

IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON
TUESDAY THE 22ND DAY OF NOVEMBER, 2022 BEFORE HER HONOUR
ENID MARFUL-SAU, CIRCUIT COURT JUDGE

CASE NO. D7/79/2022

THE REPUBLIC

VRS.

AWUDU YUSSIF

ACCUSED: PRESENT

*PROSECUTION: C/INSP AWUAH ANSAH WITH INSP OTNEG AND INSP
ABOAGYE PRESENT*

NO LEGAL REPRESENTATION

JUDGMENT

The Accused is charged with one count of Robbery contrary to section 149 of the Criminal Offences Act, 1960 (Act 29).

The facts as presented by prosecution are that on 23rd March, 2022 at about 10:00pm, the complainant Georgina Yaa Yeboah was on board a trotro and seated at the window seat. According to Prosecution, complainant received a phone call on her phone and while the trotro was stationary; the Accused then appeared beside the window and pointed a jack knife at her and signaled her to hand over the phone. Prosecution says that when she did not budge, the Accused used the knife to hit her on her left wrist and forcibly took the phone and bolted. Prosecution says that the complainant raised an alarm and got out of the trotro and together with others, the Accused was chased after. The Accused threw the phone under his kiosk and went inside and changed from a red shirt into a white robe to disguise himself. According to

prosecution, when the complainant got to the area, a witness who was nearby and had observed the Accused's behaviour informed the complainant. Upon seeing the Accused, complainant identified him and confronted him, but he denied and a search was immediately conducted on him and the jack knife was found. The complainant's phone was found under the Accused person's kiosk. Based upon these facts, the Accused was charged with the offence and arraigned before this court.

By a Ruling dated 25th August, 2022, the Accused person was called upon to open his defence to the charge.

Accused testified on oath by means of a witness statement. According to him, on 23rd March, 2022 at about 7:30pm, he was at the Mosque when 'One Day' and Abass came to call him. According to him, the two claimed that one Georgina claimed that someone had snatched her phone so does he know who committed the crime. He testified that he informed them that he did not know as he was at the mosque praying. He testified that complainant had before that accused one Asamoah and another person of being those who snatched her phone. He stated that he took them to his kiosk and they conducted a search but they did not find the phone so he informed them to take him to the Police Station if they suspect that he took the phone. He testified that when they were going to the police station there was no phone with them, and he was detained till morning when he was informed that the phone had been brought.

The direct evidence of complainant, Georgina Yaa Yeboah, PW2 was that on 23/03/22 at about 10:00pm she boarded an urban minibus at the Achimota old Station going to Lapaz. While the bus was stationary, she decided to make a phone call while seated at the window seat. She testified that a young man came to stand by the window and the Accused pulled a jack knife and before she could open her mouth, the Accused snatched her Samsung A2 phone from her and in the process, she sustained bruises on her left arm. She

testified that she raised an alarm and alighted from the bus and chased the Accused with the assistance of some young men around.

According to her, the Accused was in a red t-shirt and khaki shorts and a hat and he ran towards the Achimota charcoal station area. She stated that at a point, they could not find the Accused and while searching for Accused, he went and changed into a white robe. She testified that she quickly identified the Accused and the young men who were with her confronted the Accused, but he denied snatching her phone. She testified that they searched around Accused's kiosk where he sleeps, and the mobile phone was found underneath the kiosk. She stated that the jack knife used in attacking her was found in Accused's hand, but he indicated that it was a keyholder. The Accused was arrested by one Abass and "one day" and upon entering his kiosk, they found the red T-Shirt he was wearing when the phone was snatched. She tendered a medical report as *Exhibit H* which indicates that she had a soft tissue contusion on her left hand which was treated at the Achimota Hospital.

In the case of **THE STATE v. SOWAH AND ESSEL [1961] GLR 743; SC** it was held as follows:

"...if he accepted their explanations he must acquit them; (ii) short of accepting their explanations if he was left in doubt he must also acquit them; and (iii) he must be satisfied of their guilt of the crimes alleged against them only on consideration of the whole evidence adduced in the case."

The defence of the Accused is a denial of the charge levelled. However, I consider that the explanation of the Accused is unacceptable. It is also not reasonably probable that the Accused knew nothing about the offence yet a search revealed the stolen phone of PW2 underneath his kiosk which serves as his home and the said jackknife used in attacking PW2 was also found in his possession.

In **DARKO v. THE REPUBLIC [1968] GLR 203** it was held that *“a court could not therefore stop short at saying that it was convicting the accused because it did not believe its story. It must go further and show whether his story did not create a reasonable doubt either.”* I am again unable to find any doubts the defence of the Accused has created in the case of Prosecution.

Therefore, having regard to the entirety of the evidence before me, I find the Accused person guilty and he is hereby convicted.

H/H ENID MARFUL-SAU

CIRCUIT JUDGE

AMASAMAN