Appeal Court upholds ICPC’s power to probe rape allegation against Prof Ndifon

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Appeal Court upholds ICPC’s power to probe rape allegation against Prof Ndifon  
  
The Court of Appeal in Calabar has dismissed an appeal by an ex-Dean of the Faculty of Law, University of Calabar, Prof Cyril Osim Ndifon, challenging the power of the Independent Corrupt Practices and other related offences Commission (ICPC) to probe allegation of rape made against him.  
  
In a judgment delivered on March 21, a certified true copy (CTC) of which was seen in Abuja on Thursday, a three-member panel of the appellate court unanimously affirmed the March 2, 2017 judgment by Justice Inyang Ekwo (then of the Federal High Court, Calabar) in suit: FHC/CA/M19/2016.  
  
In the March 2, 2017 judgment, Justice Ekwo among others, upheld the statutory power of the ICPC to investigate and prosecute Prof Ndifon for alleged corrupt practices, demand for sexual gratification and abuse of office.  
  
In his appeal, marked: CA/C/295/2017, Prof Ndifon urged the appellate court to set aside the Federal High Court’s judgment on the grounds that the police had investigated and exonerated him on the allegation of rape.  
  
He argued that the ICPC could not investigate or prosecute him for an offence which, he claimed, is unknown to any law and therefore outside the mandate of the ICPC, adding that any investigation by the ICPC was likely to breach his fundamental rights.  
  
In the lead judgment of the Court of Appeal, delivered on March 21, Justice Lateef Lawal-Akapo resolved the three issues, identified for determination, against Prof. Ndifon.  
  
Justice Lawal-Akapo agreed with the submission by lawyer to the ICPC that that the alleged offence of demand for sexual gratification, for which the appellant was being investigated, is adequately captured as a corrupt practice under Sections 8, 9, 10 and 19 of the ICPC Act, 2000.  
  
The judge held that the fact the police had exonerated Prof. Ndifon on allegation of rape did not stop the ICPC from investigating the him for a different offence captured under the ICPC Act.  
  
Justice Lawal-Akapo, while reviewing the history of the case, said: “The facts of this case are fairly straight forward.  
  
“The appellant is a Professor of Law at the University of Calabar, while the second respondent (Miss Sinemobong Nkang) is a 400-level female law undergraduate.  
  
“The first respondent is ICPC. The second respondent alleged that she was raped by the appellant. A report was made to various law enforcement agencies, including the police, Department of State Services (DSS) and the ICPC.  
  
“Consequent upon this allegation, the university authority issued the appellant with a query to which he responded.  
  
“The university authority was not satisfied wath his response and by a letter dated 8th September, 2015 suspended the appellant from work.  
  
“While reports of various investigations were being awaited, the first respondent made public announcement in newspapers, notably Punch of Friday, 8th September, 2015 that the first respondent will prosecute the appellant for abuse of office and related offences.  
  
“The appellant then rushed to file a fundamental human right application against the respondents, saying that his fundamental right has been breached.  
  
“The first respondent filed a preliminary objection, saying that the applicant’s claim is not recognised under the Fundamental Human Right Enforcement Rules.  
  
“The learned trial judge dismissed the objection as well as the appeliant’s fundamental right application. The dismissal of the fundamental right application led to this appeal,” he said.  
  
Justice Lawal-Akapo after resolving all issues against Prof. Ndifon and affirmed the judgment by Justice Ekwo, proceeded to dismiss the appeal for being unmeritorious.  
  
Meanwhile Prof. Prof. Ndifon is currently being prosecuted before a Federal High Court in Abuja by the ICPC on allegation of demanding for nude photographs of female diploma students in exchange for admission into the degree programme of the faculty of law, an act the prosecution claimed amounted to an abuse of his office and position as a public officer.  
  
He is standing trial before Justice James Omotosho along with one of his lawyers, Sunny Anyanwu, who is accused of threatening one of the witnesses listed as a prosecution witness in the case.  
  
Hearing in the case before Justice Omotosho resumes on April 11.