

was subsequently invited by the police over an allegation made by the complainant. The block I parked was there even when the complainant completed the walling of her compound. He also said that a Rev. Father invited her over the case but the complainant refused. He said he did not threaten the defendant and that it was in the police station he heard it. DW1 was duly cross-examined.

DW2, Anayo Osakwe, stated that he came to see DW1 when it was observed that the blocks parked by the DW1 has been removed by some workers. The DW2 stated that the place where the block is parked is owned by DW1. He was accordingly cross-examined.

The court moved to the locus in quo so as to assist the auditory with visual. The court observed a hip of block parked so close to the shop of the complainant that it was almost obstructing the entrance door to the shop.

The law is that to succeed in an action for acts likely to cause breach of peace the prosecution must among other things that the place is a public place. It was evident that the alleged incident occurred along the street. DW1 admitted in evidence that passerby pleaded with him to allow the workers of PW1 park back the blocks. The continuous keeping of the block there has been a source of disagreement which many people have mediated before inviting the police including the landlord association and even a catholic priest. The continuous keeping of the blocks by the defendant in such a way that the shop of PW1 entrance door is restricted is an act likely to cause a breach of peace. Attempt to park it out resulted in a breach of peace.

Pursuant to Sec. 396 of the ACJL 2010, I find the offence proved but having regard to the trivial nature of the offence and the extenuating circumstances under which the offence is committed especially having regard to the fact that the alleged blocks were there before the construction of the complainant's building and the fact that the parties are neighbours as well as the fact it was admitted by PW1 that she had in the past parked building materials in the house of the defendant for security reason, the court is of the opinion that a probation order will meet the justice of the case. It is hereby order as follows:

I hereby discharge the defendant conditionally upon entering into a recognizance to be of good behavior within a period of 1 year.

Additionally, pursuant to Sec. 400 of ACJL 2010, he is hereby ordered to remove the said blocks forthwith so as to prevent a repetition of the same offence or commission of other offences.

The probation officer shall be the police prosecutor (Sgt. Cyril Ogbodo).

Signed:

Mike Anyadiegwu Esq.

Snr. Mag. Grade II

29/08/2017

IN THE CHIEF MAGISTRATE COURT ANAMBRA STATE OF NIGERIA
IN THE MAGISTRATE COURT OF AWKA MAGISTERIAL DISTRICT
HOLDEN AT AWKA
BEFORE HIS WORSHIP MIKE ANYADIEGWU ESQ. SNR. MAG. GRADE II
THIS TUESDAY THE 29TH DAY OF AUGUST, 2017

MAW/26^c/2016

COMMISSIONER OF POLICE

VS.

FRANCIS NWAOKOR

Defendant Present.
A. N. Anaeme for defence.
Cyril Ogbodo for prosecution.

JUDGMENT

The defendant is charged with an offence of act likely to cause breach of peace contrary to Sec. 247 of the Criminal Code Cap. 26 Vol. II Revised Laws of Anambra State of Nigeria 1991 as amended.

PW1, Dr. Mrs. Nneka Ezeani, stated that the defendant parked blocks in front of her shop and refused to remove it. The block has been there and I wanted him to shift the block and he refused. She said the matter was referred to the chairman of the community and the defendant resisted all effort to remove his blocks. Under cross examination, the PW1 said that it was her workers that told him about it and she also admitted that she kept her building materials in compound of the defendant. PW1 was duly cross examined.

PW2, Boniface Ezeani, he stated that he defendant on 14th November 2016 met him at Eke-Awka and asked him if the defendant is a trouble person and he said he could not answer that. He now said he will give my wife, PW1 whatever she wants. He stated how PW1 did not reciprocate the good gesture by allowing her to park her building materials without any charge in the compound of the defendant. He said he also consulted his legal advisor Anayo Ogbondo but after his intervention the block was not removed. He said he also consulted the Parish Priest and exploited other avenue to settle the case but the defendant refused. He said further that the landlord association of that place was invited and still the defendant refused to remove the block. He stated further that even when the blocks were parked away by the masons he came back and park them back. PW2 was duly cross-examined.

PW3, Sgt. Abraham John, he stated that a case act likely to cause breach of peace was reported to him to investigate as well as threat to life. He said he saw the blocks parked in front of the complainant's shop which is the street PW3 was duly cross-examined.

DW1, Stated that he was told by one mallam that the worker's engaged by the complainant's came and parked out the blocks. So I allowed them to return the blocks. I