

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA
BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU
CHARGE NO: FCT/HC/CR/530/2024
MOTION NO: FCT/HC/M/14859/2024
DELIVERED ON THE 21/10/2025**

BETWEEN:

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

AND

- 1. ZAHRADEEN MOHAMMED BELLO.....DEFENDANT/OBJECTOR**
- 2. ABDULHADI ABDULLAHI.....DEFENDANT/RESPONDENT**

RULING

The Defendants herein were arraigned before this Hon. Court with the offence of conspiracy to defraud, stealing of official documents, forgery and other offences as contained on the charge sheet. The charge was read to the Defendants and they all pleaded not guilty to the offences and the case proceeded into hearing with PW1 (Kayode Oyetunde) testifying on the 07/11/2024.

The 1st Defendant through his Counsel brought this application seeking for an order of this Hon. Court quashing and/or striking out (or dismissing) this present purported charge **No. CR/530/2024 FRN VS. ZAHRADEEN MOHAMMED BELLO & 1 OR.** Is an abuse of the judicial process and brought without reasonable ground nor any nexus with the 1st Defendant/Objector to proceed to trial and as such robbing this Hon. Court the vires to continue to entertain same.

The grounds for the objection are as follows:

- (1) That at all material time to the arrest and detention of the 1st Defendant/Objector from 15/5/2024 and the framing and filing of the purported charge CR/530/2024 on 11/6/2024 and the arraignment of the 1st Defendant/Objector alongside 2nd Defendant to circumvent the order of his Lordship Hon. Justice D. U. Okorowo, made on 14/6/2024, suit No. FHC/ABJ/CS/163/2024 which is a fundamental right enforcement application at the instance of the 1st Defendant/Objector files since 8th February, 2024 and pending before the Hon. Federal High Court was subsisting and yet to be determined before the purported charge was filed in mala fide to obtain a result not legally warranted.**
- (2) That the purported proof of evidence attached to the charge starting from the petition by the law firm of B. B. Michika & Associate dated 30/10/2023 all through to litany of documents attached has no nexus with the 1st Defendant/Objector (and even by necessary implication the 2nd Defendant) contrary to the pronouncement of the Hon. Court of Appeal in the State Vs. Yusuf Abubakar & 1 or. CA/K/266C/2020 delivered on the 30/12/2022.**
- (3) That the entire purported count of offences alleged in a desperate misadventure to hand a bad name on the 1st Defendant/Objector are completely outside the purview of the mandate of the Economic and Financial Crimes Commission and offensive of the settled law by the Supreme Court in pronouncement in Dr. Joseph Nwobike, SAN Vs. Federal Republic of Nigeria (2021) LPELR 56670 (SC).**

The application is supported by an affidavit of 5 paragraphs deposed to by one John Afo, a litigation Clerk in the law firm of the 1st Defendant/Applicant Counsel.

It is the deposition of the Applicant that the operative of Economic and Financial Crimes Commission started threatening him with arrest and detention as a result, he approached the Federal High Court in suit **No. FHC/ABJ/CS/163/2024** for the enforcement of his Fundamental Right and while the suit is still pending before the Federal High Court, the complainant arrested and detained the 1st Defendant/Applicant on the purported order of Magistrate's court of the FCT, Wuse, Zone 6. That the Federal High Court granted the Applicant bail, but the complainant refused to obey same. And that the petition upon which the 1st Defendant was arrested has nothing to do with him.

A written address was filed wherein the following issues were formulated for determination to wit:

- (1) *Whether the 1st Defendant/Objector is enabled and entitled as of right of his defence to raise this Preliminary Objection timeously which borders on jurisdictional questions and same decided first by the Hon. Court.*
- (2) *Whether this Hon. Court in the light of the grounds, affidavit evidence, facts and peculiar circumstance of this matter can assume jurisdiction to entertain same even in the face of obvious lack of reasonable grounds in the purported proof of evidence and in the face of patent abuse of judicial process and the complainant via the Economic and Financial Crimes Commission acting ultra vires and in sheer abuse of its mandate and powers as settled by judicial interpretation by the Supreme Court of Nigeria.*

(3) *Whether the Hon. Court under its inherent powers and jurisdiction can quash, strike out and/or dismiss this present charge in limine for want of jurisdiction flowing from the abuse of the judicial process.*

On issue 1, Learned Counsel argued that issue of Jurisdiction by section 277 of ACJA section 36 (12) of the Constitution of the Federal Republic of Nigeria (as amended) the cases of ZAKARI V. NIGERIAN ARMY (2015) 62 (pt. 1) NSCQR 214 at p 266 ought to be heard and determined before proceeding into the merit of any case.

On the 2nd and 3rd issues, Counsel submitted that the Economic and Financial Crimes Commission (EFCC) is merely prosecuting the 1st Defendant as there is no case to support the Charge.

In law, a Court that lacks the jurisdiction to hear and determine a matter would definitely lack the power to make any pronouncement on the merit or otherwise of the matter over which it lacks the jurisdiction, in the first place to entertain since there can be no adjudication on the merits where there is no jurisdiction or competence to adjudicate on it. **SHUAIBU & ANOR VS. KOLEOSHO (2021) LPELR 53435 (CA).**

The importance of jurisdiction or lack of it is such that there is a need for the Court to assume jurisdiction to ascertain first and foremost whether it has jurisdiction over a matter before it. And once the Court reaches the conclusion that it has no jurisdiction, the matter is incompetent and ought to be terminated. **AKINTOLA VS. MAGBUBEOLA & ORS. (2011) LPELR 3731 (CA).**

However, S. 396 (2) the ACJA 2015 where a Defendant raises any objection to the validity of the Charge before the Court, the merit of the

Charge shall only be considered along with the substantive issue and Ruling made at the time of delivering the Judgment.

It is instructive to state here that Economic and Financial Crimes Commission has wide powers in initiating, prosecuting and coordinating the various offences and agencies where the offences relates to economic crimes. Section 46 of the EFCC Act state as follows:

46 “Economic and Financial means the non-violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug, trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining tax evasion, foreign exchange malpractice including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods etc.

From the opening paragraph of section 46, it is clear that every economic and financial crimes must be intended to acquire illicit wealth to the detriment of another or the government. There is no doubt also that investigative and prosecutorial powers of the Commission as derived from section 6, section 7 and section 14 – 18 of the EFCC Act extends to and are not limited to offences created by the act alone, but to any other Federal or State law relating to Financial and Economic Crimes. **NWOBIKE VS. FRN (2021) LPELR 56670 (SC).**

I have seen the charge before me, which borders on conspiracy to defraud, theft, forgery and stealing of original case files. As I stated

earlier, both the 1st and 2nd Defendants pleaded not guilty to the charge. The Prosecution has since opened its case with PW1 testifying against the Defendants.

It is the contention of the 1st Defendant/Applicant that, he has filed a case for the enforcement of his fundamental right before Federal High Court, before the purported charge was filed by the prosecution. It is my considered view here that the matter for enforcement of fundamental right can exist and proceed while this charge is heard by this court.

The prosecution has opened its case as stated earlier, on whether the charge is a mere frame up or not is a matter of evidence before the Court. For this reason, this application is premature, I shall dismiss same, consequently Motion No. **M/14859/2024** is hereby dismissed.

SIGNED:
HON.JUDGE
21/10/2025

APPEARANCE:

S. A. Adeniran, Esq, with Udochukwu Onoh, Esq, for the 1st Defendant/Objector
K. I. Mudei, Esq, with P. N. Jonah, Esq, for the 2nd Defendant/Respondent