

IN THE CIRCUIT COURT HELD AT AMASAMAN – ACCRA ON  
TUESDAY THE 25<sup>TH</sup> DAY OF JULY, 2023 BEFORE HER HONOUR ENID  
MARFUL-SAU, CIRCUIT COURT JUDGE

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CASE NO. D7/93/2023

THE REPUBLIC

VRS.

ABDELLA MUSAH @ JAMAL MUSAH

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*ACCUSED: PRESENT*

*PROSECUTION: C/ INSP. AWUAH ANSAH PRESENT*

*NO LEGAL REPRESENTATION*

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### JUDGMENT

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

The facts as presented by prosecution are that on 22<sup>nd</sup> February, 2023 at about 05:40am, the complainant who is a trader was on her way from Anyaa NIC down to the NIC footbridge to board a vehicle to Accra. According to Prosecution, when complainant reached Ga Central Agenda 111 hospital site, she met Accused who demanded that she should hand over her bag to him. When complainant resisted, the Accused pulled out a piece of tile shaped like a knife and attempted to use it to slash complainant in the chest however she blocked the attempt and sustained a deep cut on her arm and bruises on her rib. Prosecution says that complainant then handed over the handbag containing an amount of GHC1,400.00 to the Accused. The Accused then pushed the complainant unto the ground and started to run. Prosecution says that complainant raised an alarm and people pursued the Accused and recovered the bag from him. The complainant was rushed to Anyaa Poly Clinic and transferred to Weija Gbawe Municipal Hospital due to the severity of the injury she sustained. Prosecution says that Accused also sustained injuries as a result of mob attack and was sent to Anyaa Polyclinic after which he was charged and arraigned before this court.

Prosecution called two witnesses in support of its case. PW1 was Rose Owusu the complainant and PW2 was the investigator D/Inspr. Isaac Ogbey. She testified that she is a trader and on 22<sup>nd</sup> February, 2023 she was going to Accra

and on her way to board a vehicle, the Accused demanded for her bag but she pretended as if she had not heard what he said so she asked him to repeat what he said but the Accused pulled a knife and raised it to harm her on her chest but she blocked it and was harmed on her arm instead. She testified that she handed over the bag to him. She stated that Accused wanted to harm her on her hips but because she was wearing jeans the knife could not penetrate and rather hurt her ribs. She testified that the Accused bolted with her bag containing GHc1400.00 so she raised an alarm and onlookers pursued the accused. She stated that she was rushed to the Anyaa Polyclinic and then transferred to Weija Gbawe Municipal Hospital for treatment. According to her, her bag was later recovered however the amount contained in the bag had reduced to GH¢600.

PW2 testified that the Accused was pursued after PW1 was robbed and she raised an alarm. He stated that the Accused was arrested by a mob and recovered the handbag of PW1 and its contents from the Accused. He testified that he visited PW1 while she was receiving treatment at the hospital and her handbag was released to her there. According to him, he obtained a statement from her and also visited the Accused at Anyaa Polyclinic after he had been beaten by a mob. He testified that on 23<sup>rd</sup> February, 2023, the accused was discharged and handed over to police for investigation. He tendered the following which were admitted and marked as follows:

- Exhibit A, A1, A2 & A3: Photographs
- Exhibit B: Charge Sheet and Brief Facts
- Exhibit C: Statement of Rose Owusu
- Exhibit D: Statement Memuna Abubar
- Exhibit E: Statement of Safiah Musah
- Exhibit F: Investigative Cautioned Statement
- Exhibit G: Charge Cautioned Statement
- Exhibit H: Medical Report

Prosecution closed its case and the Accused was called upon to open his defence to the charge. On 11<sup>th</sup> July, 2023, the Accused elected to testify on oath. His defence was that he knew nothing about the offence levelled. He called one witness, Adziah Musah. Through cross examination, it became apparent that the witness of Accused had no knowledge of the events of the morning of 22<sup>nd</sup> February, 2023 she stated as follows:

**“Q:** You were not at the crime scene at the time of the incident

**A:** No

**Q:** So you are not aware what happened around 5:40am on the day

A: No”

The Criminal (Amendment) Act 2003, (Act 646) which amended section 149 of Act 29 states as follows:

*“Whoever commits robbery is guilty of an offence and shall be liable upon conviction on trial summarily or on indictment, to imprisonment for a term of not less than ten (10) years, and where the offence is committed by the use of an offensive weapon or offensive missile, the offender shall upon conviction be liable to imprisonment for a term of not less than fifteen years.”*

Section 150 of Act 29 which is titled ‘Definition of Robbery’ states as follows:

*“A person who steals a thing commits robbery*

- (a) If in, and for the purpose of stealing the thing, that person uses force or caused harm to any other person, or*
- (b) If that person uses threat or criminal assault or harm to any other person,*

*with intent to prevent or overcome the resistance of the other person to the stealing of the thing.”*

The evidence before this court is that on the day in question, the Accused approached PW1 and demanded for her handbag and when she resisted, he used a tile shaped as a knife a picture of which was tendered as Exhibit A2 and used same to cause harm to PW1. This led PW1 to surrender her bag which she revealed contained an amount of GHc1,400 which she was going to use for her trade. The evidence is that PW1 sustained injuries as a result of the harm caused by Accused. Indeed, from the medical report tendered as Exhibit H, the examining doctor, Dr. Dzide of the Weija-Gbawe Municipal Hospital indicated in part as follows:

*“...on examination she was found to have a small but moderately deep laceration on the medial aspect of the left upper arm (1cm wide). This wound was bleeding profusely due to the involvement of a blood vessel being pierced. She also had two superficial wounds over the left lower abdomen and hip are with surrounding swelling and erythema both about 3cm in diameter. The wounds were dressed and treatment given.”*

Aside the medical report, there is also before this court Exhibits A, A1 and A3 which are photographs of the various injuries sustained by PW1 at the hands

of the Accused. From the evidence, the handbag of PW1 was retrieved from the Accused after he was pursued.

The Accused has denied any involvement in the offence levelled against him. In his Investigative Cautioned Statement before this court as Exhibit F, the crux of his Statement was a case of mistaken identity. According to him, the said thief who was being pursued jumped into a gutter and escaped and when the mob got to him, they took him as the thief and subjected him to severe beating. In his Charge Cautioned Statement, Exhibit G, Accused stated that he demanded a bag from a lady and pulled a tile shaped like a knife on her after which she handed over the bag to him. He stated that he used the knife to hurt the victim and while the victim was running away, she fell on the ground, and she raised an alarm which caused him to be pursued. Indeed, this Statement constitutes an admission of the offence by the Accused. I note that Exhibit G meets the requirements of Section 120(2) of NRCD 323 as the Statement has been certified by independent witness named Dauda Aliu in English. In the case of **STATE v. OTCHERE AND OTHERS [1963] 2 GLR 463** it was held that:

*“A confession made by an accused person of the commission of a crime is sufficient to sustain a conviction without any independent proof of the offence having been committed by the accused.”*

Also, in **LUTTERDOT V. C.O.P (1963) 2 GLR 430**, it was held as follows:

*“In all criminal cases where the determination of a case depends upon facts and the court forms the opinion that a prima facie case has been made, the court should proceed to examine the case for the defence in three stages:*

*(a) if the explanation of the defence is acceptable, then the accused should be acquitted;*

*(b) if the explanation is not acceptable, but is reasonably probable, the accused should be acquitted;*

*I if quite apart from the defence’s explanation, the court is satisfied on a consideration of the whole evidence that the accused is guilty, it must convict.”*

Thus, the confession notwithstanding, this court has considered the denial of the Accused of the offence on oath and finds that the Accused person’s explanation to the charge is not acceptable. Further the explanation is not reasonably probably as it fails to explain how it was that the bag and weapon were retrieved from him if he was not the perpetrator. I find the witnesses of

Prosecution credible, and I am unable to find any evidence on record to exonerate Accused from the Offence charged. I hereby find the Accused Person guilty and he is hereby convicted.

**SGD  
H/H ENID MARFUL-SAU  
CIRCUIT JUDGE  
AMASAMAN**