

**RAMONI ANIMASHAUN**  
**V.**  
**THE STATE**  
**IN THE SUPREME COURT OF NIGERIA**  
**HOLDEN AT ABUJA**

**SC/537/2020**

**JOHN INYANG OKORO**

**TIJJANI ABUBAKAR**

**HABEEB ADEWALE OLUMUYIWA ABIBRU**

**JAMILU YAMMAMA TUKUR**

**MOHAMMED BABA IDRIS**

*FRIDAY, 4<sup>TH</sup> JULY, 2025*

*Criminal Law: Proof - conspiracy - where an accused confesses that he committed the offence in concert with others - whether the offense of conspiracy is established*

*Criminal Law: Armed Robbery - Ingredients thereof*

*Criminal Law and Procedure: Proof of criminal Offences - whether prosecution must prove the guilt of the accused beyond reasonable doubt - nature of proof beyond all reasonable doubt - sec. 135 of Evidence Act, considered - the principle in Nwaturuocha vs. The State (2011) 6 NWLR (Pt. 1242) 170 @193*

*Criminal Law and Procedure: Conviction of accused - where accused makes a confessional statement - whether he can be convicted solely on such a confessional statement*

*Criminal Law and Procedure: Confession - meaning thereof - sec. 28 of the Evidence Act 2011, considered*

*Criminal Law and Procedure: Confessional statement - corroboration thereof - approach of court where accused makes a confessional statement - whether court will determine the efficacy of such a confessional statement*

*Criminal Law and Procedure: Contradictions in the evidence of witnesses - effect thereof - whether minor contradictions in the evidence of witnesses are not material - the principle in Ochemaje vs. State (2008) 15 NWLR (pt.1109) 57*

*Criminal Law and Procedure: Retraction of confessional statement - where accused retracts his confessional statement orally in court - whether court will discountenance such a retraction if satisfied with the truth of a confessional statement.*

*Words and Phrases: Proof beyond all reasonable doubt - meaning*

*Words and Phrases: Confession - meaning thereof*

**Issue:**

Whether having regard to the evidence adduce by the prosecution, the justices of the Court of Appeal were right in affirming the conviction and sentencing of the Appellant for the Offences of Conspiracy to commit armed robbery and armed robbery.”

**Facts:**

The Accused /Appellant was arraigned before the Ogun State High Court for conspiracy and armed robbery contrary to and punishable under section 6(b) and 1(2)(a) of the Robbery and Firearms (Special Provision) Act Cap. R.11.

At the end of hearing, the Accused/Appellant was convicted and sentenced as charged. Dissatisfied with the judgment of the trial court, the Accused/ Appellant unsuccessfully appealed to the Court of Appeal Ibadan Division, hence this further appeal to the Supreme Court.

***Held(unanimously dismissing the appeal):***

*1. On burden on the prosecution in a criminal charge-*

The burden placed on the prosecution in every criminal trial is heavy; it must establish the guilt of the accused person beyond reasonable doubt. Throughout the trial process it must remain clear that the prosecution retains the burden of proving its case against the accused person beyond reasonable doubt. see: section 135 of the Evidence Act, 2022, and the decision in NWATUROUCHA V. THE STATE (2011) 6 NWLR (Pt. 1242) 170 at 193 where the Court held that:

“Proof beyond reasonable doubt does not mean proof beyond all doubt or all shadow of doubt. It simply means establishing the guilt of the accused person with compelling and

conclusive evidence, a degree of compulsion, which is consistent with a high degree of probability..... One thing that is certain is that where all the essential ingredients of the offence charged have been proved or established by the prosecution. The charge is proved beyond reasonable doubt. Proof beyond reasonable doubt should not be stretched beyond limit”

### *2. On the meaning of proof beyond all reasonable doubt-*

Proof beyond reasonable doubt means proof to moral certainty, such proof as satisfies the judgment and conscience of a judge as a reasonable man, and applying his reasons to the evidence before him that the crime charged has been committed by the defendant and so satisfies him as to leave no other reasonable conclusion possible.

See: AFOLALU V. THE STATE (2010) 16 NWLR (Pt.1220) 584, DAIRO V. STATE (2017) 9- 12 SC 119. IKPO V. STATE (2016) 10 NWLR (Pt. 1521 501 and BAKARE V. STATE (1987) 1 NWLR (Pt. 52) 579.

### *3. On ingredients of armed robbery -*

It is trite law that for the prosecution to achieve success in proof of the offence of Armed robbery, the following essential ingredients must be proved beyond reasonable doubt;

(a) That there was a robbery incident or series of robberies (b) That the robbery or each of the robberies was an armed robbery (c) That the accused was the armed robber or one of the armed robbers. See: AGUGUA V. STATE (2017) LPELR-42021 (SC).

The essential ingredients of the offence of armed robbery, which must be proved beyond reasonable doubt, are as set out below:

1. That there was a robbery or series of robberies
2. That the robbery was an armed robbery
3. That the accused was one of those who participated in the robbery or series of robberies.

See BOZIN V. STATE (1985) (Pt.8) 465 and ALABI V. STATE (1993) 7 NWLR (Pt. 37) 511.

### *4. On evidence of armed robbery by the Appellant -*

In proving its case against the Appellant, PW1 the victim of the incident in his evidence before the trial court at pages 53 to 54 of the records of appeal testified and narrated how the Appellant and his co-accused attacked him, he stated that he was in his room when he heard the noise and when he came out one of the armed robbers who was later identified as the Appellant accosted him with a gun and led him into his room, he

took his techno phone and demanded for money. The learned trial judge, who had the opportunity of listening to the testimony and observing the demeanor of the witness in the witness box, believed him. The lower court upon carefully analyzing the testimony of the witness at the trial Court agreed with him and eventually affirmed the decision of the trial Court.

In addition to the testimony of PWI, the Appellant made a confessional statement at pages 30 to 31 of the records of appeal which he later retracted.

*5. On whether accused can be convicted solely on his confessional statement -*

The law is well settled on endless judicial authorities that an accused person may be convicted solely based on his confessional statement if the confession is positive, direct, unequivocal and voluntarily made. See YESUFU V. STATE (1976) 6 SC 167 at 173, NWACHUKWU V. STATE (2003) NWLR (Pt. 123) 312 and KAMILA V. STATE (2018) 8 NWLR (Pt. 1621) 252. There can be no better proof of the commission of a crime than the words of the accused, voluntarily stating how the offence was committed and the role he played.

*6. On meaning of confession -*

A confession is an admission made at any time by a person charged with a criminal offence stating or suggesting that he committed the crime. See; SAIDU V. THE STATE (1982) 3 SC 41, NWACHUKWU V. THE STATE (2007) 12 SCM (Pt.2) 447 at 473, and CHIOKWE V. STATE (2012) LPELR-19716 (SC).

*7. On meaning of confession -*

Section 28 of the Evidence Act 2011, defines confession and lends substantial support to this statement of law that where confession is direct, positive and unequivocal it will be sufficient to ground conviction. Section 28 of the evidence Act 2011 provides as follows :

**"A confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime"**

*8. On approach of court where accused makes confessional statement -*

In the instant case, not only did the Appellant give a confessional graphic account of all that transpired, he also gave details of how he was arrested after he was pursued by the people who later took him to police station. Notwithstanding the positive, direct and unequivocal confession, it is the usual practice of the Courts to consider some other ascertained facts outside the confessional statement, suggesting that the confession is likely to be true. The questions the Courts would always ask are;

- I. Is there anything outside the confession to show that it is true?
- II. Is it corroborated?
- III. Are the relevant statements made in it true as far as they can be tested?
- IV. Was the accused person one who had the opportunity of committing the crime?
- V. Is the confession possible?
- VI. Is it consistent with other facts, which have been ascertained and proved?

See: R V. SYKES (1913) 18 CR APP. REP 233, EGBOGHONOME V. STATE (1993) 7 NWLR (Pt.306) 383, OJELE V. STATE (2007) 2 NWLR(Pt.1019) 500, and SIMEON V. STATE (2018) 13 NWLR (Pt. 1635) 128.

The trial and lower Courts found the evidence of PWI to be concrete, cogent, convincing, and credible. The evidence of PWI sufficiently corroborates the contents of the confessional statement. On this point alone the trial and lower Courts had sufficient cause to find the Appellant guilty as charged.

#### *9. On nature of contradictions in evidence of witnesses -*

The settled position of the law on the issue of contradictions in the evidence of witnesses that testify in Court is well-settled, this is on a chain of endless authorities, it is not every minor contradiction in the evidence of witnesses that matters or has the effect of rendering the evidence unbelievable. For a trial Court to disbelieve a witness, the contradiction in his evidence must be on a material point. The contradiction must be substantial as to render the evidence of the witness doubtful - See KALU V. THE STATE (1988) 4 NWLR (Pt. 90) 503 SC, and OCHEMAJE V. STATE (2008) 15 NWLR (Pt. 11 09) 577 where this Court per TOBI, JSC, (of blessed memory) on the issue of contradiction in the evidence of witnesses eloquently elucidated as follows and I quote-

**"Although witnesses see and watch the same event, they may narrate it from different angles, in their individual peculiar focus, perspective or slant. This does not mean that the event that they are narrating did not take place. It only means most of the time that the event took place, but what led to the event was given different interpretations, arising from the senses of sight and mind dictated by their impressions and idiosyncrasies. That is why the law says that contradictions, which are not material or substantial, will go to no issue. The main interest of the Court is that the witnesses are in union or unison as to the happening of the event but gave different versions in respect of the peripheral surrounding the event",**

*10. On proof of conspiracy -*

The Appellant in this appeal having confessed that he committed the offence in the company of and with the cooperation of his co-accused as stated by PW1, the charge for conspiracy was fully established.

Having acted in concert with another to do an illegal act makes no difference who did what in the commission of the crime.

*11. On retraction of a confessional statement -*

At the trial, the Appellant made vain and futile efforts to retract his confessional statement in the face of obvious and glaring facts as established by the evidence before the trial Court. It is the law that retraction of confessional statement by an accused person in his oral testimony in court during trial is of no moment. The most important thing is that the court must be satisfied as to the truth of the confession and can therefore rely on it alone to ground conviction, More so, where there are other facts pointing to the guilt of the Appellant. See, *ONYEJEKWE VS. THE STATE* (1992) 4 SCNJ 1 at 8, *BATURE VS. THE STATE* (1994) 1 SCNJ 19 at 29, *AKPAN VS. THE STATE* (2001) 7 SCNJ 567 at 580; (2001) 11 SCM 66. *SOLOLA & ANOR V. THE STATE* (2005) 6 SCM 137; (2005) 5 SCNJ 139 at 154, (2005) 22 NSCQR 254 at 267; (2005) 5 SC (pt.1) 135, *OMOJU V. THE FEDERAL REPUBLIC OF NIGERIA* (2008) 2 SCM 164 at 177.

Finally, I am satisfied that the Appellant was properly connected to the crime with which he was charged, convicted and sentenced. The sole issue crafted for determination is therefore resolved against the Appellant in favour of the Respondent. Appellant therefore has nothing useful to urge this court, the appeal is bereft of merit and deserves to be dismissed, it is hereby dismissed by me. The Judgment of the lower court delivered on the 25th day of June, 2020, in appeal No. CA/IB/3312/2017 affirming the judgment of the trial court imposing sentence of death by hanging on the Appellant is further affirmed by me.

Appeal dismissed.

**History of the case:**

**Supreme Court:**

Names of Justices who say on the appeal: JOHN INYANG OKORO, TIJJANI ABUBAKAR,

HABEEB ADEWALE OLUMUYIWA ABIBRU, JAMILU YAMMAMA TUKUR,  
MOHAMMED BABA IDRIS

Appeal No. SC/537/2020

Date of Judgment: Friday 4th July, 2025

Names of Counsel: Gbenga Akinde - Peters for the Appellant and Mitchel A. Aribisala Esq. For the Respondent.

**TIJJANI ABUBAKAR, JSC( delivering the judgment):** The Appellant in this appeal was arraigned before the Ogun State High Court for conspiracy and armed robbery contrary to and punishable under sections 6(b) and 1(2)(a) of the Robbery and Firearms (special Provision) Act Cap R.11. He was tried convicted and sentenced to death by hanging. The decision of the trial Court was delivered on the 24th day of May, 2017.

Appellant became aggrieved by this decision and lodged an appeal before the Court of Appeal Ibadan Division, on the 25th day of June, 2020, the lower Court delivered its decision, affirming the Judgment of the trial Court. Appellant became nettled by the decision of the lower Court and further appealed to this Court. This appeal is therefore against the Judgment of the Court of Appeal Ibadan Division delivered on the 25th day of June 2020.

Just in brief, the Appellant along with other Co-accused persons were arraigned before the High Court of Justice Ogun State on two Counts charge of Conspiracy to commit armed robbery and armed robbery. Appellant and his Co accused were specifically alleged to have attacked one Raheem Lateef with a gun, led him into his house and took the phone belonging to his wife and brother. At the trial, the Prosecution called the victim Lateef Raheem as PW1, the prosecution also called Hon. Ferni Arowora as PW2. Again, the prosecution called Corporal Muritala Buhari and Corporal Oseni Sulaimon as PW 3 and 4 respectively. In all therefore the prosecution called four witnesses in proof of its case against the Appellant.

At the trial, the prosecution also tendered four exhibits which include one locally made Pistol and cartridge. At the end of the trial, Appellant was found guilty of conspiracy and armed robbery; he was therefore convicted and sentenced to death by hanging.

Following his trial, conviction and sentence by the trial Court the Appellant appealed to the Court of Appeal, his appeal was unsuccessful he therefore further appealed to this Court.

Learned Counsel Gbenga Akinde-Peters Esq. settled the Appellant's brief of argument on the 26th day of January, 2021, the brief was deemed as properly filed and served on the 10th day of March, 2025, while learned Counsel Mitchel A. Aribisala filed

the Respondent's brief of argument on the 4th day of March, 2024, the brief was deemed as properly filed and served on the 10th March, 2025.

Learned counsel for the Appellant nominated sole issue for determination, the issue is reproduced as follows:

**“Whether having regard to the evidence adduce by the prosecution, the justices of the Court of Appeal were right in affirming the conviction and sentencing of the Appellant for the Offences of Conspiracy to commit armed robbery and armed robbery.”**

On the other hand, the Learned Counsel for the Respondent, nominated a corresponding sole issue for determination; the issue is also reproduced as follows:

**“whether the Court of Appeal was right in affirming the conviction of the Appellant on the ground that the Respondent proved the charge of Conspiracy to commit Armed Robbery and Armed Robbery against the Appellant beyond reasonable doubt. ”**

#### **SUBMISSIONS OF COUNSEL FOR THE APPELLANT**

Learned counsel for the Appellant submitted that the appellant was not sufficiently identified as one of the persons that robbed PWI and his family on the 28th day of February, 2012 at Adejumo Street, Orile-Ogun, Ota, Ogun State. The evidence adduced Counsel said fell short of linking the Appellant to the armed robbery incident that took place against PWI the victim of the incident on the 28th day of February, 2012.

Learned counsel submitted that the trial Court only relied on the eye witness testimony of PWI and the alleged confessional statements of the appellant to conclude that the prosecution had proved all the ingredients of the offences of conspiracy to commit armed robbery and armed robbery against the Appellant.

Learned counsel also argued that for the prosecution to succeed, it must establish the identity of the accused and by credible evidence, prove its case beyond reasonable doubt. Learned Counsel added that to secure conviction, the prosecution must satisfy the requirements of the ingredients of the offence beyond reasonable doubt, where this is not done the case of the prosecution must fail. Counsel relied on the decision of this Court in STATE V. ISIAKA (2013) 1 1 NWLR (Pt. 1364) 162.

Relying on the decisions in *AGBOOLA V. STATE* (2013) 11 NWLR (Pt. 1366) 628, *TOPE V. STATE* (2019) 15 NWLR (P. 1695) 282, *LORDPITORL V. STATE* (2012) 12 SCM 134, *AJAYI V. STATE* (2013) 3SCM and *DIBBIE V. THE STATE* (2004) 14 NWLR (PTt.893), learned counsel argued that the prosecution can discharge the burden imposed on it by law to prove the commission of crime by any one or two of the following;

1. By the confession of the accused which must be direct and positive.
2. By the evidence of an eyewitness who directly witnessed the commission of the offence and or
3. Circumstantial evidence which points directly and unequivocally that the accused person and no other person committed the offence.

On the charge of armed robbery learned Counsel said, the law places a burden on the prosecution to prove the following elements jointly.

1. That there was a robbery
2. That it was an armed robbery
3. That the accused was one of the robbers.

Learned Counsel for the Appellant admitted that the prosecution was able to establish that there was a robbery, it was also proved that the robbery was armed robbery. Learned Counsel argued that the lower Court in its judgment found that there was contradiction in the evidence of PW4 regarding the gun recovered from the appellant, but the lower Court was wrong to have held that such contradiction was not material.

Learned counsel contended that the contradiction goes to the root of the second element that must be established to prove the guilt of the Appellant beyond reasonable doubt. Counsel added that an accused person is presumed innocent upon arraignment and the prosecution is duty bound to prove his guilt.

Learned Counsel submitted that in establishing that the Appellant and his Co accused were armed, the prosecution must name the weapon without doubt, the prosecution witness should not in one breath say they were armed with cutlasses and under cross examination say they were armed with a gun. Counsel argued that it is impossible for two trained Nigeria Police men to see a particular weapon and for one to call it a Dane gun and the other to call it a pistol. The contradiction is not a flimsy divergence that would naturally occur in the presentations by different persons, especially police men, the contradiction of the PW4, according to counsel is therefore fatal to the case of the prosecution, and learned Counsel urged tis Court to so hold.

Learned Counsel submitted on the third ingredient that Appellant was not part of the people that robbed PW1, and that the Respondent failed to prove the 3'd element of the

offence charged. Counsel added that by the decision in ADEKUNLE V. STATE (2006) LPELR-107 (SC), the ingredients must co-exist and where one of them is absent or tainted with doubt, the charge cannot be said to be proved.

Learned Counsel further argued that the trial Court erred when it relied on the extra-judicial statement purportedly made by the Appellant, which the Appellant denied being the author of the contents.

Learned counsel submitted that in a case where the accused person denies ever making a confessional statement as in the instant case, the confession is still admissible in evidence against the accused person, however, the trial Court must at the conclusion of the trial determine the veracity and probative value of the said confession. Learned Counsel relied on HASSAN V. STATE (2001) LPELR'-1358 (SC), in support of this submission.

Learned Counsel submitted that the Appellant in his testimony denied ever robbing anybody, he put up the defence of alibi, he also denied ever making exhibit A. the trial Court found that the evidence of PW 1-3 on the identification of the Appellant as one of the robbers was unsatisfactory and discredited same, the trial court also expunged the evidence of PW6 from its records because the witness did not attend the Court to be cross examined, the trial Court also did not consider the defence of alibi raised by the Appellant, rather it relied on exhibit A without testing its veracity to convict and sentence the Appellant to death. Learned Counsel urged this Court to resolve this issue in favour of the Appellant and hold that the Respondent was not able to prove its case against the Appellant beyond reasonable doubt. That the Appellant's appeal has merit and should be allowed by this Court.

### **SUBMISSIONS OF COUNSEL FOR THE RESPONDENT**

As I stated earlier in this Judgment, the learned Counsel for the Respondent also crafted a corresponding sole issue for determination.

Submitting on this sole issue, learned Counsel said the Court in criminal trials is under a legal duty to identify and be satisfied by evidence that all ingredients of the offences named in the charge are proved in tandem with the required legal standard to be able to convict thereon. Counsel said a Court in convicting an accused of an offence will look at the ingredients of the offence to ascertain that the crime or offence did take place and that the evidence adduced sufficiently proves all the essential ingredients of the offence.

Learned Counsel said that proof beyond reasonable doubt does not mean proof beyond all shadow of doubt. See AYINDE V. STATE (2019) 12 (Pt. 1687) 140. Counsel added that the burden of proof in criminal cases is on the prosecution who must prove its case beyond reasonable doubt and has a general duty to rebut the presumption of innocence

constitutionally guaranteed the accused person. See *AGBI V. OGBEH* (2006) 1 1 NWLR (Pt. 990) 65,123 C-E.

Learned Counsel submitted that the Respondent did in fact prove all the ingredients of the offences for which the Appellant was convicted as is borne out by sufficient evidence on record justifying the conviction and sentence of the Appellant by the lower Court.

As in the case of the Learned Counsel for the Appellant, the Learned Counsel for the Respondent also cited the ingredients of the offence of armed robbery as provided in a plethora of judicial decisions. Learned Counsel said both the Appellant and Respondent are all in agreement that there was a robbery as there is no denial from the part of the Appellant on record.

Learned Counsel also argued that the prosecution did in fact prove the offence of armed robbery and linked the Appellant to the crime with the testimony of an eyewitness PWI during trial. It was also proved further that the robbery was committed with weapons. Counsel said the Appellant did not in any way discredit the testimony of PWI .

Learned Counsel submitted that by the evidence of Pw 1 , it was made clear that the robbery was an armed robbery. PWI gave eye witness account showing that the Appellant was indeed armed and threatened violence on him with a gun. PWI also gave evidence that the Appellant and the other accused person shot at them when they were being chased but fortunately did not hurt anyone and eventually stopped when the bullet finished. Counsel added that PW3 and PW4 who were IPO (s) in their testimonies before the Court identified the gun that was recovered from the Appellant. Learned Counsel contended that the testimonies of PWI , PW3 and PW4 put together show clearly that the accused were armed when they robbed PWI and his family.

Learned counsel argued on the issue of contradiction raised by the Appellant on the description of the gun recovered from the Appellant that there is no contradiction. Counsel added that even if there was contradiction in the description of the gun, it was not sufficient to go to the root of the evidence. Counsel cited the case of *SHOLA V. STATE* (2020) 8 NWLR (Pt. 1727) 530 (Pg. 546-547 in support of his submission.

Learned counsel said it is immaterial whether the gun used by the Appellant and his co-accused was a Dane gun or locally made pistol, the requirement of the law is that a gun or firearm was used.

Learned counsel submitted that the evidence of PWI who is the victim and eyewitness of the offence was direct and it sufficiently linked the Appellant to the offence of armed robbery which he was charged for.

Learned counsel said the ingredients required to prove the crime of armed robbery was proven by the prosecution at the trial Court and the lower court was right in affirming the decision of the trial Court.

On the issue of conspiracy, learned counsel submitted that conspiracy itself constitutes a distinct offence from the predicate crime that is the object of the offence, the offence is consummated the moment two or more persons have agreed to do, either immediately or at some future time, certain things. Counsel said that in a charge of conspiracy, proof of the actual agreement is not always obtainable because it is the conspirators themselves that are able to give direct evidence of the agreement which is often hatched in secrecy. According to learned Counsel for the Respondent, there is evidence from the conspirators as well as testimony of an eyewitness pointing to the existence of an agreement to achieve a common illegal objective.

Learned counsel finally urged the Court to hold that the Respondent proved all the ingredients of the offence of conspiracy to commit armed robbery and armed robbery beyond reasonable doubt. Counsel also urged the court to dismiss this appeal and affirm the decision of the lower Court.

## **RESOLUTION**

I have examined the sole issue each nominated for discourse by each of the contending parties in this appeal. The issues are substantially similar; resolution of any of the issues will have the effect of determining the issues in controversy in this appeal effectively and effectually. I will therefore adopt the issue as formulated by the Appellant as the issue to resolve in the determination of this appeal.

The burden placed on the prosecution in every criminal trial is heavy; it must establish the guilt of the accused person beyond reasonable doubt. Throughout the trial process it must remain clear that the prosecution retains the burden of proving its case against the accused person beyond reasonable doubt see: section 135 of the Evidence Act, 2022, and the decision in *NWATUROUCHA V. THE STATE* (2011) 6 NWLR (Pt. 1242) 170 at 193 where the Court held that:

“Proof beyond reasonable doubt does not mean proof beyond all doubt or all shadow of doubt. It simply means establishing the guilt of the accused person with compelling and conclusive evidence, a degree of compulsion, which is consistent with a high degree of probability..... One thing that is certain is that where all the essential ingredients of the offence charged have been proved or established by the prosecution. The charge is proved beyond reasonable doubt. Proof beyond reasonable doubt should not be stretched beyond limit”

Proof beyond reasonable doubt means proof to moral certainty, such proof as satisfies the judgment and conscience of a judge as a reasonable man, and applying his reasons

to the evidence before him that the crime charged has been committed by the defendant and so satisfies him as to leave no other reasonable conclusion possible. See: AFOLALU V. THE STATE (2010) 16 NWLR (Pt.1220) 584, DAIRO V. STATE (2017) 9- 12 SC 119. IKPO V. STATE (2016) 10 NWLR (Pt. 1521 501 and BAKARE V. STATE (1987) 1 NWLR (Pt. 52) 579.

It is trite law that for the prosecution to achieve success in proof of the offence of Armed robbery, the following essential ingredients must be proved beyond reasonable doubt; (a) That there was a robbery incident or series of robberies (b) That the robbery or each of the robberies was an armed robbery (c) That the accused was the armed robber or one of the armed robbers. See: AGUGUA V. STATE (2017) LPELR-42021 (SC).

The essential ingredients of the offence of armed robbery, which must be proved beyond reasonable doubt, are as set out below:

1. That there was a robbery or series of robberies
2. That the robbery was an armed robbery
3. That the accused was one of those who participated in the robbery or series of robberies.

See BOZIN V. STATE (1985) (Pt.8) 465 and ALABI V. STATE (1993) 7 NWLR (Pt. 37) 511.

In proving its case against the Appellant, PWI the victim of the incident in his evidence before the trial court at pages 53 to 54 of the records of appeal testified and narrated how the Appellant and his co-accused attacked him, he stated that he was in his room when he heard the noise and when he came out one of the armed robbers who was later identified as the Appellant accosted him with a gun and led him into his room, he took his techno phone and demanded for money. The learned trial judge, who had the opportunity of listening to the testimony and observing the demeanor of the witness in the witness box, believed him. The lower court upon carefully analyzing the testimony of the witness at the trial Court agreed with him and eventually affirmed the decision of the trial Court.

In addition to the testimony of PWI, the Appellant made a confessional statement at pages 30 to 31 of the records of appeal which he later retracted wherein he stated inter alia, as follows:

**". . . . we then decided to go and try our luck whether we can get money from the person that we went to threat his life with small locally made pistol, but the luck**

ran against us, when we got the man's premises we met one small boy of about 15 years old sweeping and we asked him that where is his father, he told us that his father is at home I now followed him to attack his father right in his room. I asked the man that he surrender all what he has with his us, he was begging us to exercise patience. I pointed the small gun to the man, I never know that one small girl who was bathing for her younger sister at outside had notice what was happening inside the house with her parents, she went to the nearest house to alert people and when we know that people were coming for our arrest we both took to heal, but they ran after us and later got arrested. They beat us and looked us and took us to Alhaji Alagbaje, the chairman of OPC who ordered them to take us to police station but those people insisted that they will kill us."

The law is well settled on endless judicial authorities that an accused person may be convicted solely based on his confessional statement if the confession is positive, direct, unequivocal and voluntarily made. See YESUFU V. STATE (1976) 6 SC 167 at 173, NWACHUKWU V. STATE (2003) NWLR(Pt. 123) 312 and KAMILA V. STATE (2018) 8 NWLR (Pt. 1621) 252. There can be no better proof of the commission of a crime than the words of the accused, voluntarily stating how the offence was committed and the role he played. A confession is an admission made at any time by a person charged with a criminal offence stating or suggesting that he committed the crime. See; SAIDU V. THE STATE (1982) 3 SC 41, NWACHUKWU V. THE STATE (2007) 12 SCM (Pt.2) 447 at 473, and CHIOKWE V. STATE (2012) LPELR-19716 (SC).

Section 28 of the Evidence Act 2011, defines confession and lends substantial support to this statement of law that where confession is direct, positive and unequivocal it will be sufficient to ground conviction. Section 28 of the evidence Act 201 1 provides as follows :

**"A confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime"**

In the instant case, not only did the Appellant give a confessional graphic account of all that transpired, he also gave details of how he was arrested after he was pursued by the people who later took him to police station. Notwithstanding the positive, direct and unequivocal confession, it is the usual practice of the Courts to consider some other ascertained facts outside the confessional statement, suggesting that the confession is likely to be true. The questions the Courts would always ask are;

- I. Is there anything outside the confession to show that it is true?
- II. Is it corroborated?
- III. Are the relevant statements made in it true as far as they can be tasted?

- IV. Was the accused person one who had the opportunity of committing the crime?
- V. Is the confession possible?
- VI. Is it consistent with other facts, which have been ascertained and proved?

See: R V. SYKES (1913) 18 CR APP. REP 233, EGBOGHONOME V. STATE (1993) 7 NWLR (Pt.306) 383, OJELE V. STATE (2007) 2 NWLR(Pt.1019) 500, and SIMEON V. STATE (2018) 13 NWLR (Pt. 1635) 128.

The trial and lower Courts found the evidence of PW1 to be concrete, cogent, convincing, and credible. The evidence of PW1 sufficiently corroborates the contents of the confessional statement. On this point alone the trial and lower Courts had sufficient cause to find the Appellant guilty as charged.

Let me now address the much-touted issue of contradiction in the evidence of the prosecution as canvassed by the Learned Counsel for the Appellant. Learned counsel for the Appellant said there were material contradictions in the evidence of PW4 on the gun that was recovered from the Appellant. Counsel for the Appellant argued that the lower Court erred when it held that the contradiction was not material.

The settled position of the law on the issue of contradictions in the evidence of witnesses that testify in Court is well-settled, this is on a chain of endless authorities, it is not every minor contradiction in the evidence of witnesses that matters or has the effect of rendering the evidence unbelievable. For a trial Court to disbelieve a witness, the contradiction in his evidence must be on a material point. The contradiction must be substantial as to render the evidence of the witness doubtful - See KALU V. THE STATE (1988) 4 NWLR (Pt. 90) 503 SC, and OCHEMAJE V. STATE (2008) 15 NWLR (Pt. 11 09) 577 where this Court per TOBI, JSC, (of blessed memory) on the issue of contradiction in the evidence of witnesses eloquently elucidated as follows and I quote-

**"Although witnesses see and watch the same event, they may narrate it from different angles, in their individual peculiar focus, perspective or slant. This does not mean that the event that they are narrating did not take place. It only means most of the time that the event took place, but what led to the event was given different interpretations, arising from the senses of sight and mind dictated by their impressions and idiosyncrasies. That is why the law says that contradictions, which are not material or substantial, will go to no issue. The main interest of the Court is that the witnesses are in union or unison as to the happening of the event but gave different versions in respect of the peripheral surrounding the event",**

Furthermore, the Appellant in this appeal having confessed that he committed the offence in the company of and with the cooperation of his co-accused as stated by PW1, the charge for conspiracy was fully established.

Having acted in concert with another to do an illegal act makes no difference who did what in the commission of the crime.

At the trial, the Appellant made vain and futile efforts to retract his confessional statement in the face of obvious and glaring facts as established by the evidence before the trial Court. It is the law that retraction of confessional statement by an accused person in his oral testimony in court during trial is of no moment. The most important thing is that the court must be satisfied as to the truth of the confession and can therefore rely on it alone to ground conviction, More so where there are other facts pointing to the guilt of the Appellant. See, *ONYEJEKWE VS. THE STATE* (1992) 4 SCN J 1 at 8, *BATURE VS. THE STATE* (1994) 1 SCNJ 19 at 29, *AKPAN VS. THE STATE* (2001) 7 SCNJ 567 at 580; (2001 ) 11 SCM 66. *SOLOLA & ANOR V. THE STATE* (2005) 6 SCM 137; (2005) 5 SCNJ 139 at 1 54, (2005) 22 NSCQR 254 at 267; (2005) 5 SC (pt.1) 135, *OMOJU V. THE FEDERAL REPUBLIC OF NIGERIA* (2008) 2 SCM 164 at 177.

Finally, I am satisfied that the Appellant was properly connected to the crime with which he was charged, convicted and sentenced. The sole issue crafted for determination is therefore resolved against the Appellant in favour of the Respondent. Appellant therefore has nothing useful to urge this court, the appeal is bereft of merit and deserves to be dismissed, it is hereby dismissed by me. The Judgment of the lower court delivered on the 25th day of June, 2020, in appeal No. CA/IB/3312/2017 affirming the judgment of the trial court imposing sentence of death by hanging on the Appellant is further affirmed by me.

Appeal dismissed.

**INYANG, JSC:** I read in draft the lead judgment of my learned brother, Tijjani Abubakar, JSC just delivered. I agree entirely with both the reasons adumbrated and the conclusion arrived thereat. The appeal is completely devoid of merit and is hereby dismissed by me. The judgment of the court below delivered on 25/6/2020 is hereby affirmed.

Appeal Dismissed.

**HABEEB, JSC:** This appeal is against the judgment of the Court of Appeal, Ibadan Judicial Division, delivered on the 25th of June, 2020 in Appeal No CA/IB/331 c/2017, and which affirmed the conviction and sentence of the Appellant for the offences

conspiracy to commit armed robbery and armed robbery by the High Court of Ogun State in a judgment delivered on the 24th of May, 2017 in Suit No HCT/33c/2014.

The fundamental question for determination in this appeal is whether the learned Justices of the Court of Appeal were right when they upheld the findings of the High Court that the Respondent led sufficient and adequate cogent and credible evidence to prove the offences of conspiracy to commit armed robbery and armed robbery charged against the Appellant beyond reasonable doubt. I have had the privilege of reading before now the lead judgment delivered by my learned brother, Tijjani Abubakar, JSC. His Lordship has ably considered and resolved the all contentions of the parties in the appeal. I agree with the reasoning and abide the conclusion in the lead judgment that the appeal lacks merit and is very deserving of an order of dismissal

The Respondent led the victim of the armed robbery in evidence and he presented an unchallenged eye witness account of the entire robbery incident and the principal role played by the Appellant, in the company of his co-accused person, in the armed robbery. The Respondent also tendered the confessional statements made of the Appellant at two different Police Stations and in which he vividly detailed the events prior to the armed robbery, during the armed robbery and after the armed robbery and the active part he played in these events. The Appellant denied the contents of the statement when they were tendered in the course of trial. However, the contents of the confessional statement were corroborated in all material particulars by the eye witness evidence of the victim of the crime. In the face of these facts, it was an uphill task for the Appellant to convince this Court to tamper with the concurrent findings of the two lower Courts, and the Appellant, in fact, did not give this Court any cause to do so.

I too hereby find no merit in the appeal. I dismiss the appeal and affirm judgment of the Court of Appeal, Ibadan Judicial Division, delivered on the 25th of June, 2020 in Appeal No CA/IB/331 c/2017.

**JAMILU, JSC:** I read before now the draft of the lead judgment prepared by my learned brother TIJJANI ABUBAKAR JSC and I agree that the appeal is bereft of any merit. It is hereby dismissed.

Appeal dismissed.

**IDRIS, JSC:** I had a preview of the judgment delivered by my learned brother, Lord Justice Tijjani Abubakar, JSC. I completely agree with the reasoning, conclusions, decisions and orders therein.