**FARUKU ADAMU RUWANFILI**

**V.**

**THE STATE**

IN THE COURT OF APPEAL OF NIGERIA

THE 8TH DAY OF JUNE, 2017

CA/S/116C/2016

**LEX (2017) - CA/S/116C/2016**

OTHER CITATIONS

3PLR/2017/124

(2017) LPELR-42504(CA)

**BEFORE THEIR LORDSHIPS**

HUSSEIN MUKHTAR, J.C.A

MUHAMMED LAWAL SHUAIBU, J.C.A

FREDERICK OZIAKPONO OHO, J.C.A

**BETWEEN**

FARUKU ADAMU RUWANFILI Appellant(s)

AND

THE STATE Respondent(s)

**ORIGINATING COURT**

HIGH COURT OF KEBBI STATE, BIRNIN-KEBBI DIVISION (I. B. Mairiga, J., Presiding).

**REPRESENTATION/LAWYERS**

HUSSAINI ZAKARIYAU, Esq. For Appellant

AND

KABIR ALIYU, Esq. (DPP, Ministry of Justice, Kebbi State) - For Respondent

**ISSUES FROM THE CAUSE(S) OF ACTION**

CRIMINAL LAW AND PROCEDURE - OFFENCE OF CULPABLE HOMICIDE PUNISHABLE WITH DEATH:- Conditions to be fulfilled before convicting on a charge of culpable homicide punishable with death.

CRIMINAL LAW AND PROCEDURE - OFFENCE OF CULPABLE HOMICIDE PUNISHABLE WITH DEATH:- Ingredients that must be proved to establish the offence of culpable homicide punishable with death.

**PRACTICE AND PROCEDURE ISSUES**

EVIDENCE - BURDEN OF PROOF/STANDARD OF PROOF:- Burden and standard of proof in criminal cases; ways of proving the guilt of an accused person.

EVIDENCE - CONFESSIONAL STATEMENT:- Effect of a confessional statement admitted without objection.

EVIDENCE - CONFESSIONAL STATEMENT:- Tests for determining the truth or weight to be attached to a confessional statement before a court can convict on same.

EVIDENCE - CORROBORATION/CORROBORATIVE EVIDENCE:- Whether corroboration is required for a confessional statement to sustain a conviction.

EVIDENCE - UNCHALLENGED/UNCONTROVERTED EVIDENCE:- Effect where the accused person does not controvert the evidence of the prosecution.

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The Appellant was arraigned, tried unto conviction and sentenced to death by the High Court of Kebbi State sitting at Birnin-Kebbi on the 3rd day of August, 2013 for the offence of Culpable Homicide Punishable with death under Section 221 of the Penal Code for unlawfully killing of one Basiru Garba by stabbing him on the back with a knife and as a result of which the deceased died on or about the 4th day of December, 2010.

The case for the Respondent before the trial Court was that the Appellant while coming from farm had a quarrel with the deceased and were duly separated; that the Appellant later went to the deceased’s house and stabbed him with a knife on his back, which resulted to his death.

In proof of its case before the trial Court; the Respondent called a total of four (4) witnesses who testified as the PW1, 2, 3 and 4 and also tendered two (2) exhibits, the English language statement of the Appellant and its Hausa translation). At the close of the Respondent’s case, the Appellant testified for himself in his defense and called no witnesses. Written addresses was ordered, exchanged and adopted and in a considered judgment of the Court below, trial judge found the Appellant guilty as charged and sentenced him to death.

Dissatisfied with the judgment of the trial Court, the Appellant appealed to the Court of Appeal.

**DECISION(S) APPEALED AGAINST**

The trial Court entered judgment, convicting and sentencing the Appellant to death for the offence Culpable Homicide Punishable with death under Section 221 of the Penal Code for unlawfully killing of one Basiru Garba (hereinafter referred to as “the deceased”) by stabbing him on the back with a knife and as a result of which the deceased died on or about the 4th day of December, 2010. Dissatisfied, the Appellant appealed to the Court of Appeal.

**ISSUE(S) FOR DETERMINATION ON APPEAL**

*BY APPELLANT:*

Whether from the evidence before the trial Court, the Respondent proved the offence of culpable homicide punishable with death beyond reasonable doubt against the Appellant (Grounds 1, 2 and 3)

*BY RESPONDENT:*

[The Respondent adopted the sole issue formulated by the Appellant].

**MAIN JUDGMENT**

FREDERICK OZIAKPONO OHO, J.C.A. (DELIVERING THE LEADING JUDGMENT):

The Appellant was arraigned, tried unto conviction and sentenced to death by the High Court of Kebbi State sitting at Birnin-Kebbi on the 3rd day of August, 2013 for the offence of Culpable Homicide Punishable with death under Section 221 of the Penal Code for unlawfully killing of one Basiru Garba (hereinafter referred to as “the deceased”) by stabbing him on the back with a knife and as a result of which the deceased died on or about the 4th day of December, 2010.

The case for the Respondent before the trial Court was that the Appellant while coming from farm had a quarrel with the deceased and were duly separated; that the Appellant later went to the deceased’s house and stabbed him with a knife on his back, which resulted to his death. In proof of its case before the trial Court; the Respondent called a total of four (4) witnesses who testified as the PW1, 2, 3 and 4 and also tendered two (2) exhibits, the English language statement of the Appellant and its Hausa translation). At the close of the Respondent’s case, the Appellant testified for himself in his defense and called no witnesses. Written addresses was ordered, exchanged and adopted and in a considered judgment of the Court below, trial judge found the Appellant guilty as charged and sentenced him to death.

Dissatisfied with the judgment of the Court below, the Appellant has Appealed to this Court vide his Notice of Appeal filed on the 30-10-2013. There are three (3) Grounds of Appeal filed. Of these, only an issue was nominated for the determination of the Court thus;

ISSUES FOR DETERMINATION:

Whether from the evidence before the trial Court, the Respondent proved the offence of culpable homicide punishable with death beyond reasonable doubt against the Appellant (Grounds 1, 2 and 3)

The Respondent duly adopted the sole issue nominated by the Appellant and it is in respect of this issue that learned Counsel to the parties addressed Court extensively in their briefs of arguments, citing a plethora of cases. The Appellant’s Brief of argument dated the 6-12-2016 was settled by HUSSAINI ZAKARIYAU ESQ., and filed on the 30-12-2016 while the Respondent’s Brief of argument dated the 6-2-2017 and filed on the 10-2-2017 was settled by KABIR ALIYU ESQ. At the hearing of the Appeal on the 20-3-2017, learned Counsel adopted their respective Briefs of argument on behalf of the parties and each urged this Court to resolve this Appeal in favour of their sides.

SUBMISSIONS OF LEARNED COUNSEL:

APPELLANT:

On account of this issue, Counsel argued that the law relating to the question of proof and the ingredients of the offence is as provided for by the Supreme Court in MAIKUDI ALlYU vs. STATE (2013) 12 NWLR (PT. 1368) 403 AT 409 where the Court held thus:

"The ingredients of the offence of culpable homicide punishable with death under Section 221 (b) of the Penal Code are:

a. That the death of a human being has actually taken place.

b. That the death was caused by the accused person.

c. That the act that caused the death of the deceased was done by the accused with intention of causing death, or that the accused knew that death would be the probable consequence of his act".

It was the contention of Appellant’s Counsel that in proof of this case before the trial Court the Respondent relied solely on the retracted confessional statement of the Appellant. Counsel submitted that the requirement of the law as provided for by the Court in MAIKUDI ALlYU vs. STATE (Supra) is that the Respondent must prove all the three (3) ingredients conjunctively and that failure of the Respondent to prove any of the ingredients will render the prosecution’s case unproved and the Appellant discharged and acquitted. Counsel urged the Court to so hold.

It was further argued by Counsel that in the instant case, there was no evidence before the trial Court that proved the 2nd and 3rd ingredients of the offence of culpable homicide, hence that the Appellant ought to have been discharged and acquitted by the trial Court. He further said that the Respondent in proving the case before the trial Court relied heavily on Exhibit 1, which is the purported confessional statement of the Appellant in Hausa Language dated the 7-12-2010. (See page 10 - 11 of the record of Appeal) According to Counsel, Exhibit 1 was admitted in evidence without its translation in English. Counsel further argued that Exhibit 1 was made in a foreign language, which is unknown to Court and for this reason he urged the Court to expunge Exhibit 1 from the records of the trial Court.

In assuming but in not conceding that the Appellants submission on Exhibit 1 was wrong, Counsel submitted in addition that Exhibit 1 was retracted by the Appellant in his defense before the trial Court; therefore necessitating the trial Court to look for something outside the said Exhibit, corroborate its contents before a conviction can be founded on it. (See page 60 of the record of Appeal). It was also contended that the law is that the corroborative evidence needed to corroborate Exhibit 1 must be complete and not one that requires also to be corroborated. Counsel cited the case of AL-MUSTAPHA vs. STATE (2013) 34 WRN 74 AT 88 in this connection where it was held thus:

"Corroboration is not meant to give credence to evidence which is deficient, suspect, or incredible. It is required to support the evidence which is sufficient, satisfactory and credible".

Against this position, Counsel argued that the trial Court in looking for corroborative evidence for Exhibit 1 wrongly relied on the testimony of the PW2 and Exhibit 1 in holding that the Appellant caused the death of the deceased. He said that Exhibit 1 apart from being retracted by the Appellant did not meet up with the test for its admissibility as it could not have been made by the Appellant in the Hausa Language.

On the evidence of the PW2, Counsel argued that it was nothing but hearsay, and upon which the Court cannot found a conviction. He said that the PW2’s testimony itself needs to be corroborated and hence cannot qualify as corroborative evidence. It was also argued that Exhibit 2 never mentioned the Appellant as the cause of death of the deceased; that it merely states that death was caused by stabbing of the deceased.

Counsel further argued that even though Exhibit 1 looks like a confession, same was not voluntarily given by the Appellant as provided by Section 28 of the Evidence Act 2011 and that it is also not direct. He argued that if it were to be direct, the Appellant would have given the particulars of Nura and Murtala to aid the police in their investigations. Counsel, in this connection cited the Supreme Court in ROTIMI ADEBISI AFOLABI vs. COMMISSIONER OF POLICE (1951-1976) 1 SCJE page 204 - 208 where it was held thus:

"A confession must be direct and positive as far as the charges are concerned."

Lastly, learned Counsel argued that there were no eye witnesses to the commission of the crime as this crime was committed in broad daylight and in the deceased’s family house when the deceased came out from the bathroom. He argued that the deceased’s house is not isolated but in the middle of the town. According to Counsel Exhibit 1 relied upon by the Respondent is weak because it is a document made in the Hausa language, which the Court does not understand. He cited the case ofMUSA IKARIA vs. STATE (2013) 8 NCC at 253:9 where the Court held thus:

"This crime is too serious an offence to decide to convict an accused person on the wishy-washy incoherent testimonies of the prosecution witnesses who in their hesitancies have failed to establish the..."

It was finally submitted that the Respondent failed woefully in proving the 2nd and 3rd ingredients of the alleged offence against the Appellant particularly when Exhibit 1 dated on the 7-12-2010 was made in the Hausa language, which the Court does not understand and he urged this Court to so hold.

RESPONDENT:

Learned Respondents Counsel referred to the Charge under which the Appellant was brought to Court, charged and prosecuted for the offence of Culpable Homicide Punishable with death under Section 221(a) of the Penal Code and which he reproduced thus;

Section 221(a) provides that: -

Except in the circumstances mentioned in Section 222 Culpable Homicide shall be punished with death, if the act by which the death is caused is done with the intention of causing death.

Counsel then argued that for the Prosecution to secure a conviction for the offence of Culpable Homicide Punishable with death under Section 221 (a) of the Penal code, it must establish the following ingredients beyond reasonable doubt:-

a. That there was the death of a human being,

b. That death was caused by the act of the accused person; and

c. That the accused person knew or had reason to know that death would be the probable and not only the likely consequence of his act.

On account of these ingredients, Counsel cited the following cases;

1. Gambo Musa vs. State (2009) SCNQR 39

2. Chukwu vs. State (2012) 12 SCNJ 208 @ 222.

3. Ochiba vs. State (2011) 12 SCNJ 526 @ 537.

4. Mbang vs. State (2012) 6 SCNJ 395.

5. Okon Asuquo vs. State (2016) 66 NSCQR 770 @ 794.

It was the submission of Counsel that there is enough evidence in the record of proceedings of the lower Court which established the fact that there was death of one Basiru Garba. He referred this Court to the testimonies of the PW2, PW3, PW4 and Exhibit 2, the medical report. According to Counsel these pieces of evidence were never contradicted nor challenged by the Appellant.

In respect of the 2nd and 3rd ingredients of the offence, Counsel submitted that although the Prosecution did not have an eye/direct witness who saw the Appellant stabbing the deceased with the knife, which led to his death, yet the position of the law is very clear in cases of this nature that the offence can be established beyond a reasonable doubt by circumstantial evidence or confessional statements. On account of this point, Counsel cited the Supreme Court in the case of OKASHETU vs. STATE (2016) 66 NSCQR 965 AT 987 on the various ways or methods of proving the guilt of an Accused person, when the Court held thus: -

"The law is trite and well settled by placing the burden upon the prosecution to prove the charges against the accused beyond reasonable doubt. There are three ways or methods of proving the guilty of an accused person. See Section 133 of Evidence Act, 2011. A proof beyond reasonable doubt has been interpreted to mean that the prosecution must by credible evidence prove the ingredients of the offence for which the accused person is facing trial.

The three methods of evidential proof could either be by: -

(a) Direct evidence of witnesses;

(b) Circumstantial evidence; and

(c) By reliance on a confessional statement of an accused person voluntarily made.

Counsel also cited the case of ADEPETU vs. STATE (1998) NWLR (PT. 565) 185 AT 223 OGUNDARE, JSC (as he then was) said: -

"The law is very clear on the point, as in the instant case, where direct evidence of an eye witness is not available, the Court may infer from the facts proved the existence of the facts that may logically tend to prove the guilt of an accused person from circumstantial evidence, however, great care must be taken not to fall into serious error.

In response to the arguments of the Appellant that there was no evidence before the trial Court, which proved the 2nd and 3rd ingredients of the offence and that the Respondent rather relied heavily on Exhibit 1, which had many defects, Counsel submitted that the trial Court evaluated the evidence as a whole and arrived at its decision; that having regard to the confessional statements of the Appellant contained at pages 37 - 40 i.e. Exhibits 1 and 1a of the records of proceedings at pages 53, 54 and 55 of its judgment and arrived at its findings on the veracity and voluntariness of the confessional statement of the accused person before admitting it as the true confession of the Appellant.

By and large, Counsel argued that the Appellant herein, confessed to having stabbed the deceased with a knife and that Exhibit 2 the Medical Report confirmed that the deceased was stabbed with the use of knife on a delicate part of the body. Counsel cited the Supreme Court in the case of EHOT vs. THE STATE (1993) 5 SCNJ at 68 per OGUNDARE, JSC (as he then was) held:-

A man is presumed to intend the natural consequence of his act. By stabbing the deceased he must have intended to kill him or cause him grievous bodily harm. And whichever the intention he would be guilty of murder.

It was therefore submitted that in the circumstances of this case, the lower Court was right in convicting the Appellant for the offence of culpable Homicide Punishable with death having regard to the evidence before it. Counsel urged this Court to so hold.

RESOLUTION OF APPEAL

What took center stage in the argument of this relatively short Appeal are the question of the voluntariness and the veracity of the confessional statement of the Appellant said to be recorded in the Hausa Language and admitted as Exhibit 1 at the Court below. It was vigorously canvassed in this Appeal, alongside the question of the fact that there was no eye-witness accounts of what transpired on the given date of the incidents which led to the demise of the deceased.

These issues were no doubt subsumed in the much enlarged question of whether the learned trial Court rightly reached a conviction against the Appellant based on laid down principles of law. Learned Appellants Counsel who had rooted for a verdict of an acquittal had contended that the trial Court’s decision had occasioned a miscarriage of justice.

To begin with, for the prosecution to succeed in establishing the offence of culpable homicide punishable with death, all the ingredients of the offence as contained in Section 221 of the Penal Code must be proved or established to the satisfaction of the Court thus;

1. That the deceased had died.

2. That the death of the deceased had resulted from the act of the accused person.

3. That the act or omission of the accused which caused the death of the deceased was intentional or with the knowledge that death or grievous bodily harm was its probable consequence.

The position of the law is that a person is clearly guilty under Section 221 (b) of the Penal Code if the act by which death is caused is done with the intention of causing death, or if the doer of the act knew or had reason to know that death would be the probable and not a likely consequence of the act or of any bodily injury which the act was intended to cause. See the cases of MUSA vs. THE STATE (2009) ALL FWLR (PT. 492) 1020 AT 1033; YAKI vs. STATE (2008) 7 SC page 28 at 29; MUKAILA SALAWU vs. STATE (2015)11 NCC at page 40-41.

Perhaps, what needs to be said at this point is the fact that the burden to establish the culpability of the accused person standing trial for the offence of culpable homicide rests squarely on the shoulders of the prosecution who must prove all the material ingredients of the case beyond reasonable doubt. See Section 135(1) of the Evidence Act, 2011 as Amended and plethora of decided authorities on the subject. What should perhaps, be stated here as a corollary to the above, is the fact and from which the prosecution gets a modicum of succour that in all criminal trials the prosecution has the benefit of relying on any one of the following forms of evidence in discharging the burden placed on it by law;

a. Confessional statement,

b. Circumstantial evidence,

c. Evidence of an eye witness account.

See the cases of EMEKA vs. STATE (2001)14 NWLR (PT. 734) 666 AT 683; AKINMOJU vs. STATE (1995) NWLR (PT. 406) 24 AT 2012.

At page 39 of the printed records of Appeal, a reproduction of Exhibit B1, the English translation of the Appellants extra Judicial statement to the Police reads as follows;

I of the above name and address freely wish to make my statement as follows that I was born and brought up at Ruwanfilli village in Maiyama LGA. I am a farmer. I am not married I am staying with my parents. My father have five children I am the fifth child. I can remember on the 04-12-2010 at about 1500 hrs I was from farm to our house on a bicycle carrying bea stock one Basiru Garba M of the same address was also on his motorcycle carrying loads he just pushed me down and refused to stop. I was annoyed I stood up went home and took my bath from there carried knife and tied it on my waist and went looking for him Basiru who pushed me down and I did not see him I went to the market and did not see him there I met one Murtala my friend and told him what Basiru did to me he said we should go to their house to check for him, on our way we saw when he returned with motorcycle entered their house and kept the goods he carried and then came out passing, that was when I stopped him and asked him why did he push in the afternoon and he refused to stop he replied that even my father he can pushed not to talk of me. I stopped him the said Nura was holding me; he still came and beat me that was when I removed a knife and stabbed him with it on his back region which as a result he died on the spot

Learned Appellants Counsel had contended very vigorously that there was no credible confessional statement warranting the trial Court to have convicted the Appellant. It would be recalled however, that Exhibit 1 was in the course of trial admitted as confessional statements of the Appellant without an objection. Section 27 (1) of the Evidence Act (As amended) defines a confession thus:

“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."

It is further provided in Sub-section 2 that:

"Confessions, if voluntary, are deemed to be relevant facts as against the persons who make them only."

Against this backdrop, it is important to note that the Appellant, in the course of his evidence-in-chief before the lower Court, retracted from the said Exhibit 1. The settled position of the law, however is that a retraction of a confession does not ipso facto render the confession inadmissible. See the old case of R. vs. JOHN AGAGARIGA ITULE (1961) 1 ANLR 402 (FSC) where the Supreme Court per BRETT, Ag CJF held thus;

A confession does not become inadmissible merely because the accused person denies having made it and in this respect a confession contained in a statement made to the Police by a person under arrest is not to be treated different from any other confession. The fact that the Appellant took the earliest opportunity to deny having made the statement may lend weight to his denial. See R vs. SAPELE & ANOR (1952) 2 FSC 74 but it is not in itself a reason for ignoring the statement."

It would be apposite to further recall that the Appellant took the earliest opportunity when the statement was offered in evidence to deny having made it. But the position remains in law, that a mere denial without more, even at the earliest opportunity, cannot, on the bare facts of the case, lend any iota of weight to the denial. Apart from the fact that the denial is a bare statement bereft of any supporting facts, it is by and large, standing only on the ipsi dexit of the Appellant. To make matters rather worse and as revealed by the printed records in this case, the said statements were not even challenged on grounds of involuntariness or any other at all.

Arising from this position, in which the voluntariness or otherwise of the statements were neither raised nor challenged at the trial, this Court therefore finds and holds that the prosecution proved affirmatively that Exhibit 1 was voluntary confessional statements of the Appellant. Regardless of this position, the usual thing in all criminal trials is that the burden of proving affirmatively beyond doubt that the confession was made voluntarily is always on the prosecution, which this prosecution succeeded in doing as expected in this case. See the cases of JOSHUA ADEKANBI vs. AG WESTERN NIGERIA (1961) All NLR 47; R vs. MATON PRIESTLY (1966) 50 CR APP. R 183 at 188; ISIAKA AUTA vs. THE STATE (1975) NNLR 60 at 65 SC on the issue.

On the question of weight to be attached to a confessional statement whether retracted or not retracted the tests are as laid down in the old English case of R vs. SYKES (1913) 8 CR APP.R.233 approved by the West African Court of Appeal in KANU vs. THE KING (1952/55) 14 WACA 30 and several other decided cases on the subject. The tests therefore, as laid down in the case of R. vs. SYKES (Supra) to be applied to a man’s confession are; is there anything outside it to show that it is true? Is it corroborated? Are the statements made in it of fact, true as far as can be tested? Was the Appellant, one who had the opportunity of committing the crime? Is his conviction possible? Is it consistent with other facts which have been ascertained and which have been as in this case proved?

In any event, it is within the province of the trial Judge to determine the admissibility of a confession upon proof by the prosecution that the statement was free and voluntary and having admitted the statements as in the instant case where there has been a retraction by the accused. It is desirable for the trial judge to find some corroboration in the evidence tending to show that the statement of the accused having regard to the circumstances of the case is true. See OKAFOR vs. THE STATE (1965) NMLR 20. Perhaps, the question to address here is whether there are any such corroborating circumstances, which makes the confessions true in this case?

The trial Court, to begin with referred to the oral evidence of the PW1, which he said confirmed the story in the confessional statement. The Court also said that the PW2’s oral testimony and who proffered medical Evidence and tendered Exhibit 2 provided the corroboration needed in this case. The Court below observed that the Evidence of the PW2 and the Medical Report being evidence outside the confession showed the relevant facts which tallied with the confession.

That the learned Appellant’s Counsel had produced a very incisive and formidable brief of argument in challenging the lower Court’s decision is not in doubt. But the failure to have challenged and confronted material points in an opponent’s case at the time it mattered most is a major setback to the Appellant’s Appeal even at this stage of this case. See the case of OKOSI vs. THE STATE (Supra) where the Supreme Court per BELGORE, JSC delivering the lead judgment in the case, had this to say;

In all criminal trials the defense must challenge all the evidence it wishes to dispute by cross examination. This is the only way to attack any evidence lawfully admitted at the trial. For when evidence is primary, opinion and not that of an expert and an accused person wants to dispute it, the venue for doing so is when that witness is giving evidence in the witness box. The witness should be cross examined to elucidate facts disputed, for it is late at the close of the case to attempt to negotiate what was left unchallenged.

In respect of the retracted statements of the Appellant, the mere fact that he did subsequently retract from Exhibit 1 as the facts and circumstances of this case has shown, does not necessarily mean that the learned trial Court could not have acted on the statements more so when the Court successfully tested the truth in the confessions against the guidelines issued by the Court in the case of R. vs. SYKES (Supra).

In addressing the issue of whether the learned trial Court rightly found that the ingredients of culpable homicide punishable with death had been established in this case, it is rather clear that from the testimonies of the PW1 to PW4 and from the contents of Exhibit 1, which are the statements of the Appellant tendered at the lower Court without objection, and Exhibit 2, the Medical Report tendered in the course of trial, I am unable to disagree with learned Respondent’s Counsel that the prosecution did not prove its case to the hilt.

The position of the law is that a person is clearly guilty under Section 221 (b) of the Penal Code if the act by which death is caused is done with the intention of causing death, or if the doer of the act knew or had reason to know that death would be the probable and not a likely consequence of the act or of any bodily injury which the act was intended to cause. Appellant cannot in the circumstances of this case feign ignorance of the likely consequences of his action. The Appellant got prepared for a fight right from home when he picked up his knife, tied it to his waist and went in search of the deceased. The Appellant stabbed the deceased with his knife. His intention to kill or cause bodily injury was betrayed by the fact that he had to go after the deceased after he had returned from his farm, had his bath, and got out in search of the deceased over an incident that took place early in the day. By stabbing the deceased he clearly demonstrated his mission on the fateful day, which manifested as a clear intention on his part to kill.

Appellants Counsel made a storm out of tea cup concerning the tendering of Exhibit 1, which is the Hausa translation of the confessional statement of the Appellant. I fail to see how that could occasion a miscarriage of justice. Granted, that the English Language and not the Hausa Language is the official language of the Court. The agony of doing a translation would have been borne by the Court and not the Appellant whose first language is the Hausa Language. If anyone were to be heard to complain about the issue, it should not be the Appellant, on account of whom the translation to the Hausa Language of his confessional statement had been done by the Police. He should rather be very thankful. But that this has occasioned any miscarriage of justice, I do not share that point of view. Besides, this point there is evidence of the existence of an Exhibit 1a which is the English translation of the Appellant’s confessional statement.

To this end, this Appeal is moribund and lacks merit and it is accordingly dismissed. The judgment of the High Court of justice sitting at Birnin Kebbi and delivered on the 3-8-2013 by I. B. MAIRIGA, J. is hereby affirmed.

**HUSSEIN MUKHTAR, J.C.A.:**

I had the privilege of a preview of the lead judgment just delivered by my learned brother, Frederick O. Oho. I agree with the entire reasoning therein and the conclusion arrived thereat.

The appeal is accordingly dismissed. I subscribe to the orders made in the judgment.

**MUHAMMED LAWAL SHUAIBU, J.C.A.:**

The judgment of my learned brother, Frederick O. Oho, JCA, just delivered fully conforms with my view on the matter. I therefore adopt his reasoning and conclusion as mine. The availability of corroborative evidence is never a condition precedent to the conviction of an accused person on the basis of the accused persons confessional statement. It is however desirable that such corroborative evidence exists before an accused person is convicted on confessional evidence. In the instant case, the trial Court relied on the respondent’s witnesses including the medical report to establish the confessional statements.

For this and the fuller reasons contained in the lead judgment, I too dismiss the appeal and affirm the judgment of the trial Court delivered on 3/8/2013.