

CORAM: HER HONOUR SEDINAM AWO BALOKAH (MS.), JUDGE,  
SITTING AT THE CIRCUIT COURT 2, ADENTAN, ACCRA ON THE 18<sup>TH</sup>  
DAY OF NOVEMBER, 2022

CASE NO. D1/86/2023

THE REPUBLIC

VRS.

RICHMOND KLUTSE

SAMUEL OLISE @ JUNIOR

,

1<sup>ST</sup> ACCUSED PERSON  
..... PRESENT

2<sup>ND</sup> ACCUSED  
PERSON.....  
PRESENT

C/INSPR. LANYO FOR PROSECUTION  
..... PRESENT

PRO SE REPRESENTATION FOR ACCUSED PERSONS

JUDGMENT

The Accused Persons (A1 and A2), a Ghanaian and a Nigerian respectively, were charged before this Court as follows;

- a) Conspiracy to Kidnap under Sections 23(1) and 89 of the Criminal and Other Offences Act, 1960 (Act 29).

- b) Kidnapping under **Section 89 of Act 29.**
- c) Conspiracy to commit Robbery under **Section 23(1) and 149 of Act 29.**
- d) Robbery under **Section 149 of Act 29.**

The Accused Persons pleaded **NOT GUILTY** to all 4 Counts as charged on 2nd June, 2022, after the charges were read and explained to them. Both Accused Persons elected to use throughout the proceedings.

### **Burden of Proof**

The Prosecution assumes the burden of proving the crimes the Accused Persons have been charged with per Counts 1, 2, 3 and 4. The standard of proof per **Section 13(1) of the Evidence Act, 1975 (NRCD 323)** is one beyond a reasonable doubt. See **Tetteh v The Republic [2001-2002] SCGLR 854, Logan and Laverick v. The Republic [2007-2008] SCGLR 76, Dexter Johnson v. The Republic [2011] 2 SCGLR 601.** Also see **Section 11(2) of NRCD 323.**

In discharging its burden, the Prosecution must first establish by cogent evidence, a prima facie case against the Accused Persons with respect to the 4 counts charged.

### **The Evidence of Prosecution**

The prosecution presented its case through the testimonies of the following persons;

1. PW1 who is the Complainant and alleged victim in the case; Comfort Yeboah a.k.a Ama Goldie.
2. PW2 who is PW1's landlady called Abigail Amoani.

3. PW3, D/C/Inpr. Benjamin Eshun of the Adentan Divisional CID.
4. PW4, D/C/Inspr. Ishmael Nortey

### **The Evidence of PW1**

PW1, Comfort Yeboah a.k.a Maame Yaa testified that she knew A1 and A2 as the persons who kidnapped, raped and robbed her in a bush near Christian University College at Amrahia. She said that she was carrying on an online dating experience with a character known to her online as Scatter, who asked her to accompany him to a friend's party. So, on 1st May, 2022, she left home at around 8pm to meet Scatter. She used a Bolt for transportation. Scatter had told her that he would make one of his boys meet her and bring her to him. She testified that A2 met her on the Amrahia Main Road close to the Christian University College. A2 then convinced her that the gate leading to his boss' estate was closed so they had to use a bush road in order to get to his boss. PW1 walked with A2 through the bush. Along the way A2 gagged PW1 and threatened to kill her if she shouted. A1 then emerged from a corner in a bush wielding a sharp knife. He pointed the knife at her and forcibly took PW1's iPhone from her and made her deactivate her iCloud account. A1 dragged PW1 and raped her in front of A2. After A1 raped her, both A1 and A2 made her call her loved ones to demand a ransom of GHC6,000 for PW1's release or freedom. PW1's landlady, Abigail Amoani did her best to send GHC2,000 to A2 for PW1's release. The money was sent to A2's cell phone 0574278869. The Accused Persons then released PW1. A complaint was lodged at the Lakeside Police Station. Police at the Adentan Police station called PW1 to come for an identification parade because they had arrested some men on the complaints of similar offences. PW1 testified that as soon as she saw all the men, she was able to identify A1 and A2

from amongst the men arrested as the two men who kidnapped, raped and robbed her.

When A1 cross examined PW1, he sought to enquire if PW1 had ever met Scatter physically. PW1 answered in the negative. However, PW1 confirmed that she had seen Scatter's photograph which he had sent to her on WhatsApp Messenger. PW1 confirmed that A1 was not the one in the photograph Scatter had sent her. Essentially, A2's cross-examination of PW1 was to enquire from her how many mobile phones she had on her on the day of the alleged incident. PW1 said that she had 2 phones with her that fateful day.

### **The Evidence of PW2**

Abigail Amoani, PW2, testified that she is PW1's landlady and that on 1st, May 2022 she saw PW1 in a casual dress at home around 6pm before she (PW2) entered her own room around 7pm and did not come out again that evening. She further testified that at around 1am on 2nd May, 2022, she woke up to answer a phone call and that was when she noticed that she had missed several calls. PW2 noticed that it was PW1 on the phone and heard her saying she had been kidnapped and that her kidnappers were demanding a ransom of GHC6,000 in order to release her. PW1 kept calling for help. At one point, a man she would later identify as A2 called her from his phone 0574278869 in furtherance demand of the ransom money failing which they would kill PW1. Later that morning around 7am, PW2 managed to send A2 GHC2,000 through Mobile Money before the kidnappers released PW1.

Under cross-examination, A1 asked PW2 what exactly PW1 said on the phone when she answered the call. PW2 rehashed her earlier testimony about PW1

telling her that she had been kidnapped by the Accused Persons and that the Accused Persons were demanding a ransom of GHC6,000 for her release. Upon further cross-examination of PW2 by A1, PW2 testified that, at that Dawn, she could not do anything to help PW1 because she (PW2) had just given birth. She however kept calling PW1's phone to check on her safety and would hear her screaming from pain. In the morning she went around the neighborhood to get the GHC2000. When A1 asked PW2 if it never occurred to her that PW1 might have been defrauding her, she answered that her husband's advice to her which makes sense was that if PW1 was lying she would not have asked her (PW2) to search for money in her room and further to go to her susu collector to take her savings to send to the kidnappers who had given her (PW2) their Mobile Money number to send the money to. The said susu collector said indeed PW1 had money with her but payment was not due. PW2 therefore borrowed money from one Amalia and sent same to A2's MOMO number. This, PW2 said, made her believe that truly PW1 had been kidnapped. PW2 further answered A1's questions by testifying that when she searched PW1's room she found only GHC800 which was insufficient.

When asked why she did not report the alleged kidnapping to the police, PW2 testified that one of the kidnappers had warned her not to inform the police otherwise they would kill PW1 and thus her reason for not informing the Police. She added that because she was a breastfeeding mother and it was unsafe to go out at the time, she did not inform the police immediately. When asked if PW1 came back home with a phone, PW2 answered in the negative and explained that PW1 told her that the kidnappers had seized her phone. She further testified that PW1 looked weak and would not respond when questioned. According to PW2, PW1 looked traumatized. PW2 under cross-examination clarified that she took

PW1's savings with the Susu Collector and paid Amalia with same for the GHC2,000 she (PW2) borrowed from Amalia to pay the kidnappers.

When the 2nd Accused Person asked PW2 to describe how PW1 looked when she returned home, PW2 said that PW1 was crying and looked traumatized. She (PW2) therefore had to bathe PW1 with local traditional herbs to purify and strengthen her since she had slept in a bush overnight. PW2 said that PW1 was crying without speaking during the bath. When the 2nd Accused Person asked PW2 if she knew that PW1 had two phones, she answered in the negative.

**Evidence of PW3 (D/C/Inspr. inspector Benjamin Eshun)**

PW3 testified via his Witness Statement that he is in charge of the Intelligence Unit at the Adentan Divisional Police Headquarters. He further testified that as a result of Investigation of a Kidnapping, Rape and Robbery case reported on 8<sup>th</sup> April 2022 at the Adentan Police Station, A1 herein was arrested and he led police to arrest A2 and one other not a party to the instant case. A lot of cell phones were retrieved from the Accused Persons who were suspects at the time. PW1 herein identified her iPhone 11 from the phones retrieved. She identified A2 as the one who met her at Amrahia on 1<sup>st</sup> May 2022 and walked her down the bush road. She also identified A1 as the second person who came out of the bush and who together with A2 kept her overnight and who raped her that night. A1

and A2 were thus re-arrested with regards to PW1's complaint lodged at the Lakeside Police Station.

A1 in his cross-examination of PW3, indicated that it was because PW1 owed him and A2 GHC4,000 that PW1 left her iPhone 11 behind as collateral which would be returned to her after full payment was made, and that, it was because PW1 could not finish making payments of the GHC4,000 that her iPhone 11 was found in the Accused Persons' custody. A1 further asked PW3 if he knew that PW1 was also known as Ama Goldie; PW3 answered in the negative. When PW3 was asked if he knew that PW1 and her other friends called sweetness Queen and Ruth were prostitutes, he answered in the negative. A2 asked PW3 if it was possible for him to rob PW1 of one phone and leave her with one. PW3 answered affirmatively. PW3 was asked by A2 if he could describe what state A1 was in when he was arrested. He answered that A1 was in shorts and a sleeveless top and was walking with an undercover Police Detective lady.

#### **Evidence of PW4**

The case investigator, D/C/Inspr. Ishmael Nortey who was the fourth Prosecution witness (PW4) testified that he was the investigator tasked with investigating the Complaint lodged by PW1. That in the course of his investigation, it came to light that the Accused Persons herein had been arrested for similar offences and were at the Adentan Police Station under arrest. When PW1 got to the Adentan Police Station, she identified the Accused Persons herein as her assailants and further identified her iPhone 11 from the many phones retrieved from the custody of the Accused Persons. Investigation Cautioned

Statements were taken from both A1 and A2 where they denied the offences herein (see Exhibits C and D).

During investigations, the MOMO transaction details of GHC2,000 sent by PW2 was seen on A2's phone (see Exhibit B). After A1 and A2 were charged, Cautioned Statements were taken from them wherein they denied the offences. (see Exhibits C1 and D1).

However, in a sharp turnaround, A2 gave a further Charge Statement wherein, he admitted the offences charged but added that it was only A1 who raped PW1. (see Exhibit D2).

Under cross-examination, PW4 stated that it was PW1's brother called Emmanuel Hutorwu who reported the case at the Lakeside Police Station.

### **Analysis of the Prosecution's case**

From the evidence of the Prosecution's witnesses, the following facts were established at the close of the Prosecution's case;

1. The fact that the Accused Persons met PW1 on the date of incident (1st May, 2022)
2. It was A2 who picked PW1 up and walked her down the bushy road behind the Christian University College, Amrahia (See Section 23(1) of Act 29)
3. A2 walked PW1 down the said bushy road to meet an online date in order for them to attend a party.
4. A1 emerged from the bush and assisted A2 to drag PW1 into the bush (See Sections 23(1) and 89 of Act 29).



5. PW2 was kept in the bush overnight and prevented from leaving. (**See Sections 89 and 90(b) of Act 29**)
6. PW1 was made to contact PW2 to send money to A2's phone through A2's mobile money wallet number on 0574278869 (**See Sections 23(1) and 149 of Act 29**)
7. PW2 sent GHC2,000 to A2's MOMO wallet number 0574278869.
8. PW1's phone was taken from her by the Accused Persons and kept by the Accused Persons until the day of their arrest when the said phone was found in Accused Persons' custody (**See Sections 23(1) and 89 of Act 29**)
9. PW1 was only released in the early hours of the morning of 2nd May, 2022 after;
  - a) PW2 sent the GHC2,000 to A2's phone, and
  - b) PW1 was forced to give out her iPhone 11 in lieu of the balance of some GHC6,000 ransom money the Accused Persons were demanding for her release (**See Section 149 of Act 29**)
10. PW2 met PW1 at the entrance of their home. PW1 was not speaking but silently crying. PW2 gave her a ritual customary bath with local traditional herbs to cleanse her because she had spent the night in a bush or forest under an ordeal.

The questions asked by the Accused Persons during their cross-examination of the Prosecution's witnesses could not discredit the Prosecution's witnesses, their evidence, or damage the Prosecution's case in a manner as to lead the Court to conclude that the Accused Persons have no case to answer. The Court therefore found that a prima facie case had been established by the Prosecution with respect to the offences charged.

The law per **sections 13(2) and 11(3) of NRCD 323** requires that the Accused Persons lead evidence to raise a reasonable doubt in the mind of the Court as to their guilt with respect to the offences charged.

### **The Evidence of A1**

A1 testified that on 24th December, 2020, he (A1) and his friends planned to have a meal at KFC. Around 9:30 pm on 24th December, 2020, A1 and his friends branched to the KFC to buy drinks. As they were sitting down drinking, 4 ladies came to them to ask if they wanted “short or night”, meaning, did they want to have sex with them at a fee for a short or a long period. He and his accomplice got angry. A2 asked the rest to take it easy with them because the ladies were his Nigerian sisters. A2 asked the ladies to sit for them to buy them drinks. A2 and one of the ladies called Ruth seemed to know each other as they hailed from the same town in Nigeria. The ladies sat with him for about 20 to 30 minutes. Then they decided to leave to find patrons for their sex work. They exchanged contacts and parted ways. The next day, on 25th December, 2020, Ruth called A2 and said that she and her lady friends wanted to visit them but A2 told her that they lived far away, near Danfa, Armahi and A2 showed them the location of their place of abode. On 26th December, 2020, Ruth called again that they should meet at a club called Glovers Pub at Armahia near their place of abode. That night, the ladies called A2 to inform him that they were coming. A2 called A3 and informed him about the meeting. They then met at Glovers Pub. During the conversation, Ruth and her friend said they were staying with their Madam who was maltreating them. She would only give them GHC10.00 for feeding per day. A1 enquired from the ladies if they knew they were coming to engage in Prostitution in Ghana. They said yes and told him they were 18 in number who

came. The ladies asked the accused persons to assist them with their feeding. A1 said, they did not have enough money to do so. But because the ladies begged, they decided to give it a thought and tell them their decision later. 5 ladies came over to the accused persons' home that night. Since then, Ruth and her friends would visit the accused persons, especially A2. The accused persons would give the ladies money to cook for them to eat. About 4 months later, the accused persons and one other agreed that they would tell the girls that if they loaned them GHC100.00 they would pay back GHC 150.00. This proposal was agreed upon by the ladies. From then, any day the ladies needed money, A2 would record the transaction and they would know how much they owed. In April 2021, the accused persons called the ladies to demand that they pay them the money they loaned them but the ladies would not answer their calls. The other arrested accomplice complained to A2 that the girls were defrauding them. They planned to report the girls to the Police. A2 begged them not to do so because there was Prostitution involved. So A1, A2 and their accomplice planned to search for the ladies at their Prostitution joint in their spare time. On 1st May, 2022, A1 and A2 went to Glovers Pub where they spotted PW1 and confronted her. PW1 said she had been busy. She had come only for her friend's birthday party. They asked her how she and her friends would pay back the GHC4,000 debts owed them. She then called her landlady (PW2) severally but she did not answer. This was around 10:30 pm. She then tried to call her friend to send the money but she did not get the money. Then PW1 tried calling her Landlady (PW2) again but had run out of call credit so she asked to use A2's phone to call PW2. PW2 still did not answer. She then tried to call 2 other numbers. PW1 then said that she would give them 2 of her phones to keep so that she could bring back the money in the morning in exchange for her phones. The accused persons wanted to go with PW1 to her house but she refused, saying that she did not

want people to know she was a prostitute. They then gave one of her phones as collateral. She asked if A2's number was a mobile money number and A2 said yes and left around 12:00 midnight. The next day between 8:30am to 9:30 am, A2 came to check his phone and realized that GHC2,000 had been sent to his number. A2 suspected it was PW1 who had sent the GHC2,000. On 1st May, 2022, around 9 pm when the accused persons were on their way home from work, they passed by a Pizza Joint called spicy girl. A1 saw Ruth there with her friends. So they used a different cell phone number to call Ruth's number. When they approached her, she said she had been busy processing her papers to travel to Dubai. Ruth told them that PW1 had informed her that she (PW1) had sent the accused GHC2,000.00. That was when they got to know that PW1 was the sender of the GHC2000. They asked Ruth why PW1 was not returning for her phone, but she said PW1 was following a man so they should be patient with her. The accused asked Ruth to pay what she owed them. Ruth called her sugar daddy who sent her GHC1000 in less than 5 minutes. Ruth then transferred the money to the accused persons. A2 had earlier given Ruth a Techno Phone so Ruth sent A2 GHC600 on the phone number. Ruth's friend advised her to give them her phones as security for her to bring them the rest of the debt they owed them (GHC1000 plus interest equals GHC5,500). They then took Ruth's 2 phones as security for her payment of the debt outstanding. The next day at around 10:00 am, the accused persons saw that GHC100.00 had been sent to A2's phone. The interest of GHC1,500.00 was still outstanding. They had been expecting Ruth to return for her phones but she never did. On 17th May, 2022, A1 planned to sell the 3 phones which comprised the iPhone 11 and Ruth's 2 phones because he needed money. He asked A2 and the other accomplice if they should sell the phones but they could not come to an agreement so they decided to keep the phones. Thereafter, the police came to arrest A1 at his father's house.

Now under cross-examination, A1 could not recall the name of the Bar at East Legon where he claimed to have met PW1 and her colleague prostitute friends. A1 further confirmed that PW1 owed them GHC2500 and not GHC4,000. The Prosecution put it to A1 that he and A2 kidnapped and robbed PW1 of her iPhone 11 between 1st May, 2022 and 2nd May, 2022. A1 denied this vehemently. The Prosecution further put it to A1 that the GHC2000 transferred to A2's phone by PW2 was part of the ransom money demanded by the Accused Persons. A1 denied this.

The Prosecution put it to A1 that PW1's iPhone 11 was stolen from her by threat of harm using a knife. This was vehemently denied by A1. The Court sought to find out from A1 if he was a money lender, He answered in the negative.

Now upon a mini trial held on 16th September, 2022, the court ruled that the further charge statement allegedly given by A2, and initially marked as **Exhibit D2** was one made by A2 voluntarily as there was no proof whatsoever of threat, promise, duress or force established. Consequently, the Court ruled that **Exhibit D2** shall remain admitted into evidence in accordance with **Section 120 of NRC D 323**.

### **The Evidence of A2**

A2 testified that on 24th December, 2020, A1, Gordon Amable (an accomplice in a related case) and he (A2) were around East Legon KFC, at a spot drinking, when 4 ladies came to meet them there asking if they wanted 'short or night'. The accused person declined and A1 and their accomplice got angry and said they should leave. A2 asked his colleagues to calm down because the girls were Nigerians so they were his country sisters. The girls realized he was also a

Nigerian so they sat with them and had drinks together and exchanged contacts. About 30 to 40 minutes later, the ladies left to do their prostitution business. A2 said later, Ruth called him on the phone asking if he was home. He told her that he lives in Armahia. Ruth said she and her friend wanted to see him A2 and his other friends. He then gave them directions to his place. On 26th December, 2020, they called to inform him that they would be coming to his place. He gave them the direction to the Glovers Pub at Armahia. He called A1 and the accomplice to inform them that the girls they met at East Legon on 24th December, 2020 wanted to visit so they should meet them at Glover's Pub around 8 to 9pm. They met the girls at Glover's Pub Armahia. The girls were 5 in number.

When they met the 5 girls, A2 enquired from them if they knew the nature of work they were coming to do in Ghana when they were coming from Nigeria. They said yes. They said they were 18 girls and said they have to pay their madam GHC8,000 so with every sex work they did, the money went to their madam. A2 said the ladies told the accused their madam would only give them GHC10 per day for their feeding. So the ladies asked the accused to assist them in feeding by lending them money. A2 told them that they are only workers at the block factory so they did not have enough money. But the girls asked them to try and help them. They became close friends with the ladies and would visit the accused especially at A2's house. Usually when the ladies came, A2 would give them money to buy food items to cook for all of them to eat together.

This went on for a long while. In April 2021, the ladies asked the accused for financial assistance again. They agreed with the ladies that if they gave them GHC100, the ladies would pay back GHC150. A2 said, they used to write down these transactions.

A2 said, the ladies stopped answering the accused calls after a while and they kept out of touch with them. One day at work, A1 and his accomplice told A2

that the girls wanted to defraud them so they should report them to the police. He A2, pleaded with A1 and their accomplice not to do so because the girls were their friends. He told A1 and their accomplice that they should search for the girls at their work posts where they stand to get clients. A1 and their accomplice agreed. Their search for the ladies on many occasions ended with wasted transport fares. One day, on 1st May, 2022, the A1, A2 and their accomplice went to Glover's Pub and saw PW1 with some friends of hers. They called her aside and asked her why she, Ruth and her friends had stopped answering their calls and coming to visit them. He then asked for her to take them to her house. She refused, saying that she did not want her landlord and her parents to know she was a prostitute. They then asked how she could get them their money. PW1 said she would call her landlady. She called but her landlady did not answer. A2 said she called a prostitute friend who said she was with a client. She called another person who did not answer. She called her landlady again but her call credit ran out so she used A2's phone to call her landlady but the woman did not answer. She then asked the accused to take her phones as a collateral and that she would return the next day in the morning with the money and take back her phones. A2 said she gave them 2 phones but they gave her 1 phone back and kept her iPhone 11. Then they parted ways.

The next day while at work, A2 went to the workers' room where he was charging the phone, he checked his phone and realized that someone had sent his MOMO Number GHC2,000. He told A1 and the accomplice that it might be Comfort, a.k.a Ama Goldie (PW1) who had sent the GHC2,000. They called PW1 severally to confirm if she sent them the GHC2,000 through his MOMO but her number was not going through. They also called the contacts that she called the previous night. A woman answered the first call and said she did not know

anyone by name Ama Goldie when asked for Ama Goldie. The second number they called was answered by a man who also said he did not know anyone by the name Ama Goldie. So they decided that if she (PW1) sent the GHC2,000 then she would return for her iPhone 11. They had been expecting her to return for her phone but PW1 never came. On 10th May,2022, they did not close from work early, so on their way home, they stopped by a pub called Spicy Girl and A1 said he could see a lady who looked like Ruth. A1 identified Ruth by her hair style. They used a different number to call her. Her phone flashed and she put the phone to her ear. They then concluded that it was Ruth standing there. They approached her. She was shy. They asked her why she and her friends were repaying their good with evil. She said that was not so but that she was preparing travel papers to go to Dubai. They then said she should pay them their money since she was going to Dubai soon. Ruth said Ama Goldie (PW1) had informed her that she had paid them GHC2,000. They asked Ruth why PW1 had not returned for her iPhone 11. Ruth said that she had been speaking to PW1 on the phone but had not seen her for 5 days. Then they got to know that it was PW1 who sent that GHC2,000. They asked Ruth for their outstanding balance since she had informed them that she was traveling. Ruth said she would pay him (A2) for the Techno Phone and then called her Sugar Daddy to send her some money. The person sent her GHC1,000. She sent the GHC1000 to him and also his GHC600 for damaging his Techno Phone. She said she would pay the balance the next day. They refused, so she decided to give them 2 of her phones as security or collateral to hold, that she would return the next day with the money and take her phones since she knew his place. They agreed and took her 2 phones. The next day, in the morning, he noticed that GHC1,000 had been paid to his MOMO. He informed A1 and the accomplice.



None of the girls showed up for their phones before A2 was arrested.

The Prosecution in the cross-examination of A2, rehashed its position that A2 would have questioned PW1 when she was present in Court and under cross-examination, if A2's testimony about PW1 owing the Accused Persons some GHC4,000 and PW1 having a prior friendship of almost 2 years with the Accused Persons was true. Essentially, the Prosecution restated its case by putting same to A2 under cross-examination. A2 however maintained his rather lengthy story as told herein. A2 denied kidnapping and robbing PW1.

What is worthy of mention is that the Accused Person insisted that he had made a document recording the debts owed the Accused Persons by PW1 and her colleague prostitutes, and that this self-made document was in his home. This document was however not revealed by the Accused Persons when the police conducted a search in their premises and retrieved many mobile phones including PW1's iPhone 11. A2 prayed the Court for a witness summons to issue against one Ernest Mensah at EDIP Block Factory located around Amrahia Dodowa road and same was issued by the Court. The said witness could not be located despite 3 attempts made by the Court's Bailiff, Fiifi S. Addo (**See Affidavit of Non-service on the court docket**)

### **Analysis of all the Evidence on Record**

1. The Accused Persons sought to establish through their testimonies that they had met PW1 and her fellow female prostitutes sometime in December 2020 at East Legon Accra in the night.

2. The Accused persons sought to establish that PW1 and her colleague prostitutes initially propositioned them but they all ended up being friends. They would subsequently come and eat together; with PW1 and her colleague prostitutes doing the marketing with Accused Persons' money and cooking for the group to enjoy.
  
3. The Accused Persons sought to establish that PW1 and her colleague prostitutes or hook up girls borrowed money from them (the Accused Persons). The Accused Persons sought to establish that PW1 and her colleague prostitutes refused to pay back the money lent to them by the Accused Persons which was payable with interest at 50%.
  
4. The Accused persons sought to establish that they met PW1 on the night of the alleged incident and demanded their money. PW1 gave both of her phones to them including an iPhone 11 and promised to send the money to them through A2's MOMO wallet in order to return for her iPhone 11. PW1 did send the money but never returned for her iPhone. To the utter surprise of this Court, the Accused Persons never asked PW1 the following when they each cross-examined her;
  - a) Meeting PW1 and her colleague prostitutes in December 2020 at East Legon.
  - b) Becoming friends with PW1 and her colleague prostitutes thereafter to the extent of cooking and eating together.
  - c) Lending PW1 and her colleagues prostitutes money payable with interest.

Now, what are the 2 competing versions of the events of the night of 1st May, 2022 and dawn of 2nd May, 2022?

1. The Prosecution's story through PW1; PW2, PW3 and PW4 that the Accused Persons lured PW1 for a date with one Scatter, an online made character and ended up kidnapping and robbing her of her GHC2000 and iPhone 11 and,
2. The Accused Persons' story of having a previously existing relationship (friendship) with PW1, who they call prostitute, and her friends who they say are also prostitutes. The Accused Persons' story of PW1 paying part of the debt owed by her and her colleagues prostitutes by sending GHC20000 to Accused Person's MOMO wallet and leaving her iPhone as a collateral or security for full payment.

Does the Accused Persons' version of the events of that fateful night and dawn raise a reasonable doubt as to their guilt with respect to the charges leveled against them? Of course, their version of the event raises a doubt. But is this doubt reasonable?

I think not. In my humble opinion, the Accused persons' version of events on that fateful 1st May, 2022 night is nothing short of an afterthought. Firstly, the Accused Persons had all the opportunities to question PW1 on their claim that PW1 and her prostitute colleagues owed them money, but they did not ask any such questions. Is it reasonable that a creditor, whose liberty is at stake, would meet his debtor face-to-face in the court and not ask the said debtor about the debt which has been misconstrued as ransom money in a kidnapping and robbery charge? I think not.

Is it reasonable that the Accused Persons would cross-examine PW1 without establishing through her that she knew them (Accused Persons) on a personal level for a period of almost 2 years prior to the date of the alleged incident? I think not.

Is it reasonable that PW1, who is able to pay her landlady, have cash of GHC800 in her room which PW2 found when she was searching for the ransom money, have savings of GHC2000 and who is alleged by the Accused Persons to be a prostitute, would not have money to feed herself such that the Accused Persons would have to be giving her GHC100 and feeding her? I think not.

Further, is it reasonable that an iPhone 11 would be given as a collateral for a debt of GHC500 and then abandoned by PW1 who had at least GHC800 lying around in her room? I think not.

Finally, is it reasonable that the Accused Persons who claim they work at a block factory, would be the ones to be loaning money to PW1 who pays her own rent, does savings and readily had GHC2000 to her credit, and who had GHC800 lying around in her room? I think not.

The doubts the Accused Persons sought to raise by their defence can therefore not be construed as being reasonable. They are at best, a wild afterthought meant to throw dust in the eyes of the court, especially in light of the fact that none of what constitutes the Accused Persons' defence ever came up during investigations and during cross-examination of PW1 by the Accused Persons.

I hold accordingly that the Accused Persons failed to discharge their burden under **Sections 13(2) and 11(3) of NRCD 323**. In the circumstances;

1. I find the Accused Persons **GUILTY** of Conspiracy to kidnap PW1. I convict A1 and A2 on the offence of Conspiracy to kidnap PW1.
2. I further find the Accused Persons **GUILTY** of Kidnapping PW1. I convict A1 and A2 on the offence of Kidnapping PW1.
3. I find the Accused Persons **GUILTY** of Conspiracy to rob PW1 of her iPhone 11 and GHC2000. I convict A1 and A2 accordingly on the offence of Conspiracy to commit Robbery.
4. I find the Accused Persons **GUILTY** of Robbery. I convict A1 and A2 on the offence of Robbery.

### **Pre-Sentencing Hearing**

**Friend of the Court:** We pray for justice to be tempered with mercy.

**Prosecution:** We pray for a severe deterrent sentence.

### **By Court – Sentencing**

In sentencing the Accused Persons, the following considerations were made;

1. The fact that they are first time offenders as a mitigating factor.
2. Their ages as a mitigating factor.

However, the Court has given due consideration to the fact of the horrendous nature of the conduct of the Accused Persons.

The fact that a person may be a prostitute or hookup girl does not give anyone the right to lure, kidnap and rob them. Whether PW1 is a prostitute/hookup girl

or not, no one has the right to lure her, kidnap her in a bush/forest overnight, and use force or threat of harm to steal her phone and money.

It is for this reason that the court deems it fit to impose a deterrent sentence accordingly.

- a) **Count 1:** A1 and A2 are each sentenced to serve 5 years imprisonment In Hard Labour.
- b) **Count 2:** A1 and A2 are each sentenced to serve 7 years imprisonment In Hard Labour.
- c) **Count 3:** A1 and A2 are each sentenced to serve 20 years imprisonment In Hard Labour.
- d) **Count 4:** A1 and A2 are each sentenced to serve 35 years imprisonment In Hard Labour.

Sentences shall run concurrently. Period spent in lawful custody by A1 and A2 for the pendency of this trial shall be taken into account for the period of imprisonment.

(SGD)

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**H/H SEDINAM AWO BALOKAH  
JUDGE  
CIRCUIT COURT 2  
ADENTA**