

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

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT KUBWA, ABUJA**

**ON FRIDAY THE 6<sup>TH</sup> DAY OF MAY, 2022**

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

**JUDGE**

**SUIT NO.: FCT/HC/CV/219/2022**

**BETWEEN:**

**ENGR. CHINEDU THOMPSON**

**-----} APPLICANT**

**AND**

**1. NIGERIAN POLICE FORCE**

**2. INSPECTOR GENERAL OF POLICE**

**3. COMMISSIONER OF POLICE**

**4. CSP BADEWOLE BOLA (CIID, FCT POLICE COMMAND)**

**5. POLICE OFFICER SMITH MAHMOOD**

**-----} RESPONDENTS**

## **JUDGMENT**

On the 26<sup>th</sup> January, 2022 the Plaintiff Engr. Chinedu Thompson filed this matter against the Nigerian Police Force, Inspector General of Police, Commissioner of Police, CSP Badewole Bola of CIID FCT Police Command and Police Officer Smith Mahmood. The matter is predicated on FREP. He claims the following Reliefs:

- 1.A Declaration that the arrest and detention of the Applicant by the officers of the Nigerian Police Force led by one police officer Smith Mahmood from the hour of 5:00 p.m. on Friday 21<sup>st</sup> January, 2022 at**

**the instigation and directives of the 4<sup>th</sup> Respondent under the guise of acting on the authority of the 1<sup>st</sup> - 3<sup>rd</sup> Respondents from Bayelsa house (Izon Wari) Central Area by proxy in lieu of Mr. Marvin Ebipre California and moving the Applicant to the Central Area Police Station where he was detained from that Friday till Sunday after extracting an undertaking from the Applicant to produce Mr. Marvin Ebipre California within two (2) weeks or be re-arrested and detained, are acts tantamount to brazen violation of the Applicant's fundamental human rights to liberty, movement, dignity of human person; right to freedom from discrimination; right to fair hearing etc and redressable under Section 46 of the Constitution of the federal Republic of Nigeria 1999 (as amended).**

**2. An Order of Perpetual Injunction restraining all the Respondents more particularly 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents acting directly or indirectly through their agents, officers, privies, assign and any other person(s) by whomsoever constituted from for the threatening the Applicant's fundamental human rights to, liberty, movement, dignity of human person; etc and not to further arrest, intimidate, harass, oppress and/or infract on the rights of the Applicant either in his place of work, office or home in connection with the facts and circumstance enumerated herein.**

**3. An Order of compensatory and exemplary damages in the sum of One Million Naira (₦100, 000,000.00)**

**against the 4<sup>th</sup> and 5<sup>th</sup> Respondents jointly in favour of the Applicant for the unwarranted, illegal, unconstitutional arrest and the detention by proxy, humiliation, harassment and degrading treatment meted on the Applicant between the hours of 5:00 p.m. on Friday 21<sup>st</sup> January, 2022 to about the hour of 6:00 p.m. on Sunday 23<sup>rd</sup> January, 2022 at the Central Area Police Station for no justifiable reason.**

**4. An Order of public apology to be published into national dailies to the Applicant by the 4<sup>th</sup> and 5<sup>th</sup> Respondents Police Officers for the unconstitutional and illegal violation of the Applicant's fundamental human rights enumerated herein above in the relief No. 1 in clear abuse of office and power of the police force purportedly acting under the law.**

He supported the application with Affidavit of 19 paragraphs and a Written Address in which he raised two (2) Issues. The application is based on the following grounds, which are:

That his arrest and detention by Defendants is grossly an infraction of his fundamental right as guaranteed under **CAP 4 of the 1999 Constitution of the Federal Republic of Nigeria as amended especially S. 46 of the Constitution.**

That the acts of the Police complained of are ultra vires the power of the Police and its mandate under the law.

The two (2) questions raised in the Written Address are:

**(1) Whether the Applicant has the right to enforce his Fundamental Right violated and still under threat**

**of violation within the facts and circumstances of this case.**

**(2) Whether the Applicant is entitled to a redress of his Fundamental Right already violated and likely to be violated by Respondents if unrestrained in both Exemplary and Compensatory Damages and Injunctive Reliefs within the fact and circumstance of this case.**

Taking the two (2) Issues together, he submitted that there is no law that justified the arrest and detention of any citizen by the Police by proxy or in lieu of another person or issuing threat of further arrest and detention of any person if he does not produce another person just because such person is related to him as the 4<sup>th</sup> – 5<sup>th</sup> Respondents have done in this case. That action of the 4<sup>th</sup> – 5<sup>th</sup> Respondents are outside the power of the Police and therefore, it is illegal and a violation of the Fundamental Right of the Applicant. He relied on the cases of:

**Isenalumhe V. Amadi & Ors  
(2001) 1 CHR 458**

**ACB V. Okonkwo  
(1997) 1 NWLR (PT. 480) 194**

**Akpa V. State  
(2008) 14 NWLR (PT. 1106) 72**

That the treatment meted to him at the Police Command was barbaric, unlawful, uncivil and unconstitutional. That he was subjected to inhuman treatment and he suffered physical and psychological trauma. That their action is an infraction of his Rights. He relied on the case of:

**Uzoukwu V. Ezeonu (No. II)**  
**(1991) NWLR (PT. 200)**

That they violated his right to dignity of his human person. That further threat by the Respondents to further arrest and detain him violates his right too. He referred to the case of:

**Comptroller Nigeria Prisons V. Adekanye**  
**(1999) 10 NWLR (PT. 423) 412 @ 426**

That he is entitled to seek redress under S. 46 **of the 1999 Constitution of the Federal Republic of Nigeria as amended** for violation of those rights where it is violated or there is likelihood of it being violated. He referred to the cases of:

**Tony Momoh V. State**  
**(1981) NCLR 1**

**Gani Fawehnim V. Akilu**  
**(1994) 6 NWLR (PT. 351) 442 @ 473**

That the Court is empowered by law to restrain the Respondents from violating and continuous violation of his right as provided for in CAP 4 **of the 1999 Constitution of the Federal Republic of Nigeria as amended**. He urged Court to grant the application.

All the Respondents were served on the 23<sup>rd</sup> February, 2022. They were served Hearing Notices the same day notifying them that the matter is scheduled to be heard on 12<sup>th</sup> April, 2022. None of the Respondents (1<sup>st</sup> – 5<sup>th</sup> Respondents) responded. They did not file any Counter to the application. They did not enter appearance in paper or in person they had no Counsel representation also.

On the scheduled day, the Applicant moved his application. This Court adjourned the matter for Judgment. Hence this Judgment is based on the document – application of the Applicant which was duly served on the Respondents well over 2 months before the matter was heard.

## **COURT**

It is the law that unchallenged facts are deemed admitted by the party who ought to have responded or challenged or controverted or rebutted the facts therein. More so where such party was duly served.

In this case, the Respondents were all served with the Application and Hearing Notices too. They did not respond. This Court holds that the facts upon which this application is predicated are deemed and actually admitted by Respondents who were given ample opportunity and leverage to do so but refused, ignored and slept on their right to do so for reason best known to them This Court holds that this application is not challenged.

Notwithstanding the fact that there is no Counter, this Court will look into the facts of this case to determine if there is merit in his application before it can conclude its findings.

A closer look at the Affidavit shows that the Applicant was engaged to render some professional service to the **Marvin Ebipre California**. That it was in the site where he was carrying out the service at Bayelsa House Abuja that he was arrested. That he was detained. That he was taken to the Police office after the 5<sup>th</sup> Defendant had come to the said Bayelsa House where he was carrying out his professional service based on the engagement by the said **Marvin Ebipre**

**California.** That despite his explanation to them, they took him to Central Area on the said 21<sup>st</sup> January, 2022 at about 5 pm in the evening. That they detained him till 6 pm on 23<sup>rd</sup> January, 2022. See **paragraphs 4 – 7.**

Though Police told him the reason for his arrest, it is still illegal for them to have taken him to station and detained him for more than 48 hours after he had told them repeatedly that he does not know the where about of the said **Marvin Ebipre California** and that he knows nothing about the land deal they were talking about. Also not allowing him access to his family, his lawyer and starving him of food and water is a violation of his right. So also making him to sleep on bare floor infested with mosquitoes also is a violation of the dignity of his human person. Collecting his phone from him is a violation of his freedom too. All those actions by the Respondents surely occasioned inhuman treatment and dehumanized him too. Again, asking him to produce the said **Marvin Ebipre California** who he had a distinct contractual relationship with outside the alleged land deal is equally bad as well as detaining him because they were looking for the said **Marvin Ebipre California**. No doubt the Applicant suffered some psychological physical trauma and mental torture as well as dehumanize of the dignity of his human person and personal liberty. Forcing him and threatening him to produce the said **Marvin Ebipre California** when the **Marvin Ebipre California** said had instituted an action against the Respondents is bad. See **paragraph 17 of the Affidavit in support.**

All these facts were not denied or challenged by the 1<sup>st</sup> – 5<sup>th</sup> Respondents who were given all the judicial leverages to do so including the 3<sup>rd</sup> Respondent/3<sup>rd</sup> Respondent Counsel

who is in Court today. They did not file any Counter Affidavit in challenge of same.

Having not challenged this application, this Court holds that the facts as contained in the Affidavit are uncontroverted. They are deemed admitted.

The Court holds that the Respondents violated the Right of the Applicant. Based on that, there is merit in this Suit and this Court grants the Reliefs to wit:

- (1) *The 1<sup>st</sup> prayer is granted.*
- (2) *The Respondents are perpetually restrained from arresting and further threatening to arrest the Applicant base on the issue concerning the said land on which is predicated the reason why they are looking for **Marvin Ebipre California**. They should not arrest or detain the Applicant based on that issue.*
- (3) *The Respondents are to pay to the Applicant the sum of One Hundred Thousand Naira (₦100, 000.00) for violating the Right of the Applicant.*

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

**Delivered today the \_\_\_\_ day of \_\_\_\_\_ 2022 by me.**

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