

## SUMMARY OF JUDGMENT

### INTRODUCTION:

This appeal borders on Criminal Law and Procedure.

### FACTS:

This appeal is against the decision of the Court of appeal, which affirmed the judgment of Ekiti State High Court, Ikole Ekiti. The appellant was arraigned with three other accused persons before the trial High Court on the 11th day of July, 2001 on a three-count information of conspiracy to murder, murder of one Moyowa Adeleye and the attempted murder of one Falade Ojo. The appellant and his co-accused pleaded not guilty but before the commencement of hearing, one of them died and the appellant became the 1st accused throughout the trial.

The case of the prosecution was that in the afternoon of 29th November, 1998, the deceased victim, Mayowa Adeleye was sent by his mother, PW1, Alice Adeleye, to deliver food to his father, who worked as a security guard at Fiyinfolu Odindun Comprehensive High School Oke-Ayedun Ekiti. The deceased Mayowa Adeleye, never returned home as expected, consequent upon which his parents raised an alarm which resulted in a search - party being organized by the town for him on the order of the king.

Falade Ojo, was a member of one of the search parties constituted to look for the missing boy and in the course of the search that night, he was accosted in the bush by the late Sunday Jegede and three others, the appellant inclusive.

During the encounter with the appellant and his cohorts, they, not only prevented him from searching the building where they were found the appellant, brought out a sword to slay him but in the ensuing struggle, he (PW2) managed to escape from the scene after snatching the sword. Then PW2 promptly reported the incident to the king who directed the apprehension of the appellant and the others.

The headless corpse of Mayowa Adeleye was eventually found in the bush the following morning, near the house of the late Sunday Jegede. The prosecution called six witnesses and the appellant gave evidence in his defence but called no witness. He denied committing any of the offence. The trial Court found appellant and his co-accused guilty and consequently convicted and sentenced them. Accordingly. Appellant's appeal to the Court of Appeal was unsuccessful. Hence, the appeal to the Supreme Court.

## ISSUES:

The supreme court determined the appeal on the following issues, as formulated by the appellant.

1. Whether the learned trial judge was right in holding that the prosecution proved a case of murder and attempted murder against the appellant beyond reasonable doubt and whether the Court of Appeal was right in holding that decision?
2. Whether the contradiction in the evidence of prosecution as to the date of the arrest of the appellant is not fatal to the prosecution's case and whether the Court below was not wrong to have held otherwise.?

## DECISION/HELD:

In the final analysis, the appeal was found devoid of merit and same was dismissed. Consequently, the concurrent Judgments of the Court of Appeal and the trial Court were affirmed.