

**IN THE HIGH COURT OF SIERRA LEONE
HOLDEN AT FREETOWN**

THE STATE

VS

JOHN CHARLES KANU

**BEFORE THE HONOURABLE JUSTICE MIATTA M. SAMBA, J.
DATED THE 15TH OF FEBRUARY 2017**

Counsel:

AJM Bockarie Esq for the State

C. Sembie of the Legal Aid Board for the accused

Judgment

2. The accused stands charged on a one Count Indictment dated the 21st day of August 2016 for the offence of obtaining money by false pretences contrary to Section 33(1) of the Larceny Act, 1916. The allegation is that on the 2nd day of March 2015 at Freetown, in the Western Area of the Republic of Sierra Leone with intent to defraud, the accused, John Charles Kanu obtained Le. 18,000,000/00 (Eighteen Million Leones) from Mohamed Marrah by falsely pretending that he has a Nissan Three Sitter Van for sale, knowing same to be false.

1.1. Section 32(1) of the Larceny Act 1916 provides as follows:

Every person who by any false pretence

(1) with intent to defraud, obtains from any other person any ... money ... or causes or procures any money to be paid ... to himself or any other person for the use or benefit or on account of himself or any other person shall be guilty of a misdemeanor and on conviction be liable to penal servitude for any term not exceeding five years.

1.1.2. I thank the Prosecutor AJM Bockarie Esq for prosecuting this matter and for his final address. I also thank Defense Counsel, C. Sembie for defending the accused on behalf of the Legal Aid Board and for submitting a final address on behalf of the accused.

2. Burden and standard of proof

2.1. The prosecution has a duty to prove its case beyond reasonable doubt to gain a conviction on the offence as charged. See the case of *Woolmington Vs. DPP* which said principle of law has been adopted in all criminal cases within the

Sierra Leone jurisdiction.¹ This principle of law is not without exception. Where an accused pleads insanity to an alleged crime, it will remain the duty of the accused to prove that his situation falls within the M'Naughten rules. There are also statutory exceptions which provides that where a defence is based on any exception, proviso or qualification, the accused will have the burden of proof in proving that the exception applies in his situation. In respect of the level of the burden of proof on the part of the Prosecution, I refer to the well known case of *R Vs. Edwards* (1975) QB 27 and *Miller Vs Minister of Pensions* (1947) 2 AER 372.

2.1.1. I am mindful of the fact that an accused is entitled to an acquittal if there is no evidence direct or circumstantial, establishing his guilt. I have cautioned myself that all doubts must be resolved in favour of the accused person. I shall now proceed to evaluate the evidence and the law before me.

3. The Law

3.1. The provisions of Section 32(1) of the Larceny Act, 1916 has already been stated.

3.1.2. Section 40(1) of the Larceny Act, 1916 provides that:

'On the trial of an Indictment for obtaining or attempting to obtain any ... money ... it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the person accused did the act charged with the intent to defraud'.

3.1.3. Section 40(2) of the Larceny Act, 1916 provides that:

'An allegation in an Indictment that money or banknotes had been embezzled or obtained by false pretences can, so far as regards the description of the property, be sustained by proof that the offender embezzled or obtained any piece of coin or any banknote or any portion of the value thereof, although such piece of coin or banknote may have been delivered to him in order that some part of value thereof should be returned to any person and to any person and such part has been returned accordingly'.

3.1.4. Archbold 35th Edition at para 1935 provides that the False Pretence should be set out with sufficient certainty in the Indictment.

3.1.5. In the instant case, the false pretence alleged is that the accused John Charles Kanu, with intent to defraud, obtained Le. 18,000,000/00 from Mohamed Marrah by falsely pretending that, he has a Nissan Three Sitter Van for sale knowing same to be false.

3.1.6. Archbold reminds us that 'the Prosecutor must prove the making of the pretence as stated in the Indictment.' However the Learned Editors of that Edition state in para 1944 that 'it is sufficient if the actual substantial pretence, which was the main inducement to part with money is alleged in the Indictment and proved although it may be shown by evidence that other matters not laid in

¹ *The State Vs. Francis Mohamed Fofana Komeh & John Mans* (unreported).

the Indictment in some measure operated as an inducement upon the Prosecutor's mind.

3.1.7. The pretence must be as to an existing fact. It must be a fact that exists or did exist. I refer to para 1945 of Archbold 35th Edition which provides 'when ever a person fraudulently represents as an existing fact that which is not an existing fact, and so gets money, that is an offence within the Act. But it is not necessary that it should be by words; the conduct and acts of the party will be sufficient without any verbal or written representation. The Prosecution must prove that the alleged false pretence operated in the mind of the accused', in this case, John Charles Kanu.

3.1.8. In *Reg Vs. Jennison (1862)*, a bachelor induced a spinster to give him money in pretence that he was single; he wanted the money to furnish a flat; and that he will come back and marry her. His wanting the money to furnish a flat and his coming back to marry the spinster was held to constitute false future promises which do not qualify as an existing fact. Holding himself out as a bachelor was held to be an existing fact which will qualify for an offence under Section 32(1). In the instant case, the accused holding himself out to own and therefore in a legal position to dispose of the subject-matter herein could be considered an existing fact.

3.1.9. Section 32(1) of the Larceny Act, 1916 does not require the Prosecution to prove that the monies paid out were monies belonging to the person or persons who did the paying out. In the instant case therefore, the Prosecution need not prove that the Le. 18,000,000/00 paid out belonged to Mohamed Marrah. In the case of *Fred Ball (1952) Cr. App. Rep 24*, Lord Goddard, LCJ sets out the true position at page 27 that: 'The Section does not say 'obtains from the owner' but 'obtains from any person'. There is no doubt that 'obtains' means obtaining the property and not merely possession, and the obtaining must not be in such circumstances as amount to larceny for this purpose....'

3.1.10. The Prosecution must also prove beyond a reasonable doubt the falsity of the pretences. The pretence must be false at the time it is made to the knowledge of the defendant'. According to Lord Alverstone, LCJ in *Amar Nath Dutt (1913) Cr. App. Rep 51* at pages 57-59, '... in Indictments for obtaining money by false pretences, the important thing is the knowledge of the person making the pretence....'

3.1.11. The Prosecution must also prove beyond reasonable doubt that Mohamed Marrah was induced by the false pretences made by John Charles Kanu to part with Le. 18,000,000/00 as charged in the Indictment. As stated in Archbold 35th Edition at para. 1961, that is an essential ingredient of the offence though in many cases it may be inferred from the facts of the case. Where money is obtained by pretences that are *prima facie* false, there is an intent to defraud and use of false statements to obtain the money, though the money might have been obtained without them, is evidence from which there may be inferred an intent to defraud. In support of this proposition is the judgment of MR Justice Avory in

the Court of Criminal Appeal in *Fergusson (1914) Cr. App Rep 113* at pages 114-115.

3.1.12. Having in some measure settled the parameters of the law relating to obtaining money by false pretences, an offence under Section 32(1) Larceny Act 1916, I shall now analyse the evidence in order to determine whether it measures up to the requirements of the law or falls short of it.

4. Evidence analysis

4.1. PW1 was the complainant, Mohamed Marrah who recognized the accused as a car dealer. He said he recalls the 2nd day of March 2015 when he met the accused at a Car Centre at No. 78 Bai Bureh Road, Freetown where he said he saw some cars. He said he negotiated with the accused for purchase of an MPV Mazda at Le. 22,000,000/00 for which he gave the accused Le. 18,000,000/00 (Eighteen Million Leones), cash as deposit for which a receipt was issued. He asked for the accused person's title to the vehicle but none was issued him. No objection raised by Counsel for the accused, PW1 tendered the said receipt as Exhibit A.

4.1.1. He told the Court that having paid the said Le. 18,000,000/00, the accused gave him a Mazda MPV but gave him no title deed to the said vehicle. He said after the said payment, he sought the accused but that the accused was nowhere to be found. Two days after the said payment, someone approached PW1 with title deeds in respect of the said vehicle but PW1 refused to hand over the vehicle to him, a complaint was made to the police against PW1 by the person who had a document of title to the vehicle and upon being invited by the police, and seeing the authentic title to the vehicle in the name of the person who now made claim to the said vehicle, PW1 handed over the said vehicle to the claimant. It will be seen that from evidence led by PW3 and the accused himself, the vehicle or vehicles claimed by persons with title were a Serena 3 sitter van and a black Mercedes Benz, not a Mazda MPV.

4.1.2. PW1 told the Court that he continued his search for the accused who was nowhere to be found. It should also be noted that based on evidence before this Court, it was not immediately after the transaction and transfer of the said Mazda MPV that the accused could not be found. The facts are not that the accused received money for the Mazda MPV and ran away. He said he knew about other complaints against the accused to the police in respect of payment for vehicles to him. He said a warrant for the arrest of the accused was issued by the police. The accused was eventually arrested at Kamabai and transferred to the Kissy Mess Mess Police Station. Upon being called by a police officer at the said Kissy Mess Mess Police Station and upon his attending the said call, his case against the accused was transferred to the CID HQ, Pademba Road.

4.1.3. PW1 told the Court that the accused agreed to pay back his money, that is, Le. 18,000,000/00 but that he never did. The matter was charged to Court. During the Court proceedings, the accused through his mother offered another vehicle to which there was again no title deed. PW1 enquired about the title to

the said vehicle but none was produced. Again, another person with a document of title claimed the second vehicle from PW1, that is the Mercedes Benz.

4.1.4. In answer to questions put to him in cross examination, PW1 told the Court that he entered into a purely business relationship with the accused for sale of a motor vehicle. He said he paid Le. 18,000,000/00 as part-payment for the vehicle on the agreement that when he pays the balance of Le. 4,000,000/00 the accused will hand over the document of title to him.

4.1.5. He reiterated the fact that the accused was being sought for more than 4 weeks and he was nowhere to be found and throughout that period, the accused refused to pick up on his telephone calls. He agreed the accused promised to refund him his Le. 18,000,000/00 but that this promise was made only after Court proceedings had been instituted. PW1 told the Court he will accept his money if it is paid.

4.1.6. PW2 was DPC 10109 Abraham Jengo Bernard now attached to the Ross Road police Station, Freetown. He told the Court on 11th day of January 2017 that on the 27th day of August 2015 together with DPC 11171 Kaza JF, at the CID HQ, Pademba Road, Freetown, he obtained a Voluntary Caution Statement from the accused. He said the accused was cautioned and interviewed in Krio and that he made his responses in Krio which was recorded in English in respect of obtaining money by false pretences. At the conclusion of the interview, the accused had his statement read over to him in Krio, the contents of which he admitted to be true by affixing his right hand thumb print. He said he signed the said statement as a recorder and DPC 11171 signed as a witness.

4.1.7. The accused looked at the said Voluntary Caution Statement and confirmed his signature on each page. PW2 tendered the statement of the accused as Exhibit B1-8 which was read out in open Court. He also tendered the charge statement of the accused as exhibit C1-2 which was also read out in open Court.

4.1.8. The witness was crossed examined by C. Sembie on behalf of the accused. He identified Exhibit A as the receipt for the transaction between the accused and PW1. PW2's testimony in chief remained unshaken.

4.1.9. On the 13th day of January 2017, Counsel for the accused made an application to the Court to recall PW1 and PW2 which was granted, there being no objection by the State Counsel.

5. In answer to his further cross examination, PW1 told the Court that his agreement with the accused was for him to sell him a Mazda and that a Serena was given him also but that was claimed by another person with title to the said Serena. He said the accused through his mother gave him a Mercedes Benz in place of the Serena but that the accused had no title to the Mercedes Benz. He agreed with Counsel for the accused that he knows one Sergeant 922 Dumbuya John Samuel who he said was present when the Mercedes Benz was handed over to him by the mother of the accused while the matter was ongoing at the

Magistrate Court. PW1 told the Court that even that Benz was claimed from him by someone named Mohamed DuKuray who had title to the said Mercedes Benz.

5.1. In re-examination, PW1 told the Court that he informed the accused person's relatives that the Mercedes Benz had been claimed by the owner from him. Whatever the explanation as to how the accused got into possession of the said Mercedes Benz I hold is hearsay and of no relevance to the charge on the indictment herein. It is noted that PW1 told the Court that the said Mohamed Dukuray gave him Le. 6,000,000/00 (Six Million Leones) as part of his said Le. 18M and he returned the Mercedes Benz to him.

5.1.2. In answer to further cross-examination, PW2 told the Court that the accused told him during his interviews that the transaction between himself and PW1 was purely financial for the sale of a vehicle. He said the accused never told him he was trying to settle the issues with PW1 and that he had no knowledge of such.

6. PW3 was Alex Borbor, who identified himself as a business man. He identified the accused as his colleague car dealer and PW1 as his business partner. He said on the 2nd day of March 2015, he gave the accused Le. 18M for purchase of a Mazda for PW1 for which a receipt was issued. I note that PW1 in his testimony told the Court that he paid cash of Le. 18,000,000/00 to the accused for purchase of a Mazda MPV. It is noted that for an offence as charged, the offence is complete if with an intent to defraud, the money is obtained from any where.

6.1. He said he knows a Serena was given to PW1 in place of the Mazda MPV and that the Mazda MPV was claimed by a man with authentic title to same from the said PW1 through the police. He said during this period, the accused was nowhere to be found and that after some 6-8 weeks he learnt the accused had been arrested; he informed PW1 and they visited the police station where he made a statement. He said the accused was charged to Court by the police. It will be recalled that PW1 told the Court that he was called by the police upon the arrest of the accused.

6.1.2. PW3 told the Court that during the Magisterial proceedings, a Mercedes Benz car was offered PW1 by the mother of the accused. This ties with the testimony of PW1 and PW2 but the question remains whether or not the accused had title to the said Mercedes Benz. PW3 told the Court that while the said Benz was parked at his dealership, someone made claim to it and produced a document of title for the Benz. PW3 said he examined the document of title and observed that the information therein was authentic and the same as that which is on the Chassez and engine of the Benz. He told the Court that the owner of the Benz paid Le. 3M as part payment to him for PW1. He said he was informed by PW1 that the claimant made further payments to him. It can be recalled that PW1 told the Court that he received a total of Le. 6M from the said Mercedes Benz owner as part payment of his Le. 18M.

6.1.3. PW3 was cross examined by C. Sembie. He said while he was present when the Benz was handed over to PW1 by the mother of the accused, he was not

present in Court when an agreement in respect of the Mercedes Benz hereinbefore referred was made. He said he was present when an agreement was made between PW1 and the owner of the Mercedes Benz; he tendered a receipt of part payment by the claimant which was marked as Exhibit D

7. PW4 was DPC 13535, Mohamed Ali Mansaray attached to the Kissy Police Station. He identified PW1 as a complainant who had reported a case of obtaining money by false pretences against the accused. He said the matter was assigned to him for investigation and statements were obtained from PW1 and his witnesses. He said the accused was arrested on the 22nd day of August 2015 on a Arrest Warrant No. 97/2015. He said DPC 13268 Kanu DW cautioned and questioned the accused in Krio and he made his responses in Krio which was recorded by DPC 13268 Kanu DW in English. At the conclusion of the statement taking, same was read over and explained to the accused in Krio which he confirmed to be true and correct by affixing his rhtp. He signed off on it as the witness and DPC 13268 Kanu DW signed as the recorder. The matter he said was transferred to the CID HQ for further investigation.

7.1. No objection being raised by Counsel for the accused, PW4 tendered the accused person's VCS made at the Kissy Police Station which was marked Exhibit E1-7 which was read out in open Court. he tendered the Arrest Warrant as Exhibit F which he told the court was only effected by PW4 and DPC 13268 Kanu DW at the Kissy Police station on the 22nd day of August 2015 because the accused was on the run. He said the accused was arrested and brought to the police station by another person on quite another offence which is irrelevant to the charge on the indictment.

7.1.2. PW4 was cross-examined by Counsel for the accused but his testimony in chief remained unshaken.

8. The Prosecutor closed the case for the State on the 20th day of January 2017 having led four witnesses stated at the back of the Indictment. He tendered the signed Committal certificate as Exhibit E1-2.

8.1. The accused was put to his election in compliance with Section 192 of the CPA No. 32 of 1965 to wit:

- a. Making his unsworn statement from the dock;
- b. Making a sworn statement from the witness box and calling witness(es) if he chose to;
- c. Relying on his statement to the police.

8.1.2. The accused chose to testify on oath and call two witnesses. He asked that a subpoena be served on Sergeant 922 Dumbaya John Samuel attached to Court No. 1 which was granted.

9. The accused testified on his own behalf as DW1 on the 20th day of January 2017 during which he identified himself as a car dealer. He said he knows the complainant, Mohamed Marrah, PW1. He said PW3, told him he needed a vehicle

for someone who had given him money for same and that PW3, at the home of the accused selected a Mazda MPV which he test drove. They agreed on payment of Le. 21,000,000/00 (Twenty-One Million Leones) for the Mazda MPV for which he, PW3 made a part-payment of Le. 17,500,000/00 (Seventeen Million Five Hundred Thousand Leones) but that on his instructions a receipt of Le. 18,000,000/00 (Le. 18M) was issued. It is noted that PW1 told the Court that the agreed cost price for the Mazda MPV was Le. 22,000,000/00. He said he gave the keys to the Mazda MPV to the complainant and the complainant and PW3 drove off with the said Mazda MPV.

9.1. DW1 told the Court that he used the purchase money of the Mazda MPV to buy two other vehicles. He said two days after payment for the Mazda MPV, the complainant and PW3 complained about the vehicle having some over heating problems and that they requested for another vehicle. He said in their presence, a three seater Serena van was brought in for sale which he told them was Le. 25,000,000/00 (Twenty Five Million Leones); he said he handed over the key to the Serena van to PW3 for test driving but that the complainant and PW3 drove off with the Serena car and held a lien over it for refund of the purchase price for the Mazda MPV.

9.1.1. DW1 told the Court that he made no report to the police against the complainant and PW3 herein in respect of their seizure of the Serena car because according to him, he had used the money paid him for the Mazda MPV. He said he travelled to the provinces and that upon his return, himself and a friend Dennis went to the Kissy Police Station along side a police officer from Kamabai, where he said he saw the complainant who had made a report against him. It could be recalled that the evidence before this Court is that an Arrest Warrant had been issued against the accused for other criminal reports made against him. The accused was not being honest.

9.1.2. He said he was interviewed and made a statement to the police at the Kissy Police Station on the 22nd day of August 2015 and that a further statement was obtained from him at the CID HQ Pademba Road where he was transferred on the 23rd day of August 2017.

9.1.3. DW1 told the Court that the case against him was heard by Magistrate Kamanda as he then was, where it was agreed that he surrenders his black Mercedes Benz to the complainant through Sergeant 922 Dumbuya John Samuel hereinbefore referred in settlement for the Le. 18M purchase price for the Mazda MPV. He said the Serena was returned by the complainant to the rightful owner. He said he had no title deed to the black Mercedes Benz that he offered to the complainant in settlement for the complainant's Le. 18,000,000/00 (Eighteen Million Leones).

9.1.4. In answer to questions put to the accused in cross examination, he told the Court that he has been a car dealer for three (3) years. He said the practice is when complete payment is made for vehicles, the title deed is transferred to the purchaser. He said he did not hand over a title deed to the complainant upon

payment of Le. 18M for the Mazda MPV, agreed that when he drove the Mazda MPV on its return, he observed it had over heating problems.

9.1.5. In respect of his arrest, he told the Court that he was arrested because he had problems with one Dennis. It can be recalled that the accused told the Court in chief that he went to the Kissy Police Station with his friend Dennis along side a police officer. He said re sale of vehicles, even though he is a car dealer, the practice is that he does not carry title deeds of vehicles and same is not handed over to would be purchasers until complete payment is made after which the owner will hand over the car to the purchaser. To clarify this point, DW1 told the Court that he had no title to the Black Mercedes Benz hereinbefore referred because he had barely paid part of the cost of the Benz.

9.1.6. On the 13th day of February 2017, DW2, John Samuel Dumbuya testified on behalf of the accused. He identified himself as a Prosecutor at Magistrate Court No. 1. He said he was in Court when the accused promised to hand over his Black Mercedes Benz to the complainant in place of the Le. 18M purchase price of the Mazda MPV herein referred. He said the accused person's mother handed over the key of the Benz to the complainant who drove the vehicle away. In answer to cross examination, DW2 told the Court that he did not see the title deed to the Mercedes Benz.

10. C. Sembie closed the case for the defence on the 13th day of February 2017. Dates for submission of final addresses were agreed upon to wit:

- a. The Defence on the 24th day of February 2017;
- b. The Prosecution on the 1st day of March 2017.

10.1. No final address was submitted on behalf of the accused. The Prosecution submitted a final address on behalf of the State long after the date marked for submission and a few days before this judgment. Counsel are encouraged to submit addresses on time for record purposes and in the interest of justice especially where litigants are incarcerated during trial.

10.1. I note the provisions of Section 32(1) of the Larceny Act 1916 again and that the laws relating to an offence under Section 32(1) of the Larceny Act, 1916 have been outlined in detail.

11. Back to the facts of the instant case and determination as to whether or not the accused with intent did obtain money from the complainant, Mohamed Marrah by false pretence, PW3 said he it was who approached the accused on purchase of a vehicle for the complainant, PW1 because he knew the accused to be in the business of selling cars. DW1 told the Court that the practice is that title deeds are transferred by the owner of vehicles upon final payment for vehicles purchased. PW1 told the Court during his testimony that the accused did tell him that upon payment of the balance purchase price of Le. 4,000,000/00 he will be issued the title deed of the Mazda MPV.

11.1. The vehicle here considered is a Mazda MPV. The negotiated price was Le. 21,000,000/00 but it is noted that PW1 said the negotiated price was Le. 22M; part payment of Le. 18,000,000/00 was made by PW1 through PW3. This was not contested by the prosecution. I refer to page 2 of Exhibit C1-7. I also refer to Exhibit A which shows that Le. 18M was deposited as part payment with a balance of Le. 3,000,000/00 outstanding. See Exhibit C page 5. The accused handed over the said Mazda MPV negotiated for, to the complainant. See Exhibit C page 5. This is not in contention.

11.1.1. Now to *mens rea*; can it be true that the accused had the requisite intention to obtain Le. 21,000,000/00 or Le. 22,000,000/00 of which Le. 18,000,000/00 was deposited by false pretence? There was a Mazda MPV available for sale for which negotiations were made by the parties, part payment made and vehicle handed. What was not transferred was the title deed to the said Mazda MPV and the evidence before this Court which was not contested is that title deeds to purchased vehicles are only transferred to purchasers after complete payment. The said Mazda MPV was returned by the complainant because it had some mechanical problems as confirmed by the accused. The title deed of the Mazda MPV was not transferred or issued to the complainant because according to the accused, the vehicle was not licensed and because the complete payment had not been made.

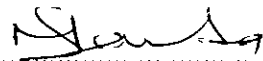
11.1.2. The accused could not return the Le. 18M received because he had used same for purchase of two other vehicles. It was not part of the contract that the purchase price for the Mazda MPV should not be used before the full payment is made. It is not in contention that the accused is a car dealer. It is clear that the accused is in the business of buying and selling of vehicles so his use of the Le. 18M for that purpose is tenable. The accused told the police in his statement that he was hopeful that his debtors will pay him so that he could refund the complainant's money. See Exhibit C6.

11.1.3. To my mind, if the accused had the intention to obtain money by false pretence from the complainant, he would not have negotiated for sale of the Serena car at Le. 25M in replacement of the Mazda MPV. The accused gave the keys of the Serena car to the complainant for test driving; see Exhibit C page 4. My understanding of the evidence is that the Serena would have been sold to the complainant in place of the Mazda MPV albeit at a higher price. He, the accused maintained he was not the rightful owner of the Serena van. See Exhibit B page 3. There is nothing in evidence by any of the prosecution witnesses that suggests that the accused held himself out and in pretence that he was the owner of the Serena van. In fact the accused said the Serena was brought in for sale by one Musa, another car dealer whilst he was having discussions with the complainant and PW3 re mechanical problems with the Mazda MPV.

11.1.4. I here remind myself about the accused person's trade; buying and selling of cars. The evidence before this Court by the testimony of PW3 is that the Mercedes Benz was the property of one Mohamed Thunkara, not the accused. There is nothing in evidence to suggest that the accused held himself out as the owner of the Mercedes Benz either. All indications are that the accused intended

to sell a Mazda MPV to the complainant which said Mazda MPV he collected part payment for and handed over the vehicle to the complainant. There is no evidence to suggest that the Mazda MPV is not available or has been sold by the accused to another person.

11.1.5. The fact that there were other criminal reports against the accused is irrelevant to the matter herein; the fact that the Serena and Mercedes Benz were lawfully owned by other persons has nothing to do with the charge herein. The issue in respect of the title deed to the Mazda MPV and just for the sake of argument, the Serena and Mercedes Benz are hopefully quite clear. The vehicle for which negotiations were made and part payment of Le. 18,000,000/00 made was for a Mazda MPV, not a Nissan Three Sitter Van as appear on the indictment. I have the power under Section 143(1) CPA 1965 to amend the indictment to read a Mazda MPV but against the amendment would have been of no moment in light of the evidence herein. What is before this Court for determination is an allegation that the accused received money from Mohamed Marrah under false pretence, a criminal offence, for which I hold the prosecution has not proven the offence against the accused herein. The accused John Charles Kanu is acquitted and discharged accordingly.



Delivered on: 15/2/17