

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY  
IN THE FEDERAL CAPITAL TERRITORY JUDICIAL DIVISION  
HOLDEN AT JABI FCT ABUJA**

**BEFORE HIS LORDSHIP: HON. JUSTICE BABANGIDA HASSAN**

**SUIT NO: FCT/HC/CV/2045/2019**

**BETWEEN:**

1. **NORTHSIDE APARTMENTS LTD**  
2. **MR. TUKUR ABBA** } .....**APPLICANTS**

**AND**

1. **ASO SAVINGS AND LOANS LTD**  
2. **ECONOMIC AND FINANCE CRIMES  
COMMISSION (EFCC)**  
3. **CHAIRMAN, ECONOMIC & FINANCIAL  
CRIMES COMMISSION**  
4. **DAN DIBAL** } .....**RESPONDENTS**

Appearances:

R.J.Goyon Esq appeared for the applicants.

Adewale E. Odeleye Esq appearing with I.E. Ekwere Esq for the  
1<sup>st</sup> respondent.

**JUDGMENT**

By the originating motion for enforcement of fundamental human rights dated the 28<sup>th</sup> day of May, 2019 and filed the next day brought pursuant to Order IV Rules 3 & 4 of the Fundamental Right (Enforcement Procedure) Rules 2009 and section 34, 35 and 37 of the Constitution of the Federal Republic of Nigeria 1999 as amended, whereof the applicants seek for the following:

1. A declaration that the constant harassment and threat of arresting the applicants and their staff by the 2<sup>nd</sup> and 4<sup>th</sup> respondents on the petition of the 1<sup>st</sup> respondent is an infringement of the applicants' fundamental rights to personal liberty and dignity of their person(s) as guaranteed under the Constitution of the Federal Republic of Nigeria 1999 (as amended);

2. an order of perpetual injunction restraining the respondents, their officers and privies from arresting, detaining, further intimidating and/or harassing the applicants and their staff/officials in any form whatsoever over the commercial transaction between the 1<sup>st</sup> applicant and the 1<sup>st</sup> respondent;
3. an order that the applicants and their officials having not committed any offence or found guilty of any offence by a court of competent jurisdiction are entitled to enjoy their fundamental rights to freedom of liberty as enshrined in the 1999 constitution of the Federal Republic of Nigeria (as amended);
4. an order awarding damages of the sum of N50,000,000.00 as exemplary damages against the respondents jointly and severally to the applicants;
5. an order of public apology be tendered to the applicants by the respondents;
6. any such further order or orders as this Honourable Court may deem fit to make in the circumstances.

Before the hearing of this application, the 1<sup>st</sup> respondent has filed a notice of preliminary objection dated the 24<sup>th</sup> day of September, 2019 with No. M/9030/2019 pursuant to section 34 of the 1999 constitution of the Federal Republic of Nigeria (as amended), Order 11 Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and under the inherent jurisdiction of this Honourable Court.

The applicant herein prays for the following:

- 1) an order of this Honourable Court striking out this application for being incompetent as there are no proper applicants before it and for lack of reasonable cause of action;
- 2) and for such further order(s) as this Honourable Court may deem fit to make in the circumstances of this case.

Thus, let me at this juncture rely on Order VIII Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 to decide the notice of preliminary objection along with the substantive application. In this circumstances, I have to first of all deal with the preliminary objection. See **Azubuogu V. Oranezi (2018) All FWLR (pt**

**927) p. 123 at pp. 129-130 paras. H-B** where the Supreme Court held that a preliminary objection is determined first in order to ensure that the court has necessary jurisdiction to proceed to hear and determine the case on its merit.

Now, the preliminary objection is accompanied by a written address, while the applicants to the main application filed their response dated the 5<sup>th</sup> day of February, 2020.

The counsel to the 1<sup>st</sup> respondent/applicant, in his written address formulated lone issue for the court to determine, that is to say,

“Whether this suit is not incompetent for lack of proper parties and reasonable cause of action?”

The counsel took time to reproduce the provisions of sections 34, 35 and 37 of the Constitution of the Federal Republic of Nigeria, as amended, and submitted that it is clear that section 34 of the constitution which the main applicants seek to rely on does not operate to benefit the 1<sup>st</sup> applicant, who is an artificial person, and not a human person and therefore, the 1<sup>st</sup> main applicant, being a corporate person will not rely on this section, and to this, the counsel made reference to paragraph 2 of the affidavit in support of the application which clearly shows that the 1<sup>st</sup> applicant is a company incorporated in Nigeria engaged in the property and real estate business, and to him these cannot be a breach of the 1<sup>st</sup> applicant's fundamental right in any way, and this application ought not to be granted.

It is the submission of the counsel to the applicant that the 1<sup>st</sup> main applicant is a corporate entity and it does not have fundamental right covered by sections 34, 35 and 37 of the constitution which can be presented and which led to the filing of this suit, and to him, where there is no cognizable right to be presented no right has been violated or in threat of violation.

The counsel further submitted that the 2<sup>nd</sup> applicant who claims to be a former staff and director of the 1<sup>st</sup> applicant cannot bring this application on behalf of any other current or ex-staff of the applicant without due authorization from the Board of Directors of the 1<sup>st</sup> applicant and without stating the names of these current staff or ex-staff on behalf of whom he purportedly brings this application.

He took time to reproduce the grounds upon which the application was brought and submitted that the ground Nos. 1, 2 and should be struck out as there is no proof of any civil matter ongoing between the parties before any court of competent jurisdiction and that the applicant has failed to show the existence of any such suit in their affidavit in support of this application and that grounds Nos. 1, 2 and 3 also be struck out because the rights sought to be protected by them do not seem to benefit the 1<sup>st</sup> applicant and the 2<sup>nd</sup> applicant does not have the authority to sustain the action on behalf of any staff of the 1<sup>st</sup> applicant, and therefore, urge this court to strike out the application.

The counsel referred this court to Order II Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules 2009, and also the case of **Alhaji Abdulazeez Adefila & Anor. V, His Royal Majesty- Oba James Adedapo Popoola (oore of Otun-Ekiti) & Or (2014) LPELR 22468 (CA)** to the effect that to invoke the jurisdiction of the court for the protection of any right under chapter IV of the 1999 constitution, the applicant must be the actual person whose right has been infringed. He also cited the cases of **Shugaba V. Minister of Internal Affairs (1981) 2 NCLR 459; University of Ilorin V. Oluwadare (2003) 3 NWLR (pt 808) 557**, and he therefore, urge the court to strike out this suit as the 1<sup>st</sup> applicant cannot be the actual person whose right is allegedly infringed.

The counsel further submitted that there is nowhere in the entire thirty paragraph of the affidavit in support of the application that any allegation of violation of right of the applicants or any of its staff was made against the 1<sup>st</sup> respondent, and to this, there is no reasonable cause of action against the 1<sup>st</sup> respondent, and urged the court to so hold.

The respondent to this application, through their counsel, contended that it is fundamental to the administration of justice that where there is no remedy provided by common law or statute the courts have been urged to create one, and that the law being an equal dispenser of justice leaves none without a remedy whether or not the wrong is remedial under a known head of tort or form of action, and he cited the cases of **Jide V. Commissioner of Police &**

**Ors (2016) LPELR 40190 and Labode V. Otubu (2001) 7 NWLR (pt 712) 256.**

The counsel further submitted that assuming without conceding that the 1<sup>st</sup> applicant cannot bring the instant application, this Honourable Court can only strike out the 1<sup>st</sup> applicant, and the case can still be maintained by the 2<sup>nd</sup> applicant who is a natural person whose right has been violated and submitted that the 2<sup>nd</sup> person is a natural person whose rights have been infringed by the respondents, and he relied on Order II Rule 1 of the Fundamental Rights (Enforcement Procedure Rules) 2009, and to him the applicants have shown through credible evidence in their written depositions that the right to dignity of the 2<sup>nd</sup> applicant is being threatened, and urge the court to hold that it has the jurisdiction to entertain the application.

Thus, having summarized the submission of both counsel, let me formulate the issues, in this application, for determination, to wit:

- 1) whether a corporate body has the locus standi to apply for enforcement of its fundamental rights?
- 2) Whether the 1<sup>st</sup> applicant has the locus standi to apply for enforcement of fundamental right on behalf of other?
- 3) Whether the averments in the affidavit in support of the application disclose a reasonable cause of action?

On the 1<sup>st</sup> issue, the 1<sup>st</sup> respondent contended that the 1<sup>st</sup> applicant being a corporate body has no locus standi to file an application for enforcement of its rights, this is because Order II Rule 1 of the Fundamental Rights (Enforcement Procedure) Rules only mentioned human persons, while it is the contention of the 1<sup>st</sup> applicant that it being a corporate body also has the locus standi to institute or file an application to enforce its right?

By the formulation of the Fundamental Rights (Enforcement Procedure) Rules 2009, it has become the Rules to be in force for the time being, and not the Fundamental Rights (Enforcement Procedure) Rules 1979. See the case of **Okechukwu V. E.F.C.C. (2015) All FWLR (pt 766) p. 1233** to the effect that the applicable rule is the Fundamental Rights (Enforcement procedure) Rules 2009 made by the Chief Justice of Nigeria pursuant to section 46 of the constitution of the Federal Republic of Nigeria 1999 (as amended).

Thus, I have to make reference to the affidavit in support of this application with a view to find out the right which is alleged to have been infringed of the 1<sup>st</sup> applicant being a corporate body. To this, I have looked at the affidavit, and I have not seen any averment where it is alleged that the right of the 1<sup>st</sup> applicant being corporate body, has been threatened by the 1<sup>st</sup> respondent, and to my mind, the fundamental rights in chapter IV of the 1999 constitution, and the African charter are regarded as belonging to humans and not corporate bodies. I have also looked at the preamble to the Fundamental Rights (Enforcement Procedure) Rules 2009, and I have not seen where the Rules covered corporate bodies. In the circumstances, I hold the view that the Rules does not give any protection to the 1<sup>st</sup> applicant, it being a corporate body, and as there is no any threat to its right. The question No. 1 is answered in favour of the 1<sup>st</sup> respondent.

On the issue No. 2 in this application, the counsel to the 1<sup>st</sup> applicant, does not have the locus standi to file this application on behalf of the staff or ex-staff, while the counsel to the applicants contended that the 2<sup>nd</sup> applicant can maintain an action on behalf of the staff or ex-staff of the 1<sup>st</sup> applicant. In this regard, I have to have recourse to the preamble of the Rules 2009 and more particularly paragraph 3 (a) (ii) to the effect that the court shall encourage and welcome public interest litigations in the human rights field and no human rights case may be dismissed or struck out for want of locus standi, and as such, anyone can bring an application for the enforcement of fundamental right on behalf of another. In 1979 Rules it was that it must be the actual person whose right has been infringed or threatened is likely to be infringed that could bring an application for the enforcement of such right, but now it is not so, and to this I therefore so hold. See the case of **Fawehinmi V. Akilu (1987) 4 NWLR (pt 67) 797 at 847**. Therefore, the question No. 2 is answered in favour of the 2<sup>nd</sup> applicant.

On the third question, the counsel to the 1<sup>st</sup> respondent contended that the averments in the affidavit did not disclose a reasonable cause of action, while the counsel to the applicants contended otherwise.

Now, reasonable cause of action has been defined by the Court of Appeal, Lagos Division in the case of **Tonique Oil Services Ltd V. U.B.A Plc (2017) All FWLR (pt 905) p. 1359 at 1366 paras. C-H** to mean a cause of action with some chance of success when only the allegation found in the pleadings are considered. In this circumstance recourse has to be had to the averments in the affidavit in support of the application.

So, by paragraphs 16, 20, 21 and 27 of the affidavit in support of the main application are to the effect that the 1<sup>st</sup> respondent has been threatening the 2<sup>nd</sup> applicant with arrest, and if those reliefs are not granted himself and the staff of the 1<sup>st</sup> applicant will be subjected to degrading inhuman treatment by the respondents.

To my mind, these are averments in the affidavit in which the 2<sup>nd</sup> applicants may have the chances of success when only the pleadings have shown that, and to this, I therefore, so hold. In the circumstances of this application, the question No. 3 has been answered in favour of the 2<sup>nd</sup> applicant.

On the whole and based upon the above consideration, I hold the view that the 2<sup>nd</sup> applicant has the locus standi to file this application on behalf of the staff of the 1<sup>st</sup> applicant, and that the affidavit discloses a reasonable cause of action, and to this the action is maintainable by the 2<sup>nd</sup> applicant only.

Having decided that this court has the jurisdiction to entertain this action, I have to delve into the main application for the enforcement of fundamental right of the 2<sup>nd</sup> applicant. See the case of **Asuzuogu V. Oranezi (supra)**.

Coming to the main application, the prayers upon which were adumbrated or enumerated above it is in the affidavit in support of the application that on the 24<sup>th</sup> of May, 2019 the 2<sup>nd</sup> applicant was invited to the office of the 2<sup>nd</sup> respondent pursuant to a complaint made by the 1<sup>st</sup> respondent. It is stated that the respondents have been threatening the 2<sup>nd</sup> applicant as well as the staff and officials of the 1<sup>st</sup> applicant, and that the 2<sup>nd</sup> and 4<sup>th</sup> respondents have the intent to arrest and detain the 2<sup>nd</sup> applicant as severally when invited by the 2<sup>nd</sup> and 4<sup>th</sup> respondents to their office, and that the 2<sup>nd</sup> applicant lives in perpetual fear of arrest and harassment from the respondents as they constantly call him on phone and send text

messages inviting him to their office ostensibly to arrest and detain him. The facts contained in the affidavit in support of the application were verified and confirmed to be true in the verifying affidavit deposed to by the counsel to the applicants.

In the written address of the counsel to the applicants, two issues were formulated. That is to say:

- (a) "Whether there was a breach of the applicants' fundamental rights?
- (b) and if yes, whether the applicants are entitled to the reliefs claimed?

On the first issue the counsel submitted that by virtue of the provisions of section 34 of the constitution of the Federal Republic of Nigeria 1999 (as amended), every individual is entitled to respect for the dignity of his person and accordingly no person shall be subjected to torture or inhuman or degrading treatment and he cited the provision of Article V of the African Charter on Human and Peoples Rights and to him, torture includes mental harassment as well as physical brutalization as defined by the Court of Appeal in the case of **Uzoukwu V. Ezeonu II (1991) 6 NWLR (pt 200) 708**. He further submitted that the word "degrading" was defined in the case of **Isenalumhe V. Amadin & 3 Ors 92001) 1 CHR 458** to mean reviling, holding one up to public obloquy, lowering a person in the estimation of the public, exposing to disgrace, dishonor or contempt, and to him, it has been shown in the affidavit in support of the application that the applicant has been threatened with arrest and that is constantly under torture and apprehension as his residence and office premises have been under watch by agents of the 2<sup>nd</sup> and 3<sup>rd</sup> respondents. The counsel further argued that where a person has alleged a violation of his fundamental right and deprivation of his liberty, the onus is on the respondents' to justify the arrest and threat of arrest, and he cited the cases of **C.O.P Ondo State V. Obolo (1980) 5 NWLR (pt 120) 130 at pp. 157-158**, **Agbakoba V. SSS (1994) 6 NWLR (pt 351) 475**, and **Modiego V. Nwankwo (2000) 1 NWLR (pt 748) 426**.

It is further submitted by the counsel to the applicant that the existence of the power to arrest is not a justification to arrest as the respondents have to justify the arrest of the applicant and its staff in



the manner deposed to as the threat of arrest and detention has caused an incalculable harm to the reputation and self-esteem of the applicant, and he cited the case of **Lafia Local Government V. Executive Gov. Nasarawa State & Ors (2012) LPELR 20602 (SC)**, and therefore argued that where there is a threat to an infringement of a person's fundamental right, he has the protection of the law and it does not matter that he was not under any physical confinement, and he urged the court to so hold that the applicant's fundamental right of personal liberty and dignity of the human person have been infringed by the respondents.

On the second issue, the counsel submitted that section 35(6) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) empowers the court to award compensatory and exemplary damages to an applicant in a case of breach of fundamental rights, and he relied on the case of **Attah V. I.G.P & Ors. (2015) LPELR 24656 (CA)**, and he contended further that as contained in the affidavit in support that the applicants present director retired as the Managing Director of a bank who has been threatened with arrest in the full glare of the public as a common criminal and that the invasion of the office premises of the 1<sup>st</sup> applicant by the respondents has brought him into public ridicule and ought to be compensated, and on the whole, he argued that the constant harassment of the applicant right for no legal justification is deserving of a compensation which the court is empowered to grant and he urged the court to grant the reliefs sought.

The 1<sup>st</sup> respondent filed a counter affidavit dated the 24<sup>th</sup> September, 2019, and it was deposed to by the 1<sup>st</sup> respondent's legal officer, and it was stated that there was a valid mortgage facility agreement between it and the 1<sup>st</sup> applicant for the purchase of Block G, Flat 1 – 9 Bassan Street, Wuse Zone 6, Abuja and the title document of the property was the security for the mortgage facility between it and the 1<sup>st</sup> applicant. It was stated categorically that at the time of approval of the mortgage facility and the occurrence of paragraph 10 (i) there under the 2<sup>nd</sup> applicant herein was a director with the 1<sup>st</sup> applicant while one Mr. Muhammad Jibrin Barde was an Executive Director with the 1<sup>st</sup> respondent who later returned to the

management of the 1<sup>st</sup> applicant upon cessation of his employment with the 1<sup>st</sup> respondent. It is stated that as at 10<sup>th</sup> April, 2018, the valid mortgage facility, the 1<sup>st</sup> applicant was in default of the outstanding sum of N51,750,000.00 only and the default persisted for months until the 1<sup>st</sup> respondent wrote a letter of demand on the 10<sup>th</sup> of April, 2018 which the applicant failed to respond until 8<sup>th</sup> June, 2018 after the commencement of an initial criminal investigation by the Nigerian Police.

It is further stated that the investigation of the applicant's file revealed that the 1<sup>st</sup> applicant had fraudulently and illegally retrieved the title document being the collateral for the loan from its record with the 1<sup>st</sup> respondent (through the fraudulent connivance of the 2<sup>nd</sup> applicant and Mr. Muhammad Jibrin Barde who was the former Executive Director of the 1<sup>st</sup> respondent, and consequent upon this a petition was written to the police on the 14<sup>th</sup> May, 2018 to investigate the said fraud which is still ongoing.

It is in the counter affidavit that while investigation was ongoing, the applicant through its counsel served on the 1<sup>st</sup> respondent a purported response to their letter of demand and also, the 1<sup>st</sup> applicant earlier initiated a suit before this court which was struck out on the 5<sup>th</sup> of February, 2019 per Hon. Justice Peter Atten, and that it is denied the allegation of the applicant that the police has exonerated it of the allegations made by the 1<sup>st</sup> respondent.

It is in the counter affidavit that the mortgage facility between the 1<sup>st</sup> applicant and the 1<sup>st</sup> respondent is one of bank financial transactions and due to the financial criminal nature of the transaction, the 1<sup>st</sup> respondent had lodged another complaint with the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, and that the 1<sup>st</sup> respondent has a duty to report criminal activities of this nature to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents who have the power to investigate and such powers does not constitute a violation of the fundamental rights of the applicant, and that the 1<sup>st</sup> respondent does not control the activities of the 2<sup>nd</sup> and 3<sup>rd</sup> respondents and as such the report made to the 2<sup>nd</sup> and 3<sup>rd</sup> respondent was done in good faith as the respondent discovered a syndicate that was involved in the fraud reported to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents.

In his written address, the counsel to the 1<sup>st</sup> respondent formulated one issue for this court to determine, to wit:

Whether there was a breach of applicant's fundamental rights to warrant a grant of this application?

The counsel submitted that as pleadings cannot take the place of evidence, the submission of the counsel to the applicant in his written address be discountenanced because he failed to substantiate that there is a pending civil suit between the applicant and the 1<sup>st</sup> respondent. Counsel submitted further that a single transaction can have both civil and criminal elements as decided in the case of **Senator Peter Nwaobosi & Ors V. F.R.N (2018) LPELR 45107 (CA)** and **tsanyawa V. E.F.C.C. & Anor. (2018) LPELR 45099 (CA)**. The counsel contended that it was during the course of investigation the 1<sup>st</sup> applicant's file at the bank that it was discovered that some fraud had occurred which was then reported to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, and further contended that the subject matter of investigation by the 2<sup>nd</sup> to 4<sup>th</sup> respondents is no longer a civil transaction as it had matured into the criminal realm when the 1<sup>st</sup> respondent discovered the theft of credit file of the 1<sup>st</sup> applicant in the custody of the 1<sup>st</sup> respondent and the criminal syndicate between some former staff of the respondent.

It is further submitted that the applicant has the duty to prove with cogent and convincing evidence that there was a breach of their rights and not first make such allegation and he cited the cases of **Oando Plc V. Farmatic Biogas West Africa Ltd & Anor. (2018) LPELR 45564 (CA)** and **Okafor V. Lagos State Government & Anor (2016) LPELR 41066**, and he urged the court to dismiss the application with substantial cost of N2,000,000.00 in favour of the 1<sup>st</sup> respondent.

Thus, having summarized the affidavits of both parties, and the submission of their counsel, let me adopt the issues already formulated by the counsel to the applicant to wit:

- 1) whether there was a breach of the applicant's fundamental rights?
- 2) Whether the applicant is entitled to the relief sought?

To appreciate the first question, I have to have recourse to the affidavit evidence of the applicant, and to this, I refer to the case of **Mbang V. Janet (2015) All FWLR (pt 767) p. 769 at 784 para. E** where

the Court of Appeal Calabar Division held that applicants to enforce fundamental rights are by the Fundamental Rights (Enforcement Procedure) Rule, 2009 determined by affidavit evidence of the parties, and it is therefore, the affidavit evidence before the trial court that the court relies upon for the determination of the matter. See also the case of **Attah V. I.G.P. (2015) All FWLR (pt 805) p. 113 at 149 paras. B-C.**

Looking at paragraphs 16, 20, 21 and 27 of the affidavit in support of this application, it could be inferred that the harassment and threat are in relation to the invitation made to the 2<sup>nd</sup> applicant to appear at the office of the 2<sup>nd</sup> to 4<sup>th</sup> respondents over a commercial transaction, and which to him he is subjected to degrading and inhuman treatment by the respondents. It can also be inferred that the 2<sup>nd</sup> applicant has not been arrested, and he did not explain in his affidavit how degrading and inhuman treatment were meted out to him, except that he was consistently being called on phone and invited to the office of the 2<sup>nd</sup> to 4<sup>th</sup> respondents.

Thus, it is also the duty of this court to consider the counter affidavit of the respondents. See the case of **Mbang V. Janet (supra).**

So, looking at paragraph 10 of the counter affidavit, it could be inferred that the 1<sup>st</sup> respondent made an allegation of commission of a crime by the 2<sup>nd</sup> applicant in collaborating with one Mr. Muhammad Jibrin Barde (who was the Executive Director with the 1<sup>st</sup> respondent and later returned to the management of the 1<sup>st</sup> applicant upon cessation of his employment with the 1<sup>st</sup> respondent). That the allegation is that the 1<sup>st</sup> applicant had fraudulently and illegally retrieved the title document collateral for the loan from its record with the 1<sup>st</sup> respondent through the fraudulent connivance of the 2<sup>nd</sup> applicant and Mr. Muhammad Jibrin Barde; and by paragraph 17 (a) it is deposed to the fact that the 1<sup>st</sup> respondent made criminal allegation to the 2<sup>nd</sup> respondent in a matter that he believes involves criminal element.

Thus, by the provisions of section 6 (b) of the E.F.C.C. Act 2004, the 2<sup>nd</sup> respondent is assigned with the responsibility of investigating all financial crime and it is amply empowered to investigate all cases of economic and financial crimes reported to it. Therefore, having ascertained that the 1<sup>st</sup> respondent made a complaint to the 2<sup>nd</sup>

respondent which is labeled as Exhibit 'Aso 2' which is attached to the counter affidavit, certainly the 2<sup>nd</sup> respondent is empowered by the above quoted law to investigate such complaint made to it. See the case of **Onyekwere V. State (1973) 5SC** where the Supreme Court held that if a complaint is made to the police that an offence has been committed, it is their duty to investigate the case not only against the person about whom the complaint has been made but also against any other person who may have taken part in the commission of the offence. In the instant case the security agencies, in other words, the 2<sup>nd</sup> respondent has the wide powers with respect to criminal investigations though within the ambit of the law.

Now, whether the invitation made by the 2<sup>nd</sup> to 4<sup>th</sup> respondents at the behest of the 1<sup>st</sup> respondent to the office of the 2<sup>nd</sup> respondent amounts to a breach of any of the fundamental human rights of the 2<sup>nd</sup> applicant, that is to say, whether by inviting the 2<sup>nd</sup> applicant to the office of the 2<sup>nd</sup> respondent over an allegation of commission of crime made by the 1<sup>st</sup> respondent violates the 2<sup>nd</sup> applicant's rights to personal liberty or against degrading and inhuman treatment? To my mind, the answer is in the negative, and to this I rely on the case of **Ozah V. E.F.C.C (2018) All FWLR (pt 953) p. 253 para. B** where the Court of Appeal, Benin Division held that mere invitation to appear before the 1<sup>st</sup> respondent's officials did not affect the civil rights of the appellant as to make the matter justiciable before a court. In the instant case, mere invitation for the 2<sup>nd</sup> respondent to appear before the officials of the 2<sup>nd</sup> respondent does not affect the fundamental rights under section 34 and 35 of the constitution, of the 2<sup>nd</sup> applicant as to make the matter justiciable before the court and to this I therefore so hold.

The personal liberty guaranteed by section 35 (1) of the constitution of the Federal Republic of Nigeria 1999 (as amended) is not absolute, as its existence is subject to certain exceptions and one of such exceptions is subsection (1) (c) of section 35; as a person may be lawfully arrested and/or detained upon suspicion of having committed a criminal offence, however, even at that, the constitution has put in place certain safeguards so that a person may not be arrested and detained indefinitely. See the case of **Aleshe V. F.R.N (2018) All FWLR (pt 952) pp 86-87 paras. H-B.**

Based upon the above consideration, I have to hold the view that the 2<sup>nd</sup> applicant's fundamental rights have not been breached, and the question No. 1 is resolved in favour of the 1<sup>st</sup> respondent.

The first question having resolved in favour of the 1<sup>st</sup> respondent, certainly the 2<sup>nd</sup> applicant will not be entitled to the reliefs sought and this too, is resolved in favour of the 2<sup>nd</sup> applicant.

Assuming but not conceding that, that is not the position as per question No. 1, it will not be appropriate for this court to restrain the 2<sup>nd</sup> respondent perpetually from the exercise of its lawful duty in accordance with the law. See the case of **Government of Kwara State V. I.B.N Ltd (2015) All FWLR (pt 767) p. 812 para. B.**

On the whole, I have no hesitation to dismiss this application and it is hereby dismissed accordingly.

Signed  
Hon. Judge  
05/05/2020