

THE OPERATION OF PLEA OF GUILTY AND DEFENCE FOUNDED ON WITCHCRAFT IN MURDER TRIALS

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Note: *The following is only an exposition based on media stories. The stories presented by the media may not be same as that to be presented before the court. The court would only rely on what is before it in the administration of criminal justice.*

Few days ago, a sad and hair-raising story made the news as news platforms and reporters spread the story of 15-year-old Odo Chiamaka who allegedly confessed to have killed her boss's six-month-old baby on the instructions of a witchcraft group she was initiated into through a communion of friendship expressed in the breaking and sharing of biscuits back in her primary school days.

According to news reports, Odo Chiamaka, who hails from Agulu Anambra State claims that the Coven had asked her to donate blood but she begged them to give her another assignment as she was not ready to shed blood. Despite her pleas, she was later on directed to donate her boss's six-month-old baby that was left in her care. The suspect also claims that on the unfortunate day, she reluctantly killed the innocent baby by holding a mystical bowl and calling out the baby's name four times.

To the extent of this story, Odo Chiamaka having admitted guilt and confessed to murdering the deceased baby on one hand, seems to also rely on the influence of her witchcraft group as an extenuating factor for the commission of the crime she confessed to, and perhaps as a defence, on the other hand. This has led my mind to two questions –

Whether defence founded on witchcraft is justifiable in murder cases

Whether the Court can convict the suspect based on her admittance of guilt (assuming she pleads guilty when arraigned before a competent court on the charge of murder)

On the first question, it has been held in a legion of cases that belief in the existence or influence of witchcraft is not a defence to a murder charge. The Supreme Court has described this sort of defence as 'unreasonable' [**Okotogo v The State (1984) JELR 48686 (SC)**] and 'untenable' [**Edoho v State (2010) 14 NWLR (pt. 1214) 551 SC**]. The rationale behind the Supreme Court's disposition towards this 'defence' is that the defence is founded on the subjective belief of the accused person, rather than the objective requirements of law relating to the particular relevant defence. In **Okotogo v The State** (supra), the appellant made a statement which was a definite admission of the killing in question. He blamed his action on witchcraft. His position was rejected by the court on the ground, inter alia, that the state of his mind in the case at hand is not one that could excuse his actions under **section 28** of the Criminal Code. See also **Jonah v The State (1997) 1 SC 27**, **R V Godam (1954) 14 WACA 442**, **Otuada v The State (1982) JELR 41545 (SC)**.

Addressing the second question, it is established law that there is a presumption of innocence on every citizen of Nigeria who is charged with a criminal offence until he is proven guilty. This legal position is enshrined in the 1999 Constitution by the virtue of the provisions of **section 36(5)**. See also **Musa v State (2021) JELR 108794 (CA)**. However, it is pertinent to take note of the provisions of **section 218 of the Criminal Procedure Act (CPA)** which states that 'if the accused pleads guilty to any offence with which he is charged, the court shall record his plea as nearly as possible in the words used by him and if satisfied that he intended to admit the truth of all the essential of the offence of which he has pleaded guilty the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause to the contrary.' A similar provision is also contained under **section 213 of the Administration of Criminal Justice (Repeal and Re-enactment) Law of Lagos State** which is the relevant law applicable in Lagos state where the suspect allegedly committed the crime in question. See also **section 161(2) & (3) of the Criminal Procedure Code**; and **section 274 (1) & (2) of the Administration of Criminal Justice Act (ACJA)**.

Thus, the effect of a plea of guilty by an accused before a Court exercising jurisdiction in respect of criminal offences, is that the Court is strongly moved to formally proceed to conviction without calling on the accuser to prove the commission of the offence by establishing the burden of proof by law. See **Dongtoe v Civil Service Commission, Plateau State (2001) 4 SC (Pt II) 43**; **Nkie v FRN (2014) LPELR 22877 (SC)**. In essence, a guilty plea lightens the burden of proof legally imposed on the prosecution to prove the charge beyond reasonable doubt. See **Nkie v FRN** (supra). Further, In **Orji v FRN (2019) 4 NWLR (Pt 1663) 480**, the Court held that a plea of guilty to a charge is conclusive evidence that the accused committed the offence. Hence, there is no better evidence than a plea of guilty. The Court further held that a guilty plea is even better than eye witness evidence. Nevertheless, this legal position is not without an exception.

Section 213(3) of the Administration of Criminal Justice (Repeal and Re-enactment) Law of Lagos State provides that 'where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.' Similarly, **Section 187(2) of the Criminal Procedure Code** provides that 'if the accused pleads guilty the plea shall be recorded and he may in the discretion of the court be convicted thereon, unless the offence charged is punishable with death, when the presiding officer shall enter a plea of not guilty on behalf of the accused. See also **section 274(3) of the ACJA**.

Although there is no equivalent of the above provisions in the CPA, it is however the practice and indeed the law that plea of guilty is never recorded for an accused in a murder case even when he so pleads. A plea of not guilty is instead

recorded on his behalf and a trial is held. See **R v Kofi Mansu (1947) 12 WACA 113**.

Therefore, for all that has been said on the second question, the Court cannot rightly in law convict the suspect based on her admittance of guilt. The prosecution in a matter like this still bears the burden of proof. In other words, the prosecution would still be required to prove the guilt of the defendant beyond reasonable doubt without which a conviction cannot be secured against the suspect/defendant.Â

News Source:

Vanguard, â€œ15 Years-old maid says she donated 6mths old baby she killed to witchcraft covenâ€, 14 March 2022, available at <www.vanguardngr.com/2022/03/15years-old-maid-says-she-donated-6mths-old-baby-she-killed-to-witchcraft-coven/> accessed 17 March 2022.

The Sun, â€œI killed my madamâ€™s 6-month-old daughter, nanny confessesâ€, 14 March 2022, available at <www.sunnewsonline.com/i-killed-my-madams-6-month-old-daughter-nanny-confesses/%3famp> accessed 17 March 2022.

The Nigeria Lawyer, â€œThey Asked Me To Bring Blood, says Teenage Nanny Held For Killing Infantâ€, 14 March 2022, available at <<https://thenigerianlawyer.com/they-asked-me-to-bring-blood-says-teenage-nanny-held-for-killing-infant/>> accessed 17 March 2022.

BarristerNG.com, â€œHow Witchcraft Forced Me to Kill my Bossâ€™s 6 months old Baby â€œ Teenage Nannyâ€, available at <<https://baristerng.com/video-how-witchcraft-forced-me-to-kill-my-boss-6-months-old-baby-teenage-nanny/>> accessed 17 March 2022.

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