

IN THE CIRCUIT COURT, CF-GBVC DOVVSU HEADQUARTERS ON THURSDAY
THE 6TH DAY OF APRIL, 2023 BEFORE HER HONOUR JUDGE DORA G. A.
INKUMSAH ESHUN

SUIT NO: D6/007/2023

THE REPUBLIC
V.
ALEXANDER CHINEDU FAVOUR

Accused Person	- present
Prosecutor	- present; C.I. Kassim Ahmed
Investigator	- present; Insp. Agyenim-Boateng
Accused Counsel	- none
Social Welfare Officer	- present; Mr. Raymond Kudaah; DOVVSU One Stop Centre (SWO)
Court Expert	- present at 1:41pm; Rosemary Osei Dufie, Clinical Psychologist; DOVVSU One Stop Centre

Time: 12:00 pm

By Court

Considering the circumstances of the case and the fact that the child/victim/survivor is present and has asked to speak to the judge, the case is being heard in chambers. The Social Welfare Officer is present to clarify portions of the Social Enquiry Report. The accused person indicates that he has not read the SER. The case is stood down to enable the accused person and survivor obtain copies of the SER.

The case is recalled at 1:16 pm.

Accused Person

I don't have any question about the Social Enquiry Report.

By Court to Social Welfare Officer

I have a question about paragraph 15 of your observation and findings. You said your contact was able to locate the accused's parents' home at the address the accused provided but the family was unwilling to engage. Can you please explain? Who was your contact?

Social Welfare Officer

I met a Nigerian guy around Nungua. I told him I was investigating a case. His name is Pascal. I didn't ask of his other name. I told him I was investigating a case and needed to get in touch with the accused person's family. I obtained the address from the accused and shared with him. He was able to get someone to go to the address but when she informed the family of the purpose of the visit, she was not allowed to speak with the accused person's father.

By Court

What did she tell them was the purpose of the visit?

Social Welfare Officer

The purpose was to obtain a contact so that we could get in touch with the family, but they declined to provide the contact. She spoke with the accused person's elder brother, Kelechi.

By Court

Who took the picture and video that was shown to the victim?

Social Welfare Officer

My friend's informant or contact. He didn't give me her name.

Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

2

Survivor

Aunty please after the termination, I want to know if I can forge ahead with my education. At the shelter they are teaching a trade but some twins we were sent to boarding school – I don't know how. Some too, are not studying anything. They seized our phones. We were two new girls. I even have my money on it – GH¢70.00. It can stay on the phone.

By Court

Did the psychologist explain what adoption is?

Survivor

Already I know what adoption is. If somebody gives birth the child can be sent to a home, and somebody can adopt the child or the child can stay in the home. She explained to me that somebody can come and adopt your child and you will not have any way to see her anymore or your child can be in a home, but you are not financially prepared to take care of the child – though you will see the child.

Social Welfare Officer

The options for mainstream education are available but she has to discuss with the Home Manager or Shelter Manager.

By Court

In Madam Dufie's report, she stated that *"The option of adoption was absolutely undesirable to the client"* – as she would not want to endure the humiliation of the sexual abuse, physical and mental pain of 9 months of pregnancy only to deliver and offer the baby up for adoption.

Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

3

Madam Dufie

Just as the letter explained, we explain to her the options available to her – we asked her, her preferred option and she said she prefers to have the baby because she is an only child of her parent and grow up with. The medical doctor and myself explained to her safe medical abortion. We explained different types of abortion – including medical abortion through pills depending on the stage of pregnancy and that when it's very early around a week or two to a month – that's when the doctor does it. Another option was abortion through other means – D and C where the baby would be forced out of the womb through medical means. The second opportunity, we educated her on legal adoption, circumstances surrounding adoption, where you can see the child.

By Court

Is this generally or in Ghana?

Madam Dufie

We talked about adoption options and the medical doctor also talked about medical options.

By Court

The medical report of Doctor Desmond Addo, ACP in charge of Obstetrics and Gynaecology filed on April 6, 2023, states that *“The client reported to the Hospital seven weeks ago when she was seven weeks, five days pregnant”*. She is currently at 15 weeks gestational age and after examination, both baby and mother are doing well. There is no risk in either carrying or terminating the pregnancy.

Chidera says she is alright carrying the pregnancy to term. She really did not want to abort it but was worried about the baby's health and whether an abortion could harm her (Chidera). She says she wants to be in school because she wants

Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

4

to move on. She is ready to go to school after the pregnancy. She acknowledges that she can't take care of the baby at this time.

Adoption in Ghana is explained to Chidera and the transfer of rights and responsibilities from the natural parent to the adoptive parent. The difference between the adoption process and possible trafficking (exchanging a child for money likely to lead to exploitation) is also explained. The child and survivor having an opportunity to live their lives and move forward is discussed.

Chidera

I understand. I don't have a problem with adoption. I don't have a problem with termination, but I am worried about the effect termination can have. If I were to have the child, during my months, I can also be having normal classes so I can be refreshing my mind.

The last class I went to was in SS1 3rd term. They were just about to couple up with exams and move to SS2 when I came in. What I had in mind was government. I was in class 6 in Action College in Madina before I stopped school. After a while I went to SS1, and they told me to go back to class 5 and come back through class 6. I stopped school again and jumped to JHS 1.

Madam Dufie

She needs to continue counselling.

Prosecutor

The shelter is saying her stay is temporary because they are having difficulty caring for the pregnancy and taking her to antenatal etc.

Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

5

Madam Dufie

I do onsite counselling, but it comes with cost, but if it comes through DOVVSU we can discuss things.

Prosecutor

Although the Director was here, it is a missing person's case but not a DOVVSU case.

Madam Dufie

What the young woman needs is not just counselling but psychological therapy because she has a lot of questions and anxiety arising from fear.

Social Welfare Officer

The Shelter is saying the child's stay is temporary. Victims are usually kept there until their family is traced by the people who brought them, or they are put in foster care, put up for adoption or sent to children's homes like Kinder Paradise. Kinder traces the children's families, gives them an education and helps them get jobs. I don't know much about SOS.

Madam Dufie

The order to continue counselling can be directed to me.

By Court

Proceedings are moved to open Court where the child is permitted to communicate with the Court via video link. The accused person is briefed on the discussions with the Clinical Psychologist, Social Welfare Officer, and survivor.

Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

6

SENTENCING GUIDELINES

1) Offences

- a) Defilement - section 101(2), Act 29
 - 1st degree felony, 7 – 25 years
- b) Incest - section 105, Act 29
 - 1st degree felony, 3 – 25 years

2) a) Aggravating Factors

- large age difference
- younger aged victim
- vulnerable victim
- victim becomes pregnant
- violation of safe place
- family, position of trust
- greater injury (psychological)

b) Mitigating Factors -
lesser violence

3) Sentence Level

Defilement	C/D	10-12 years or 12-15 years
Incest	C/D	7-10 years or 10-25 years

4) Victim's Impact Statement

The way it affected me, it affected me educationally. It also affected me by me getting pregnant at a young age. It affected my social life. It also affected my brain - it affected me in many ways. It also affected me that sometimes I regret my life – in many ways.

For my father's sentence, I plead that you will have mercy and reduce it please. Because I never wanted my father to be sentenced even though he do me bad thing. I wanted him to focus on his life. I never wanted him to be sentenced. It's just that I don't want to live with him. He knows that I never wanted to live with him. I wanted to stay with my grandparents at first. He knows that...

If he would have listened to me as of 2020, the time he wanted to sell his house, when I said, *"Let me go and stay with my grandparents."* He never listened to me because he thought that I was sleeping with his senior brother which I have never done such a thing before.

I was never comfortable staying with him. Even this recent one when our rent was due, I told him I wanted to go and stay with a nurse we found at St. John's Hospital. I never wanted to stay with him. I wasn't comfortable. If he were married with other children, I can see my siblings... I have been lonely for a long time. I never wanted to be the only child thoughtless of me being the reason why he's not married up to now. So it affected me in many ways, no siblings, nothing, no motherly love. It really affected me.

But I'm just pleading that you will show mercy and reduce his sentence please because I don't want to stay with him, but I wish him to forge ahead with his life and marry and give birth to children.

5) Accused Personal Circumstances

My lady first of all, I've been appreciating the way you've been handling the case, but I still want to plead for mercy, I'm not the type who have any wrong intention over the mother which is my wife. During the days of me and my wife, I'm the type who likes to be truthful and... we were both in Wisconsin University and I set up a supermarket. Even if she did something wrong, I tried to have that forgiveness. I think I tried to put myself under her shoe. Maybe I have wronged

her in something or something is trying to come between me and my family. I wanted to have the best family because I started life very early. Because when I was small, I read the Bible there is no need for human being to be awake from morning to night being busy, hustling. That God provide for His loved ones even when they are asleep. So, I told my dad this. My dad told me that the only thing that will make God provide for you is if God loves you and you are truthful – then He will show mercy for you. He showed me Matthew 5 – blessed are the poor and merciful for they shall have the kingdom of God.

When I sold the house in 2020, it's just that things was not moving well. I don't want to return to my daughter to Nigeria as nobody. 2015, when we went to Glorious where she broke her hand and I sent her to Nigeria... where you have relatives and family, it will look like you are just wasting your life, so I decided to sell the house and go to Nigeria to start life.

If things are ok, we me, both my parents, brothers, and relations they do call me for support – the ones I can pay their fees I do. Even some friends call me for support. Even my daughter knows, I do support many friends.

I haven't had any police case in my life. The only one is when I tried to settle some issue with my dad. That one is not any case. In Nigeria I haven't been to Court since I was born.

My lady please you are like a mother to me. The last church I went to before this church they told me I am a Job etc... that I will be restored by Job, and I got angry and left etc. Please my Judge since I understand that I am like Job now, all I need is my life to start. I plead for your mercy. I never meant to hurt her. Just look unto the blood of Jesus. I never had any bad intention to hurt my daughter. What happened is not any fun to me. I will say it is part of sacrifice or a spiritual influence. It can never be fun to me. I'm a hardworking man, I do have girlfriends and go out.

This is a situation where I was hoping things will get better and my daughter will go to boarding school, and I would get married ... I have been telling her, *"You are my daughter, I will not just throw you into somebody's hand."* I want a place where you will be alright. I thought boarding school – Action, but it did not work. Even about putting the baby for adoption, if she understood it or she is okay with it. I don't have problem with it. If it is for me to go to Nigeria so I can start my life, I'm okay. I will not like to be the kind of father that have argument or challenges with my daughter and lose my privilege because even the days of me and her mother, when she decided to move out, I was thinking maybe, it is not by her will. When I lose everything and I see that it is her wish to move out, I withdraw because I know truthful and mercifulness etc.

So please temper justice with mercy. I don't know where this thing came from etc. If it means deporting me from Ghana, I will appreciate it so much. Please just be a mother and look up to the blood of Jesus. Just have mercy on me and give me freedom to go and start my life. All I want to do is make my parents proud before they die etc. Please I beg you and the officers here (bursts into tears, sobbing). I have never done something wrong in my life.

By Court

Mr. Chinedu, the Court works according to law. The law provides a sentence range for the offences you have committed but it is not possible to go free. The Court has heard you and will consider everything.

Chidera

I wanted to say something. My father, he was not to wrong me, but he failed to know that I am a child etc. Like when he sold his house, our agreement was that he would come back to Nigeria, he would find something and open and establish and he would get married, but he misused it. He was acting like I was the one to

decide whether he should buy land, do this etc. but the money was with him. When the money got finished, he started to call me a witch and say he sold the house because of me etc. He did not have any bad intention towards me. Please I plead...

Accused Person

My lady please I'm a BP patient. I have ulcer and my sugar problem is not good. All these are giving me problems in the cell... nobody understands it except my daughter or someone who has lived with me. Please consider me in Jesus' name.

VERDICT

The accused person Alexander Chinedu Favour, a 41-year-old Nigerian national resident in Ghana, is convicted on his own "*guilty*" plea of the offences of:

- a) defilement, contrary to **section 101(2) of the Criminal and Other Offences Act, 1960 (Act 29)**, and
- b) incest, contrary to **section 105(1) of Act 29**.

1. The accused person is sentenced to a term of imprisonment of 7 years at the Nsawam Medium Security Prison in hard labour for both offences. The sentences shall run concurrently.

In sentencing the accused person, the Court has considered:

- a) the accused's early "*guilty*" plea;
 - b) the accused's consistent concern and care for the child/survivor's well-being while acknowledging his wrongdoing;
 - c) the fact that the accused person and survivor have no other known relatives in Ghana and currently have no direct link to their relatives in Nigeria;
 - d) the following aggravating factors:
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- large age difference between the accused and the survivor, the young age of the survivor who is the accused's child, the vulnerability of the survivor, the pregnancy conceived from the acts consisting of the offence, the violation of the survivor's safe place (the presence of her father) and the psychological injury to the survivor from the offence;
 - e) the mitigating factor of the absence of the report of violence used in the commission of the offence;
 - f) the accused's deep remorse shown throughout Court proceedings for his actions.
2. The accused person shall be enrolled in a work programme during his incarceration.
 3. The accused person shall be referred for counselling during his incarceration.

Considering the circumstances of the case, the Court makes the following orders for the victim/survivor:

1. The survivor Chinedu Favour shall be placed in the care of the Director of the Department of Social Welfare who shall;
 - a) have custody of the survivor,
 - b) ensure that she attends all medical and psychological appointments necessary for the wellbeing of herself and her pregnancy,
 - c) ensure that she continues mainstream education as soon as is practically possible,
 - d) determine the best placement for the survivor at an approved residential home,
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Judgment The Rep v Alexander
Chinedu Favour

Apr 6, 2023

12

- e) ensure the wellbeing and needs of the survivor are catered for,
 - f) make reasonable attempts to trace the survivor's paternal grandparents, and
 - g) assist the survivor with the procedures and resources required to facilitate her decision to maintain the pregnancy and consider the option of adoption for the baby when it is born.
2. The survivor is referred to the Psychologist at the DOVVSU One Stop Centre to continue psychological therapy and counselling as required.
 3. The survivor shall be granted access to see or communicate with her father, the accused person, as is her right but only at her request and under the supervision of the appropriate authorities while the accused person is serving his sentence.

The Court has taken the following reports into consideration in sentencing and making orders in the best interest of the child/survivor:

- a) Police Medical Form, Sections A and B dated 13 February 2023, signed by Dr. Blay Cobbinah, Ghana Police Hospital.
- b) Psychological Report dated 13 March 2023 signed by DSP Foster S. Nanewortor, Consulting Clinical Psychologist at the Ghana Police Hospital.
- c) Social Enquiry Report filed on 15 March 2023, by Mr. Raymond Kuudaah, Social Welfare Officer, DOVVSU One Stop Centre, Accra.

Chinedu Favour

- d) Brief Psychological Assessment Report dated 23 March 2023, signed by Rosemary Osei Dufie, Clinical Psychologist DOVVSU One Stop Center, and
- e) Medical Report dated 5 March 2023 signed by ACP Doctor Desmond Addo, In Charge of Obstetrics and Gynecology at the Ghana Police Hospital.

(SGD)
DORA G. A. INKUMSAH ESHUN
CIRCUIT JUDGE

Chinedu Favour