

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. D3/13/2022

THE REPUBLIC

VRS.

IDDRISU KASSIM

ACCUSED PERSON PRESENT

PROSECUTION: C/INSP. SALIFU NASHIRU PRESENT

COUNSEL: ANTHONY COBBINAH ESQ. ABENT

JUDGMENT

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 9th January, 2022 at about 10:10am, the Accused reported at the Amasaman Charge Office in tears that he had inflicted serious injury to his neighbour who has become unconscious. Prosecution says that he was arrested and detained in custody and traced the victim to the M&D Clinic at Abease where they found that the victim had been referred to the Amasaman Government Hospital. Prosecution says that she was subsequently referred to 37 Hospital and Korle Bu Teaching Hospital where she was finally admitted at the Emergency ward. Prosecution says that Police issued medical form to the family members of the victim and proceeded to the crime scene and retrieved a pestle used in inflicting the

injury as well as a raffia cane. The Police gathered information at the scene and based upon these facts he was charged and arraigned before the court.

By a Ruling dated 27th September, 2022, the Accused was called upon to open his defence to the charge.

The Accused testified on oath. He stated that PW1 hit his head with a spatula. According to him, PW2 threw a pestle, and he held it and he together with PW2 fell so they struggled over the pestle. He again stated that the spatula fell on the ground and PW1 bent to pick it and in the process of taking the pestle from PW2, the pestle hurt PW1.

The direct evidence of PW1 is that that she lived at Achiaman and Accused is a neighbour who used to give them electrical power. However, his frequent demands for electrical bills were unbearable so they approached another neighbour called Moses to allow them to tap his light and he agreed. She stated that they bought cables to tap the light, but the Accused seized them and informed the said Moses not to give them electricity because they do not pay light bills. According to her, on 9th January, 2022 she and her mother and younger sister heard information about them not paying bills and felt the Accused had disgraced them so while discussing, the Accused heard them and got offended. She testified that on the same day at about 7:30am, the Accused came with a cane from his house and started whipping her sister and when her mother wanted to intervene, he pushed her 75-year-old mother and she fell down. She testified that she came out of the room and saw the scene, so she asked the Accused why he had left his home to beat them in their house and managed to grab the Accused. According to her, a struggle ensued, and the Accused freed himself and picked up their pestle they were going to use to pound ingredients for waakye and hit her head with it. She testified that that was all she saw and she later found herself at the Korle-Bu Teaching Hospital where she was in a coma for two weeks.

PW2 who was also present at the scene of incident testified that on the day in question, the Accused went to their house with a cane and started beating her so her mother was trying to separate them and the Accused pushed her mother down. She testified that her sister (PW1) who was in the room came out to stop the Accused but to their surprise, the Accused took a pestle which was lying in the house to hit PW1 on the head and she fell down unconscious, so she was sent to the hospital.

The medical report of PW1, that is *Exhibit H* is indicative of the fact that PW1 had a 7cm sutured laceration on the scalp, with areas of hyperemia at the left flank, lateral gluteal region and the lateral aspect of her left thigh. It indicates further that a CT Scan of her head showed a minimal right temporal and parietal epidural haematoma with a sub arachnoid haemorrhage. There is also before the court *Exhibit F series* which are photographs showing the injury of PW1 and the state in which she was. The direct evidence of PW1 that she suffered injuries and is also corroborated by the testimony of PW2 both of whom I consider to be credible witnesses.

In his Investigative Cautioned Statement *Exhibit E*, Accused admits that harm was caused to PW1, but it was not intentional. He stated that PW2 went for a pestle which she wanted to use to hit him, but he pulled it from her grips and that unfortunately hit the head of PW1 which resulted in the cut. However, in his sworn evidence before the court, he indicated PW1 bent to pick up a spatula and in the process of disarming PW2, the pestle hit PW1's head.

From *Exhibit F1*, it is apparent that the cut sustained by PW1 is located on the top part of her head, thus if indeed the pestle hit PW1 as a result of Accused pulling same from PW2 as per Exhibit E, then the injury should have occurred somewhere on the forehead of PW1. Again, if from Accused person's evidence on oath he was on the ground while struggling with PW2 for a pestle when PW1 bent to pick a spatula, then it is reasonable to conclude that

PW1 was higher up than Accused who was down on the ground. I therefore find it quite improbable how Accused who was on the ground managed to pull a pestle to hit PW1 in the centre of her head causing the degree of injury sustained.

I find that the explanation of the defence by Accused is unacceptable. I find further that his explanation is not reasonably probable (See. **LUTTERODT v. COMMISSIONER OF POLICE [1963] 2 GLR 429**). I find that harm caused PW1 was unlawful and intentional. I therefore find the Accused Person Guilty and he is hereby convicted.

H/H ENID MARFUL-SAU

CIRCUIT JUDGE

AMASAMAN