

**IN THE HIGH COURT OF JUSTICE OF THE  
CAPITAL TERRITORY ABUJA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA - ABUJA**

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU & GODSPOWER EBAHOR**

**COURT NO: 6**

**SUIT NO: CR/218/2015**

**BETWEEN:**

**FEDERAL REPUBLIC OF NIGERIA.....COMPLAINANT/RESPONDENT**

**VS**

**1. RAYMOND DUKE HARUNA**

**2. DOVE HOUSE INVESTMENT LIMITED.....DEFENDANTS/APPLICANTS**

**RULING**

The Defendants/Applicants by a Motion on Notice with No. M/5694/2022 dated 15<sup>th</sup> February, 2022 and brought pursuant to to Section 355 and Section 108 of the Administration of Criminal Justice Act, 2015, Section 14 (2) of EFCC Act, 2004 and under the inherent jurisdiction of the Court, prays for the following reliefs:-

- (1) An Order of this Hon. Court striking out the charges against the Defendants and acquit the Defendants/Applicants in view of the compounding of the offences and Letter of Withdrawal of the Complaint against the Defendants/Applicants by the Primary complainants to the Prosecuting Agencies (EFCC).

- (2) A Declaration that the Primary complainant has a right to compound the offences and withdraw his complaint against the Defendants/Applicants.
- (3) And such order or further orders as this Honourable Court may deem fit to make in the circumstance.

The grounds upon which the application is predicated is as follows:-

- (1) The Primary complaints by a letter dated 15<sup>th</sup> November, 2019, notified the Prosecuting Agency of the settlement of issues between the nominal complainant and the Defendants.
- (2) The Primary Complainant by the said letter compounded the charges and the charges ought to be withdrawal against the Defendants by the Prosecuting Agency.
- (3) The Prosecuting Agency (EFCC) in spite of follow up have refused/or neglected to withdraw the charge.

In support of the Motion is a 14 Paragraph affidavit sworn to by one Martins Ifeoma Iloabuake, with two Exhibits marked "A" & B. Also filed is a Written Address dated 15/2/2022.

The process was served on the Respondent, and in response, filed a 6 Paragraph Counter-Affidavit, dated 1/4/2022, sworn to by one Ufoma Ezire. Also filed is a Written Address dated 30/3/2022.

Both counsel on 23/6/2022, adopted their respective written submission, in urging the court to grant and/or refuse this instant application.

In the Written Address of the Applicant, settled by Adams .O. Imuekembe Esq, four (4) issues were formulated for determination:-

- (1) Whether the Primary Complainants can compound/withdraw the charge against the Defendant.
- (2) Whether the letter dated 15/11/2019, addressed to the Acting Chairman EFCC by the Primary Complainants amount to compounding of charge No.CR/218/2015.
- (3) Whether in view of the complainant's letter dated 15/11/2019 addressed to the Chairman EFCC, the Prosecuting Agency ought to withdraw/discontinue charge No. CR/218/2015 against the Defendants/Applicants.
- (4) Whether the Hon. Court can legally discontinue the trial of case No. CR/218/2015, strike out same and acquit the Defendants/Applicants the offences having been compounded/or withdrawn by the Primary Complainants.

On the other hand, in the Written Address of the Respondent, settled by Uwuegbulam Samuel Anele Esq, formulated only one issue for determination, which is;

- (1) Whether in the light of facts of this case, the court can grant the instant application.

I have carefully considered the submission of both counsel and the judicial authorities cited. The main thrust of the Applicant's case is that consequent upon the letters dated 15/11/2019 and 30/11/2020 addressed to Acting

Chairman of EFCC, which the Prosecuting Agency failed and neglected to respond to, the Primary Complainants by the said letter compounded the charge and sort the withdrawal of the charges against the Defendants/Applicants, having so done, this court can indeed proceed to allow the application and have the said charge against the Defendants/Applicant be struck out and discharge the Defendants/Applicants.

On the other hand, the Respondent case, contend that there is no application to compound of the case filed either by the nominal complainant or Prosecution, as the Exhibit "A", "B" are not helpful to the court, therefore no application to withdraw this charge by the Prosecution or Defendants. Rather is an attempt to frustrate the case.

In this instant, the court is invited to consider whether it can indeed cause this charge against the Defendant be struck out and discharge the Defendants at this stage. The application is hinged on Section 355, 108 of the ACJA and Section 14 (2) of EFCC Act. A clear reading of the Section 355 permits a Complainant to make such application to court. The Applicants contends that pursuant to this the Primary Complainant by Exhibits "A", "B" wrote to the Acting Chairman of EFCC, of their desire to have the case withdrawn. However, the issue contended is who is the nominal Complainant, the Respondents contended that the nominal complainant, in this case, is the F.R.N. and the only persons that can bring such application compounding the charge and seek the prayer sought. Therefore, is not for the Defendants to bring the application to withdraw, but only the Prosecuting Agency, EFCC or the A-G of the Federation. In his

submission relied on the case of F.R.N Vs Chike Charles Ononye (2018) LCN Pg 11945 (CA).

A careful perusal of this case, the court finds that the application is coming after the Prosecution has closed the case and the Defendants are presently presenting their case, wherein this application is brought for consideration. Both parties relied heavily on the case of FRN Vs Chike Charles Ononye (Supra) but of note, this case is not all fours with this case, in that, in the F.R.N Vs Ononye, the case had not progressed into trial. The Court of Appeal in that case held that the Primary Complainant has a right to compound the offence and cause a withdrawal of the charge against the Defendant. Granted that it is the Prosecuting authority that has right to withdraw, in the court firm view in the light of the FRN Vs Ononye (Supra), Court of Appeal decision, the Primary Complainant having a right to bring the application should be given careful consideration. In this instant the Exhibit "A" & "B" was written to the Prosecuting Agency, rather than react pursuant to Section 14 (2) of EFCC, did nothing, and the follow up is this instant application by the Defendants. The question is, can the court in this instant, refuse to consider this application on the ground that it was brought by the Prosecuting Agency even where the offence is not against Tax payers, rather the Primary Complainants are the victims of the offence they desire to compound. My answer is simple No; especially as the Prosecuting Agency failed to react to, the Exhibit "A" & "B" either way.

From all of these, I find that this application has merit in line with the judicial authorities cited and accordingly, allow the application as prayed. Accordingly the charge No. CR/218/2015 against the Defendants –

Raymond Duke Haruna & Dove House Investment Ltd is hereby struck out and the Defendants hereby discharged.

Signed  
**HON. JUSTICE C. O. AGBAZA**  
Presiding Judge.  
15/9/2022

**APPEARANCE:**

ADAMS O. IMUEKEMBE ESQ, WITH OBIAGELI NNAEMEKA OMEWUYI ESQ,  
CLAIRE ALIKE ESQ - FOR THE DEFENDANTS/APPLICANTS

S.A. UWUEGBULAM ESQ - FOR THE PROSECUTION/RESPONDENT