

**IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT JABI - ABUJA
BEFORE HIS LORDSHIP HON. JUSTICE D.Z. SENCHI.
HON. JUDGE HIGH COURT NO.12
COURT CLERKS –T.P. SALLAH & ORS
DATE: 16/03/2021**

BETWEEN:

FCT/HC/CV/2092/2020

- 1. ALH. AHMED YUSUF FRESH**
- 2. MR. SEYI AKINWUNMI**
- 3. MALAM SHEHU DIKKO**
- 4. AMAJU MELVIN PINNICK**
- 5. DR. MUHAMMED SANUSI**

CLAIMANTS

AND

- 1. ATTORNEY GENERAL OF THE FEDERATION**
- 2. ECONOMIC AND FINANCIAL CRIMES
COMMISSION (EFCC)**
- 3. INDEPENDENT CORRUPT PRACTISES
COMMISSION (ICPC)**

DEFENDANTS

JUDGMENT

The Claimants herein commenced this suit against the Defendants vide Originating Summons filed on 7th July, 2020 seeking the determination of the following questions:-

1. Whether by virtue of the Judgments of the Federal High Court in case No: FHC/ABJ/CR/93/2019 discharging the Claimants herein of all the charges against them and the Judgment of the F.C.T High Courts in case No. FHC/HC/CR/324/2018 as well as the Order of the Chief Magistrate Court of the F.C.T in case No. CR/03/2019 any Court or Federal Government Investigating Agency can further invite any of the herein Claimants for the purpose of investigation on the issue already determined by a competent Court.

ALTERNATIVELY

2. Whether by virtue of the Response by the presidency on the letter of the past Minister of Sport with reference No. SH/COS/22/14/1188 dated 30th October, 2018 signed by the then Chief of Staff, any other Federal Government Investigation Agency apart from the Department of State Security Services can initiate investigation against the herein Claimants in relation to the activities of Nigerian Football Federation (NFF).
3. Whether by virtue of the Report of the Department of State Security Services dated 6th March, 2020, sent to the Honourable Minister of Justice and Attorney General of the Federation directing the consolidation of all the investigation activities of all the Federal Government Agency (Independent Corrupt Practices Commission inclusive), any other agency can at any time further invite any of the herein Claimants for the purpose of investigation.
4. Whether by virtue of the report of the Department of State Security Services, and the letter of the Honourable Attorney General with reference No.DPPA/REQ./068/20 addressed to the Chairman of Independent Corrupt Practices Commission, the Honourable Attorney General of the Federation is not under an obligation to constitute an independent investigating panel to investigate the activities of the Nigeria Football Federation.

Based on the foregoing questions, the Claimants seek the following reliefs against the Defendants:-

1. An Order of this Honourable Court to the effect that since the herein Claimants have been discharged and acquitted on the charges arisen from the same complaint, on a charge preferred by different Federal Government Investigating Agency, no any other Court or investigating agency can further initiate investigation of same.

ALTERNATIVELY

2. An Order directing that from the content/effect of the response of the presidency on the letter of the past Sport Minister, every other investigating agency apart from the Department of the State Security Services are estopped from initiating further investigation against the herein Claimants as it relates to the activities of the Nigeria Football Federation.
3. An Order directing the Honourable Minister and Attorney General of the Federation to immediately in compliance with the directive of the presidency as well as the report of the Department of State Security Services constitute an independent investigation panel to look into the activities of the herein Claimants as it relates to the activities of the Nigeria Football Federation.
4. An Order of perpetual injunction restraining the herein Defendants either by themselves, agents, privies or in whatsoever name called from further intimidating the Claimants, invitation for questioning in relation to the activities of Nigeria Football Federation.
5. And for such order(s) as this court may deem fit and appropriate to make in the circumstances of this case.

The Claimants, in support of the originating summons filed an affidavit of 19 paragraphs with exhibits marked exhibits 1,2,3(a),3(b),4,5,6,7 and 8. The Claimants Counsel also filed a written address dated 3rd July, 2020 and same was adopted by him as his oral arguments in support of the originating summons:-

In response to the originating summons, the 2nd Defendant on 25 April, 2020 filed its counter affidavit of (8) main paragraphs with the leave of Court granted on 15th December, 2020 with two exhibits marked EFCC A and EFCCB. Counsel to the 2nd Defendant in compliance with Rules of this Court, filed a written address dated 9th September, 2020 and he adopted same in opposition to the reliefs sought.

The 3rd Defendant on the otherhand filed a counter affidavit of four (4) paragraphs alongside one exhibit marked ICPC 1. The

counter affidavit of the 3rd Defendant is accompanied with Counsel's written address dated 19th August, 2020.

The first Defendant, the Attorney General of the Federation did not file any process in this suit despite hearing notice served on it. Thus, on 15th December, 2020 the matter was heard and subsequently adjourned for judgment. However in the course of writing the judgment, I received a letter accompanied with a charge registered as FHC/ABJ/CR/93/2019, a certified true copy as well as record of proceedings of the Federal High Court Abuja. In the letter addressed to the Registrar of this Court forwarding the abovementioned certified true copies of processes, it reads thus:-

"Please find enclosed to this letter, the certified true copy of the above mentioned charge. The said charge that was determined by the Federal High Court, Abuja which we have made reference to in support of our case in Alhaji Ahmed Fresh & 4ors and Attorney General of The Federation & 2ors pending before this Honourable Court"

We have equally served a copy of the said charge on the Defendant."

Then pursuant to the letter of the claimants dated 9th February, 2021 forwarding the certified true copies of the charge in suit No. FHC/ABJ/CR/93/2019, I ordered the registry of this Honourable Court to issue and serve hearing notices on all parties to appear and address me on the forwarded charge which the Claimants made reference to in their supporting affidavit but failed to exhibit same.

The matter came up on the 3rd March, 2021 and the learned Counsel to the 3rd Defendant informed the Court that he was not served with the certified true copy of the charge. Consequently, I ordered the claimants Counsel to avail the 3rd Defendant's Counsel with a copy to enable the Counsel study same and address the Court on same. The case was then adjourned to 16th March, 2021 for address. Then on 15th March, 2021 the 3rd Defendant in response to the certified true copy of the charge in suit no. FHC/ABJ/CR/93/2019, filed an affidavit titled:-

"3rd Defendant's affidavit of facts in response to charge No. FHC/ABJ/CR/93/2019: FRN V AMAJUMELVIN PINNICK & 4ORS"
The affidavit was deposed to by one Ibrahim Yahaya an officer of the ICPC. The affidavit is accompanied with one exhibit marked ICPC 1, the 3rd Defendants Counsel did not file any written address.

The 1st and 2nd Defendants did not response to the charge forwarded to this Court in suit No. FHC/ABJ/CR/93/2019.

Having giving the Defendants the opportunity to react one way or the other on the forwarded charge No. FHC/ABJ/CR/93/2019 and only the 3rd Defendant that deem it fit to file the affidavit under reference deposed to by Ibrahim Yahaya, I will now proceed to consider and determine the merits or demerits of this instant suit.

As I said before parties in this suit had filed their respective written addresses and formulated issues for determination. However the Counsel to the Claimants appears to have adopted the same questions/issues in his originating summons as his issues for determination. I have earlier set them out.

The Counsel to the 2nd Defendant formulated a sole issue for determination thus:-

"Whether from the facts of the case, the Claimants are entitled to the reliefs sought."

The 3rd Defendant's Counsel, for his part, formulated the following two issues for the determination of the Claimants' originating summons:-

- 1. Whether the Claimants' claim has any merit.*
- 2. Whether the action of the 3rd Defendant amounts to double jeopardy on the Claimants.*

Having looked at the issues distilled for determination by Counsel to the respective parties, I will and I hereby adopt the questions set out on the face of the originating summons as the issues for determination of the instant suit. The issues for determination are thus as follows:-

1. Whether by virtue of the Judgments of the Federal High Court in case No: FHC/ABJ/CR/93/2019 discharging the Claimants herein of all the charges against them and the Judgment of the F.C.T High Courts in case No. FHC/HC/CR/324/2018 as well as the Order of the Chief Magistrate Court of the F.C.T in case No. CR/03/2019 any Court or Federal Government Investigating Agency can further invite any of the herein Claimants for the purpose of investigation on the issue already determined by a competent Court. Alternatively
2. Whether by virtue of the Response by the presidency on the letter of the past Minister of Sport with reference No. SH/COS/22/14/1188 dated 30th October, 2018 signed by the then Chief of Staff, any other Federal Government Investigation Agency apart from the Department of State Security Services can initiate investigation against the herein Claimants in relation to the activities of Nigerian Football Federation (NFF).
3. Whether by virtue of the Report of the Department of State Security Services dated 6th March, 2020, sent to the Honourable Minister of Justice and Attorney General of the Federation directing the consolidation of all the investigation activities of all the Federal Government Agency (Independent Corrupt Practices Commission inclusive), any other agency can at any time further invite any of the herein Claimants for the purpose of investigation.
4. Whether by virtue of the report of the Department of State Security Services, and the letter of the Honourable Attorney General with reference No. DPPA/REQ./068/20 addressed to the Chairman of Independent Corrupt Practices Commission, the Honourable Attorney General of the Federation is not under an obligation to constitute an independent investigating panel to investigate the activities of the Nigeria Football Federation.

The brief facts of the Claimants' case against the Defendants as deposed to in their affidavit in support which was sworn to by one Mohammed Katun, a litigation secretary in the office of the Claimants' solicitors is that the Nigerian Football Federation

(NFF) held its statutory election in September, 2018 to elect its Executive Committee Members in Katsina. It is averred that persons who lost the said election became aggrieved and sponsored the writing of fictitious petitions to various Federal Government investigation agencies against the Claimants who were the newly elected Executive Members of the NFF and aimed at their malicious persecution. This prompted the newly elected Executive Members of the NFF to write to the Director General of the Department of State Services (via Annexure 1 attached to the affidavit in support) seeking its intervention with respect to the malicious persecution of its members. Soon thereafter, the Claimants honoured invitations by several investigating agencies in respect of issues which they discovered to be a fallout of the Katsina elections. The Claimants thus wrote a letter of complaint dated 16th September, 2019 (Annexure 2) through their solicitors to the Attorney General of the Federation seeking his intervention. The Claimants averred that criminal charges were however filed against them at the Federal High Court Abuja in respect of an investigating report which had actually exonerated them, but the Federal High Court discharged and acquitted the Claimants of all the charges. Copies of the said investigative report and record of proceedings at the Federal High Court are marked Annexures 3A and 3B respectively. That the same Federal Government investigating agency however thereafter obtained a warrant for the Claimant's arrest at the FCT Magistrate Court which was subsequently set aside on grounds of their acquittal for the same offences by the Federal High Court. Annexures 4 and 5 are the Claimants' letter to the Attorney General of the Federation and Ruling of the Magistrate Court. Soon thereafter, another Federal Government investigative agency (i.e. the 3rd Defendant herein) filed an application at the Federal High Court Abuja for the interim forfeiture of the Claimants' properties. Yet again, another Federal Government investigative agency (in the person of the 2nd Defendant) filed criminal charges before the FCT High Court against some officers of the NFF and sought to join the Claimants but the FCT High Court refused the application for joinder on grounds that the Claimants had

already been discharged and acquitted by the Federal High Court on the same issues. Annexure 7 is a copy of the Ruling of the FCT High Court. The Claimants aver that while all this was ongoing, they became aware of the Presidency's response on the past Minister of Sport's petition against them, signed by the then Chief of Staff on 30th October, 2018 with reference No:SH/COS/22/14/1188 and copied to the Minister of Sports (but hidden because of its contents) by which the D.G. State Security Services (to the exclusion of all other investigative agencies) was directed to investigate NFF officials. That the Attorney General also wrote several letters to the various Investigating Agencies to submit their reports on the investigation of NFF Officials but got no response till he subsequently wrote a letter directing them to submit said reports to his office as directed by the Department of State Security Services for the purpose of constituting an independent investigative panel. It is the Claimants' averment that in disobedience of the AGF's aforementioned letter, the 3rd Defendant however sent out a letter (Annexure 8) inviting some of the Claimants for an interview.

In its Counter-Affidavit, the 2nd Defendant averred that it is in receipt of a petition dated 22nd July, 2019 bordering on money laundering and other related financial fraud against the Claimants. A copy of the said petition is attached to the counter-affidavit as Exhibit **EFCC A**. In the course of its investigations, the 2nd Defendant saw cause to invite the Claimants for their statements and thus wrote Exhibit **EFCC B** dated 22nd June, 2020 to the Defendants who are however yet to report since the investigation began in 2019. The 2nd Defendant avers that it is in receipt of multiple petitions against the Claimants and the outcome of the Special Presidential Investigation Panel cannot preclude them from being investigated by the 2nd Defendant. That the Claimants have not been acquitted by any court in respect of any charge filed by the 2nd Defendant who is saddled with power to investigate all economic and financial crimes alleged against the Claimants.

Although the 3rd Defendant has filed a counter affidavit in opposition to the grant of the Claimants relief the counter affidavit was however unsigned or unendorsed by its deponent, one Ibrahim Yahaya, an officer of the Independent Corrupt Practices Commission (ICPC). In other words, the Counter affidavit of the 3rd Defendant being unsigned naturally infects its genuineness and validity. See the cases of **GEORGE IKEJI V TERUNGWA ALIBER, (2014) LPELR 22653 (CA), OMEGA BANK V O.B.C (2005) 1 SCNJ 150 and JINADU V ESUROMBI-ARO (2009) 9 NWLR (pt. 1145) page 55.**

In the instant case, without much ado, the counter affidavit of the 3rd Defendant, being unsigned I hold the view that this Court cannot rely on same and I so hold.

Having said the above, in the written address of Counsel to the claimants, he submitted that by virtue of the judgment of the Federal High Court in suit No. FHC/ABJ/CR/93/2019 discharging the Claimants of all the counts against them and the Judgment of the FCT High Court in case No. FHC/HC/CR/324/2018 as well as the Order of the Chief Magistrate Court of the FCT in case No. CR/03/2019, no Court or Federal Government Investigating Agency can further invite any of the Claimants for the purpose of investigation on the issue already determined by a competent Court. He relied on the cases of **PML (SECURITIES) CO. LTD V. FRN (2018) LPELR-47993(SC) and ALI V. FRN (2016) LPELR-40472** on the position of the law on double jeopardy. Counsel reiterated that in the light of the Judgment in FHC/ABJ/CR/93/2019 discharging and acquitting the Claimants, they can no longer be investigated and prosecuted by the Defendants. He submitted that the Defendants actions are to vex, annoy and punish the Claimants in contravention of the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended). He submitted that the 3rd Defendant's act of inviting the Claimants on the same allegations is therefore null and void.

For his part, Counsel to the 2nd Defendant submitted that the 2nd Defendant and its agents are empowered by Sections 6 and 7 of the Economic and Financial Crimes Commission

(Establishment) Act, 2004 to investigate the Claimants for all financial crimes. Counsel relied on the cases of **ATTORNEY GENERAL, ANAMBRA STATE V. CHIEF CHRIS UBA (2005) 15 NWLR (PT. 947) P. 44** and a plethora of cases to submit that a court cannot make orders to restrain a law enforcement agent in the performance of its statutory duties of investigation and prosecution. He further contended that it is within the 2nd Defendant's statutory powers to ask the Claimants to answer to the complaint against them. He submitted that double jeopardy does not arise. He further contended that the instant suit was brought by the Claimants to stall investigation and shield themselves from criminal prosecution. He urged this Court to refuse the reliefs sought by the Claimants.

On the otherhand, on behalf of the 3rd Defendant, learned Counsel submitted in his address that the Claimants suit and reliefs sought is a direct challenge to the statutory authority of the 3rd Defendant in carrying out their statutory duties. Learned Counsel contended that the invitation and investigation of the Claimants by the 3rd Defendant in respect of the fresh and different allegations of crime against them is legal and lawful exercise of the 3rd Defendant's powers. Learned Counsel to the 3rd Defendant referred me to sections 3 (4), 6 (A) and 28(10) of the Independent Corrupt Practices Commission (ICPC) Act 2000 as well as sections 35 (I)(c) and 36 (9) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Learned Counsel also relied and referred me to the cases of **ATTORNEY GENERAL OF ANAMBRA STATE V CHIEF CHRIS UBA, (2005) 15 NWLR (pt947) page 44 at 67 and OKANU V C.O.P, (2001) CHR 7.**

In conclusion, the 3rd Defendant's Counsel urged me to dismiss the suit.

Now in the resolution of the questions and answers thereto as distilled by the Claimants in their originating summons, it appears firstly that there is no dispute that the Federal High Court discharged and acquitted the Claimants herein in respect of criminal charge in suit No FHC/ABJ/CR/93/2019. Paragraph 9 of the affidavit supporting the originating summons states as follows:-

"That one of the Federal Government/Investigating Agency after compelling its investigation report which exonerated the herein Claimants, went ahead to file charges against them at the Federal High Court Abuja wherein the matter was heard and the herein Claimants were discharged and acquitted on all the charges. A copy of the Investigating report as well as the judgment discharging and acquitting them are hereby annexed as annexure 3(a) and 3(b) respectively."

Annexure 3(b) is the record of proceedings in charge No. FHC/ABJ/CR/93/2019 wherein the Claimants were discharged and acquitted on 5th November, 2019 pursuant to the provisions of section 355 of the Administration of Criminal Justice Act, 2015.

Now section 36 (9) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides as follows:-

36(9)" No person who shows that he has been tried by any Court of competent jurisdiction or Tribunal for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior Court."

Further, section 238 of the Administration of Criminal Justice Act, 2015 provides:-

"238(1)Without prejudice to section 226 of the Act, a Defendant charged with an offence is not liable to be tried for that offence where it is shown that he has previously been:-

- (a) Convicted or acquitted of the same offence by a competent Court;
- (b) Convicted or acquitted by a competent Court on a charge on which he might have been convicted of the offence charged,
- (c) Convicted or acquitted of an offence by a competent Court other than the offence charged, being an offence for which apart from this section, he might be convicted by virtue of being charged with the offence charged."

The constitutional right not to be prosecuted again for an offence for which one has been convicted or acquitted pursuant to section 36 (9) of the Constitution and section 238 of the Administration of Criminal Justice Act, 2015 is predicated on the doctrine of "Double jeopardy" which is expressed in the Latin maxims "autrefois acquit" and "autrefois convict" meaning previous acquittal and previous conviction respectively.

See the cases of ***RABIU V KANO STATE, (1980) LPELR 2936 (SC), MUSTAPHA V FRN, (2017) LPELR 43131 (CA), SUNDAY V STATE, (2017) LPELR 42140 (CA).***

Thus, by annexure 3B it shows an acquittal of the Claimants of criminal charges brought against them in suit No. FHC/ABJ/CR/93/2019.

In view of the facts that the Claimants were acquitted of the offence(s) for which they were charged in suit No FHC/ABJ/CR/93/2019 by the Federal High Court, the law is that they shall not be charged and tried in Court for the same offence again.

Now in the instant case, in the course of my writing this judgment, I discovered that the exact offences (and the facts thereof) for which the Claimants were charged in suit No. FHC/ABJ/93/2019 is not known to this Honourable Court. Annexure 3B is the record of proceedings of the Federal High Court containing that Court's decision acquitting the Claimants of the offence in which they were charged. The Claimants deposed in their affidavit especially paragraph(9) of their supporting affidavit that they had been charged in that suit by an investigating agency after it compiled its report i.e exhibit 3A. the claimants did not exhibited the charge in their affidavit and without the exact charge sheet, it is difficult or practically impossible for this Honourable Court to determine for certain what crimes the Claimants were acquitted of and for which they ought not to be investigated again.

However, pursuant to the order of this Court, the Claimants have forwarded to this Court a certified true copy of the charge in suit No FHC/ABJ/CR/93/2019. Thus, by the certified true copy of the charge sheet, the Claimants were charged on a 17 count

in suit no FHC/ABJ/CR/93/2019. The 17 counts charge reads as follows:-

COUNT 1.

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 12th day of December, 2018 being public officers with Nigeria Football Federation Abuja within the jurisdiction of this Honourable Court committed an offence to wit: refusal to declare your assets without reasonable excuse and upon notice to declare your assets before the Special Presidential Investigation Panel for the Recovery of Public property, Abuja contrary to and punishable under section 3 (3)(a) of the Recovery of Public property (Special Provisions) Act 2004.

COUNT 2

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 12th day of December, 2018 being public officers with Nigeria Football Federation Abuja within the jurisdiction of this Court committed an offence to wit:- neglect to declare your assets without reasonable excuse and upon notice to declare your assets before the Special Presidential Investigation Panel for the Recovery of Public Property, Abuja contrary to and punishable under section 3 (3)(a) of the Recovery of Public property (Special provisions) Act 2004.

COUNT 3

That you , Amaju Melvin Pinnick 'M' on or about 23rd day of November 2014 being the President and public officer with Nigeria Football Federation Abuja within the jurisdiction of this Honourable Court committed an offence to wit: appoint a company you have an interest, Financial Derivatives Limited as a financial consultant to the Nigeria Football Federation Contrary to and punishable under section 5 of the Code of Conduct Bureau and Tribunal Act and punishable under section

1(2) and 10 (1) (a) of the Recovery of Public Property (Special Provisions) Act 2004.

COUNT 4

That you, ShehuDikko 'M' on or about 23rd November, 2014 being a member of Executive Committee and public officer with Nigeria football Federation Abuja within the jurisdiction of this Honourable Court committed an offence to wit: allow a company you have an interest, Mediterranean Sports Limited appointed as a marketing agent to the Nigeria Football Federation Contrary to and punishable under section 5 of the Code of Conduct Bureau and Tribunal Act and punishable under section 1 (2) and 10 (1) (a) of the Recovery of Public Property (Special Provisions) Act 2004.

COUNT 5

That you, Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: criminal breach of trust by a public servant by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees thereby committing an offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004

COUNT 6

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: misappropriation of Public funds by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearances fees thereby committing an

offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004.

COUNT 7

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: criminal misappropriation of Public funds by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearances fees thereby committing an offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004.

COUNT 8

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: criminal breach of trust by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees thereby committing an offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004.

COUNT 9

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: criminal breach of trust by public servant by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria

Football Federation (NFF) as appearances fees thereby committing an offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004.

COUNT 10

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to commit an offence to wit: theft by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance feesthrough the group stage thereby committing an offence contrary to section 96 and punishable under section 97 of the Penal Code (CAP 105) LFN 2004.

COUNT 11

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court committed an offence to wit: theft by permanently converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees through the group stage thereby committing an offence contrary to section 286 and punishable under section 287 of the Penal Code (CAP 105) LFN 2004.

COUNT12

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court committed an offence to wit: criminal

breach of trust by public servant by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees through the group stage thereby committing an offence contrary to punishable under section 315 of the Penal Code (CAP 105) LFN 2004.

COUNT 13

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to committed an offence to wit: criminal breach of trust by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees through the group stage thereby committing an offence contrary to section 311 and punishable under section 312 of the Penal Code (CAP 105) LFN 2004.

COUNT 14

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court conspired to committed an offence to wit: criminal misappropriation of fund by converting to your personal use about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees through the group stage thereby committing an offence contrary to section 308 and punishable under section 309 of the Penal Code (CAP 105) LFN 2004.

COUNT 15

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M'

on or about 2014 during the Federation International Football Association (FIFA) world Cup at Abuja within the jurisdiction of this Honourable Court committed an offence to wit: criminal misappropriation of fund about the sum of \$8,400,000.00 paid by Federation International Football Association (FIFA) to Nigeria Football Federation (NFF) as appearance fees through the group stage thereby committing an offence contrary to section 308 and punishable under section 309 of the Penal Code (CAP 105) LFN 2004.

COUNT 16

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 3rd day of November, 2018 being public officers with Nigeria Football Federation Abuja within the jurisdiction of this Honourable Court committed an offence to wit: moving dishonestly and intentionally the sum of about N4,000,000,000.00 (Four Billion Naira) being property in possession of the Nigeria Football Federation and without the consent of the said Nigeria Football Federation thereby committing theft contrary to section 286 and punishable under section 287 of the Penal Code (Cap 105) LEN2004.

COUNT 17

That you Amaju Melvin Pinnick 'M' Sunusi Mohammed 'M' SeyiAkinwumi 'M' ShehuDikko 'M' and Yusuf Ahmed Fresh 'M' on or about 3rd day of November, 2018 being public officers with Nigeria Football Federation Abuja within the jurisdiction of this Honourable Court committed an offence to wit: criminal conspiracy to intentionally and dishonestly move the sum of about N4,000,000,000.00 (Four Billion Naira) being property of the Nigeria Football Federation and without the consent of the said Nigeria Football Federation or board meeting contrary to section 96 and punishable under section 97 of the Penal Code (Cap 105) LFN 2004.

Now as I said earlier, in response to the forwarded certified true copy of the charge sheet in suit no FHC/ABJ/CR/93/2019, the

3rd Defendant on 12th March, 2021 filed an affidavit of six (6) paragraphs with one exhibit marked ICPC1.

In the affidavit of the 3rd Defendant at paragraphs 3 (a)(b) (c) and (d) and especially paragraphs 3 (a) and (h) says as follows:-

3(a) That the 3rd Defendant is investigating new issues that have arisen on a new petition No. ICPC/SW/1213/2019 titled "overFour Billion Naira fraud against Hon. AmajuPinnick and seven others"

(b) That the focus of the 3rd Defendant's investigation is not in respect of the same subject matter for which the claimants have been charged to Court and discharged and acquitted as alleged by the claimants"

Further, the 3rd Defendant in their response to the Solicitor-General of the Federation and Permanent Secretary, Federal Ministry of Justice dated 6th July, 2019, exhibit ICPC1 stated in the letter at paragraph 2 as follows:-

" In response to the complaint about multiple investigation and prosecution by different security agencies over the same subject matter, we submitted that the focus of the commission's investigation is not in respect of the same subject matter as alleged"

By the affidavit of the 3rd Defendant in response to the certified true copy of the charge sheet in suit No FHC/ABJ/CR/23/2019, it is not in dispute that the 17 count charge in suitNo. FHC/ABJ/CR/23/2019, the Claimants herein have been discharged and acquitted by the Federal High Court of the said offences and there is no contrary view by the three sets of Defendants. Indeed the 3rd Defendant by its affidavit in response to the charge sheet admitted that the petition they are investigating is not the same facts as the allegation upon which the claimants were discharged and acquitted. In otherwords, the allegation contained in charge sheet no. FHC/ABJ/CR/23/2019, the claimants were discharge and acquitted of those offences.

Thus, by virtue of section 36 (9) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 238 of the Administration of Criminal Justice Act, 2015, I hold the view that the Defendants cannot investigate the Claimants on the above 17 count charge, the Claimants having been discharged and acquitted of the offences and I so hold although the Claimants have further contended that by virtue of that acquittal, they cannot be invited or investigated by the Defendants or any other law Enforcement Agency, my answer is "No" I disagree with the Claimants. The Defendants especially the 2nd and 3rd Defendants, by the Act establishing them have unfettered powers to investigate matters relating to financial crimes against suspects including the Claimants.

Sections 239 and 240 of the Administration of Criminal Justice Act, 2015 provides:-

"239 A Defendant acquitted or convicted of an offence may afterwards or convicted of an offence may afterwards be tried for a distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 211 of this Act"

"240 a Defendant acquitted or convicted of an offence constituted by an act or omission causing consequences which togetherwith that act or omission constitute a different offence from that for which he was acquitted or convicted, may afterwards be tried for the last-mentioned offence if the consequences had not happened or were not known to the Court to have happened at the time when he was acquitted or convicted when the consequences create the offence of murder or manslaughter.

By virtue of sections 239 and 240 Administration of Criminal Justice Act, 2015 the law provides a situation under which a person previously acquitted or convicted of an offence may yet again be subsequently tried for a distinct offence(underlined is mine) from the same act or similar offence where the consequence of the act had occurred or was not known at the time of the pervious acquittal or conviction.

Thus, the result of these provisions is that it would not be out of place for the Claimants acts, which culminated in their previous charge and acquittal in charge No.FHC/ABJ/CR/93/2019 to be investigated again provided it is not for the purpose of charging them for the very same offence for which they have been acquitted.

It is my further considered view that where a person has been charged to Court and acquitted in respect of a criminal act, it stands to reason that it would be against public policy to investigate him for the same act. This is because such criminal investigations would be a waste of time and tax payer's resources when it would lead to no valid prosecution for the same offence.

Before I conclude, I have perused annexure 7 i.e the ruling of the FCT High Court delivered on 20th February, 2020 by AFFENJ in suit in suit No. FCT/HC/CR/324/2018 on joinder of parties. The said ruling does not qualify as a conviction or acquittal upon which the doctrine of double jeopardy can be evoked and neither does annexure 5 i.e the order of the FCT Chief Magistrate Court in suit No. CR/03/2019 setting aside a warrant for the claimants arrest. I find these two annexures i.e 5 and 7 as misleading by Counsel to the Claimants as same has no bearing to the doctrine of autrefois acquit or autrefois convict.

In conclusion the first question or issue for determination is hereby resolved in part in favour of the Claimants. Equally, the relief sought by the claimants is also granted in part to the extent that the claimants cannot be investigated, prosecuted or charge to Court in respect of the offences contained in charge sheet No FHC/ABJ/CR/23/2019 in which the Federal High Court had discharged and acquitted the Claimants except where new or similar facts emerged as provided by sections 239 and 240 of the Administration of Criminal Justice Act, 2015.

Finally, the alternative reliefs are hereby dismissed.

HON. JUSTICE D.Z. SENCHI
(PRESIDING JUDGE)

16/03/2021

Parties absent.

K.A Lawal:- For the Claimants

O.O Adeola:- For the 2nd Defendant.

E.C Otti:- For the 3rd Defendant.

Lawal:- The Defendants have been duly served with the charge sheet as ordered by the Court.

Adeola:-We were served and we rely on our earlier affidavit and address filed in this case.

Otti:-We filed an affidavit in response to the charge served onus. We had earlier filed our address. We have gone through the charge and our position is that what we are investigating is quite different from the offences the claimants were charged before the Federal High Court and discharged and acquitted.

Signed

Judge

16/03/2021