

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT ZUBA, ABUJA**

**ON FRIDAY THE 9<sup>TH</sup> DAY OF FEBRUARY, 2024**

**BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA**  
**JUDGE**

**SUIT NO.: FCT/HC/CV/6558/2023**

**BETWEEN:**

**CHUKWUNWIKE CHIOKWE MICHAEL --- APPLICANT**

**AND**

- |   |   |             |
|---|---|-------------|
| 1. INSPECTOR GENERAL OF POLICE                          | } | RESPONDENTS |
| 2. DIVISIONAL POLICE OFFICER (LIFE CAMP POLICE STATION) |   |             |
| 3. NJIDEKA CHIOKWE                                      |   |             |

## **JUDGMENT**

In this action premised on FREP the Applicant, Chukwunwike Chiokwe Michael claims against the Inspector General of Police, Divisional Police Officer (Life Camp Police Station) and Njideka Chiokwe the following Reliefs:

1. An Order that the prior, present and further arrest and detention, incessant summon and threat of the Applicant by the 2<sup>nd</sup> Respondent who is the officer under the control

and supervision of the 1<sup>st</sup> Respondent on the instigation of the 3<sup>rd</sup> Respondent is unlawful, unconstitutional and infringement on the Applicant's Fundamental Rights guaranteed and protected under the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

2. An Order restraining the Respondents by themselves, agents or servants from further arresting, detention, threatening, inviting, harassing and/or infringing on the Applicant's Fundamental Rights enshrined in Sections 34, 35, 36, 37, 41 and 46 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
3. An Order that the Respondents jointly or severally pay the sum of ₦25, 000,000.00 (Twenty Five Million Naira) only to the Applicant for the infringement on his Fundamental Right.
4. And for such further Order or Orders as this Honourable Court may deem fit to make in the circumstance of the case.

The application is based on the following grounds:

- a. The arrest, detention, incessant summon, threat and harassment of the Applicant by the 2<sup>nd</sup> Respondent who is under the control and supervision of the 1<sup>st</sup> Respondent on the instigation of the 3<sup>rd</sup> Respondent is an infringement on the Applicant's Fundamental Rights as guaranteed

and protected under Sections 34, 35, 36, 37, 41 and 46 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Article 5 & 6 of the African Charter on human and People Rights (Ratification and Enforcement) Act, 2004 is unlawful and unconstitutional.

- b. The reason for the arrest, incessant summons, threat and harassment of the Applicant is based on matrimonial dispute between the Applicant and the 3<sup>rd</sup> Respondent, his wife which is civil and the Police has no statutory powers to interfere in since it is a civil dispute.
- c. The actions of the Respondents in the interference with the matrimonial disputes between the Applicant and his wife, the 3<sup>rd</sup> Respondent constitutes the breach on the Applicant's Right to privacy of home guaranteed under the Constitution.
- d. The action of the 1<sup>st</sup> & 2<sup>nd</sup> Respondents in arresting, detaining, incessant summon, threat and harassment of the Applicant on the instigation of the 3<sup>rd</sup> Respondent on Matrimonial dispute which is civil in nature and unknown to any written law constitutes breach of the Applicant's Fundamental Rights.
- e. Section 35(6) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides that every one

unlawfully arrested and detained, harassed and intimidated shall be entitled to compensation.

He supported the application with an Affidavit of 22 paragraphs. In the Written Address he raised a lone Issue for determination which is:

**“Whether the Applicant’s Fundamental Right have been, is being or likely to be infringed by the Respondents and he is entitled to the Reliefs sought in the Originating Motion.”**

He answered the question in the affirmative in that the arrest, detention, intimidation and further threat to arrest him by the 2<sup>nd</sup> Respondent at the instigation of the 3<sup>rd</sup> Respondent is illegal and an infringement of his Fundamental Right to dignity of his human person, personal liberty, privacy right, freedom of movement. He referred to **S. 34, S. 35 (1) and S. 37 (1) (a) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) as well as **S. 41 (1)** of the same Constitution. That he was arrested for 4 days over an act done by another person. That there is allegation that his mother and sister packed the Applicant’s property outside the house. That he was not around when that happened. That the action of the 2<sup>nd</sup> Respondent violated his Fundamental Rights. That the action is contrary to **S. 7 ACJA 2015** too which provides that a person should not be arrested in place of a person – suspect as he was not involved and was not around when the 3<sup>rd</sup> Respondent’s property was packed out.

That the 1<sup>st</sup> & 2<sup>nd</sup> Respondents interfered with the civil matter between the Applicant and his wife – the 3<sup>rd</sup> Respondent. He referred to the case of:

**Okunigbowa V. Gov. Edo State**  
**(2015) 10 NWLR (PT. 1467) 257 CA**

**Shell Petro Dev. Company Ltd & Anor V. Daniel Pessu**  
**(2014) AELR – 42156 CA**

**Ubochi V. Chief Godwin Ekpo & Ors**  
**LPELR – 4627 (CA)**

That the action of the 3<sup>rd</sup> Respondent is in bad fate since the Applicant has discovered that the 3<sup>rd</sup> Respondent wears artificial pregnancy foam claiming she is pregnant and that she has five Children from different men. That all the 3<sup>rd</sup> Respondent's action is to frustrate the Applicant and extort money from him.

That by provision of **S. 46 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) he is entitled to all the Reliefs. He relied on the case of:

**Duruaku V. Nwoke**  
**(2015) 10 NWLR (PT. 1483) 417 CA**

He urged Court to grant all the Reliefs. The Court deems all the facts in the Affidavit as if they are set hereunder seriatim.

All the Respondents were served with the Originating Process. The 3<sup>rd</sup> Respondent was served personally too. She refused to acknowledge receipt. She was also served with

the Hearing Notices. She received them personally too but failed to acknowledge. She never entered appearance in person or via Counsel except today. She did not file any Counter to the application. Same also with the 1<sup>st</sup> & 2<sup>nd</sup> Respondents. Hence, the case of the Applicant is unchallenged.

It is the law that unchallenged matter/fact is deemed admitted by the person who ought to challenge but failed, ignored and refused to do so. That is the case in this Suit.

Also where a matter is unchallenged and the facts are deemed admitted by the person who was given all the judicial leverages to challenge but failed to do so, where that is the case the Court has no reason not to state so and obviously enter Judgment in favour of the Applicant. Since that is the situation in this case the Court holds that the Right of the Applicant was truly infringed by the 1<sup>st</sup> & 2<sup>nd</sup> Respondents at the instigation of the 3<sup>rd</sup> Respondent and hereby enters Judgment in favour of the Applicant and grants the Reliefs to wit:

- (1) Prayers 1 & 2 granted as prayed.**
- (2) The 1<sup>st</sup> & 2<sup>nd</sup> Respondents are to pay to the Applicant the sum of ₦300, 000.00 (Three Hundred Thousand Naira) only for infringing the Right of the said Applicant.**
- (3) The 3<sup>rd</sup> Respondent is hereby restrained from instigating anyone to infringe the Right of the Applicant.**

- (4) The 3<sup>rd</sup> Respondent is also to pay to the Applicant the sum of ₦100, 000.00 (One Hundred Thousand Naira) only for instigating the 1<sup>st</sup> & 2<sup>nd</sup> Respondents to infringe the Right of the Applicant.
- (5) The 3<sup>rd</sup> Respondent is equally restrained from ever getting near the Applicant's abode or place of work and she should at all times be away from the Applicant with at least 1km radius from wherever the Applicant is situated.

**This is the Judgment of this Court.**

**Delivered today the \_\_\_ day of \_\_\_\_\_ 2024 by me.**

---

**K.N. OGBONNAYA**  
HON. JUDGE

**APPEARANCE:**

APPLICANT COUNSEL: D.D. TARKUMBUR ESQ.

1<sup>ST</sup> & 2<sup>ND</sup> RESPONDENTS: NOT REPRESENTED BY ANY COUNSEL.

3<sup>RD</sup> RESPONDENT: F.S. DONATUS ESQ.