

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. 14

CASE NUMBER : SUIT NO: CV/2083/2021

DATE: : THURSDAY 23RD JUNE, 2022

BETWEEN:

GLORY OKOLIE APPLICANT

AND

- 1. NIGERIA POLICE FORCE**
- 2. THE INSPECTOR GENERAL OF POLICE (IGP) (DCP TUNDE DISU)**
- 3. THE COMMANDER OF THE IGP-IRT UNIT**
- 4. ATTORNEY GENERAL OF THE FED.**
- DEFENDANTS**

RULING

The Applicant approached this Honourable Court vide an Originating Motion dated 23rd August, 2021, for the Enforcement of his Fundamental Human Rights against the Respondents claiming the following reliefs:-

1. A Declaration of this Honourable Court, that the act of the 1st to 3rd Respondents in detaining the Applicant from the 13th June, 2021 till date, without an Order of any Court permitting same, is a violation of the Applicant's right to fair hearing and Personal Liberty as enshrined in Section 35 & 36 of the Constitution of Federal Republic of Nigeria, 1999 (as amended) and articles 1, 3, 4, 5, 6 & 7 of the African Charter

on Human and Peoples' Rights (Ratification and Enforcement) Act Chapter A9 LFN, 2004.

2. A Declaration of this Honourable Court, that the act of the 1st to 3rd Respondents in detaining the Applicant from the 13th June, 2021, and beyond 71 (seventy one) days till date, without an Order of any Court permitting same, is a violation of the Applicant's right to fair hearing and personal liberty as enshrined in Sections 35 and 36 of the Constitution of Federal Republic of Nigeria, 1999 (as amended) and articles 1, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Chapter A9 LFN, 2004.
3. A Declaration that the beating/slapping, touring, physical assault and verbal/vulgar abuse of the

Applicant by the 1st to 3rd Respondent and the 3rd Respondent IGP IRT Officer, without the Applicant committing any crime known to law whatsoever, is illegal, unconstitutional and amounts to a violation of the Applicant's right to fair hearing and Personal liberty as enshrined in Section 35 & 36 of the Constitution of Federal Republic of Nigeria, 1999 (as amended) and articles 1, 3, 4, 5, 6 & 7 of the African Charter on Human and Peoples' Rights articles 1, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Chapter A9 LFN, 2004.

4. A Declaration that the usage of the Applicant by the 3rd Respondents IGP IRT Officers by sexually assaulting the Applicant, usage of the Applicant to wash the 3rd Respondent Officers

Clothes and usage of the Applicant to cook for the 3rd Respondent IGP IRT Officers, even when the Applicant was in the illegal custody of the 3rd Respondent, and without the Applicant committing any crime known to law whatsoever, is illegal, unconstitutional and amounts to a violation of the Applicant's right to fair hearing and personal liberty as enshrined in Section 35 and 36 of the Constitution of Federal Republic of Nigeria, 1999 (as amended) and articles 1, 3, 4, 5, 6 and 7 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Chapter A9 LFN, 2004.

5. An Order of this Honourable Court restraining the 1st and 3rd Respondents to desist from engaging in untoward, violent and irrational conducts against the Applicant.

6. An Order of this Honourable Court, granting bail to the Applicant on liberal terms to wit: unconditionally and or conditionally pending the time, the 1st to 4th Respondents deem it fit, to charge the Applicant to court in this regard.

7. An Order of this Honourable Court directing the 1st to 3rd Respondents to tender unreserved apologies to the Applicant and members of the public for their untoward, violent, irrational, negligent, reckless and unprofessional conducts against the Applicant and such apologies should be published at the front page of any of the national daily newspaper that has wide circulation throughout Nigeria and same shall run for 2 days consecutively.

8. An Order of this Honourable Court mandating the 1st to 3rd Respondents to pay the Applicant to sum of N100,000,000,000.00 (One Hundred Billion Naira) as general and punitive damages separately for infringing on the rights of the Applicant.

9. An Order of this Honourable Court mandating the 4th Respondent to pay the Applicant the sum of N50,000,000.00 (Fifty Million Naira) as punitive damages for its recklessness, bias, malice, failure to perform its statutory duty when the 1st to 3rd Respondents Officers within his knowledge, wholly infringed on the Fundamental Rights of the Applicant in this regard.

In support of the application is a 21 paragraph affidavit duly deposed to by One Samuel Ihensekhien, lawyer to the Applicant.

It is the averment of the Applicant, that on the 13th June, 2021, the Applicant being a Jamb Applicant, went on an errand from her family house in Imo State, and never returned home on that day.

That from the 17th June, 2021, the family members started making all frantic search of the Applicant in hospitals, churches, and mosque, all to no avail.

That the family members, in search of the Applicant actually approached the Owerri command of Nigeria Police Force, who charged the uncle of the Applicant, the sum of N50,000.00 (Fifty Thousand Naira) to track vide telephone tracking the last known address of the Applicant.

That the phone tracking above showed that the Applicant was detained by the 3rd Respondent IGP IRT Officers at their Owerri Tiger base Unit of the 3rd Respondent, and when the uncle approached this office, the 3rd Respondent Owerri Tiger base unit denied ever arresting the Applicant, nor was she in their custody.

That not till the end of June, 2021, a certain IzuchukwuOkeke, having just been released from the 3rd Respondent unit Owerri Tiger Base cell, informed the family and uncle of the Applicant, that the Applicant was in custody of 3rd Respondents Owerri Unit cell, and in the said cell, she was cooking for the IGP IRT Police Officers, washing clothes for them and sometimes that therein the 3rd Respondent Owerri Command Unit Officers

occasionally take turns to abuse the Applicant sexually.

That afterward the 3rd Respondent Officers then demanded monetary commitment from the Uncle of the Applicant, for the release on bail of the Applicant, wherein the Applicant Uncle thereafter in cash and POS bank transactions actually advanced to the 3rd Respondent IGP IRT Officers in Owerri Tiger Base Unit, different financial sums in this regard, copies of this aforementioned POS transactions are marked as annexure “A” herein.

That subsequently the atrocious act of the 1st to 3rd Respondents and their Officers went viral over social media and same was reported to behind bar initiative, a foremost human right agency, which quickly constituted a crack team of seasoned activist,

lawyers and then they mobilized for the release and bail of the Applicant.

That the said human right organization discovered that the Applicant has been moved once again to the dreaded SARS abattoir IGP IRT Unit in Abuja and they have once again kept the Applicant incommunicado without access to a lawyer, healthcare and or visitation by any members of her family.

That the Abuja members of the above mentioned organization pressed for the release of the Applicant, all to no avail, even after vide recorded telephone conversation to members of aforementioned organization and the Applicant lawyers by the 3rd Respondent, that the Applicant lawyers were assured

by the 3rd Respondent that the Applicant will be released in that regard.

Consequently it came as shock to the aforementioned interested persons, that the Applicant was denied bail, and kept incommunicado by the 1st to 3rd Respondents from members of his related family.

Embarrassed by the exposure of their atrocious act on the Applicant by social and online media news forum, the 1st to 2nd Respondents protocol and Chief Press Officer on the 22nd August then issued a press statement that the Applicant is being held for espionage activities, terrorism and criminal offences of giving assistance vide housing in her bank account, monies sent to her by one Mr. Benjamin

UzomaEmorji, a supposedly member of the proscribed Ipob group.

That the above press statement by the 1st to 3rd Press Officer is a charade and ruse, as the Applicant is a law abiding citizen, a virgin and a Christian Church worker, that there exist no way, the Applicant can be held guilty of the above crimes.

That all the reliefs in this case can be granted by this Honourable Court, and hence we seek the indulgence of this Court for grant of same.

That this Court is the last hope of the masses and the Applicant seeks justice from this Court.

The grounds upon which the reliefs are sought are as follows:-

1. That by virtue of Section 35(1) of the 1999 Constitution, the Applicant shall be entitled to her personal liberty and shall NOT be deprived of such liberty save as provided in the paragraph (a-f) of this Section and in accordance with a procedure permitted by law.
2. That by virtue of Section 36 of the Constitution, the Applicant shall be entitled to fair hearing within a reasonable time by a Court or other Tribunal established by law.
3. That by virtue of Article 3 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act, 2004, every individual shall be equal before the law. Every individual shall be entitled to equal protection of the law.

4. That by virtue of Article 4 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act, 2004, Human beings are inviolable; every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

5. That by virtue of Article 5 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act, 2004, every individual shall have the right to the respect of his dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave, trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

6. That by virtue of Article 6 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act, 2004, every individual shall have the right to liberty and to the security of his person. No one may be deprived of his Freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

7. That by virtue of Article 19 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act, 2004, all peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

8. Upon Section 46 of the 1999 Constitution, a Nigerian citizen who complains that his right has been or is likely to be violated can approach a High Court in that State for redress.
9. That the actions of the Respondents particularly the 3rd Respondent IGP IRT Officers so far as averred in the paragraphs of the affidavit in support amount to a violation of the Applicant's rights to Personal Liberty, fair hearing and freedom of movement and rights are non-negotiable; they are inalienable rights of the Applicants.

In compliance with law and procedure, a written address was filed wherein sole issue was formulated for determination to-wit:-

“Whether the Rights of the Applicant has been violated.”

It is the submission of learned counsel, that the Applicant’s rights as enshrined in all sections and laws have been continuously violated by the 1st to 3rd Respondents and their Officers, and court was urged to look at the affidavit in support of this case and the only remedy for the Honourable Court to do in this circumstances is immediate grant of bail and all reliefs in the Originating application.

Learned counsel submits, that the action of the Respondents particularly the 3rd Respondent officers runs contrary to the Constitution of the Federal Republic of Nigeria, 1999, and the African Charter on Human and Peoples’ Right (Ratification

&Enforcement), Act, 2004, LFN and counsel urge the Court to so hold.

It is further the submission of learned counsel, that the Applicant has been able to show through affidavit evidence that the Respondents particularly the 1st to 3rd Respondents and their officers violated her rights under the Constitution Federal Republic of Nigeria, 1999 and under the African Charter on Human and Peoples' Right (Ratification & Enforcement), Act, 2004. Having shown that her rights have been violated in no small amount, the Court should ordinary grant the reliefs sought. Once an Applicant has been able to show that her right has been violated, damages flows therefrom. It is non-negotiable.

It is provided under Article 4 of the African Charter on Human and Peoples' Rights that ***“Human beings are inviolable. Every human being shall be entitled to respect for his life and the dignity of his person. No one may be arbitrarily deprived of this right.”***

Learned counsel submits, under the combined Articles 5, 6 and 7 of the African Charter on Human and Peoples' Rights to which the Federal Republic of Nigeria is a signatory, it is illegal to arrest and detain a person without lawful justification. It is equally illegal to detain any person under inhuman conditions and without trial.

In clear cut terms, the Nigeria Constitution prevents the arrest and detention of any person beyond 48 hours (maximum) it's also a sacred principle of law in the Defendant's territory that pre-investigation

detention is outlawed and runs foul of the law in all ramifications.

Learned counsel concludes, that this Honourable Court is under a duty to protect and uphold the constitutional and inalienable rights of the Applicant as a Nigerian citizen. No one is above the law. The standard expected of the 1st Respondent to 4th Respondent is a very high one. This court is urged to grant the reliefs sought in the interest of justice.

COURT:-

It is instructive to note that Respondents i.e Nigerian Police Force, the IGP, DCP TundeDisu (Commander of the IG – IRT Unit) and the AG Federation who were served the originating motion and hearing notice, failed and or ignored to join issues with the Applicant, thereby making the

application for enforcement of Fundamental Human Right which is usually vide originating motion supported by affidavit and written address, a one way matter.

The law on unchallenged averments is settled.

See ***OGUNYADE VS. OSHUNKEYE & ANOR (2007) LPELR (2355) SC.***

Fundamental Human Right matters are usually begin by originating motion supported by affidavit, grounds and written address. A party i.e Respondent so served such originating process, is under an obligation to file counter affidavit and written address stating its own side of the story for a balanced understanding in obedience to section 36 (1) of the 1999 Constitution of FRN which is on fair hearing.

A party afforded such an opportunity cannot turn around and complain of lack of fair hearing once the opportunity is not utilized.

I shall pause here to give a background of the origin of human rights which clearly underscores its importance.

Fundamental Rights have been said to be premodial.. some say it is natural or God given Rights.. Text books writers like the renowned Professor Ben Nwabueze (S.A.N) have opined that these rights are already possessed and enjoyed by individuals and that the “Bills of Rights” as we know them today *“created no right de novo but declared and preserved already existing rights, which they extended against the legislature”*.

It is instructive to note that magna carta 1215 otherwise called “Great charter” came to being as a result of the conflict between the king and the barons, and petition of rights 1628 which is said to embody sir Edward Coke’s concept of “due process of law” was also a product of similar conflicts and dissensions between the king and parliament.. nor was the Bill of Rights 1689 handed down on a “platter of Gold”.. that bill drawn by a young barrister John Somers in the form of declaration of right, and assented to by king Williams secured interalia for the English People, freedom of religion, and for judges, their independence.

England has no written consitution with or without entrenched human Rights provisions however, the three bills of rights alluded to earlier, formed the bed

rock of the freedom and democratic values with which that country has to this day been associated.

On the part of French People, the French revolutionaries had to attack the Bastille, the Prison house in paris, to proclaim the declaration of rights of man and citizen in 1789.. the object of the revolution was to secure equality of rights to the citizen.. two years after, American peolpe took the glorian path of effecting certain amendments.. they incorporated into their constitution, a Bill of rights which is said to be fashioned after the English Bill of Rights..

It is noteworthy that ever before the amendment of its constitution, the Americans had to fight a war of independence in 1776 and had proclaimed thus:-

“We hold these truths as self evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights that among these are life, liberty and pursuit of happiness.”

It can therefore be gleaned from history that the pursuit of freedom, equality, justice and happiness is not peculiar to any race or group.. it is indeed a universal phenomenon, hence man has striven hard to attain this goal.

The universal declaration of human rights which was adopted by the United Nation General Assembly on the 10th December, 1948, three years after the end of the 2nd world war, was mainly geared towards ensuring a free world for all, regardless of status.

Nigeria did not have to fight war to gain independence from the British.. it was proclaimed that our independence was given to us on a “platter of gold.”

What the minority groups demanded was the right to self – determination which they believed could offer them an escape route from the “tyranny” of the majority ethnic groups in the regions.

The commission that was mandated to investigate their fears went out of its way to recommend the entrenchment of Fundamental Human Right in the Constitution as a palliative, as a safeguard and as a check against alleged “oppressive conduct” by majority ethnic groups.

We have had our Fundamental Human Rights carefully captured and entrenched under chapter IV

of the 1999 constitution of the Federal Republic of Nigeria as amended.. as sacrosanct as those rights contained in chapter IV of the Constitution of Federal Republic of Nigeria are, once there is any good reason for any of the rights to curtailed, they shall so be and remain in abeyance in accordance with the law and constitution.

Fundamental Human Right Enforcement Rules is not an outlet for the dubious and criminal elements who always run to court to seek protection on the slightest believe that they are being invited by law enforcement agencies..

The essence of this legal window is to ensure that every action by government or her Agency is done according to law.

I need to re-state the law as it relates to Fundamental Human Rights Enforcement, under the Rules. As a condition precedent to the exercise of court's jurisdiction, the enforcement of Fundamental Human Right or the securing of the enforcement thereof should be the main claim and not accessory claim. I rely on *W.A.E.C VS ADEYANJU (2008)4 S.C 27*.

Applicant took time to explain in the affidavit in support of the application for enforcement of her right. How the Respondent have violated her Fundamental Human Right. Respondent have failed and or ignored to counter the averments by filing counter affidavit in obedience to the Fundamental Human Right Rules 2009. The averment remain unchallenged and the court is in law permitted to consider same in good and reliable.

See *UBANI & ORS.VS. STATE (2003) 12 SCNJ III at 130.*

Although the police has a duty pursuant to section 4 Police Act to protect lives and property, same shall be done within the normative principles of the Rule - of law which emphasize on the supremacy of the law and not capriciously done.

Detention, no matter how slight, once done without any lawful cause which is lawfully justifiable, an action can be maintained on grounds of violation of human right.

Respondents, who were afforded opportunity to counter the argument in support of the application, have refused, ignored to so file.

I have no difficulty in believing the story told by the Applicant in her affidavit in support of the

application that her rights as stated have been violated by the 1st, 2nd and 3rd Respondents.

Declaratory reliefs are usually won on the basis of evidence adduced and not on the absence of Defence.

See *ECHEFU & ORS. VS EMENIKE & ANOR (2018) LPELR – 43682 (CA)*.

I am morethan satisfied that Applicant has been able to establish a case of abuse of her God's given inevitable rights by the very people saddled with the responsibility of protecting such rights. Reliefs 1 – 7 in that Order sought are **hereby granted**.

Next are the reliefs for General and punitive damages.

The law is that the award of damages lies at the discretion of the court which in the exercise of such discretion will be guided by the applicable legal principles. The basic object of an award of damages is to compensate a party for the damages, loss or injury suffered.

The guiding principle is Restitutio in intergrum. Damages is meant to restore a person as far as money can, to the position he would have been if there has been no breach or injury.

See NEPA VS. R.O ALLI & ANOR (1992) 10 SCNJ 34.

In another breach, an award of damages could be done to punish the Defendant i.e Respondent in this case, for their conduct in causing the loss or hurt. This is done by awarding punitive damages which is

done where the conduct of the Respondent is manifesting outrageous to merit such punishment.

This position was fortified.

Lord DENNING, M.R in PACKER VS PACKER (1954) Page 15 at Page 22, stated, as follows;

“What is the argument on the other side? Only this that no case has been found in which it had been done before. That argument does not appeal to me in the least. If we never do anything, which has never been done before, we shall never get anywhere. The law will not stand still whilst the rest of the world goes on and that will be bad for both. The law is an equal dispenser of justice, and leaves none without a remedy for his right. It is a basic and elementary principle of common law that

wherever there is a wrong, legal or injuria that is, there ought to be a remedy to redress that wrong. Ubiusibiremedium is the common law principle”.

Respondents (1st, 2nd and 3rd) conduct is most outrageous and cruel.. Not even in the hay days of slavery would a human being be subjected to such treatment... what the officer of the Respondents have done is what is regarded as modern day slavery.

Indeed it is man’s inhumanity to man. God forbid.

I have assessed the damages in this regard.

I hereby award the sum of N30,000,000.00 (Thirty Million Naira) as general damages and N30,000,000.00 (Thirty Million Naira) as punitive.

This, I hope will assuage the hurt and ill treatment meted out to the Applicant with respect to her violated dignity, there is no amount in this world that can assuage the Applicant. It is only God that can compensate Applicant justifiably. I say no more.

Above is the judgment of this court.

Justice Y. Halilu
Hon. Judge
23rd June, 2022

APPEARANCE

Ihensekhien Samuel Jnr., Esq. – for the Applicant.

Respondents not in court and not represented.