

**IN THE CIRCUIT COURT “A”, TEMA, HELD ON WEDNESDAY, THE 24TH
DAY OF JANUARY, 2024, BEFORE HER HONOUR AGNES OPOKU-
BARNIEH, CIRCUIT COURT JUDGE**

SUIT NO: D8/10/21

THE REPUBLIC

VRS:

MONICA DEDE LARWEH

CONVICT

PRESENT

**INSP. EMMANUEL ASANTE HOLDING THE BRIEF OF C/INSP. SUSANA
AKPEERE FOR PROSECUTION**

PRESENT

CHARLES WALKER DAFEAMEKPOR, ESQ. FOR CONVICT **PRESENT**

SENTENCING

FACTS:

On 17th August, 2023, this Court, delivered judgment in this case and convicted the convict on a charge of causing harm country to **Section 69** of the Criminal Offences Act, (1960) Act 29. The Court, on the day of conviction, conducted a pregnancy test which proved negative. The Court, however, deferred sentencing when it came to light during the Pre-sentencing hearing that the convict had delivered a baby through caesarean section and the baby who is now six (6) months old was barely two weeks old on the date of conviction. This, in the reasoning of the court, was to afford the nursing mother time to heal and breastfeed the newborn.

Again, today being the day fixed for sentencing, the Court stood the case down for another pregnancy test to be conducted due to the lapse of time from the last pregnancy test conducted on the date of conviction. The pregnancy test received by the court proves that as of today, the convict is not pregnant. I will therefore proceed to consider

the submissions made by Counsel for the Convict, the prosecutor, and the victim at the Pre-sentencing hearing to impose the appropriate sentence.

To quote a line from the English playwright and poet, William Congreve (1670-1729) in his play, *The Mourning Bride* (1697), “*Heaven has no rage like love to hatred turned, nor hell a fury like a woman scorned.*” It is in the spirit of this quote that Learned Counsel for the convict prays the court to deal leniently with the convict who at the time of the incident was only twenty-two (22) years old and had been jilted by her lover after heavy emotional and physical investment into their relationship. Learned Counsel has also implored the court to take into consideration the fact that the convict is a nursing mother and delivered through caesarean section and therefore, it would not be in the best interest of the baby to be separated from the convict.

The prosecution on its part, prays the court to impose a stiffer punishment for the trauma the convict put the victim, her ex-lover through by pouring thinner on him and lighting a matchstick in an enclosed room that the victim was sleeping leading to his burns. Indeed, during the Pre-sentencing hearing, the court heard the submissions of the victim himself and when he removed his shirt to show the scars on his body from the burns after almost seven (7) years and after about two plastic surgeries, the court noticed the reaction of people in the gallery of the courtroom to his scars resulting from the burns suffered in this case. The bitterness in the victim could not be hidden when he spoke, a clear indication that the victim has still not healed after almost 7 years since the incident occurred and states that he is only counting on the court for justice to be done in his case.

As I indicated in the judgment delivered on 27th August 2023, unlike pregnant women who have special dispensation under **Section 313A** of the Criminal (Procedure) and Other Offences Act, 1960 (Act 30), nursing mothers are not specifically catered for

under the law. In deferring the sentence, the Court justified its decision based on the welfare principle under the Children's Act, 1998(Act 560), and rules of international law on the treatment of women prisoners and referenced the **United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules)**, adopted on 12th December 2010 by the UN General Assembly which sets the standard minimum rules for the treatment of Women Prisoners. The Rules, though not a binding treaty, do not have direct legal effect under Ghanaian law, Ghana, as a member of the United Nations must respect, protect, and fulfil the specific needs of women convicted before the courts. **Rule 64** of the Bangkok Rules specifically provides that:

*“Non-custodial sentences for pregnant women and women with dependent children shall be preferred **where possible and appropriate**, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the **best interests of the child or children**, while ensuring that appropriate provision has been made for the care of such children.”*

To ensure that appropriate provisions have been made for the care and control of the child, the Court ordered for Social Enquiry Report (S.E.R.) to be conducted by the Social Welfare Department. From the report received by the Court, the convict lives with her grandmother, mother, and sister in their family house at Sege and she receives help from her family in caring for the child. The convict's current partner, the father of her baby, also lives close to the family house. Again, from the S.E.R., the convict also has no record of a previous conviction in the record of the Ghana Police Service at Community 25. Indeed, the prosecution has not brought any previous conviction of the convict to the attention of the Court as an aggravating factor.

For factors in aggravation of the sentence to be imposed, I have considered the severity of the injuries sustained by the victim and from **Exhibit “H”**, the comprehensive

medical report from the Tema General Hospital on the victim's condition, incapacity due to the harm is forty (40) percent and disfigurement of Twenty (20) percent. The court has also seen the gory pictures of the fresh injuries as shown in the **Exhibit "F" series** and appreciates the pain and trauma the victim might have suffered as a result of the conduct of the convict.

Thus, taking into consideration all the mitigating factors and aggravating factors such as the age of the convict at the time of the incident (22 years old), now 28 years old, the remorse shown by the convict, on record, by visiting the victim once at the hospital where she was arrested, the welfare of the child which will be catered for through the family support system that the convict has and the fact that by deferring the sentence, the Court has ensured that the baby has received exclusive breastfeeding for six months and can be introduced to complementary feeding. I have also considered the pain and trauma that the victim went through with the hospital stay and surgeries. The Court also considers the rampant nature of jilted lovers in such intimate-partner relationships pouring harmful substances like acid and thinner, as in this case, in the event of a breakup and deems it necessary to help stem the tide by imposing a sentence that will serve as a deterrent to the convict herself in her future relationships and any other like-minded person in society.

Additionally, I have considered the fact that a charge of causing harm contrary to **Section 69** of the Criminal Offences Act, 1960 (Act 29) is a second-degree felony which under **Section 296** of Act 30 attracts a maximum punishment of ten (10) years imprisonment.

Sentence

Based on the foregoing, the Court, in weighing both the mitigating and aggravating factors deems it appropriate to impose a sentence of Five (5) years imprisonment in

hard labour. Accordingly, I sentence the convict to serve a term of imprisonment of five (5) years in hard labour.

Consequential Order

In addition, in accordance with **Section 148** of the Criminal and Other Offences (Procedure) Act, (Act 30), the convict shall pay an amount equivalent to Five Hundred Penalty Units, (equivalent to Six Thousand Ghana Cedis (GH¢6,000)) which considering the injury sustained might not be adequate to cover medical expenses but that is the maximum the law permits as an award of compensation to the injured victim in criminal cases.

SGD.

**H/H AGNES OPOKU-BARNIEH
(CIRCUIT COURT JUDGE)**