

IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON
MONDAY THE 12TH DAY OF DECEMBER, 2022 BEFORE HER HONOUR
ENID MARFUL-SAU, CIRCUIT COURT JUDGE

CASE NO. D7/126/2022

THE REPUBLIC

VRS.

ERNEST AZAMETI

ACCUSED: PRESENT

PROSECUTION: C/INSP. SALIFU NASHIRU 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 May, 2022 at about 5:00am, the complainant was on her way to work when she had an encounter with the Accused who was with another on a motor bike. Prosecution says that the Accused pulled out a machete and demanded for the handbag of the complainant which she handed over out of fear. Prosecution says that on 18th June, 2022, complainant spotted the Accused living in an uncompleted building, so she narrated her ordeal to a witness who asked the Accused what he was doing in the area but Accused became offended and started threatening the witness. According to prosecution, on 25th June, 2022, Accused and others went to attack the witness but Accused was arrested and sent to

the station. Based upon these facts the Accused was arraigned before this court.

Prosecution called two witnesses in support of its case. PW1 was the complainant, Emefa Agbitor and PW2 was the investigator D/C/INSP Jacob Dometi.

PW1 testified that on 23rd May, 2022, she was on her way to work and upon arriving at ACP Junction, the Accused and one other on a motorbike stopped her and the Accused got down from the motor. She testified that the Accused immediately held her bag and asked her what was in the bag so she informed him it was her phone and an amount of GH¢80.00. She stated that the Accused then pulled out a cutlass from his shirt and asked her to hand over the bag after which he left. She testified that she informed one Ololade Mojeed that the Accused had robbed her of her bag, and he informed her that he knew the Accused so they should go and report to the Police. She stated that after they made a report with the Police, the Accused saw the said witness and threatened him so on the 25th day of June, 2022, the Accused was arrested.

PW2 testified that Accused informed the police that on the day of the incident he was in custody at the Pokuase Police Station however investigations revealed that he was not. He tendered the following Exhibits:

- Exhibit A: Statement of PW1
- Exhibit B: Statement of Ololade Mojeed
- Exhibit C: Statement of Kuwornu Esther
- Exhibit D: Investigative Cautioned Statement
- Exhibit D1: Charge Cautioned Statement
- Exhibit E & E1: Charge Sheet and Brief Facts

Prosecution closed its case, and the Accused was called upon to open his defence to the Charge. He elected not to testify; however, he called two witnesses. DW1 was Isaac Donkor and DW2 was Godway Adusei. Both witnesses admit that they were not with the Accused on the date and time of the incident except that they do not know the Accused as an armed robber.

In both of his cautioned statements, accused denied knowledge of the charge levelled and stated that he was at Pokuase Police Station. This was however found to be untrue according to PW2 and Accused did not challenge PW2 on this issue under cross examination.

PW1 testified that she had a good look at Accused in his face on the day of the incident because he came close to her and held her bag. When Accused was presented with an opportunity to put in an explanation to the charge, he chose not to testify. His two witnesses however did not succeed in creating any doubts in prosecution's case as I consider both witnesses of Prosecution to be credible.

In the case of **COMMISSIONER OF POLICE v. ISAAC ANTWI [1961] GLR 408** 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;"

Having found that prosecution had made out a case against Accused, he was required to put in an explanation to the charge. I am however unable to find from the evidence before me that Accused has put up a defence which may be acceptable or reasonably probable. I do not consider that a doubt has been

created in the case of Prosecution. I therefore find the Accused Person guilty,
and he is hereby convicted.

H/H ENID MARFUL-SAU
CIRCUIT JUDGE
AMASAMAN