

IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON
THURSDAY THE 3RD DAY OF NOVEMBER, 2022 BEFORE HER HONOUR
ENID MARFUL-SAU, CIRCUIT COURT JUDGE

CASE NO. D3/19/2022

THE REPUBLIC

VRS.

KWAME ANOKYE

ACCUSED PERSON PRESENT

PROSECUTION: ASP HANSON ARMAH PRESENT

NO LEGAL REPRESENTATION

JUDGMENT

The Accused Person is charged with one count of use of offensive weapon contrary to section 70 of the Criminal Offence Act, 1960, Act 29.

The facts as presented by Prosecution are that on 5th December, 2021, complainant's family observed the one-week celebration of a deceased person. During the celebration, Prosecution says that donations were made to one Gloria who in turn served the guests with food. According to Prosecution, Patience was not pleased with the actions of Gloria and therefore advised her not to serve the food again and this resulted in a quarrel between the two. According to Prosecution, Accused went for a cutlass, but it was seized from him. Gloria went back to her mother's place to explain what had happened, but Patience got angry, and this resulted in a quarrel. Prosecution says that Accused asked about his cutlass and was informed that it was with the mother of Patience, so he sent his daughter to go for the cutlass, but it was

not given to her. According to Prosecution, the Accused with annoyance went to his mother in law's house to collect the cutlass but he was sacked by his brother-in-law. When the Accused went home, according to Prosecution, he picked a shovel with the intent to cause damage to the windscreen of his in-law's vehicle, but this was seized. According to Prosecution, on the same day Accused person's mother and brother in law went to his house and he was not pleased so he went for a pick axe and attacked his in law on the stomach, left arm and back. The case was thus reported to the Ofankor police, and the accused was arrested. Based upon these facts he was arraigned before this court.

Prosecution called three witnesses in support of its case. PW1 was Reuben Amekudzi, PW2 was Elizabeth Ahiave Aku and PW3 was Raphael Tettey Tagoe.

At the close of Prosecution's case, the Accused was called upon to open his defence to the charge.

As already indicated, the Accused is charged with one count of use of offensive weapon contrary to section 70 of Act 29. The section provides as follows:

"A person who intentionally and unlawfully causes harm to any other person by the use of an offensive weapon commits a first-degree felony."

Section 2(2) of the Criminal and Other Offences Procedure Act, 1960 (Act 30) provides as follows:

"An offence shall be tried on indictment if

- (a) *it is punishable by death or it is an offence declared by an enactment to be a first degree felony;...*"

It is a trite principle of law that a lower court has not got any jurisdiction unless expressly conferred on it by statute. (See. **TIMITIMI VRS AMABEBE & OTHERS 14 WACA 1953**). The Accused was arraigned before this court which is a lower court created under Section 39 of the Court's Act, Act 459. The Criminal Jurisdiction of this court is set out under Section 43 of the Courts Act. It provides that the Circuit Court has jurisdiction to try criminal matters apart from those falling within the jurisdiction of the Juvenile Courts and offences amounting to those which are punishable by death, treason and triable on indictment. Clearly then, the Circuit Court can only try cases summarily.

The offence levelled against the Accused is a first-degree felony which per section 2(2) of Act 30 is to be tried on indictment. This court therefore lacked the requisite jurisdiction to try the first-degree felony summarily.

I therefore find that this court acted in excess of its jurisdiction when it assumed jurisdiction over this matter to try the Accused for the first-degree felony summarily. I find that there being a lack of jurisdiction, all proceedings in this matter are null and void same cannot stand; the proceedings in this matter are hereby set aside.

H/H ENID MARFUL-SAU

CIRCUIT JUDGE

AMASAMAN

