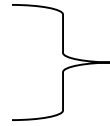


**N THE DISTRICT MAGISTRATE COURT HELD AT ASESEWA ON THURSDAY
THE 11TH DAY OF MAY 2023 BEFORE HER WORSHIP BERNADINE S. A. SENOO
– DISTRICT MAGISTRATE**

Suit No. B3/16/22

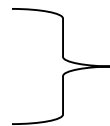
REPUBLIC



PLAINTIFF

VRS

AKWELEY GIFTY SACKY



DEFENDANT

JUDGMENT

Accused was charged for threat of death contrary to Section 75 of Act 29/60.

In particulars of offence, Accused aged 48 who is a farmer, that on the 11th March 2022 at about 9 pm at Atteh Poponya village near Oterkpolu in the Eastern Magisterial District and within the Jurisdiction of this court threatened one Quist Marteykour with words to wit'' I will poison you and your daughter'' with the intent to put the said Marteykuor to fear of death.

Accused pleaded not guilty to the charge after brief facts were presented by prosecution.

Prosecution presented facts of the case that complainant in this case is aged 50 years and a farmer at Atteh Poponya near Oterkpolu while accused aged 48 years is also a farmer of same village.

That on 11th March 2022 at about 9pm, accused went to complainant houses to look for her husband who is the area Dadematse. A quarrel ensued between them and in the process accused became offended and threatened complainant with the words to wit'' I will poison you and your daughter in the presence of witnesses. A report made to the police led to the arrest of accused for questioning.

Accused was charged with the offence after investigations and arranged before court. Accused pleaded not guilty to the charge and filed a defense statement to that effect.

Prosecution led three witnesses to prove his case.

PW 1 who is the complainant filed a witness statement and stated accused came to her house and said her husband had reported her to the police and complainant told accused she would take her to police to enquire the following day and the issue of who pays for the transportation brought up a quarrel between she complainant and accused.

Complainant alleged accused threatened to poison her daughter and she complainant would be arrested. PW 1 also alleges accused stated whatever she would do to poison her she will do before night.

PW 2 who is a son of complainant confirmed being in the house where accused person came to ask **of his father who had slept by then.

That PW1 his Mother offered to listen to accused who said complainant's husband had reported her to the police, to which complainant offered to go with accused to the police to verify.

The issue of paying for transportation led to a quarrel between accused and PW 1 during which PW 2 alleged accused made the threat to poison complainant and her daughter.

PW 3 who also is a son of complainant stated he was also at home when accused came and corroborated the statement of PW 1 and PW 1 of threat of poisoning by accused during a quarrel with PW 1 complainant who is their mother.

PW 4- The investigator confirmed he was on duty on the 12th March 2022 as an investigator when PW 1 reported a threat of death against the accused person.

PW 4 alleges PW 2 and PW 3 confirmed the allegation of threat of death by the accused given by PW 1.

In any criminal offence, the duty lies on prosecution to prove case or offence charged and this must be a proof beyond any reasonable doubt.

Prosecution must proof the ingredients of charge as well as the perpetrator of the offence.

Prosecution's witnesses all confirmed hearing the accused threaten the complainant with words to wit " I will poison you and your daughter and further I will make sure by tomorrow evening I will poison your daughter and you shall be arrested.

The prosecution needed to prove those words of threat were uttered by accused and same stated by complainant were confirmed by PW 2 and PW 3 who are children of complainant and were present during the quarrel between accused and complainant.

Per Section 75 of Act 29/60, a person who threatens any other person with death with the intent to put that person in fear of death commits a second degree felony.

Prosecution published the very words uttered by the accused to wit 'I will poison you and your child and called witnesses who heard accused person's pronouncement. Accused was identified as the one who made the statement during a quarrel between complainant and accused. For fear for her life and that of her daughter, complainant did not take it lightly and reported matter to the police.

A threat per Section 17 (a) of Act 29/60 means a threat of criminal force or harm.

A threat of death by poisoning is one that puts the other person in fear of death.

Section 13 (2) of RCD 323 requires accused to raise a reasonable doubt as to guilt when the burden of Persuasion is on accused as to the converse of which is essential to guilt. Accused denied charge and called witnesses to support her defense, however accused agreed quarreling with complainant.

Findings:

The accused did not go to complainant's house to threaten her. Although on another mission but ended up uttering such a threat due to a quarrel with complainant.

Accused did not consider the weight of her utterances when she mentioned same due to the provocation she might have faced.

Prosecution who proved the charge or offence by leading evidence *to that effect stated words/threat was made during a quarrel between parties but not that accused went to complainant's house with intention of poisoning same.

It is clear from all evidence that accused really threatened complainant to put fear in to her not really being mindful of the consequences.

Accused is found guilty of the charged as proven by prosecution.

Accused being a 1st time offender shall pay a fine of 150 penalty units in default 90 days in prison custody although the offence is that of a second degree felony.

Signed
H/W BERNADINE S. A. SENOO
(DISTRICT MAGISTRATE)
11/05/2023