

IN THE CIRCUIT COURT HELD AT DORMAA AHENKRO ON THURSDAY THE 19TH DAY OF OCTOBER, 2023 BEFORE HER HONOUR, PHILOMINA ANSAAH ASIEDU, CIRCUIT COURT JUDGE.

Case No: 221/2023

THE REPUBLIC
V
ADOCKTA ALOORA

J U D G M E N T

The accused person was charged with the offence of assault contrary to Section 84 of the Criminal Offences Act, Act 29. The accused person pleaded not guilty after the charges had been read out and explained to him. This imposed a burden on the prosecution to adduce sufficient evidence to establish the guilt of the accused person beyond a reasonable doubt.

FACTS

The brief facts are that the complainant in this case is a retired educationist whilst the accused person is a labourer. Both reside here in Dormaa Ahenkro. The accused person's brother rented a room in the complainant's house and made the accused person to sleep there. When the complainant saw the accused person was in the room instead of his brother who rented it, he asked him to leave. The accused person refused to leave and an argument ensued between them. The accused person slapped the complainant. The complainant reported the case to the police and accused person was arrested. The accused person admitted the offence in his statement at the police station and he was put before the Honourable Court.

THE CASE OF THE PROSECUTION

The prosecution called two witnesses to prove their case. PW1, the complainant, Benjamin Oppong Boanu testified to the fact that on 27th April 2023 at about 6:10am, he went to knock on the door of the accused person and heard a voice in the accused person's room and he then opened the door slightly. He called the accused person and the accused person came out and asked why he was knocking at that time. The complainant then asked him of the whereabouts of his brother and the accused person said he does not know. The complainant then insisted the accused person leaves the house because he does not know him as his tenant. He only knows his brother who came to rent the room from him. The accused person refused to leave and rather demanded for a refund for the rent paid by his brother to the complainant. The complainant then said that the accused person then slapped him on the left cheek when he refused to leave the place. The complainant then caused the arrest of the accused person.

PW2 No. 10179 PW D/L/Cpl Elancy Abekah, the second prosecution witness testified that she was the available investigator on the day of the incident. She conducted investigations in the case herein when PW 1 came to the station to report a case of assault. PW 2 took a complainant statement from PW 1. Later PW 1 Led him to the arrest of the accused person. He obtained investigation caution statement from him and same was tendered and marked the Exhibit 'A' – investigation Caution Statement. The accused person stated in his statement to the police that he assaulted PW 1 because he insulted his dead mother. After investigations, she paraded them before her commander and she was given instructions to charge him with the offence of assault. She then took the charge caution statement and same was tendered and marked as Exhibit 'B' – Charge caution Statement and Exhibit 'C' – the police medical form endorsed by the Dr Mrs Gloria Ethel Offei Akoto.

DEFENCE

The accused person testified and called no witness in support of his case. He testified that sometime ago at about 5:00am, he saw someone open his door and entering as well. He then asked who was there and no one answered. Later, he realized it was PW1 and when PW1 heard his voice, he started insulting him. He then told PW1 that it was too early so he should wait till day breaks so that they could talk but he refused and continued insulting him and his parents. The accused person told him his parents are dead so he should not insult them. He later pushed PW 1 out and that was all. The accused person said he did not beat or touch PW1. PW1 then reported him to the police. He also later went with some elderly men in the community to apologize to him since he said he has assaulted him but PW 1 did not accept their apology.

The Section 84 of Act 29 states that a person who unlawfully assaults another person commits a misdemeanour.

Article 19(2)(c) of the 1992 Constitution indicates that a person charged with a criminal offence shall be presumed innocent until he is proven or has pleaded guilty.

The burden of establishing the guilt of the accused person is on the prosecution and the standard of proof required by prosecution should be proof beyond reasonable doubt as provided in the Evidence Act 1973 (NRCD 323) per Section 11(2) and 13(1)

In the State v Sowah & Esse (1961) GLR 743-747, Crabbe JSC held that **“A judge must be satisfied of the guilt of the crimes alleged against an accused person only on consideration of the whole evidence adduced in the case and only then can he convict”**.

Also see Rep v Francis Ike Uyanwane [2013] 58 GMJ 162 CA per Dennis J A.

Having considered the totality of the evidence adduced, the accused person was inconsistent with his defence. In his evidence before the Court when he mounted the witness box on oath, he claimed he only pushed the complainant to leave his room and did not touch him. This is in a sharp contrast with the statement (confession statement) which was admitted in evidence as Exhibit 'A'. In the said statement, he admitted having slapped the complainant because he insulted his mother. That notwithstanding, accused himself admitted to the offence in his statement given to the police and never raised a doubt about the veracity of this statement given to the police. The accused person made the statement go through and only subjected the witness (PW2) to questioning under cross-examination that he only confessed and or admitted the offence because PW2 promised to help him but PW2 denied this allegation. The accused person could not prove otherwise when he was given the chance to do so.

*In the case of **Francis Arthur v The Republic (2021)174GMJ 606 SC** held that a confession therefore is an acknowledgement in express words by the accused person of the truth of the main fact charged or of essential part of it. By this nature such statement if voluntarily given by an accused person himself offers the most reliable piece of evidence upon which to convict the accused person.*

The Court at this point does not have any option than to accept this confession statement as a free and voluntary confession of the accused person especially as he did not object to the admission of the confession statement/investigation caution statement. His investigation caution statement was witnessed by an independent witness who signed same as been voluntarily given and the accused person appeared to understand it before he also signed the caution statement. The Court therefore accepts this confession statement of accused person herein as it conforms to the requirements under Section 120 of Evidence Act 1975.

Again the case of Ayobi v the Republic (1992 -1993) GBR PT 2 the court held that once a confession was direct positive and satisfactorily proved it suffices to warrant a conviction without a corroborative evidence

The confession statement alone is sufficient to ground a criminal conviction. The accused person is hereby convicted.

H/H PHILOMINA ANSAAH ASIEDU

19/10/2023