

IN THE DISTRICT COURT '2' AT ADENTAN
HELD BEFORE HER HONOUR, PRISCILLA SOPHIA YEBOAH
ON FRIDAY THE 9TH DAY OF JUNE 2023

SUIT NO. B15/0423/23

THE REPUBLIC

V

FREDERICK ADJEI

RULING

Section 173 of Act 30/1960, that is the Criminal Procedure Act states “where at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the Accused sufficiently to require the Accused to make a defence, the Court shall as to that particular charge, acquit the Accused. In C.O.P v Akoto [1964] G.L.R 231. The Court held: A person charged before a Court has a duty to make it appear to the Court that no charge has sufficiently been made against him to require an answer from him. This is a time honoured practice and a fundamental principle in Criminal Law which has not been taken away by Section 173. The law did not make any provision for the prosecution to reply to such a submission.

Section 174 (1), at the close of the evidence in support of the charge, if it appears to the Court that a case is made out against the Accused sufficiently to require the Accused to make a defence, the Court shall call on the Accused to make the defence and shall remind the Accused of the charge and inform the Accused of the right of the Accused to give evidence personally on Oath or to make a statement.

2) The Court shall then hear the Accused if the Accused desires to be heard and the evidence the Accused may adduce in defence.

3) where the Accused states that there are witnesses to call but that the witnesses are not present in Court, and the Court is satisfied that the absence of the witness is not due to a fault or neglect of the Accused and

b) That there is a likelihood that there could, if present give material evidence. On behalf of Accused, the Court may adjourn the trial and issue processes or take other steps to compel the attendance of the witness.

The question for me to answer is whether a case made out against the Accused sufficiently to require the Accused to make a defense. My answer is yes. This is because Accused collected sums of money from Complainant with the sole intention to enlist Complainant into Ghana Immigration Service. To the best of my knowledge, the procedure for recruitment into Ghana Immigration does not include payment of monies to third parties. Accused has a case to answer to raise a doubt in the Court's mind. It is also to be noted that the amount involved is immaterial.

Having concluded that Accused has a case to answer, I shall comply with the provision under Section 174 by ordering Accused to undertake the following:

- 1) File his Witness Statement in line with his defense.
- 2) File Witness Statement of his witnesses who he intends to call and provide names of the witnesses to Court.

Case is adjourned to 31st July 2023 to hear Accused persons defense.

Witness Statement of Accused person and his witnesses shall be served on prosecution within two (20 weeks from today.

(SGD)

H/H PRISCILLA SOPHIA YEBOAH

JUDGE