

*Jurisdiction of State High Courts in Enforcement of Fundamental Human Rights  
Against Federal Government and its Agencies*

In the Supreme Court of Nigeria  
Holden at Abuja  
On Friday, the 19<sup>th</sup> Day of July, 2024

**Before Their Lordships**  
Adamu Jauro  
Chidiebere Nwaoma Uwa  
Obande Festus Ogbuinya  
Habees Adewale O. Abiru  
Abubakar Sadiq Umar  
*Justices, Supreme Court*

SC. 827/2019

**BETWEEN**

1. SCC NIGERIA LIMITED  
2. ABEL OLOKOR

**APPELLANTS**

**AND**

1. DAVID GEORGE  
2. THE NIGERIAN POLICE

**RESPONDENTS**

*(Lead judgement delivered by Honourable Abubakar Sadiq Umar, JSC)*

**Facts**

The 1<sup>st</sup> Respondent, as the Applicant, commenced the suit that gave rise to this appeal at the High Court of the FCT against the Appellants and the 2<sup>nd</sup> Respondent, under the Fundamental Rights (Enforcement Procedure) Rules. He prayed *inter alia*, for “A DECLARATION that the allegation of theft, arrest and handing over of the Applicant to the 3<sup>rd</sup> Respondent by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and without evidence whatsoever was capricious, unwarranted, wrongful, unconstitutional and a breach of the Applicant's right to personal liberty.” In response, the Appellants filed a preliminary objection premised on Sections 254C(1)(d) and 251(1) (p)(q)(r) of the Constitution of the Federal Republic of Nigeria, 1999

as amended; that it is either the National Industrial Court or the Federal High Court and not the High Court of FCT that has jurisdiction to hear the 1<sup>st</sup> Respondent's claim. The Appellants also filed a counter-affidavit in opposition to the suit. The 1<sup>st</sup> Respondent filed a Reply Address to the Appellant's Preliminary Objection and a Reply on point of Law to the Appellant's Counter-Affidavit in opposition to the suit.

The case of the 1<sup>st</sup> Respondent is that he was employed by the 1<sup>st</sup> Appellant as a labourer in 2003 and he was later promoted to the position of a generator attendant. He worked meritoriously for the 1<sup>st</sup> Appellant to the extent of being rewarded in the year 2013 with colour TV and awarded Certificate of Long Service having worked for ten years. On Sunday November 30<sup>th</sup> 2014, while he was on night duty at the 1<sup>st</sup> Appellant's Generator House around 11:pm, the 2<sup>nd</sup> Appellant who is the 1<sup>st</sup> Appellant's Chief Security Officer and one Mr. Nwachukwu another 1<sup>st</sup> Appellant's Chief Security Officer in charge of Kubwa site came into his room. The 2<sup>nd</sup> Appellant claimed that two trucks entered the premises of the 1<sup>st</sup> Appellant. He told the 2<sup>nd</sup> Appellant that he did not see any truck enter the premises but the 2<sup>nd</sup> Appellant insisted that he must produce the trucks. He was later arrested together with one Mr. Kabiru Ibrahim, after which the 2<sup>nd</sup> Appellant took the two of them to Bwari Divisional Police Station. Thereat, the I.P.O., a certain Mr. Okpanachi, wrote his statement for him and tried to force him to own up, but he refused. He maintained his position that he did not see any truck enter the 1<sup>st</sup> Appellant's premises. He was detained for alleged theft from the 30<sup>th</sup> November, 2014 to 3<sup>rd</sup> December, 2014 when he was taken to court in company of others. He and the other persons were not eventually arraigned and were returned to police station. He was granted bail and his appointment was terminated. The 1<sup>st</sup> Respondent thereafter filed the suit that led to this appeal.

### **Issue for Determination**

The Supreme Court considered the following issues for determination of the appeal:

- i. Whether considering the provision of Sections 254(c)(1)(d) and 251(1)(p)(q)(r) of the Constitution of the Federal Republic of Nigeria 1999 as amended, the lower court was right to affirm that the trial High Court had jurisdiction over the 1<sup>st</sup> Respondent's claim?
- ii. Whether the lower court was right in affirming the trial court's judgement which found the Appellants jointly liable together with the 2<sup>nd</sup> Respondent for the arrest and detention of the 1<sup>st</sup> Respondent?

### **Arguments**

Arguing the first issue, counsel for the Appellant submitted that it is the Plaintiff's claim that determines the jurisdiction of the court and that a look at the 1<sup>st</sup> Respondent's originating motion, supporting statement and affidavit particularly paragraph 31 and relief 'B' thereof would reveal that the 1<sup>st</sup> Respondent's claim is connected with his employment. He contended that the 1<sup>st</sup> Respondent in the aforesaid paragraph and relief made it apparent that the Appellants' allegation against him and the Appellants' conduct in arresting, humiliating, harassing and intimidating him are all trumped up, plotted and executed to blackmail him and justify the subsequent termination of his employment with the 1<sup>st</sup> Appellant. Counsel then referred to and reproduced the provision of Sections 254C(1)(d) of the Constitution of the Federal Republic of Nigeria, 1999 as amended to support his argument that it is the National Industrial Court and not the High Court of FCT that has jurisdiction to hear the 1<sup>st</sup> Respondent's claim. He argued in the alternative that the 1<sup>st</sup> Respondent's originating motion, supporting statement, affidavit in support as well as the reliefs sought reveal that the crux of the 1<sup>st</sup> Respondent's case was a complaint against the executive and administrative decision of the Nigerian Police to arrest and allegedly detain him contrary to the provision of Section 35 of the 1999 Constitution and it is only the Federal High Court that is vested with the requisite jurisdiction to entertain and determine suits where the executive/administrative decisions of the Nigerian Police Force, an agency of the Federal Government, is challenged.

In response, counsel for the 1<sup>st</sup> Respondent argued that the case before the trial court was about unlawful arrest and detention without trial of the 1<sup>st</sup> Respondent on account of the allegation of theft leveled against him by the Appellants and not on labour matter. He submitted that contrary to the Appellants' contention that paragraph 31 of the 1<sup>st</sup> Respondent's Statement in Support of his Originating Application and relief B sought by the 1<sup>st</sup> Respondent indicate that the 1<sup>st</sup> Respondent's case is about labour matter, the said relief B is only ancillary, the main claim before the court is about unlawful arrest and detention of the 1<sup>st</sup> Respondent and that is the reason the trial court declared at page 270 of the Record of Appeal that the said relief B is speculative. On the Appellant's alternative arguments that it was the Federal High Court that had jurisdiction over the matter, the 1<sup>st</sup> Respondent submitted that the Appellants' position is contradictory and the Appellants are confused by arguing in one breath that the National Industrial Court is the court vested with jurisdiction over the 1<sup>st</sup> Respondent's claim and in another breath that it is the Federal High Court.

On the second issue, the Appellants' contention is that the Appellants merely laid complaint on the attempted theft that occurred at the 1<sup>st</sup> Appellant's factory and that it was the 2<sup>nd</sup> Respondent (police) that arrested and detained the 1<sup>st</sup> Respondent. Counsel contended that the Appellants have no control over how the 2<sup>nd</sup> Respondent carries out its assignment. Counsel submitted further that it was the 2<sup>nd</sup> Respondent's investigation that linked the 1<sup>st</sup> Respondent to the theft and that the 2<sup>nd</sup> Respondent has so admitted in its report. That the lower court was therefore wrong to have affirmed the judgement of the trial court which found the Appellants jointly liable with the 2<sup>nd</sup> Respondent (the Nigerian Police) for infringement of the 1<sup>st</sup> Respondent's right to personal liberty.

Responding, the 1<sup>st</sup> Respondent contended that the concurrent decision of the two lower courts that from the affidavit evidence on record, the Appellants set the machinery in motion for the arrest and detention of the 1<sup>st</sup> Respondent by the 2<sup>nd</sup> Respondent, that they went beyond merely reporting the 1<sup>st</sup> Respondent, they arrested him without just cause is correct. He pointed out that the Appellants did not have a consistent and believable story of how the 1<sup>st</sup> Respondent was arrested. The Appellants offered three versions of irreconcilably contradictory accounts of how, when and who arrested the 1<sup>st</sup> Respondent, thereby justifying the trial court's rejection of the Appellants' evidence. Counsel maintained that the Appellants did not only report a case to the police, but they also actively participated in the investigation and extraction of confessional statements from purported suspects as well as controlling and influencing the 2<sup>nd</sup> Respondent.

Counsel for the 2<sup>nd</sup> Respondent supported the arguments of the 1<sup>st</sup> Respondent.

### **Court's Judgement and Rationale**

Deciding the first issue, Their Lordships considered the provisions of Sections 254(c)(1)(d) and 251(1)(p)(q)(r) of the Constitution of the Federal Republic of Nigeria, 1999, (as amended) upon which the Appellants anchored their objection to the jurisdiction of the High Court of the FCT to determine the 1<sup>st</sup> Respondent's claim. Section 254C provides as follows:

- i. *"Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters- (d) relating to or connected with any dispute over the interpretation and application of the provisions of Chapter IV of this Constitution as it relates to any employment, labour, industrial*

*relations, trade unionism, employer's association or any other matter which the Court has jurisdiction to hear and determine."*

In considering the operative phrase 'as it relates to,' the Supreme Court found that the 1<sup>st</sup> Respondent neither made reference to any part of his employment terms with the 1<sup>st</sup> Appellant nor sought any relief which relates to any employment right or benefit. The Supreme Court held that *The 1<sup>st</sup> Respondent did not aver that the 1<sup>st</sup> Appellant was not entitled to sack him, or that his sack was not valid because the allegation of theft was fabricated. What he prayed the trial court to do was to declare the 1<sup>st</sup> Respondent's arrest and humiliation on trumped up charge as wicked and malicious. I therefore have no hesitation in finding that the 1<sup>st</sup> Respondent's suit does not relate to his employment with the 1<sup>st</sup> Appellant, and consequently, that section 254C(1)(d) of the Constitution of the Federal Republic of Nigeria 1999 as amended was inapplicable to the 1<sup>st</sup> Respondent's suit as constituted.*

On the alternative submission of the Appellants that the 1<sup>st</sup> Respondent's suit fell within the exclusive jurisdiction of the Federal High Court, *the Supreme Court, while considering section 251(1)(p)(q)(r) of the 1999 Constitution as amended, held that there was a proviso to the section which provides that "nothing in the provisions of paragraphs (p), (q) and (r) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity". As such not all matters where injunction and damages are sought against the Federal Government or any of its agencies come under section 251(1)(p)(q)(r) of the Constitution.*

Furthermore, *the original jurisdiction of a court in fundamental rights proceedings is donated by Section 46 of the 1999 Constitution, which grants prospective or actual victims of fundamental rights abuse unfettered access to a High Court for redress. The High Court in this context has been interpreted to mean State High Court/the High Court of the FCT and the Federal High Court. The approach of the court in this regard is liberal; hence, the position of the apex court is that irrespective of the subject matter and parties before the court, both the Federal High Court and the State High Court/FCT High Courts have concurrent jurisdiction on enforcement of fundamental rights.* What is important is that the real grievance of the Applicant is the breach of a fundamental right protected under Chapter IV of the Constitution and not a veiled attempt to seek redress for other generic civil rights. This issued was resolved against the Appellants.

On the second issue, the Supreme Court found that attempt by the Appellants to justify the 1<sup>st</sup> Respondent's suspicion on the basis that he was on duty as a generator attendant and he intentionally kept the place dark during the attempted theft at the site of the 1<sup>st</sup> Appellant could not stand in the face of the extra-judicial statements and

exhibits before the court. By these statements, the actual culprits admitted their participation and mentioned names of their co-conspirators without mentioning the 1<sup>st</sup> Respondent as one. The Supreme Court found that the Appellants did not prove the existence of a reasonable suspicion for the arrest of the 1<sup>st</sup> Respondent on 30<sup>th</sup> November, 2014 and affirmed the decision of the trial court and lower court finding the Appellants liable for the breach of the 1<sup>st</sup> Respondent's right to personal liberty. This issue was also resolved against the Appellants and costs of ₦1,000,000.00 (one million Naira only) was awarded in favour of the 1<sup>st</sup> Respondent against the Appellants.

*Appeal dismissed.*

**Representation**

Olamide Mojigbotoluwa Adekunle for the Appellants.

Mallam Mohamed Shuaib and Giwa Munirat Yetunde for the 1<sup>st</sup> Respondent.

Adeyemi Pitan, Chidinma Dioji and Peace Kenoye for the 2<sup>nd</sup> Respondent.

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