

IN THE HIGH COURT OF JUSTICE
IN THE BENIN JUDICIAL DIVISION
HOLDEN AT BENIN CITY
BEFORE HIS LORDSHIP, HON.JUSTICE P.A.AKHIHIRO,
ON WEDNESDAY THE
27TH DAY OF MARCH, 2024.

BETWEEN:

SUIT NO: B/138M /2023

MR. ANOGIE ROLAND IMIONIGHIE APPLICANT

AND

- | | | |
|---|---|---------------------------|
| <p>1. COMMISSIONER OF POLICE, EDO STATE.</p> <p>2. MRS. FUNMILAYO, D.P.O. AIDEYAN DIVISION</p> <p>3. MRS. UDEME, I.P.O</p> <p>4. MISS. FUNMILAYO MAJANJUOLA</p> | } | <p>RESPONDENTS</p> |
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JUDGMENT

In this suit the Applicant came by way of an Originating Motion brought pursuant to *Sections 35 (1), 36 (1) and 46 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as Amended)* seeking the following reliefs:-

- a. A declaration that the arrest and continued detention of the Applicant by the 1st – 3rd Respondents on the prompting of the 4th Respondent at their*

office at the Aideyan Division of the Police over a social contract is unconstitutional and violates the provisions of S.35 (1) and 36 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Article 6 of the African Charter on Human and Peoples' Rights (Ratification and enforcement) Act, Cap A9, LFN, 2004;

- b. The sum of N200,000,000.00 (Two Hundred Million Naira) for the breach of the rights of the Applicant by the Respondents jointly and severally;*
- c. An order restraining the Respondents whether by themselves, agents, privies or whatsoever nomenclature from disturbing, harassing/intimidating and or further detaining the Applicant negates the fundamental right to liberty and fair hearing as guaranteed by the constitution; and*
- d. An order releasing the Applicant forthwith from the incarceration/detention by the Respondents either conditionally or unconditionally.*

The application is supported by an affidavit of 19 paragraphs and a written address of the learned counsel for the Applicant.

From the facts deposed to in the supporting affidavit, the Applicant's case is that the Applicant and the 4th Respondent were in an amorous relationship until sometime in April, 2023. In the course of their relationship, the 4th Respondent allegedly assisted the Applicant to acquire a Toyota Corolla Car which was purchased and registered in the name of the Applicant.

The Applicant was using the vehicle for transportation business for some time and he alleged that the proceeds therefrom were being spent on the 4th Respondent who was not in any way responsible for the running and the maintenance cost of the vehicle.

He alleged that the vehicle later developed a major engine fault which he reported to the 4th Respondent whose response was that she was not the owner of the vehicle and so she could not provide any money for the repair of the engine.

He said that as a result of the engine problem, he intimidated the 4th Respondent of the need to dispose of the vehicle and he eventually disposed of it by sale.

He said that after the sale, the 4th Respondent made a report to the 2nd Respondent who he alleged is her sister and he was arrested and detained in her office since on the 14th of June, 2023.

The Applicant alleged that he was forced to write a statement against his will even when he protested that he needed to see his lawyer. He said that when his lawyer came, the 1st – 3rd Respondents refused to grant him bail and maintained that he would only be released on bail if he provides two sureties with landed properties in Benin; and deposit the sum of N1, 500,000.00 with the 2nd Respondent who will handover same to the 4th Respondent.

The Applicant alleged that when he could not meet with these conditions, he was detained in the custody of the 1st – 3rd Respondents. He alleged that his continuous detention by the Respondents amounts to a breach of his rights to liberty and fair hearing.

In opposition to this application, the 1st to the 3rd Respondents filed a joint Counter-Affidavit in which they denied most of the allegations made by the Applicant against them. They maintained that they were investigating the allegation of crime made by the 4th Respondent against the Applicant and they denied any relationship between the 2nd Respondent and the 4th Respondent.

Also in opposition to the application, the 4th Respondent filed a Counter-Affidavit where she stated her own version of the transaction. In a nutshell, the 4th Respondent's story is that she and the Applicant were friends. However, she alleged that the transaction between them was a contract of hire purchase, otherwise referred to as balance and carry agreement.

She alleged that the Applicant requested for funds to purchase a Toyota Corolla car which he promised to register with Bolt Company as a cab driver. That because of the Applicant's persistent plea and the trust she had for him, she borrowed the sum of ₦2,000,000 (Two Million Naira) to fund the purchase of the vehicle.

She alleged that she entered into a hire purchase agreement with the Applicant whereby the vehicle would be purchased in her name and the Applicant will start using it for transport while remitting the sum of ₦25,000.00 to her on weekly basis as payment for the purchase of the vehicle before the ownership will be vested in the Applicant.

According to her, the Applicant eventually bought a Toyota Corolla car for the sum of ₦2,100,000 (Two Million One Hundred thousand Naira) and brought the car to her house. She said that when she saw the documents of purchase, she discovered to her dismay, that the Applicant bought the car in his own name contrary to her instructions. She therefore requested the Applicant to do a change of ownership to her name but he bluntly refused to effect the said change of ownership.

She alleged that the Applicant used the car as a cab from January 2023 to May 2023 and only remitted a paltry sum of ₦120,000 (One Hundred and Twenty Thousand Naira) to her.

She alleged that because of her insistence for the change of ownership of the car to her name, the Applicant absconded with her car and stopped picking her calls. She said that all efforts made by her to retrieve her car from the Applicant proved abortive, so she made a report to the police complaining about her vehicle that was allegedly stolen by the Applicant. The Applicant was arrested and upon investigation, the police discovered that that without her consent, the Applicant had already sold her car to one Pastor Patrick Ogbanor on 11/5/2023 for the sum of ₦1,450,000 (One Million, Four Hundred and Fifty Thousand Naira).

All the learned counsel for the parties filed their written addresses which they adopted as their arguments in support of their respective cases.

In his written address, the learned counsel for the Applicant, *P.A.Ugheoke Esq.* formulated a sole issue for determination as follows:

“Whether the arrest, detention and the refusal to bail of the Applicant by the 1st – 3rd Respondents on the prompting of the 4th Respondent did not violate his right to personal liberty and freedom as enshrined in the 1999 Constitution of FRN.”

Arguing the sole issue for determination, the learned counsel submitted that the Applicant's fundamental right to liberty is guaranteed by ***section 35 of the Constitution of the Federal Republic of Nigeria and by the provisions of the African Charter on Human and People's Rights (Ratification and Enforcement) Act cap A9 Laws of the Federation, 2004.***

He submitted that the liberty of the Applicant has been denied him by the Respondents through his arrest and detention on the prompting of the 4th Respondent without regard to the due process permitted by law.

He further submitted that the Applicant can only be deprived of his liberty under the conditions as stipulated in ***Section 35(1) (a) to (f) of the Constitution of the Federal Republic of Nigeria 1999.*** He said that these conditions were never met by the Respondents in the purported arrest and detention of the Applicant.

He contended that the Applicant's detention on the prompting of the 4th Respondent by the 1st – 3rd Respondents automatically impeded his liberty thereby subjecting him to ridicule contrary to the provisions of ***Section 35 of the 1999 Constitution as amended.***

He maintained that there was no valid order of court which authorized the 1st to 4th Respondents to interfere with the liberty of the Applicant. He submitted that the Applicant cannot be continuously harassed, intimidated and or molested by the Respondent contrary to his fundamental rights to personal freedom and liberty, deprivation or attempt at depriving the Applicant of that liberty without a valid order of court.

Counsel posited that from the facts as revealed by the affidavit, it is crystal clear that the Applicant was assisted with funds by his girlfriend to purchase a car which car was purchased and duly registered in the name of the Applicant in 2022. He said that the disposal of this car by the owner and the collapse of the relationship between the Applicant and the 4th Respondent led to the malicious report and subsequent arrest and detention of the Applicant by the Respondents.

He submitted that the action of the 1st – 3rd Respondents in arresting and detaining the Applicant on the prompting of the 4th Respondent is ultra-vires their powers and therefore null and void and he urged the Court to so hold.

Counsel submitted that it is settled law that where a petition is before the police with an inkling of a civil transaction, without any element of crime, the police should be bold enough to tell the petitioner that the petition is civil and not criminal. On this, he referred the Court to the case of *KURE vs. C.O.P. (2020) NWLR (pt 129) 291 at 326* where *ABBA AJI J.S.C* expounded thus:

“The police is not a debt recovery agency and has no business to dabble into contractual disputes between parties arising from purely civil transactions..... when as in circumstances of this action, a purely civil matter is reported to the police, of this action, a purely civil matter is reported to the police, such a person cannot go scot-free as the report ought not to have been made at all since it is not within the purview of police duties. It is a report made malafide and he will be equally liable for the action taken by the police irrespective of whether he actively instigated them or not since he has no business involving the police in a purely civil matter in the first place. Such conduct which portrays disregard of the law and is aimed at using the coercive powers of the State to punish a contracting party in a purely civil matter ought to be faced with exemplary damage”

He also referred to the comments of the Supreme Court in the case of *EFCC vs. Diamond Bank Plc.* (citation not supplied).

Counsel submitted that debt recovery referred to in the above two cases connotes a civil transaction which is the situation in the present case.

Applying the above principles of law, counsel submitted that the 1st – 3rd Respondents were acting outside their constitutional powers by delving into a civil contractual relationship thereby infringing on the right of the Applicant.

He therefore urged the Court to grant the Applicant’s reliefs.

In his written address, the learned counsel for the 1st to 3rd Respondents, *B.A. Uwadiae Esq.* formulated two issues for determination as follows:

- (i) Whether a person who is accused of a crime can hide under the canopy of fundamental right application; and***
- (ii) Whether the Applicant is entitled to the reliefs sought by him.***

Thereafter, the learned counsel argued the two issues seriatim.

ISSUES 1:

Arguing the first issue, learned counsel contended that the offences for which the Applicant was investigated are that of conspiracy and stealing, which are criminal offences. He posited that the Applicant brought this application simply to prevent the Police from carrying out their constitutional duties. He submitted that the Police were only performing their lawful duty as conferred on them by ***Section 4(a-i) of the Police Act, 2020 (Act No.2)***. He also relied on the case of ***KURE vs C.O.P (2020) 9 NWLR PT 1729 PG.296 act 236 PARAB-F***, on the primary duties of the police.

Counsel submitted that a person who is suspected to have committed a crime cannot hide under fundamental right to avoid investigation and maintained that the Applicant who was alleged to have committed the aforementioned criminal offences against the State must be investigated by the 1st to 3rd Respondents and relied on the following cases: ***A-G Anambra State Vs Uba (2005) 15 NWLR (Pt947) 44; AGBI VS OGBEH (2005 8 AWLR (Pt926) 40; ONAH Vs OKEFWA (2010) 7 NWLR (Pt1194) 512; and HASSAN Vs EFCC (2013) LPELR CA (p.433, paras, A-D)***.

Counsel urged the Court to rule in favor of the Respondents.

ISSUE 2:

On this second issue, learned counsel submitted that the Applicant is not entitled to the reliefs sought by him because the 1st to 3rd Respondents were only performing their Constitutional duties and he urged the Court to so hold.

Finally, she urged the Court to dismiss this application with crushing costs in favor of the 1st to 3rd Respondents.

In his written address, the learned counsel for the 4th Respondent, ***Chris Aigbasubho Esq*** formulated a sole issue for determination as follows:

“Whether there is a cause of action against the 4th Respondent.”

Arguing the sole issue for determination, learned counsel submitted that the 4th Respondent's act of a mere report of a crime committed against her person does not amount to a breach of the Applicant's fundamental human right. He submitted that every citizen of the Federal Republic of Nigeria is under an obligation to report a crime to the police for investigation instead of engaging in self-help and he relied on the case of ***FAJEMIROKUN VS COMMERCIAL BANK. (2009) VOL 2 MJSC (FT11) P114 AT PP122-123, PARA G*** where the Court stated thus:

“It is the duty of citizens of this country to report cases of commission of crime to the police for their investigation and what happens after such report is entirely the responsibility of the police. The citizens cannot be culpable for doing their civil duty unless it is shown that it is done mala fide”.

He submitted that in the instant case, the 4th Respondent has established a genuine case of crime against her person committed by the Applicant. That from the available evidence, the Applicant absconded with the 4th Respondent's vehicle and later sold it without her consent which necessitated the report made to the police by the 4th Respondent which led to the subsequent arrest of the Applicant.

Counsel submitted that the Applicant can only succeed against the 4th Respondent if he is able to show that her action was done mala fide and this he has failed to show.

He pointed out that the Applicant is currently facing a criminal charge at the Magistrate court, in Benin-City after the police investigation. He therefore submitted that the 4th Respondent did not act in bad faith when she made a report of the crime allegedly committed by the Applicant to the police.

Finally, he urged the Court to dismiss this application against the 4th Respondent with substantial costs.

Upon being served with the Counter – Affidavit of the Respondents the Applicant's counsel filed Further and Better Affidavits and Replies on Point of Law which he also relied upon and adopted as his further arguments in support of the application.

In his Reply on Points of Law to the 1st – 3rd Respondents Written Address, the learned counsel submitted that the powers of the police as contained in ***S.4 of***

the Police Act are not absolute as same are tied to the provisions of the 1999 constitution. He maintained that the Supreme Court has sternly warned the Police that they cannot hide under *section 4 of the Police Act* to fraudulently infringe on the rights of the citizens duly guaranteed by the constitution and he referred to the earlier cited cases of *KURE vs. C.O.P Supra* and *DIAMOND BANK PLC vs. EFCC supra*.

Counsel contended that the Applicant having established the existence of a contract which is purely civil in nature as can be seen in his principal affidavit in support of motion, he urged the Court to hold that the 1st – 3rd Respondents are in flagrant breach of the rights of the Applicant.

Furthermore, in his Reply on Point of Law to the 4th Respondent's Written Address, the learned counsel submitted that where an allegation is made malafide as it is in this case, such a person cannot go scot-free as the report ought not to have been made at all and he relied on the case of *KURE vs. C.O.P supra*. He therefore posited that the authority submitted on behalf of the 4th Respondent is not in any way applicable in this case. Learned counsel also referred the Court to the recent decision of the Supreme Court in the case of *NWAOBOSHI vs. FRN & ORS (2023) LPELR 60698* where they expounded as follows:

“There is no law known to me where a breach of an agreement between two parties which has no element of criminality, can result in a criminal charge of and subsequent conviction. At best, it can be a breach of a contractual relationship which the criminal law lacks legal capacity or competence to enforce and punish.” The failure to repay a loan or any part of it contrary to a loan agreement does not create a basis for reasonable suspicion that a crime has been committed by the debtor and is not a valid basis for the initiation of any form of criminal process against the debtor. The arrest, detention, prosecution and trial of a debtor for breach of a loan agreement under any guise is illegal. Per EMMANUEL AGIM AKOMAYE, Jsc (pp 26-27 para. C – C).

He posited that the submissions of both the 1st – 3rd Respondents that they performed their duties in line with the *Police Act* is clearly outside their scope on the one part and the report made malafide by the 4th Respondent on a purely

contractual transaction is to that extent liable and should be visited with exemplary damages.

At the hearing of this application, the learned counsel for the Applicant applied to withdraw relief (d) because the Applicant has been released.

Consequently, relief (d) is hereby struck out from this application.

I have carefully examined all the processes filed in this application together with the submissions of the learned counsel for the parties. The issues formulated by all the counsel are quite germane to the just determination of this application.

However, I have condensed the issues into a sole issue for determination as follows: *Whether the Applicant is entitled to the Reliefs claimed in this Application for the alleged breach of his fundamental rights.*

Fundamental rights are enshrined in *Sections 33-46 in Chapter IV of the 1999 Nigerian Constitution*, as amended. *Section 46 of the Constitution*, as amended empowers every citizen whose fundamental right has been or is being, breached, to approach the Court to seek redress, see: *Sea Trucks (Nig.) Ltd. v. Anigboro (2001) 2 NWLR (Pt. 695) 159; Fajemirokun v. C. B. Nig. Ltd. (2009) 5 NWLR (Pt. 1135) 588; W.A.E.C. v. Adeyanju (2008) 9 NWLR (Pt. 1092) 270; Tukur v. Government of Gongola State (1989) 4 NWLR (Pt. 117) 517; Jack v. UNAM (2004) 5 NWLR (Pt. 865) 278; Gafar v. Government of Kwara State (2007) 4 NWLR (Pt. 1024) 375.*

The burden of proof of the breach of fundamental right of a citizen resides in an applicant see *Fajemirokun v. C. B. Nig. Ltd. (2009) 5 NWLR (Pt. 1135) 588;* and *Jim-jaja v. C.O.P., Rivers (2013) 6 NWLR (Pt. 1350) 225.* The standard of proof is on the balance of probability or preponderance of evidence, see: *Arowolo v. Olowokere (2012) All FWLR (Pt. 606) 398.*

Essentially, the gravamen of the Applicant's complaint is that his arrest and detention by the 1st to 3rd Respondents and their officers based on the report against him by the 4th Respondent was a violation of his right to personal liberty as guaranteed by the *Constitution of the Federal Republic of Nigeria 1999 (as amended)*. He deposed to the facts leading to his arrest and maintained that the

transaction between the 4th Respondent and himself was purely a civil contractual transaction.

On the part of the Respondents, they maintained that the Applicant was arrested and detained to enable the 1st to the 3rd Respondents investigate the allegation of stealing of the 4th Respondent's vehicle made against him.

In an application for enforcement of fundamental rights, where the complaint is that the arrest and detention of the applicant arose from a civil transaction as in the instant case, it is the duty of the trial Court to determine whether or not the allegation resulting in the arrest and detention is criminal in nature and whether or not it was without probable cause. In other words, the trial Court is duty bound to determine whether the complainant had genuine belief in the guilt of the Applicant and that the proceedings he had initiated are justified. See the following cases on the point: *JIM-JAJA v. C.O.P. (2011) 2 NWLR (pt. 1231) PAGE 375 at PAGE 390-391 PARAS H-B; BALOGUN V. AMUBIKANHUN (1989)3 NWLR (Pt. 107) 18; and USMAN V. EFCC (2017) LPELR-43196(CA) (PP. 18 PARAS C).*

From the totality of the evidence disclosed by the parties, there is no doubt that at the beginning, the transaction between the Applicant and the 4th Respondent started on a quite harmonious note. Later, as a result of the friendship, the relationship dovetailed into a contractual relationship of Hire Purchase whereby the 4th Respondent released some funds for the purchase of a vehicle for the 4th Respondent to be sold to the Applicant under a Hire Purchase Contract.

However, the problems allegedly started from the purchase of the vehicle in the name of the Applicant instead of the name of the 4th Respondent from whom the Applicant was expected to purchase the vehicle under the contract of Hire Purchase. The 4th Respondent allegedly requested the Applicant to effect a change of ownership to reflect her name as the owner but the Applicant refused.

Eventually, the Applicant allegedly absconded with the vehicle and the 4th Respondent made a report of stealing against him to the police. Upon receiving the report, the police arrested the Applicant and he confessed to the police that he has sold the vehicle to one Pastor without the consent of the 4th Respondent. The police eventually charged the Applicant to the Magistrate Court for stealing the car.

Upon a review of the evidence, I hold that even upon the showing of the Applicant, the initial seemingly civil transaction of Hire Purchase had dovetailed into series of suspicious and likely criminal conduct by the Applicant such as the outright purchase of the vehicle in his own name; his refusal to effect a change of ownership to the 4th Respondent; absconding with the vehicle and refusal to pick her calls; and the eventual sale of the vehicle without the consent of the 4th Respondent.

I am of the view that all the copious explanations being offered by the Applicant in his affidavit evidence are at best possible defences which he can raise during the criminal trial against him. The explanations cannot wipe away the elements of criminality in the civil transaction which prompted the 4th Respondent to make a report which the 1st to 3rd Respondents were under a Constitutional duty to intervene, investigate and to prosecute the Applicant.

It is pertinent to note that the same Constitution which guarantees the Applicant's fundamental rights also limited the enjoyment of those rights under certain circumstance as enshrined in *Section 35 of the 1999 Constitution as amended* viz:

“(1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law - (c) for the purpose of bringing him before a Court in execution of the order of a Court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence.”

It does not lie in the mouth of the Applicant to determine which kind of criminal allegations the Respondents should intervene to investigate merely because he has some explanations to make. Indeed, all such explanations can only be made by the Applicant to the Respondents upon their intervention. I therefore, do not find anything untoward in the actions of the 1st to 3rd Respondents in acting upon the report of the 4th Respondent against the Applicant and following due process to arrest him for the purposes of investigating the allegations made against him and hearing from him his own side of the story and to take a further step to charge him to Court.

The Applicant has no immunity in law from being investigated for allegation of committing any criminal offence. His right to personal liberty was not breached or threatened or likely to be breached merely by reason of his arrest, investigation and arraignment before the Magistrate Court. See **Section 35(1) (C) of the Constitution of Nigeria 1999 (as amended)**. See also **Alhaji Aliyu N. Salihu V. Suleiman Umar Gana & Ors (2014) LPELR - 203069 (CA)**; and **NWAFOR V. EFCC (2021) LPELR-52949(CA) (PP. 40-42 PARAS. B-B)**.

The powers of the Nigerian Police Force, with regards to crime prevention, detection and prosecution, are very wide. They are empowered to detain and question anyone reasonably suspected to have committed or to be connected with the commission of a crime. The wide nature of the powers of the police is encapsulated in **Section 4 of the Police Act**, which provides for the general duties of the Police thus: **"The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act."**

The only qualification is that the power must be exercised in accordance with the law. See the case of **IGWEOKOLO V. AKPOYIBO & ORS (2017) LPELR-41882(CA)(PP. 18 PARAS. D)**.

In the case of **Fawehinmi v. I.G.P. (2002) 7 NWLR (pt. 767) 606**, the Supreme Court held thus: **"It is inconceivable that such wide powers and duties of the Police must be exercised and performed without any discretion left to responsible Police operatives. Unless a statute which confers powers or imposes duties expressly or by necessary implication excludes the exercise of discretion, or the duty demanded is such that leaves no room for discretion, it is my view that discretionary powers are implied whenever appropriate, exercised for salutary ends."**

The Police Act has not fixed or stipulated therein, how the Police are to conduct their investigative powers. To that end, the Police carry out their investigation based on the strength or weight of information at their disposal. It is

therefore the strength of the information at the disposal of the Police that should determine how they exercise their discretion to investigate or not to investigate. See *Olatinwo v. State (2013) 8 NWLR (pt.1355) 126*.

Thus, so long as the Police properly exercise their discretion, a complaint under the Fundamental Rights (Enforcement Procedure) Rules for breach of the right to personal liberty may not be sustained. This is because, where a crime has been reported, it is within the discretionary powers of the Police under ***Section 4 of the Police Act*** to decide whether or not to investigate such crime and to also decide on the strategy or manner in which they will conduct the investigation.

In the instant case, the 1st – 3rd Respondents acted on the complaint of the 4th Respondent against the Applicant and their investigation led to the arrest and detention of the Applicant. Eventually, they charged the Applicant to Court. What is expected of the Applicant at this stage is for him to go and defend the charges laid against him. The proof of the alleged offences against the Applicant can only be determined at the trial of the criminal charge. It will be highly prejudicial to the criminal trial for this Court to make any finding at this stage that the arrest, investigation and the charges preferred against the Applicant by the police is tantamount to a breach of his fundamental rights. The streams of criminal justice must be allowed to flow freely.

It is thus my view that the 1st – 3rd Respondents having acted on the 4th Respondent's complaint, pursuant to ***Section 4 of the Police Act***, the claim for breach of the Applicant's fundamental rights cannot be sustained. See the following decisions on the point: *AKANBI & ORS v. C.O.P KWARA STATE & ORS (2018) LPELR-44049(CA)*; and *MITIN v. C.O.P BAYELSA STATE & ORS (2017) LPELR-43064(CA)*.

Furthermore, in respect of the 4th Respondent, it is settled law that every citizen has a right or even a duty to report to the Police anyone suspected of committing a crime and the Police have a corresponding duty to investigate the report in the course of their statutory function of prevention, detection of crimes and generally preservation of law and order. In the case of *Fajemirokun vs Commercial Bank (Credit Lyonnais) Nigeria Limited (2009) 5 NWLR (Pt. 1135) 558*, the Supreme Court held thus:

"Generally, it is the duty of citizens of this country to report cases of commission of crime to the Police for their investigation and what happens after such report is entirely the responsibility of the Police. The citizen cannot be held culpable for doing their duty unless it is shown that it is done mala fide." See also the cases of: ***ONAH VS OKENWA (2010) 7 NWLR (PT. 1194) 512; and MADUKA V. UBAH & ORS (2014) LPELR-23966(CA) (PP. 35-36 PARAS. B).***

Upon a careful consideration of the circumstances culminating in the report made by the 4th Respondent against the Applicant, I think that she acted in good faith when she made the report to the police based on the suspicious conduct of the Applicant in the contractual transaction that resulted in the alleged loss or theft of her vehicle. In the event, the 4th Respondent cannot be liable for the breach of the Applicant's fundamental rights.

On the whole, the sole issue for determination is resolved in favour of the Respondents and this application is dismissed with N200, 000.00 (Two Hundred Thousand Naira) costs in favour of all the Respondents.

P.A.AKHIHIERO

JUDGE

27/03/2024

COUNSEL:

P.A. UGHEOKE ESQ.....APPLICANT

B.A. UWADIAE ESQ.....1ST – 3RD RESPONDENTS

CHRIS AIGBASUBHO ESQ.....4TH RESPONDENT