

## SUMMARY OF JUDGMENT

### INTRODUCTION:

This appeal borders on Criminal Law and Procedure.

### FACTS:

The appeal is against the decision of the Court of Appeal, Abuja Division, which affirmed the conviction and sentence for the offences contrary to Sections 265, 283 read together with Sections 79 and 294 of the Penal Code passed on the Appellants by the Niger State High Court.

The appeal relates to the three appeals: SC.247/2010, SC.247A/2010 and SC.247B/2010 filed by Sani Abdullahi, Abdullahi Black and Hussaini Danjuma respectively.

The respondent's case was that the three appellants, on the 31st May, 2006 at about 1:00 am at Suleja, posing as policemen, carried away one Binta Garba from the room of her boyfriend at Bakin Kasuwa to Yangonon area of Suleja town and, against her consent, individually

had sexual intercourse with her. Binta Garba's boy friend, Abubakar Isah, testified as PW1 at the trial Court. He reported the incident to the Emir of Suleja and subsequently to the Division Police Station, Suleja. When brought back to his house by the appellants, Binta, he told the

Court, looked upset. Pursuant to the report lodged with the Police, so many arrests were made and the witness identified the appellants.

The case of Sani Abdullahi and Abdullahi Black, the appellants in appeals Nos. SC.247/2010 and SC.247A/2010 was that shouts of their neighbours woke them up. The two were sleeping in Sani Abdullahi's room. They decided to find out what was behind the. Not far from PW1's house, they met some

people and on enquiry they were informed that some people wanted to rape a girl. The incident, they told the Court, took place around 12 midnight. They also told the Court that they saw the appellant in appeal No. SC.247B/2010 at the scene. Along the said

appellant, they pleaded with the people intent on raping the girl to spare her. They however left the appellant behind at the same scene only to be arrested the following day for

raping the very girl they urged others not to rape.

The trial Court found them guilty of attempted rape and they were duly convicted. Dissatisfied, they appealed to the Court of Appeal where their appeals were dismissed. Dissatisfied with the decision of the Court of Appeal, they further appealed to the Supreme Court.

#### ISSUES:

The Supreme considered only the 1st and 3rd issues formulated by the appellant in appeal No. SC.247A/2010 as similarly distilled by the Appellants in the two other appeals to wit:-

(a) Whether the Appeal Court erred in affirming the judgment of the trial Court based on the confessional statements

of the accused; which the Accused objected to and denied making any statement.

(b) Whether the Court of Appeal erred in law when it held that the prosecution proved its case beyond reasonable doubt.

#### DECISION/HELD:

In the final analysis, the Supreme Court allowed Appeal Nos. SC.247/2010 and SC.247B/2010 in part and affirmed the decision of the Court of Appeal in SC.247A/2010.