IN THE HIGH COURT OF JUSTICE
FEDERAL CAPITAL TERRITORY OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT LUGBE – ABUJA
ON, 27TH DAY OF MARCH, 2019.
BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.

CHARGE NO.:-FCT/HC/CR/74/2017

BETWEEN:

THE FEDERAL REPUBLIC OF NIGERIA:........COMPLAINANT

AND

CLEMENT JOSEPH (ALIAS DR. OMALE):.......DEFENDANT

Elizabeth Alabi with Bamidele Akomode for the Prosecution.
John Ajagbe for the Defendant.

JUDGMENT.

On the arraigment of the Defendant on the 7th day of March, 2017, before this Court, facing a seven Court charge as follows;

STATEMENT OF OFFENCE COUNT 1:

Conspiracy to obtain money by false pretence contrary to Section 8 (a) and punishable under Section 8 (c) and 1 (3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 5th day of April, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud conspired to obtain money from one Bola Akintola by false pretence.

STATEMENT OF OFFENCE COUNT 2:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 5th day of April, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N380,000.00 (Three Hundred and Eighty Thousand Naira only) from Mrs. Bola Akintola under the false pretence that you are a native doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

STATEMENT OF OFFENCE COUNT 3:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 6th day of April, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N1,500,000.00 (One Million, Five Hundred Thousand Naira only) from Mrs. Bola Akintola under the false pretence that you are a native

doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

STATEMENT OF OFFENCE COUNT 4:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 7th day of April, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N1,500,000.00 (One Million, Five Hundred Thousand Naira only) from Mrs. Bola Akintola under the false pretence that you are a native doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

STATEMENT OF OFFENCE COUNT 5:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE)

AND MRS MENTS (AT LARGE) on or about the 20th day of April, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N750,000.00 (Seven Hundred and Fifty Thousand Naira only) from Mrs. Bola Akintola under the false pretence that you are a native doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

STATEMENT OF OFFENCE COUNT 6:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 29th day of June, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N500,000.00 (Five Hundred Thousand Naira only) from Mrs. Bola Akintola under the false pretence that you are a native doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

STATEMENT OF OFFENCE COUNT 7:

Obtaining money by false pretence contrary to Section 1(1) (a) and punishable under Section 1(3) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

PARTICULARS OF OFFENCE

CLEMENT JOSEPH (ALIAS DR. OMALE), MR. PAUL (AT LARGE), MR. PAPA (AT LARGE). MR. IFEANYI (AT LARGE) AND MRS MENTS (AT LARGE) on or about the 29th day of June, 2016 at Abuja within the jurisdiction of this honourable court with intent to defraud obtained the sum of N1,000,000.00 (One Million, Naira only) from Mrs. Bola Akintola under the false pretence that you are a native doctor/ herbalist, and the money was required for the purchase of materials for the cleansing of blood money contained in a polythene (Ghana Must Go) bag to prevent the untimely death of Mrs. Bola Akintola which representation you knew to be false.

The Defendant upon arraignment pleaded not guilty to the charges preferred against him and the matter proceeded to trial.

The Prosecution opened its case on the 23rd day of March, 2017 with the evidence of one James Francis an operative of the Department of State Security who testified as PW1. The PW1 in his evidence in chief told the Court that in July 2016 one Mrs Bola Akintola (nominal complainant) came to the office of the Department of State Security, FCT Command and reported a case of fraudulent obtainment and threat to life, against the Defendant and his gang members. That she stated that the Defendant and his gang defrauded her of the sum of N5,630,000 and were still demanding for more money from her.

The PW1 stated that he planned an operation towards the arrest of the Defendant and his gang members, and on the 5th day of August, he led a team of four men in company of the nominal complainant to Kubwa express way where the

Defendant expected to have collected more money from the nominal complainant. That when the Defendant sighted him as he attempted to arrest the Defendant, the Defendant ran into the bush and they chased the Defendant, who ran from one compound to another – jumping about two fences into two different compounds, and with the help of onlookers, he was eventually arested.

He stated that immediately after his arrest, the Defendant was interrogated and he confessed that he obtained money from the nominal complainant – defering only as to the amount collected. That instead of N5,230,000.00, the Defendant stated that he collected only N200,000.00.

The PW1 told the Court that after the Defendant's arrest, his gang members kept calling him to bring the money for them to share and he told them to meet him at the usual place. That the last time the Defendant spoke with them, he told one of them that he promised not to betray any of them, following which they stopped calling him. He stated that it was then he understood that the statement made by the Defendant was a sign to his gang members that he had been arrested and subsequently all efforts towards arresting the other gang members, including going to their shrine severally, proved abortive. That the Defendant refused taking them to the houses of his gang members, saying that they only meet at the shrine.

Furthermore, he stated that while in custody, other victims kept calling and sending text messages to the Defendant's phone demanding that he refund the monies collected from them. That after taking the confessional statement of the Defendant, they wrote their report and transferred the matter to the Economic and Financial Crimes Commission.

PW1 was duly cross examined by the defence counsel during which he told the Court that they were unable to make further arrests in relation to the case because the Defendant fraustrated all their efforts to arrest his gang members.

The nominal complainant, Mrs. Bola Akintola gave evidence on the 9th of October, 2017. Testifying as PW2, she told the Court that on the 5th day of April, 2016, she boarded a taxi at Dutse Alhaji going to Wuse. That an elderly man was sitting beside the driver while a young woman and a young boy were at the back seat when she boarded the taxi.

That along the way an argument ensued between the driver and the young boy over the amount of transport fare and when she offered to make up the difference for the boy, the driver refused to stop to let the boy alight from the taxi, claiming that he was suspecting her of planning to kill the boy and take his bag in the trunk of the car that supposedly contained dollars. She stated that the driver who gave his name as Paul, insisted on taking them to a seer to verify his claim and when she tried to resist, the other occupants of the car told her that if her hands were clean, she should go with them to the seer to confirm what the driver was saying. That the driver increased his speed and rather than driving to Wuse, he veered off through Gwarimpa and dangerously drove them to a hideout along Life Camp-Karmo Road.

The PW2 said on arrival at the hide out, the Defendant approached them with his eyes painted with white chalk and holding leaves and instructed them to follow him to the shrine which is close to the place where the driver parked his car. She stated that the Defendant told them that there was a charm inside the Ghana-must-go bag; that the money therein was blood money and that the charm wanted blood. That he needed

to carry out sacrifice to avert death, otherwise each and everyone of them, including their families would die. That each person should bring N380,000.00 to purchase materials that he would use for the sacrifice to avert calamity in their homes.

That the Defendant in concert with the driver and the young woman in the car, named Joy, who both pretended to be victims too, manipulated her, carjoled her and coerced her into parting with various sums of money after forcing her to take oath of secrecy. She told the Court that she was made to give the following sums to Defendant; N5,500; N380,000; N1.5m another N1.5m; N750,000; 500,000; N1m after several harrasment and threat from the Defendant and his group. That she made several withdrawals from her bank to satisfy them.

She stated that after the Defendant had collected the various sums from her in the guise of making sacrifices to avert calamities, the Defendant still persisted on collecting additional N3m from her. That consequently, she went to the office of the Department of State Security on the 15th day of July, 2016 and reported the matter. That while she was there, the Defendant called her and she put the phone on speaker and decided to play along with him telling the Defendant that she had N1m to give him. That following instructions from the Department of State Security, she arranged with the Defendant on where and when he would pick up the N1m and on 5th August, 2016, the Defendant came to the agreed place to collect the money from her and was then apprehended by the Department of State Security.

Under cross examination by the defence counsel, the PW2 told the Court that she was moved by fear to part with the various sums to the Defendant when she saw the Defendant invoke fire from a pot which later turned to blood, making her to believe

the claim by the Defendant that she would die mysteriously if she did not pay the monies demanded by the Defendant.

One Isa Mohammed, an operative of the Economic and Financial Crimes Commission testified as PW3 on the 24th day of April, 2018. He told the Court in his evidence in chief that on the 6th of December, 2016, they received a letter along side investigation report from the Department of State Security against four suspects, one of whom was the Defendant. He stated that upon interrogation, they discovered that out of the four suspects, two belonged to the same syndicate while the other two belonged to two different syndicates and thus they opened three different case files.

In relation to the Defendant, the PW3 stated that when he was interviewed based on the complaint received against him, of receiving by false pretences, the Defendant voluntarily told them that he acted as a herbalist (Babalawo) in defrauding one Bola Akintola of the sum of N200,000.00. That when he was told to put his statement in writing, the Defendant told them that he was not literate enough to write and he then authorized one of the operatives, named Aminu Abbas Jayi to write the statement for him, after which the Defendant signed the statement.

The PW3 further stated that in the course of investigation, the PW2's statements of account were obtained which confirmed that the various sums as alleged by the PW2, were indeed withdrawn on different dates and given to the Defendant.

The various statements of the Defendant were sought to be tendered, the Defendant admitted he made and signed them at the Economic and Financial Crimes Commission and the Department of State Security. They were tendered and

admitted in evidence as Exhibits PW3A and PW3B respectively.

The statements of account of PW2 from First bank and GTBank were also tendered and admitted in evidence as Exhibits PW3C and PW3D respectively.

The PW3 was duly cross examined by the defence counsel.

At the close of prosecution's case, the Defendant, Clement Joseph (alias Dr. Omale) gave evidence in his defence on the 15th day of November, 2018. Testifying as DW1, he told the Court that on the 5th of August, 2016, while returning from a visit to his customer to whom he supplied palm oil, he saw people running at the bus stop and he joined them in running. That while he tryng to escape, a group of men held him with their gun and took him to the office of the Department of State Security where they tortured him and broke his head with stick and disfigured his hand in the process. He stated that he was later taken to the hospital to stitch his head and later returned him to their office.

The DW1 stated that after three days, the PW2 came and he was asked if he knew her and that he told them that he did not know the PW2. That he was then tortured by being handcuffed in the presence of the PW2 and was kept in custody from 5th August, 2016 to 6th December, 2016 and that he was thereafter taken to the Economic and Financial Crimes Commission where he was locked up.

He stated that after some days in the custody of the Economic and Financial Crimes Commission, he was taken out to write statement and when he told them that he could not write, they brought a paper and asked him to sign and he did. That some days later, he was asked to write another statement and when

he told them that he could not write, the investigators wrote the statement by themselves.

The DW1 denied collecting any money from the PW2. He also denied being or acting as a native doctor. He further denied knowledge of his alleged accomplices.

Under cross examination, the DW1 admitted making a statement to the Department of State Security and same was tendered through him by the prosecution and admitted in evidence as Exhibit DW1A.

At close of evidence, the parties filed and exchanged final written addresses.

In his final wrtten address dated and filed on the 14th day of December, 2018 learned counsel for the Defendant, Johnbull Adaghe, Esq. raised the following three issues for determination;

1. Whether there was any complaint against the Defendant the basis of which this charge was brought before this honourable court or; whether the prosecution can willy-nilly bring a charge against the Defendant in the absence of a complaint against him?
2. Whether the prosecution has sufficently proved the essential elements of the offences of obtaining by false pretence and conspiracy with which the Defendant is charged.
3. In view of prosecution's noncompliance with the provisions of Sections 15(4) and 17(2) of the Administration of Criminal Justice Act, whether the Court can rely on exhibits PW3A, PW3B and DW1A?

In arguing issue one, learned counsel contended that a charge must be founded upon a complaint. That no charge can be

brought against any person except there be a complaint against the person. He argued that there is no basis for bringing this charge against the Defendant as there is no evidence of any extra judicial complaint made against the Defendant to either the Department of State Security or the Economic and Financial Crimes Commission to warrant the charge against the Defendant. He thus urged the Court to discharge the Defendant for want of any extra judicial complaint made against him before the investigating agencies.

In issue two, on whether the prosecution has sufficiently proved the essential elements of the offences with which the Defendant is charged, learned counsel relied on **Onwudiwe v. FRN (2006) All FWLR (Pt 319) 774 at 812,** to posit that the offence of obtaining by false pretence which the Defendant is cahrged with in Counts 2 to 7 relates to knowingly obtaining another person's property by means of misrepresentation of facts with intent to defraud that other person. He argued that it is an essential element in an offence of obtaining by false pretence, to prove by evidence the identity of the property that was taken from the victim by means of false pretence.

Learned counsel argued that while the Defendant was charged with obtaining the sum of N5,630,000 from PW2 the nominal complainant, the PW2 in her evidence before the Court gave a total figure of N7,140,500 as the sum collected from her by the Defendant. He contended that there is no evidence before this Court to prove that PW2 parted with the sum of N5,630,000 in favour of the Defendant. He contended further that the alleged contradictory testimonies of the PW2 who knows better than other witnesses erode the certainty of the property that was allegedly taken from her on account of the alleged inducement.

Arguing further, learned counsel contended that the alleged contradictory evidence of the PW2 in connection with the figures of the property she allegedly parted with as a result of the Defendant's false pretence, has cast doubt on the prosecution's case and that the doubt should be resolved in favour of the Defendant. He referred to **Sani v. State (2015) LPELR-24818 (SC) 25.**

It was further contended by the learned counsel that the burden of proving that the monies transferred by the PW2 to the accounts of staffers in First Bank and GTB allegedly to help her withdraw same for onward delivery to the Defendant as per Exhibits PW3C and PW3D, actually left the accounts of those staffers afterwards and were delivered to the Defendant, rests on the prosecution. He placed relience on **Omoregie v. State (2017) LPELR-42466 (SC).**

He posited that what is clear from Exhibits PW3C and PW3D is that they are proof of debits in the form of withdrawals and transfers from the account of PW2; that they are not useful as proof that those funds were received by the Defendant. That there is no evidence to prove that the sums transferred to the accounts of the bank staffers at First Bank and GTB also left their respective accounts, and on that same day.

He argued that the oral testimonies of PW2 and PW3 cannot contradict the obvious fact conveyed in exhibits PW3C and PW3D which is to the effect that the funds transferred from PW2's account has remained domiciled in the bank account of the bank staff. He referred to Section 128 of the Evidence Act, 2011 and the case of **Ogundipe v. Olumesan (2012) All FWLR (Pt 609) 1136 at 1148-1149.**

Learned counsel contended that having failed to prove that the funds in Exhibits PW3C and PW3D were received by the

Defendant, the prosecution has by that token failed to prove the offences in counts 3 and 4 of the charge. He urged the Court to discharge and acquit the Defendant in those counts.

On the charge of conspiracy, learned counsel relied on **Bolaji v. State (2010) All FWLR (Pt 534) 100 at 139** to posit that to sustain a charge of conspiracy under Section 8(a) of the Advance Fee Fraud and Other Fraud Related Offences Act, the prosecution must prove that there was an agreement between two or more persons to do or cause to be done an unlawful act or to do some lawful act by unlawful means.

He contended that in view of the Defendant's denial of not knowing any of the persons he was alleged to have conspired with, coupled with lack of corroborative evidence to the evidence of PW2, that the very essential element of "agreement to do an unlawful act or do a lawful act by unlawful means" is deemed not to have been proved as conspiracy can only occur between persons other than one.

On issue three, learned counsel contended that the prosecution failed to comply with the provisions of Sections 15(4) and 17 (2) of the Administration of Criminal Justice Act while obtaining the statements. Exhibits PW3A, PW3B and DW1A by not ensuring that any of the persons mentioned in Section 17(2) was available.

He posited that by virtue of the holden by the Supreme Court in **Owhoruke v. COP (2015) LPELR-24820 (SC) 22-33,** the non compliance with the said Sections 15(4) and 17(2) of ACJA renders Exhibits PW3A, PW3B and DW1A inadmissible in evidence.

He referred to **Charles v. FRN (2018) LPELR-43922 (CA) 9-21** and **Nnajiofor v. FRN (2018 LPELR-43925 (CA).**

Learned counsel further posited, relying on **A.G. Leventis Nig PLC v. Akpu (2007) All FWLR (Pt 388) 1028 at 1047,** that given the current state of the law as espoused in the foregoing judicial precedence, where inadmissible evidence such as Exhibits PW3A, PW3B and DW1A, were admitted even without objection, that the Court is bound to expunge same from its record. He further referred to **Akinduro v. Alaya (2007) All FWLR (Pt 381) 1652 at 1673** and urged the Court to discountenance the said Exhibits PW3A, PW3B and DW1A as they are inadmissible documents, the process through which they were obtained having violated the due process enshrined under Sections 15(4) and 17(2) of the Administration of Criminal Justice Act, 2015.

He urged the Court in conclusion, to discharge and acquit the Defendant.

Replying on points of law to the prosecution's final written address, learned defence counsel relied on **Queen v. Itule (1961-1962) 2 NSCC, 221 at 224** to submit that a party cannot believe and rely on a piece of evidence favourable to him and refuse to accept a contemporaneous statement advantageous to the Defendant. That having relied on Exhibits PW3A, PW3B and DW1A to urge the Court to convict the Defendant, that the prosecution cannot refuse to accept the confession of receipt of the sum of N200,000 in the said exhibits and urge the Court to accept the sum of N5,636,500 claimed by the PW2. He further referred to **Asanya v. State (1991) LPELR-574 (SC) 23-24.**

He contended that if the Court must receive the Defendant's admission of guilt in Exhibits PW3A, PW3B and DW1A, then his contemporaneous assertion of receipt of the sum of N200,000 from the PW2 which seems favourable to him must be accepted as the truth. That the Court cannot accept the

admission of guilt of the Defendant contained in the said Exhibits and refuse to accept the admission of receipt of the sum of N200,000 made in the same exhibits.

Learned prosecution counsel, Elizabeth Alabi (Mrs), in his final written address raised four issues for determination, namely;

a) Whether the prosecution has proved its case beyond reasonable doubt?
b) Whether the prosecution has proved the offence of conspiracy against the Defendant beyond reasonable doubt?
c) Whether the prosecution has proved the offence of obtaining under false pretence against the Defendant beyond reasonble doubt?
d) Whether the Defendant can be convicted on the strength of his confessional statement duly admitted by this honourable court?

Proferring arguments on issue one, of whether the prosecution has proved its case beyond reasonable doubt, learned counsel posited, relying on **Emeka v. State (2001) 32 WRN 37 at 49,** that there are three ways or methods by which the prosecution can prove the guilt of an accused person, to wit;

1. By reliance on a confessional statement of an accused person voluntarily made.
2. By circumstantial evidence, and
3. By the evidence of eye witness.

Relying on **Blessing v. The State (2015) LPELR-24689 (SC),** learned counsel urged the Court to rely on Exhibits PW3A, PW3B and DW1A, which are confessional statements made by the Defendnat at the Economic and Financial Crimes Commission and Department of State Security office

respectively, to convict the Defendant. He contended that by the evidence before the Court, the words of caution were administered to the Defendant before taking his statements and the said statements were not challenged by the defence when tendered by the prosecution. He argued that the statements having been duly admitted in evidence, the Court can rely on same in the determination of this case.

Learned counsel however, urged the Court to discountenance the amount admitted by the Defendant in his statement as being an after thought.

In respect of proof by circumstantial evidence, learned counsel relied on **Okoro v. The State (1993)3 NWLR (Pt 282) 425 at 431** to argue to the effect that the Defendant having admitted defrauding the PW2 on the same dates, month and year which the PW2 made several withdrawals from her bank accounts, that the evidence of the PW2 must be accepted as true that those monies were collected by the Defendant under the pretence of removing charms from a bag full of dollars. He referred to **Lateef Adeniji v. State (2001) 13 NWLR (Pt 730) 375.**

Referring further to **Mr. Obi Ndubueze v. Alh. Abubakar Bawa (2018) LPELR-43874 (CA)** and **Waziri v. The State (1997) 3 NWLR (Pt 496) 689 at 721**, he urged the Court to hold that the evidence of PW2 having not been controverted by the Defendant by way of cross examination, is true.

On proof by evidence of eye witness, learned counsel posited that the evidence of one vital eye witness is sufficient for the Court to convict an accused person as the prosecution is not required to call host of witnesses to prove its case. He contended that the prosecution in the instant case, has proved

its case with the evidence of a sole witness, being the PW2. He referred to **Ilodigwe v. The State (2012) LPELR-9342 (SC).**

He further contended that the evidence of PW2 as to the amount collected from her by the Defendant was consistent and contained no contradictions as alleged by learned defence counsel in his final written address.

Arguing that all the three ways through which the guilt of an accussed person can be proved are all present and have been established by the prosecution in this case, learned counsel contended that the prosecution has proved its case against the Defendant beyond reasonble doubt and urged the Court to convict the Defendant accordingly.

On issue two: whether the prosecution has proved the offence of conspiracy against the Defendant beyond reasonable doubt, learned counsel posited that in order to prove conspiracy, the prosecution must establish the following ingredients;

a. That there was an agreement between two or more persons;
b. That the agreement was to do or cause to do an illegal act; or
c. To do a legal act by illegal means.

He argued that the agreement alone constitutes the offence and that it is not necessary to prove that the act has in fact been committed.

He contended that the Defendant herein in his confessional statements Exhibits PW3A, PW3B and DW1A, admitted having a meeting point where he and others at large plan their operations before carrying out the unlawful act. He contended further that there is abundant evidence before the Court from

which the Court can infer conspiracy between the Defendant and others at large.

In profering arguments on issue three, the learned counsel identified the following as the ingredients that must be proved by the prosecution in order to succeed in a charge of obtaining by false petences, namely;

(a) That there was a pretence.
(b) That the pretence emanted from the accused.
(c) That it was false.
(d) That the accused knew of its falsity or did not believe in its truth.
(e) That there was intention to defraud.
(f) That the thing is capable of being stolen.
(g) That the accused person induced the owner to transfer his interest in the property.
- **Onwudiwe v. FRN (2006) 10 NWLR (Pt 988) 382 at 431-432.**

He contended to the effect that the prosecution has by the evidence of the prosecution witnesses as well as the exhibits admitted before the court, established all the above ingredients of the offence of obtaining by false pretence.

On issue four; whether the Defendant can be convicted on the strength of his confessional statement duly admitted by this Honourable Court, learned counsel relied on **Solola v. State (2005) LPELR-3101 (SC)** to posit that the confessional statement of an accused person can be used solely to convict him.

He contended that the Defendant cannot be heard to complain about the admissibility of his confessional statement having not objected to the tendering of same when they were tendered

during trial. He urged the Court to discountenance the objection of the learned defence counsel in his final written address on the admissibility of the confessional statements, contending that the said objection was an afterthought. He referred to **Okon Dan Osung v. State (2012) LPELR-9720 (SC); Bello Shurumo v. State (2010) 19 NWLR (Pt 1226) 73 @ 90.**

He urged the Court to rely on the confessional statement of the Defendant duly admitted in evidence to convict the Defendant.

On the contention of the learned defence counsel, relying on the case of **Charles v. FRN (supra),** that the confessional statements of the Defendant were inadmissible, for being in breach of Sections 15(4) and 17(2) of the Administration of Criminal Justice Act, learned prosecuting counsel referred the Court to the later case of **A.V.M. Olutayo Tade Oguntoyinbo v. FRN (2018) LPELR-45218 (CA),** where the Court of Appeal departed from its decision reached in the said case of **Charles v. FRN (supra).** He contended that the Court of Appeal has now taken a new stand to the effect that the word "May" used in Sections 15(4) and 17(2) of the Administration of Criminal Justice Act is to be construed as permissive and not mandatory. He posited that the provisions of Sections 15(4) and 17(2) of the Administration of Criminal Justice Act do not make it mandatory for the lawyer or any person of the Defendant's choice to be present when he is making his statement, or that the statement be recorded electronically. He urged the Court in conclusion, to hold that the prosecution has proved its case beyond reasonable doubt and to accordingly find the Defendant guilty as charged.

In the determination of this case, I will adopt for consideration the issues for determination raised by the learned defence counsel in his final written address. I will however, consider the

2nd issue lastly after considering the 1st and 3rd issues raised by the learned counsel.

The first issue for determination raised by the learned counsel for the Defendant is; **"Whether there was any complaint against the defendant the basis of which this charge was brought before this honourable Court or; whether the prosecution can willy-nilly bring a charge against the defendant in the absence of a complaint against him?"**

In arguing the said issue for determination learned defence counsel contended to the effect that the prosecution cannot prefer a charge against the Defendant in the absence of any written complaint by the nominal complainant.

This issue of the existence or non-existence of a complaint was elaborately dealt with in the similar case of **Pius Ojemolon v. FRN (2017) LPELR 43407 (CA)** where the words 'complaint' and 'complainant' were reviewed as;

> ***"A statement setting out the reasons for a legal action."*** and ***"A person or organisaton that takes legal action against another"*** See Encarta World English Dictionary page 388. At law, **'complaint & complainant'** mean **"a formal charge accusing a person of an offence" and the person who brings a legal complaint against another person respectively: See Black's Law Dictionary, Deluxe 9th Edition, page 323".**

My lord Adumein, JCA had this to say;

> ***"The appellant, as stated earlier argued that there is neither a complaint nor a complainant in this case. I think that, bearing in mind the meaning of a ''complaint and complainant', the respondent did not proceed to prosecute the appellant without a***

> ***complaint. The respondent is the complainant in this case and the information initiated and filed against the appelant is the complaint"***... He concluded ***"To be very brief on this issue having held that there is a complaint and that there is also a complainant in this case, I resolve the issue in favour of the respondents against the appellant."***

In resolving this issue in the extant case, I have read from cover to cover the processes which include the information, the formal charge and its particulars, list of witnesses and list of documents relied upon by the prosecution which includes statements of the nominal complainant, Bola Akintola and case summary which sets out the reason for the legal action.

It is not in doubt that a formal complaint was made to the security agent by Bola Akintola (PW2) described as the nominal complainant and Federal Republic of Nigeria is responsible for the prosecution of this case as the Complainant.

Bearing this in mind the argument canvassed by learned counsel to Defendant, and the meaning of a complaint and complainant, the PW2 Bola Akintola, is the nominal complainnat and the information initiated and filed against the Defendant is the complaint which the Court cannot ignore. The nominal complainant, Bola Akintola who made the report was called to testify orally and on oath in Court, she recounted her report/complaint to the Economic and Financial Crimes Commission.

It would have been a different case if the said Bola Akintola PW2, was not led in evidence. The present case ex facie satisfies this Court that the Federal Republic of Nigeria is the complainant with the nominal complainant - Bola Akintola

(PW2) and the information initiated and filed against the Defendant serve the purpose of the law.

The first issue is therefore, resolved in the affirmative that there was a complaint against the Defendant on the basis of which this charge was brought before this Honourable Court.

The next issue for consideration, which is the third issue for determination raised by learned defence counsel in his final written address, is: **"In view of Prosecution's noncompliance with the provisions of Sections 15(4) and 17(2) of the Administartion of Crimanal Justice Act, whether the Court can rely on exhibits PW3A, PW3B and DW1A?"**

The learned defence counsel placed reliance on the cases of **Owhoruke v. COP (supra) and Charles v. FRN (supra)** to contend that as long as the Defendant had no legal representative or any of the persons as listed in Section 17(2) of the Administration of Criminal Justice Act, present during the taking of his statements, Exhibits PW3A, PW3B and DW1A, that Sections 15(4) and 17(2) of the Administration of Criminal Justice Act had not been complied with by the prosecution and that by token, the Court can not rely on the said exhibits.

Indeed, the Court in **Owhoruke's case** recommended that, for the purposes of guaranteeing transparency, confessional statements should be taken from suspects only if their counsel are present. The Sections 15(4) and 17(2) of Administration of Criminal Justice Act wre not in force as at the determination of the above case and therefore were not interpreted by the Court.

The Court of Appeal, in the case of **Charles v. FRN (supra)**, while interpreting the provisions of Sections 15(4) and 17(2) of the Administration of Criminal Justice Act, and while applying the holden in the case of **Owhoruke**, held that the word "may"

in Sections 15(4) and 17(2) of the Administration of Criminal Justice Act carried a mandatory meaning, to that effect that it was mandatory for a legal practitioner of the suspect's choice or members of the Legal Aid Council or his family member to be present while his confessional statement is taken and for the statement to be recorded electronically.

The learned prosecution counsel in his written address disagreed with the learned defence counsel and referred the Court to the Court of Appeal's decision in the case of **A.V.M. Olutayo Tade Oguntoyinbo v. FRN (supra)** which is later in time than the case of **Charles v. FRN,** and in which the Court of Appeal departed from its earlier decision that the word "may" in Sections 15(4) and 17(2) of the Administration of Criminal Justice Act be construed as carrying a mandatory meaning.

Section 15(4) of the ACJA provides thus:

> ***"(4) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the Police Officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio visual means."***

Section 17 of the Act provides thus;

> ***"(1) Where a suspect is arrested on allegation of having committed an offence, his statement shall be taken, if he so wishes to make a statement.***
>
> ***(2) Such Statement may be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council of Nigeria or an official***

of a Civil Society Organisation or a Justice of the Peace or any other person of his choice..."

In the case of **<u>A.V.M. Olutayo Tade Oguntoyinbo v. FRN (supra),</u>** the Court of Appeal held inter alia;

"... the draftman of the ACJA has carefully and deliberately used the words "shall" and "may" sometimes in the same text to pointedly make a distinction between statements/sentences that are mandatory and those that are permissive. The ACJA being a teleological enterprise, its draftman dexteriously mixes the use of the command word "shall" and the permissive word "may" for textual accomplishment. This is to my mind, a recognition of the fact that the ACJA itself is largely a legislation in the realm of the ideal, containing provisions that are for now clearly enforceable and sometimes provisions that could only hope for enforceability in the nearest future... all however, to fulfil its grand purpose 'to ensure that the system of administration of justice in Nigeria promotes efficient managment of criminal justice institutions, speedy dispensation of justice...' In any event, the traditional commonly repeated rule is that "shall" is to impose a duty; permissive word grant discretion."

What more can I say in the light of the above decision by the Appellate Court? It was not by accident that the words "shall" and "may" were used in the same Sections of the legislation, to wit; Sections 15(4) and 17(2) of the Administration of Criminal Justice Act. Evidently, where the draftman intended to impose a duty, he employed the word "shall" and he used the word "may" where he allowed for discretion.

The implication, which is clearly obvious from the Sections under review is that the requirement for the recording of a confessional statement electronically and the presence of the suspect's legal practitioner or other persons listed in Section 17(2) Administration of Criminal Justice Act, is a permissive requirement and allows for discretion on the part of the investigating authorities.

Having a cursory look at Exhibits PW3A, PW3B and DW1A, it is clear from the exhibits that the Defendant was duly cautioned in line with Section 6 of the Administration of Criminal Justice Act before he volunteered the statements. The Defendant acknowledged the statements as his, save only that he did not write them personally. That also was clearly stated in that statements; that because the Defendant could not write, he authorised an investigator to write for him. Also illiterate jurat was entered. In the course of evidence, the Defence counsel failed to object to the admissibility of the said statements. The Court accepted the statements and therefore, can rely on them. The legal implication of this unchallenged and admitted confessional statements was lucidly summerised by Niki Tobi (JSC) in the case of **FRN v. Faith Iweka (2011) LPELR-93050 (SC)**

> ***"The implication of not objecting to the admissibility of a statement is that it is the statement volunteered by the accused person...".***

In the instant case, the Defendant authorised the investigator to write the statement because he is not very educated. Every cautionary step required by law was taken and the Defendant admitted he signed the three statements. The signatures also are very similar. The Defendant at the early hours of tendering his statements did not raise the issue of duress. It is trite that a

statement purported to have obtained under torture, duress, threat or inducement must be objected to at the earliest possible time. It therefore, baffles me that with evidence of the presence injuries as claimed by the Defendant, that, the Defendant and his counsel never raised such objection before the admission of the said statement for trial within trial to be held. In my view therefore, the admission of the unchallenged confessional statements did not violate the Section 28 Evidence Act of 2011 as they were voluntarily made. The u-turn in the defence of the Defendant is considered a mere after thought.

From the forgoing, it is my considered view, and I so hold, that there is nothing that precludes this Court from relying on Exhibits PW3A, PW3B and DW1A, in the determination of this case. Thus relying on **Alarape v. State (2001) FWLR (Pt 41) 1872 SC.** The question of the voluntariness of a confessional statement is tested at the time statement is sought to be tendered in evidence. In the instant case the statements were tendered without objection and the Court is bound to rely on them.

The last issue for consideration as raised by learned defence counsel is: **"Whether the prosecution has sufficently proved the essential elements of the offences of obtaining by false pretence and conspiracy with which the defendant is charged?**

The law is trite that there are three ways by which the guilt of an accused person may be proved, to wit; (i) by evidence of an eye witness; (ii) by circumstantial evidence, and (iii) by confessional statement voluntarily made. See **Okudo v. The State (2010) LPELR-4729 (CA).**

In Count 1, the Defendant was charged with conspiracy to obtain money by false pretence contrary to Section 8(a) of the Advance Fee Fraud and Other Fraud Related Offences Act No. 14, 2006.

By Section 8(a) of the Advance Fee Fraud and Other Fraud Related Offences Act,

> ***"A person who –***
>
> ***(a) Conspires with, aids, abets, or counsels any other person to commit an offence,...***
> ***under this Act, commits the offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act."***

To prove this charge, the prosecution is required to establish by credible evidence that the Defendant did conspire with others to obtain money by false pretence.

In **Garba v. C.O.P (2007) 16 NWLR (pt 1060) 378 at 405,** the Court of Appeal, per Ariwola, JCA held that;

> ***"To prove conspiracy and be able to secure conviction, the prosecuton must prove inter alia, that there was;***
>
> ***(a) An agreement between two or more persons to do or cause to be done some illegal act or some act which is not illegal, by illegal means,***
> ***(b) Individual participation in the conpsiracy by each of the accused person."***

Also, in the case of **Yahaya v. State (2011) LPELR-19749 (CA),** the Court of Appeal further held, per Bada, JCA that;

"The proof of conspiracy is generally a matter of plausible inference deduced from certain criminal acts of the accused done in pursuance of an apparent criminal purpose - in common between them. This is because it is generally recognised in law that in a charge of conspiracy, proof of actual agreement which is an essential ingredient of the crime is not always easy to come by. Thus the fact that there is no positive evidence of any agreement between the accused persons to commit the offence is not enough to hold that the prosecution cannot establish the charge of conspiracy."

Besides the evidence of PW2, the victim of the crime, which detailed how the Defendant and others at large worked in concert with themselves to defraud her of various sums of money by false pretence, the prosecution tendered the confessional statements of the Defendant wherein the Defendant confessed to the crime of conspiracy.

In Exhibits PW3B and DW1A, the Defendant confessed to working in tandem with other members of a syndicate which he leads, to falsely represent to unsuspecting commuters who enter their vehicle, that there is a bag full of dollars in the boot of the car which also contains charms and that money was needed to neutralize those charm. The Defendant stated that by this that they had successfully duped six(6) different persons since they started operation.

Evidently, before the Defendant and the members of his syndicate commenced their illegal operations, they met and agreed together on what to do and their modus operandi. The Defendant confessed this much in Exhibit PW3A, stating that

they met “behind Agura Quarters in old Karimo” from where they disperse after strategising, to hunt for victims.

The PW2 gave an eye witness account of how the Defendant and others at large operated together to obtain various sums of money from her under false pretence. A plausible inference deducible from the evidence of the PW2 is that the Defendant conspired with others now at large to carry out the illegal acts.

I had earlier stated that the guilt of an accused person can be established by his confessional statement, and in that regard, that this Court can rely on Exhibits PW3A, PW3B and DW1A in establishing his guilt. Accordingly, it is my finding, and I so hold, that the prosecution has proved the offence of conspiracy to obtain by false pretence against the Defendant beyond reasonable doubt.

Counts 2-7 referred to the Defendant, obtaining money by false pretence contrary to Section 1(1)(a) of the Advance Fee Fraud and Other Fraud Related Offences Act. The various counts under this head contain the various sums of money which the Defendant allegedly obtained from the nominal complainant under false pretences. To prove these counts against the Defendant, the prosecution relied on the testimony of the PW2, the victim of the crime, the confessional statements of the Defendant as well as the statements of account of the PW2, Exhibits PW3C and PW3D which show debits of the sums allegedly withdrawn from account of PW2 and collected by the Defendant on various dates as given in evidence.

Learned counsel for the Defendant argued that the prosecution failed to prove counts 2-7 on the ground that there is no positive evidence to show that the Defendant received the various sums of money contained in the various counts. That the transfers in Exhibits PW3C and PW3D were made to

accounts belonging to the members of staff of the First Bank and GTBank respectively and not to directly the Defendant.

It was further contended by learned defence counsel that if the confessional statements of the Defendant are to be relied upon by the Court, then the Court must accept the amount claimed by the Defendant to have received from the PW2 which is N200,000.

Also, while making a rather academic argument, learned defence counsel asserted that the prosecution failed to prove the identity of the property obtained by the Defendant by false pretence.

The essential question flowing from the charges in counts 2-7 is **whether the Defendant obtained money from the nominal complainant (PW2) by false pretences?** The ingredients of the offence required proof is not the amount but the act of obtaining by false pretence no matter the amount involved.

Learned prosecution counsel in his final written address, clearly identified the ingredients of obtaining by false pretences as laid down in the case of **<u>Onwudiwe v. FRN (supra)</u>** to wit;

(a) That there is a pretence
(b) That the pretence emanated from the accused
(c) That it was false
(d) That the accused knew of its falsity or did not believe in its truth
(e) That there was intention to defraud
(f) That the thing is capable of being stolen
(g) That the accused person induced the owner to transfer his whole interest in the property.

See also **<u>Rosulu Idowu Ronke v. FRN (2017) LPELR 43584 (CA).</u>**

The law remains trite that the guilt of an accused person can be proved by his confessional statement voluntarily made. The Defendant in Exhibits PW3A, PW3B and DW1A, gave a clear and unambiguous description of his modus operandi with the members of his syndicate which show the presence of all the ingredients of obtaining by false pretence.

The learned counsel for Defendant laid heavy weather on the figures of the property (money) allegedly parted by the PW2 which he concluded that it cast doubt on the prosecution's case and such doubts can only be resolved in favour of the Defendant. He relied on **Sani v. State (2015) LPELR 24818 (SC) 25.**

Contrary to the contention of learned defence counsel, there is no ambiguity about the identity of the property obtained by the Defendant. From the evidence before the Court, it was crystal clear that the property obtained by the Defendant by false pretence was money. The Defendant admitted receiving N200,000.00 from the PW2. Even if there is disparity between the amount alleged to have been obtained by the Defendant and the amount proved by the prosecution, that does not make a Defendant if found culpable any less guilty of the offence of obtaining money by false pretence. Also that does not make the prosecution's evidence contradictory on the material issue which is intent to defraud as to cast doubt in favour of the Defendant as laid down in case of **Sani v. State (supra).** The instant case has no releitivity to the expression of Ogakwu, JCA in the case of **Sani v. State (supra)** as the evidence in the instant case is unsusceptible to doubt. The prosecution proof beyond reasonable doubt has excluded all reasonable inference of dougt. The learned counsel draws the Court attention to the rattling issue of the inconsistency in the amount offered and received by the Defendant.

The learned counsel raised a red flag to the effect and posited that the Defendant received N200,000 and not N5,630,000 as per the charge while at the same time the PW2 Bola Akintola evidenced that she gave a total of N7,140,000 to the Defendant.

There was no such evidence by the records of this Court that a total of N7,140,000 was withdrawn and given to the Defendant by the PW2. This submission by Defendant's learned counsel is merely a flying missile and unfounded in the records of the Court. Thus submission of the learned counsel is discountenanced. The charge and evidence in support was that N5,630,000 was given by PW2 and received by the Defendant under false pretences. The PW2, Bola Akintola to support her claim produced evidence of bank transactions of several withdrawals in Exh PW3C and PW3D respectively to buttress the fact that PW2 actually withdrew huge sums of money to satisfy the demand of the Defendant within the period of time in the month of April, 2016 when the incident occured. This period of time collaborates with the period the Defendant admitted receiving N200,000 from the PW2 under false pretence. I believe the prosecution that the tendering of the account details of PW2 i.e. Exh PW3C and PW3D was to establish the fact that the PW2 actually withdrew these amounts which she gave the Defendant. It is a strong evidence linking the transaction between the Defendant and the PW2. It raises no doubt to the contrary. By these strong linkage evidence of prosecution, I strongly believe that the PW2 parted with her hard earned money to the Defendant under false pretence. I disbelieve the Defendant's evidence of receiving only N200,000.

It is pertinent to note that the ingredients of the offence of obtaining by false pretences is not based on the amount received but on the pretence from the Defendant and such

pretence was false and he was aware of the falsity believeing in the falsity with intention to deceive and defraud. Also that the property or money was capable of being stolen of which the Defendant induced the owner to transfer part or the whole of the property or money to the Defendant. See **Adijeh v. C.O.P. Nasarawa State (2018) LPELR-44563 (CA).**

The essential element and ingredient of the offence are also laid down in **Onwudiwe v. FRN (supra).** I therefore disagree with the learned counsel to Defendants argument in paragraph 5.09-5.22 of the final written address on pages 6-10 of the address.

Furthermore, assuming and without conceding that there were discrepancies in the evidence of the prosecution as to the movement of monies and dates from the account of PW2, this to my mind would not be prejudicial to the case of the prosecutor because there is abundant evidence clearly from the confessional statments of the Defendant that there was conspiracy, intention to defraud, false pretence and Defendant induced the PW2 to part with her money or property. Therefore, it is my conclusion that the discrepancies if any on the amount parted with by the PW2 and received by the Defendant did not negate the proof beyond reasonable doubt that there was intent to defraud. The essential ingredients of the offence is fradulent intent.

Making reference to Exh PW3A and PW3B, by his own admission, the Defendant, said he was working with other members of his syndicate, sometime in April, 2016 and lured the PW2 to their supposed shrine and while pretending to be a herbalist, falsely represented to the PW2 that a bag of money in the car she boarded contained charm which required money for its neutralization. The PW2 in her evidence before the Court

also stated that the Defendant made her believe that if she failed to give him the monies requested by him, both her family members and herself would die mysteriuosly. That it was on that basis that she parted with various sums of money to the Defendant who kept on asking for more money.

The narrations of 6th and 7th April, 2016 in the said statements of account, (Exhibits PW3C and PW3D) confirm the evidence of PW2 on the sums that left her account on those dates.

A strong circumstancial inference, that could be drawn from the surrounding circumstances, is that the monies that left the PW2's accounts in her testimony in April, 2016 were collected from her by the Defendant and I believe her evidence.

In view of the above, I emphasise that I totally believe the evidence of the PW2 and I disbelieve the claim of the Defendant that he collected only N200,000 from the PW2. It is my finding and I am strongly convinced that the evidence adduced before this Court, leaving me in no doubt that the prosecution has proved his case beyond reasonable doubt.

With the unbroken evidence of the prosecution strengthened by the confessional statement of the Defendant, I conclude that the Defendant was involved in the offence of conspiracy with Mr. Paul, Mr. Papa, Mr. Ifeanyi and Mrs. Meg all at large to obtain money by false pretences from Bola Akintola the PW2.

Further, I hold that the prosecution has proved all ingredients of the said offences of obtaining by false pretence to wit:

(a) A pretence was put up by the Defendant.
(b) The pretence was false.
(c) And the Defendant knew it was false.
(d) The pretence influenced the mind of the victim (PW2) Bola Akintola from whom the property was obtained.

(e) As a result the PW2 Bola Akintola parted with her property (money).

I accordingly, find the Defendant guilty in Counts 1, 2, 3, 4, 5, 6, and 7 as charged.

ALLOCUTUS:

Defence counsel:

I plead that the Court would tamper justice with mercy and to take into account the fact that the Defendant had been in custody since 2016. The Defendant is married with children, to the best of my knowldge there is no record of previous conviction.

Prosecution:

I have application under Section 11 (1) (a) of Advance Fee Fraud of 2006 and Section 321 (a) Administration of Criminal Justice Act in urging Court to order the convict, the restitution of N5,630,000.

Defence counsel:

I leave it to the discretion of the Court.

Prosecution:

There is no record of previous conviction.

SENTENCING.

Having complied with Section 310 (1) and (2) and 311(1) Administration of Criminal Justice Act, 2015, the Court embarks on sentencing the Defendant.

In Count 1:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to seven years inprisonment without option of fine.

In Count 2:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 3:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 3:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 4:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 5:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 6:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

In Count 7:

The Defendant, Clement Joseph (Alias Dr. Omale) is sentenced to fifteen years inprisonment without option of fine.

Sentences are to run concurrently excluding the two years spent in custody.

Placing reliance on Section 11, Advance Fee Fraud and Other Related Offences Act, 2006 the Defendant is ordered in addition to the sentences to restitute the amount defrauded, to wit: N5,630,000 to the victim, Bola Akintola.

HON. JUSTICE A. O. OTALUKA
27/3/2019.