

CORAM: HER HONOUR SEDINAM AWO BALOKAH (MS.), JUDGE,
SITTING AT THE CIRCUIT COURT 2, ADENTAN, ACCRA ON THE 9TH
DAY OF FEBRUARY, 2023

CASE NO: D3/85/2022

THE REPUBLIC

V.

LAMIN SISY

ACCUSED

PERSON.....

PRESENT

INSPR. GLORIA AYIM.....PRESENT FOR

PROSECUTION

PRO SE REPRESENTATION FOR ACCUSED PERSON

JUDGMENT

That Accused Person, an unemployed Sierra Leonean young man was arraigned before this Court on the 23rd day of June 2022 on the following charges;

- a) **Causing Unlawful Harm under Section 69 of the Criminal and Other Offences Act, 1960 (Act 29)**
- b) **Attempt to Commit Robbery under Sections 18(1) and 149 of Act 29.**

The charges were read and explained to the Accused Person in pidgin English which he elected to use in Court. The Accused Person pleaded **NOT GUILTY** to both charges.

The facts as presented by the Prosecution are as attached to the Charge Sheet.

In proof of its case, the Prosecution is obliged under **Section 13(1) and 11(2) of NRCD 323** to establish the guilt of the Accused Person with regards to the offences charged beyond a reasonable doubt. (see **Section 11(2) and Section 13(1) of the Evidence Act, 1975 (NRCD 323)** also see **Tetteh v. The Republic (2001 – 2002) SCGLR 854** and **Dexter Johnson v. The Republic (2011) 2 SCGLR 601**).

The Prosecution presented its evidence through three Witnesses. The first witness for the Prosecution, the alleged victim of the offence charged, Christabel Sitor (hereinafter called "PW1") testified through her witness statement that on the evening of 2nd June 2022 around 8:30 p.m, she went to the Adenta Pharmacy to buy some medication since she was not feeling well. When she alighted from a "trotro" (public bus) at Mile 13 on her way back home around 9:30 p.m, she realized that someone was trailing her. PW1 testified that she was carrying her handbag which contained her Infinix Hot 10 cell phone and GHC100. She became suspicious and so hung her bag across her chest and started doubling her steps. When she got near Honorable Buabeng Asamoah's house, the Accused Person ran and caught up with her. When she looked at him, she could not recognise him as someone she has ever known. PW1 said the Accused Person ordered her to hand over to him her handbag. PW1 resisted and the Accused Person struggled to take the handbag from her by force. During the struggle, the

Accused Person slashed PW1's left hand with a sharp implement. PW1 shouted for help and drew the attention of neighbours to come to her aid. The Accused Person took to his heels. A chase of the Accused person ensued. The Accused Person ran into a bushy area of the vicinity. The neighbours chased the Accused Person while PW1 was rushed to the Adenta Police Station. PW1 was bleeding. While in the Charge Office, the neighbours brought the Accused Person in and PW1 identified the Accused Person as her assailant. PW1 was then issued with a Police Medical Form (PMF) to take to a hospital for treatment and endorsement.

The Accused Person, in his cross-examination of PW1 insisted that the two had never met and that he was met and arrested by PW1's neighbours. PW1 rejected the Accused Person's suggestion. The Accused Person insisted that he was not the person who attempted to rob PW1. PW1 rejected this suggestion as well. Accused Person further suggested to PW1 that he was not the person who slashed her hand. PW1 rejected this suggestion also.

The second witness for the Prosecution, Konel Kofi Nnetey (PW2), testified that in the evening of 2nd June 2022 at about 9:40 pm, he was in his room watching TV with four (4) of his sisters when they suddenly heard someone shouting for help by shouting "thief!". When they went outside, they saw PW1 chasing after a guy. When he caught up with PW1, she was bleeding from her left hand. She told him that the guy running away slashed her left hand because she refused to let go of her handbag. PW1 left for the Adenta Police Station while the search for PW1's assailant continued. PW2's dog started barking in the direction of a bushy area. When PW2 got there, he discovered the Accused Person lying among some logs. PW2 arrested him (Accused Person). As soon as PW2 and the Accused Person herein entered the Charge Office, PW1 angrily identified the Accused Person as her assailant. The Accused Person then gave his name as Lamin Sisy.

Under cross-examination, the Accused Person asked PW2 if they later found on the former any weapon when the arrest was effected. To this, PW2 answered in the negative. PW2 admitted that he found only a phone belonging to the Accused Person on him.

The case investigator was the 3rd and last witness for the Prosecution (PW3). She testified that during her investigation after PW1 reported the case at the Adenta Police Station, she visited the alleged crime scene with the Accused Person, PW1 and Police. A video recording of the event of the locus visit was admitted into evidence (**see Exhibit F**). The Accused Person in **Exhibit F** showed the Police where he was lying when PW2 arrested him. An Investigation Cautioned Statement was taken from the Accused Person wherein he denied attempting to rob PW1. He (Accused Person) also denied slashing PW1's left hand (**see Exhibit A**). In **Exhibit A**, the Accused Person admitted hiding himself in the bush where he was found by PW2 and his dog but said he was hiding because he was smoking when he saw a man running towards him. PW3 also put into evidence a photograph of PW1 taken when she arrived at the Police Station bleeding from her slashed left-hand (**see Exhibit E**). The Police Medical Form endorsed by a Medical Officer was also put into evidence (**see Exhibit D**). A photograph of the bushy area the Accused Person was found hiding in that night was also put into evidence (**see Exhibit D**). PW3 testified that she charged the Accused Person with the offences herein and took another Cautioned Statement from him (**see Exhibit B**). In **Exhibit B**, the Accused Person admitted committing the offence charged.

The Accused Person in his cross-examination of PW3 put it to her that he was captured in the street and not among logs in a bush. This suggestion was rejected by PW3. The Accused Person insisted that he was coming back from work when PW2 and another person arrested him. This suggestion was rejected by PW3. The Accused Person further suggested to PW3 that he was not the person who attempted to rob PW1 or who slashed PW1's left hand. This suggestion was also rejected by PW3.

The Court after carefully considering the case of the Prosecution with regards to the offences of Causing Harm and Attempted Robbery and in light of the ingredients of the offences per **Sections 69, 18(1) and 149 of Act 29 as amended**, reached a conclusion that, the Prosecution had led sufficient evidence through its three witnesses and **Exhibits A, B, C, D, E and F** and thus had established a prima facie case against the Accused Person with respect to the offences charged as follows;

- 1) The Prosecution had led sufficient evidence through the testimonies of PW1, PW2 and PW3 as well as through **Exhibits C & E** that a man identified as the Accused Persons slashed PW1's left hand thereby causing her harm unlawfully and intentionally (**see Section 69 of Act 29 as amended** also **see Exhibit C and E** and the testimonies of PW1, PW2 and PW3 in that regard).
- 2) The harm caused to PW1's left hand was intentionally done, owing to her assailant's intention to force her to let go of her handbag by slashing her left hand.

- 3) The harm caused to PW1's left hand was unlawful because her assailant did so in order to force PW1 to surrender her handbag to him thereby enabling him to take the handbag away from her, albeit under duress (**see Sections 89 and 149 of Act 29**).
- 4) The Accused Person was caught hiding in a bush in the vicinity of the Crime Scene after he admittedly ran to hide there.
- 5) The Accused Person was positively identified by PW1 as her assailant.
- 6) The Accused Person was identified as the one who used a sharp object or implement to force PW1 to hand her handbag over to him and slashed her left hand in the process. (**see Section 149 of Act 29**).

The Court therefore called on the Accused Person to open a defence. The burden of the Accused Person to discharge under **Sections 11(3) and 13(2) of the Evidence Act, 1975 (NRCD) 323** is to lead sufficient evidence in order to raise a reasonable doubt as to his guilt (**see Sections 11(3) and 13(2) of NRCD 323**).

The oral testimony of the Accused Person was to the effect that on the fateful night of 2nd June 2022, he was returning from a job seeking venture when PW2 and another Person arrested him. The Accused Person explained that he went to a building site at Mile 13 with the foreman of a building project where he joined other workers. They closed work for that day around 5 pm. The foreman did not return that day and it was late. Accused Person said 2 of the boys he worked with that day left to go and buy food. He (Accused Person) was standing by the

roadside around 7 pm. Sometime later, he saw the 2 boys running. Accused Person said he did not know why the 2 boys were running. He went to look for them but could not find them. Then PW2 and others came to arrest him claiming that he had tried to rob PW1 and had slashed PW1's hand in the process. They took him to the Adenta Police Station where he saw PW1 whom he did not know. The next day, the police took his statement down. He was asked to apologize to PW1. Accused Person testified that he was videotaped at the alleged crime scene when the police took the parties there for further investigation. The Accused Person informed the Court that he was a Sierra Leonean and that it was his brother Seidu Sisy who brought him to Ghana.

The cross-examination of the Accused Person by the Prosecution revealed the following;

- a) The Accused Person could not show the Police the construction site he claimed to have done concrete work at, on 2nd June 2022. He claimed that the case investigator did not take him there.
- b) The fact that he admitted committing the offences charged as seen in **Exhibit F** because he was forced to do so. **Exhibit F** is a video recording of Accused Person at the crime scene describing the events of 2nd June 2022.
- c) The circumstances in Accused Person's narrations of why he was at Mile 13 Adentan the night of the incident.

Now, the question this Court ought to answer is whether or not the defence put up by the Accused Person in its entirety raises a reasonable doubt as to his guilt with regards to the two offences charged.

The Accused Person in one moment during his cross-examination of the Prosecution's witnesses insisted that he saw a guy running while he, (Accused Person) was having a smoke outside and so he (Accused Person) started running too.

He then hid in the bushes among the logs as seen in **Exhibit D**. In the next moment, the Accused Person testified that it was 2 of his co-workers who were returning from buying food that he saw running and that this made him start running too. Here, the Accused Person does not mention anything about standing outside to smoke. Then Accused Person's Investigative Cautioned Statement (**Exhibit A**) contains the Accused Person saying that while he was smoking outside, he saw a guy running towards him, so he also started running. He hid because he had been smoking.

Finally, there is **Exhibit B and Exhibit F** wherein the Accused Person admits committing both offences charged.

What is the Court to make of such a varied story of the Accused Person's narration of the event of the evening of 2nd June 2022?

Accused Person's defence is full of contradictions and inconsistencies and this leads the court to deem the Accused Person an incredible witness. The court then sought to find out from the Accused Person if he would call any witnesses to testify for him. He called his brother as his only witness (DW1). Seidu Sisya testified that he did not know the Accused Person to be a thief. He heard the Accused Person had been arrested through Accused Person's master. Under

cross-examination, DW1 admitted that he knew nothing about the event of the evening of 2nd June 2022 leading to the arrest of the Accused Person.

From DW1's evidence, the court deems that he knew nothing about the happenings of the evening of 2nd June 2022. Therefore his evidence was essentially irrelevant to the issues on trial. Consequently, the Accused Person's entire defence was insufficient to raise a reasonable doubt that he was the man who accosted PW1 on her way home at Mile 13, Adenta, forced her in an attempt to rob her of her handbag and in the process, used a sharp implement which he admits was a pair of scissors (**see Exhibit B**) to slash PW1's left hand thereby causing her harm intentionally and unlawfully.

The Accused Person's failure to establish a reasonable doubt as to his guilt with respect to the two offences charged, leaves the court to conclude logically that the Prosecution had been successful in proving the Guilt of the Accused Person beyond a reasonable doubt with respect to the offences of **Causing Harm and Attempt to Commit Robbery per Sections 69, 18(1) and 149 of Act 29.**

The Accused Person is therefore found **GUILTY** on both Count 1 and 2 as charged.

The Accused Person is accordingly **CONVICTED** on both Courts 1 and 2 as charged.

Pre-Sentencing

Accused Person (English): I plead for mercy. I am a foreigner.

Prosecution: We pray for a deterrent sentence.

By Court:

Does the Accused Person have any previous convictions?

Prosecution: No

By Court – Sentencing

Accused Person is sentenced on Count 1 to serve 5 Years Imprisonment In Hard Labour. Accused Person is sentenced on Count 2 to serve 25 Years Imprisonment In Hard Labour. Sentences shall run concurrently.

(SGD)

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H/H SEDINAM AWO BALOKAH

JUDGE

CIRCUIT COUT 2

ADENTAN