IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT GWAGWALADA

THIS MONDAY, THE 8TH DAY OF FEBRUARY, 2021

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

SUIT NO: GWD/CV/50/2020

BETWEEN:

1. MOMOH ABDULKAHAR
2. ABDULLAHI NASIRU ..... **APPLICANTS**

AND

1. COMMISSIONER OF POLICE
(FCT Police Command)
2. MR SUNDAY OKORI
(SARS, Abuja)
3. MR MOHAMMED
(SARS, Abuja)
4. ALH. ABDULRAHEEM BAKKA
(M/D BAKA OIL NIGERIA LTD) ..... **DEFENDANTS**

JUDGMENT

This is an application brought pursuant to the Fundamental Rights Enforcement Procedure Rules 2009. The application is dated 2nd June, 2020 and filed on 9th June, 2020 at the Court's Registry.

The Reliefs sought as contained in the statement accompanying the application are as follows:

1. **A Declaration that the arrest and continuous detention of the 1st Applicant by the 1st, 2nd and 3rd Respondents since the 18th day of May, 2020 without being arraigned or charged to court is illegal, unlawful, unconstitutional, null and void and ultra-vires.**

2. **A Declaration that the continuous detention of the 1st Applicant through the instrumentality of the 4th Respondent until the family of the 1st Applicant support the whims and caprices of the 4th Respondent is illegal, unconstitutional and null and void.**

3. **An Order of this Honourable Court directing/compelling the 1st, 2nd and 3rd Respondents to release forthwith the 1st Applicant and/or admitting the 4th Applicant to bail pending his arraignment before a constituted court.**

4. **An Order of this Honourable Court restraining the 4th Respondent from instigating the arrest and detention of the 3rd Applicant.**

5. **An Order of this Honourable Court restraining the 1st, 2nd and 3rd Respondents from intimidating, harassing, molesting and/or humiliating the 4th Respondent for being a guarantor which is civil inclined.**

6. **Five Million Naira (N5, 000, 000.00) as compensation for the unlawful arrest and detention of the 1st Applicant and for being subjected to inhuman and degrading treatment in custody of 2nd and 3rd Respondents at SARS Cell Abbatoir, Abuja.**

<u>Grounds upon which the Reliefs are sought</u>:

1. **The Applicants are citizens of the Federal Republic of Nigeria.**

2. **That the Police has no power to detain a person at their pleasure and/or upon the instruction of the complainant.**

3. **That the Applicants were subjected to inhuman and degrading treatment by the 2nd and 3rd Respondents in the SARS Cell.**

The Application is supported by a 24 paragraphs affidavit. A written address was filed in compliance with the FREP Rules in which three (3) issues were raised as arising for determination as follows:

1. **Whether the Police can detain a person at the pleasure of a nominal complainant.**

2. **Whether the Applicants has made out a case for the award of compensation.**

3. **Whether the 2nd Applicant who stood as a guarantor can be criminally liable from the circumstances of this case.**

The address of the applicants which forms part of the Record of Court is essentially anchored on the fact that the actions of the 1st – 3rd Respondents as stated in the affidavit particularly the arrest and continuous detention of 1st Applicant and harassment of 2nd Applicant because he stood as guarantor to the 1st Applicant, all at the behest of 4th Respondent constituted a violation of their rights to the dignity of the human person and also their personal liberty as enshrined in the 1999 Constitution which accordingly entitled them to the Reliefs sought.

The Applicants also filed a further and better affidavit in response to the counter-affidavit of 4th Respondent together with a written address which only stated that the Applicants on receipt of the counter-affidavit of 4th Respondent have filed a further and better affidavit which they are relying on, No more.

In opposition, the 1st – 3rd Respondents filed a four (4) paragraphs counter-affidavit with nine (9) annexures attached and marked as Exhibits RR-F. A written address was equally filed in compliance with the FREP Rules in which two (2) issues were raised as arising for determination, to wit:

1. **Whether or not the rights of Applicants have been infringed upon or likely to be infringed upon.**

2. **Whether or not this Honourable Court can grant the Reliefs sought by the Applicant in this suit?**

The address of 1st – 3rd Respondents which equally forms part of the Record of court is basically to the effect that the constitutionally guaranteed rights of Applicants were not any manner infringed or violated and that all the complaints of alleged violations were not creditably established.

On the part of the 4th Respondent, a thirty two (32) paragraphs counter affidavit was filed with three (3) annexures attached and marked as **Exhibits A-C**. A written address was equally filed in support in which two (2) issues were also raised as arising for determination thus:

1. **Whether or not the Applicants have sufficiently made out a case for the violation of their Fundamental Rights.**

2. **Whether or not they are entitled to the claims before the court.**

The submissions in the above issues equally forms part of the Record of Court and it is basically to the effect that absolutely no case of violations of Applicants Fundamental Rights was made out against Respondents and in particular 4th Respondent on the materials supplied by the Applicants to entitled them to all or any of the reliefs sought.

At the hearing, counsel to the Applicants relied on the paragraphs of the supporting and further and better affidavits and adopted the submissions in the written address in urging the court to grant the application.

On behalf of the Respondents, counsel to the 1st – 3rd Respondents and counsel to the 4th Respondent each relied on the counter-affidavits and written addresses filed on behalf of the 1st – 3rd Respondents and 4th Respondent respectively in praying that the application be dismissed as lacking in merit.

I have given an insightful consideration to all the processes filed by parties together with the oral amplification by respective learned counsel and it seems to me that notwithstanding the volume of the processes filed, the issue to be resolved from the materials before the court falls within a very narrow legal compass and

that is **whether on the facts and materials before court, the Applicants have proved that their fundamental human rights were violated by Respondents to entitle them to the reliefs sought**.

This umbrella issue raised by court conveniently accommodates all the issues raised by parties and has succinctly and with sufficient clarity brought out the pith of the contest subject of the present inquiry and it is on the basis of the said issue that I shall proceed to presently decide the matter.

Now before proceeding with the merit of the case, I noted that the present action was brought by two (2) Applicants. Even though no party made an issue of it, the extant action would appear to raise the important question relating to the validity of multiple applicants in a single suit for enforcement of Fundamental Rights. The cases of **Udo V Robson & ors (2018) LPELR – 45183 (CA) and Kporharor & Anor V Yedi & ors (2017) LPELR – 42418 (CA)** have donated the position that two or more persons cannot jointly sue for enforcement of their fundamental rights. I therefore was of the view that I should call on counsel to address me on the issue but a recent decision of the Court of Appeal, Kano Division in Suit No. CA/KN/289/2019 between **Alhaji Maitagaran V Dan koli** delivered on 27th October, 2020 appeared to have altered the existing narrative and now positing that two or more persons can jointly sue for enforcement of their fundamental human rights. The law is settled that where there are conflicting decisions of a Superior Court of Appeal, the later decision should prevail over the earlier decision.

Most importantly though the action appears to be a joint action, the reliefs which I have already streamlined in substance seeks for reliefs only in favour of the 1st Applicant.

In the prevailing circumstances and as stated earlier, since no issue was raised on the point, I prefer to keep my peace.

Now to the merits.

ISSUE 1

Whether on the facts and materials before court, the Applicants have proved that their fundamental human rights were violated by Respondents to entitle them to the reliefs sought.

Now it is settled principle of general application that an applicant who seeks for the enforcement of his fundamental rights under **Chapter IV of the Constitution** has the onus of showing that the reliefs he claims comes within the purview of the fundamental rights as contained in chapter IV and this is clearly borne out by the express provision of Section **46 of the 1999 Constitution and Order 11 Rule 1 of the FREP Rules 2009. In Uzoukwu V. Ezeonu II (1991)6 N.W.L.R (pt.200)708 at 751, the Court of Appeal** in construing **Section 42 of the 1979 Constitution** which is in *pari materia* **with Section 46 of the 1999 Constitution** stated as follows:

"The Section requires that a person who wishes to petition that he is entitled to a fundamental right:

a. **Must allege that any provision of the fundamental rights under chapter IV has been contravened, or**
b. **Is likely to be contravened, and**
c. **The contravention is in relation to him''.**

The reliefs which therefore an applicant may seek under the FREP Rules are specifically limited to any of the fundamental rights prescribed and embodied in chapter IV of the Constitution. See **Dongtoe V. Civil Service Commission Plateau State (2001)19 WRN 125; Inah V. Okoi (2002)23 WRN 78; Achebe V. Nwosu (2002)19 WRN 412.**

I had earlier on at the beginning set out the reliefs of Applicants in the statement accompanying the application and found that they clearly come within the purview of fundamental rights under **Chapter IV of the 1999 Constitution.** The burden therefore was on the Applicants alleging that their fundamental rights have been contravened or likely to be contravened to place before the court cogent and credible facts or evidence to enable the court grant the reliefs sought. See **Fajemirokun V. C.B.C.I (Nig) Ltd (1999)10 N.W.L.R (pt.774)95.**

In resolving this dispute, it may be necessary to give a brief background facts of the matter for a proper appreciation of the issues to be resolved. I will summarise the essence of the case as made out on each side.

On the side of the Applicants, the affidavit in support was sworn to by 2nd Applicant. The case made out is that 1st Applicant was employed as manager by 4th Respondent to man one of his filling stations and that 2nd Applicant stood as a guarantor.

That sometime on 18th May, 2020, that 1st Applicant was arrested and detained by 1st – 3rd Respondents pursuant to a complaint laid by 4th Respondent. That upon inquiry as to the arrest, 2nd Applicant said he was informed by t he family members of 1st Applicant that he was alleged to have diverted proceeds of sale at the filling station and that he was lured by certain people to engage in the act including one **Alhaji Tijani** who promised to make money for him.

The 2nd Applicant averred that he was informed by family members that 1st Applicant was subjected to torture and serious beating at the SARS office in Abuja and that all efforts to get his release on bail proved abortive. Further that 1st – 3rd Respondents informed the family members that 1st Applicant will not be released or granted bail until 4th Respondent agrees or until he returns the money he diverted. The 2nd Applicant also stated that he has similarly been harassed and intimidated by 2nd and 3rd Respondents at the behest of 4th Respondent because he stood as guarantor to the 1st Applicant.

The 1st – 3rd Respondents denied all these accusations. Their case is simply that they received a referral letter from a competent court, Grade 1 Area Court Kabusa vide **Exhibit RR**, to investigate a criminal complaint of criminal breach of trust, theft by a servant and intimidation and they commenced investigation as the law allows them. That the 4th Respondent has no say whatsoever in the conduct of the investigations and that at all times they kept the 1st Applicant, they had orders of a competent court to do so. That the invitation of 2nd Applicant was simply in the process of investigations to hear from him if he had any hand in the diversion of the proceeds committed by 1st Applicant.

That the 1st Applicant made statements to the Respondents; he was granted bail vide **Exhibit B** and that after conclusion of investigation, he was charged to court vide FIR attached as Exhibit F.

On the part of 4th Respondent, his case is simply that he his only a director in Aguba Oil Nig. Ltd and Bakka Oil Nig. and that 1st Applicant is an employee of Aguba Oil Nig. Ltd. That he did not personally make any complaint against 1st Applicant but that employees of Aguba Oil Nig. Ltd laid the complaint against 1st Applicant. The 4th Respondent further stated that he was not instrumental in the arrest and detention of the 1st Applicant and has no powers over how the 1st – 3rd Respondents conduct their criminal investigations.

I have above deliberately and in some detail sought to capture the essence of the narrative on both sides. The kernel or crux of this dispute is whether the actions of the Respondents within the context of the precise complaints of Applicants can legally and be constitutionally countenanced.

Now it is not in doubt that the provisions of **Sections 34 and 35 of the 1999 Constitution** provides for the right to dignity of the human person and the right to personal liberty.

The sections provides as follows:

"34(1) Every individual is entitled to respect for the dignity of his person, and accordingly:

a. No person shall be subjected to torture or to inhuman or degrading treatment;
b. No person shall be held in slavery or servitude; and
c. No person shall be required to perform forced or compulsory labour."

"35(1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law-:

a. In execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty.

b. By reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law.

c. For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence.

d. In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare.

e. In the case of persons suffering from infectious or contagious disease, persons of unsound mine, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community. or;

f. For the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.

The above sections appear to me clear and unambiguous such that the task of interpretation can even hardly be said to arise. **Section 34(1)** emphasises treatment of the human person with respect and therefore any act which makes people lose their sence of self respect, value or worth would be degrading. **Section 35(1)** on the other hand places premium on the personal liberty of every person and any deprivation of same must be consistent with the procedure permitted by law. The court obviously serves as a necessary bulwark in the protection of these fundamental rights and any transgression or proved violation of these constitutional provisions are met with necessary legal consequences.

The task before me now is to apply the above clear provisions in relation to the alleged infractions and determine whether these infractions were proved.

I start with the complaint that the arrest and continuous detention of 1st Applicant infringed on his Fundamental Rights.

Now it is a common ground that the Nigeria Police is body statutorily created with precisely streamlined powers to prevent, detect crime and the apprehension of offenders. **Section 4 of the Police Act** provides as follows:

"The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged and shall perform such military duties within and outside Nigeria as may be required of them by or under the authority of this or any Act."

The 1st – 3rd Respondents as police officers or indeed any serious Law Enforcement Agency does not however go about willy-nilly looking to unreasonably interfere with the Fundamental Rights of law abiding citizens. In the case, by **Exhibit DCC** attached to the affidavit of 1st – 3rd Respondents, a complaint was laid not by 4th Respondent as erroneously asserted by 2nd Applicant in his affidavit but by one Ayodeji Aroluyo. The complaint of criminal breach of trust, theft by servant, intimidation and threat to kill was made to the Honourable Judge Grade 1 Area Court Kabusa District, Abuja on 15th May, 2020. These are clearly sufficient serious allegations which then prompted the Area Court on 18th May, 2020 to write to the Deputy Commissioner of Police to carry out further investigations and report back.

It was clearly on the basis of this directive from a Competent Court of law that the 2nd and 3rd Respondents were assigned the task to look into the complaint.

In my opinion, the essence of this directive from Court is to enable the 1st – 3rd Respondents or indeed any law enforcement Agency to evaluate same and exercise their power(s) on what further actions to take dependent on the strength and credibility of the complaint. See **Olatinwo V. State (2013)8 N.W.L.R (pt.1355)126.**

A logical and necessary corollary of the processing of the petition would necessarily require the basic step(s) of investigation which is the examination of

the facts of the situation. There may or may not be the need to call in people for questioning in the process. The process may take a period of time and the invitation for questioning may also be repeated. There is no cast iron formular on how the process will pan out. These are issues largely dictated by the facts uncovered in the process of investigation. The only point to add here is that the process must be conducted with civility and decorum.

In this case, the 2nd Applicant in both his affidavit and further affidavit clearly recognises, and not even in subtle terms, the involvement of the 1st Applicant in the diversion of the proceeds of sale from his place of employment. In paragraphs 8 – 10 of the affidavit, the **2nd Applicant** averred as follows:

"8. That upon enquiry as to his arrest, I got to know through the family members that he was alleged to have diverted proceed of sell from his place of assignment.

9. That he was lured by the security and one Alh. Tijani who hails from Gada-biu and promised to make money for him.

10. That the 1st Applicant was taken to Okene in Kogi State his home town for investigation.

11. That all efforts to arrest Alh. Tijani came to naught as he disappeared into thin air."

In the further affidavit, the **2nd Applicant** against stated as follows:

"10. That the 1st Applicant informed me sometimes the 23rd day of May, 2020 while in custody of the 1st to 3rd Respondents and I verily believe him as follows:

(a) That the amounted quoted as diverted or stolen is inflated and over blown to suit the 4th Respondent.

(b) That the amount diverted or stolen was recovered from Alh. Tijani who lured the 1st Applicant."

In view of this recognition by even the 2nd Applicant of act(s) of wrong doing by 1st Applicant, can there really be a valid complaint about the actions taken by the owners of the filling station. I think not.

There is no doubt therefore that the police certainly have the powers and indeed exercised the powers to arrest 1st Applicant in the process of investigation predicated on the Order of Court. In **Ekwenugo V. FRN (2001)6 N.W.L.R (pt.708)171 at 185,** the Court of Appeal, per Fabiyi J.C.A (as he then was) opined instructively on follows:

"If there is reasonable suspicion that a person has committed an offence, his liberty may be impaired temporarily. In the same vein, his liberty may be tampered with so as to prevent him from committing an offence. In short, it is clear that no citizen's freedom from liberty is absolute. The freedom and liberty of a citizen ends where that of the other man starts."

In the same vein, the invitation extended to 2nd Applicant who on the materials is the person who acted as a guarantor when 1st Applicant was employed cannot be faulted.

The call to attend an interview, without more, does not tantamount to an indictment or accusation of any wrong doing with respect to the complaint leveled specifically at 1st Applicant. The Right to personal liberty is therefore not infringed when such invitations are extended to private citizens. There is really nothing in evidence to support the allegation of arbitrariness in the invitation of Applicants. The bottom line really is that while the court seeks at all times to prevent abuse and any infraction of the rights of citizens, it cannot however be seen to shield anybody from criminal investigation by stopping a body empowered by law and the constitution to carry out such investigation. See **A.G Anambra V. Chris Uba (2003)13 N.W.L.R (pt.947)67.** There is clearly on the materials no credible proof of any wrongdoing by the 1st and 3rd Respondents in the circumstances.

There is therefore nothing creditably established on the evidence by Applicants that the arrest of 1st Applicant and the invitation extended to the 2nd Applicant was done in a manner inconsistent with any provisions of the constitution or violated their Fundamental Rights.

The contention that the 1st Applicant has been detained continuously since his arrest will lack basis in view of the administrative bail granted him vide Exhibit B attached to the counter-affidavit of 1st – 3rd Respondents. There is no reply affidavit joining issues with this averment. In the absence of any counter-evidence, impugning the clear fact of bail been granted to 1st Applicant, the allegation of continuous detention lacks substance. If 1st Applicant was not able to meet the administrative bail terms, that is a different issue and does not aggregate to mean that he was denied bail.

Indeed, it would appear that to allow for the Respondents to keep up with their investigations, they vide Exhibits C1 and C2 obtained Remand Orders from the Honourable Judge of the Grade 1 Area Court allowing the Respondents to keep 1st Applicant and conclude the investigations. These lawful or legal orders of Court have not been challenged or impugned. Indeed the legality of the Remand Orders is not in question here. In the circumstances, it is difficult to situate the validity of the complaint predicated on a lawful order(s) of a competent court.

Furthermore, from the materials before court, after the completion of the investigations, the 1st Applicant has since been charged to court vide the F.I.R, Exhibit F dated 23rd June, 2020. That is at is should be and the 1st – 3rd Respondents need be commended for the urgency with which they treated the investigations which culminated in an F.I.R been filed barely a month after the complaint was made.

It is clear by this Exhibit F, that the police has since concluded their investigations and the matter charged to court. The 1st Applicant should now do well to go to the court and face the charge. The charge on its own is not a conviction or pronouncement of guilt. The 1st Applicant enjoys the constitutional presumption of innocence until his guilt is proven in court at a trial.

The contention or claim that 1st Applicant was tortured and seriously beaten and that 1st Applicant will not be released until 4th Respondent agrees are clearly all hearsay evidence violating the provisions of Section 115 of the Evidence Act.

In paragraphs 12, 14, 15 and 16, the 2nd Applicant states thus:

"12. That when his family members visited the 1st Applicant at SARS in Abuja sometimes last week, they informed me on the 2nd of June, 2020 at about 4:30 pm at Abaji and I verily believed them as follows:

i. That the 1st Applicant was subjected to serious beating and drilling by the 2nd and 3rd Respondents to a state of unconsciousness.

ii. That he was blindfolded and tied upside down.

iii. That he was starved for four (4) days while in their custody.

iv. That as a result of the torture, he is not seeing clearly as before.

14. That the 2nd and 3rd Respondents made it clear to the family members that the 1st Applicant can only be released if the 4th Respondent agrees.

15. That all effort also to prevail on the 4th Respondent to see reason and allow the 2nd and 3rd Respondents to release him on bail failed.

16. That the 4th Respondent is adamant in his glaring position, that the 1st Applicant will remain with the Police until the money diverted is returned by the family of the 1st Applicant."

The 2nd Applicant does not have first hand information with respect to the truth of what he averred above.

The above affidavit clearly does not disclose the names of the "family members" who provided the above information and their necessary particulars and must therefore be discountenanced as hearsay evidence, lacking probative value and credibility.

One more point. When a party makes a serious criminal allegation as in Exhibit "DCC" by one Ayodeji Aroluyo, I cannot accept that such a citizen is doing any wrong. Here after the complaint was made, a competent court directed the police to carry out investigations. The decision whether to take further steps now is logically a judgment call for the police to make. The 4th Respondent who is not a police man and it has not been established he has any special powers of control

over how the police works absolutely has no business or role to play in how they conduct their investigations. Indeed there is also nothing stopping them from abandoning the complaint altogether if it has no justifiable basis as earlier stated. In **Fajemirokun V C. B (Nig) Ltd (supra) 600,** the Supreme Court held thus:

"Generally, it is the duty of citizens of Nigeria to report cases of commission of crime to the police for their investigation. What happens after such report is entirely the responsibility of the police. In other words, citizens of Nigeria cannot be held culpable for doing their civil duty unless it is shown that it was done mala fide. In the instant case, acts that were criminal in nature, that is, issuance of dishonoured cheques to the Respondents were done. In the circumstance, the respondents, as citizens of Nigeria had the choice to exercise their legal right of placing their grievance before the police as they did. Whatever action the police took was not the responsibility of the Respondent."

Indeed, I incline to the view that the right to report acts of being a victim of any act of criminality cannot be denied anybody on the supposed or anticipated fear of violation of human rights. Indeed an arrest in such circumstances comes squarely within the purview of **Section 35 (1) (c) of the 1999 Constitution**. The guiding principle is for all law enforcement agencies to exercise these powers with scrupulous fidelity to the rule of law at all times and where they have so acted in the exercise of their undoubted powers, except it can be shown or established that they acted outside the purview of their statutory powers or acted mala fide, the 1st – 3rd Respondents cannot be faulted.

On the whole, the case of Applicants unfortunately appears compromised for want of proof or credible evidence. There is no room for speculations or guess work. The guiding principle or rule is that a court must not grant a party what it has not asked for in clear terms and sufficiently proved. See **Joe Golday Co. Ltd V. Cooperative Dev. Bank Ltd (2003)35 SCM 39 at 105.**

The point again to underscore is that a court of law qua justice only acts or decides on the basis of what has been clearly demonstrated and creditability proved. I must also add that bare averments of infractions in an affidavit cannot suffice especially here where they are seriously controverted or challenged. I do not think that the assertions of applicant can stand or be accepted as correct without proof. The mere

stating of a fact does not prove the correctness or credibility of that fact without cogent evidence to substantiate same. In as much as the assertion does not relate to any fact which the court can take judicial notice, it behoves applicant to substantiate same with proof.

The point therefore is that in a fundamental rights enforcement matter, which is a serious matter, the court will not declare an applicant's right(s) to be infringed simply because he says so and in the absence of credible evidence or proof. The materials also supplied by applicant in the circumstances must also not be such that is incredible, improbable or sharply falls below the standard expected in a particular case. It must establish that the rights claimed exist and has been infringed upon or is likely to be infringed. See **Neka B.B.B Manufacturing Co Ltd. V. ACB Ltd. (2004)2 N.W.L.R (pt.858) 521 at 550 – 551.**

The salutary point in matters of this nature is simply that the court in carrying out its invaluable judicial oversight functions must be circumspect in this very delicate balancing Act between protection of the fundamental rights of citizens from unnecessary attack on one hand and on the other hand providing sufficient space to the law Enforcement Agencies to carry out their statutory duties in what we must concede are challenging times or circumstances.

I only again need emphasise on the imperatives of the police and indeed all law enforcement agencies like all progressive institutions and notwithstanding the challenges they face, must keep strict fidelity to the rule of law in all their actions. There is therefore no room for highhandedness or arbitrariness in the discharge of their statutory duties and responsibilities. They similarly must not succumb to the unwieldy dictates or whims of any person no matter how wealthy or powerful. The police must ensure that their actions at all times serve only to enhance the quality of liberty and dignity of the person as enshrined in the 1999 constitution. The investigative and prosecutorial paths, where the police play critical roles must as much as possible be kept pristine clear, transparently free, fair and unfettered. I leave it at that.

I have here carefully considered the materials before me and I cannot locate any violation of the relevant constitutional provisions. There is absolutely no evidence of such quality and cogency beyond controverted speculative averments showing

that the Applicants Fundamental Human Rights were violated and the conclusion I reach is that the Applicants case was not established.

It is a fundamental principle of our legal system in respect of facts averred that where they are weak, tenuous, insufficient or feeble, then it would amount to a case of failure of proof. A plaintiff whose affidavit does not prove the reliefs he seeks must fail. See **A.G. of Anambra State V. AG of Fed. (2005)AII F.W.L.R (pt.268)1557 at 1611; 1607 G-H.**

In the final analysis, the issue raised as arising for determination is answered in the negative.

For the avoidance of doubt, all the reliefs or claims of 1st Applicant on the alleged violation of his fundamental rights are not availing. The monetary and other related claims predicated on the alleged violation of his fundamental rights must equally fail. You cannot put something on nothing and expect it to stand is a well known legal axiom. The entirety of the case of Applicants is hereby accordingly dismissed.

……
Hon. Justice A.I. Kutigi

<u>Appearances</u>:

1. **I. Hussaini, Esq. for the Applicants.**

2. **Tosin Ojaomo, Esq. for the 1st – 3rd Respondents.**

3. **Ifeanyi Okaro, Esq. for the 4th Respondent.**