

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

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT KUBWA, ABUJA

ON FRIDAY THE 16TH DAY OF JULY, 2021

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

JUDGE

SUIT NO.: FCT/HC/M/10684/2020

BETWEEN:

MR.SUNDAY ONOJA

}

APPLICANT

AND

1. INSPECTOR GENERAL OF POLICE
2. COMMISSIONER OF POLICE FCT COMMAND RESPONDENTS
3. THE COMMANDER-ONE CHANGE UNIT
4. MR.PATRICK OJI

JUDGMENT

In this matter predicated on Fundamental Rights Enforcement Procedure, Sunday Onoja claims the following that the IGP, COP, Commander One-chance Unit violated his fundamental right at the prompting and instigation of Patrick Oji on the 17/11/2020 he instituted this action against them claiming the following reliefs:

- 1. That his arrest and detention by the Respondents without disclosure of any offence against him is a violation of his Fundamental**

Rights under Ss.34 & 35 Constitution Federal Republic of Nigeria 1999 (as amended).

- 2. An Order restraining the Respondents from further arresting, harassing, intimidating, detaining and or incarcerating him in respect of the same complaint which is a simple civil contract for installation of 2 Nos Solar powered Borehole with overhead plastic tanks in Gulani community Yobe State.**
- 3. A Declaration that the Police Force was not established for debt Recovery.**
- 4. ₦50 Million only as General Damages for breach of his Fundamental Right.**
- 5. Omnibus prayer.**

The Applicant supported this with an Affidavit of 25 paragraphs. He attached some documents evidencing the Contract Agreement and his Bank Statement evidencing various payments from Zenith Bank and Handwritten Agreement made on the 21/3/19 between Higo Global Network Ltd and the Applicant.

In the Written Address his Counsel raised on his behalf 3 Issues for determination which are:-

- 1. Whether his arrest detention and continuous Harassment from 15th June, 2019 till date is illegal, unlawful and or violation of his Fundamental Rights to personal liberty, as enshrined in S.35 of the 1999 Constitution Federal Republic of Nigeria (as amended).**
- 2. Whether it is the duty of the Police to recover debts from simple civil Contract.**

3. Whether Damages can be awarded by the Court for breach of Fundamental Right.

ON ISSUE NO.1 –he submitted that by provision of S.34 Constitution Federal Republic of Nigeria 1999 as amended he is entitled to respect of the dignity of his human person and that he as any other person is not to be subjected to torture. That he is not to be deprived of his liberty by virtue of S.35 of the Constitution of Federal Republic of Nigeria 1999 as amended.

That the 1st – 3rd Defendant arrested and detained him on the instruction of the 4th Respondent for breach of Contract. That by the detention his liberty was deprived and his right to personal liberty violated. That the 1st – 3rd Respondent threatened him to enter into an undertaking to pay money to the 4th Defendant of face firing squad over the said civil Contract. That the Respondents are not exempted from obeying the provision of the Constitution – S.34 & 35 he relied on the case of:

ODOGU Vs A-G FEDERAL (1996) 6 NWLR (PT.455) 508

That the 1-3 Defendant has no right under the Constitution to torture him for the Breach of a Civil Contract. He relied on the case of:

NEMI Vs A-G LAGOS (1996) 6 NWLR (PT.452) RAT.1

That the 4th Respondents has been harassing the Applicant to pay/refund the sum of ₦1.8 Million which he gave to the Applicant as part consideration for the installation of the 2 Nos Solar powered Borehole with overhead plastic tanks at Gulami community in Yobe State, the work which has had commenced before the

matter was instituted. That Police has no right under the Law to act as debt recovery agency. He relied on the case of:

AFRIBANK Vs ONYIMA (2004) 2 NWLR (PT. 858) 660

ABDULLAHI Vs BUHARI (2004) 17 NWLR (PT.902) 278

That restraining the applicant from enjoying his liberties coupled with the detention under dehumanizing condition as stated in the Affidavit in support is a violation of his right under the Constitution. That he suffered psychological trauma, physical pain as a result of the detention. That he was disgraced, humiliated by the said arrest and detention. That he lost goodwill which he had enjoyed from his clients before the detention. That the said arrest is unconstitutional, null and void. He urged the Court to so hold.

ON ISSUE NO.2, on whether the Police has a right to recover debt from simple Contract, he submitted the duty of the Police does not include acting as Debt recovery agency or debt collector. That Police acted as debt collector in this case. He urged Court to so hold.

ON ISSUE NO.3, he submitted that the Court has power to award damages in a case of breach of Fundamental right. He relied on the provisions of S.35 (6) 1999 Constitution Federal Republic of Nigeria as amended. In that, Court can award compensatory damages where it finds that any of the Fundamental right of the Applicant has been breached. He urged Court to award damages of ₦50 Million against the Respondents for the violation of Fundamental rights of the applicant, psychological trauma and loss of goodwill. He relied on the case of:

OKWONKWO Vs. OGBOGU (1996) 5 NWLR (PT.449) 422
R.3

That Supreme Court has enjoined Courts seized with the case relating to Fundamental Right Enforcement Procedure to award punitive compensation to act as deterrent to other agencies of Government who abuse the Constitution. He urged Court to award substantial damage. That the period of detention does not matter once the action of the Respondents is unlawful. He referred to the case of:

ISENALUMHE Vs AMADIN (2001) 1CHR 459

He urged Court to grant all the Reliefs sought.

Upon receipt of the application the 1st – 3rd Respondents filed a Counter Affidavit of 14 paragraphs they attached a Letter of Complaint for Criminal Conspiracy Threat to life against Sunday Okwori, Sunday Onoja and Engr. Okeate. The Letter was written on the instruction of 4th Respondent by his Solicitors Onoja Daniel & Associates. It was dated 25/11/2019. Another document attached by 1st – 3rd Respondents is the Statement of the Applicant made to the Police on the 14/12/19 and 16/12/19

In the Written Address the 1st – 3rd Respondents jointly raised an issue for determination which is:

“Taking into account of the 1st – 3rd Respondents statutory powers to investigate crimes in Nigeria, whether the investigation of the Applicant by 1st – 3rd Respondents amounted to threat or violation of the Applicants fundamental right.”

They submitted jointly and answered the question in the negative in that it is their duty to investigate complaint laid before them and to take necessary action ancillary thereto. He referred to the case of:

UBECHI Vs EKPO & ORS (2014) LPELR- 23523

OWOMERO Vs FLOUR MILLS NIG.LTD (1995) 5 NWLR (PT.421) 622 @ 629

EZEADUKWA Vs MADUBIKO (1997) 8 NWLR (PT.518) 635 @677

They submitted that the maintenance of Law and Order is part of the statutory duty of Police. That they have right and duty to investigate complaints. They referred to the case of:

FABIYI Vs STATE (2013) LPELR-21186 PG.48-49 PARA E-C

That the Applicant want to use the instrumentality of this case to restrain the Police from carrying out its lawful and statutory duties. That 1st – 3rd Respondents are agency of the government under Police act with the investigation of all crimes in the contrary. They relied on the case of:

ONAH Vs. OKENWA (2010) 7 NWLR (PT.1194) 512

The 1st – 3rd Respondents further submitted that an Order of perpetual Injunction sought by Applicant is not grantable. As it is unconstitutional to interfere with the power given to the Police to investigate crimes and prosecute same.

That by the relief the Applicant is seeking the injunction as a judicial fiat to prevent the Police from carrying out the Constitutional functions of its office. They referred to the case of:

A-G ANAMBRA Vs CHIEF CHRIS UCHE (2005) 15 NWLR (PT.947) 44

That Applicant has not proved the case of infringement/ or threat of his fundamental Right to warrant this application. That Applicants right was not infringed. He was merely invited for questioning. That he failed to substantiate the facts contained in his Affidavit. They urged the Court to so hold. They urged Court to resolve the sole issue in their favour and dismiss the suit with cost of N1 million as same is lacking in merit.

On his part on the 15/6/21 the 4th Defendant filed a Counter Affidavit of 20 paragraphs which he deposed to in person. He attached a document –letter dated 25/11/19written in the Business letterhead of the 4th Respondent’s Solicitor- Onoja Daniels & Associates. The letter does not cover the person who authorised it.

In a 4 pages Written Address he raised 2 Issues for determination which are:

- 1. Whether the applicant by the Affidavit in support of his application has placed enough evidence before this Court to succeed in his claims against the 4th Defendant.**
- 2. Whether the 4th defendant has placed enough defence to the case and claim of the Applicant.**

ON ISSUE NO.1 – the 4th defendant submitted that Applicant failed woefully to prove his claim against the

4th Respondent and Respondents. That this is because the Applicant had admitted in his 15 paragraph Affidavit in support of his application that he was given a copy of the petition written by the 4th Respondent a fact which is an admission to the effect that due process of investigation by 1st – 3rd Defendant is still ongoing. That granting the relief sought by Applicant is to wage or block the Police from carrying out their statutory responsibilities. That the Applicant has not been able to prove his case to deserve the merit of this case. That Court should not grant reliefs which are not substantially proved. He relied on the case of:

SOKWO Vs KPONGBO (2008) 33 NSCQR 612 @ 617 R .5

That the applicant must adduce credible evidence to be entitled to declaratory reliefs sought in this case as the onus to prove that his rights were infringed on him. He referred to the case of:

OLANIYAN Vs ODEYEMI (1996) 8 NWLR (PT.459) 205 @207

FAYEMIROKUN Vs COMMERCE BANK & ANOR 2-3 (2009) SC (PT.1) 29

That Applicant claiming that he was arrested detained by the 1st – 3rd Respondents at the instance of the 4th Respondent, but he did not produce any evidence to support such claims.

That the Fundamental rights enforcement procedure Rules gives the Applicant the right to seek redress for enforcement of his fundamental rights and that the same Fundamental rights Enforcement Procedure Rules impose a duty to prove same and the law Court to do

justice to all concerned. That where the Applicant fails to do so – establish that his rights were infringed, the application will be dismissed. He relied on the case of:

FAYEMIROKIN Vs CB SUPRA

They urged the Court to hold that the Applicant failed to tender documents required to prove his arrest and detention for 9 hours and evidence of his harassment by the 1-3 Defendants as alleged. That the 4th Respondent has no burden to discharge in this case.

ON ISSUE NO.2 –on whether the 4th Respondent has placed enough defence to this case he submitted that by the content of the Counter Affidavit by the 4th Defendant with the accompanied lone Exhibit the admissions in the Affidavit of the Applicant the 4th Respondent has placed enough material and cogent evidence before this Court in that there was a Petition against the applicant and that investigation is still ongoing. That the claim of the Applicant cannot succeed against the Respondents.

That Applicants case should succeed on its strength and not on the weakness of the defence. That this does not imply that the defence of the 4th Respondent is weak in this case.

That the defence of the 4th Respondent is strong and by the Affidavit that was unchallenged or uncontradicted in any form by the Applicant. He relied on the case of:

GOYZEE Vs NERDC (2005) 12 MJSC 179 @ 184 R.7

That these affidavit is unchallenged because the applicant admitted that he was invited and a copy of the Petition was given to him which simply means that 1st –

3rd Respondents does not create nor fabricate and as such investigation in itself cannot in itself translate into abuse or violation of fundamental right of the Plaintiff.

He urged Court to consider the totality of the evidence placed before it to hold that the applicant claim failed for lack of in merit as same is a ploy to stop the lawful authority from exercising its Constitutional responsibility. They urged the Court to hold that the application is incompetent and that Applicant is liable to pay special damages of N5 Million to the 4th Defendant.

COURT

After the above summary of the stories of the Plaintiff Counsel for and those of the 1st – 4th Respondents against this application, can it be said that the rights of the Applicant was infringed by the action of the 1st – 3rd Respondents on the issue of the arrest and detention of the Applicant for 9 hours and the alleged harassment as the Applicant claimed? Has Applicant by the 15 paragraphs Affidavit and the document attached been able to establish the infringement of the rights as claimed so much so that this Court should grant him the Relief as sought? Did the arrest and detention for 9 hours actually violated the Applicant's right and has the action of the 1-3 Respondents at the instigation of the 4th Respondent tantamounted to infringe of right of the Applicant that the Court should award damages against the Defendants? Did the 1st – 3rd Respondents act as debt collectors in this case?

It is the humble view of this Court that the Applicant's right was infringed by the action of the 1st – 3rd

Respondent at the instigation of the 4th Respondent based on the gross false information upon which the Petition written by the 4th respondent's was predicated. Though the detention was for 9 hours, yet the right of the Applicant to dignity of his human person and liberty was infringed upon for those 9 hours. It is imperative to state that the Applicant was so threatened that he made a promise to return the money for the borehole to the 4th Respondent through SARS. This is as stated in the Statement of the Applicant attached by the 1st – 3rd Respondents in their Counter Affidavit to justify their action as legal and legitimate as the statement of the Applicant attached by 1st – 3rd Respondents marked as Exhibit B. It is imperative to state part of that statement of Applicant made on the 14/12/19

Line 13 of continuation of statement of the Applicant.

“I promise to refund the money through the SARS office in Abuja.”

The above puts no one in doubt that though the 4th Respondent did not specifically mention in the Petition that 1st – 3rd Respondent should help him recover the money he paid to the Applicant for the borehole job, the above clearly confirms that the sole aim of the 4th Respondent was to use the 1st – 3rd Respondent to help him recover the money he paid Applicant for the contract.

For the Applicant to have agreed and promised to refund the money through the SARS office in Abuja there must have been a demand for the refund by the 1st – 3rd

Respondent under threat and extreme harassment by 1st – 3rd Respondent at the instigation and prompt of the 4th Respondent. The letter of the Petition alleging that the Applicant, who was legitimately engaged by the 4th Respondent to execute the contract of Borehole at Bowa, suddenly became a kidnaper, murderer, cultist and invader is only a cover to legitimise the evil intention of the 4th Respondent to use the 1st – 3rd Respondent as a debt collection Agency which they are not. If the intention is not to use the Police as debt recovery agency for the 4th Respondent why did the Applicant promised to refund the money through the highly dreaded SARS office? The simple answer is that the 1st – 3rd Respondent had tortured and cowered the Applicant to agree to refund and had forced him to undertake to refund the said money. This further confirms that the sole aim of the 4th Respondent writing the Petition was for 1st – 3rd Respondent to help him collect back money for the contract paid to the Applicant.

It is imperative to state that for detention to be illegal, it must not be for several months or days. A detention for few hours may result to illegal detention once there is harassment, torture and intimidation of the person so detained. It is not until a detention last for days, weeks or months that can be illegal. Though the Applicant was detained for a few hours it is obvious that he was intimidated harassed and cowered by the 1st – 3rd Respondents. That is why he agreed to refund money to the 4th Respondent through SARS. By the use of the phrase:

“I promise to refund the money through the SARS office in Abuja”

That statement was actually made under duress. It further confirms that the 1st – 3rd Respondent acted as debt recovery agents for the 4th Respondent. So this Court holds. It also shows that the 4th Respondent used the Police as his debt recovery agency which they are not. There is no provision in the length and breadth of the Police Act and the Constitution that empowers Police to act as Debt Collectors.

The Police acted as debt collectors in this case 1st – 3rd Respondents acting as debt collectors is wrong, illegal, unconstitutional, unlawful and grossly unprofessional. So this Court holds. Harassing the Applicant into subjugation and making him to undertake to refund the money to 4th Respondent through SARS is illegal and a violation of the Applicant’s fundamentally constitutional right as encapsulated in SS. 34 & 35 of the 1999 Constitution as amended, Dignity of his human person, liberty and movement. The instigation by the 4th Respondent which triggered the arrest and detention for 9 hours is an infringement and gross violation of the Applicant’s extant fundamental Rights as contained in CAP 4 of the 1999 Constitution Federal Republic of Nigeria as amended. If the 4th Respondent did not intend and actually used the 1st – 3rd Respondents as Debt Recovery Agency why did he not file a suit against the Applicant if his claim of kidnap and inversion and murder were true? Simple answer is that it was his intention for Police to help him recover money he paid to the Applicant for the borehole. Notwithstanding that the

1st – 3rd Respondents showed the Applicant the copy of the Petition, their action infringed the right of the Applicant. So this Court holds.

It is imperative to state that the attempt by the 4th Respondent to state that the Applicant has no evidence of detention and harassment is of no moment. This is because even the 1st – 3rd Respondent have in their counter Affidavit confirmed that they arrest and detained the Applicant for couple of hours – (9 hours) for interrogation to ascertain if he committed the allegation raised by the Applicant against them. Again the statement of the Applicant is evidential enough to confirm the alleged arrest and detention. Beside the 4th Respondent did not even concretely deny that the Applicant was arrested in his presence when he invited him (applicant) to meet him as stated in paragraph 14 of affidavit in support of this application. Not concretely denying that fact means he admitted same. The feeble general denial in paragraph 7 of this Counter affidavit of the 4th Respondent is of no moment. It has no judicial credibility.

It is not in doubt that the content of the documents attached by the Applicant as well as Exhibits and averment in the Affidavit show that there was a legitimate contract agreement which is for construction/drilling of Borehole at Bara Gulami in Yobe State. It is not in doubt that the Applicant hired a drilling machine for the job. This is confirmed by the document Exhibit A – Agreement between the Applicant and Abubakar. For clarity, the said agreement states in part thus:

“This Agreement is made on this 21 March, 2019 between Hydro Global Network Nig Ltd ... on the one part and Mr. Sony Onoja ... referred to as Client on the other part.”

The contract specified what the contract is all about thus.

Paragraph 2 Exhibit A:

“The client (Applicant in this case) is desirous of giving the driller the job of drilling of 2 Nos Boreholes (100 metres each) at Bara in Yobe State ... at a total cost of ₦2,400,000.00”

Paragraph 3:

“The driller is desirous of doing the work at the stated location at the said cost.”

Paragraph 4 of the said Contract Agreement with Abubakar equally confirmed the initial payment made to the Driller by the Applicant hence confirming the Applicant’s averment that he paid the Driller ₦1 Million Naira.

“The client (Applicant) shall pay a down payment of ₦1, 000,000.00 and the Balance of ₦1, 400,000.00 on reaching 2nd stage.”

The above need no further elucidation because it shows and confirms that the Applicant had a contractual relationship with the 4th Respondent which the 4th Respondent confirmed. Though the 4th Respondent deceptively averred that he was tricked by the “Plaintiff and his thugs” to give them the contract of borehole drilling, yet there is every evidence that Applicant did not

deceive the 4th Respondent as he lyingly stated. There was a very legitimate contractual relationship between Applicant and the Defendant. So this Court holds.

It is important to state again that the arrest and detention was specifically for 1st – 3rd Respondents to make the Applicant refund money to 4th Respondent. That is why immediately after the Respondent had ensured that they had forced the Applicant to make an undertaking to refund the money through the SARS office, they released him.

The Applicant did not deny receiving money from the 4th Respondent. He equally, through Exhibit A, agreement with the Driller showed that he actually utilised part of the money given to him by 4th Respondent for the job it was meant to do.

A look at the statement dated 16/12/19 made by the Applicant attached as Exhibit B by the 1st – 3rd Respondents, it confirmed the allegation made by Applicant that since after his arrest on 14/12/19, that the 1st – 3rd Respondents had been inviting him even now and then, threatening for further detention. The said document confirmed the amount Applicant paid to the Abubakar the driller.

In paragraph 1 line **6 – 8 Exhibit B** the Applicant stated in statement of 16/12/19 what the ₦1, 000,000.00 was used for, thus:

“I paid one Mr. Abubakar (₦1, 000,000.00) to drill the borehole using his Drilling Rig.”

The above showed that the Applicant, Sunday Onoja, is not a cheat, not a kidnapper, not a murderer and that he

has no thugs and does not deal or relates with thugs. He could not have hired thugs to kill the 4th Respondent or members of his family as alleged deceivingly by the 4th Respondent. The Applicant has no reason to kill the 4th Respondent. So this Court also holds. That allegation by the 4th Defendant against the Plaintiff is false.

The content of paragraph 1 line 11 – 14 of the statement of the Applicant attached as Exhibit B by 1st – 3rd Respondents further confirms that the 1st – 3rd Respondents actually harassed and probably tortured the Applicant into subjugation and which made him to plead that the 1st – 3rd Respondents should help him recover the ₦1 million he paid to Mr. Abubakar the driller, so that he can use same to pay the 4th Respondent- Patrick Orji. For clarity and emphasis the said line 11 – 14 stated thus:

“I am pleading with the Police (1st – 3rd Respondents) authority to please use their good office collect the money with Mr.Abubakar for me to pay Mr. Patrick Orji-(the 4th Respondent).”

(All emphasis mine)

The above lines confirms that the whole essence of 4th Respondent writing Petition and the detention of the applicant was for recovery of the money paid to the Applicant by 4th Respondent. The said cited lines above therefore confirmed the averments of the Applicant in paragraph 17 of the Affidavit in support of this application. **(Paragraph 17)**

It confirmed that Police acted as debt collection Agency and that 1st – 3rd Respondents tortured the Applicant in order to recover money for the 4th Respondent.

Contrary to the impression that the 4th Respondent wanted to create, the Applicant by exhibit B and payment of the ₦1 Million to Abubakar confirmed his averment in paragraph 11 and established that there was pure contractual relationship between him and the 4th Respondent and that the money paid by 4th Respondent was justifiably used to mobilize into the Borehole construction site.

The 4th Respondent could not establish with facts that the applicant made calls or that he, the 4th Respondent received calls threatening his life and that of his family from the Applicant and his boys. The 4th respondent never stated the tel/mobile phone Numbers that called him. He did not state the day and time these calls were allegedly made. There is these days caller I.D through which one can trace calls made to anyone. The Police has these gadgets but they did not use them, to confirm the alleged threats. The averment of the 4th Respondent that applicant was threatening to kill him is deceiving and unfounded. So also the claim of threat to murder, cultism and unplanner inversion.

Interestingly the 4th Respondent confirmed what the money he falsely and accusingly claimed were threatened to be extorted from him by Applicant was for according to his averment in **paragraph 13** of his Counter Affidavit.

“...it is the same money that they are going to you to drill the borehole”

The averment in paragraph 18 of the 4th Respondent Counter Affidavit that the fundamental right of the Applicant was not violated but a mere investigation is grossly misleading and misconceived. There was violation of those rights. The arrest and detention is not for mere investigation. This application is not a ploy to stop Police investigation by the Applicant as the 4th Respondent has deceptively portrayed.

Going by the statement attached it is very obvious that the Applicant went to the 1-3 Respondents place on more than one occasion first on the 14/12/19 and 16/12/19 going by the dates in the Exhibit B. That is aside from the day of the arrest in June 2019 and invitation on the 4th November, 2020. The said invitation of 4/11/2020 confirmed that since June 2019 through 16/12/19 to the 4/12/20 that the 1st – 3rd Respondents had continued to invite the Applicant. Hence confirming the Averment in paragraph 18-19 of the Affidavit in support of this Application. The content of the statement shows that the Applicant had nothing to do with the allegation trump up in the so called Petition written by the 4th Respondent.

It is imperative to state that between June 2019 to November 2020 is long enough a period for the Police to conclude investigation of the so called allegation raised in the Petition. Not charging the Applicant to Court within such period is a violation of his right. It had certainly caused him some psychological trauma and continued invitation to Police Station is improperly and statutorily not the right thing to do following the long period.

The averment of 1st – 3rd Respondents – **paragraph 8(e)** to the effect that the Applicant honoured the invitation further portrays the Applicant as a law abiding citizen. If actually the applicant has ill intention to kill/murder the 4th Respondent and members of his family he would not have honoured the invitation. The 1st – 3rd Respondents were elusive by not stating the exact dates of the invitation. The Applicant coming to court to seek redress on the violation of his right is not in any way to thwart or obstruct the statutory duty of the Police to investigate the applicant. It is surprising that the same 1-3 Respondents who had stated in paragraph 8(d) and (e) that the Applicant was availed with the Petition, turned around to state in 8(k) of their Counter Affidavit that they-

“That paragraph 15 of applicant’s affidavit in support is vehemently denied as it is untrue and represent a figment of the applicant’s imagination.”

The above is highly contradictory and indicting. If the 1-3 Respondents did not give or deny giving the Applicant a copy of the complaint then they are liable and did not perform their Constitutional responsibility that the Applicant should be shown a copy of Petition why he was invited by the police as required.

Accusing a person of kidnapping these days is equivalent to accusing the same person with terrorism as the two words now are inseparable.

Yes, it is the statutory duty of the Police to investigate crime but it must be done within the provision and ambits of the law and Constitution as permitted.

Engaging in the debt collection as in this case is not what the Police is called to do statutorily. That is why this Court holds that the 1st – 3rd Respondents acted unconstitutionally in this case and outside the law. See extant provision of the Police Act.

This application is not to prevent the 1st – 3rd Respondent from performing their statutory duty. So this Court holds.

From the above it is evidentially clear that the Applicant established that the 1st – 3rd Respondents, on the instigation of the 4th Respondent, violated the Right of the Applicant by obviously acting as debt Recovery Agency for the 4th Respondent. Applicant was able to establish that there was a cogent contractual relationship between him and the 4th Respondent. The action of the 4th Respondent violated the fundamental rights of the Applicant. The 4th Respondent lying to the 1-3 Respondents that the Applicant was threatening his life in a guise and intention to use and actually using the 1-3 Respondents as Debt Recovery/ collection Agency (which they are not) violated the right of the Applicant.

The 4th Respondent was not able to shift the onus on him to show that his action was justified and not a violation on the Applicant's said Rights.

It is the provision of the constitution and as echoed in the Fundamental Rights Enforcement Procedure Rules 2009 that any applicant who has established that his rights has been, is being and already breached/infringed is entitled to compensation by way of damages payable by the person who had violated such right. See S.46

1999 Constitution federal republic of Nigeria as amended.

Since the applicant had established that his right was violated he is entitled to the payment of damages by way of compensation. So this Court holds.

The Court therefore award the sum of One Hundred Thousand Naira (₦100,000.00) against the 4th Respondent to be paid to the Applicant for instigating the violation of the fundamental right of the Applicant by the 1st – 3rd Respondents by acting as debt recovery agency which they are not.

The 1st – 3rd Respondents to pay the sum of Two Hundred Thousand Naira (₦200, 000.00) for violating Applicant's Right and acting as Debt Recovery Agency which they are not.

The Police disclosed the offence for which the Applicant was invited when they showed the Applicant the complaint/petition.

This is the Judgment of this Court.

Delivered today the ___ day of _____ 2021 by me.

K.N. OGBONNAYA
HON. JUDGE