTICE U.P. KEKEMEKE**  
**(HOH. JUDGE)**  
**12/11/18**