CORAM: HER HONOUR BERTHA ANIAGYEI (MS) SITTING AT
THE CIRCUIT COURT 'B' OF GHANA HELD AT TEMA
ON TUESDAY, 18TH JULY, 2023

SUIT NO. D1/8/22

THE REPUBLIC

VRS

AMIDU ISSAHAKU

JUDGMENT

The accused person was arraigned before this court with one other on two counts; conspiracy to steal contrary to ***section 23(1) and 124(1) Criminal Offences Act, 1960 (Act 29)*** and stealing contrary to the same Act.

The particulars of offence for count one is that on the accused person and Labanti Alhasssan on the 2nd day of December, 2021 at 4:00pm at Dawhenya in the Tema Circuit and within the jurisdiction of this Court, they did agree to act together with a common purpose to steal.

The particulars of offence for count two are that on the same date, time and place aforementioned, the accused person and Labanti Alhassan dishonestly appropriated **1**. 15 horsepower motor valued at GH¢ 2,000.00, **2.** Vibrator motor valued at GH¢ 800.00 **3.** 20 horsepower motto valued at GH¢3,000.00, **3.** Mixer machine valued at GH¢ 13,000.00. **5.** 2phase generator valued at GH¢ 1,800.00, **6.** 6 solid single with board valued at GH¢ 1,000.00, **7.** 5 hollow set with pins, **8.** 2 2in1 molds valued at GH¢ 2,300.00 **9.** block machine handle press valued at GH¢ 1,800.00, **10.** 35 liter gallons – ABT 50 valued at

GH¢ 350.00, **11.** 50m extension cable heavy duty valued at GH¢ 500.00, **12.** Bicycle valued at GH¢ 300.00, **13.** 6-2 feet iron rod mats valued at GH¢ 180.00, **14.** Conveyor rollers various sizes valued at GH¢ 600.00, **15.** Queen size mattress valued at GH¢ 700.00, **16.** 4 tire drawer valued at GH¢ 200.00 **17.** 3 tier shelf valued at GH¢50.00, **18.** 5kg gas cylinder with 2 burner cooker valued at GH¢350.00, **19.** 3inch (to2inch) water pump with hose (inlet and outlet) valued at GH¢2,000.00, **20.** 4 – 1000 liter IBC tank valued at GH¢ 2,400.00, **21.** Hand drill valued at GH¢ 300.00, **22.** Eclectic spraying machine valued at GH¢ 450.00, **23.** Grinding machine valued at GH¢ 350.00, **24.** Rivet machine valued at GH¢ 200.00, **25.** Drill bits valued at GH¢ 300.00, **26.** Electrode valued at GH¢ 80.00, **27.** Grinding disc valued at GH¢ 100.00, **28.** Cutting disc valued at GH¢ 44.00, **29.** 5kg gas cylinder burner valued at GH¢ 150.00, **30.** ¾ size foreign mattress valued at GH¢ 800.00, **31.** 90 liter diesel valued at GH¢ 630.00, **32.** 1 room 2tier scaffolds valued at GH¢ 2,000.00, **33.** 2-17 plate truck batteries valued at GH¢ 1,200.00, **34.** 25 plate battery valued at GH¢ 1,200.00, **35.** 2 solar lights with panels (his use) valued at GH¢ 400.00, **36.** Coolant-various valued at GH¢ 100.00, **37.** Gear oil – various valued at GH¢ 100.00, (block molds complete with accessories), **38.** 5 solid 2in1 valued at GH¢ 600.00, **39.** 6 solid 2in1 with board valued at GH¢ 600.00, **40.** Cooking pots set – new, cooking pans bowls, cups (all cooking accessories) valued at GH¢ 3,000.00, **41.** Paints various-various, emulsion and oil valued at GH¢ 1,000.00, weedicides valued at GH¢ 200.00, **42.** Solar panel phone charger valued at GH¢ 30.00, **43.** 4-solar lamps with panels valued at GH¢ 1,000.00, **44.** Solar lamps with panels compatible with android valued at GH¢ 400.00, **45.** Solar sensor light valued at GH¢ 100.00, **46.** 12 wats solar lights valued at GH¢ 200.00, **47.** 30 wats solar lamps with panel valued at GH¢ 600.00, **48.** Roofing hooks valued at GH¢ 600.00, **49.** Bedding, curtains, **50.** Clothing and accessories valued at GH¢ 3,000.00, **51.**2.5mm metal plate (imported) valued at GH¢ 350.00, **52.** 6-metal shovels valued at GH¢ 180.00, **53.** 50kva battery cable valued at GH¢ 150.00. **54.** Wawa boards at GH¢ 2,800.00, **55.** Used Wawa boards valued at GH¢ 400.00,

56. Various metals and metal on truck valued at GH¢ 4,000.00, **57.** Boxes of tiles valued at GH¢ 300.00, **58.** Bundle of rope valued at GH¢ 60.00, **59.** Metal trusses valued at GH¢ 5,000.00, **60.** Metal pillar valued at GH¢ 120.00, **61.** 5 inch blocks valued at GH¢ 7,400.00, **62.** 4-2 round pipes valued at GH¢ 1,000.00, **63.** Metals (attached invoice) valued at GH¢ 3,618.00, **64.** Various building materials for resale invoice valued at GH¢ 3,133.99 a total value of eighty one thousand two hundred and seventy five cedis (GH¢81,275.00), the property of one Adelaide Attadjei.

Whereas Labanti Alhassan pleaded guilty simpliciter and was convicted and sentenced, the accused person herein pleaded not guilty to both counts. Where an accused person pleads not guilty to a charge, he invokes the constitutional protection of being considered innocent until proven guilty by the Republic. Per ***Article 19 (2) (c) of the 1992 Constitution***, he is presumed innocent until proven guilty.

According to the case of ***Davis v. U.S. 160 U.S 469 (1895)*** "Upon that plea the accused may stand, shielded by the presumption of his innocence, until it appears that he is guilty; and his guilt cannot in the very nature of things be regarded as proved, if the jury entertain a reasonable doubt from the evidence".

The presumption of innocence guaranteed under the ***1992 Constitution***, is not cast in historic concrete like King Arthur's sword. That guarantee is that he is presumed innocent *until prosecution* has been able to lead evidence to establish his guilt beyond reasonable doubt.

That being so, prosecution may lead credible and positive evidence to upset that presumption. A court thus commences a criminal trial where an accused has pleaded not guilty on the rebuttable presumption that the accused person is innocent until proven guilty. The onus lies on prosecution to lead material, relevant and credible

evidence to establish a prima facie case against the accused persons by the close of their case.

It is only then, that prosecution would be deemed, prima facie to have upset the presumption of innocence in favour of the accused and he would in turn be called upon not to prove his innocence, but to raise a reasonable doubt in the mind of the Court as to his guilt.

In the case of ***Gligah & Atiso v. The Republic [2010] SCGLR 870 @ 879*** the court held that *"Under article 19(2)(c) of the 1992 Constitution, everyone charged with a criminal offence was presumed innocent until the contrary is proved. In other words, whenever an accused person is arraigned before any court in any criminal trial, it is the duty of prosecution to prove the essential ingredients of the offence charged against the accused person beyond any reasonable doubt. The burden of proof is therefore on the prosecution and it is only after a prima facie case has been established by the prosecution that the accused person would be called upon to give his side of the story.*

Two witnesses; being the complainant and the investigator, testified for the Republic.

THE EVIDENCE OF PW1

PW1 testified as the complainant. According to her, she employed the convict as a caretaker of her property at Dawhenya. That he handed duplicate keys to the convict to all the rooms except her room and that of one Novinyo; a vulcanizer whom she has given one room to.

That Novinyo called her on the 5th of December, 2021 to say his room had been broken into and his money stolen. When she called the convict to enquire, he told her not to pay attention to Novinyo as he brings people to the site against his advice.

That she later went to the site on the 6th day of December, 2021 after receiving information that a truck had been seen packing some items from her compound on the 3rd of December, 2021. Upon arrival, she detected that the back door to her room was destroyed.

She also realized that that almost all items at the premises including the mattress in her bedroom had been stolen. She listed the items stolen as the items contained in the particulars of offence for count two.

THE EVIDENCE OF PW2

PW2 is the investigator. She tendered in evidence EXHIBIT A and A1 as the investigation and charge statement of the accused person. EXHIBIT B and B1 as the investigation caution and charge statement of the convict. EXHIBIT C series as a list of the stolen items EXHIBIT D and D1 as a photograph of the retrieved stolen items. She finally tendered in evidence EXHIBIT E as the witness statement of the convict.

CONSIDERATION BY COURT

Section 173 of the Criminal and Other Offences Procedure Code, 1960 (Act 30) provides that; "If at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the accused sufficiently to require him to make a defence, the Court shall, as to that particular charge, acquit him."

In the case of ***The Republic v. Eugene Baffoe Bonnie & 4 ORS delivered by the Court of Appeal on 25th day of March, 2020 (Crim. Appeal No 82/2/2019),*** the Court of Appeal held that ''It is true that at the close of the case for the prosecution, the guilt of the accused is not supposed to have been proved beyond reasonable doubt. As the authorities however show, and having regard to the provisions of section 11 (2) of the Evidence Decree, 1975 (NRDC 323), the evidence led at this stage should however be such that it should be capable of convicting the accused if he/she offers no explanation. Not only should all the elements of the offence should have been proved, but also that the evidence adduced should be reliable and should not have been so discredited, through cross examination that no reasonable tribunal can safely convict on it. The evidence at this stage should also not be so equally balanced as to be susceptible to two likely explanations or consistent to both guilt and innocence''.

See the celebrated case of ***The State v. Ali Kassena [1962] 1 GLR 144 in which the Practice Direction issued by the Queens Bench Division in England [1962] 1 E.R 448 (Lord Parker CJ) was approved of and the case of Tsatsu Tsikata v. The Republic [2003-2004] SCGLR 1068***). See also the case of ***Sarpong v. The Republic [1978] GLR 790.***

It is elementary as I have stated above, that prosecution bears the evidential burden of establishing all the elements of the offence they have charged the accused persons with. See the dictum of Dotse JSC in the case of ***Richard Banousin vrs. The Republic, Crim., Appeal No j3/2/2014 delivered on 18th March, 2014*** where the reverent Justice of the Supreme Court held that '' the prosecution has the burden to provide evidence to satisfy all the elements of the offence charged''.

COUNT ONE

On count one, the applicable sections of the ***Criminal Offences Act, 1960 (Act 29) are sections 23 (1) and 124 (1)***. Prosecution must lead credible evidence to establish that the accused persons agreed to act together with a common purpose of stealing the liquefied petroleum gas (LPG) of the complainant.

The ***Criminal Offences Act, 1960 (Act 29) is section 23 (1)***. It provides that ''where two or more persons agree to act together with a common purpose for or in committing or abetting a criminal offence, whether with or without a previous concert or deliberation, each of them commits a conspiracy to commit or abet the criminal offence.

In the case of ***Agyapong v. The Republic [2013-2015] 2 GLR 518,*** the court of Appeal noted that ''under the old formulation of section 23(1) of Act, 29, the prosecution needed to prove only one of two things. One was that the accused persons agreed to act together in furtherance of the commission of the offence and the other was that even without agreeing to act together, they acted together in furtherance of the crime. But under the new formulation, the prosecution had a duty to prove that there was a prior agreement by the accused persons to act together with a common purpose, before it could secure a conviction for conspiracy''.

See also the decision of Marful Sau J.A (as he then was) sitting as an additional High Court Judge in the case of ***Republic v Augustina Abu and others, (Unreported) Criminal Case No. ACC/15/2013.***

In order for prosecution to establish its case against the accused persons on count one, they must lead positive, cogent and credible evidence to establish that;

1. The accused persons agreed to act together
2. The agreement to act together was for the common purpose of undertaking the criminal enterprise of stealing the four IBC water tanks a compactor, two

mattresses, five shovels, a set of cooking utensils and other plates, cooking stove, a cylinder, a double block mould and two single block moulds items belonging to complainant.

In Commissioner of Police v. Afari And Addo [1962] 1 GLR 483, it was held by Azu Crabbe JSC that ''it is rare in conspiracy cases for there to be direct evidence of the agreement which is the gist of the crime. This usually has to be proved by evidence of subsequent acts, done in concert, and so indicating a previous agreement.''

This position of the law was reiterated by the Supreme Court in the oft cited case of ***Azametsi & Others v. The Republic [1974] 1 GLR 228,*** where the Court held that ''it was not always easy to prove agreement by evidence, but it could be inferred from the conduct of and statements made by the accused persons. See also the case of ***Duah v. Republic [1982-88] 1 GLR 343.***

COUNT TWO

The definition section of the offence of stealing is ***Section 125*** and it provides that a person steals if he dishonestly appropriates a thing of which he is not the owner. The essential elements that prosecution has to prove to establish their case are;

1. that the accused person is not the owner of the various items listed in count two of the particulars of offence contained in the charge sheet
2. that the accused person appropriated the said items
3. that the appropriation was dishonest.

Section 122 (2) of Act 29 defines appropriation. According to the section "An appropriation of a thing in any other case means any moving, taking, obtaining, carrying away, or dealing with a thing, with the intent that some person may be

deprived of the benefit of his ownership, or of the benefit of his right or interest in the thing, or in its value or proceeds, or any part thereof''.

I would consider count one and two together. The prosecution and accused person agree on these as facts: The convict in this case by name Labanti Alhassan is a caretaker of PW1's premises at Dawhenya. PW1 is the owner of all the items listed in the particulars of offence for count two and those items were kept in the premises at Dawhenya. The accused person resides in the same area.

PW1 realized after the convict had unceremoniously vacated his post, that all the items in the premises including those which she had kept in her bedroom under lock and key were missing. Some of the rooms had been broken into.

She reported to the police and the convict was arrested. Upon interrogation, convict mentioned the accused person as his accomplice and another as someone who had dishonestly received some of the items.

Accused person was arrested and he led police to a house where four IBC water tanks were found behind the house, a compactor, two mattresses, five shovels, a set of cooking utensils and other plates, cooking stove, a cylinder, a double block mould and two single block moulds were found in a well.

The undisputed facts establish the first two elements of the offence of stealing. As they are not disputed by the accused person, I would move to the third element of the offence which is that the accused person dishonestly appropriated the items.

What is in dispute is why the items found with the accused person were moved and taken away. Whereas prosecution's case is that it is because the accused person and the convict conspired to and proceeded to appropriate the items with a dishonest intention, accused person says that he took the items as collateral for a loan which the convict obtained from him.

That being so, prosecution had the duty of leading evidence to establish that the accused agreed and acted with the convict to appropriate the items with a dishonest intention. Thus it is explained in ***section 120 (1) of Act 29*** that an appropriation of a thing could be deemed to be dishonest if it is proved that the appropriation was made:

(i) with intent to defraud; or

(ii) by a person without any claim of right; and

(iii) with a knowledge or belief that the appropriation was without the consent of some person for whom he was a trustee or who was the owner of the property appropriated;

An intent to defraud is defined by ***section 16 of Act 29*** as "an intent to cause, by means of the forgery, falsification or other unlawful act, a gain capable of being measured in money, or the possibility of that gain to a person at the expense or to the loss of the other person''.

On this element, prosecution's evidence is that the convict pointed out the accused person as his accomplice and led police to arrest him and also that the items were found in a house where the accused person took them to after his arrest. That whereas some of the items were behind the house, the others had been kept in a well.

Prosecution tendered in evidence the witness statement of the convict as well as his investigation and charge statement. The convict is currently serving a custodial sentence within the criminal jurisdiction of this country.

Prosecution could have produced him to enable learned counsel for the accused person or accused person himself to cross examine him. They failed to. As the convict was not cross examined by his accuser on the witness statement, I find that I cannot attach the full evidential weight to it.

The same applies to the investigation caution statement of the convict which was tendered in evidence as EXHIBIT B. The said confession statement which mentions the accused person and the role he played in the commission of the offence is evidence against the convict alone and not against the accused person.

In the case of ***Yirenkyi v. Republic (J3 7 of 2015) [2016] GHASC 5 (delivered by the supreme court on 17 February 2016)*** Akamba JSC in reading the decision of the Court held that ''It is trite criminal law that a confession made by an accused person which is admitted in evidence is evidence against him. It is however not evidence against any other person implicated in it. (See ***Rhodes (1954) 44 CR. App. R. 23***) unless it is made in the presence of that person and he acknowledges the incriminating parts so as to make them, in effect, his own''.

I would now divert to the charge of conspiracy now. As prosecution's main evidence on the charge of conspiracy is the witness statement as well as the investigation caution and charge statement of the convict, I find the evidence not to be sufficient. This is because as earlier indicated, the said convict did not testify to enable the accused person cross examine him and so I attach very little probative value if at all to his statements.

The accused person herein acknowledged portions of the convict's investigation caution statement but disputes vehemently that he conspired with accused person and went to the premises to steal the items.

Save for the convict's statements, prosecution provides very little by way of evidence against the accused person on the charge of conspiracy. The evidence of PW1 and PW2 does not indicate which specific role that the accused person played in the commission of the offence for the court to arrive at an inference that he conspired with the convict.

If at all, the only evidence of PW2 which is material is that the items were found in a house where the accused person took them. The finding of the items does not ipso facto lead to an inference of an agreement to act together to engage in the criminal enterprise of stealing. On this basis, I hereby find that prosecution has failed to establish the guilt of the accused person beyond reasonable doubt on the charge of conspiracy to steal. He is accordingly acquitted and discharged of same.

On prosecution's evidence as to how the convict had led police to arrest the accused person and how the accused person had led them to recover the items, I find that the manner in which the items were stored alone speaks volumes. They were stored in a well and behind a house. It appears by their storage that they were being hidden to prevent their detection.

Although there is no direct evidence of the accused person stealing the items, the circumstantial evidence on record as to how the items were recovered from him and the manner in which they had been stored, leads prima facie to a single inference that the accused person stole the items.

It is on this basis that at the close of prosecution's case, I determined that they had established a prima facie case against the accused person and he was called upon to open his defence if he so desired.

Denning J (as he then was) in the celebrated case of ***Miller v. Minister of Pensions [1947] 1 All ER 372 at 373*** held that. "The constitutional presumption of innocence of an accused person is that an accused is presumed to be innocent unless he pleads guilty or convicted by a court. The presumption is rebutted when the prosecution establishes a prima facie case against the accused person and the accused shall be called upon to raise a reasonable doubt as to his guilt." See also the dictum of Dennis Adjei JA in the Court of Appeal case of ***Philip Assibit Akpeena v. The Republic (2020) 163 G.M.J 32.***

Accused person was called upon to open his defence. An accused person when called upon to open his defence does not have a duty to prove his innocence. His only duty if at all at this stage, is to raise a reasonable doubt in the mind of the court concerning the prima facie case established against him by the prosecution. Where he is able to raise a reasonable doubt in the mind of the court, he must be acquitted and discharged. See ***Bruce-Konuah v. The Republic [1967] GLR 611*** and ***Section 11(2) and (3) of NRCD 323***.

In arriving at whether an accused has raised a reasonable doubt, the court must first consider whether his explanation is acceptable i.e whether it believes the explanation given by the accused. If it does not, it must proceed to find out whether the explanation by the accused is reasonably probable. If that fails, then thirdly, the court must consider the whole evidence on record and see if it raises any defence in favour of the accused. In any of these instances, the court must acquit and discharge the accused. 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. See the case of ***Bediako v. The State [1963] 1 GLR 48***

DEFENCE

In his evidence in chief, accused person said that he and the convict got to know each other when they realized that they were kinsmen. That accused person requested that he lends him an amount of Ghs 800 to travel to Kpassa.

That accused person told him that his madam had not paid him for about three to four months so he would bring some items for him to keep as collateral for the money. That he gave the accused person Ghs 200 on the said date.

Later, he (accused person) asked one Oga to keep the items the convict brought. After that, he gave the convict Ghs 200 on three occasions within a space of one week. That he was only keeping the items whilst waiting for the convict to return his money.

That after the convict went to his hometown, he called him and asked him to send him Ghs 70. Convict told him that he would be returning but this time to work at Prampram.

That he does not know PW1 and neither does he know the site. Convict only told him that his employer moulds blocks for sale. However, the place has been running block moulding business for sometime and one Rahman used to manage the place some years back. He closed his case after this.

To begin with, I do not believe the evidence of accused person. His evidence is that the items were stored in the house of one Oga and it was the said Oga who had even organized for and paid the transporter. He could have called the said Oga to appear in this court to testify on his behalf. He failed to do so.

Also, the accused person failed to provide any form of evidence indicating the amounts of money he had sent to the convict by way of a loan. Although he says he gave the convict Ghs 200 in person and later sent Ghs 200 on three occasions within one week and a further Ghs 70 to the convict, he does not testify of the means of sending the money to the convict.

He also does not provide documentary or oral evidence of how the money was sent to the convict. Whether it was by means of transfer or delivery by someone to the convict, it was incumbent on him to provide the court with the evidence in order to corroborate his claim.

I have considered the evidence on record and I do not find the explanation of the accused person to be reasonably probable. Accused person wants the court to accept as reasonably probable the evidence that he loaned Ghs 600 to the convict and received items worth over Ghs 80,000 as collateral from the convict.

Even if I am to find the evidence of the accused person that he received the items as collateral for a loan to be reasonably probable, from the evidence, the circumstances under which he received them were such as to put any reasonable person on notice that the items were obtained by reason of a crime. In this light, ***section 156 of Act 30*** provides that

''where a person is charged with stealing a thing and receiving the thing knowing it to have been stolen is proved, that person may be convicted of receiving same although not charged with the offence''

Accused person was not a credible witness in this court. He insists that he does not know PW1 or the site, yet in cross examining PW2 he had asked questions which showed clearly that he knew PW1's premises within the vicinity quite well. At page 33 of the record of proceedings, he had asked Pw1

Q: Do you know someone called Rahman?

A: No my lord

Q: Do you know that Rahman was there before the convict Lambati?

A: I am not aware

Q: I put it to you that Rahman was there selling items before that convict came.

A: No my lord

Accused person had repeated the claim of this said Rahman having been the caretaker on PW1's land in his evidence in chief specifically paragraph 23 where he had stated that the said Rahman used to manage the place some years back.

Also, although the accused person at page 42 of the record of proceedings had answered that:

Q: Paragraph 18 of your evidence in chief (paragraph read out loud in court). It is never true. You knew very well that convict Lambati does not own those items.

A: My lord, I was not aware that he did not own those items because I did not make any investigations concerning the items.

I find his denial to be untrue. This is because by his own evidence of one Rahman being the caretaker of the place before the convict and also the fact that the place is known for moulding blocks, even if he did not make any investigations, the information that was

available to him prior to the convict coming to that premises was such as to put anyone on notice about the ownership of the items.

By his own evidence, I can safely infer that he knew the site of PW1 very well and knew that blocks are moulded there for sale. He knew this even before the convict came to the site as a caretaker. Yet, the accused wants this court to believe that when convict offered him items which included the block moulding machines; one of which costs about Ghs 2,000, he accepted same as collateral for a personal loan and then proceeded to keep the items in a well.

This is despite the fact that as a reasonable man with all the information he had about the premises, he had every cause to believe if nothing at all, that the block moulding machines did not and could not belong to the convict.

Also, accused person himself says that the convict called him that he was returning from his hometown to go and work at Prampram. PW1's premises where accused person used to work is in Dawhenya. That means the convict was not returning to work with PW1. Even if accused person did not have sufficient cause to know that the items were stolen, the fact that the convict was willing to leave all the items worth far in excess of the Ghs 600 with him and go and work somewhere else without a care for the items was sufficient to put any reasonable person on notice that the items did not belong to the convict.

I have painstakingly combed through the whole evidence on record as it is my duty to so do and it does not raise any defence in favour of the accused person. Consequently, after an evaluation of the entirety of evidence, I find that prosecution has established

the guilt of the accused person beyond reasonable doubt. He is accordingly convicted of the offence of dishonestly receiving.

PRE SENTENCING HEARING

According to prosecution, the convict is not known. The items that have been recovered by prosecution include 1000 litre tank, 2 ¾ size foreign mattresses, two solid single block mould, 5KG gas cylinder with burner cooker, cooking can bowls, four cooking accessories, metal shovel, various metal trusses, aluminium plates, two metal poles and a compressor were retrieved.

In her victim impact statement, PW1 said that currently she has not been able to start work and is still putting her house together as she did not receive all the items.

Counsel

My lord, in view of this development, we wish to humbly pray that your lordship considers all the facts that all items that came into the possession of convict were duly returned and so he has not benefited in anyway from the crime. Again from the facts, he was not the only person involved in the act and the 1st convict bears the bigger portion of the blame. Also that the convict has made an attempt to put the complainant back to her former status. Further, my lord found him guilty of dishonestly receiving and not for the charge of stealing that he was charged with and so it cannot be a case that he failed to plead guilty at the earliest possible stage.

The guidelines of sentencing also requires the court to take a look at the role played by the convict in the commission of the offence. As gleaned from the fact, the convict was not the led actor in the commission of the offence. My lord, looking at the fact that you are about to leave us, we pray that my lord, shows us mercy and gives a parting gift of a

non custodial sentence. My lord, the convict has been in jail since last week pending sentence and that in itself is a lesson to him to repent. My lord, we pray that he be handed a non custodial sentence in this matter. We pray accordingly.

SENTENCING

The offence of dishonestly receiving falls under the 2nd degree felony offences that carry a maximum imprisonment term of 25 years. Thus I can sentence the convict to a maximum of twenty five years in custody.

In arriving at a sentence, I have considered the fact that the convict had shown no remorse for his crime and taken prosecution through a full trial to establish his guilt. That had wasted the time and resources of the state and also put prosecution witnesses through unnecessary expense in coming to court.

In mitigation however is the fact that some of the items, although not all were recovered and have been restored to the complainant.

Convict is also a first time offender and until this offence had generally led a life that took him out of the way of collision with the law. In consideration of all these factors, convict is hereby sentenced to a one month term of imprisonment. He is also to enter into a self recognizance bond to keep the peace and be of good behavior for a period of twelve months after his release from custody. In default, he would serve a two month term of imprisonment.

(SGD)

H/H BERTHA ANIAGYEI (MS)

(CIRCUIT COURT JUDGE)

A.S.P. STELLA ODAME FOR THE REPUBLIC

ABDUL FATTAU ALHASSAN FOR THE CONVICT