

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON FRIDAY, THE 21<sup>ST</sup> DAY OF JANUARY, 2022**

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

**JUDGE**

**SUIT NO. FCT/HC/CV/1711/21**

**BETWEEN:**

**MRS. ROSEMARY NWANNE KOFO-ALADA -----APPLICANT**

**AND**

- 1. THE INSPECTOR-GENERAL OF POLICE**
- 2. THE NIGERIA POLICE FORC.....RESPONDENTS**
- 3. COMMISSIONER OF POLICE, FCT, ABUJA**
- 4. MABUSHI DIVISIONAL POLICE OFFICER, ABUJA**
- 5. DR. PARTRICK DUMME OKONMA**

### **JUDGMENT**

In an application filed on the 21/6/21 Mrs. Rosemary Nwanne Kofo-Alada alleged that her fundamental rights were breached by the IGP, Nigeria Police, COP, DPO Mabushi Divisional Police and Mr. Patrick Dumme Okonma. She seeks for an Order to enforce her fundamental right which she alleged the Respondents breach. The reliefs sought are as follows:-

- (a) A Declaration that the arrest and detention of the Applicant by the Respondents for a period

of 7 hours, from 10:30 am to 5:30pm on the 11<sup>th</sup> of May, 2021 without any reasonable or probable cause or justification, constitutes a violation of her Fundamental Rights to personal liberty and the dignity of the human person as guaranteed by sections 34 and 35 of the CFRN,1999 (as amended) and Articles 5 and 6 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, Cap.A9,LFN,2004

- (b) An Order of perpetual injunction restraining the Respondents by themselves, their agents, servants or privies from further intimidating, arresting, re-arresting or detaining the Applicant, except by leave of this Honorable Court duly obtained.
- (c) The Sum of N100,000,000.00(One Hundred million Naira) being general damages against the Respondents for unlawful arrest and detention, psychological torture and trauma, and for a violation of the Applicant's fundamental rights to personal liberty and the dignity of the human person, guaranteed by sections 34 and 35 of the Constitution of the

Federal Republic of Nigeria, 1999 (as amended) and Articles 5 and 6 of the African Charter on Human and Peoples Rights I Ratification and Enforcement) Act, Cap. A9, LFN, 2004.

- (d) The Sum of N50,000,000.00 (Fifty Million Naira only) being punitive and/or exemplary damages against the Respondents for unlawful arrest and detention, abuse of power and careless disregard for the rule of law.
- (e) An unreserved public apology from the Respondents to the Applicant herein, duly publicized in at least two National Dailies.
- (f) And for such further Order or other orders as this Honorable Court may deem fit to make in the circumstances.

She based the application on the following grounds:

- a. The Applicant was arrested and detained by the Respondents for a period of 7 hours, from 10:30 am to 5:30 pm on the 11<sup>th</sup> May, 2021 without any reason or probable cause or legal justification, which act is illegal and unconstitutional.

- b. As provided for in Section 35 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), an arrest can be said to be lawful and justifiable if and only if it is effected on grounds of reasonable suspicion of commission of an offence.
- c. The Applicant herein was arrested and detained without any grounds for suspecting that she has committed any offence whatever, except that the Respondents wanted to intimidate the Applicant. There was no element of criminality against the 5<sup>th</sup> Respondent at whose behest the Applicant was arrested and detained by the Police.
- d. Even where there are reasonable grounds for suspecting that a person has committed an offence, he is still entitled to the dignity of human person as guaranteed by Section 34 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
- e. The Applicant herein was unlawfully arrested even though she did not resist the arrest and detained in Police Cell from morning till evening like a common criminal.

- f. The mere fact of unlawful arrest and detention without reasonable and probable cause is enough proof of torture, inhuman or degrading treatment.
- g. The 1999 Constitution presumes the applicant innocent until proved guilty in a competent Court of Law, but the respondents treated the Applicant as though she was already found guilty of an offence known only to the Respondents.
- h. The unlawful arrest and detention of the Applicant by the Respondents amounts to a violation of the Applicant's fundamental right to personal liberty and the dignity of the human person as guaranteed by Section 34 and 35 of the Constitution of the Federal Republic of Nigeria, 1999.
- i. The Respondents are not above the law of the land and as such they have a duty to obey the laws of the land.
- j. Damages are natural consequences and penalty imposed by the Constitution for a breach of fundamental Right. See Section 35(6) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

- k. The Applicant herein was not only arrested and detained but also subjected to inhuman and degrading treatment.
- l. The Respondents are not above the law of the land and as such they have a duty to obey laws of the land.

She supported the application with Affidavit of 18 paragraphs. She attached some documents in support of the application marked as Exhibit A-C.

In the written Address she raised 2 issues for determination which are:-

1. Whether her arrest and detention by Respondents for 7 hours from 10:30 am to 5:30pm on 11/5/21 without reasonable or probable cause does not constitute a breach of her fundamental right as per Section 34 & 35 1999 CFRN as amended.
2. Whether damages including punitive and exemplary cannot be awarded by the Court for breach of such right.

On Issue No.1: She submitted that she has deposed to the fact that she was detained for 7 hours without reasonable cause on 11/5/21. That there was no ground that was supported to have

committed a criminal offence or that there was an Order of Court to arrest her. That the Detention was arbitrarily without any Court of legal Justification. That Respondents did not follow due process of law in this Case and not acted according to the provisions of Section 35 1999 CFRN. And as such they are in breach of her right in that regard. He relied on the case of:

**UBN VS. AJAGU (1990) 1 NWLR (PT.126) 328.**

**IYERE VS. DURU (1986) NWLR (PT.44) 665@680**

That she is entitled to the protection of her fundamental Rights and that the arrest and detention violated of the said rights as guaranteed under Sections 34 & 36 1999 CFRN. That the Court has the duty to protect those rights and liberty. She referred to the case of:

**ODOGWU VS.A-G FEDERATION (1996) 6 NWLR (PT.455) 508**

That it's the duty of citizens to obey the laws of our land. And that the security agencies like the Police is duty bound to enforce the law and protect the right and liberties of citizen under the law. They are duty –bound to follow procedure permitted by law as failure to do so will that they have violated the right of such citizen. Where that is the case, the person will be entitled to damages in

accordance with section 46 1999 CFRN. She relied on the case of:

**ISENALUMHE VS. AMADI (2001) 1CHR 461**

That her arrest was at the behest of the 5<sup>th</sup> Respondent. That the dignity of her human person was violated by the respondents as a result of the arrest and detention.

That the said arrest amounts to torture, inhuman and degrading treatment. He urged Court to so hold. That she was detained and was treated as a common criminal. He referred to the case of:

**OLISA AGBAKOBA VS. DIRECTOR DSS (1994) 6 NWLR (PT.351) 475 @ 500 PARA A-B**

That action of the Respondents violated her right to the dignity of her person and personal liberty. She urged Court to resolve issue No.1 in his favour.

That trespass to any person gives rise to a right of action and payment of Damages. She urged Court to resolve the issue No.1 in her favour.

**On Issue No.2-** Whether damages can be awarded for breach of fundamental Right, she submitted that the Constitution gives Court power to award compensatory damages to applicant where Court finds that the fundamental Rights of the Applicant



has been trampled upon. That the action of the Respondent call for compensatory damages against them. she referred to the case of :

**OKWONKWO VS. OGHOGU (1996) 5 NWLR (PT 449) 422 R3.**

That granting the compensation award will defer the Respondents from abusing Rights of other people. She referred to the case of:

**SHUGABA ABDULRAHAMAN DARMAN VS.FEDERAL REPUBLIC OF NIGERIA (1982) 3 NCLR 928**

That Counsel sought to award the said damages in commensurate with the value of Naira as at today since such damages does not used any special proof because the law presumes the damages to be direct natural consequence of the action complained of. He referred and relied on the case of:

**MCC NIG. LTD VS IGBINOBA (2010) 15 NWLR (PT.1215) 99@113**

That award of general damages against the Respondents will be for compensation for the unlawful arrest and detention of the Applicant. He relied on the case of:

**MUHAMMED VS. IGP (2018) 1-2 SC (PT.11) 120  
@144**

That Applicant is also entitled to punitive damages. He cited the case of:

**GUIARDIAN NEWSPAPER VS AJEH (2005) 12  
NWL R (PT.938) 205@215**

He urged Court to hold that the Applicant is entitled to compensation by resolving issue No.2 in his favour. He urged Court to grant all her reliefs.

Upon receipt of the Application the 1-4 Respondents filed a Counter affidavit of 15 paragraphs. They attached 6 documents marked as Exhibit A-F in his Written Address they raised an issue for determination which is.

“Whether there is a prima facie case reported against the Applicant.”

They submitted as follows that a prima facie case was reported against the applicant by the 5<sup>th</sup> Respondent Dr. Patrick Dunme Okonma on 5/5/21 and on 17/5/21 by a Criminal Complaint attached as Exhibit 1&2. That the Criminal Complaints are Criminal trespass, intimidation, threat to life, attempt to kidnap, unlawful invasion of privacy, conspiracy to commit criminal offences, malicious blackmail/obstruction of justice, attempted house breaking and entry. All were

raised against the Applicant and her cohorts- Ifeyinwa Ohyalie.

That the 1-4 Respondents invited the applicant and she honoured the invitation on 11/5/21 at the office of the 3<sup>rd</sup> Respondent-COP of FCT. That a copy of the Petition was shown to her and she made a written Response which the 1-4 attached as Exhibit 3. That the Statement was made between 1:58pm into 2:44pm on the said 11/5/21.

She provided surety she provided one Etta Effiom Esq and 1-4 Respondents promptly admitted her on Bail and released her accordingly.

They attached the Bail form dated 11/5/21 in evidence as Exhibit 4. The Bail was unconditional according to the law. That her fundamental right was not violated as she claims.

They referred to S.34(4) &(5) 1999 Constitution Federal Republic of Nigeria. They also relied on S.30 (1) & (2) ACJA 2015.

That she reported to the office of 1-4 Respondents herself and was not arrested by anyone. She made the statement in her own handwriting. They referred to the case of:

**EDA VS. COP (1982) 6 NCLR 223**

That the 1-4 Respondents fully complied with the provision of the law. That though she was asked to report back to office of 1-4 Respondents on the 20/5/21, she failed and refused to do so for reason best known to her and in total disobedience to the said instruction by 1-4 Respondents as shown in Exhibit 4-Bail form. That instead she instituted this action as a ploy/shield for escape from police investigation and possible prosecution and claiming N150 million of taxpayers money as shown in this Suit in Relief b, c & d. That she also seeks an Order of Court to stop 1-4 Respondents from performing their statutory and constitutional functions. They referred to the case of:

**DANIEL VS EFCC (2016) LPELR-41173 (CA) 22  
PARA G-A**

That Applicant was never arrested or detained. That she has field establish the allegation as contained in the Application.

That the rights which the Applicant's claimed were infringed are qualified and not absolute (Right). They referred to **S.35(1) (c) 1999 Constitution** Federal Republic of Nigeria as well as the facts in their Counter Affidavit. That 1-4 Respondents are empowered to arrest and detain any person. Upon reasonable suspicious of committing, about to commit or already committed an offence.

That Applicant was neither detained, arrested or threatened by 1-4 Respondents in anyway. That the reason for inviting the applicant granting her Bail and investigating the complaint made against her were all reasonable. Hence they did not infringe on the Applicant's right at all.

That the exhibits attached and the fact in Counter Affidavit discloses a prima facie evidence against the Applicant. They referred and relied on the case of:

**YAU VS STATE (2005) 5 NWLR (PT.917) 1 @22  
PARA B-D**

**EDE OKO VS STATE (2017) LPELR-42267(SC)**

**ATOYOBI VS FRN (2017) LPELR-43831 (SC) 33  
PARA G**

That they cannot therefore be liable for the infringement of Applicant's rights as alleged as she was notified about the complaint made against her, bail was granted within a very reasonable time she came when she was wanted, she wrote her response to the complaint a copy of which was given to her by 1-4 Respondents. She produced surety when Administrative bail was granted to her too. They urged Court to resolve Issue No.1 in her favour.

**ON -ISSUE NO.2** –whether the Applicant has satisfied the Court to entitle her to the grant of the Reliefs sought, the 1-4 submitted that she has not and therefore not entitled to the Reliefs as sought. That she failed to support her claims with any relevant evidence or exhibits. She failed to prove her assertion. That she did not establish that her rights were infringed. That she failed to prove unlawful arrest, detention, intimidation by the 1-4 Respondents or that the 1-4 Respondents contravened any of her rights. They urged Court to discountenance her submission in that regard as the application lacks merit.

That 1-4 Respondents have the duty and constitution right to write, investigate the complaint made by the 5<sup>th</sup> Respondent against the Applicant.

They urged Court to dismiss this application as it was filed in bad faith and is a ploy to use the Court to stop 1-4 Respondents from performing their constitutional Right and to award cost against Applicant.

Upon receipt of the same Application the 5<sup>th</sup> Respondent Dr. Patrick Dumne Okonma filed a Counter Affidavit of 29 paragraphs and a written address. He attached 6 documents marked as Exhibit A-F.

In a 16 page Written Address he raised a sole issue for determination is:

**“Whether the Applicant’s rights were breached as claimed and whether she is therefore entitled to grant of the Reliefs sought against the 5<sup>th</sup> Respondent.”**

The 5<sup>th</sup> Respondent Counsel submitted That the Applicant has not by any credible evidence proved and demonstrated that any of her rights to personal liberty and dignity of her human person have been breached as alleged to warrant the grant of the reliefs sought by her.

On the claim by Applicant that she was detained by 1-4 Respondent for 7 hours the 5<sup>th</sup> Respondent submitted that. That there was an incident of commission of brief and formal complaint made against the Applicant by 5<sup>th</sup> Respondent to the 1-4 Respondents on 21/4/21, 6/5/21 as shown in the 5<sup>th</sup> Respondent document marked as Exhibit D1 & F.

That 5<sup>th</sup> Respondent was arrested at the scene of crime on the 9/4/21 at the house of 5<sup>th</sup> Respondent. As such any such arrest is justified. That she employed things to invade the house of the 5<sup>th</sup> Respondent at 23 Yellow lane Festrust Katampe Abuja,. That the 5<sup>th</sup> Respondent was attacked by the 5<sup>th</sup> Respondents niece.

Onyeachie Ifeyinwa, broke into the house of the 5<sup>th</sup> Respondent, changed the lock and evicted her. Applicant was arrested by the Policemen attached to the Estate. That 5<sup>th</sup> Respondent attached 6 documents to establish his Counter Affidavit. That it was on 9/4/21 that applicant was arrested and released without been detained. That based on her action she was eligible to be lawfully arrested as it happened and it show that her allegation of arrest without any unreasonable ground is unjustified.

That issues in the applicant's written Address are all misconstrued. That 1-4 Respondents acted in accordance with the provision of S.31 & 32 Police Act 2020 as amended.

That upon complaint of allegation of committing a crime the police is duty bound to investigate such crime as laid down by the law.

That by virtue of the provision of S.34 & 35 1999 Constitution Federal Republic of Nigeria the action of the police at Mabushi is not a breach of the right of the Applicant as they only carried out their duty to investigate the report made to them in other to ascertain the veracity of the offence allegedly committed by the Applicant.

That it was the applicant who threatened, abused and verbally attacked the niece of the 5<sup>th</sup>



Respondent who resided in the house of the 5<sup>th</sup> Respondent.

That Applicant even threatened to evict the said niece of the 5<sup>th</sup> Respondent. That on the 9/4/21 she carried out the threat with the help of thugs. That the 5<sup>th</sup> Respondent who was in the U.K was alerted and he instructed to the Estate Chairman to call the police to arrest the Applicant and the thugs. That applicant had not seen the 5<sup>th</sup> Respondent for over 2 years and his niece for over 3years. The reason for the Applicants action is that the niece did not attend her (Applicant's mother burial and that she was responsible for the road traffick accident that the said grandmother had some years ago. 5<sup>th</sup> Respondent made a complaint to DPO Mabushi Police Dividion against the Applicant on the 12/4/21.

That the Applicant by her action has committed offence of threat to life, attempted kidnap, unlawful invasion of privacy, criminal trespass, obstruction of justice, intimidation, conspiracy to commit crime, malicious blackmail, attempted house breaking and entry. Police were invited to investigate these crimes.

That the applicant's right under S.34 & 35 CFRN were not violated. That it was the property, privacy and liberty of the 5<sup>th</sup> Respondent that was

attacked by the action of the Applicant. That the personal liberty of the applicant was never breached. She was arrested and investigated on the due execution of the offence levied against her. That she is the one that infringed on the right of the 5<sup>th</sup> Respondent.

That the 1-4 did their job by inviting the applicant as they did and she was allowed to make statement thus. That police is empowered to arrest and foil possible breakdown of law and Order. He relied on the provision of S. 4 Police Act and the case of.

**AJAYI VS. STATE (2013) 9NWLR (PT.1360) 605-606**

They equally have power o arrest and detain a suspect upon commission or about to commit an offence. They are equally allowed under the law to investigate suspects. He referred to the provisions of S.32 Police Act 2020, S. 3 & 18 ACJA 2015.

He referred to the case of:

**OKAFOR & ANOR VS. AIG POLICE ZONE II  
ONIKAN & ORS (2019) LPELR-46505 (CA)**

**IBIYEYE VS. GOLD (2012) EWLR (PT.659) 1074**

That the applicant was arrested detained and released the same day after she volunteered her

statement. The .....arrest was based on allegation of commission of a crime at the crime scene. She was arrested by the police officer attached to the Estate where the 5<sup>th</sup> Respondent resides before she was taken to the 4<sup>th</sup> Respondent-Mabushi police DPO.

The complaint by the 5<sup>th</sup> Respondent is legal as he has a civic right to report commission of crime as he did and as such the 5<sup>th</sup> Respondent cannot be liable. He referred to the case of:

**FAJEMIROKUN VS. CB NIGERIA LTD (2009) 5 NWLR (PT.1135) 588**

That based on the above the claim of the Applicant against the 5<sup>th</sup> Respondent cannot stand.

That this application is a ploy to frustrate and interfere with police investigation of the offence against her. He relied on the case of:

**IGP VS. UBAH (2015) 11NWLR (PT.1471) 405 @436**

That the applicant is not entitled to compensation as she was arrested at the scene of crime, detained shortly and released almost immediately. He relied on the case of:

**MOHAMMED VS IGP (2019) 4 NWLR (PT1663) 519 PARA E.**

That Applicant has not proved that the arrest was made in bad faith and she had not proved that her right was infringed by respondents and that she is entitled to damages.

They urge the Court to so hold and resolve the issues raised by Respondents against the Applicant and award the sum of N20 million against the Applicant for bringing a malicious and vexatious application against the Respondents.

On reply on point of law to the Counter by 5<sup>th</sup> Respondent the Applicant submitted that a lawyer deposed to the Counter Affidavit. That he is not part of the case and did not state the source of his information. That that position offence S.38 EA 2011. She urged Court to discountenances the 5<sup>th</sup> Respondent Counter and hold that the application is not challenged by the 5<sup>th</sup> Respondent. And that the Court must act on it. He urge Court to so hold.

**COURT:**

Be it known to all and sundry that not every invitation by police is an infringement of ones right. The police has right to invite, arrest, detain, interrogate, investigate and prosecute if the situation warrants an offender or a person suspected to have committed an offence.

Again an arrest made at the scene of crime cannot be termed as abuse of the right of the person arrested. Inviting a person to police station upon receipt of complaint against the person is a chance for the person invited to know about the complaint and to have his say and thereby exercise his right to be cleared as guaranteed by the Constitution. Invitation of a person to the police station is a process permitted by law. Detaining a person in order to get information on complaint made against such person is not abuse of ones right. It is not illegal provided that it is done following procedure permitted by law and not arbitrarily.

**S.34, 35 1999 CFRN.**

Again the letters of the sacred provision of CAP 4 of the Constitution S.46 1999 Constitution on payment of compensation to anyone who has established that her right under CAP 4 1999 Constitution has been, is being or about to be violated should be turned into a get-rich –Quick provision or as a way/means to extort money from Law Enforcement. Agencies by raising frivolous unsubstantiated and malicious allegation of violation of a person’s right under CAP 4.

That is obviously not the intendment of the drafters of our Grund Norm.

In order to earn payment of damages, in form of compensation a person must be able to present before the Court a vivid account and in great details the action/inaction of the Respondents which cumulated in the infringement of the person's right under CAP 4. It is not merely writing down that such right was violated. Where there is such allegation, the Court is duty bound to place the facts and exhibits where available and necessary on an imaginary Judicial scale to weigh such facts under the Fundamental Rights Enforcement Procedure and then decide whether or not the said rights were actually violated. It is until that is done can the Court state or pronounce that there is violation of the right as the case may be.

Using the sacred provision as a way out to avoid investigation cannot stand because it is not what the provision is made for.

In this case having summarized the stances of the Plaintiff and the Respondents of the 1-4 and 5<sup>th</sup> Respondents can it be said that the Respondent violated the right of the Applicant as alleged, in that the said Applicant has presented before this Court facts and exhibits and established that her rights were infringed by the 1-4 Respondents on the instigation and prompting of her brother- Dr. Patrick Dumme Okonma?

It is the humble view of this Court that the 1-5 Respondents did not violate the Right of the Applicant as she had accordingly claimed.

To start with her detention by the Police 1-4 Respondents for 7 hours from 10:30 am to 5:30 pm was done following a procedure permitted by law. Again police has a right to arrest, anyone at a crime scene, upon suspicion of committing a crime or by a report made against that person. Again there is no set/down time within which an arrest must be made and interrogation or interview completed. Each case depends on its circumstance. Again invitation to police station for interrogation or arrest at a crime scene is legal and does not amount to illegality. Police has a right and duty under the constitution and the law to arrest anyone upon suspicion of committing a crime. The essence of taking the Applicant to police station on the faithful day was for her own safety and also for police to hear her and allowing her to state her own side of the story since there was allegation of her breaking into her brothers house. Such allegation is no doubt a criminal offence known to law. So the action of the police is not a breach of her fundamental right. So this Court holds.

Again award of damages can only apply where an applicant has established that her right has been

infringed and that the action of the police violated her right. Damages are not awarded as a matter of course. It is based on merit.

In this case the Applicant has not been able to establish that her right was breached by the Respondents. Her application is not meritorious the action of the police was done within the ambit of the law. So she is not entitled to award of damages as her right was not breached.

There is a prima facie case reported against the Applicant which is allegation that she broke into her brother's house and cause upheaval. She stated that in her affidavit. That it was the reason why she was taken to the police station from the crime scene. It is no secret that house breaking is a Criminal offence under the Penal Code which is applicable in this Jurisdictional crime.

There is no doubt that she was arrested at the crime scene. There is no doubt that she was taken to the police station when the Estate police handed her over to the Divisional Police Officer at Mabushi. Again it is not a secret that every such arrest usually attracts follow up visits which last as long as the investigation last. Also there is no how the police would have taken her as suspect arrested for a crime, to the station without making entries in their book and also without allowing her



to volunteer statement and also taking statement from the Norminal complainant. Such thing take time to do. So the allegation that detention for 7 hours violated her right cannot stand because the 7 hours was used for interrogation and the paper work. Besides the Constitution provided for 24 hours Rule or 48 hours as the case may be. In this case the 7 hours is far from the 24 hours Rule. So this Court holds that detention for 7 hours did not violate her right. The Applicant has not established that her right was breached.

To start with, in her own Exhibit A- she stated that she was arrested at the crime scene by the Estate police on allegation of house breaking. That she was handed over to the Mabushi Police by the Estate Police. In the letter she said

“Paragraph 2:

I was arrested outside my brother’s house on false allegation that I broke into my brother’s house and stirred up trouble”.

The above confirms that the arrest was based on allegation of crime. She was arrested at the crime scene. The arrest was based on the report of the security at the Estate. The Police or even other citizen has a right to arrest anyone suspected to have committed or about to commit a crime. In this case the arrest was based on a known

criminal offence under the law which is house breaking and causing disturbance of people's peace.

So such action by police is legal and does not amount to breach of fundamental right of the Applicant. So also her detention. So this Court holds. Even the national Human Rights Commission had pointed out to her to report to police and had on their own referred the matter to police. This they confirmed in their letter response to the Applicant's letter thus:

"...you report the matter to the police, the allegations being criminal in nature."

We have drawn the attention of the Commissioner of Police for his investigation and necessary action".

The alleged illegal arrest was based on allegation of an offence known to law which is House breaking. This she had admitted herself in her report to the police and Human right commission. So the action of police is statutorily lawful. She was equally accused of vandalizing her brother's property which is also a crime under the Penal Code.

The alleged police invites as stated in the letter from her Solicitors Etta Effiong & Co dated 10/5/21 further show that the action of police was

done following a procedure permitted by law and Constitution. The police has a right to arrest her, detain her as they did and upon release Order that she report to the police station any time her attention is needed according to the circumstance of the case until the matter is charged to Court as the case may be. Such invitation by the Police as confirmed in the letter she attached as Exhibit C is not a violation or breach of her right. So the invites from the police is not an abuse of her right.

Again a look at the documents attached by 1-4 Respondents in support of their Counter Affidavit shows and further confirms that the action by the Police was legal, lawful and legitimately done in accordance with the procedure permitted by law.

A closer look at the Exhibit 1 attached by 1-4 Respondents was based on a complaint made by the 5<sup>th</sup> Respondent requesting Commission of Police the 3<sup>rd</sup> Respondent to transfer the case from Mabushi Police to the central command/monitoring Unit of the Commissioner of Police's office for thorough investigation of the allegation levied against the Application. The reason being as contained in paragraph 3(1) of the letter dated 5/5/21 thus:

“Since the complaint was lodged on 9<sup>th</sup> April the investigation has been frustrated by Mrs. Kofo

Alada's refusal to attend at the Police Station to be questioned by officers".

The above clearly shows why the Police called her. The simple answer is for her to attend interview in the course of her investigation of the crime. It is obvious that she refused and evaded the invitation as confirmed above and by her own solicitor in her Exhibit 1 letter of 5/5/21.

Her arrest was based on a complaint made against her the 1-4 Respondent also attached a Petition against the Applicant. They equally attached her response as Exhibit 3. The Police giving chance to respond to the allegation after inviting her shows and confirmed that the 1-4 Respondents followed the due procedure permitted by law and Constitution. So their action is not a breach of her right as the Applicant alleged. In the 2<sup>nd</sup> page of Exhibit 3 attached by 1-4 Respondents- the Applicant stated that even the Police is investigating the matter.-"line 11 page 2

As a matter of fact the police is still looking into the matter".

In line 15 & 16 she said that police took statement from relevant witnesses present at the Mabushi Police Station. This confirms why she stayed up to 7 hours at the police station on 9/4/21. It also confirms that police acted within the ambits of the

law. Again she has on her own statement confirmed that she was invited by police aside from the Mabushi Police Division. This confirms that police inviting her had given her chance to exercise her right to be heard which is obviously in line with laid down procedure.

Again Exhibit 4 attached by the 1-4 Respondents equally shows that Bail was granted to the Applicant in accordance with the law. Exhibit 4 is the application for Bail it shows that the arrest and offense that occasioned the arrest of the Applicant was known to law. That offence is Criminal Trespass. The criminal Recognisance Form 25 also stated the next date for the Applicant to report at the police station. That is on 20/5/21. Meanwhile the document was completed on 11/5/21. She was to report at the monitoring unit of the office of the COP-central command. That further shows that action taken by police was in accordance with the law. So their action is not a breach of the right of the Applicant. The Counsel to the Applicant acted as her surety which is in compliance with the provision of the Constitution and extant provision of the ACJA 2015.

Again Exhibit 5 attached by the 1-4 shows that the Applicant was invited in writing as required by the provision of CAP 4 1999 Constitution as amended. That shows that the police did not violate the

Applicant's right. That letter was addressed to her Counsel Etta Effiong of Messrs. Etta Effiong & Co the letter stated

Paragraph 1 letter of 11/6/21

“you acknowledge requested to report to this office with above referred individual.”

That referred individual was –Rosemary Nwanne Kofo Alada

The invitation was for an “alleged criminal conspiracy and trespass reported to the COP under investigation.

The above says it all. Again the 2<sup>nd</sup> page of the letter reveals that the Applicant had refused to report to the police as requested.

The said paragraph stated thus:

“Be informed that the above referred individual have wilfully failed to report to this office despite several entreaties to her and her husband to report. The absence of the aforesaid individual have stalled the investigation.”

The above says it all.

Again in the paragraph 17 further stated thus:

“...you are kindly requested to come along with the said Rosemary Nwanne Kofo-Alada for interview.... To enable this office conclude investigation”

The above further seals the deal showing that police followed due procedure permitted by law at every stage in this case.

Again the Police investigation report put no one in doubt about the real intention of the Applicant on her action on the 9/4/21 when going by the said report Exhibit 6 shows that it was ill-concerned and the reconsider for prosecution. That’s why the comprehensive report was sent to the Legal Department of the Police by Police concluding investigation and coming up with the Report as they did in Exhibit 6 confirms that police followed due process. That means that action of the Police in that regard is legal and did not breach the right of the Applicant as the Applicant deceivincly portrayed.

The Exhibit A by the 5<sup>th</sup> Respondent especially the Exhibit A extract from the whatapp between the Ferdmand and 5<sup>th</sup> Respondent put no one in doubt that the Applicant’s visit to the house of 5<sup>th</sup> Respondent was premeditated and ill-concerned.

Again the 5<sup>th</sup> Defendant, warned her through Ferdman.

The statement of the security man at the house of the 5<sup>th</sup> Defendant confirmed the Applicant mission was with evil intension. The gate man stated thus:

“she disclosed her mission to me of her coming to the house. That she went to change the pad-lock of her brother’s house and chase Ify packing back home.”

The above confirmed that she was arrested for committing an offence known to law. That shows that her arrest was lawful. In the statement the security man confirmed that Applicant came with 2 other persons one with a laptop and another who had tools and who she said is a carpenter. The security man in the said statement also confirmed how he asked Michael to contact the estate security who later contacted the police.

The comprehensive Petition by the 5<sup>th</sup> Respondent and Ifeyinwa Onyeachie conclude the confirmation that the Arrest and Interogation of Applicant by the Police was based on very sound and well founded allegation of Trespass and criminal conspiracy and house breaking all of which are criminal offences known to law.

This Court therefore based on all the above hold that the Respondents did not breach the Fundamental right of the Applicant Rosemary Nwanme Kofo-Alada as she alleged.



The arrest and detention of the Applicant by the 1-4 Respondents on 9/4/21 for 7 hours from 10:30am to 5:30pm was not a breach of her fundamental right as Police followed due procedure permitted by law.

The said Rosemary Nwanme Kofo-Alada did not establish that her right was breached. The offense she committed on which the arrest was predicated are all criminal offences known to law.

This application is a ploy by the Applicant to avoid being prosecuted for those offenses. This Court will not support that.

The application is frivolous, unmeritorious and ill-conceived with intension to deceive the Court. The Police should charge her to Court if the result of their investigation and recommendation of the Police legal Department warrants.

The Applicant should apologise to the Police the Respondents for her action and for action in this case. This is the Judgement of this Court delivered today the.....day of .....2022 by me.

.....

**K.N.OGBONNAYA**

**HON. JUDGE**

