

CORAM: HER HONOUR BERTHA ANIAGYEI (MS) SITTING AT  
THE CIRCUIT COURT 'B' OF GHANA HELD AT TEMA  
ON TUESDAY, 21<sup>ST</sup> MARCH, 2023

SUIT NO. D18/12/22

THE REPUBLIC

VRS

DORDZI DZIDEFO LOUIS@D-CLAIM

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RULING

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On the 26<sup>th</sup> day of November, 2021, the accused person herein was arraigned before this court on a charge of robbery contrary to *Section 149 of the Criminal Offences Act, 1960 (Act 29)*. The particulars of offence are that on the 13<sup>th</sup> day of July, 2021, at about 1:30am, at community 25 in the Tema Metropolis and within the jurisdiction of this court, he pulled a pen knife on complainant Mavis Ocansey and robbed her of her Samsung galaxy A3 smartphone valued at one thousand, eight hundred Ghana cedis (Ghs 1,800), a handbag containing cash the sum of two hundred Ghana cedis (Ghs 200), her room keys, handkerchief and soap.

**FACT**

Complainant Mavis Ocansey age 29 years is unemployed and a resident of Kakasunaka No. 1. Accused person Dodzi Dzidefo Louis @ D – Claim is also unemployed and a resident of Gbetsele. On the 13<sup>th</sup> July 2021 at about 12:00am, complainant Mavis Ocansey engaged the service of accused person who was then in charge of haojue motorbike with registration No. M-21-GR 1955 to convey her from Kakasunaka No. 1 to Gulf City.

On reaching complainant's destination at Gulf City, accused person requested that they exchanged phone numbers to enable complainant call him to pick her back to Kakasunaka No. 1 when she is done with her mission. Complainant obliged. On

same day at 12:21am, complainant called accused person to pick her up back to Kakasunaka No. 1. On their way, accused person took a branch road not known to complainant with an excuse that he encountered police on his way to pick her hence needed to swerve the alleged officers ahead.

On reaching a section of the road near Energy Commission, community 25 Tema, accused veered into a nearby bush and parked at a refuse dump. Accused then pulled out a penknife he had concealed on him at complainant and forcibly took her Samsung galaxy A3 smartphone with IMEI ANO. 35616072617280 valued GHs 1,800.00, hand bag containing cash sum GHs 200.00, room keys, handkerchief and soap. Not satisfied with that, accused forcibly had sexual intercourse with complainant through her vagina and anus respectively at knifepoint at the refuse dump. Thereafter, he bolted with the booty abandoning complainant in the bush. Complainant lodged a complaint to police, Gulf City.

She was issued with an extract of occurrence to be sent to police community 25, Tema for necessary assistance and was issued with medical form to attend hospital as well. On the 16 July, accused cashed out an amount of GHs 247.00 from complainant MOMO account from an MTN MOMO agent, a witness in this case via MTN number 0558767654.

He also transferred 50 pesewas out of 54 pesewas balance left after the first transaction from complainant's MOMO account to his cell phone number 0242114906 while he had complainant's phone in his possession. On 19 July 2021, complainant called at the community 25 police station with an extract of occurrence and a duly endorsed medical form from 37 Military hospital in Accra and same retained for evidential purpose.

On the 22<sup>nd</sup> July 2021, police prepared an ex – parte motion for a court order which was granted and same was served on MTN Ghana Limited. Later police were furnished with the itemized bill of the accused person. On 25<sup>th</sup> August 2021 between the hours of 10:02am to 12:06am, accused inserted his MTN number 0242114906 sim card into the complainant’s Samsung Galaxy A3 smartphone while the case was under investigation.

On 29 October 2021, police intelligence led to the arrest of accused at his hideout at Kakasunaka No. 1 and was duly cautioned. After investigation, accused was charged with the stated offence in the charge sheet and put before this honorable court.

The accused person elected to speak Ewe and pleaded not guilty after the charges were read and explained to him. By his plea, he had cast upon prosecution the singular duty of leading cogent, reliable and credible evidence to establish his guilt beyond reasonable doubt.

The veritable Dotse JSC in reading the decision of the Supreme Court in the case of *Amaning v. The Republic [2020] GHASC 47*, had this to say by way of a prologue: “William Blackstone, an 18<sup>th</sup> century English jurist in a statement on the hallowed principle of “Innocent until proven guilty:-rights of an accused person” upon which our criminal justice administration has been founded in *Article 19(2) (c) of the Constitution, 1992* stated as follows, “Better that ten guilty persons escape than that one innocent suffer”. The above constitutes the fulcrum of our criminal justice jurisprudence”.

In the case of *Domena v. Commissioner of Police [1964] GLR 563 the Supreme Court per Ollenu JSC* (as he then was) commented on the burden and standard of proof as such: “Our law is that by bringing a person before the court on a criminal charge, the

prosecution takes upon themselves the onus of proving all the elements which constitutes the offence to establish the guilt of the defendant beyond reasonable doubt, and that onus never shifts. There is no onus upon an accused person. Except in special cases where the statute creating the offence so provides...”

In the case of *Richard Banousin v. The Republic, Criminal Appeal NO. J3/2/2014 delivered on 18<sup>TH</sup> MARCH, 2014*, The Supreme Court per Dotse JSC noted that “the prosecution has the burden to provide evidence to satisfy all the elements of the offence charged”,

Prosecution in proof of its case called three witnesses.

#### EVIDENCE IN CHIEF OF PW1

PW1, the complainant testified that she boarded a motorbike driven by the accused person on the 13<sup>th</sup> of July, 2021. That they exchanged numbers and agreed that on her return journey, she would call the accused person to transport her back to her destination.

She called the accused person on the same day at about 12:21am and he came to pick her. On their return journey, the accused person took an unfamiliar route and drove her into a bush and asked her to get down from the bike.

Accused then asked her to give him her phone which was then ringing. She asked him why and he pulled a knife which was hanging on the ignition key of the motorbike. He threatened to harm her with it if she refuses to comply. Accused then told her to comply with whatever he says if she wants to go home safely.

The accused person then ordered her to hand over her handbag and out of fear, she did. It contained her mobile phone, an amount of two hundred Ghana cedis (Ghs 200), a soap, a handkerchief and her apartment keys.

Thereafter, accused asked her to bend over and remove her pants and she did. He then proceeded to have sex with her through her vagina and anus at knifepoint. When she screamed out of pain, he warned her to keep quiet or else he would harm her with the knife. That after the accused person had reached orgasm and ejaculated both in her vagina and anus, he drove off on his motorbike with her handbag and its contents.

That she sought assistance from a nearby house and later reported to the police. She was given a police medical form and received treatment at the 37 military hospital. She later went for a Sim card replacement and realized that on the 16<sup>th</sup> day of July, 2021, the accused person withdrew an amount of two hundred forty seven Ghana cedis (Ghs 247) from her MOMO account and further transferred fifty (50p) pesewas out of the remaining 54 pesewas into account number 0242114906.

That the accused person also accessed her Whatsapp and Facebook accounts and posed as her. That in doing so, he demanded various sums of money from her contacts. That in the course of investigations, she and the investigator obtained her statement from MTN and it enabled her to know the number of the accused person to be 0242114906. It also revealed the name of the accused.

That she was later shown different pictures and she managed to identify the accused person even though he was in dread locks in some of the pictures. That she emphasized that at the time of the incident, the accused person had cut his hair. That the accused person was arrested and she identified him on the 29<sup>th</sup> day of October, 2021.

EVIDENCE IN CHIEF OF PW2

PW2's evidence is that he is a mobile money vendor. That the accused person has transacted business with him on a number of occasions. On the 16<sup>th</sup> day of July, 2021, at about 7:26 am, accused came to his shop to withdraw money from mobile number 0243549331.

He asked for an ID and accused person mentioned some numbers as his voters i.d number. That he did not verify the details as accused person had been to his shop to transact business a number of times and also to avoid delay to his other customers who had queued up. That the accused person then entered the pin number of the phone he was holding when he was prompted.

#### THE EVIDENCE OF PW3

PW3 is the investigator. In his evidence in chief, he said that after PW1 had reported the case and returned her medical form duly endorsed, PW1 showed him the rubbish dump where the accused person robbed her and also had sexual intercourse with her through her vagina and anus.

He observed that the incident happened on a refuse dump within the bushes. That there was no source of artificial lighting to illuminate the place during the night. The closest light was about 0.8km from the scene.

PW1 also led him to a wooden structure house where she alleged she sought assistance. He met a woman by name Ama who confirmed that PW1 had come knocking on their door for help.

That in the course of his investigations, he came to know that the accused person was not wearing a helmet the first time that PW1 boarded his okada. However, when he was returning for her, he was wearing a helmet. That he took photographs of the scene.

That he later obtained the contact details and IMEI number of PW1 after she applied to MTN for her itemized bill and MOMO account statement. Armed with that information, he discovered accused person's name and telephone number. That he obtained an order from the Prampram district court for MTN to furnish him with the call records and itemized bill of the accused person.

That upon receipt of that information, he analyzed it and detected that the accused person had made a mobile money withdrawal from PW1's mobile money account on the 16<sup>th</sup> day of July, 2021 from a mobile vendor and also transferred money from PW1's account directly into his account on the same day.

That the accused person also inserted his SIM card into PW1's phone with the said IMEI number on the 25<sup>th</sup> day of October, 2021. That he searched for the accused person's particulars on social media and found out his name as well as his alias. That the very same telephone number 0242114906 was displayed on accused person's Facebook and Instagram pages as his contact number.

PW3 continued that he downloaded various photographs of the accused person including some pictures of him in dreadlocks, some in short haircut and others with him in the company of others. He also downloaded photographs of about ten other people and showed same to PW1 to identify her assailant. PW1 pointed out the accused person in all the pictures and insisted that at the time of the incident, the accused person was in a short haircut.

Further that he identified accused person's most visited sites and locations from the information given by MTN. These were Agbakope, Kakasunanka No. 1 and Gbetsele. That he mounted surveillance on the accused person by disguising himself

to be an okada rider at his most visited places. He also cultivated informants at these places and engaged in okada riding business.

PW3 continued that on the 29<sup>th</sup> day of October, 2021, in the course of working as an okada rider, he came across the accused who engaged him to convey him to the Gbetsle Pure oil Trotro station. He did so and upon reaching there, the accused boarded a trotro to Ashaiman.

According to PW3, he called for reinforcement whilst following the trotro that accused had boarded. Accused person alighted at Top oil filling station and took a branch road. He then parked his motorbike and stalked him whilst communicating with the reinforcement team. Accused person was eventually arrested. PW1 came to identify him as her assailant.

A search on the accused person revealed his voter's id card and same confirmed his name. Accused person denied the offence in his investigation caution statement and stated that he had never seen nor called PW1 on the phone.

Later, the accused person admitted that he was the okada rider whom PW1 had engaged on the 13<sup>th</sup> day of July, 2021. That the accused person then led him to where he took PW1 to on the 13<sup>th</sup> day of July, 2021. It was the very same bush that PW1 had earlier taken him to.

That PW1 joined them there and the scene was reconstructed. Accused person denied pulling a pen knife at complainant but said he had only used words namely "if you want to go home safely, obey whatever I say" which he noticed had put PW1 in fear.



That he succeeded in robbing her of her handbag which he later discovered contained cash the sum of one hundred fifty Ghana cedis (Ghs 150), a set of keys, soap and handkerchief. Accused person admitted having sex with PW1 through the vagina but denied that he had had anal sex with her.

Accused person also indicated that he has since sold the motorbike he was riding to a Togolese national whose whereabouts is unknown to him. That PW1's Samsung galaxy phone was also missing. Accused led them to the MOMO agent where he withdrew the money from PW1's mobile phone.

That further investigation revealed that PW1's phone had no screen lock on it. Accused person accessed her Whatsapp and Facebook accounts and realized that her year of birth was 1992. He used same as her MOMO pin and it worked.

PW1 used to work as G-money agent with Ghana commercial bank and had soft copies of various i.d cards of the clients she registered. It was one of these identification numbers that the accused person had mentioned when withdrawing money from PW2.

Again that he took a further statement from the accused person. That his investigations point to the fact that this was a premeditated offence. Checks from DVLA indicated that the motorbike number the accused person gave belonged to someone else and not the accused person.

He tendered in evidence the itemized call records of the accused person as EXHIBIT A, Mobile money statement of the accused person as EXHIBIT B, investigation caution, further investigation caution and charge statement of the accused person as EXHIBIT C, D and E as well as photographs of the scene of crime as EXHIBIT F and F1.

PW3 also tendered in evidence screenshot photographs of accused person's facebook, Instagram and Whatsapp pages as EXHIBIT G, G1 and G2, call records and mobile money records of PW1 on the 16<sup>th</sup> day of July, 2021 as EXHIBIT H and H1, documents from DVLA as EXHIBIT J, itemized bill of accused person indicating that he inserted his sim card into PW1'S as EXHIBIT K and itemized bill of PW1 as EXHIBIT L.

In EXHIBIT C, which is accused person's initial statement, he said he was innocent of the offence and did not know PW1. Further that he had had no transactions with her whatsoever and had not called or received any call from her.

In his further investigation caution statement, accused person admitted the offence and said he only used the words 'if you want to go home safely, then obey all I say to you''. That this made PW1 panic and she gave him her handbag when he asked her to.

He also demanded for sex and she said ok. That he does not know why he did this but he sold his motorbike upon realizing that anytime he is on the motorbike with a passenger on board in the dark, he gets strange thoughts.

In his caution statement, accused person indicated that he would only make a statement in the presence of his lawyer.

Learned counsel for the accused person and the accused person himself conducted a rigorous cross examination of each of prosecution's witnesses. Prosecution closed its case after this.

At the close of prosecution's case, it is my duty per **Section 173 of the Criminal and other Offences (Procedure) Act, 1960 Act 30** to determine whether or not prosecution has established a prima facie case against the accused person. I hereby find that on the charge of robbery, prosecution has established all the relevant elements of the offence, the evidence of prosecution witnesses has not been discredited in any way under cross examination, the evidence is such that the court or tribunal can safely rely upon it and the evidence on record lends itself to only one susceptibility: that is the prima facie guilt of the accused person. See the case of **Tsatsu Tsikata vrs. The Republic [2004-2005] SCGLR 1068**

Accordingly, I hereby find that prosecution has established a prima facie case against the accused person. He is called upon to open his defence if he so desires.

(SGD)

H/H BERTHA ANIAGYEI (MS)  
CIRCUIT COURT JUDGE

A.S.P J ASAMANI FOR A. S. P STELLA ODAME FOR THE REPUBLIC PRESENT  
PRINCE K. HODO FOR ACCUSED PERSON