

IN THE DISTRICT COURT HELD AT NKROFUL ON THURSDAY 8TH DAY OF JUNE
2023, BEFORE HER WORSHIP AWO AMISSAH FRENCH ESQ. AS MAGISTRATE.

CASE NO: B7/278/23

THE REPUBLIC

VRS.

1. FRANCIS NDABIAH ALIAS AWAH
 2. PETER TANDOH ALIAS MOLATO – AT LARGE
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A1 PRESENT

A2 AT LARGE

DETECTIVE CHIEF INSPECTOR FREDERICK OPOKU FOR PROSECUTION

NO LEGAL REPRESENTATION FOR A1

JUDGEMENT

The Accused persons were charged with two counts of conspiracy and attempt to commit crime to wit stealing contrary to sections 18, 23(1) and 124(1) of the Criminal Offences Act, 1960 (Act 29).

The brief facts that gave rise to the charges as initially presented to the Court were that accused persons are residents of Ngalekyi and that on the 26th of January, 2023 at about 1:30am, A1 and A2 (at large) planned to go and steal dry coconuts at Anokyi and upon their arrival there, they were exposed in their attempts to steal the dry coconuts. A1 who was then in charge of the motorbike they went to steal with escaped leaving behind A2 . A1 ended up at Asem Nda, where A1 was spotted by some youth from the township at that odd hour. Suspecting A1 of being a thief since for some time the township had witnessed several stealing activities, A1 was arrested and subjected to severe beatings and later remitted to the police, who sought medical treatment for him and proceeded to investigate the matter. Prosecution tendered in evidence an audio recording of accused person's confession made while undergoing treatment at the St. Martins DePorres Hospital Eikwe, in the presence of D/Cpl Clement Kwabena Adofo (Exhibit B) and a photograph of the A1's face bearing the injuries sustained by being beaten by the youth of Asem Nda(Exhibit A).

On the 27th day of March, 2023, when A1 was arraigned before this Court and the charges preferred against him were read and explained to him in Twi language, accused pleaded Not Guilty to the two counts. The court then proceeded to try him on both.

Section 11 (2) of the Evidence Act, 1973 (NRCD 323) states that in a criminal action the burden of producing evidence, when it is on the prosecution as to any fact which is essential to guilt, requires the prosecution to produce sufficient evidence so that on all the evidence a reasonable mind could find the existence of the fact beyond a reasonable doubt.

Subsection 3 of the same provision says that in a criminal action the burden of producing evidence, when it is on the accused as to any fact the converse of which is essential to

guilt, requires the accused to produce sufficient evidence so that on all the evidence a reasonable mind could have a reasonable doubt as to guilt.

Section 18—Provisions Relating to Attempts to Commit Crimes.

(1) A person who attempts to commit a crime by any means shall not be acquitted on the ground that, by reason of the imperfection or other condition of the means, or by reason of the circumstances under which they are used, or by reason of any circumstances affecting the person against whom, or the thing in respect of which the crime is intended to be committed or by reason of the absence of that person or thing, the crime could not be committed to his intent.

(2) Every person who attempts to commit a crime shall, be deemed guilty of an attempt, and shall, except as in this Code otherwise expressly provided, be punishable in the same manner as if the crime had been completed.

Section 23—Conspiracy.

(1) If two or more persons agree or act together with a common purpose for or in committing or abetting a crime, whether with or without any previous concert or deliberation, each of them is guilty of conspiracy to commit or abet that crime, as the case may be.

From the evidence before this court, also having listened to the audio containing accused person's confession of the crime, I will not belabour the point in convicting A1 for the various offences. Indeed, during cross examination of A1 by prosecution on the 1st day of June, 2023, the following ensued:

Q: Have you listened to the audio?

A: Yes.

Q: Who and who were speaking in the recording?

A: Myself and senior Adofo.

Q: So what did you tell Adofo you were going to do hence your arrest?

A: I told him we were going to pluck coconut.

Q: Did you say you were going to pluck coconut or steal coconut?

A: To steal.

I therefore find and hold that the accused person is GUILTY on the charges .

In passing sentence, the court took into consideration the fact that the Accused person is a repeat offender for like offences and is a young man. The court also took into consideration his conduct during the whole trial and the need to deter like offenders as the offence of stealing within the jurisdiction is on the ascendency.

The Accused person is sentenced to 3 months imprisonment IHL with no option of a fine for count one and 6 months imprisonment IHL with no option of a fine for count two. Sentences are to run consecutively. I note that accused person has since the 27th day of March, 2023 been remanded into police custody and thus has some days to his credit.

SGD

H/W: AWO AMISSAH FRENCH

DISTRICT MAGISTRATE, NKROFUL

8TH JUNE, 2023