

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP: HON. JUSTICE Y. HALILU**

**COURT CLERKS : JANET O. ODAH & ORS**

**COURT NUMBER : HIGH COURT NO. 15**

**CASE NUMBER : CHARGE NO: CR/171/18**

**DATE: : MONDAY 11<sup>TH</sup> OCTOBER, 2021**

**BETWEEN:**

**INSPECTOR GENERAL OF POLICE.... COMPLAINANT**

**AND**

**HARRISON NDIKA UCHENNA .....DEFENDANT**

# **JUDGMENT**

The Defendant herein is standing trial for the following offences.

## **Count 1**

That you Harrison NdikaUchenna, Male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did knowingly give false information to the Inspector General of Police against one EmekaIbeabuchi 'M' in respect of the offences of Intimidation, Threat to Life, Attempted Assassination and Kidnapping, which you know or believe to be false. You thereby committed an offence punishable under Section 178 of the Penal Code Law.

## **Count 2**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did knowingly give false information to the Inspector General of Police against one EmekaIbeabuchi 'M', that he committed the offences of Intimidation, Threat to Life, Attempted Assassination, and Kidnapping, which caused the arrest and detention of the said EmekaIbeabuchi. You thereby committed an offence punishable under Section 140 of the Penal Code Law.

### **Count 3**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did forge a Medical Report, Patients' Card and a Receipt which you purported to be issued by the National Orthopaedic Hospital, Lagos. You thereby committed an offence punishable under Section 364 of the Penal Code Law.

### **Count 4**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this

Honourable Court did present to the Police as genuine, a forged medical report, Patients' Card and receipt of National Orthopaedic Hospital, Lagos. You thereby committed an offence punishable under Section 366 of the Penal Code Law.

### **Count 5**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 1<sup>st</sup> day of April, 2017 at about 1100hrs at Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja within the jurisdiction of this Honourable Court did with intent to intimidate or annoy, enter into a property which is in the peaceful possession of One EmekaIbeabuchi. You thereby committed an offence punishable under Section 348 of the Penal Code Law.

Upon arraignment, the Defendant pleaded not guilty to all the Counts charge and the case proceeded into hearing.

PW1 (IbeabuchiEmeka Frank) in his evidence before the Court stated that on the 6<sup>th</sup> July, 2016 the Defendant approached him for financial assistance. That the Defendant told him that he imported some goods that were seized at the port and pleaded for assistance. PW1 stated that he then reached out to his friend and raised the sum of N30,000,000.00 (Thirty Million Naira) which the Defendant promised to pay back in one week which the Defendant is yet to pay till date.

That in January, 2017, the Defendant offered a property to sell at the rate of N90,000,000.00 (Ninety Million Naira) the property is semi-detach

duplex along Jabi-Airport road. And an agreement was entered and PW1 suggested that the initial N30,000,000.00 (Thirty Million Naira) collected which was still outstanding be built into the N12,000,000.00 (Twelve Million Naira) he paid to make it the total sum of N42,000,000.00 (Forty Two Million Naira) he paid so far. But the Defendant declined on the protest that it was a separate transaction.

PW1 further aver that the person he collected the 30,000,000.00 (Thirty Million Naira) from has been on his neck ever since and that he has been paying the interest as agreed. And that parties agreed that the N12,000,000.00 and N30,000,000.00 should be the last.

It is the testimony of PW1 that when he went to the property, he discovered that Defendant changed the keys to the house and instructed the Security Man not to allow him into the house because he has changed his mind on the sale of the property. PW1 also said that he went with three(3) policemen to provide him with security and he removed the keys the Defendant fixed in the house doors.

It is his further evidence that on the 12<sup>th</sup> April, 2017 some policemen came from Inspector General of Police Monitoring Unit to his house with the Defendant and arrested him upon petition by the Defendant on the allegation that he hired assassins and went to his house to beat people. That he responded to the petition in writing by making statement to the police and after investigation he was



cleared by the Police and the Defendant was then charged by the Police to the Court.

Statement written before the Police, Power of Attorney, Deed of Assignment and Sale Agreement were tendered and admitted in evidence and marked Exhibits 'A', 'B', 'C' and 'D' respectively.

PW1 was thereafter cross-examined and discharged.

XXX:- Look at Exhibits "B", "C" and "D" in this case are you relying on the documents as title documents to the property?

Ans:- No.

XXX:- You said you went to the Defendant's house. Tell the court why you went to his house.

Ans:- I did not go to his house but to the house we did transaction with him.

XXX:- How many people went with you?

Ans:- Policemen three of them from SARS.

XXX:- How did you get the policemen?

Ans:- I went to their office at abattoir.

XXX:- You lodged a complaint against the Defendant which they gave you three policemen. Were the policemen on uniform?

Ans:- No

XXX:- You said you saw that the keys of Defendant's house was changed and you broke the keys and changed same?

Ans:- Yes.

XXX:- You said you met the Defendant's men on the property?

Ans:- No.

XXX:- What did you do when you changed the keys?

Ans:- Some men came out from the other house next to the one I transacted with the Defendant.

XXX:- The genesis of the transaction between you and the Defendant is a simple monetary transaction?

Ans:- Yes.

XXX:- Is the Defendant an armed robber?

Ans:- I am not sure but he has shown some tendency of an armed robber. He removed the house keys after giving me the house keys.

XXX:- At what point have you realize Defendant changed the keys of the house?

Ans:- After he called me on phone to threaten me not to go to the property.

XXX:- Did you change the keys of the house with a court order?

Ans:- I did not need it.

XXX:- You said police cleared you?

Ans:- Yes?

XXX:- You said police said the receipt and the hospital Defendant said he took injured people after assassination attempt at his house were false?

Ans:- Yes. From the police report.

XXX:- Where is the police report?

Ans:- It is not with me.

XXX:- Are you aware the three SARS men made report to the police?

Ans:- I don't know.

XXX:- Did you read any where it was said in the report that the three SARS men gave statement?

Ans:- I can't remember.

XXX:- Do you know whether any police visited the hospital in Lagos?

Ans:- I don't.

XXX:- Do you know whether Defendant's staff attached was truly attached?

Ans:- Defendant failed to produce the man to the police.

XXX:- I am correct to say that police exonerated you without the statement of the person attached?

Ans:- You have to see the police report.

XXX:- It was based on the petition Defendant write that he was brought to court.

Ans:- Yes.

XXX:- What is the date on the petition to the Inspector General of Police against you?

Ans:- 4<sup>th</sup> April, 2017.

XXX:- What is the date on the charge suggesting Defendant gave false information?

Ans:- On or about 4<sup>th</sup> April, 2017.

XXX:- How many month did police commence investigation?

Ans:- Several months morethan five months.

XXX:- You will agree with me that Defendant could have lied to the police on the same date he invite the police?

Ans:- Technically, yes.

XXX:- You said you are banker?

Ans:- Yes.

XXX:- Are you a Banker?

Ans:- Yes. Safe Heaven Microfinance Bank is my bank where I was the Managing Director.

XXX:- Are you still a banker?

Ans:- I am not as at today because of Defendant's transaction.

XXX:- Do you know Mrs. Oby, a customer of your former bank?

Ans:- Yes.

XXX:- The same Mrs. Oby presently has case against you for her N66Million?

Ans:- Yes.. I gave your client.

XXX:- You were sacked by safe heavens micro finance bank?

Ans:- I was not sacked. I resigned.

XXX:- You lied when you said you are a banker?

Ans:- I did not.

XXX:- You are conversant with ethics of banking?



Ans:- Yes.

XXX:- Were you meant to have personal relationship with your customers?

Ans:- It all depends.

XXX:- Are you a licensed money lender?

Ans:- No.

XXX:- You said you gave Defendant N12Million and N30Million cash. Where is the evidence?

Ans:- I will get my statement to show the transfer and cash. I gave Defendant cash of N4Million and the rest by transfer.

XXX:- I am correct to say you gave Defendant N26Million by transfer?

Ans:- You are not. I gave Defendant all N42Million. I transferred N2.5Million to Defendant's account in First Bank and another N9.5Million to the same account for the property Defendant sold to me.

XXX:- How did you pay the N30Million to the Defendant?

Ans:- I paid N14Million Defendant asked me to pay into a travel agency account. I paid N6.5Million on account of Dunigue account. I paid N2Million to some person Defendant is owning the person. I also transferred N500,000.00 to Dunigue's account.

XXX:- Do you know the implication of being on oath?

Ans:- Yes.

XXX:- You had transaction with the accused person?

Ans:- Yes.

XXX:- You made Exhibit 'A'?

Ans:- Yes.

XXX:- You tendered Exhibits 'B', 'C' and 'D'?

Ans:- Yes.

XXX:- Did you report any matter with respect to Exhibits 'B', 'C' and 'D'?

Ans:- No.

XXX:- Exhibits 'B', 'C' and 'D' are your documents?

Ans:- Yes.

XXX:- Did you tell this court you filed a matter with same document in another court?

Ans:- Yes.

XXX:- You visited the property with some persons?

Ans:- I visited the property alone and later with police men to provide me with security, three of them.

XXX:- Did you make formal complainant to have gotten SARS Personnel?

Ans:- It all depends on your interpretation.

XXX:- Where you in the property with any other person?

Ans:- Yes.

XXX:- Do you have any documents authorizing you to visit the property?

Ans:- Yes.. The Exhibits before the Court.

XXX:- What are the names of the SARS Personnel that went with you to the house?

Ans:- I mentioned the only person I know in my petition.

XXX:- Did you break the padlock you found in the house?

Ans:- Yes.

PW2 (Abubakar Musa) was led in evidence.

It is the testimony of PW2 that prior to his secondment to EFCC in January, 2018 he was an IPO at the Inspector General Monitoring Unit Force Headquarters Abuja. That on the 1<sup>st</sup> April, 2017, a

petition addressed to the Inspector General was received from the Defendant in the Dock Mr. Harrison through his Solicitors.

That in the petition, it was stated that in 2017, Defendant had a business arrangement with PW1 in this matter in the process of which he was given some money in the amount of N42,000,000.00 (Forty Two Million Naira) which he said he promised to pay back after disposing off a property but that he could not pay back due to reasons beyond his control.

It also the evidence of PW2 that Defendant said PW1 ran out of patience and mobilized thugs to his apartment on a kidnaping mission but that fortunately for him he was not at home, but that one of his artisan by name Raheem Sadique who was at

home was beaten to a state of comatose by the hired assassins, and that on arrival to his house, he was reliably told that the assassins were asking for Harrison and that they will kill him.

That the Defendant said the Artisan (Raheem) was taken to a medical facility name medically Unique Hospital in Abuja by Policeman where he was given first aid where he was later referred to National Orthopaedic Hospital Lagos for further treatment, and that to give further credence to Defendant's petition, he attached photographs of the Raheem and Medical reports from Abuja and Lagos respectively which were obtained from medically Unique Hospital and National Orthopaedic Hospital, Lagos and receipts. The Photocopies were attached to the petition wherein the medical report came later.

That upon receipt of the petition, investigations commenced by which PW1 was invited and arrested but later released on bail after giving his statement. Defendant was also invited to come and state his own part of the story in view of the statement of PW1 but Defendant never turned-up, but eventually he did.

That the Defendant state in his statement that he received N42,000,000.00 (Forty Two Million Naira) from PW1. That the Defendant's behavior paved way for indebt investigation. That they did letter for investigation activities to the Unique Hospital Abuja and the National Orthopaedic Hospital Lagos requesting the two Hospitals to furnish them with the Medical Reports of the victim (Raheem) attaching the reports and receipts for authentication.



PW2 further stated that Orthopaedic Hospital Lagos responded to them, the Medical Unique Hospital could not give any report in view of the fact that there was no card number in their letter which meant the said person was never admitted to the Hospital.

PW2 stated that at the end of the investigation, it was discovered that Defendant collected or received the sum of N30,000,000.00 (Thirty Million Naira) in 2016 in form of loan and another N12,000,000.00 (Twelve Million Naira) totally N42,000,000.00 (Forty Two Million Naira) from PW1 and there was an agreement that he was selling a two duplex for 90 Million to PW1 which PW1 was to balance Defendant up.

PW1 said he was visiting the property from time to time only to discover that the padlocks to the house have been changed.

PW2 further stated that PW1 engaged some SARS Officers to accompany him to the site where he bought new padlock, removed the ones installed by Defendant, thereafter he returned back without any harm to anybody.

That angered by the action of PW1, Defendant then wrote petition to the Inspector General alleging that his Artisan (Raheem) was beaten to comatose. He later got medical reports which PW2 discovered were all forged in a bit to divert attention of the investigation.

The following were tendered and admitted.

1. Statement of Defendant admitted as Exhibit 'E'.

2. Petition dated the 4<sup>th</sup> April, 2017 tendered is admitted and marked Exhibit 'F'
3. Letter dated the 27<sup>th</sup> July, 2017 with attached medical report from National Orthopaedic Hospital Lagos tendered is admitted and marked Exhibit 'G'.
4. Medical report dated the 12<sup>th</sup> April, 2017 from National Orthopaedic Hospital Lagos with receipt dated 5<sup>th</sup> April, 2017, other patient index card attached, tendered is admitted as Exhibit 'H'.
5. Letter on the headed paper of Medical Unique Specialist Centre Gwarimpa, Abuja dated the 2<sup>nd</sup> April, 2017 with medical bill receipt No. 0288 attached tendered and marked Exhibit '1'.

6. Bail bond tendered is admitted in evidence and marked Exhibit 'J'.

PW2 was cross-examined and eventually discharged.

XXX:- You said the house was locked when the Police went to the house. Did they have search warrant to your knowledge?

Ans:- I don't know.

XXX:- Are you aware that Defendant advanced N8.2 Million to the Nominal Complainant?

Ans:- We did not investigate any money matter but the petition of the Defendant. It is not our place to investigate such money matter.

XXX:- I put it to you that it is the action of the Police that caused the grievous bodily harm on the body of the Defendant's Artisan.

Ans:- No.

XXX:- You were led in evidence by Jinalimba Esq. you said you had conducted investigation?

Ans:- Yes.

XXX:- How long have you been in the Nigeria Police?

Ans:- I will be Nine(9) years by 9<sup>th</sup> January, 2021.

XXX:- How long have you been in investigation?

Ans:- 4 years.

XXX:- You said Defendant broke the padlock of the house in issue?

Ans:- Yes. Nominal Complainant told us but the apartment was not been occupied.

XXX:- What action did you take after you found out that the padlock had been changed?

Ans:- It was not a house that I investigated. We investigated the issue of petition reported by the accused which was how we got to know that he was in the wrong after investigation and found out that Raheem was the artisan who he said was beaten.

XXX:- Did you get the Raheem to make statement?

Ans:- When I gave evidence, I said everything.

XXX:- Was your investigation report tendered in court?

Ans:- Investigation report is part of the case file. It was not tendered.

XXX:- See Exhibits 'G', 'H' and 'I' there were documents you received from the Medical Hospitals?

Ans:- No.. Exhibit 'H' is a report submitted by the Defendant purported to have been issued to him by National Orthopaedic Hospital in respect of Raheem. Same with Exhibit 'I', Exhibit 'G' is the confirmation of the authenticity of the Medical Report i.e Exhibit 'H' submitted by the accused person.

XXX:- Who is the bearer in the report?

Ans:- Raheem SadiqueJabi.

XXX:- See Exhibit 'E'. You said accused person presented all the Medical reports he received from the Hospitals?

Ans:- Yes.

XXX:- Did accused say to you that the Sadique Raheem is his servant?

Ans:- He said in his petition that he employed the Sadique Raheem.

XXX:- What is your findings on the report from Medically Unique Hospital Gwarimpa?

Ans:- I personally went to the hospital in Abuja. At the hospital, I was informed that from the name accused supplied to us in his petition, no such person/patient was brought to such facility. More so that there is no card number which they said was abnormal.

XXX:- What further step did you take in this matter?



Ans:- Once there is an investigation activities, and response is written to you, it solves the problem. I need not be there physically. I have made forensic electronic to enable Raheem who was alleged to have been beaten but to no avail which made us do a letter to the Orthopaedic Hospital which was responded to.

XXX:- Nil.

The Complainant closed its case to pave way for Defence.

The Defendant (Ndika Harrison U.) himself testified as DW1.

It is the evidence of DW1 that in 2016 he approached his good brother and neighbour for a loan of N18,000,000.00 (Eighteen Million Naira)

and N12,000,000.00 (Twelve Million Naira) in two tranches for his business with the promise that DW1 will give back the money with interest. The business went sour and unproductive. He showed PW1 his house which he said he will dispose off to offset his indebtedness. That one day, PW1 called him to come down and talk since it became difficult for him to sell the house. PW1 indicated interest to purchase the house which he said he will pay installmentally for five(5) years to pay N15,600,000.00 (Fifteen Million, Six Hundred Thousand Naira) totaling N90,000,000.00 (Ninety Million Naira) out of which he had given DW1 the N12,000,000.00 (Twelve Million Naira) and N18,000,000.00 (Eighteen Million Naira).

DW1 further stated that sometimes in 2017 April, PW1 called him again to tell him that the first

agreement they signed will not go with it again but that DW1 should sign off on another new agreement of N42,000,000.00 (Forty Two Million Naira) as total payment. DW1 refused to sign off on the ground that he was also indebted.

DW1 stated that he was in Lagos when his landlord called him to say PW1 came to him to request the remaining document of the land he sold to him. That he then called PW1 to request for time to pay back. That there was a quarrel and he dropped the phone. That the next day he was called and informed that PW1 went to his house with thugs, broke the padlock and beat the artisans who were into POP. One of the artisans who were fixing the POP had to be taken to the hospital. That he could not return immediately. That he however reported the matter to

the police and later found out that the people PW1 went to his house with were Police Officers.

That he later returned to Lagos after making his statement and later Police called him to produce the boy on the picture. That he got the artisans around Garki. That when he went to Garki, he saw some of the co-artisan and demanded to know the whereabouts of the person that worked in his house.

DW1 stated that he was told that the artisan is in Lagos. The picture of the patient at Orthopaedic Hospital Lagos was sent to him through ifeasinachi and gave it to the Police. That he gave PW1 money even as this matter is pending in Court. DW1 stated further that why he stated that he was in Lagos was because the prosecution Lawyer Jinalimba took him and locked him up for two weeks where he got such

eventually he was asking why he was been locked up and that he only reported the matter to Police to have time to pay back PW1 the money and that he has started paying.

DW1 was cross-examined, and he stated as follows:-

XXX:- Is it true that you and Not Sadique Raheem who briefed the Lawyer that wrote petition to the police?

Ans:- I briefed the Lawyers.

XXX:- You made statements to the police?

Ans:- Yes.

XXX:- It is true that at the time you lodged the petition, Sadique was not in the country till date?

Ans:- He was.

XXX:- I put it to you that the said Sadique does not exist anywhere?

Ans:- He exists.

XXX:- The medical report presented by you to the police be acted upon as genuine documents?

Ans:- Yes.

XXX:- At the time you made your statement to the police, Sadique Raheem was already a patient at the National Orthopaedic Hospital in Lagos?

Ans:- Yes.

XXX:- You told the police that the said Sadique Raheem incurred medical bill in the sum of N900,000.00?

Ans:- Yes.

XXX:- The said N900,000.00 does not include other medical expenses?

Ans:- It's all encompassing.

XXX:- At the time you petition to the police, you never had any contact with Emeka and his gang that you claimed carried-out the raid?

Ans:- I had telephone conversation with Emeka and that was how it all started.. We had exchange of words.

XXX:- You were not personally at the scene of the crime?

Ans:- Yes.

XXX:- I will then be right to say all that you wrote in your petition are all hear-say?

Ans:- The artisans reported to me and I saw evidence.

XXX:- Where was the person initially hospitalized?

Ans:- Gwarimpa.

XXX:- When did you return from Lagos?

Ans:- My family is here and I normally come to Abuja every two weeks.

XXX:- Within a space of one week after the offence was committed you were in Abuja?

Ans:- Yes.

XXX:- At no time did you take time to visit the hospitalized Sadique at the hospital?

Ans:- He did not stay. He was in Lagos.



XXX:- You told the police in your petition that you rushed the said Raheem to hospital and other people?

Ans:- No.

XXX:- You stated it as a fact that the Raheem was rushed to hospital in Abuja?

Ans:- Yes.

XXX:- The fact is known to you?

Ans:- I was told.

XXX:- Who told you?

Ans:- The artisan in my compound.

XXX:- You undertook to pay the hospital bill in respect of Sadique Raheem?

Ans:- No.

XXX:- You paid N900,000.00 hospital bill of the Raheem?

Ans:- Yes.

XXX:- The receipts you gave police with petition were for the medical bill you paid?

Ans:- No.

XXX:- You presented the receipts to the police?

Ans:- Yes.

XXX:- Who sent the medical papers to you?

Ans:- Brother of the injured Raheem.

XXX:- Are all you are saying in your statement or petition to the police?

Ans:- No.

XXX:- Is it true that you entered into a contract with Emeka to sell part of your duplex?

Ans:- Yes.

XXX:- You then handed over key to the house and put him in possession?

Ans:- No. I did not. The house was not completed. I only gave him key to the entrance to the main house.

XXX:- You were not living in the premises at the time of the transaction?

Ans:- No.

XXX:- It is true that the property in question is inhibited by somebody?

Ans:- No.

XXX:- You visited Sadique Raheem at the hospital?

Ans:- I can't remember.

XXX:- You said you are a staff of PPRA of the Federal Government?

Ans:- Yes.

XXX:- You are a Civil Servant?

Ans:- I'm a Public Servant.

XXX:- What is the nature of the business you were doing?

Ans:- Buying and selling of Petroleum products.

XXX:- Are you allowed to do the kind of business as an employee of the Federal Government?

Ans:- No.

XXX:- It is true till date that no eye witness was called by you?

Ans:- No.

XXX:- The padlock Emeka used to secure the gate of the house you entered into contract with was broken by you?

Ans:- He broke my padlock and I also broke his own.

XXX:- Who are the Director of JIFFY J.O Integrated Service Ltd?

Ans:- My wife, my cousin brother.

XXX:- At the time of the transaction between you and PW1 you were a Director?

Ans:- No but I serve as Director.

XXX:- Nil.

The Defendant closed its case and same was adjourned for filing and adoption of final written address.

Learned counsel for the Defendant adopted his final written address and formulated the following issues for determination to wit;

1. Whether the Complainant has made out a prima facie case of false information, to misled a public servant, forgery, using as genuine a forged document and criminal trespass, against the Defendant on the available evidence before this Court thereof.
2. Whether the Prosecution had successfully discharged the burden of proof beyond reasonable doubt.

Arguing on issue 1, learned counsel submit that the Prosecution failed woefully to make out a criminal case against the Defendant based on the available evidence before this Court. No prima facie case has been established against the Defendant in this matter. And that the evidence before the Court discloses no offence against the Defendant to warrant the burden of proof to shift to the Defendant.

On issue 2, Whether the Prosecution had successfully discharged the burden of proof beyond reasonable doubt.

Learned counsel submit that the Prosecution woefully failed to prove the offences of false information, false information to misled a public servant, forgery, using as genuine a forged document and criminal trespass, beyond reasonable doubt as in

criminal cases, an accused must be linked to the offence leveled against him. *UGWU (AKA AGADA) VS. STATE (2012) 12 S.C (Pt. 11) 30 at 100 – 101; OMONGA VS. STATE (2006) ALL FWLR (Pt. 306) 930 at 954 C.A* were cited.

On the whole, counsel urge the Court most respectfully to dismiss the charges against the Defendant without much ado and the Defendant be discharge and acquitted in the interest of justice.

The Prosecution on their part raised two issues for determination to wit;

1. Whether a charge of giving false information respecting an offence or offences, forgery and criminal trespass have been made out against the Defendant.



2. Whether the Prosecution has proved its case beyond reasonable doubt as required by law.

Learned counsel humbly submit on issue 1, that from the facts and circumstances of this case a criminal charge of giving false information respect to the offences, forgery and criminal trespass have been made out against the Defendant as required by Section 135 of the Evidence Act, 2011, (as amended) and that the alleged criminal offences as per the charge was attributed to the criminal act of the Defendant herein which were in violation of the relevant sections of the penal code law as per the charge. ***EMEKA VS. STATE (2001) 14 NWLR (Pt. 734) Page 666 Ratio 1 (SC); NIGERIA NAVY VS. LAMBERT (2007) 18 NWLR (Pt. 1066) P. 300 (SC); ALAKE VS. STATE (1992) 9 NWLR (Pt. 265) P. 260 at 270*** were cited.

Counsel argued further that by Exhibit ‘G’ the authorities of the National Orthopaedic Hospital, Igbobi in Lagos State repudiated not to have at any point in time admitted or treated Sadique Raheem in their Health Facility, and never issued the purported Hospital Card and receipts. ***NIGERIAN AIRFORCE VS. JAMES (2002) 18 NWLR (Pt. 798) P. 295 at 322, Paras G – H; BABALOLA VS. STATE (1989) 4 NWLR (Pt. 115) Page 264 at 272, Paras E – H; SPIESS VS. ONI (2016) ALL FWLR (Pt. 862) Page 1516 at 1544 – 1545, Paras D – E*** were cited.

On issue 2, learned counsel contended that the Prosecution has established by credible evidence all the ingredients of the alleged offences as per the criminal charge for which the Defendant is standing

trial. ***YAKUBU VS. THE STATE (2014) LPELR – 22401*** was cited.

Counsel urged the Court to take judicial notice of the oral testimony of the Defendant which was embellished with falsehood in his attempt to pull the wool over the eyes of the Court.

**Court:-**

It is common ground in our criminal jurisprudence that in all criminal prosecutions, it is the duty of the prosecution to prove the guilt of an accused person beyond reasonable doubt. It is not essential to prove the case with absolute certainty but the ingredients of the offence so charged must be proved as required by law and to the satisfaction of court. See ***OBIAKOR VS. STATE (2002) LPELR – 2168 SC. 135 (1) EVIDENCE ACT 2011.***

From the contents of the five (5) counts charge as stated afore, preferred against the Defendant, it is settled that he is being charged for the offence of forgery, false information and criminal trespass.

I shall for records, re-produce the said counts again, and in that Order address them after juxtaposing the evidence led with the ingredients of the respective offences.

### **Count 1**

That you Harrison NdikaUchenna, Male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did knowingly give false information to the Inspector General of Police against one EmekaIbeabuchi 'm' in respect of the

offences of Intimidation, Threat to Life, Attempted Assassination and Kidnapping, which you know or believe to be false. You thereby committed an offence punishable under Section 178 of the Penal Code Law.

## **Count 2**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did knowingly give false information to the Inspector General of Police against one EmekaIbeabuchi 'm', that he committed the offences of Intimidation, Threat to Life, Attempted Assassination, and Kidnapping, which caused the arrest and detention of the said

EmekaIbeabuchi. You thereby committed an offence punishable under Section 140 of the Penal Code Law.

### **Count 3**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did forge a Medical Report, Patients' Card and a Receipt which you purported to be issued by the National Orthopaedic Hospital, Lagos. You thereby committed an offence punishable under Section 364 of the Penal Code Law.

#### **Count 4**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 4<sup>th</sup> day of April, 2017 at Force Headquarters, Abuja within the jurisdiction of this Honourable Court did present to the Police as genuine, a forged medical report, Patients' Card and receipt of National Orthopaedic Hospital, Lagos. You thereby committed an offence punishable under Section 366 of the Penal Code Law.

#### **Count 5**

That you Harrison NdikaUchenna, male, of Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja on or about the 1<sup>st</sup> day of April, 2017 at about 1100hrs at Plot 818 Cadastral Zone B10, Dakibiyu, FCT Abuja within the jurisdiction of this Honourable Court did

with intent to intimidate or annoy, enter into a property which is in the peaceful possession of One EmekaIbeabuchi. You thereby committed an offence punishable under Section 348 of the Penal Code Law.

For the purposes of understanding the issue that led to this criminal trial, I shall briefly state the relationship between the Defendant (Harrison NdikaUchenna) and PW1 (IbeabuchiEmeka Frank). Both of them live in the same compound and as neighbours.

Defendant who had some financial problem, approached PW1 for loan of money, which he was obliged.

Defendant who could not pay as at when due agreed to give PW1 his duplex building and to that



extended signed an agreement and power of attorney transferring the said duplex building unto the said EmekaIbeabuchi, i.e PW1 in this case. Keys to the said property were handed over to the new owner who was expected to pay the balance to the Defendant as agreed. Defendant later caused petition bothering on attempted kidnap, assassination threat to life, intimidation to be written by his Solicitors against the same EmekaIbeabuchi (PW1) who was arrested by the Police but released after making his statement.

The said petition was written on the 4<sup>th</sup> April, 2017 and submitted to the office of the Inspector General of Police on the same date. Defendant gave statement to the investigation.

PW1 was arrested and he equally made statement to the Police. Part of the petition against PW1 is herein reproduced for clarity;

*“Mr. Emeka ran out of patience and started threatening our Client, sending unknown persons to him that he will deal with him. Our client never took him seriously until, he sent assassins, kidnappers to his house on Saturday 1<sup>st</sup> April, 2017, unfortunately our Client was not at home on that faithful day and out of frustration for not meeting our Client in the house, they met a technician Mr. Sadique Raheem who was doing some job for our Client in his house.*

*MrEmeka and his gang beat up the man mercilessly, broke his legs, ribs, head and blood*

*was gushing out from his nose. When my Client came back he was told that the assailants were shouting where is Mr. Harrison for us to accomplish our job, but when the technician came out to tell them that Mr. Harrison was not around, they now bounced on him in anger.*

*On Monday I quickly rushed to Court to get a restraining Order against Mr. Emeka and any of his representatives, restraining him and his cohorts from coming near my house henceforth. I also informed the Court of the fact that I owe Emeka and will want the leave of Court to pay him his principal of N24.8 Million Naira been his principal sum fee of the so called illegal “delay tax” the case has been adjourned and all parties are to appear in*

*Court on the adjourned date. I have even presented to the Court the forged sales agreement purportedly signed by my representative and for a fact that the 2<sup>nd</sup> agreement nullifies the 1<sup>st</sup> agreement since there was a disagreement as to the grey area we cannot say to have an agreement. I am pleading with the Police to kindly investigate the matter and ensure that all the culprits are brought to justice as Mr. Raheem is still battling for his life.”*

At the conclusion of investigation of the petition, Defendant who wrote petition against PW1 was eventually arraigned on a five(5) counts charge leading to this Judgment.

Prosecution called two persons as witnesses and tendered various documents in evidence.

Defendant gave evidence for himself and closed his defence.

It is the evidence of PW1, (IbeabuchiEmeka Frank) that Defendant and his wife approached him on the 6<sup>th</sup> August, 2016 to help them out of a situation that he said was threatening his life and job. PW1 stated that he obliged Defendant his request by lending him the sum of N30Million which Defendant could not pay as at when due which then made the both of them to enter into an agreement with Defendant for PW1 to buy Defendant's duplex house for N90Million with upfront payment of N12Million to be made by PW1 and the balance to be spread for five (5) years. PW1 further gave evidence that he

again gave Defendant N12Million and that Defendant did not surrender the certificate of occupancy of the house to him despite, signing the Deed of Assignment and Power of Attorney.

It is the evidence of PW1 that, he was still paying the agreed interest on the said N30Million to the person whom he borrowed the money from.

PW1 also gave evidence to the effect that when he and Defendant met to enter into the agreement for sale of Defendant's house at Haom, he indicated desire to make the N30Million as part of the house money but Defendant refused.

It is his evidence that they met again at another meeting where he said he insisted the N30Million and N12Million advanced to Defendant be taken as full and final payment for Defendant's duplex to

which a fresh agreement was prepared but Defendant refused to sign his column.

It is evidence of PW1 that Defendant began to threaten him to take his eyes off the said duplex and that when he visited the property, Defendant had changed the padlock and left instruction that no person be allowed entry into the house as he has changed his mind. PW1 said in his evidence that he later went with security men and changed the keys Defendant fixed on the house doors.

PW1 further gave evidence that Defendant led some Police Officers from the Office of Inspector General of Police Monitoring Unit on the 12<sup>th</sup> April, 2017 to his house where he was arrested. Defendant tendered his statement in evidence, sales agreement, Deed of Assignment and Power of Attorney which were

admitted as Exhibits “A”, “B”, “C” and “D” respectively.

He was cross examined and discharged accordingly.

PW2 (Abubakar Musa) gave evidence on the 2<sup>nd</sup> July, 2018 and introduced himself as a Deputy Superintendent of Police, with Nigerian Police Force, on Secondment to the Economic and Financial Crimes Commission (EFCC).

PW2 further stated in his evidence that prior to his secondment to Economic and Financial Crimes Commission (EFCC) he was an investigating Officer at the Inspector General of Police Monitoring Unit, Force Headquarters. It is his evidence that on the 1<sup>st</sup> April, 2017, a petition addressed to the Inspector General of Police was received from the Defendant’s Solicitors where it was stated that in 2017 Defendant



and PW1 had a business arrangement in the process of which he was given some money in the amount of N42Million which he promised paying back after disposing off his property but could not due to reasons beyond his control, and that PW1 ran out of patience and mobilized thugs to his apartment on a kidnap mission but that fortunately for him he was not at home; but that one of his artisan by name Raheem Sadique who was at home was beaten to a state of comatose by the hired assassins and that upon arrival to his house, he was reliably told that the assassins were asking for Harrison and that they will kill him. PW2 also stated that Defendant informed him that the said Raheem Sadique was taken to the Hospital by name Medically Unique Hospital where he was given first aid and eventually referred to National Orthopaedic Hospital, Lagos for

further treatment and that Defendant attached photographs of the said Raheem and medical reports which he said were obtained from Abuja and Lagos hospitals respectively. PW2 stated further in his evidence that the pictures were attached to the petition whereas the medical report came later. It is also the evidence of PW2 that upon receipt of the said petition, investigators swung into action by locating and arresting PW1 who was granted bail after making statement to the Police.

Defendant was later invited to report back to the Police and shed light on the issue after PW1 statement to the Police, but he failed to turn up and equally failed to produce the said Raheem Sadique for his statement to be recorded.

PW2 also gave evidence on the fact that they prepared a letter of investigation activities to Medically Unique Hospital, Abuja and the National Orthopaedic Hospital, Lagos requesting for medical reports of the said Raheem with receipts for authentication. It is the evidence of PW2 that National Orthopaedic Hospital, Lagos responded but the Medically Unique Hospital did not respond on the said request for the reason that no card number was supplied in the investigation activities as same was never supplied to the Police by Defendant who wrote the petition.

PW2 further gave evidence that at the conclusion of their investigation, they found out that Defendant who received the sum of N42Million from PW1 had arrangement agreed to sell his duplex for the sum of N90Million and PW1 was to balance Defendant up,

whereof documents i.e Power of Attorney, Deed of Assignment, Sales Agreement and house keys were signed and handed over to PW1 by Defendant showing transfer of possession of the property.

It is also the evidence of PW2 that PW1 (Emeka Ibeabuchi) informed them that he has been visiting the property from time to time only to discover in one of those visits that the padlocks to the house were changed which made PW1 seek the protection of some SARS Officers to accompany him to the house where he then changed the padlocks Defendant replaced and left the place without hurting anybody, only to be reported to the Inspector General of Police alleging that his Artisan (Raheem) was beaten to a state of comatose and that all the medical reports were forged with a view to divert attention of the investigation.

PW2 then tendered the statement of the Defendant, the petition of the Defendant to Inspector General of Police, Medical Report from the National Orthopaedic Hospital, Lagos which were admitted in evidence and marked Exhibits “E”, “F” and “G” respectively.

Another set of documents with medical report in respect of Raheem dated the 12<sup>th</sup> April, 2017 from National Orthopaedic Hospital, Lagos with receipt dated the 5<sup>th</sup> April, 2017, outpatient index card attached was admitted in evidence as Exhibit “H”. Letter from Medically Unique Specialist Centre Abuja, dated the 2<sup>nd</sup> April, 2017 with Medical bill receipt No. 0288 was tendered, admitted in evidence as Exhibit ‘I’.

The Bail bond upon which PW1 was granted bail was admitted in evidence as Exhibit 'J'. PW2 was cross examined and discharged. Prosecution closed its case.

On the 28<sup>th</sup> January, 2021, Defendant mounted the witness box and gave evidence as DW1 and the only witness. DW1 gave evidence that he approached PW1 in 2016 for a loan of N18Million and N12Million in two tranches for his business which went sour and which made it difficult for him to pay back the loaned amount. It is further the evidence of DW1 that he showed PW1 his house which he indicated desire to dispose off and offset his indebtedness, but that he could not get a buyer. It is his evidence that when PW1 indicated interest on the house, they both agreed that the sum of N90Million be paid to which PW1 admitted to pay

instalmentally N15,600,000.00 (Five Million and Six Hundred Thousand Naira) for five (5) years.

But that sometimes in April, 2017, PW1 called him to say that he was not striking-by the N90Million agreement again but that N42Million be taken as final payment. DW1 refused to sign-off on the new agreement. DW1 also stated in his evidence that he was in Lagos when he was called informed that PW1 went to his house with thugs, broke the padlock and beat-up the Artisan working on POP and that he had to be taken to the hospital.

DW1 also stated in his evidence that he later reported the matter to the Police and equally wrote his statement and returned-back to Lagos but that he was later asked by the Police investigating the case

to produce the boy in the picture he submitted with the petition.

DW1 stated further that the picture of the patient at the National Orthopaedic Hospital, was sent to him through Ifeasinachi which he in turn gave the Police. DW1 equally gave evidence in court that he reported PW1(Emeka) to the Police so he can have time to pay back the loaned money.

DW1 was cross examined and discharged. Defendant in turn closed its case. Parties filed their respective final written addresses which paved the way for this Judgment.

Prosecution formulated two issues for determination in its final written address, as follows:-

- 1. Whether a charge of giving false information in respect of an offence of forgery and criminal***



*trespass have been made out against the Defendant, and*

*2. Whether the Prosecution had proved its case beyond reasonable doubt as required by law.*

On the part of defence, two issues were also formulated for determination, to wit:-

*1. Whether the Complainant has made out a prima facie case of false information, false information to mislead a public servant, forgery, using as genuine a forged document and criminal trespass against the Defendant on the available evidence before this Honourable Court thereof;*

*2. Whether the Prosecution has successfully discharged the burden of proof beyond reasonable doubt.*

Prosecution, cited the *AUTHORITY OF ALAKE VS. STATE (1992) 9 NWLR (Pt. 265) P. 260 at 270* to say that the evidence of the authentic owner of a document is what shall be used to determine the issue of forgery. It is learned counsel's submission that the National Orthopaedic Hospital, Igbobi, Lagos debunked the fact that Raheem Sadique was admitted at their facility. The response is contained in Exhibit 'G'.

On the ingredient of forgery, counsel cited the case of forgery, counsel cited the case of *NIGERIAN AIRFORCE VS. JAMES (2002) 18 NWLR (Pt. 798) P. 295 at 322 Paras G – H* where the court held that;

*“Each document was in itself telling a lie about itself and the lie was exposed and confirmed.. what further proof of forgery was needed?”*

On issue two, learned counsel contended that it has discharged the onus placed on it as prosecution..Counsel urged the court to take judicial notice of the oral testimony of the Defendant which he said is embellished with falsehood in Defendant’s attempt to pull a wool over the eyes of the Court. It is further submission of counsel that Defendant lied on oath when he said he did not take the alleged Artisan who was beaten to the Hospital, whereas in his petition to the Inspector General of Police he said he took the said Raheem to the Hospital where he spent N900,000.00 (Nine Hundred Thousand Naira).

On the agreement of inconclusive investigation by learned counsel for the Defendant, learned counsel for the Prosecution contended that facts remain the springboard of the fountain of law, and that facts in this case were made available through credible evidence by Prosecution witnesses, and that if the said report was necessary and helpful to Defendant's case, counsel for the Defendant would have applied for same to be tendered.

Prosecution on the whole, urged the court to do substantial justice to the case by convicting Defendant.

On the other hand, it is the argument of learned counsel for the Defendant that Prosecution failed to establish the ingredients of the offences on the five

(5) counts charge bothering on false information, forgery and criminal trespass.

Learned counsel cited the authority of *UGWU VS. STATE (2012)12 SC. (Pt. 11) 30 at 100 – 101 Lines 25 – 35*. It is learned counsel argument that even where there is admission on the part of an accused person, the Prosecution is still not relieved of its burden of proving its case. The case of *OMONGA VS STATE (2016) ALL FWLR (Pt. 306) 930 at 954* was cited; and that confession was only relevant if it proves beyond reasonable doubt the ingredient of the crime. Learned counsel made heavy weather with respect to the evidence of PW2..Counsel contended that the investigation was handled unprofessionally and negligently left inconclusive as PW2 could not tender the report on its investigation. It is the argument of learned counsel for the Defendant that

Defendant did nothing wrong when he petitioned the Inspector General of Police since it is his property that is involved here.

On the whole, Court was urged to discharge and acquit the Defendant.

Again, I shall re-state the law as I stated in the opening paragraph of my Judgment. The standard of proof required on all criminal cases is proof beyond reasonable doubt.

The onus of proof is on the prosecution and not on the defence. It is after the prosecution has produced necessary evidence to establish its case that the burden shifts unto the defence if he has any contradicting evidence to call his own witness to establish such evidence. See ***ETUMIONU VS A.G***

***DELTA STATE (1995) 6 NWLR (Pt. 404) Page 719 at 730 paragraphs B-C.***

See section 135 (3) of Evidence Act, 2011.

I have considered the issues afore – formulated by both Prosecution and Defence. They are the same from the arguments of both counsel. To resolve the issues at stake, I therefore, adopt issue No. 2 as formulated by both parties as mine, but with a minor modification, for determination, to wit:-

***Whether Prosecution has successfully discharged the burden of proof beyond reasonable doubt to secure conviction.***

My first step shall be to determine the various ingredients of the offence as stated in counts 1, 2, 3, 4 and 5.

Counts 1 and 2 both touch on false information, 3 and 4 on forgery, while count No. 5 touches on Criminal trespass.

It is not in contention that Defendant is responsible for the Petition to the Inspector General of Police bothering on complaint of intimidation, threat to life, attempted assassination and kidnap against Mr. EmekaIbeabuchi.

The said EmekaIbeachuchi gave evidence as PW1 in this case.

It is also not in issue that the said Emeka (herein referred to as PW1) was arrested but later released on Bail after making statement to the police.

It is equally very true that Defendant was invited to make statement to the police upon receipt of his



petition to Inspector General of Police Monitoring Unit before PW1.

In the course of reviewing the evidence in this Judgment, I did capture the evidence of the Defendant.

I shall return back to the evidence where necessary. As I said, Defendant who was invited by the police to make statement upon receipt of his petition which was made by his solicitors (C.J Okoyekwu & Co.) at this instance said the following;-

*“He even claimed that I and my Family would be dead by the time he would be moving into my house. I took it serious when I began to receive unknown calls threatening to either run me out of town or kill me.*

*Last Saturday while I and my wife went to visit a family friend and left Mr. Raheem in the house to fix all the finishing items we imported from Dubai, unknown to us that Emeka stormed the house in company of some hoodlums, beat up Mr. Raheem and locked up my house with a different padlock. We came back and saw Mr. Raheem bleeding from the nose and half dead. We rushed him to hospital only to discover he has broken neck, broken legs and a broken or painful spinal cord. We were advised to transfer him to IgbobiOrthopaedic Hospital; in Lagos for further treatment.”*

It is already in evidence that Defendant who needed financial assistance to take care of his business turned to PW1 for help, to which he was indeed

loaned the sum of N42Million even though Defendant said it was N18Million, and another N12Million he collected from PW1 which came up to the sum of N30Million.

It also in evidence that both parties later drew – up an agreement of sale, Deed of Assignment and Power of Attorney to which both parties agreed that PW1 should take Defendant’s house for N90Million with the balance to be paid in five instalments over Five years. Defendant then handed over the house keys to PW1(EmekaIbeabuchi).

Exhibits “B”, “C” and “D” evidenced the said transaction.

What more.. Defendant in his evidence before this court admitted that he only reported the matter to the

police so he can have time to pay back PW1 his money which he has started paying.

The following are his words:-

**“I was asking why I was been locked-up and that I only reported the matter to police so I have time to pay back Emeka the money and I have started paying.”**

Above statement by Defendant amounts to admission of the fact that there was nothing true in the petition against EmekaIbeabuchi written by Defendant. See Section 27 of Evidence Act, 2011 as amended. See also the case of ***KAMALU VS UMMUNA (1997)5 NWLR (Pt. 505)***.

Defendant who wanted to ensure he defended his petition to the Inspector General of Police as mentioned in Exhibit “F” submitted medical reports

allegedly from National Orthopaedic Hospital, Igbobi, Yaba, Lagos which had as attachments, payment receipts of N300,000.00 from Raheem SadiqueJabi (alleged assaulted victim) and general outpatient index card, and another medical report from Medically Unique Specialist Centre Ltd, Abuja with an attached medical bill of N779,000.00 covering registration fee and other treatment expenses on the said Raheem Sadique.

On the strength of the letter to the National Orthopaedic Hospital Lagos on investigation activities, on the said Raheem Sadique, Exhibit “G” i.e response from the said Orthopaedic Hospital was received. The said report stated that the name Raheem SadiqJabi with Hospital number 55845 does not exist in their record.

O.A Odekalu Miss, signed the said letter, for Medical Director, addressed to the Inspector General of Police of Nigeria.

Defendant admitted under cross-examination that he wanted the police to act on the medical reports as genuine.

From all of these, it is crystal clear that Defendant who wanted more time to be able to raise money and pay his debt decided to use the instrumentality of the Nigerian Police to do his dirty job for him. Alas, the police, this time was quite alert to their responsibility when after investigation, decided to rightly charge Defendant to court. Defendant equally misled the police and himself when he submitted the alleged medical reports and bills of the “phantom” alleged assault on one Raheem Sadique.

Defendant's deliberate falsehood came to limelight when police received report from National Orthopaedic Hospital denying ever having such Raheem Sadique with the said Hospital number provided by the Defendant to the police, not to talk of expending the amount claimed.

I am taking back as to how human beings could go the miles just to fabricate lies..why and why?

How better can it be said that Defendant gave police false information which he knew to be false and which led to the arrest of PW1 (EmekaIbeabuchi).

Indeed, Prosecution has led credible evidence with respect to the offence of giving false information which Defendant knew to be false, giving false information which led to the arrest of EmekaIbeabuchi by the Nigerian Police.

Indeed, the onus has been truly discharged by the Prosecution.

Defendant knew well enough that at the time he got his Lawyers to file the said petition against the said EmekaIbeabuchi, who was eventually arrested and who gave evidence for the Prosecution as PW1, that the entire petition was not a true representation of what had transpired. Defendant's petition clearly amounts to giving false information to the Inspector General of Police of Nigeria.

Accordingly, Defendant is found guilty as charged onCount 1 and is hereby convicted.

The evidence before the court shows that on the strength of the false information of Defendant to the Inspector General of Police, EmekaIbeabuchi was



arrested. Defendant is therefore guilty as charged on Count 2 and accordingly convicted.

Next, are Counts 3 and 4 which are both on forgery and using as genuine, forged documents.

The penal code defines forgery and forged document as when a person makes any false document or part of a document with intent to cause damage or injury to the public or to any person or to support any claim or title or to cause any person to part with property or to enter into any express or implied contract or with intent to commit fraud or that fraud may be committed, commits forgery, and a false document made wholly or in part by forgery, is called a forged document. See section 363 of the Penal Code, Cap. 89 laws of Northern Nigeria 1963.

See *BROWNANORS VS THE STATE (2011)*  
*LPELR – 4465 (CA)*.

It is spent already that Exhibits “H” and “I” i.e Medical Report from the National Orthopaedic Hospital, Lagos, and Medically Unique Specialist Centre Limited, Abuja were both forged by the Defendant to garnish his petition to the Inspector General of Police and to truly show that the said Raheem Sadique whom Defendant said was beaten and left with broken nose, neck and bones, was indeed assaulted by the said EmekaIbeabuchi, i.e PW1.

The evidence of PW2 that he visited Medically Unique Specialist Centre at Gwarinpa and the Hospital confirmed to him that no such person without hospital card number was admitted at their

facility is left unrebutted. On the part of the National Orthopaedic Hospital Lagos, Exhibit “G” i.e medical report was sent wherein the Hospital denied having any said Raheem Sadique with the said number supplied as his hospital card number.

The said Exhibits “H” and “I” without more ado, are both telling a lie about themselves, so also are the annexures to the said exhibits. The lies have been exposed by the evidence of PW2 and Exhibit “G” i.e report from National Orthopaedic Hospital, Lagos. See *NIGERIAN AIRFORCE VS JAMES (2002) 18 NWLR (Pt. 798) page 295 at 322 paragraphs G-H*. Where Supreme Court, per Onu, JSC, as he then was, had this to say on forged documents and forgery.

*“..Each document was in itself telling a lie about itself and the lie was exposed and confirmed..what further proof of forgery was needed.”*

Defendant clearly forged the said medical reports with picture of a bandaged man depicting his story and made same available to the police to make his complaint against the said EmekaIbeachuchi appear genuine, that indeed one Raheem Sadique was assaulted and left with broken nose, legs etcetera. See *ALAKE VS STATE (1992) 9 NWLR (Pt. 265) at 270.*

Prosecution has done well in placing all evidence in prove of the ingredients of forgery. Defendant has not led any superior defence to discredit the evidence of Prosecution on this. The said medical

reports remain forged which Defendant wanted same to be used as genuine.

Accordingly, Defendant is found guilty as charged on Count 3, i.e forgery and is hereby convicted.

On Count 4, i.e presenting forged Medical Report as genuine to the Police. Defendant is also guilty as charged, and is hereby convicted.

The next count is criminal trespass under Count 5. Criminal trespass arises when a person enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property or, having lawfully entered into or upon such property unlawfully remains there with intent.

The following ingredient are necessary to be established:-

1. Unlawful entry into upon a property in the possession of another, or unlawfully remaining there.
2. An intention to commit an offence or to intimidate, insult or annoy the person in possession of the property.

The intendment of the two ingredients aforestated presupposes that;

- i. There must be an actual entry by the person interested.
- ii. The use of force is not necessary
- iii. The entry and or remaining on the property must be unlawful.
- iv. The existence of Bonafide claim of right ordinarily excludes the presumption of criminal

intention..such a right, however may enforced in a wrong way, e.g using unnecessary force of intending to restrain the person in possession. See *SPIESS VS ONI (2016) ALL FWLR (Pt. 862) Page 1516 (SC)*.

It is not in doubt that Defendant handed over the keys to the duplex house to EmekaIbeahuchi (PW1) after both signed Deed of Assignment, Sales Agreement and Power of Attorney. Defendant later went to the same house and changed the keys not to the knowledge of PW1 (EmekaIbeabuchi).

Possession is a word of wide and sometimes vague and ambiguous import. It may mean effective, physical or manual control or occupation of land – defacto possession – as well as possession animus possessendi together with that amount of occupation

or control of the land which is sufficient to exclude other persons from interfering: The de jury possession follows from this that although legal possession is ordinarily associated with de facto possession but is not limited to it; legal possession may exist without de facto possession and the later may not amount to possession in law.

Legal possession includes constructive possession. See *LASISI AKANNI BURAIMOH VS REBECCA AGINKE BAMGBOSE (1989) 3 NWLR (Pt. 109) page 352 at 366 Paragraph D – E., KATTENA VS AKINLASE (2008) 6 -7 SC (Pt. 1) 66.*

It is not in contention that Defendant did surrender the keys to the house in issue to PW1 after signing



Deed of Assignment, Sales Agreement and Power of Attorney.

It is a statement of fact supported by evidence that Defendant later went to the said house and changed the keys which PW1 found strange and later also changed the said keys which evidently angered Defendant who eventually petitioned the Inspector General of Police. At the time Defendant went to the said house, PW1, legally speaking was in legal possession. Clearly Defendant's visit and subsequent change of the keys to the house was to annoy PW1 whom he had surrendered the said house to. Defendant action amounts to criminal trespass as elaborately discussed in the preceding part of this Judgment.

Defendant is guilty as charged on count 5.

Accordingly, Defendant is hereby convicted as charged.

*Justice Y. Halilu*  
*Hon. Judge*  
*11<sup>th</sup> October, 2021*

## **ALLOCUTUS**

Ezeadilieje Esq.: - We have filed the plea of the Convict with respect to the allocutus.

We adopt the said plea of allocutus and urge the court to temper justice with mercy. We thank the court.

Oribhabor Esq.: - We urge the court to do justice.

## **SENTENCING**

Counts 1, 2, 3, 4 and 5 of the charges preferred against the convict are on false information, forgery and criminal trespass.

Count 1 touches on giving false information to the police, which attracts 2 years or fine or both. I have listened to the allocutus of the Convict. The audacity of the Convict who caused petition to be written against EmekaIbeabuchi; his neighbor, whom he knew well enough never committed the offence of kidnapping and attempted assassination, was most preposterous and wicked of the Convict. The Convict is a public servant who is on the employment of Petroleum Products Pricing

Regulatory Agency (PPPRA), a subsidiary of the Nigerian National Petroleum Cooperation (NNPC).

He has not demonstrated any atom of humanity in his conduct with the said EmekaIbeabuchi, whom he used when he had financial problems only to resort to attempt at destroying him by writing unwarranted petition. The country does not deserve such person of the Convict in her public service. I hereby sentence the Convict on Count 1 to 2 years with an option of fine of N50,000.00.

I also sentence the Convict to 1 year on Count 2 with an option of fine of N50,000.00.

On Count 3, I sentence Convict to 14 years without an option of fine.

Similarly on Count 4, I hereby sentence convict to 14 years without an option of fine.

On Count 5, I hereby sentence the Convict to 1 year with an option of fine of N50,000.00.

The terms are to run concurrently.

I only hope, the Convict will learn a lesson from this. Convict to serve his prison term at the Kuje Correctional Facility.

*Justice Y. Halilu*  
*Hon. Judge*  
*11<sup>th</sup> October, 2021*

**APPEARANCES**

**U.S Ezeadilieje Esq.** – for the Convict.

**Chris A. Oribabor Esq.** – for Prosecution.