HASSAN IBRAHIM v. THE STATE

(2014) LPELR-22306(CA)

In The Court of Appeal of Nigeria

On Wednesday, the 22nd day of January, 2014

CA/K/176/C/2007

Before Their Lordships

DALHATU ADAMU Justice of The Court of Appeal of Nigeria

ABDU ABOKI Justice of The Court of Appeal of Nigeria

ITA GEORGE MBABA Justice of The Court of Appeal of Nigeria

Between

HASSAN IBRAHIM Appellant(s)

AND

THE STATE Respondent(s)

RATIO DECIDENDI

1. WORDS AND PHRASES - "SHALL": The meaning of the word "Shall"

"The word "shall" in Section 187(1) of the Criminal Procedure Code Cap.37 Laws of Katsina State 1991 which is in pari materia with Section 36(6)(a) and (e) of the 1999 Constitution of the Federal Republic of Nigeria has received a judicial pronouncement to mean mandatory, compulsory and imperative command and it is inconsistent with a concept of discretion - See Ogidi vs. State (supra) pages 334." Per ADAMU,J.C.A. (P.14,paras.D-F) (...read in context)

2. CRIMINAL LAW AND PROCEDURE - ARRAIGNMENT: The requirements of a valid arraignment

"The requirement of a valid arraignment is that they are mandatory and not directory and must therefore be strictly complied with in all criminal trials. See the cases of Dibie v. State (2007) 9 NWLR (Pt.1038) 30 at 61 and 62; Solola vs. State (2005) 2 NWLR (Pt.937) 460 at 482 - 483, Kajubo vs. State (1988) 1 NWLR (pt.73) 721, Kalu v. State (1998) 13 NWLR (Pt.583) 531. The requirements are as follows: (a) the accused must be placed before the court unfettered unless the court shall see the Cause otherwise to order; (b) the charge or information must be read over and explained to the accused to the satisfaction of the court by registrar or other officer of the court; (c) the charge or information must be read and explained to the accused in the language he understands; (d) the accused must be called upon to plead thereto unless there exists any valid reason to do otherwise such as objection to want of service where the accused is entitled by law to service of a copy of the information and the court is satisfied that he has in fact not been duly served therewith. Dibie v. State (supra); Effion v. State (1995) 1 NWLR (Pt.373) 507; Adeniyi vs. State (2001) 13 NWLR (Pt.730) 375." Per ADAMU,J.C.A. (Pp.17-18,paras.B-A) (...read in context)

3. EVIDENCE - CIRCUMSTANTIAL EVIDENCE: Whether circumstantial evidence is sufficient to convict an accused person

"It needs not be direct evidence that the accused person committed the crime. It is sufficient if it is merely circumstantial evidence of his connection with the crime - See Oladotun Ogunbayo vs. The State (2007) 8 NWLR (Pt.1035) 157 at 179, Dagayya v. The State (2006) 7NWLR (Pt.980) 637 at 682." Per ADAMU,J.C.A. (P.10,paras.E-F) (...read in context)

4. EVIDENCE - COMPETENT WITNESS: What the court determines before deeming a child a competent witness

"On the procedure that the court must adopt in taking the evidence of a child in criminal proceedings, the Court must to determine whether in the first place she is sufficiently intelligent and whether she could give rational answers to question and secondly whether she know the nature of an oath - See Okoye vs. State (1988) 1 NWLR (Pt.69) 172 and Mbele vs. State (1990) 4 NWLR (Pt.145) 484 and Sakibo vs. State (1993) 6 NWLR (Pt.300) 399." Per ADAMU,J.C.A. (P.13,paras.C-E) (...read in context)

5. EVIDENCE - CORROBORATION: What the prosecution needs to do in order to secure a conviction for the offence of rape

"In the State vs. Ogwudiegwe (1965) NMLR 117, it was held that in order for the prosecution to secure a conviction for the offence of rape, corroboration of the evidence of the complainant implicating the accused is not essential but a judge must warn himself of the risk of convicting on an uncorroborated evidence of the complainant. But in Okpanefe vs. The State (1968) 1 All NLR 420, it was held that by virtue of Section 178(5) of the Evidence Act, the Court cannot convict on a charge without corroboration. Similar decision was reached in Sambo vs. The State (1993) 6 NWLR (Pt.300) 399." Per ADAMU,J.C.A. (P.12,paras.B-D) (...read in context)

6. EVIDENCE - CORROBORATION: Whether corroboration of evidence in rape cases is a requirement of law or as a matter of practice

"Corroboration of the evidence of a witness is not required except where the law demands it. Evidence of corroboration of the evidence of the victim in rape cases is not a requirement as a matter of law but only in practice. In other words in cases of sexual character it is eminently desirable that the evidence of the prosecutrix or complainant should be strengthened by other evidence implicating the accused person in some material particulars. It is however not the law that the accused person in a charge of rape cannot be convicted on the uncorroborated evidence of the prosecutrix - See the cases of Iko v. State (2001) 14 NWLR (Pt.732) 221; Ibeakanma vs. Queen (1963) SCNLR 191; Reekie vs. Queen (1954) 14 WACA 501; Sunmonu vs. IGP (1957) WRNLR 23 and Ogunbayo v. State (2007) 8 NWLR (Pt.1035) 157 at 156 and 157." Per ADAMU,J.C.A. (Pp.11-12,paras.E-A) (...read in context)

7. LEGAL PRACTITIONER - DUTY OF COUNSEL: Whether the counsel is duty bound to object to any wrong procedure adopted at the trial or tendering of any document,etc

"The law is, where accused person is defended by a Counsel at a trial, it is the duty of such Counsel to object to any wrong procedure adopted at the trial, or to the tendering of any document, including a purported confessional statement of the accused person. Where he fails to play his role and takes part in the trial to conclusion, he cannot, thereafter, raise question on the alleged wrong procedure or

admission of document. See the case of DURWODE VS. STATE (2000) NSEQR 33; OKOROH v. THE STATE (1990) NWLR (Pt. 125) 136; OJI v. FRN (2013) ALL FWLR (Pt. 668) 920 at 938." Per MBABA, J.C.A. (Pp.19-20,paras.E-A) (...read in context)

8. JUSTICE - MISCARRIAGE OF JUSTICE: Whether failure to comply with Sections 36(6) (a) of the 1999 Constitution & Section 215 of the Criminal Procedure Law of Katsina State will occasion a miscarriage of justice if not complied with

"The failure to comply with Section 36(6)(a) of the 1999 Constitution and Section 215 of the Criminal Procedure Law (equivalent to Section 187(1) of Cap 37) Laws of Katsina State of Nigeria, will not occasion a miscarriage of justice where an accused person have earlier made a statement to the Police in English language and once the trial court is satisfied that the accused know the nature of the charge against him - Durwode vs. State (2007) 15 NWLR (Pt.691) 467; Ewe vs. State (1992) 6 NWLR (Pt.246) 147; Ekekanura v. State (1993) 5 NWLR (Pt.294) 385." Per ADAMU,J.C.A. (P.18,paras.D-F) (...read in context)

9. CRIMINAL LAW AND PROCEDURE - RECORD OF ARRAIGNMENT PROCEEDINGS: Whether the failure of a trial judge to record and explain the charge to the accused person will render a trial a nullity

"Failure of the trial judge to record that the charge is explained to the appellant though a good practice but this failure will not render the trial a nullity - See Olabode vs. State (2009) 5 MJSC (Pt.11) 83 and Dibie v. The State (2007) NWLR (Pt.1038) 30." Per ADAMU,J.C.A. (P.15,paras.F-G) (...read in context)

DALHATU ADAMU, J.C.A. (Delivering the Leading Judgment): This is an appeal against the decision of High Court No.1 Katsina presided over by Hon. Justice S.A. Mahuta Chief Judge. The appellant was brought before the trial court upon a charge dated 30th March, 2005. According to what appears on the record of proceedings, the charge was indicated to have been read out to the appellant. It was also indicated on the record that the appellant speaks Hausa but there was neither the record that an interpreter was provided for him nor the charge has been explained to him from English to Hausa.

At the trial the prosecution called 5 witnesses namely Hashiya Shuaibu, Shuaibu Abashe, Sgt. Deko Alibi, Hauwa Shuaibu and Sulaiman Abdullahi (as PW1 - 5).

The prosecution also tendered the purported confessional statement of the Appellant but it was rejected by the trial court. Exhibit 'A' was also the medical evidence in respect of the prosecution. The appellant testified in his own defence where he denied the allegation of rape but tendered no exhibit.

After reviewing the evidence of the parties the trial court found the appellant guilty and sentenced him to 10 years imprisonment with hard labour. Being dissatisfied with the judgment, the appellant filed a Notice of Appeal containing 2 grounds of appeal with their particulars.

The following two issues are distilled for the determination of the appeal:-

"1. Whether the prosecution has proved the case against the Appellant beyond reasonable doubt (distilled from ground 1).

2. Whether there had been a valid arraignment in accordance with the provision of Section 187(1) of the criminal Procedure Code (Cap.37) Laws of Katsina State 1991 (distilled from Ground 2).

Issue 1: Under issue 1, the Appellant submit the trial court erred in law when it held that the prosecution proved its case against the appellant beyond reasonable doubt. It is submitted that the prosecution has a legal burden of proving the essential elements of the offence of rape beyond reasonable doubt. The most important essential element here are said in the brief to be penetration and consent-See the case of Edet Okon Iko vs. The State (2001) FWLR (Pt.68) 1161. Although the, issue of consent does not arise, it is submitted that the only evidence before the trial court upon which the trial court relied to convict the appellant is the evidence of the prosecutrix and, the medical report (Exhibit A) all of, which, it is conceded in the brief of the appellant established the fact that there was penetration. However the evidence of the prosecutrix being an unsworn evidence of a child must be corroborated - See the case of Edet Okon Iko vs.The State (supra) and Section 183(3) of the Evidence Act, Shazali vs.The State (1988) 5 NWLR (pt.93) 175.

It is submitted that the evidence of PW1, PW2 and Exhibit A or any of the evidence given by the prosecution witnesses cannot constitute corroboration in law. Edet Okon Iko vs. The State supra). There must be evidence which implicates him that is which conform with some material particulars and showing that not only the crime has been committed but also that the accused person committed the crime.

It is finally submitted that the mere statement of the prosecutrix that the Appellant inserted his penis into her vagina is not ipso facto sufficient proof of penetration in the absence of corroborative and

independent evidence establishing same.- See N.A. Police vs. Allah na Gani (1968) NMLR 8. We are urged to allow the appeal on this issue.

In the respondents brief written by A. A. Ibrahim Esq.., it was pointed out that the appellant has conceded that the prosecution has proved the essential elements of the offence of Rape which are lack of consent and penetration. He however contended that the evidence of PW4 (The prosecutrix) being an unsworn evidence of a child has not been corroborated by an independent evidence as required by law (see page 4 issue No.1 of the appellants brief). It is submitted in the respondents brief that corroboration means no more than evidence tending to confirm, support and strengthen other evidence sought to be corroborated. It needs not be direct evidence that the accused person committed the crime. It is sufficient if it is merely circumstantial evidence of his connection with the crime - See Oladotun Ogunbayo vs. The State (2007) 8 NWLR (Pt.1035) 157 at 179, Dagayya v. The State (2006) 7NWLR (Pt.980) 637 at 682. It is submitted in the brief that the evidence of PW1, PW2 as well as Exhibit A (The medical report) are sufficient corroboration of the evidence of PW4. We are urged to hold that the evidence of PW4 was duly corroborated and to discountenance the argument of the appellant under issue 1 as the prosecution is not under any obligation to prove a case beyond fanciful doubts - See Bakare vs. The State (1987) NWLR (pt.52) 579 at 579.

In the resolution of the first issue our starting point is to consider first the concession made by the appellant in his brief of argument in these words:

"Although the issue of consent does not arise, we submit that the only evidence before the trial court upon which the trial court relied, are the evidence of the prosecutrix and the medical report (Exhibit "A") all of which we concede establish the fact that there was penetration."

This concession deals with the important essential ingredient of the offence of rape namely that of penetration. The argument in the appellants brief is centred on whether there is a corroboration of the evidence of an unsworn child of 5 years old. Now the immediate question to ask is whether or not corroboration is required. Corroboration of the evidence of a witness is not required except where the law demands it. Evidence of corroboration of the evidence of the victim in rape cases is not a requirement as a matter of law but only in practice. In other words in cases of sexual character it is eminently desirable that the evidence of the prosecutrix or complainant should be strengthened by other evidence implicating the accused person in some material particulars. It is however not the law that the accused person in a charge of rape cannot be convicted on the uncorroborated evidence of the prosecutrix - See the cases of Iko v. State (2001) 14 NWLR (Pt.732) 221; Ibeakanma vs. Queen

(1963) SCNLR 191; Reekie vs. Queen (1954) 14 WACA 501; Sunmonu vs. IGP (1957) WRNLR 23 and Ogunbayo v. State (2007) 8 NWLR (Pt.1035) 157 at 156 and 157.

In the State vs. Ogwudiegwe (1965) NMLR 117, it was held that in order for the prosecution to secure a conviction for the offence of rape, corroboration of the evidence of the complainant implicating the accused is not essential but a judge must warn himself of the risk of convicting on an uncorroborated evidence of the complainant. But in Okpanefe vs. The State (1968) 1 All NLR 420, it was held that by virtue of Section 178(5) of the Evidence Act, the Court cannot convict on a charge without corroboration. Similar decision was reached in Sambo vs. The State (1993) 6 NWLR (Pt.300) 399.

From the concession made by the appellant (above quoted) it is very clear the said appellant has provided the required corroboration when he conceded that the evidence of the prosecutrix and the medical report (Exhibit A) both of which established the fact that there was a penetration. Corroboration is not a technical term of art and means no more than the evidence tending to confirm, support and strengthen the other evidence sought to be corroborated - See Ogunbayo vs. State (supra).

However despite all that I have said, I have noticed that the learned trial judge has before taking the evidence of PW4 (the prosecutrix) he has not followed the procedure enjoined by the law - Section 155 and 183(1) and (2) of the Evidence Act. The said witness is a child of 6 years of age. This is from the evidence of PW1 at page 8 of the record of proceedings. When asked by the Court how old was the daughter - she replied that she was about six years old. When the learned Chief Judge know this his first duty was to put her through the normal test of knowing whether she was a competent witness or that she know the nature of taking oath. This test was recommended in the case of Dagaiyya vs. State (2006) 7 NWLR (Pt.980) 637. On the procedure that the court must adopt in taking the evidence of a child in criminal proceedings, the Court must to determine whether in the first place she is sufficiently intelligent and whether she could give rational answers to question and secondly whether she know the nature of an oath - See Okoye vs. State (1988) 1 NWLR (Pt.69) 172 and Mbele vs. State (1990) 4 NWLR (Pt.145) 484 and Sakibo vs. State (1993) 6 NWLR (Pt.300) 399.

As I said the learned trial judge did not put any question to the prosecutrix who was a girl of tender age. But in Mbele vs. State (supra) it was held that the provisions of the Evidence Act will be satisfied even though the actual question and answers are not recorded. In any case the witness (PW4) has given an unsworn testimony. Therefore she could not know the nature of an oath. I now adopt the decision in Mbele's case and therefore not recording the question put to the witness did not matter.

In view of what I said above the issue No.1 and the grounds of appeal upon which it was predicated have been resolved against the appellant and in favour of the respondent.

Under issue No.2 the appellant's argument is that the appellant was not validly arraigned before the trial court. According to him it was crystal clear that the charge was only read to him but was not explained. In law, it was argued, that for an arraignment to be valid the appellant (as an accused) must be brought to court and the charge must be read to him and explained in the language he understands - See Ogidi vs. State (2005) 21 NSCQR. The word "shall" in Section 187(1) of the Criminal Procedure Code Cap.37 Laws of Katsina State 1991 which is in pari materia with Section 36(6)(a) and (e) of the 1999 Constitution of the Federal Republic of Nigeria has received a judicial pronouncement to mean mandatory, compulsory and imperative command and it is inconsistent with a concept of discretion - See Ogidi vs. State (supra) pages 334.

From the record, it is clear that the appellant speaks Hausa but whether or not an interpreter was provided for him is lacking in the record. This has cast doubt in the procedure adopted by the trial court in arraigning and convicting the appellant. The brief goes on that this has led to a miscarriage of justice, it is the fundamental right of the appellant to be provided with and assisted with interpreter if he cannot understand the language used at the trial of the offence - See Section 36(6)(a) and (c) of the 1999 Constitution. It is clear from the record of proceeding that the appellant speaks Hausa. The mandatory provision Section 36(6) supra was not observed by the trial court. We are urge to allow the appeal on this ground/issue.

In the respondents brief under issue 2, it is submitted that in the absence of evidence to the contrary when the charge is read to an accused and he pleads and his plea was recorded by the court, there is raised a rebuttable presumption that the court was satisfied that the charge was explained to the accused to the satisfaction of the court - See Solola vs. The State (2005) 2 NWLR (Pt.937) 460.

It is further submitted that when any judicial or official act is shown to have been done in a manner substantially regular, it is presumed that formal requisite of its validity were complied with- see Section 150(1) Evidence Act.

Also the appellant had counsel during his trial at the trial court. Therefore the plea of the appellant was valid in law - Solola vs. State (supra), Amala vs. The State (2004) 12 NWLR (Pt.888) 520. Failure of the trial judge to record that the charge is explained to the appellant though a good practice but this failure will not render the trial a nullity - See Olabode vs. State (2009) 5 MJSC (Pt.11) 83 and Dibie v. The State (2007) NWLR (Pt.1038) 30.

On the contention of the appellant that whether or not the interpreter was provided for the appellant is not shown from the record it is the submission of the respondent that the denial of the right to an interpreter is proved by credible evidence rather than on mere suspicion arising from failure to keep a full record of proceeding by the trial court. Thus evidence has to be demonstrated positively and affirmatively that there was no interpreter provided or then - See Madu vs. The State (1997) 1 SCNJ 44 at 54. Indeed there is no evidence on record that the Appellant was misled as to the charge or any subsequent proceeding. In fact the learned counsel for the appellant was also his counsel at the trial and there was nowhere in the record that the counsel took any objection to any irregularity. It is submitted in the respondents brief that it is the duty of counsel to raise any irregularity in the conduct of proceedings - See Onyegbu vs. State (1995) 4 SCNJ 275 at 289.

We are finally urged to hold that there was no miscarriage of justice occasioned as a result of the violation of any principle of law or procedure and that the Appellant was properly arraigned before the trial court.

To resolve this 2nd issue, it is pertinent to point out that though the appellant is or was a teacher - (see page 21 of the record) at Tsintsiya Primary School, Mashi, he told the court that he could speak only Hausa and not English. Even when the charge was read to the accused/appellant (at page 6 of the record) it was not in Hausa and there was no interpreter provided to translate the English reading of the court to Hausa. This, I agree with the appellant has offended the provision of Section 187(1) of the criminal Procedure code (cap 37) Laws of Katsina State and Section 36(6)(a) and (e) of the 1999 constitution of the Federal Republic of Nigeria. The requirement of a valid arraignment is that they are mandatory and not directory and must therefore be strictly complied with in all criminal trials. See the cases of Dibie v. State (2007) 9 NWLR (Pt.1038) 30 at 61 and 62; Solola vs. State (2005) 2 NWLR (Pt.937) 460 at 482 - 483, Kajubo vs. State (1988) 1 NWLR (pt.73) 721, Kalu v. State (1998) 13 NWLR (Pt.583) 531. The requirements are as follows:

(a) the accused must be placed before the court unfettered unless the court shall see the Cause otherwise to order;

(b) the charge or information must be read over and explained to the accused to the satisfaction of the court by registrar or other officer of the court;

(c) the charge or information must be read and explained to the accused in the language he understands;

(d) the accused must be called upon to plead thereto unless there exists any valid reason to do otherwise such as objection to want of service where the accused is entitled by law to service of a copy of the information and the court is satisfied that he has in fact not been duly served therewith.
Dibie v. State (supra); Effion v. State (1995) 1 NWLR (Pt.373) 507; Adeniyi vs. State (2001) 13 NWLR (Pt.730) 375. The appellant who was a teacher in the Primary School and has told the court that he could only speak Hausa and not English should have been assisted by an interpreter. Now the case of the appellant is like that of Dibie vs. State (supra). The person that the framers of the law and the Constitution had in mind to protect is an illiterate person who does not understand the language of the Court. "In the language he understands" would be meaningless and the words presuppose that the accused does not understand the language of the Court which is English - See Ogunye vs. State (1999) 5 NWLR (Pt.604) 548, Rufai vs. State (2001) 13 NWLR (Pt.731) 718.

The failure to comply with Section 36(6)(a) of the 1999 Constitution and Section 215 of the Criminal Procedure Law (equivalent to Section 187(1) of Cap 37) Laws of Katsina State of Nigeria, will not occasion a miscarriage of justice where an accused person have earlier made a statement to the Police in English language and once the trial court is satisfied that the accused know the nature of the charge against him - Durwode vs. State (2007) 15 NWLR (Pt.691) 467; Ewe vs. State (1992) 6 NWLR (Pt.246) 147; Ekekanura v. State (1993) 5 NWLR (Pt.294) 385.
In any case, the Appellant had a counsel who was there when the charge was read to him and he was required to plea and he pleaded. He is therefore assumed that he understood the language of the Court i.e. English - Madu vs. The State (1977) 1 SCNJ 441 R vs. Eguabor (1962) AA NLR 285.
In the final analysis, I am of the opinion that there is no merit in this appeal. I therefore hereby dismiss it. I affirm the judgment of the lower court - Katsina State High Court. That is the judgment of this Court.

ABDU ABOKI, J.C.A.: The judgment just delivered by my learned brother Dalhatu Adamu JCA, was made available to me before now. I agree with the conclusion reached that there is no merit in this appeal and same is dismissed.

ITA G. MBABA, J.C.A.: I have had the privilege of reading the draft of the lead judgment, just delivered by my learned brother, DALHATU ADAMU JCA (PJ) and I agree with his reasoning and conclusions, completely.

Appellant, who was ably represented by Counsel at the Court below, can not now raise any issue that an interpreter was not provided for him, or that the charge was not explained to him, from English language to Hausa. The law is, where accused person is defended by a Counsel at a trial, it is the duty of such Counsel to object to any wrong procedure adopted at the trial, or to the tendering of any document, including a purported confessional statement of the accused person. Where he fails to play his role and takes part in the trial to conclusion, he cannot, thereafter, raise question on the alleged wrong procedure or admission of document. See the case of DURWODE VS. STATE (2000) NSEQR 33; OKOROH v. THE STATE (1990) NWLR (Pt. 125) 136; OJI v. FRN (2013) ALL FWLR (Pt. 668) 920 at 938.

In that case of OJI V. FRN (supra), the Appellant who complained, on appeal, that the charge was not read and interpreted to him in his local language (Uhrobo), had pleaded guilty to the charge after the same was read and explained to him. His Counsel took part in the proceeding and even addressed the Court on the alloculus before Appellant was sentenced. Of course, the court saw that the complaint was an after thought and that since the court was satisfied with the arraignment, it was okay. It held:

"The law is well defined and settled on what the trial court should do ... when it is satisfied that the charge has been read to the accused person, and he appears to understand same, perfectly and pleads ... Of course it is the duty of the trial court to satisfy itself that the appellant understands the charge read and explained to him, perfectly."

See YUSUF V. STATE (2011) ALL FWLR (Pt. 564) 160; (2011) 18 NWLR (Pt. 1279) 853 ratio 4.

It must also be added that the complaint that Appellant in this appeal did not understand the charge or proceedings, having not been raised at the trial Court, ceases to be a credible issue for consideration, oh appeal, as the same is a stranger to the judgment appealed against, having not been considered or contemplated in the judgment.

Of course, Appellant is not permitted to raise any issue on appeal which did not arise from or predicate on the judgment appealed against.

See the case of OJI vs. FRN (supra) page 938; OSSAI vs. FRN (2013) 13 WRN 87; SHELTIMA V. GONI (2011) 18 NWLR (Pt. L297) 413 at 440.

On the establishment of proof, required to lie conviction for rape, I think care must be taken to avoid over dramatizing the evidence, considering the sensitivity and trauma associated with how to relay such evidence by the victim of such attack. In the first place, it requires a lot of courage for a victim of rape to come out to report the attack to the Police, and to accept to pursue the prosecution of the offence against his/her person, which is also an offence against the State.

Because an average victim of attack of rape cannot stand the trauma and negative reaction of the members of the public (including of the law enforcement officers), who are wont to dismiss the story by tasking the victim to prove absence of consent (and that is difficult), many victims of the crime quietly accept to live with the attack and injury and nurse their wounds with deep hurt against the society. The Court should therefore view and regard every case of rape coming to it, with seriousness and open it ears wide to hear and consider every available evidence, adduced, to do justice, in the interest of the protection of the fundamental rights of the victim and sanctity of the human person. I see rape as a the most cruel violation of the victims fundamental rights, apart from it being a heinous crime.

With this and the fuller reasons in the lead judgment, I too dismiss the appeal and abide by the consequential orders in the lead judgment.

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Appearances

S. A. HARUNA holding the brief of AHMED M. DANBABAFor Appellant

AND

HALIMA LAWAL SENIOR STATE COUNSEL, MINISTRY OF JUSTICE, KATSINA STATEFor Respondent