

IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT COURT NO. 17 CRIMINAL DIVISION
BEFORE HON. JUSTICE I. O. HARRISON (MRS) JUDGE
TODAY TUESDAY THE 24TH DAY OF JUNE, 2025

SUIT NO: LD/17781MFHR/2024

IN THE MATTER OF AN APPLICATION BY ADUNNI ADEWALE FOR AN ENFORCEMENT OF HER FUNDAMENTAL HUMAN RIGHT TO PRIVACY AS GUARANTEED BY THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999.

BETWEEN:

ADUNNI ADEWALE

APPLICANT

AND

- 1. POLANCE MEDIA LIMITED**
(Publishers of www.naijanews.com)
- 2. RACHEAL OKPORU FADOJU**

RESPONDENTS

PREAMBLE

This Judgement is being delivered outside of the statutory period of three (3) months prescribed by the Constitution of the Federal Republic of Nigeria 1999 (as amended) due to the aftermath of the End Sars mayhem wherein our Court rooms were burnt and which resulted in our being allocated temporary Court rooms located at TBS Section of Lagos Division with erratic power supply and restricted use of alternative power (generator) wherein the generator runs for a few hours daily making it impossible to sit and cover all the cases listed on the cause list, carry out research and write Judgements after the day's sitting as the Chambers and Court room will be in pitch darkness. However in spite of the above situation which was beyond the control of the presiding Judge, the Court is fully abreast of the facts and issues raised in the case and the submission of Counsel and neither party will suffer a miscarriage of justice by reason thereof.

JUDGEMENT

The Applicant filed an Originating Summons dated 3rd July, 2024 brought pursuant to Section 37 of the Constitution of the Federal Republic of Nigeria (As Amended), Section 24(1)(A) and (E) of Nigeria Data Protection Act 2023; Order 2 Rule 1 Fundamental Rights Enforcement Procedure Rules 2009 and under the Inherent jurisdiction of this Court.

FOR THE FOLLOWING:

- (a) A declaration that the Respondents' publication of the Applicant's name and photograph in a story captioned "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye" constitutes an invasion of the Applicant's privacy by painting her in a false light and thereby infringing her right to privacy guaranteed by section 37 of the Constitution of the Federal Republic of Nigeria, 1999.
- (b) A declaration that the Respondents' publication of the Applicant's name and photograph in a story captioned "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye" is unfair, false, inaccurate and thereby violates the provisions of Section 24(1)(a) and (e) of the Nigeria Data Protection Act 2023.
- (c) General Damages in the sum of ₦100,000,000.00 (One Hundred Million Naira).
- (d) Consequential Order(s) that this Honourable Court may deem fit to grant in the circumstance.

For the determination of the following question:

- (a) Whether or not as opposed to defamation, the Respondents' publication of the story captioned "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye" have interfered with the Applicant's right to privacy by publishing her name and picture in a false light and thereby violates section 37 of the Constitution of the Federal Republic of Nigeria, 1999?

- (b) Whether or not the Respondents' use and/or publication of the Applicant's name and picture in the story captioned "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye" is unfair, false and inaccurate and thereby violates the provision of Section 24 (1)(a) and (e) of the Nigeria Data Protection Act 2023?

BASED ON THE FOLLOWING GROUNDS:

- (a) The Applicant is a Nigerian citizen and movie actress.
- (b) The Applicant is guaranteed the enjoyment of Fundamental Right to privacy under Section 37 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
- (c) The Respondents published the Applicant's name and picture in a damaging story that paints her in a false light and interfered with the Applicant's right to privacy.
- (d) The Applicant has suffered emotional and psychological distress as a result of the false story.

The application is supported by a twelve (12) paragraph Affidavit deposed to by the Applicant and a written address.

The Respondents filed a seventeen (17) paragraph Counter-Affidavit filed on 2nd December, 2024 with one (1) exhibit and a written address.

The Applicant filed a twelve (12) paragraph further affidavit on 23rd December, 2024 with five (5) exhibits attached.

Arguments were taken on 17th September, 2025 by **E. Solomon** and **Adeyinka Abdulsalam**, Counsel for the Applicant and Respondent respectively.

The Court has read the processes filed and a brief summary of the salient points are as follows:

The 1st Respondent is the publisher of a native digital newspaper platform named "Naija News" hosted at www.naijanews.com.

The 2nd Respondent writes and/or posts stories on the 1st Respondent's platform.

The 2nd Respondent wrote a story about the Applicant in the internet which was published by the 1st Respondent.

The Applicant contends that on 18th January, 2023 the Respondent published her name and information (picture) on its digital newspaper www.naijanews.com with the caption "Six Popular Nigerian Celebrities who have been accused of Dating Dino Melaye (Computer printout of the screenshot is marked Exhibit.2).

In the story, the Respondents published thus:

- (a) "In this article, Naija News lists six popular Nigeria female celebrities who have been accused of dating the PDP chieftain. Adunni Ade: The Nollywood actress" alleged relationship with Dino Melaye was said to have started after the former senator's house was used for a movie production. The duo reportedly got intimate but the relationship crashed after the actress discovered that a supposedly expensive Patek wristwatch from Melaye turned out to be Fake."
- (b) By the story, the Respondents have given me a publicity that paints me in false light as the insinuations in the story are false and they infringe on my right to privacy - right to be left alone.

The post has been published to the entire world and it has remained there for 1 year and 6 months.

The Respondents' publicity of the Applicant's name and photograph in a false light is highly offensive and emotionally disturbing and was done recklessly and deliberately to draw traffic to the Respondent's platform to boost its advertisement returns.

The Respondent in response stated that the 1st Respondent is a reputable news platform where trending issues and news that relates to the public interests, and serious economic and social issues are disseminated to the public.

The Respondent denied categorically that they did not publish any picture of the Applicant to generate traffic and denies that Exhibit 2 was authorized by the 2nd Respondent or printed from the platform of the 1st Respondent.

The Respondents further stated that the Applicant has over one thousand (1000) of her personal pictures on her instagram handle (@iamadunniade) and they include the pictures the subject-matter of this suit. They further state that the Applicant's pictures are accessible to her over 3.3million followers and other users of Instagram - the screenshot of her Instagram handle is attached and marked Exhibit R1.

They also stated that there was no communication between the parties before the case was filed and that the action is coming over a year after the publication.

The Applicant in response to the averment in the Counter-Affidavit stated that the 2 Respondents were served by e-mail pursuant to Order of Court.

They further state that the story in question carries the expression "Published on 18th January, 2023@ 10.28 a.m. by Rachel Okporu Fadoju" and the offensive story is still on the 1st Respondent's website including Facebook (Exhibits Z2, Z3 and Z4).

The Applicant formulated issues for determination:-

- (a) Whether or not as opposed to defamation, the Respondent has interfered with the Applicant's right to privacy by publicizing her personal information in a false light and thereby violating Section 37 of the Constitution of the Federal Republic of Nigeria, 1999?**
- (b) Whether or not the Respondent's use and/or publication of the Applicant's name and picture in the story captioned "Six Popular**

Nigeria Celebrities Who Have Been Accused of Dating Dino Melaye" is unfair, false and inaccurate and thereby violates the provision of Section 24 (1)(a) and (e) of the Nigeria Data Protection Act, 2023?

The Respondent formulated issue for determination:

Whether the Applicant is entitled to reliefs.

The Court also formulated its Issues for determination:

Whether the Applicant's fundamental rights have been infringed entitling her to the reliefs sought herein.

The Respondents within their written address raised a Notice of Preliminary Objection challenging the jurisdiction of the Court to entertain this suit as presently constituted on the following grounds:

- (1) The Applicant has not satisfied the condition precedent as required by **Section 46(1), (2), (3) and (4) of the Nigeria Data Protection Act 2023.**
- (2) The facts upon which the application is hinged reveal that it is on the alleged tort of defamation (LIBEL) purportedly committed by the Respondents which cannot be brought under the Fundamental Rights Enforcement Procedure Rules.
- (3) Facts are clearly in dispute between the parties and the Honourable Court ought to order parties to file pleadings as the action cannot be resolved by affidavit evidence.
- (4) The procedure under Fundamental Rights Enforcement Procedure Rules is unsuitable for contentious action laden with controversy as in the instant case which can only be initiated through pleadings.
- (5) This application constitutes a gross abuse of the Court process and is liable to be dismissed.
- (6) There is no service of the originating processes of the 2nd Respondent.

The Court will take the preliminary Objection first before it goes into the main issue.

The Court agrees with the Respondent that in an enforcement of fundamental rights action, the main claim must be the enforcement of the fundamental right and it should not be the ancillary claim. If it is ancillary, it is liable to be struck out for incompetence.

WALE VS AKINWUNMI
2008 LPELR 3465SC

However, in this case, the question is "Whether proceedings by way of fundamental right enforcement rules is inappropriate, and is the only remedy open to the Applicant a claim for damages in a defamation action commenced by writ of summons? Does the main claim disclose a breach of fundamental right, of the Applicants right to privacy?"

The Respondent contends that the facts of this case do not disclose any infringement of the right to privacy and family life of the Applicant.

The Applicant however contends that she is not claiming reputational damage but that the Respondents have given her undesired and false publicity.

The right to privacy implies a right to protect one's thought, conscience or religious belief and practice from coercive and unjustified intrusion and one's body from unauthorized invasion. The sum total of the rights of privacy and of freedom of thought, conscience or religion which an individual has, put in a nutshell, is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary.

See **MEDICAL DENTAL PRACTITIONERS DISCIPLINARY TRIBUNAL VS. DR. EMEWULU OKONKWO**
2001 7 NWLR (PART 711) PAGE 206.

The right to privacy protects four (4) interests:-

- (a) Intrusion upon seclusion or solitude.
- (b) Publication of embarrassing private facts.
- (c) Appropriation of name or likeness without consent.

(d) Publicity placing an individual in a false light before the public eye.

See **PROF. E. S. NWAUCHE. THE RIGHT TO PRIVACY**

2007 (1) CALS, REVIEW OF NIGERIAN LAW AND PRACTICE 13-89

False light publicity occurs when one gives publicity to a matter concerning another that places the other before the public in a false light.

That is if

- (a) The false light would be highly offensive.
- (b) The perpetrator acted in reckless disregard to the falsity of the publicized matter and the false light in which the other would be placed.

Nathan Ray, "Let There Be False Light: Resisting the Growing Trend Against an Important Tort" 2000 Minnesota Law Review 715.

The Court agrees that there is a difference between invasion of privacy by the exposure of personal information to unwanted and false publicity and defamation which is a tort. While one protects privacy and control on how one presents himself in public, defamation is strictly protection of reputation and once same is damaged the victim is entitled to damages.

UCHE VAL OBI SAN in his article **"The Right to Privacy as a Human Right in Nigeria and Consideration of Class Suits as an Enforcement Option"** Gravitas Review of Business and Property Law 2022 12 stated the essential elements of false light to be:

- (1) Public disclosure of misleading information.
- (2) The disclosed information need not be false.
- (3) There must be a publication by the Defendant about the Claimant.
- (4) Publication must be done with reckless disregard.
- (5) Publication must place the Claimant in a false light.
- (6) Publication must be highly offensive or embarrassing to a reasonable person.

It actually spreads non-defamatory but false information about the person.

The Court finds that the facts of this case fall within the infringement of right to privacy by publishing in a false light which can and should be brought under Fundamental Rights Enforcement Procedure Rules.

The Court agrees with the Applicant's Counsel that false light has nothing whatsoever to do with the character or reputation of the Applicant; it is concerned with the publication of personal information in a false light and is a violation of a person's right to privacy.

See also **CONSTITUTIONAL LAW IN NIGERIA**
PROFESSOR KEHINDE MOWOE (MALT HOUSE PRESS 2008)

The Court thus overrules the said ground of objection as there was a publication of the Applicant's photograph with Dino Melaye under the caption which clearly amounted to publishing the Applicant in a false light thus violating her right to privacy guaranteed by Section 37 of the 1999 Constitution (as amended).

The Respondents also contend that the facts are in dispute and too contentious to be resolved by affidavit evidence and that since they have denied all the allegations, the Applicant has to discharge the legal burden to prove her case with credible evidence to establish same. The Court finds that on every issue, there is independent documentary evidence and/or provision of the law to debunk the Respondents' contention.

There is no substantial dispute on facts that will warrant the calling of oral evidence, as the dispute must affect the germane issues in the case, in particular the Fundamental Rights Enforcement Procedure established this procedure that it will be heard and determined on affidavit evidence.

GRACE JACK VS UNIVERSITY OF MAIDUGURI
2004 LPELR 1567 SC

This ground is also overruled.

The Respondents also contend that the action is premature as the Applicant failed to comply with Section 46 of the Nigeria Data Protection Act 2023, that is, failure to initially lodge a complaint with the Commission who will commence investigation.

It is trite that enforcement of Fundamental Human Rights is not subject to the fulfillment of any precondition and thus as held in **NANCY OKAFOR VS. VICTOR OKAFOR (SUIT NO LD/12264 MFHR/21)** 5th February, 2022 a party does not need to lodge a complaint before approaching the Court for data protection violation.

The said ground is also overruled

The 2nd Respondent also contends she was not served the originating process. The Court however observes that an Order to serve the 1st and 2nd Respondents vide their official email address and Whatsapp number was granted by this Court on 16th December, 2024 pursuant to the Applicant's application dated 25th October, 2024 and the said service which was carried out was deemed valid and proper.

The Court finds there has been no abuse of Court process in this case and the Notice of Preliminary Objection is overruled in its entirety and is hereby dismissed.

On the main issue - it should be noted that affidavit evidence is sufficient to grant declaratory reliefs in a Fundamental Rights Enforcements Procedure case. It is not a civil case; it is sui generis. The subject need not submit her data to the data controller before she can sue.

The Court reiterates the argument above and finds that the utilization of the Applicant's name and picture in the story by the Respondent violates Section 24 Nigeria Data Protection Act 2023 as the Respondent as the data controller failed to ensure that the Applicant's data, (whether all over the internet or not), was processed in a fair, lawful and transparent manner that is also accurate, complete and not misleading and where necessary kept up to

date, having regard to the purposes for which the personal data is collected or is further processed.

In this context, the Respondents are the data controllers and the Applicant is the data subject. In this case, the Applicant has shown that her name and picture were used in a prejudicial and unfair manner which she finds offensive. Section 24 Nigeria Data Protection Act 2023 expects personal data usage to be accurate, in this case it was not only inaccurate but the Applicant's right to privacy was violated by the publication of the Applicant's personal information in a false light.

The contention that the Applicant has numerous pictures online is not the issue, but the association of her name and picture to a false and embarrassing narrative is what constitutes publication in a false light and is in an invasion of her right to privacy.

What remedies is the Applicant entitled to?

- (1) Damages.
- (2) Apology.

It is trite that damages when violation of fundamental right is established, needs no further proof. The Court will award the Applicant the sum of ₦20, 000, 000. 00 (Twenty Million Naira) as general damages.

Consequential Order: The Respondent should delete or expunge the name and picture of the Applicant from the said article/publication forthwith.

This shall be the Judgement of the Court.

R. Harrision

HON. JUSTICE I. O. HARRSION (MRS)
JUDGE

24/6/2025



ADOLABI
LAGOS HIGH COURT
JUDGE