

**IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON FRIDAY
THE 29TH DAY OF DECEMBER, 2023 BEFORE HER HONOUR ENID
MARFUL-SAU, CIRCUIT COURT JUDGE**

CASE NO. D3/47/2023

THE REPUBLIC

VRS.

DANIEL QUANSAH ALIAS SOLDIER

ACCUSED PERSON PRESENT

PROSECUTION: C/INSP SALIFU NASHIRU PRESENT

COUNSEL: EDEM AMADZOR ESQ. ABSENT

RULING

The Accused is charged with one count of Causing Harm, contrary to Section 69 of the Criminal Offences Act, 1960 (Act 29).

The facts as presented by prosecution are that on 5th February, 2023, at about 11:30pm the complainant, Alfred Amartey and a witness went to “Friday night drinking bar” at Nsakina to buy drinks. According to Prosecution, in the process of buying the drinks and without any provocation, the Accused suddenly surfaced and pulled a pair of scissors and stabbed complainant multiple times on his back thereby sustaining multiple injuries. Prosecution says that the complainant lodged a complaint at the Nsakina police station and was issued with a police medical form to attend hospital. According to Prosecution, the Accused went into hiding after committing the crime and was later arrested at Amasaman Police Station in a similar case. Based upon these facts he was arraigned before this court.

Prosecution called three witnesses in support of its case. PW1 was the Investigator G/L/Cpl Eric Mumuni, PW2 was Alfred Amartey and PW3 was Benjamin Adjei.

PW1 testified that on 6/02/2023 while on duty the complainant came to the station with multiple injuries on his back and right shoulder and with

blood oozing profusely to report a case of causing harm which was referred to him for investigation. He testified that a medical report form was issued to the complainant to attend hospital for treatment. He testified that the medical report was returned and the statement of complainant taken. He testified that he obtained witness statement from Benjamin Adjei and the Police visited the scene. He stated that the Accused after the crime went into hiding and was later arrested at Amasaman Police Station on a similar case where he was rearrested, detained and charged with the offence. He tendered the following:

- Exhibit A & A1: Charge Sheet and Brief Facts
- Exhibit B: Statement of PW2
- Exhibit C: Statement of Benjamin Adjei
- Exhibit D: Investigative Cautioned Statement of Accused
- Exhibit D1: Charge Cautioned Statement of Accused
- Exhibit E: Medical Report of Accused
- Exhibit F: Photograph

PW2 testified that on 5/2/2023 at about 11:30pm, he went to Nsakina with two friends to buy something and whilst standing by the roadside, the Accused person suddenly appeared with a group of people and inflicted multiple wounds on his head, shoulder and back with a scissors without provocation. He testified that some unknown motor riders who were passing by sympathized with him and rescued him to his house and for the fear that they might attack him again, he could not go to the Police Station or even the hospital till daybreak.

He stated that on 6/02/2023, he informed the Asafoase of Nsakina of the incident and he accompanied him to the police station to lodge a complaint. He testified that a police medical form was issued to him which he sent to the Nsakina Polytechnic for treatment. He testified that he submitted the endorsed medical form to the Police. He stated that the Accused went into hiding and the investigator called him to say that the Accused had been arrested in a different case so he followed up to confirm his arrest.

PW3 testified that on the day of the incident, he together with his brother and PW2 went to buy something at Nsakina and after that they stood by the roadside to have a conversation. He stated that suddenly the Accused person who is known for several wrong doings came there with others to

attack PW2. He testified that he separated PW2 from the Accused and followed his brother who he saw running away from the scene. He testified that he later called complainant to find out where he was and he was told that the Accused inflicted wounds on him and had been rushed away from the scene. He testified that he followed up to the house of PW2 and he met him with multiple injuries on his body and head.

Prosecution closed its case and this court adjourned the matter suo motu to make a determination as to whether or not a prima facie case has been made against the Accused Person which would require him to open his defence to the charge.

Section 173 of the **Criminal and Other Offences (Procedure) Act, 1960, (Act 30)** states as follows:

“Where at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the accused sufficiently to require the accused to make a defence, the Court shall, as to that particular charge acquit the accused.”

In the case of **THE STATE V. ALI KASSENA [1962] 1 GLR 144** the Supreme Court held as follows:

“Section 173 is concerned with summary trials where the judge decides both questions of law and fact. It is for the judge in a summary trial to weigh the evidence and then decide whether from the facts proved, the guilt of the accused can be inferred. Evidence is said to be sufficient when it is of such probative force as to convince and which if uncontradicted will justify a conviction.”

See also **SARPONG v. THE REPUBLIC [1981] GLR 790**.

As already indicated, Accused is charged with the offence of causing harm. **Section 69 of Act 29** states as follows:

“A person who intentionally and unlawfully causes harm to any other person commits a second-degree felony”

Section 76 of Act 29 defines Unlawful Harm as follows:

“Harm is unlawful which is intentionally or negligently caused without any of the justifications mentioned in Chapter One of this Part.”

Therefore, the elements of Causing Harm are that:

1. The accused person intentionally or negligently caused harm

2. The harm was caused to a person
3. The harm was unlawful

The medical report tendered as Exhibit E indicates that PW2 was seen and treated of a case of multiple deep cuts which were sutured. Exhibit F which are two photographs of an arm and back with blood have the following inscription on the back “photograph depicting when complainant was stabbed with a (scissor) pair of scissor by the Accused person”. The said Exhibit however is a faceless photograph and thus bear little probative value. The direct evidence of PW2 is that he suffered injuries, and this fact is corroborated by the testimonies of PW1 and PW3 who saw the injuries sustained by PW2. I find on the evidence that harm was caused to PW2.

PW2 testified that it was the Accused person who attacked him with a pair of scissors thereby causing the injuries he sustained. The evidence of PW3 is that Accused attacked PW2 and he separated them after which he left only to find out subsequently from PW1 that he had been injured by the Accused so he went to see him and saw the injuries. However, during cross examination, PW3 stated that he was present and saw Accused inflict injuries on PW2. Clearly then, PW3 is not a credible witness. This notwithstanding, though PW2 stated that the Accused person suddenly appeared with a group of people, I find that PW1 was resolute about who caused the injury to him without provocation and the said person mentioned was none other but the Accused. I consider that the evidence adduced in support of the charge levelled constitutes a prima facie case against the Accused person and same merits calling upon the Accused to open his defence.

In the case of **COMMISSIONER OF POLICE v. ISAAC ANTWI [1961] GLR 408; SC** it was held as follows:

“The fundamental principles underlying the rule of law are that the burden of proofs remains throughout on the prosecution and the evidential burden shifts to the accused only if at the end of the case for the prosecution an explanation of circumstances peculiarly within the knowledge of the accused is called for. The accused is not required to prove anything; if he can merely raise a reasonable doubt as to his guilt, he must be acquitted.”

I find that prosecution has adduced evidence which warrants a reasonable conclusion against the Accused in respect of the charge in the absence of

explanation or contradiction. The Accused Person is therefore called upon to open his defence to the charge.

**H/H ENID MARFUL-SAU
CIRCUIT JUDGE
AMASAMAN**