

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

**BEFORE HIS LORDSHIP: JUSTICE SALISU GARBA
COURT CLERK: FIDELIS T. AAYONGO & OTHERS
COURT NUMBER: HIGH COURT TWO (2)
CASE NUMBER: FCT/HC/CR/210/2017
DATE: 1ST JULY, 2020**

BETWEEN:

INSPECTOR GENERAL OF POLICE - COMPLAINANT

AND

- 1. ISA IMAM JEGA**
- 2. TONY OKELEKE**
- 3. UJU MADUEKE**
- 4. ARTHUR 'AKWARANDU**
- 5. UMAR SHU'AIBU**
- 6. FRANCIS ILOANI**

DEFENDANTS

Defendants in court.

Joseph Offor for the prosecution.

Godwin Diugwu appearing with Iginne Diarah and Rita Imo holding the brief of A.A. Mohammed for the 1st Defendant and Innocent Lagi for 4th Defendant and we appear for 3rd and 6th Defendants.

Cynthia Nnamdi for the 2nd Defendant.

A.A. Sheriff for the 5th Defendant.

Wisdom Elum watching the brief of Kadom Auto Limited.

Festus Nwali watching the brief of one of the nominal complainant Ekechukwu Ani.

Prosecution's Counsel – The matter is for ruling.

R U L I N G

This ruling is predicated on an application on notice dated 13/2/2020 brought pursuant to Section 36(2) (A) and (5); Section 330 (A) (R) ACJA 2015 and the inherent jurisdiction of this court.

In the application, the Defendants/Applicants seeks for the following:

1. An Order of this Honourable Court directing the Claimant/Respondent to deposit the sum of Fifteen Million, Nine Hundred Thousand Naira (N15,900,000.00) only being the sum collected by the Complainant (The Nigeria Police FCIID Area 10 during the investigation) from the Defendants into the Court Registrar's Account, pending the determination of this case.
2. And for such further order or/orders as the court may deem fit to make in the circumstances of this case.

In support of this application is a 10-paragraph supporting affidavit dated 14/2/2020 deposed to by the 1st Defendant/Applicant himself. Attached thereto is a document marked Exhibit A. Reliance is placed on all the said paragraphs of the affidavit.

Learned counsel to the 1st Defendant/Applicant also filed a written address dated 13/2/2020 wherein counsel submitted an issue for determination to wit:

“Whether the Honourable Court can grant this application as prayed”

On this issue, it is the submission of counsel that the Complainant during the course of investigation collected the total sum of N15,900,000.00 from the 1st Defendant/Applicant and such money was neither given back to the 1st defendant/applicant nor listed among the exhibit to be tendered before this Honourable Court. Court is referred to Section 331(2) ACJA and the case of ABOSELDEHYDE LABORATORIES PLC v UNION MERCHANT BANK LTD & ANOR (2013) 54 (Pt1) NSCQR 112 at 140 ratio 4. Court is urged to grant the application to protect the interest of justice to the Defendant/Applicant.

In opposition to this application, the Complainant/Respondent filed 12-paragraph counter affidavit dated 3/3/2020 deposed to by Inspector Mustapha Ibrahim, a Litigation Officer attached to Legal Section, Force Criminal Investigation Department of the Nigeria Police.

Learned counsel to the prosecution also filed a written address dated 2/3/2020 wherein counsel submitted that certain sum of money was recovered from some of the Defendants by the Detectives in the course of investigation, but the total sum is not up to Fifteen Million alleged by the Applicant.

It is further submitted that Section 330 and 331 of ACJA relied upon by the Applicant do not apply in the circumstance. Court is urged to discountenance the application for lacking in merit.

I have carefully considered the processes filed and submission of learned counsel on both sides. It is not in doubt going by the

affidavit in support of this application and the counter affidavit that in the course of investigation the complainant collected some amount of money from the Defendants/Applicants.

The contention of the Complainant is that the entire money recovered during investigation is far below the sum of N15,900,000.00 as claimed by the 1st Defendant/Applicant.

In the wisdom of this court, I am of the considered view that this application is premature at this stage, it would be appropriate to allow the prosecution close their case so as to unveil the exact amount during examination-in-chief and/or cross-examination from the appropriate witness(es).

In the light of the above, the application is hereby refused for now.

**JUSTICE SALISU GARBA
(PRESIDING JUDGE)
01/07/2020**

2ND R U L I N G

On 3/3/2020 in the cause of cross-examination of PW2 by the 4th Defendant's counsel, the 4th Defendant's counsel sought to tender in evidence two documents i.e. Delivery Note and Credit Note through the witness for identification purposes.

The prosecution's Counsel objected to the tendering of the documents for whatever purposes on the ground that the documents are photocopies and no proper foundation was laid for its admissibility in evidence. Court is urged to reject same.

The 1st, 2nd, 3rd and 6th Defendant's counsel do not object to the tendering of the documents for identification purposes.

In reply to the objection, the 4th Defendant's counsel submitted that the witness testified to the existence of the documents in issue. Court is urged to admit the documents for identification purposes.

I have carefully considered the objection raised and submission of counsel to the 4th Defendant. It is not in doubt that the witness referred to the documents in the cause of his testimony and he also identified same in the cause of this proceeding.

Since the 4th Defendant is tendering same for identification purposes I do not see any harm or how the admission of same for identification purpose will prejudice the prosecution.

Accordingly, the two documents: 1. Delivery Note and Credit Note are hereby admitted as ID1 and ID2 respectively. The objection is overruled.

**JUSTICE SALISU GARBA
(PRESIDING JUDGE)
01/07/2020**