

GHANA / JUDGMENT

REPUBLIC VRS ADE'AM (UE/BG/CT/B4/01/2023.) [2023] GHACC 1084 (1 August 2023)

[2023] GHACC 1084

COURT

Circuit Court

CASE / FILE NUMBER

UE/BG/CT/B4/01/2023.

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IN THE CIRCUIT COURT HELD AT BOLGATANGA IN THE UPPER EAST REGION OF GHANA ON TUESDAY THE 1ST DAY OF AUGUST, 2023 BEFORE HIS HONOUR SUMAILA MBACHE AHMADU (CIRCUIT COURT JUDGE) CASE NO. UE/BG/CT/B4/01/2023. THE REPUBLIC VERSUS ASAAH DERRICK ADE'AM J U D G M E N T The Accused is charged with ASSAULT: CONTRARY TO SECTION 84 OF ACT 29/60. The Accused person has denied the charged. THE CASE FOR THE PROSECUTION. On 4/11/2022, the Accused person took his sick Son to the Regional Hospital for treatment and was asked to go to the Revenue Collection Point within the Hospital to make some payment for some Laboratory Diagnostic Tests. At the Revenue Collection Point, he had a verbal confrontation with Seth Steven Asakeyuure; an Account Clerk who was in charge of the Revenue Collection. He was then approached by the complainant who was there to ensure serenity and he advised him to remain calm. The complainant escorted the Accused person away in order to avert further confrontations. Later on, the Accused person returned to the Revenue Collection Point and was raining abusive words at the Account Clerk. The complainant again advanced towards him and further advised him to remain calm and stop insulting the Account Clerk since that issue had already been resolved. This statement from the complainant infuriated the Accused person and in an attempt for the complainant to escort the Accused person outside, the Accused person hit him on the face, pounced on him and subjected him to beatings. It took the intervention of some onlookers who intervened and rescued the complainant from the grasp of the Accused person. The prosecution called three witnesses in support of its case. The PW1 the complainant, PW2 the Accounts Clerk and the PW3 the investigator. THE CASE OF THE DEFENCE. The Accused person says, it was the complainant who came and held his shirt around his neck up to a point that he could not breath properly and he struggled to free himself and people at OPD came and intervened and called DW1 as his witness, who says the Accused person did not hit the complainant but he was struggling to free himself from the grasps of the complainant. BURDEN OF PROOF. This being a Criminal Trial, the burden of proof of the Offence rests on prosecution. Under Section 11(2) and 13(1) of the evidence Act, NRCD 323 the prosecution must prove the guilt of the Accused beyond reasonable doubt. INGREDIENTS OF

ASSAULT. SECTION 86 OF ACT 29 – ASSAULT AND BATTERY.

- (1) A person makes an assault and battery on another person, if without the other person's consent, and with the intention of causing harm, pain, or fear, or annoyance to the other person, or of exalting the other person to anger, that person forcibly touches the other person. ANALYSIS AND APPLICATION OF THE LAW. From the evidence adduced before this Court by both prosecution and the defence, it is not in dispute that the complainant sustained injuries on his face the lower lip sore and the upper lip swollen. Exhibit "C" and Exhibit "E", the photo taken of the complainant and the Medical Officer's Report respectively clearly demonstrate that the complainant was hurt as a result of his encounter with the Accused person on the day in question. Exhibit "E" indicates that the complainant was in painful distress, with swollen upper lip, sore in the lower lip, neck tender on rotation with Bruises. The Accused person has not denied having contact with the complainant, but that he acted in self-defence. That the complainant had held on to his neck and he could not breathe properly. From the demeanor of the Accused person in Court, I observed that he is a person who will go to any length to defend his honour, and being a Nurse and being questioned by an Accounts Clerk of his knowledge in Laboratory request was capable of infuriating him. The PW2 in his evidence in chief stated in paragraphs 5, 6 and 7 of his witness statement state as follows:
- (5) I attended to people before him and when I got to his turn, I stretched my hand to collect his Hospital Card, but it was not forthcoming.
- (6) To satisfy my curiosity, I extended my head to check on what was preventing him from giving the card to me and I saw that, he was reading through a laboratory request sheet, which he was holding, so I told him to hurriedly hand over the Hospital Card to me and stop reading through the laboratory request sheet, since he would not understand the content of the sheet and besides he had to be quick, so that his sick daughter can be medically attended to early.
- (7) This statement from me infuriated the Accused person and as a result, he started shouting and was raining insult at me. Certainly, PW2 did not know that the Accused person is a Nurse. In my view a simple mention by the Accused that he is a Nurse would have elicited an apology from PW2. Accused person rather felt insulted and created a scene, even when the Accused was taken away by the complainant and when he went to the laboratory and could not trace one of his documents he felt the Cashier (PW2) had intentionally kept the paper to sabotage him. I find as a fact that, the Accused person was angry even though the anger had no basis and unnecessary considering the fact that he is a Nurse himself and should have known better. Because he does not practice his Nursing at the Regional Hospital and so, the possibility that PW2 would not know him to be a Nurse is very high and should not have taken offence at all on the count. I find that it is this anger that was transferred to the complainant resulting in the injuries and with the movement of the Accused person to and from between the laboratory and the Cash Office he had enough time to have calmed down if even he was provoked. Based on the overwhelming evidence I hold that the Accused person

assaulted the complainant and I hereby commit him as charged. I hereby sentence the Accused to pay a fine of 80 penalty units in default 3 months in Prison Custody. It further ordered that Accused compensate the complainant with GH¢1,000.00. HIS HONOUR SUMAILA MBACHE AHMADU (CIRCUIT COURT JUDGE). 5

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