

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY IN
THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON 23RD DAY OF MARCH, 2021
BEFORE HIS LORDSHIP: HON. JUSTICE MUHAMMAD S. IDRIS
MOTION NO: M/589/2021

BETWEEN:

SOLOMON JOHN.....APPLICANT

AND

INSPECTOR-GENERAL OF POLICERESPONDENT

RULING

The applicant by a motion on notice No: M/589/21 dated and filed on the 15/1/21. Same is brought pursuant to order 2 Rule 1 to 7 of the Fundamental right Procedure Rules 2009 section 34 (1) (c) section 35 and 41 of the constitution of the FRN 1999 (as amended), on human rights and under the inherent jurisdiction of this court.

Leave was granted by this court, consequently claimant is praying for the following reliefs:

- (1) A declaration that continuous harassment intimidation, threats to freedom, liberty and dignity of the applicant by the Respondent, his staff agents and privies is illegal,*

- unconstitutional, unlawful and amount to violation of the fundamental human rights of the applicant.*
- (2) An order restraining the Respondent and his agents or persons acting on his behalf or for him from further intimidation, harassing and threatening the freedom, liberty and dignity of the applicant in connection with the subject matter of this application.*
- (3) Cost of this suit assessed at 5,000,000.00.*
- (4) And for such further or other order(s) as this court may deem fit to make in the circumstances.*

attached to the application is a 19 paragraphs affidavit in support deposed to by the claimant himself, A statement brought pursuant to order 2 Rule 3 of the fundamental rights rules 2009, a verifying affidavit deposed to by the claimant, one unmarked document titled, excuse duty certificate and a written address in support of the motion on Notice all dated the 25/1/21.

In Claimants affidavit in support, he avers that on the 19/1/21 he went to tipper garage along 3rd avenue in Gwarinpa to repair his generator and afterwards, a man jumped into his car shouting that he was an armed robber. That the Claimant and the man were taken to the Gwarinpa police station where the man narrated to the police how the claimant allegedly robbed him on 24/12/2020. Claimant

avers further that he informed the police that he was not in Abuja on 24/12/2020 but was at Abia State from 18/12/2020 to 3/1/2021. That he further called 10 people who travelled with him to confirm his movement. Claimant claim that he travelled in company of the managing Director of his employer on the 18/12/20 in company of 10 other persons to Enugu and stayed there till 22/12/20 before leaving for Abam in Arichkwu L.G.A. of Abia State where they stayed till 3/1/21 before coming back to Abuja.

That after being interrogated by the police DPO, he was asked to come back to the station on the 20/1/21. He has been going back to the station ever since then till the police concluded their investigation which is unknown date. That claimant felt sick on the 21/1/21 and was admitted on the 22/1/21 at the FRSC Hospital Gwarinpa and discharged on the 24/1/21. That the Respondents have not ceased to harass, intimidate the Claimant by demanding his presence at their station hence, his application before the court.

In his written address, Claimant's sole issue is whether from the facts as stated above the applicant fundamental right to freedom and liberty of human person is not being threatened by the Respondent. He answer this issue in the affirmative and state that by Order 11 Rule 1 of the fundamental right 2009 and under section 34(1) of the 1999 Constitution that claimant's fundamental human

rights have been infringed by the Respondent. Claimant relied on **DIBIS VS. IGORE (1998) 9 NWLR (PT 520) 78 @ 85** and **FBN PLC VS. A.G. (2008) 7 NWLR (1617) P. 121 @ 174-175** and stated that the primary object of an award of damages is to compensate the Plaintiff for the harm done to him or a possible secondary object which is to punish the Defendant for his conduct in inflicting harm on the Plaintiff. He cited **PLIOCHIN NY LTD & ORS VS. VICTOR NGOZI MBADIWE (1986) 1 NWLR (PT. 14) PG 47**. Counsel urged the court to grant this application. Having reproduced significantly the position and submission of the applicant's counsel aforesaid. Pursuant to Order IV Rule of the Fundamental Rights Procedure Rules 2009 which is one of the enactments that the applicant brings this suit before the court it states:

The application shall be fixed for hearing with 7 days from the day the application was filed.

This application was filed on the 25/1/21 the 1st day of hearing this suit was the 8/3/21.

By section 35(1) of the constitution of the FRN (1999) as amended under which the applicant instituted these proceedings there is a wall of difference between an arrest and invitation by law enforcement that have the constitutional or legal powers of investigating a crime said to have been committed by a person see **AYABMAM VS.**

COMMISSIONER OF POLICE BENUE STATE (2019) 1 LPELR 4728

(A). That by applicant paragraphs 10 & 11 of affidavit in support he has not been arrested by the Respondent. Applicant has also not provided the court with a time frame of law long he spends at the police station. In **USMAN & ORS VS. IGP & 1OR (2018) LPELR 45311 CA.** held that a Citizen of this country has the right to report crime and that cannot be an infringement of the fundamental right of the person who gets arrested in the counsel of investigating such complaint, such cannot also sue the police for breach of his rights see also **UBOCLI VS. EKPO & ORS (2014) LPELR -2352 (CA).** The court held in **IHUAMADUENY VS. ROBINSON & ORS (2019) LPELR 47252 (CA).** That an invitation of a person by the police with at move is within. Their powers except where it can be shown that the police misused their powers thus the excuse of the powers of the police to invite and investigate crimes simplicities cannot amount to a breach of fundamental right See **KALIO & ORS VS. DAWARI & ORS (2018) LPELR 4468.**

By applicant's paragraphs 14 and 15 of his affidavit in support, the court would have relied on the strength of his exhibit attached to show that he was indeed distressed but the said exhibit is unmarked.

The applicant did not endorse the exhibit attached see **OGUNBANBO VS. FRN & ORS (2013) LPELR 20551 CA**. The court held...It is not the duty of the court to fish out exhibits. It is the function of parties to identify exhibits by marking them. In **IKPEAZU VS. OGAH & ORS (2016) LPELR 40843(CA)** defined exhibit as document prepared prior to trial or during trial by a counsel in chambers or ctclerk of court to identify by number and description of the document a party intends to offer or has offered into evidence at trial. It can also be used to describe a document accepted in evidence by the court in the course of trail and so marked.

The right personal liberty enshrined in see 35 of the constitution of the FRN 1999 as amended while the applicant sought to enforce is not an absolute right. By see 35 (1) (1) of the said constitution, a person can be deprived of his liberty upon presentable suspicion if his having committed an offence. Although the applicant have not given the court enough which prima facte show an infrinprment of his right fundamentally. The entire paragraphs of the affidavit does not disclose material factor which might consequence warrant the granting of this application nevertheless, the principles of substently justice must be applier here. Accordingly the police are hereby directed to expectedly conclude this investigation on or before the 11/4/21 same shall do the need thereafter by arrangement the

respondent before a competent court if need be. Further to comply with the above directive the Respondent prayer 1 & 2 are hereby granted No order as to the cost of damages is hereby granted by the court this order shall be served on the police.

Signed
Hon. Judge
23/3/21