

IN THE DISTRICT COURT HELD AT DROBO ON WEDNESDAY THE 7<sup>TH</sup> DAY OF JUNE 2023 BEFORE HIS WORSHIP LINDA E. NYAHE, MRS. (DISTRICT MAGISTRATE).

CASE NO. BR/DR/DC/D3/02/22

THE REPUBLIC

VRS

NKETIAH DESMOND ALIAS OBOTENTI

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ACCUSED PERSON – PRESENT

G/SGT SEIDU ABDUL RAZAK FOR PROSECUTION- PRESENT

COMPLAINANT: PRESENT

**JUDGMENT**

The accused person herein was arraigned before this court charged with the offence of Causing Unlawful Harm contrary to section 69 of the Criminal and other Offences Act, 1960 (Act 29). He pleaded not guilty after the charge had been read out and explained to him.

**BRIEF FACTS OF THE CASE**

Complainant Sarah Fosua is a Trader whilst Accused is undergoing apprenticeship in metal fabrication. Both complainant and accused are residents of Drobo. Complainant fry eggs near a drinking spot at Drobo residency junction and sell same to the public. On 21/12/2021 about 10:30pm while the Complainant was at her usual place running her business, accused went to the place to buy fried eggs and he was served. Complainant demanded her money; GH¢3.00 from accused being the cost of the fried eggs but accused

refused to pay and stated that he had already paid for the eggs. This brought exchange of words between them and in the process, Complainant collected the fried eggs from the accused with the remark that accused should pay before she handover eggs to him. Accused was not pleased with the conduct of the Complainant, and he left the place and went to the drinking bar with anger. Accused came back to the place angrily and attacked the complainant and used broken glass to harm her at various parts of the Complainant's body. Complainant was bleeding profusely, and she was rushed to St. Mary's Hospital for treatment and was admitted and later discharged. On 22/12/2021 at 9:00am, Complainant came to Drobo Police Station and lodged a Complaint and police medical form was issued to her for endorsement and she returned same. Accused was later arrested and in his cautioned statement admitted the offence and after police investigation, accused is charged with the offence on the charge sheet before this Honourable Court.

The general principle of law in every criminal case as stated in the case of **Asare Vrs. The Republic [1978] GLR 193-199, per Annin J.A.** (as he then was) is that: "There was no burden on the accused to establish his innocence; rather it was the prosecution that was required to prove the guilt of the accused beyond all reasonable doubt".

Section 69 of Act 29 provides as follows; A person who intentionally and unlawfully causes harm to any other person commits a second-degree felony.

By this provision, the elements of the offence which Prosecution ought to prove are as follows;

- a. *That harm has been caused.*
- b. *The harm was caused by accused.*
- c. *The harm was intentional and unlawful.*

The Prosecution called two witnesses; PW1 the complainant and the investigator; PW2.

Prosecution also tendered EXHIBITS of Charge and investigation Cautioned statements, medical reports, and photographs of complainant without any objection from accused and same were admitted in evidence.

I have examined the medical reports and photographs. They show that Complainant suffered several injuries in the face and arms as a result of stabs from a broken bottle.

Accused in the Charge and Cautioned Statement has also admitted to committing the offence brought against him.

The burden of proof put on prosecution was even made easier when accused during cross-examination admitted that he had used broken bottle to injure the complainant due to misunderstanding that ensued between them. When explained to and asked to change his plea to guilty. Accused remained silent. Trial continued to finality even in the face of the admissions.

Accused was allowed to testify after prosecution closed his case. He called no witnesses. In his defence he stated in the witness box that at around 10pm on the fateful day of the incident, he went to the Complainant to buy fried eggs. When he got there, he gave Complainant GHc3.00.00 and after paying went to sit on a bench close to complainant to wait for the preparation of his egg. He told the Court that he later went back to Complainant and asked her whether she has finished frying the egg and she answered in the affirmative and demanded for payment again. Accused said it was then that he told Complainant he has already paid her, but she did not agree, and this caused a misunderstanding between them. Accused told the Court that knowing that he had paid her, he took the egg and set off to leave the place but upon turning while on his way complainant followed him and gave him the first blow. He said when he turned, there was a broken glass bottle, he took it and used it to stab the Complainant and left.

The following are questions asked by prosecution and responses elicited from the Accused during cross-examination.

**Q. On the 21/12/2021 at about 10:30pm you unlawfully injured PW1**

**A. Yes**

**Q. When you watch PW1 closely, you will agree with me that you inflicted the wound on her several times.**

**A. That is correct.**

Even if accused is relying on self defence this is disproportional, and the harm was pre-meditated.

Upon consideration of the entire evidence, I come to the conclusion that there is sufficient evidence to establish the charge of causing unlawful harm against the accused person beyond reasonable doubt. He is hereby found guilty of the charge and accordingly convicted. Before punishing the accused, I shall be guided by section 296 (2) of Act 30 as amended by Act 261 section 5. It states that:

“Where a crime not being a crime mentioned in sub-section (5) is declared by any enactment to be a second-degree felony and the punishment for the crime is not specified a person convicted of that offence shall be liable to a term of imprisonment not exceeding ten (10) years”.

Sentence:

Accused has shown much remorse for his action and pleads with the court to be merciful to him. I also take cognizance of the fact that accused has spent about 12 months in custody pending the final determination of the case. Again, he is a first-time offender and full of youth. The Court shall give him the opportunity to reform. Accused is sentenced to pay a fine of 100 penalty units in default 3 months imprisonment. In addition, he shall sign a bond to be of good behaviour for a period of 6 months in default 2 years imprisonment.

Final Order:

Accused shall pay compensation of GH¢3000.00 to the complainant to take care of the pain and trauma she has to go through as well as to meet her medical expenses.

.....SGD.....

**H/W LINDA E. NYAHE (MRS.)**

**MAGISTRATE**