

IN THE CIRCUIT COURT HELD AT CAPE COAST ON FRIDAY THE 31ST DAY OF MARCH, 2023 BEFORE HER HONOUR VERONIQUE PRABA TETTEH (MRS.), CIRCUIT JUDGE.

120/2023

THE REPUBLIC
VRS
ISSAKA SALIFU

JUDGEMENT:

On the 18th of December 2022, at around 7 am the accused went to the store of the complainant and requested to buy goods on credit. The shop attendant refused. The accused went away and returned around 8 pm in the evening weilding a cutlass. He demanded for the goods again and when he was refused, he entered the store himself and packed some of the store items including a bag of rice, a pack of bel cola drinks, a box of tea bag and some other items. He threatened that he would harm anyone who came close to him and with that fear he succeeded in carrying away the items. He was confronted that same night by the complainant. The case was later reported and the accused arrested for committing robbery that is stealing of the items.

The accused does not deny the majority of the facts presented. He admits that he carried the items away but claims he intended to pay for the items and only took it because the owner was aware. He does not deny holding the cutlass but denies forcing his way into the store. He claims that it was one of the attendants who gave him the polythene bag that he put the items into. He also claims that he did not carry the cutlass with him and that he took the cutlass from the store.

The elements of robbery require prosecution to establish that the accused person for the purpose of stealing used force or caused harm to the victim or he threatened criminal assault to the victims with the intention to prevent or overcome the resistance of that or of any other person to the stealing of the thing. Section 150 of Act 29 provides the elements of the offence of robbery which prosecution bears the onus of proving as follows:

150. Definition of robbery

A person who steals a thing commits robbery

(a) if in, and for the purpose of stealing the thing, that person uses force or causes harm to any other person, or

(b) if that person uses a 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

In order to secure a conviction against the accused. See the cases of Behome v The Republic [1979] GLR 112 and R v Dawson (1977) 64 CAR 112

The essential ingredients are basically to steal a thing by applying force or threat of force. Prosecution must thus establish stealing and the force or threat of force used to steal.

The accused is charged with robbery contrary to section 149 of the criminal offences act, 1960 Act 29. The particulars of offence provide that on the day in question; the accused wielding a cutlass robbed Huseina shaibu of her a bag of aroma rice, one litre of frytol, one pack of bell cola, one box of lipton, a box of china green tea, two boxes of oats digestive biscuit and two cups of sugar all valued at 307.

Having entered a plea of guilty on the accused's behalf, prosecution was charged with proving the various elements of robbery to establish the guilt of the accused. At the close of prosecution's case the accused was asked to open his defence which he did by giving oral evidence on oath. At the close of his case and his witness having failed to appear, the case was adjourned for judgment. After a careful consideration of the case presented by both sides, I do not find that the intent to steal the items has been established by the prosecution. The accused claimed and he maintained throughout that he intended to repay for the items and that he wanted to purchase them on credit. He went to the shop on two occasions and asked to purchase the items on credit. He was refused and returned the second time. On this occasion when he was refused, he entered the store and forcibly took the items intending to pay for their value to the owner. He also claims that he had received one Ahmed's consent to take the items. While his aggression and threats did cause fear, I am not satisfied that his action amounted to robbery. I will thus convict him of the lesser offence of stealing. He is thus sentenced to spend two years in prison custody for stealing.

(SGD)

H/H VERONIQUE PRABA TETTEH (MRS)

(CIRCUIT JUDGE)