

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT KUBWA, ABUJA**  
**ON THURSDAY THE 19<sup>TH</sup> DAY OF FEBRUARY, 2021**  
**BEFORE HIS LORDSHIP: HON. JUSTICE K. N.**  
**OGBONNAYA**  
**JUDGE**  
**SUIT NO.: FCT/HC/CV/2014/2018**

**BETWEEN:**

GRACE NKWORMEN  
DR. IBRAHIM DIKKO

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APPLICANTS

**AND**

1. INSPECTOR GENERAL OF POLICE
2. COMMISSIONER OF POLICE
3. THE OFFICER IN CHARGE OF SIIB,  
POLICE COMMAND FCT, ABUJA
4. IPO MARY (AKA JOSEPHINE CHICHI  
ACCORDING TO TRUE CALLER)
5. OFFICER KAREEM DAUDA ABS
6. UNKNOWN PERSON

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}

RESPONDENTS

**JUDGMENT**

In this transferred Suit filed on the 6/6/18, which is predicated on the Fundamental Right Enforcement Rules 2009, the Applicant Grace Nkwormen and Dr. Ibrahim Dikko are seeking redress for the infringement of their fundamental rights by the Respondents who are the IGP, COP, Officer in charge of SIIB, FCT

Command, IPO Mary aka Josephine Chichi according to true caller, officer Kareem ABS and Unknown persons. The Applicants are seeking for the following reliefs which are:

1. A Declaration that the 4<sup>th</sup> & 5<sup>th</sup> Respondent invading, intimidating, insulting, calling names and forcefully collecting the 1<sup>st</sup> Applicants phone constitutes a violation of her fundamental right as guaranteed by the 1999 Constitution and African Charter on Human and Peoples right and the said action is therefore illegal and unconstitutional.
2. An Order for the Respondent to pay the Applicant the sum of ₦50, 000,000.00 (Fifty Million Naira), jointly and severally as General and Exemplary damages for their illegal and unwarranted action.
3. An Order of perpetual Injunction restraining the Respondents, there privies, agents, cronies and partners from further arrest, invitation, harassment, intimidation, embarrassment, name calling and monitoring the applicants movement pending the final determination of this application.
4. Mandatory Order commanding the Respondent etc to jointly and severally tender an apology in writing in a National Daily within the Jurisdiction of the 1<sup>st</sup> applicant for the unwarranted breach of her said right.

The application is brought pursuant to **S. 46, 30 (1) (a), 37 as well as Cap II of the application Fundamental Rights Enforcement Rules 2009.**

The application is base on the following ground:

1. That the action of the Respondent including the 1<sup>st</sup> Applicant Office dragging intimidating insulting and calling her names and forcefully collecting her phone without her consent and without any Order of Court of competent jurisdiction to check if the name of the 2<sup>nd</sup> Applicant is in her phone is unlawful and illegal and a breach of her fundamental right to dignity of her person, personal liberty, freedom to own property-movable and immovable, freedom of movement, and freedom from torture and inhuman treatment. **That it is unlawful to use the machinery of government by the Respondents to harass intimidate, dehumanize and embarrass the applicant who are innocent and law abiding citizens of Nigeria.**

They supported application with an Affidavit of 26 paragraph deposed to by 1<sup>st</sup> Applicant. In the written address they raised a lone issue which is

“Whether they are entitled to the Reliefs sought”

They submitted that they are entitled to the reliefs sought in that they have stated and established that the Respondent by their action actually and severally infringed on their said rights. They relied on the decision in the case of:

**UZEWKWU Vs EZEONU (1999) 6 NWLR (PT.200) 702 @761-762 PARA H-A**

**S.46 1999 Constitution of the Federal Republic of Nigeria (as amended).**

**Order II Rule 1 Fundamental Rights Enforcement  
Procedure Rules 2009.**

That they were degraded and inhumanly treated and their reputation lowered by the action of the Respondent which occasioned disgrace, dishonour and contempt to them, which action grossly violated their extant right. That evidence adduced in the Affidavit to establish their claims are enough to earn the relief sought. They referred and relied on the following case:

**RAYMOND Vs DANDATE CIVIL SERVICE  
COMMISSION OF PLATEAU STATE (2001) FWLR  
(PT.50) 1634 PARA E-F**

That they are right in approaching the Court to seek redress for violation of their fundamental right. They referred to S.46 1999 CFRN as amended. That the conducts of the Respondent are high headed, outrageous, insolent, oppressive, malicious, contemptuous and reprehensible and in utter disregard to every principle governing the conduct of civilized society. That granting the damages will act as deterrence to the Respondents from engaging in similar act. They referred to the case of:

**ONOGORUWA Vs IGP (1993) 5 NWLR (PT.173) 596-  
650-651**

That it is a universal declaration of human Right that men should rebel against tyranny and oppression and that human right should be protected. They urged Court to grant all the Reliefs as sought. It is imperative to state that this matter was first assigned to my

brother V.V.M. Vender who had retired from service earlier this year. The matter was assigned to the Court in September this year. It had pended before that Court since 11/6/18 until September 3, 2020 when it was assigned to this Court from the record the matter was adjourned 9 times all at the instance of the Respondent. There was a Court Order in which the 1<sup>st</sup> - 5<sup>th</sup> Respondents are asked to present the name of the 6<sup>th</sup> Respondent and that service of the Originating Process were to be served on the 6<sup>th</sup> Respondent through 1<sup>st</sup> – 5<sup>th</sup> Respondents. That order was not obeyed more than two and a half years after the matter was filed.

The 1<sup>st</sup> -5<sup>th</sup> were served as far back as 19/6/2018 at about 15:27 hours. They had representation in Court then on several occasion. But they did not file any response to the application. On the 2/12/2020 this Court notified them about the pendency of this but in this Court the Court also coursed that they were duly served which Hearing notices as required notifying them that the matters schedule for the Hearing on the 9/12/2020. They acknowledged the Hearing notices but did not file any Counter in challenge to the Suit. They had no legal representation either. It is imperative to note that this matter is predicated on Fundamental Rights Enforcement Procedure, had been pending in Court since 2018 and was first mention in Court on the 20/6/2018.

This Court allowed the Plaintiff Counsel who had attended Court on this case since June 2018 to move

the application there was no response from the Respondents and no legal representation too. They were duly informed but the Court adjourns the matter for Judgment today.

It is the law that unchallenged facts deemed admitted by the person who failed to challenge such fact. In this case the Respondents did not challenge the facts as contained in the Originating Application.

Notwithstanding that the Court is still duty bound to ensure that it takes a deep critical look at the facts relied upon by the applicant to determine if those facts actually establishes the allegation of infringement of the Applicant's Rights as alleged before it can hold that such right were infringed by the Respondents.

In this case the Applicant the 1<sup>st</sup> Respondent alleged that on 28/5/18 Officers of the 1<sup>st</sup> – 3<sup>rd</sup> Respondents who are the 4<sup>th</sup> & 5<sup>th</sup> Respondents called her seeking pretending to have a property for sale at Maitama. She eventually asked them to come to her office. When 4<sup>th</sup> & 5<sup>th</sup> arrived they introduced themselves as Police Officers. They threatened to arrest the 1<sup>st</sup> Applicant and wanted to take her to their office at Garki Abuja. 1<sup>st</sup> Applicant wanted to know the reason the 4<sup>th</sup> & 5<sup>th</sup> Respondent told her that they were informed that the 2<sup>nd</sup> Applicant has defrauded someone and that they were looking for him to arrest him because of the allegation of fraud made him. But before them they had snatched the mobile phone of the 1<sup>st</sup> Applicant, dialled the 2<sup>nd</sup> Applicant number to confirm that the 1<sup>st</sup> Applicant knows him. They had also gone through the

SMS and Whatsapp Messages in the 1<sup>st</sup> Applicants phone. They held the phone and tried to forcefully take the 1<sup>st</sup> Applicant to their office she shouted and their neighbours came. The 4<sup>th</sup> & 5<sup>th</sup> then left after the 1<sup>st</sup> had told them to call the 2<sup>nd</sup> and had promised to also call him as well as with their neighbour's intervention. She promised to be in their office on 29/5/2018 but could not make it because it was democracy day. She was away on official assignment on the 30<sup>th</sup> May outside Abuja. But she was able to reach the 2<sup>nd</sup> Applicant whom the 4<sup>th</sup> and 5<sup>th</sup> had Claimed they could not get through to the 2<sup>nd</sup> Applicant was shocked about the false allegation made against him by the 4<sup>th</sup> and 5<sup>th</sup> Respondents stating that he had never defrauded anybody; that no one had claimed is from the office of the 1<sup>st</sup> – 3<sup>rd</sup> and that 4<sup>th</sup> & 5<sup>th</sup> did not call him to. That he had not blocked his number, he has not been invited by the officer of the 1<sup>st</sup> – 5<sup>th</sup> Respondents, had not committed any offence. That he called the 4<sup>th</sup> and 5<sup>th</sup> Respondent and asked them why they are detaining his name and lying against him without confronting him directly.

That he sent his Counsel F.I. Nwodo to the office of the 1<sup>st</sup> -3<sup>rd</sup> Respondents and to the 4<sup>th</sup> and 5<sup>th</sup> Respondent directly to know who they claimed wrote the Petition against him and demanded a copy of that Petition. But they did not oblige him any copy or disclosed who the unknown Petitioner is that the action of the 4<sup>th</sup> and 5<sup>th</sup> who are Officers of the 1<sup>st</sup> -3<sup>rd</sup> Respondent is illegal, unlawful, reprehensible and a gross infringement of their Rights under the Fundamental Rights

Enforcement Procedure 1999 Constitution. Universal Human Right. Hence this application and the Reliefs sought.

The CFRN the African Charter on Human and People Rights as well as the Rights of FREP provide that the Human Rights over every individual in any country of the world is sacrosanct and should not be breached violated or infringed by any other person, government or agencies of government or any country. In this case the 1<sup>st</sup> is a Cameroonian domiciled and working in Nigeria in an Estate Developing Company owed by Nigerians. The 2<sup>nd</sup> Applicant is a full blooded Nigerian family. Both had alleged that the Officers and agents of the 1<sup>st</sup> – 3<sup>rd</sup> Respondents in the name of 4<sup>th</sup> and 5<sup>th</sup> Respondents have grossly infringed their extant right. They have in their Affidavit Jointly narrated in details the action of the 1<sup>st</sup> -5<sup>th</sup> Respondent based on the undisclosed Petition allegedly written by the 6<sup>th</sup> Respondent who is unknown person and whom the 1<sup>st</sup> -5<sup>th</sup> Respondents had refused to disclosed and whom to disclosed and whom they have shield from disclosing and appearing before the Court even against the Order of the Court. Per V.V.M. Venda J. (Rtd). The Respondents did not file any Counter to challenge this application. The implication is that they do not have any response to the issues raised against them. it also means that those facts and averments in the Affidavit in support of the application are not controverted. They are not rebutted and remain unchallenged.



All the strata of the Courts in our land have reiterated in their decisions that uncontroverted facts are deemed and actually admitted. Since the Respondents have not filed any Counter to challenged the said facts this Court therefore holds that those facts as contained in the 26 paragraph Affidavit in support of this application are unchallenged and uncontroverted. It is imperative to note that the 1<sup>st</sup> – 6<sup>th</sup> Respondents were served with the Originating Processes since May 2018. The letter was mention on 6/6/18. They attended Court on several occasions had Counsel representing them. They never filed any Preliminary Objection or any Counter Affidavit to challenge or in response of the case.

Having detailedly gone through those facts and having gone and summarized in details the submissions of the Applicants in their writing address. This Court hold that the applicants are entitled to the Declaration reliefs as sought.

It is the law and has been provided in the Constitution and held in Courts decisions that once any party has been able to establish that his right has been, is being or threatened to be infringed such party is entitled to monetary compensation and an apology in writing. In this case, the Applicant have established that their rights have been infringed by the 1<sup>st</sup> -5<sup>th</sup> Respondents based on the fictitious Petition of the unknown 6<sup>th</sup> Respondent. That is not in existence. They are therefore entitled to both apologies as well as general and exemplary damages.

This Court therefore Order that the Respondents pay to the Applicant the sum of ₦100, 000.00 (One Hundred Thousand Naira) as general and exemplary damages. The Respondents are also to tender an apology in writing to the 1<sup>st</sup> -2<sup>nd</sup> applicants for infringing their rights such apology shall be published in a known National Daily Newspaper widely circulated with FCT.

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

**Delivered today .....day of .....  
2020 by me.**

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