

GHANA / JUDGMENT

The Republic Vrs Sackey King & Another [2023] GHACC 334 (9 June 2023)

[2023] GHACC 334

COURT

Circuit Court

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IN THE CIRCUIT COURT HELD AT TARKWA IN THE WESTERN REGION
FRIDAY THE 9TH DAY OF JUNE, 2023 BEFORE HER HONOUR, HATHIA AMA
MANU, ESQ., CIRCUIT COURT JUDGE
COURT CASE NO. B1/33/23
THE REPUBLIC

VRS:

- 1.
- 2.

LORD SACKKEY KING
DE-GRAFT JOHNSON @ STAR BOY

JUDGMENT

Accused – Present. Supt. Juliana Essel Dadzie holding Chief Inspector Faustina Anaman’s brief for prosecution. The accused persons are charged with robbery contrary to Section 149 of the criminal offences Act 1960 (Act 29) and conspiracy to commit crime to wit robbery contrary to Section 23 (1) and 149 of the criminal offences Act 1960, Act 29. The facts for the prosecution are that on 29/4/22 at 10:30pm complainant was returning to his hostel together with his roommate after writing exams when they by-passed accused persons. Accused persons and friends asked victim and his friend why they did not greet them but they got ignored. Biney now at large held on to complainant and his friend but his friend managed to escape. The victim/complainant was caught by Biney and a struggle ensued in a bid to take the bag from the victim/complainant. Biney is said to have cut the victim’s hand 3 times with a kitchen knife before the complainant let go of his brown bag which contained 1 black HP Laptop valued at GH¢4,000.00. The victim/complainant was cut three times on his left hand. The complainant shouted for help and was rescued by friends and referred to the hospital. Due to the severity of the injury the victim was referred to Tarkwa Municipal hospital. A2 got arrested on a different offence and while being interrogated he admitted having committed this current offence with Binney currently at large

and the first accused person. As the victim/complainant had made an official complaint as far back as 5/5/2022, on the 29/10/2022 when A2 was arrested due to his confessions A1 was subsequently arrested. The accused persons were taken to the scene of the crime and they took the police through their mode of operation and mentioned the individual to whom they sold the stolen items to. In their defence, A1 and A2 denied the offences whereas Binney who was alleged to have cut the victim remained at large. According to A1 he was apprehended in another case in which he had gone jogging but he knows nothing of the case currently before the court. According to A2 on the 8th of October 2022 he was on his way to do galamsey when his friend Godfred asked that himself and Kingsford accompany him somewhere. When they got there, there was an issue. That due to the issue the people arrested them to the police station. A2 further stated that at the police station he admitted the offence because he was under pressure. A2 was questioned by prosecution on the happenings of the day and he admitted that he had been brought to the police station on allegations of stealing and he was subsequently convicted on his own guilt. A2's response during cross-examination did nothing to persuade the court of his innocence. The legal burden in a case of this nature is formulated in Section 11 (2) of the evidence Act, NRCD 323 which states that in all criminal actions, 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 in other that with all the evidence presented a reasonable mind could find the existence of a fact (s) beyond reasonable doubt. In *Yeboah Vrs. The Republic* (consolidated) [1972] 2 GLR 281, it was held that the guilt of the accused must be proved with that degree of certainty required by law. See Section 22 of the Evidence Act, NRCD 323 which provides that, "in a criminal action a presumption operates against the accused as to a fact which is essential to guilt only if the existence of the basic facts that give rise to the presumption are found or otherwise established beyond reasonable doubt, and in the case of a reputable presumption, the accused need only raise a reasonable doubt as to the existence of the presumed fact. Prosecution presented the victim and the investigative officer to the court as their main drive in proving their case. According to PW1 he met three individual out of which A1 and A2 were part. That the said individuals asked him to hand over his bag but he refused and another person used a knife to slash his arm three times. PW1 further stated that he later found some friends who helped him to the hospital. The driving force of prosecution's case was the investigative officer. According to PW2 the victim reported the incident three days after it occurred. However during his investigation and due to the description given by the victim/PW1 he was on the lookout for an individual called Star boy with the described tattoo. PW2 presented the court with photographs which were marked as exhibits A and B accordingly. Exhibit A was a picture of the victim/PW1's slashed arm while exhibit B series as the investigative caution statements and charged statements of the accused persons. (B is A1 and A2 investigative caution statement, B1 is A1 and A2 charged statement). PW2 also presented the court with Exhibit C which was a statement given by the one who dishonestly received the items. A study of the investigative caution statement of the dishonest receiver indicates that A1 was the one who sold the stolen item to him. It is clear that there is a cycle for the robbery where one group rob and the booty is presented to another group. From the prosecution's evidence the court can infer that the victim identified the accused persons although he also informed the court that the suspect who is

at large (Binney) was the one who cut his hand with kitchen knife. The dishonest receiver also identified A1 as the one who sold all the victims items which were retrieved to him. The court is satisfied that prosecution has established a nexus between the accused persons, the items stolen and the victim sufficient to cause the court to hold that the accused person indeed planned and worked together to rob Nti Yeboah Benedict and in the process he was injured. Accused persons are hereby convicted and sentenced as follows. Before I sentence is there something you would like to tell the court by way of mitigation. Mitigation: A1 – I am sorry it will not happen again. BY COURT: A1 is sentenced to serve 10 years imprisonment with Hard Labour for count 1, 10 years imprisonment with Hard Labour for count 2. The sentencing will run concurrently. A2 is remitted to the juvenile court for sentencing. SGD. H/ H HATHIA AMA MANU, ESQ. CIRCUIT COURT JUDGE 5

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