

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

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CASE NO. D7/41/2023

THE REPUBLIC

VRS.

KWEKU AMENYAGLO

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*ACCUSED: PRESENT*

*PROSECUTION: C/INSP. SALIFU NASHIRU PRESENT*

NO LEGAL REPRESENTATION

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### JUDGMENT

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The Accused is charged with one count of Stealing contrary to section 124(1) of the Criminal Offences Act, 1960 (Act 29).

The facts as presented by Prosecution are that on 20<sup>th</sup> October, 2020 the complainant sent her unregistered Nissan Sentra vehicle to the Accused at Apenkwa for repairs and spraying. Prosecution says that after fixing the car, he was paid his workmanship and promised to hand over the vehicle the next day. According to prosecution, the next day the complainant went to the shop for the car, but the Accused had bolted with it. She therefore made a compliant based upon which the Accused was arrested and arraigned before this court.

Prosecution called two witnesses in support of its case. PW1 was the complainant Peace Amanfu and PW2 was the investigator D/Cpl. Amenyio Doe Honest.

PW1 testified that in the year 2019 a man called Richard introduced her to the Accused as a welder and someone who works on all types of cars. She stated that on 20<sup>th</sup> October, 2020, she cleared a Nissan Sentra vehicle at the Tema Port and straight from there she asked the towing car driver to send the vehicle to the Accused at Apenkwa for repairs and respraying. According to her, on the same day at about 6:00pm the Accused called her to inform her that he had received the car. She testified that the Accused assessed the car and sent her a bill so she sent the money to the Accused through a mobile money number he had given her. She stated that about two weeks later the Accused told her that he was done with the car and sent pictures of the car so she informed him that she will pick up the car the following day. She stated that when she said so, the Accused informed her that his boys had placed a wrong battery on the car, and it is reflecting on the dashboard, so he has to clear it before she goes for it. She testified that when she had not heard from the Accused after three days, she called him, and he gave yet another excuse that he had misplaced the car keys she therefore went to the shop and to her surprise the car was nowhere to be found and the Accused was not answering her calls. She therefore reported the matter to the Police and the police began a search for him until she made a man track him and had him arrested at Abeka on 5<sup>th</sup> October, 2022.

PW2 testified that on 12<sup>th</sup> October, 2021 a case of stealing was reported and referred to him for investigation. He testified that during investigation the Police visited the Accused person's shop at Apenkwa and had information that the Accused had since vacated from the shop, and nobody knew his whereabouts. He stated that efforts to trace him proved futile till on 5<sup>th</sup> October, 2022 investigation led to his arrest at Abeka junction. He testified that during investigation the Accused informed the police that after he

sprayed the vehicle, he was on his way home and upon reaching Pokuase he had an accident. He tendered the following Exhibits:

- Exhibits A and A1: Charge Sheet and Brief Facts
- Exhibit B: Statement of Peace Amanfu
- Exhibit C: Investigative Cautioned Statement
- Exhibit C1: Charge Cautioned Statement

When Prosecution closed its case, the Accused was called upon to open his defence to the charge. He testified on oath on 6<sup>th</sup> December, 2022. He testified that the vehicle was brought to him, and he worked on it, and he purchased a battery with the money PW1 sent so he got an electrician to fix a battery however on his way home, around the Pokuase Cemetery the car crashed into a pickup. So, he towed the vehicle Apenkwa and bought bonnet, fender, and windscreen and got an electrician to fix the electrical fault but he run out of cash and had work to do at Akatsie so he went there to get the work done so he could get money to fix the vehicle of PW1. He stated that he was at Akatsie when the people at the shop told him that they are towing cars there so he informed them to keep PW1's in a safer place so he could fix it when he returns. According to him he does not know where the Police towed the car to and when he asked the workers nobody gives a good reason where the car is.

Section 125 of Act 29 defines stealing as follows:

*"A person steals who dishonestly appropriates a thing of which that person is not the owner."*

The definition of Stealing therefore requires Prosecution to prove the following ingredients:

1. Appropriation of a thing;
2. It was dishonest;
3. The thing belonged to another person

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.”*

Prosecution has shown by its evidence that the vehicle of PW1 has been dishonestly appropriated. The vehicle in question was in the custody of the Accused. According to the Accused, he left the said vehicle with an electrician and went away to Akatsie but heard that the vehicle had been towed and never saw the vehicle again. He stated that when the accident happened, he did not inform PW1 because he was scared. He also indicated that he did not inform PW1 that he had relocated.

I consider the explanation of Accused is unacceptable and not reasonably probable. This is especially so when PW1 reached out to Accused on a number of occasions, but the Accused prevented her from coming to pick up the vehicle. If indeed the Accused had been involved in an accident with the vehicle, he had every opportunity to inform PW1 of same. Again, Accused purports to have purchased parts to have the vehicle fixed and run out of money. Yet he claims he went to Akatsie to do a job to return and fix the vehicle however he was away until his arrest years later.

I consider that the Accused has put nothing before this court to create any

doubts in Prosecution's case which I find has met the standard of proof required in a case such as this. I therefore find the Accused Person guilty on and he is hereby convicted.

**(SGD.)**

**H/H ENID MARFUL-SAU**

**CIRCUIT JUDGE**

**AMASAMAN**