

IN THE DISTRICT COURT, NGLHSHIE AMAFRO HELD ON FRIDAY THE 21ST
DAY OF JUNE, 2023 BEFORE HER WORSHIP EMELIA K. ABRUQUAH ESQ., (MRS.)

SUIT NO. A7/1//2023

TIME: 09:49AM

THE REPUBLIC

VRS

GERSHON ADDI

ACCUSED PERSON PRESENT

COMPLAINANT PRESENT

INSPECTOR MAXWELL KWAKYE FOR PROSECUTION

JUDGMENT

The accused person has been charged with Defrauding by false pretence contrary to section 131 of the Criminal Offences Act, 1960 (Act 29). The accused having denied the charge, the burden is put on the prosecution to adduce sufficient evidence so that on all the evidence, a reasonable mind will find the existence of the facts of the commission of the offence by the accused beyond reasonable doubt. See section 11 (2) and section 13 (1)1 of the Evidence Act 1975 (Act 323). The accused for his part only has to introduce evidence which creates a reasonable doubt in the mind of the court regarding the prosecution's case. This doubt created by the accused's evidence should be real and not fanciful, see section 11 (3) of Act 323.

The facts upon which the accused has been charged with the offence are as follows:

The complainant in this case, Richard Manu is a pensioner whilst the accused, Gershon Addi is an aluminum fabricator. Both parties live at Nurses Quarters, Ngleshie Amanfro. The complainant, during the month of February, 2023 was approached by the accused that he can make a kitchen cabinet for him at the cost of GHC 10,000.00 which he readily paid. After collecting the money, accused promised to finish the work within a week but he rather went into hiding until when he was spotted by the complainant on 16th April, 2023. The complainant with the help of others arrested the accused to the police station where a report was made. Accused stated in his caution statement that he used the money for betting. After investigations, accused was charged with the offence before this court.

Section 131 of the criminal offences act, 1960 (Act 29) which creates the offence states that whoever defrauds any person by any false pretence shall be guilty of a second-degree felony.

Section 132 defines defrauding by false pretence thus: a person is guilty of defrauding by false pretence if by means of any false pretence or by personation he obtains the consent of another person to part with or transfer the ownership of anything.

In proof of the offence, the prosecution called three witnesses to testify. Pw1 testified that the accused took GHC10,000.00 from him under the pretence of making kitchen cabinets for him. Accused promised to produce the cabinet within a week but failed and went into hiding until he was arrested.

PW2 virtually repeated the evidence of PW1 as he told the court that the accused was invited by the PW1 and given a total amount of GHC10,000.00 for him to make kitchen cabinet for him. After taking the money, he went into hiding until he was arrested and handed over to the Police on 16th April, 2023. The investigator was the third prosecution witness. She told the court that the complainant arrested the accused on 16th April 2023 and brought him to the station. That the accused was re-arrested upon receiving

complaint from the complainant that the accused collected GHC10,000.00 from him under the pretext of making a kitchen cabinet for him and went into hiding.

A false pretence must involve a false representation of an existing facts see chief superintendent of Police v. Ceesay And another (1957) 2 WALR 87. A false preference is a representation of existence of a state of fact made by a person with the knowledge that the representation is false or without the belief that it is true and made with an intent to defraud.

The evidence of prosecution is that, after the complainant made the accused to part with the GH10,000.00, accused went into hiding until the complainant spotted him and got him arrested and sent to the Police station. The accused was given the opportunity to cross-examine the prosecution witnesses and the only question he asked PW1 was

1. Did I deceive you to collect the money or it was a business transaction?

A. It was a business transaction.

Clearly from the above, accused has admitted taking money from the complainant.

The question then is, if the accused had no intent to defraud the complainant why did he vanished into thin air after receiving the money and if as he claims was as a result of business transaction between him and the complainant, has he performed his part of the obligation? The answers to these questions are no. The accused by not denying PW1's evidence that he collected his GHC10,000.00 and went into hiding means he has admitted the facts and truthfulness of the evidence of pw1. The evidence of PW2 has also confirmed in material particular the evidence of pw1 (complainant) whose evidence was also not tested under cross examination by the accused person. I must say the accused himself admitted taking GHC10,000.00 from PW1 to make kitchen cabinets for him but he used the money for betting and lost. The evidence on record showed that the accused had no single tool to be used to make those cabinets for the complainant yet he falsely

represented to PW1 that he will make the cabinets for him and based on the false representation the accused made away with the PW1 GH¢10,000.00 I am therefore satisfied on the evidence that the prosecution has proved its case beyond reasonable doubt.

From all the fore going, I find accused guilty of the offence. There is evidence that the accused has refunded GH¢5,200.00 leaving a balance of GH¢4,800.00. The prosecution has told the court that the accused is not known. The accused is convicted on the offence.

ACCUSED: I am praying for mercy.

Before sentence the court considered the prayers of the accused and accused is sentence to 6 months IHL and he is ordered to refund the balance of GH¢4,800.00 to the complainant.

(SGD)`

H/W EMELIA K. ABRUQUAH (MRS)

(MAGISTRATE)