

**BEFORE HER HONOUR GLORIA N.B. LARYEA SITTING AS CIRCUIT COURT
JUDGE AT THE CIRCUIT COURT, MANKESSIM ON THE 20TH DAY OF MARCH,
2023.**

Suit No.: B7/9/2023

THE REPUBLIC

Vrs

ISAAC QUAISON alias ZAGOT ...

Accused person

JUDGMENT

The accused was charged upon a charge sheet containing a single count of stealing a laptop valued at GHC 1,100.00, a Techno Spark phone valued at GHC 800.00 and an amount of GHC220.00 contrary to section 124(1) of the Criminal and Other Offences Act, 1960(Act 29).

The prosecution's facts, so far as they are relevant, can be shortly stated as follows; on 3rd September, 2022 at about 8:30pm, the complainant was returning from church when a young man supposedly an accomplice of the accused approached her. The young man inquired about where he could convert his CFA currency into Ghanaian currency. Then the accused appeared on the scene and claiming to know such a place led the complainant and young man to where he could convert his foreign currency. On their way, the young man requested to double the money of the complainant in appreciation for her assistance. It was during this money doubling act that the accused and his accomplice, the young man grabbed the complainant's laptop bag containing her laptop, a Techno Spark phone and an amount of GHC 220.00. The accused was arrested on 30th October, 2023 when he was charged with the aforementioned offense.

The accused has denied the charge. He was adamant that he had never encountered the complainant before. The first time he saw her was at the police station when the complainant pointed him out as the one who stole her laptop, techno Spark phone and cash of GHC 220.00.

In the face of such a stiff denial of guilt by the accused, the prosecution opened its case. The prosecution witnesses were led by the complainant who essentially repeated prosecution's facts on oath. PW2 is the brother of the accused. The essence of his testimony was that PW1 collected his laptop that fateful day only to return in tears that it had been stolen. Clearly, he was no-where near where the crime allegedly took place. PW3, sealed the case of the prosecution as the last prosecution witness. Ironically, he left the most gaps in the prosecution's case that will eventually sink the entire case of the prosecution. Through-out the case of the prosecution and when the accused opened his defense he suggested strongly that he was no-where near the crime scene and had never met the complainant before.

The crucial matter that fell for the determination of this Court is whether the accused stole the laptop, Techno Spark phone and an amount of GHC 220.00 belonging to the complainant. While examining the evidence against the accused, it is cannot be forgotten the burden on prosecution to prove its case beyond all reasonable doubt. This duty demands that prosecution provides enough evidence to prove the ingredients of stealing against the accused. To establish the offence of stealing as defined by section 125 of Act 29, the prosecution was required to prove the following three elements: (i) dishonesty, (ii) appropriation, and (iii) property belonging to another person; see **AMPAH v. THE REPUBLIC [1977] 2 GLR 171-179.**

Looking at the facts of the case and the evidence adduced by prosecution it would be observed that the prosecution failed to discharge its burden. The investigator, PW3 was

unable to tell the Court how the accused was arrested in connection with this charge. None of the stolen items were discovered on him. There was a great difficulty in establishing a nexus between the accused and the alleged theft. The only thread upon which the whole of prosecution's case hanged was the identification of the accused by PW1 (the complainant); a whole two months after the date of the incident.

The circumstances under which the identification took place were also unsatisfactory. From the evidence it appeared PW1 was called to the police station and informed that a thief had been found. She was then asked to identify him. PW1 would have been easily led to believe that the accused was indeed her assailant. The manner in which the identification was held was obviously prejudicial to the accused. There was no evidence that an identification parade was held in which PW1 was asked to take her pick out of other men. She was led to only the accused when her mind had already been fed with information that the accused had been arrested on account of other thefts. This was tantamount to declaring to PW1 "behold, this is your accused person".

As stated earlier, the identification of the accused by PW1 was the only piece of evidence put forth against the accused. Had it been offered in addition to other cogent pieces of evidence, the Court would have formed a different view on this matter. Standing alone, the evidence of identification was too thin a thread upon which to dangle the entire case of prosecution. A man's fate cannot be determined in the most flippant matter on such porous evidence. Prosecution must present the Court with an air tight case against the accused, one that offers no window of escape for the accused except a finding of guilt. In the present case, no stolen items were discovered on him. No confession from the accused or his alleged accomplice was proffered. As to how the accused got to the police station and how this theft was hang upon his shoulders, it still remains a mystery.

The mode of identification of the accused in this case was most unsatisfactory and prejudicial to the accused. Also the evidence upon which he was charged did not reach the standard of proof required in criminal law. In the result the accused is found not guilty. He is accordingly acquitted and discharged on the charge of stealing.

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HH GLORIA N.B. LARYEA

CIRCUIT COURT JUDGE