

**IN THE HIGH COURT OF THE FEDERAL  
CAPITAL TERRITORY, ABUJA  
HOLDEN AT ABUJA**

**ON MONDAY, 6<sup>TH</sup> DAY OF MAY, 2019**

**BEFORE HON. JUSTICE SYLVANUS C. ORIJI**

**SUIT NO. FCT/HC/CV/688/2018**

**BETWEEN**

**MR. CHUKWUDI UNEKA**

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**APPLICANT**

**AND**

- 1. INSPECTOR GENERAL OF POLICE**
- 2. ASSISTANT INSPECTOR GENERAL  
OF POLICE [AIG-INTELLIGENCE]**
- 3. MR. FESTUS**
- 4. INSPECTOR IGBOKWE**
- 5. EMMANUEL IKEGBUNEM**



**RESPONDENTS**

**JUDGMENT**

In his Originating Motion filed on 24/12/2018, the applicant prayed the Court for the following reliefs against the respondents:

1. A declaration that the continued intimidation and harassment of the applicant by men and officers of the Nigeria Police Force through several calls threatening the applicant to leave his family and business in Kano and come to Force Criminal Investigation Department, Abuja wherein the applicant was initially detained for 3 days over a business

transaction between the applicant and the 5<sup>th</sup> respondent, constitute an infringement of the applicant's fundamental right guaranteed and protected by sections 34[1][a], 35[1], [4] & [5] and 40 of the Constitution of the Federal Republic of Nigeria 1999 [as amended].

2. A declaration that the continued intimidation and harassment of the applicant by men and officers of the Nigeria Police Force through several calls threatening the applicant to leave his family and business in Kano and report to Force Criminal Investigation Department, Abuja and further extort, obtain, collect, recover monies from the applicant over a business transaction between the applicant and 5<sup>th</sup> respondent is unlawful and an infringement of the applicant's fundamental right guaranteed and protected by sections 34[1][a], 35[1], [4] & [5] and 40 of the Constitution of the Federal Republic of Nigeria 1999 [as amended].
3. An order of perpetual injunction restraining the respondents, their agents, servants and privies howsoever described from any further form of embarrassments, unwarranted calls, harassment or detention of the applicant in connection with the subject matter of this application.
4. An order of this Honourable Court awarding the sum of N10,000,000.00 as exemplary damages against the respondents for infringement against the applicant's fundamental right guaranteed and protected by sections 33, 34, 35[1] and 41[1] of the Constitution of the Federal Republic of Nigeria 1999 [as amended].

5. Any further order or orders which the Honourable Court may deem fit to make in the circumstances.

In support of the Originating Motion are: [a] the Statement setting out the name and description of the applicant, the reliefs sought and the grounds upon which the reliefs are sought; [b] the applicant's 19-paragraph affidavit, and Exhibit A attached thereto; and [c] written address of Ikenna Okeke Esq.

The records in the case file show that the originating processes were served on the 1<sup>st</sup>& 2<sup>nd</sup> respondents on 24/1/2019. The originating processes were served on the 3<sup>rd</sup>& 4<sup>th</sup> respondents on 12/3/2019 ???; while the 5<sup>th</sup> respondent was served with the originating processes on 7/2/2019. The respondents did not file any process. They did not also attend court in spite of the hearing notice served on them. When the matter came up for hearing on 18/3/2019, Ikenna Okeke Esq. adopted the applicant's processes.

The grounds for seeking the reliefs as stated in the Statement in support of the Originating Motion are:

- a) The applicant has the fundamental right to life, dignity of human person, liberty, freedom of association and freedom of movement under sections 33, 34, 35, 40 and 41 of the Constitution of the Federal Republic of Nigeria 1999 [as amended] and Articles 6 & 7 of the African Charter on Human and Peoples Right [Ratification and Enforcement] Act.

- b) The applicant has been harassed severally by the respondents through detention, using men of the Nigeria Police Force to intimidate and extort money from the applicant over a civil transaction between the applicant and the 5<sup>th</sup> respondent.
- c) The applicant was arrested in Kano on 17/10/2018 and was bundled to Abuja on 18/10/2018, wherein he was detained for 3 days based on frivolous accusation of giving false information concerning a transaction which is purely civil and has no element of criminality in it, without any cogent or verifiable evidence; all of which was orchestrated by the 5<sup>th</sup> respondent.
- d) The arrest and detention, continued harassment, intimidation and threat of the applicant by the respondents to pay the sum of ten million Naira without which the applicant will be further arrested and detained, constitute a breach of his fundamental right to freedom of movement, right to personal liberty as contained in sections 33, 34, 35, 40 & 41 of the Constitution of the Federal Republic of Nigeria 1999 [as amended] and Articles 6 & 7[1] [D] of the African Charter on Human and Peoples Right [Ratification and Enforcement] Act.
- e) The continued threat, harassment and intimidation of the applicant by the respondents have brought untold hardship and restriction on the free movement and association of the applicant contrary to his constitutionally guaranteed rights as contained under sections 40 and

41 of the Constitution of the Federal Republic of Nigeria 1999 [as amended].

- f) This Honourable Court has the power and mandate to grant the reliefs sought.

In his affidavit, the applicant stated that:

1. The 3<sup>rd</sup>& 4<sup>th</sup> respondents are the Investigating Police Officers [IPOs] in charge of the case against him.
2. He and the 5<sup>th</sup> respondent were business associates dealing on fabrics. The 5<sup>th</sup> respondent represents a Chinese company importing the said goods and he is the major distributors of the 5<sup>th</sup> respondent.
3. The 5<sup>th</sup> respondent usually supplies fabrics to him; he sells the fabrics and remits the required proceeds to the 5<sup>th</sup> respondent. The pictures of the goods which the 5<sup>th</sup> respondent supplied to him are Exhibit A.
4. He distributed the said goods to retailers and he is gradually paying back monies to the 5<sup>th</sup> respondent as has been the mode of the business. The receipts of the transactions are in the custody of the 5<sup>th</sup> respondent, which he [the 5<sup>th</sup> respondent] has given to the 3<sup>rd</sup>& 4<sup>th</sup> respondents at Force Criminal Investigation Department, Abuja.
5. He accepted that he is owing 5<sup>th</sup> respondent the sum of N4,777,000.00 and not N10,000,000.00 as claimed by the Nigeria Police Force.

6. During the period of interrogation, he was informed that the offence alleged against him is giving false information about a business transaction; but no cogent reason or verifiable evidence was presented.
7. His shop has been under lock and key due to the incessant harassment of men of the Nigeria Police Force. He has lost numerous customers and potential business associates due to the actions of the respondents. His family has been thrown into undue hardship because of the incessant Police invitation from Kano State to Abuja.
8. The 3<sup>rd</sup>& 4<sup>th</sup> respondents forced him to pay N200,000.00 as part of the money recovered in respect of the claim of the 5<sup>th</sup> respondent. The 4<sup>th</sup> respondent collected N50,000.00 cash from him as "*bail out fee.*"
9. He has been deprived of his right to life, dignity of human person, liberty, freedom of association and movement as the respondents keep tormenting, intimidating, harassing and threatening him through calls and unwarranted invitation and detention at the Force Criminal Investigation Department.

As rightly stated by learned applicant's counsel, the issue for determination is whether the application of the applicant is meritorious to entitle him to the reliefs sought.

The applicant's counsel posited that the right of the applicant to personal liberty is currently being threatened by the respondents without any order of

a court. The action of the respondents is illegal, barbaric, inhuman, cruel, unlawful and unconstitutional as it causes a threat on the applicant's right to personal liberty and freedom of movement. The intimidation and harassment of the applicant amount to an infringement of the applicant's right to dignity of human person and personal liberty. He submitted that from the applicant's affidavit, he has shown sufficient facts to prove that his rights to dignity of human person and personal liberty under sections 34 & 35 of the 1999 Constitution [as amended] were violated. He referred to the case of **Uzoukwu v. Ezeonu II [1991] 6 NWLR [Pt. 200] 708** where the Court of Appeal defined personal liberty as the right not to be subjected to imprisonment, arrest and any other physical coercion in any manner.

Mr. Ikenna Okeke further submitted that the fear of the threat by respondents has restricted the movement of the applicant, which is clearly a violation of his right to freedom of movement under section 41 of the 1999 Constitution [as amended]. He referred to **Director, SSS v. Agbakoba [1999] 3 NWLR [Pt. 595] 314** in support of the right to freedom of movement. In conclusion, the applicant's counsel urged the Court to grant the reliefs of the applicant.

In the case of **Attorney General of the Federation v. Abule [2005] 11 NWLR [Pt. 936] 389**, it was restated that the position of the courts is very important for the purpose of safeguarding the fundamental rights through effective intervention whenever it is shown that such rights have been or are being threatened to be violated. One of the basic points from this decision is that

before a court can intervene to safeguard or protect the fundamental right of an applicant, he has a duty to prove by sufficient and credible evidence or facts that his fundamental right has been violated or that his right is under threat of being violated by the respondent[s].

In the instant case, the applicant stated that he was detained by men and officers of the Nigeria Police Force for 3 days from 18/10/2018. His complaint is not that he was detained for 3 days before he was released. From the applicant's reliefs 1 & 2 -which are declaratory reliefs - his case is hinged on the alleged "*continued intimidation and harassment of the applicant by men and officers of the Nigeria Police Force through several calls threatening the applicant to leave his family and business in Kano and come to Force Criminal Investigation Department, Abuja*" The alleged "*continued intimidation and intimidation ???*" of the applicant are from several calls by men and officers of the Nigeria Police Force for him to come to Force Criminal Investigation Department, Abuja.

Now, has the applicant presented or disclosed credible evidence or facts to establish the allegation that men and officers of the Nigeria Police Force intimidated and threatened him through several calls? The relevant affidavit evidence of the applicant is that: [i] his shop has been under lock and key due to the incessant harassment of men of the Nigeria Police Force; [ii] his family has been thrown into undue hardship because of the incessant Police invitation from Kano State to Abuja; and [iii] he has been deprived of his fundamental rights to personal liberty, etc. as respondents keep tormenting,



intimidating, harassing and threatening him through calls and unwarranted invitation and detention at the Force Criminal Investigation Department. In my view, the applicant did not state specific or particular facts to establish the bare allegation of intimidation and harassment by men and officers of the Nigeria Police Force.

In paragraph 3.7 of his written address, learned counsel for the applicant submitted that: *“The Police’s arbitrary and continuous invitation to the applicant, the visitation of the applicant’s house and place of business in number 60 Karfo House Kwari Market, Kano State, with a view to further arresting him and recovering money from the Applicant in a pure contract or/and civil matter is a clear breach of the Applicant’s Fundamental Human Rights.”*

The above submission that the men and officers of the Nigeria Police Force visited the applicant’s house and place of business with a view to arresting him and recovering money from him is not part of the facts and evidence in the grounds for the application and the applicant’s affidavit. Therefore, this submission goes to no issue. The point remains that the applicant did not establish his allegation of intimidation and harassment against the officers of the Nigeria Police Force.

Before I conclude, it is necessary to remark that since the officers and men of the Nigeria Police Force at the Force Criminal Investigation Department, Abuja are investigating a criminal allegation against applicant and released

him on bail, they are entitled to invite him to their office in furtherance of their investigation. In my considered opinion, the invitations or calls, without more, is not a violation or breach of the applicant's fundamental rights to dignity of human person, personal liberty, freedom of movement or any other right guaranteed by the 1999 Constitution [as amended].

In conclusion, the applicant's Originating Motion lacks merit. It is hereby dismissed.

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HON. JUSTICE S. C. ORIJI  
[JUDGE]

*Appearance of Counsel:*