

IN THE CIRCUIT COURT '10 OF GHANA, ACCRA, HELD THIS TUESDAY
THE 17TH DAY OF JANUARY, 2023 BEFORE HER HONOUR EVELYN E.
ASAMOAH (MRS)

CASE NO. D8/22/2021

THE REPUBLIC

VRS

LAWRENCE NANA ASIAMAH HANSON @ BULLDOG

CHIEF INSPR SIMON APPIORSONU FOR THE REPUBLIC

*LORD DELVIN ESSANDOH HOLDING JERRY AVENOGBOR'S BRIEF FOR
ACCUSED*

JUDGMENT

- It is the case of the prosecution that the accused with intent to provoke a breach of the peace did publish live on the united television, during a program dubbed 'United Showbiz', that the President of the Republic of Ghana will not finish his four-year term in office and will run away if he fails to pay the deposits of Menzgold customers.

- Mr. Asiamah, the accused herein, in his evidence stated that the comment he made was not actuated by any criminal intention but was rather an appeal to the conscience of the President of the Republic of Ghana to intervene for the victims of Menzgold. He has been charged with the offence of offensive conduct conducive to breach of the peace, contrary to section 207 of the Criminal and Other Offences Act, 1960 (Act 29). He pleaded not guilty to the charge.

Mr. Harry Street in his book titled: *Freedom, the individual and the law (5th Edition)*- Page 12 stated:

“The citizen may do as he likes unless he clashes with some specific restriction on his freedom. The law does not say: ‘You can do that’; it says ‘You cannot do this’, which means that you can do everything else except that which it says you cannot do. Whenever such a prohibition is made, the reason will be that some other interest is rated more important than that freedom on which it impinges...”

In the case of Media Rights Agenda and Others v. Nigeria, African Commission on Human and Peoples’ Rights (ACHPR), Communication. Nos. 105/93, 128/94, 130/94, and 152/96 (1998) paragraphs 68-69, the court held that:

*“The only legitimate reasons for limitations to the rights and freedoms of the African Charter are found in Article 27.2, that is that the rights of the Charter “shall be exercised with due regard to **the rights of others, collective security, morality, and common interest.**”*

The reasons for possible limitations must be founded in a legitimate state interest and the evils of limitations of rights must be strictly proportionate with and absolutely necessary for the advantages which are to be obtained.”

- Prosecution presented the following facts: The complainants, in this case, are citizens of Ghana and among regular viewers of the United Television (UTV) program dubbed “United Showbiz” hosted by Nana Ama Agyeman McBrown which airs live every Saturday between the hours of 9 pm to 11 pm. The accused, Lawrence Nana Asiamah Hanson @ Bulldog is a graphic artist. On Saturday 9th January 2021, the program aired on UTV as usual and the accused was one of the

panelists who appeared on the show. During the program, the issue of Menzgold came up and the accused quickly replied that “The President of the Republic of Ghana, His Excellency Nana Addo Danquah Akuffo Addo will not finish his term in office as President if he fails to pay the deposits of Menzgold customers”.

On 11th January 2021, Police intercepted the said video recording on the Facebook page of UTV which attracted lots of comments from viewers who watched and heard the accused making those unguided statements including the complainants herein, condemning the comment. On 12th January 2021, the accused was handed over to Police by National Intelligence Bureau for investigation. In the course of investigations, Police requested the original video recording from UTV. During interrogation, the video recording was played to the accused and he admitted having made those comments. In the course of investigations, the original video which was in Twi and English language was forwarded to the Ghana Institute of Languages for transcription and it was transcribed into the English language. After investigation, the accused person was charged with the offence and arraigned before this honourable court.

- The host of the program, Ms. McBrown, the first Prosecution witness, in her witness statement contended that in the course of the show, the issue of Menzgold came up and the accused stated: “The President, Nana Addo Danquah Akuffo Addo will not finish his four- year term in office if he fails to pay the deposits of Menzgold”. That she felt the comments of the accused were not appropriate and as the host of the program, she made him retract same.

- The second Prosecution witness (PW2) in her testimony averred, that as a concerned citizen of Ghana, she considered the comment a serious threat to the President and likely to breach the peace in the country hence a report to the

Police for investigation. That despite a query from one of the panelists for the accused person to retract his comments, he declined.

According to the third prosecution witness, she considered the comments of the accused a threat to the President and the peace of the country. That she saw something which may destabilize the peace and sanity of the nation and therefore directed it to the appropriate bodies to investigate.

The fourth prosecution witness, a lecturer at the Ghana Institute of languages indicated that he transcribed the video recording into the English language and forwarded the report together with the original recording to the Director-General/ CID.

The investigator asserted that he visited the Facebook page of UTV and printed some of the comments of the audience who watched the program. He tendered in evidence a copy of the printed document.

- Section 207 of the Criminal and Other Offences Act, 1960 (Act 29) states: A person who in a public place or at a public meeting uses *threatening, abusive or insulting words* or behaviour with intent to provoke a breach of the peace or by which a breach of the peace is likely to be occasioned commits a misdemeanour.

In the case of **Quansah V. The Republic (1980) GLR 263**, the court held:

“In considering the meaning of words “with intent to provoke a breach or whereby a breach of peace is likely to be occasioned” in Act 29, section 207, the test of the reasonable man was inapplicable to the person or person or persons likely to be provoked. A speaker who used threatening, abusive or insulting words, had to take his audience as he found it and, if the words spoken to that audience were likely to provoke a breach of the

peace, he would be guilty of an offence, it did not matter if the audience were a band of hooligans or a rabble..."

In **Gaba V. The Republic (1984-86) 1GLR 694**, the court outlined the ingredients of the offence of offence conduct conducive to breach of peace:

"The essential ingredient of the offence of offensive conduct conducive to breaches of the peace under section 207 of the Criminal Code, 1960 (Act 29) was that the offence must be committed in a public place. It might happen in a building but then it must be a building to which the public had access. Under the section no offence would be committed by a person whose activities such as in the instant case, took place in a private house to which the public had no right of access or licence thereto."

● **Public place** is defined/ described under Section 1 of the Criminal and other offences (Procedure) Act, 1960 (Act 30) as follows:

Public place includes a public way and a building, place, or conveyance to which the public are entitled or permitted to have access, without a condition of making a payment, or on condition of making a payment, and a building or place which is used for a public or religious meeting or assembly, or as an open Court; and acts are done "publicly"

(a) if they are done in a public place as are likely to be seen by a person, whether that person is or is not in a public place;

(b) if they are done in a place, which is not a public place, but are likely to be seen by a person in a public place;

"Public way" includes a highway, market place, lorry park, square, street, bridge, or any other way which is lawfully used by the public"

- In this case, the statement was made, by the accused, at United Television station. Though the station is a private entity, it is open to the public and most of the activities/ programs are viewed on television or online. The program, united showbiz, was broadcast/streaming live on television and was viewed by many people on the internet, thus, having a global reach/ audience.

Exhibit IO1, which is a transcript of the video, states the exact words uttered by the accused:

“oh as for the money, it will come. Otherwise, Nana Addo will run away. He’ll not finish his four years; “I’m telling you, in no go finish in 4 years[patience] ein no go finish ein 4 years [patience]. Listen, my point is that’, I do not have a problem. Let’s take it that you say UTV...”

The accused stated that the President of the Republic of Ghana, democratically elected, will run away and will not finish his term in office.

- After the close of the prosecution's case, the accused was called upon by the court to open his defence. In his witness statement, he contended that:

On the 9th of January 2021, he honoured an invitation to be a panelist on UTV’S united showbiz. The topic of Menzgold closure was raised during the discussion and he was invited by the host to express his views on the situation. A banter ensued and he commented that: “oh as for the money it will come otherwise Nana Addo will run away, he will not finish his second term, I am telling you he no go finish in 4 years.”

According to the accused, he had no intention whatsoever to breach the peace or occasion a likelihood of same, and no breach whatsoever was occasioned or was likely to be occasioned. That the comment was an appeal to the conscience of the President of the Republic of Ghana to intervene for the vulnerable victims of

Menzgold. He added that the comments were retracted and further clarified to allay any misgivings that anyone might have about the comment. In the so-called retraction, the accused reiterated and reinforced his stance that he President “should pay the customers because it his tenure when they... lost their money” (Exhibit IO1).

- These words, in no doubt raise serious constitutional and security concerns. These comments cannot be described as an appeal to the President. Exhibit JAN 1 shows comments/remarks made by people on social media outlets. Some of the views expressed by the audience are as follows:

“Bulldog ur comment is a threat to the President...” “... such a clown threatening a whole president on live tv...” “Bulldog should be careful else he will be invited by the police” “Bulldog don’t issue threats towards the President. Wrong move “How can Mac Brown allow the statement to just pass like that? He threatened the president” “... did you hear what Boo Dog or whatever said... if the president won’t finish his term.”

The audience noted that the accused had threatened the President of the Republic of Ghana hence their comments/ caution to the accused and the host of the program. The words – ‘the President will run away’, the President will not finish his 4 years - were to that effect.

- **Section 17 (a) and(d) of Act 29** states: Meaning and use of threats

17. (1) In this Act, unless the context otherwise requires, “threat” means

(a) a threat of criminal force or harm; or

(d) a threat that a person shall be prosecuted on a charge of having committed an offence, whether the alleged offence is punishable under this Act or under any other enactment, and whether it has or has not been committed.

17(3) It is immaterial whether the matter of the threat will be executed by the person using the threat, or against or in relation to the person to whom the threat is used, or by, or against, or in relation to any other person.

17(4) It is immaterial whether a threat or offer is conveyed to a person by words, or by writing, or in any other manner, and whether it is conveyed directly, or through any other person or in any other manner.

In the case of LEROY v. FRANCE - EUROPEAN COURT OF HUMAN RIGHTS -681 /2.10.2008- the court held:

The Court considered that the applicant's conviction amounted to an interference with the exercise of his right to freedom of expression. This interference was prescribed by French law and pursued several legitimate aims, having regard to the sensitive nature of the fight against terrorism, namely the maintenance of public safety and the prevention of disorder and crime. It remained to be determined whether this interference was "necessary in a democratic society". Through his choice of language, the applicant commented approvingly on the violence perpetrated against thousands of civilians and diminished the dignity of the victims.

Although the domestic courts had not taken the applicant's intentions into account, they had examined whether the context of the case and the public interest justified the possible use of a measure of provocation or exaggeration. In this respect, it had to be recognised that the drawing had assumed a special significance in the circumstances of the case, as the applicant must have realised. He submitted his drawing on the day of the attacks and it was published on 13 September, with no precautions on his part as to the language used. In the Court's opinion, this factor - the date of publication - was such as to increase the applicant's responsibility in his account of, and even support for, a tragic event,

whether considered from an artistic or a journalistic perspective. In addition, the impact of such a message in a politically sensitive region, namely the Basque Country, was not to be overlooked; the weekly newspaper's limited circulation notwithstanding, the Court noted that the drawing's publication had provoked a certain public reaction, capable of stirring up violence and demonstrating a plausible impact on public order in the region."

- The accused, made these statements few days after the general election and swearing-in of the President, and he had knowledge of the said Menzgold saga/demonstrations and the security issues. PW2 outlined some of the issues and reasons for reporting the case to the Police as follows:

"As we all know, it's unfortunate that the Menzgold problem/saga has claimed lots of lives and has caused so much pain. But then Bulldog is a public figure. He has so many followers. What he was saying might have an impact on the ordinary Ghanaian that what I will say because I am not known. He might be seen as a mentor by his followers and will like to follow his footsteps. We know that Menzgold doesn't belong to the President. It's a private entity when the income was coming it was not going to the President. All we heard was Nana Appiah has done well. The company has collapsed and Bulldog thinks it's the President who has caused all this which I think shouldn't be so. This is likely to incite people against the President. That is why I sent it to the police for investigations."

The accused statement – provoked a certain public reaction (Exhibit JAN) - capable of inciting violence – likely to provoke a breach of the peace. His intent, contrary to his assertion, was not to appeal to the conscience of the President to intervene in the Menzgold issues. Prosecution proved its case beyond reasonable

doubt. The accused is hereby convicted of the offence. Taking into account his plea of mitigation that he is a first-time offender, he is sentenced to pay a fine of 4000 penalty units or in default 40 days imprisonment with hard labour.

(SGD)
H/H EVELYN E. ASAMOAH (MRS)
CIRCUIT COURT JUDGE