

IN THE CIRCUIT COURT '10' OF GHANA, ACCRA, HELD THIS THURSDAY 22<sup>ND</sup> DAY OF JUNE, 2023 BEFORE HER HONOUR EVELYN E. ASAMOAH (MRS).

SUIT

NO.D21/460/2022

REPUBLIC

V.

DENNIS FIAGBE

CHIEF/INSP. BENNEH FOR THE REPUBLIC

MR. ALEX GYAMFI FOR THE ACCUSED

---

---

**RULING**

•The accused was charged with the offence of possession of stolen property contrary to section 148 of the Criminal and Other Offences Act, 1960- Act 29. It's the case of the prosecution that on 15th June 2022, at Aflao, the police intercepted the accused in charge of the vehicle which was stolen from the complainant, offering it for sale. During the police investigation, the accused mentioned one Martin who lives at Dabala in the Volta Region as the one who brought the stolen vehicle to him to sell for him.

• Facts stated by the Prosecution: The complainant in this case is a teacher and lives at Shiashie in Accra while the accused person, Dennis Fiagbe, is an okada rider who also lives at Aflao in the Volta Region. On 30th June 2022 at about 11.30 pm, the complainant was in charge of his Toyota Vitz vehicle with registration number AW 6616-21 for bolt services from Baatsona Total heading towards Shiashie. On reaching the Kotobabi bus stop near Baatsona, he picked

up three unidentified passengers to Shell Signboard. On reaching a section of the road near Laweh Pentecost church, the alleged passengers ask the complainant to stop for them to alight. As soon as the complainant stopped, they attacked him and tied his neck with a rope. Complainant struggled with them but they overpowered him and sped off with the vehicle. On 15th June 2022, Aflao police intercepted the accused person Dennis Fiagbe in charge of the said vehicle which he was offering for sale. He was suspected of having stolen the vehicle hence his arrest. He was however put before Aflao Circuit Court but he was discharged for lack of jurisdiction. On 16th June 2022 Baatsona police was informed and the accused person Dennis Fiagbe was re-arrested and brought to Baatsona for further investigation. During the police investigation, the accused person mentioned one Martin who lives at Dabala in Volta region as the one who brought the stolen vehicle to him to sell for him. Efforts are underway to get the said Martin arrested for investigation.

**Section 148(1) of Act 29** states:

*“Where a person charged with dishonestly receiving “proved to have had in possession or under control anything which is reasonably suspected to having been stolen or unlawfully obtained, and that person does not give an account, to the satisfaction of the court, as to the possession or control, the court may presume that the thing has been stolen or unlawfully obtained and that person may be convicted of dishonestly receiving in the absence of evidence to the contrary.”*

- The investigator in his evidence indicated that a month after the robbery, the accused was seen at Aflao offering the car for sale. The accused in his caution statement, Exhibit A, dated 17th June 2022 stated that his friend by name Martin, a lotto writer, brought the car to him. That he should look for a buyer for him. He added that he gave Martin GH¢3,500.00.

In the case of **Santuoh V. The Republic (1976), 1 GLR 44** – Justice Owusu–Addo J (as he then was) stated:

*“... The duty to prove “guilty knowledge” rested on the prosecution throughout ... On reading the evidence ... the first impression which one gets is that he did not take any trouble to inquire into the ownership of the prints and why they were brought to him for safe keeping at ungodly hour ... The question to answer is whether the appellant’s explanation of his possession of the prints is reasonable or not. The reasonableness of the appellant’s explanation was a question of fact for the trial judge which depended not merely on his statements and evidence but also on his conduct...”*

•The evidence so far presented shows that on 30th May 2022 at about 11.30 pm, in Accra, the complainant was attacked by passengers in his vehicle and robbed of his Toyota Vitz car with registration number AW 6616-12. The accused was in possession of the car at the time he was arrested, offering the car for sale at Aflao. The accused paid GH¢3,500.00 to his said friend, probably as the cost of the car. He stated the actual cost as GH¢55,000.00. He could not lead the police to the said friend who allegedly handed over the stolen car to him.

In the case of **Uyuanwunw V. The Republic (2010-2015) GLR 55**, the court held that:

*“... Consequently, the prosecution must prove all the ingredients of the offence charged and in accordance with the burden of proof, by establishing a prima facie case after which the burden of proof would be shifted to the accused person to open his defence. In the event, the accused must give evidence that was acceptable to the court otherwise he might be convicted...”*

It’s the opinion of the court that a prima facie case has been established. The accused has a case to answer. He is called upon to open his defence.

**(SGD)**  
**H/H EVELYN E. ASAMOAH (MRS.)**  
**CIRCUIT COURT JUDGE**