

ALBERT IGBINE V. THE STATE
(1997) LPELR-6253(CA)

In The Court of Appeal of Nigeria
On Monday, the 20th day of January, 1997

CA/J/13/96

Before Their Lordships

GEORGE ADESOLA OGUNTADE Justice of The Court of Appeal of Nigeria

DENNIS ONYEJIFE EDOZIE Justice of The Court of Appeal of Nigeria

MUHAMMAD SAIFULLAHI MUNTAKA-COOMASSIE Justice of The Court of Appeal
of Nigeria

Between

ALBERT IGBINE Appellant(s)

AND

THE STATE Respondent(s)

Other Citations

Igbine v. State (1997) 9 NWLR (Pt.519)

RATIO DECIDENDI

1. WORDS AND PHRASES - "CORROBORATION": Meaning of "Corroboration"

"It is interesting to note that ordinarily in a plain language corroboration is confirmation, ratification, verification or validation of an existing evidence coming from another independent witness or witnesses." Per MUNTAKA-COOMASSIE, J.C.A(P. 15, paras. B-C) (...read in context)

2. WORDS AND PHRASES - "RAPE": Definition of "Rape" under section 282(1) of the Penal Code

"Rape is defined by section 282(1) of the Penal Code thus:- "Aman is said to commit rape who, save in the case referred to in Subsection 2, has sexual intercourse with a woman in any of the following circumstances- (a) against her will; (b) without her consent; (c) with her consent, when the man knows that he is not her husband and that her consent, when she is under fourteen years of age or of unsound mind." Per MUNTAKA-COOMASSIE, J.C.A (P. 14, paras. D-F) (...read in context)

3. EVIDENCE - CORROBORATION: Type of corroboration which is required as evidence of the commission of rape

"The most crucial issue in this appeal is the question of corroboration of the evidence of the victim of the rape. This type of corroboration is certainly, not the ordinary corroboration, it goes further than that. It demands such corroboration to clearly implicate the accused here appellant. See S. 183(3) of the Evidence Act Cap 112 Laws of the Federation of Nigeria 1990. "A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused." Per MUNTAKA-COOMASSIE, J.C.A (Pp. 14-15, paras. F-B) (...read in context)

4. EVIDENCE - CORROBORATION: Condition that must be established before a piece of evidence can qualify as corroborative evidence

"The law is firmly established that the evidence which is offered as corroboration must tend to show: (a) that the offence was committed and (b) that the accused is implicated in it. These two conditions must co-exist before a piece of evidence can qualify as corroborative evidence: See *Thomas Idemo v. Inspector General of Police* (1957) SCNLR 326; (1957) 2 FSC 26 As was stated in the case of *Mbele v. State* (1990) 4 NWLR (Pt. 145) 84 at 500, corroborative evidence must be evidence which confirms in some material particular not only that the crime has been committed but also that it was the appellant who committed it: See *R. v. Baskerville* (1916) 2 KBD. 658 at 667; *Ogugu v. State* (1994) 9 NWLR (Pt.366) 1 at p. 35, *Omisade and Ors v. The Queen* (1964) NSCC 170, (1964) 1 All NLR 233; (1964) 1 NMLR 67." Per EDOZIE, J.C.A. (Pp. 21-22, paras. G-D) (...read in context)

5. EVIDENCE - CORROBORATION: Whether evidence that serve as corroboration must not be flawed, doubtful or discredited

" It is trite law that any evidence that will serve as corroboration must not be flawed, doubtful or discredited per Onu JSC in *Sambo v. State* (1993) 7 (Pt.1) SCNJ 128/130 and 139, (1993) 6 NWLR (Pt.300) 399" Per MUNTAKA-COOMASSIE, J.C.A (P. 17, paras. F-G) (...read in context)

6. EVIDENCE - CORROBORATION: Whether or not evidence of accomplice and that of a child requires corroboration

"It is the law that evidence of accomplice and that of a child requires corroboration. *R v. Omisade* (1964) NMLR 67/88; and *Odofin Bello v. State* (1967) NMLR 1. In the English case of *R. v. Baskerville* supra it was stated that corroborated evidence is evidence which shows or tends to show that the story of the accomplice that the accused committed, but that it was committed by the accused." Per MUNTAKA-COOMASSIE, J.C.A (P. 17, paras. E-F) (...read in context)

7. EVIDENCE - CORROBORATION: Whether or not in criminal cases corroboration must come from the prosecution and not from the defence

"It is also the law that in criminal cases corroboration must come from the prosecution and never from the defence. Therefore even if the appellant lied in his defence of alibi which was never proved that without more cannot supply the required corroboration. See the case of *Okafor v. Police* (1964) 1 All NLR 302. That

being the case the prosecution in this appeal must supply the required corroboration before conviction can stand. In the case of: *Olaleye v. The State* (1970) 1 All NLR 300; (1969-1970) Vol. 6 NSCC p.250 it was held that both under s.182(3) and s.178(5) of the Evidence Law, the unsworn evidence of the complainant must be corroborated." Per MUNTAKA-COOMASSIE, J.C.A (P. 18, paras. B-F) (...read in context)

8. EVIDENCE - CORROBORATION: Circumstances under which corroboration is required

"Specifically corroboration is required in the following circumstances:- (a) In actions of breach of promise of marriage under S. 177 of the Evidence Act which says:- "No plaintiff in any action for breach of promise of marriage can recover a verdict, unless his or her testimony is corroborated by some other material evidence in support of such promise; and the fact that the defendant did not answer letters affirming that he had promised to marry the plaintiff is not such corroboration. (b) Accomplice before or after the fact and *particeps criminis*. Section 179 of Evidence Act. (c) Treason and treasonable offences and charge of perjury Section 179(1)(2)(a) and (b), (3), (4) and (5) Evidence Act, and (d) Exceeding speed limit, sedition and sexual offences". A piece of evidence therefore which verifies and validates or reinforces another piece of evidence of the same facts is a corroboration of the other existing one. Where a piece or pieces of evidence require corroboration, the corroborative evidence should consist of any independent testimony which must confirm in some material particulars the evidence in need of corroboration; and in criminal cases implicates

the accused. R. v. Baskerville (1916) 2 K.B. 658; and Jatau v. Danladi (1995) 8 NWLR (Pt.415) 592/614 - 615 per Orah JCA." Per MUNTAKA-COOMASSIE, J.C.A (Pp. 16-17, paras. D-C) (...read in context)

9. INTERPRETATION OF STATUTE - SECTION 179 OF THE EVIDENCE ACT CAP 112: Statutory interpretation of S. 179 of the Evidence Act Cap 112

"S. 179 of the Evidence Act Cap 112 provides:- "(1) Except as provided in this Section, no particular number of witnesses shall in any case be required for the proof of any fact. (2)(a) No person charged with treason or with any of the following mentioned in Sections 40, 41 and 42 of the Criminal Code can be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason' or felony alleged, or the evidence of one witness, to one overt act and one other witness to another overt act of he same kind of treason or felony. (b) This Subsection does not apply to cases in which the overt act of treason alleged is the killing of the president, or in a direct attempt to endanger the life or injure the person of the president. (3) A person shall not be convicted of committing perjury, or of counselling or procuring the commission of perjury, upon the uncorroborated testimony of one witness, contradicting the oath on which perjury is assigned, unless circumstances are proved which corroborate such witness. (4) A person charged under the Road Traffic Law of a State with driving at a speed greater than the allowed maximum shall not be convicted solely on the evidence of one witness that in his opinion he was driving at such speed. (5) A person shall not be convicted of the offences mentioned in paragraph (b) of Subsection (1) of Section

51 or in Section 218, 221, 223 or 224 of the Criminal Code upon the uncorroborated testimony of one witness". Per MUNTAKA-COOMASSIE, J.C.A (Pp. 15-16, paras. C-C) (...read in context)

10. EVIDENCE - UNSWORN EVIDENCE OF A CHILD: Whether or not an unsworn evidence of a child can corroborate another unsworn testimony of another child

"Unsworn evidence of a child cannot corroborate another unsworn testimony of another child, The fact that the appellant unsuccessfully put up a defence of alibi cannot in law serve as a corroborative evidence even though it may strengthen the prosecution evidence. The medical evidence though heavily attacked by the defence shows somehow that there was an act of rape but nothing in the evidence linked or tried to link the appellant with the commission of that offence called rape. That is where, with due respect, the learned trial Judge went wrong in convicting the appellant on the ground that the required corroborative evidence was available. Corroborative evidence must be evidence which confirms in some material particular not only that the crime has been committed but also that it was the appellant who committed it." Per MUNTAKA-COOMASSIE, J.C.A (Pp. 19-20, paras. D-A) (...read in context)

MUNTAKA-COOMASSIE, J.C.A. (Delivering the Leading Judgment): In the Yola High Court Adamawa State of Nigeria, the accused person, who is now the appellant was arraigned before Thomas, J. charged with raping one Patience Essien a seven year old girl. At the end of the prosecution's case, herein called the respondent,

the appellant was convicted on 9th January, 1996 for rape of a teenage girl under section 282(1)(e) of the Penal Code Law Cap 89 Laws of Northern Nigeria as applicable in Adamawa State. He was consequently sentenced to five years imprisonment without option of fine. In addition he was fined N5,000.00 or two years imprisonment in default all under Section 283 of the same law. Thomas J, has this to say:-

"In the judicial analysis, I hold the view that the defence of the accused person is so hallow (sic) as the prosecution's evidence is so overwhelming against the accused person and I am satisfied that the charge of rape has been established beyond reasonable doubt. I find you guilty of rape of teenage girl contrary to Section 282(1)(e) of the Penal Code which is punishable under Section 283 of the Penal Code."

Being dissatisfied with the judgment handed down by the High Court hereinafter referred to as trial court the appellant went on appeal before us and supported it with four grounds of appeal as follows:

1. The conviction of the appellant is unreasonable and unwarranted and cannot be supported having regard to the evidence.
2. The learned trial Judge erred in law when he found in his judgment at page 39 lines 24-27 and consequently reached a wrong conclusion.

"I am satisfied that the evidence of PW5 and her contemporaneous recording of her observations in exhibit 1 is sufficient corroboration of rape as described by the prosecutrix in her evidence before me." Particulars supplied.

3. The learned trial Judge erred in law when he convicted the appellant despite the material contradictions in the evidence of the prosecution witnesses and when he proceeded to use his personal knowledge to resolve the contradiction.

Particulars of Error supplied.

4. The appellant had no fair hearing and there was miscarriage of justice going by certain pronouncements and actions of the trial Judge and in view of the lengthy period between the times of final addresses by counsel and the time the judgment was finally delivered.

Pursuant to the rules of this court, the parties, through their counsel, filed and exchanged their Briefs of argument. The appellant formulated four issues for determination of this court as follows:-

(i) Did the prosecution adduce sufficient legal evidence to warrant the conviction of the appellant for rape?

(ii) Did the medical evidence adduced by the prosecution meet the standard of corroborative evidence required to convict the appellant of rape in all the circumstances of the case?

(iii) Was there material contradiction in the evidence of the prosecution and if there was, was the learned trial Judge right in using his own personal knowledge to resolve the contradiction?

(iv) Did the appellant have a fair hearing and a fair trial having regard to the length of time between final addresses and the date of judgment and also by some of the trial Judge's pronouncements and actions against the appellant in the course of trial?

The respondent, as prosecutor, for their own part adopts the issues for determination as set out by the appellant with the exception of issue (ii) thereof.

In its place the respondent formulated its own to be:-

(ii) Whether the medical evidence has satisfied the statutory provisions for corroboration, and if not are there other material evidence providing corroboration to warrant conviction of the appellant.

I have thoroughly examined these issues formulated by learned counsel in their respective briefs of argument. I will consider the issues as formulated by the appellant along with issue (ii) added by the respondent supra. I must also state that at the oral hearing of the appeal, learned counsel for the appellant Oloronmuhunle Esq. merely adopted his briefs filed on 15/2/96 and appellant's reply brief filed on 18/4/96. He relied on both briefs and urged this court to allow the appeal set aside the decision of the trial court and quash same. He then urged this court to discharge and acquit the appellant. It is manifest that the respondent filed his respondent's brief on 22/3/96. The respondent's learned counsel Christopher Cromwell (Senior State Counsel Attorney-General' s Chambers, Ministry of Justice, Yola, Adamawa State) who settled the respondent's brief of argument, was absent in court although duly served with hearing notice in respect of the appeal. Accordingly this court proceeded with the hearing of the appeal Ex parte pursuant to the relevant Rules and Orders of this court on the briefs filed by both parties.

The first issue raised by the appellant is whether the prosecution adduced sufficient legal evidence to warrant the conviction of the appellant for rape? It was submitted by learned counsel for the appellant that the evidence of the prosecution falls far short of the standard required to sustain the appellant's conviction.

The facts of this appeal, which are not in serious conflict, could be tersely set out thus: The appellant was convicted of nasty indecent assault called rape under the

Penal Code. He was found guilty of raping a seven year old girl. The prosecutrix as PW3 gave unsworn evidence of the incident. Her father also testified as PW 1 while the mother of the victim gave evidence in court as PW4. The senior brother of the victim, Ubasing Udo Essien, also testified as PW2. Though the evidence of both victim and PW2 directly implicated the appellant they are both children of tender age. The evidence of a medical doctor in a private hospital and that of a doctor in the government hospital were all available to the trial court. The defence of the appellant was that of alibi and that there was no proper corroborative evidence to support the unsworn testimony of the two children. The appellant gave evidence in his own defence and called two other witnesses, including a laboratory technologist with the Government Specialist Hospital (DW1).

Learned counsel then contended that even if the evidence of PWs 2, 3, and 5 put together are considered that without more does not prove the alleged offence of rape beyond reasonable doubt. There must be an independent evidence to sustain the evidence of the prosecutrix who is a child. The un-sworn evidence of another child cannot corroborate that of another child. *R. v. Omisade (1964)* NMLR 67/68 and *Odofoin Bello v. State (1967)* NMLR p1.

He emphasized the fact that the evidence of PWs 2 and 3 needed corroboration under Section 183(3) of the Evidence Act. That corroborative evidence must go further and implicate the appellant, either directly or circumstantially.

Learned counsel then referred to the evidence of PW5 the doctor from Specialist Hospital Yola. And described same as either non-existent or useless. The said evidence was discredited by the worthless laboratory report. He then submitted that such evidence cannot qualify as corroborative evidence required under

Section 183(3) of the Evidence Law since there is no where such evidence implicated the appellant. He relies on the Supreme Court's decision in:

Sambo v. State (1993) 7 (Pt.1) SCNJ 128 at p 130 - 139 per Omo JSC.

I think it is not out of place if one discusses the content of rape under Penal Code Law, Cap. 89 as applicable in Adamawa State. Rape is defined by section 282(1) of the Penal Code thus:-

"Aman is said to commit rape who, save in the case referred to in Subsection 2, has sexual intercourse with a woman in any of the following circumstances-

(a) against her will;

(b) without her consent;

(c) with her consent, when the man knows that he is not her husband and that her consent, when she is under fourteen years of age or of unsound mind."

The most crucial issue in this appeal is the question of corroboration of the evidence of the victim of the rape. This type of corroboration is certainly, not the ordinary corroboration, it goes further than that. It demands such corroboration to clearly implicate the accused here appellant. See S. 183(3) of the Evidence Act Cap 112 Laws of the Federation of Nigeria 1990.

"A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused."

It is interesting to note that ordinarily in a plain language corroboration is confirmation, ratification, verification or validation of an existing evidence coming from another independent witness or witnesses.

Â Â S. 179 of the Evidence Act Cap 112 provides:-

"(1) Except as provided in this Section, no particular number of witnesses shall in any case be required for the proof of any fact.

(2)(a) No person charged with treason or with any of the following mentioned in Sections 40, 41 and 42 of the Criminal Code can be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at the least to one overt act of the kind of treason' or felony alleged, or the evidence of one witness, to one overt act and one other witness to another overt act of the same kind of treason or felony.

(b) This Subsection does not apply to cases in which the overt act of treason alleged is the killing of the president, or in a direct attempt to endanger the life or injure the person of the president.

(3) A person shall not be convicted of committing perjury, or of counselling or procuring the commission of perjury, upon the uncorroborated testimony of one witness, contradicting the oath on which perjury is assigned, unless circumstances are proved which corroborate such witness.

(4) A person charged under the Road Traffic Law of a State with driving at a speed greater than the allowed maximum shall not be convicted solely on the evidence of one witness that in his opinion he was driving at such speed.

(5) A person shall not be convicted of the offences mentioned in paragraph (b) of Subsection (1) of Section 51 or in Section 218, 221, 223 or 224 of the Criminal Code upon the uncorroborated testimony of one witness".

Specifically corroboration is required in the following circumstances:-

(a) In actions of breach of promise of marriage under S. 177 of the Evidence Act which says:-

"No plaintiff in any action for breach of promise of marriage can recover a verdict, unless his or her testimony is corroborated by some other material evidence in support of such promise; and the fact that the defendant did not answer letters affirming that he had promised to marry the plaintiff is not such corroboration.

(b) Accomplice before or after the fact and *particeps criminis*. Section 179 of Evidence Act.

(c) Treason and treasonable offences and charge of perjury Section 179(1)(2)(a) and (b), (3), (4) and (5) Evidence Act, and

(d) Exceeding speed limit, sedition and sexual offences".

A piece of evidence therefore which verifies and validates or reinforces another piece of evidence of the same facts is a corroboration of the other existing one.

Where a piece or pieces of evidence require corroboration, the corroborative evidence should consist of any independent testimony which must confirm in some material particulars the evidence in need of corroboration; and in criminal cases implicates the accused. *R. v. Baskerville* (1916) 2 K.B. 658; and *Jatau v. Danladi* (1995) 8 NWLR (Pt.415) 592/614 - 615 per Orah JCA.

In the appeal at hand the victim a 7-year old girl gave unsworn testimony in which she vividly implicated the appellant. But no reasonable tribunal can convict solely on her evidence. That evidence needs corroboration to convict. The senior brother of the prosecutrix, a child, testified as PW2. He too gave unsworn testimony. His evidence clearly cannot supply the required corroboration. It is the law that evidence of accomplice and that of a child requires corroboration. *R v. Omisade* (1964) NMLR 67/88; and *Odofin Bello v. State* (1967) NMLR 1.

In the English case of *R. v. Baskerville* supra it was stated that corroborated evidence is evidence which shows or tends to show that the story of the

accomplice that the accused committed, but that it was committed by the accused. It is trite law that any evidence that will serve as corroboration must not be flawed, doubtful or discredited per Onu JSC in *Sambo v. State* (1993) 7 (Pt.1) SCNJ 128/130 and 139.(1993) 6 NWLR (Pt.300) 399.

It is clear therefore that the evidence of the victim (PW3) is in dire need of corroboration and the unsworn testimony of her senior brother (PW2) cannot corroborate her testimony. It was stated in Halsbury's Law of England 4th Edition p.286 at paras 474-480 that there is an absolute prohibition to a conviction by virtue of the unsworn evidence of a person of tender age unless the evidence be corroborated. See also *R. v. Jones* (1939) 27 Criminal Appeal Reports p.33 at 34.

It is also the law that in criminal cases corroboration must come from the prosecution and never from the defence. Therefore even if the appellant lied in his defence of alibi which was never proved that without more cannot supply the required corroboration. See the case of *Okafor v. Police* (1964) 1 All NLR 302. That being the case the prosecution in this appeal must supply the required corroboration before conviction can stand. In the case of:

Olaleye v. The State (1970) 1 All NLR 300; (1969-1970) Vol. 6 NSCC p.250 it was held that both under S.182(3) and s.178(5) of the Evidence Law, the unsworn evidence of the complainant must be corroborated.

Assuming without conceding that in this appeal the medical report amounts to corroboration of the act of the rape as narrated by the victim the same report does not in any way corroborate her story that it was the appellant who had raped her. It was not a situation where evidence shows that both the victim and rapist have general infection. *Olaleye v. The State* supra once there was no independent corroborative evidence coming from the prosecution medical report

alone cannot serve as the required corroboration under S.182(3) of the Evidence Act. That medical report must go further and state that it was in fact the appellant that raped the victim. R. v. Knight (1966) 1 All E.R p.647; Francis Okpanefe v. State (1969) 1 All NLR 420; (1969) Vol. 6 NSCC p.382.

Having considered the evidence before the trial court coupled with the submission of both counsel in their respective briefs I realised that the evidence of the prosecutrix (PW3) was damning against the appellant. Going by her evidence it was the appellant who had that nasty indecent assault on her. The evidence of her senior brother (PW2) a child under 14 years of age cannot possibly corroborate her own testimony. Both made unsworn testimony. Unsworn evidence of a child cannot corroborate another unsworn testimony of another child, The fact that the appellant unsuccessfully put up a defence of alibi cannot in law serve as a corroborative evidence even though it may strengthen the prosecution evidence. The medical evidence though heavily attacked by the defence shows somehow that there was an act of rape but nothing in the evidence linked or tried to link the appellant with the commission of that offence called rape. That is where, with due respect, the learned trial Judge went wrong in convicting the appellant on the ground that the required corroborative evidence was available. Corroborative evidence must be evidence which confirms in some material particular not only that the crime has been committed but also that it was the appellant who committed it.

My Lords, in the appeal before us there was no sufficient corroboration. Agreed that the evidence (unsworn) of the victim and her brother directly implicated the appellant. ,These pieces of evidence if believed and corroborated are sufficient to justify the conviction of the appellant. It was clearly believed by the trial court.

But it was wrong for the trial court to hold that there was a sufficient corroborative evidence. The corroboration required under S.182(3) of the Evidence Act is not, as held in R. v. Ibe 4 WACA P.131:

"Corroboration of the detail of the crime, but some independent testimony which affects the accused by tending to connect them with the crime " See also Mbele v. State (1990) 4 NWLR (Pt. 145) 484 at 500 per Agbaje JSC.

That being the case, this appeal is meritorious and is therefore allowed. The judgment, conviction and sentences of the trial court are hereby set aside. In substitution therefore the appellant is hereby discharged and acquitted.

OGUNTADE J.C.A.: I read before now a copy of the lead judgment by my learned brother Muntaka-Coomassie J.C.A. I agree with his reasoning and conclusion. I would also allow the appeal. The appellant is accordingly discharged and acquitted.

EDOZIE, J.C.A.: The appellant Albert Igbine was on the 9th of January 1996 convicted by Thomas J of the High Court, Yola for the offence of raping Patience U. Essien a girl of 7 years of age. He was accordingly sentenced to 5 years imprisonment with hard labour and in addition a fine of N5,000 or 2 more years imprisonment in default of the fine.

He has appealed to this court against his conviction. To my mind, the appeal turns principally on whether or not there was sufficient corroboration of the evidence of the victim of the rape that is, Patience U. Essien (PW3) and the evidence of her brother Abasima Udo Essien (PW2) who was 13 years old. The learned trial judge, quite rightly in my view, held on page 37 lines 27 to 31 as follows:

"Be that is it may, the evidence of PW3 the prosecutrix still needs corroboration and I agree with the submission of learned defence counsel that the evidence of PW2, another witness of tender age cannot provide the necessary corroboration." Now, turning to the medical evidence of Dr. Mrs Sexena and her report Exhibit 1, the learned trial Judge on page 39 lines 24 to 27 further held thus:

"I am satisfied that the evidence of PW5 and her contemporaneous recording of her observations in Exhibit 1 is sufficient corroboration of rape as described by the prosecutrix in her evidence before me."

The law is firmly established that the evidence which is offered as corroboration must tend to show:

- (a) that the offence was committed and
- (b) that the accused is implicated in it.

These two conditions must co-exist before a piece of evidence can qualify as corroborative evidence: See *Thomas Idemo v. Inspector General of Police* (1957) SCNLR 326; (1957) 2 FSC 26 As was stated in the case of *Mbele v. State* (1990) 4 NWLR (Pt. 145) 84 at 500, corroborative evidence must be evidence which confirms in some material particular not only that the crime has been committed but also that it was the appellant who committed it: See *R. v. Baskerville* (1916) 2 KBD. 658 at 667; *Ogugu v. State* (1994) 9 NWLR (Pt.366) 1 at p. 35, *Omisade and Ors v. The Queen* (1964) NSCC 170, (1964) 1 All NLR 233; (1964) 1 NMLR 67. In the case under consideration, the medical evidence of PW 5 and Exhibit 1 show clearly that Miss Patience Udo Essien had been raped but the evidence failed to link the appellant with the offence. I am therefore of the view that the lower court was abysmally in error in treating the evidence of PW 5 and Exhibit I as

corroborative evidence to ground the conviction of the appellant. On this score alone, the appeal succeeds.

I am therefore in agreement with the lead judgment of my learned brother Muntaka-Commassie, J.C.A and for the reasons stated therein, I also allow the appeal with the same consequential orders as he had made.

Appeal Allowed.

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Appearances

P.O. Olorunmohunle, (Holding brief for A. J. Akammode);For Appellant

AND

Respondent unrepresented For Respondent