IN THE HIGH COURT OF SIERRA LEONE

HOLDEN AT FREETOWN

INDICTMENT NO.DPP/2014/316

THE STATE

VS

JOSEPH ANTHONY

PROSECUTION: AUGUSTINE SHEKU ESQ.

DEFENCE: C TUCKER

JUDGMENT DATED THE 21ST DAY OF JULY 2016.

INDICTMENT

The Accused person was initially charged with the offence of Murder. The Prosecution made an application for the offence of Murder to be replaced with Manslaughter. The application was granted by the Court on the 25th August 2015. The Accused person pleaded not guilty to the charge of Manslaughter.

In the case of the Prosecution two witnesses testified. In his testimony to the Court, the PW1, DPC3685, said he is attached at the Criminal Investigation Department, Kissy.

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The PW1 recognized the Accused person and recalled the 1st December 2013. The PW1 said inter alia a transferred case and enquiry file was assigned to him. In that regard, he prepared a request document for a Post-mortem to be done on the remains of Osman Turay, and on the 4th December 2013 same was conducted by the Government pathologist Dr. Owiss Koroma at the Connaught Mortuary Government Hospital. The PW1 further told the Court that a Voluntary Contemporaneous Cautioned Statement was obtained from the Accused person and the protocols were duly observed. The said Voluntary Cautioned Statement was produced and tendered as Exhibit A 1 to 6. In the said Exhibit A 1 to 6, the Accused person confessed to the assault on the person of the deceased which later led to his death, 'when Osman hit me with his hand on my back, I pushed him and he fell down, he hit his head on a cement block. Osman then became helpless as he could not able to stand for himself'. The said Osman Turay later died at the Connaught Hospital. The Accused person was later charged for the offence of Murder by the police. The Accused person was cautioned and the protocols duly observed. Charge Statement tendered as Exhibit B 1 to 2.

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In Cross examination, the Pw1 affirmed that he conducted a joint interviewed professionally, free from bias and prejudice.

The PW2, DPC 10641 Kamara I. said he is attached at the Scene of Crime Office, Kissy Police Station and he took snap shots on the remains of the late Osman Turay which was later developed into photographs and same tendered as Exhibit C 1 to 19.

In Cross, the PW2 maintained that he did visit the scene of crime.

The State Counsel thereafter informed the Court that the Accused person who now stands charged for the offence of Manslaughter was initially charged for the offence of Murder. That a Preliminary Investigation was conducted and on the 14th February 2014, the matter was committed to the High Court. The Committal Certificate was tendered as Exhibit D. That was the close of the case of the Prosecution.

Commencement of Defence Case:

The Accused Person relied on his Statement made to the Police and the Accused has no witness. Defence Counsel,

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thereafter elected to address the Court. In the said address of the Defence, the attention of the Court was drawn to the non availability of the Medical Officer in who conducted the autopsy even though he was given the opportunity to come to Court. Also the Defence pointed out to the Court that the two witnesses in the case of the prosecution are formal witnesses who are mainly Police officers. The Defence further cited the principle of causation, as it was the victim who first assaulted the Accused person. The Defence in this vein maintained that the Prosecution had failed in its case and therefore requested the Court to return a verdict of acquittal and discharge.

The Prosecution on the other hand, conceded that the Medical Officer who conducted the Post-mortem did not testify in court, but drew the attention of the Court to Exhibit A where the Accused person gave a graphic description in the manner in which he assaulted the victim. The Prosecution stated that a confessional statement by itself is admissible without any other evidence to warrant a conviction.

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The Law for determination is Manslaughter and Manslaughter can be defined as 'the unlawful killing of a human being without malice aforethought'. The pivotal question is thus, can an Accused person be convicted on his sole testimony by way of confession; In my humble legal view, the answer is in the affirmative, for as long as there was no threat, persuasion or oppression. This was precisely the position of the Court in the case of R v. Isequilla (1975) All E.R.77 . The Defence inter alia made a very good point that the Medical Officer did not testify but the Defence failed to contest the Confessional Statement made by the Accused person which in my legal view would have warranted a voire dire. For this reason the Confessional Statement made by the Accused person stand. I hold that the prosecution has proved its case beyond reasonable doubt which is a matter of most in our jurisprudence for the Prosecution to succeed in a criminal prosecution. I hold that the Accused person is guilty of Manslaughter.

Allocutus:

Defence asked for Mercy.

P-T-O

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Sentence

The A → person is sentence to seven years imprisonment.

[signature]

21-7-2016

Stevens J.