

GHANA / JUDGMENT

The Republic Vrs Konadu [2023]

GHADC 227 (31 March 2023)

[2023] GHADC 227

COURT

District Court

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IN THE DISTRICT COURT AT WASA AKROPONG HELD ON THURSDAY THE 31ST DAY OF MARCH, 2023, BEFORE HIS WORSHIP MR. AKOANDE. A. BRIGHT, ESQ DISTRICT MAGISTRATE COURT CASE 04/2023 THE REPUBLIC VRS CLEMENT KONADU ALIAS T. K.

JUDGMENT

No Legal Representation for Accused. Chief Inspector Veronica Tibson for the Republic. The Accused has been charged with stealing, contrary to Section 124 (1) of the Criminal Offences Act, Act 29, 1960. The accused having denied the offence, the burden is put on the prosecution to adduce sufficient admissible evidence to establish the ingredients of the offence. The guilt of the accused must be proved beyond reasonable doubt; see *Miller V Minister of Pensions* [1942] 2 All ER 372 per the indomitable Lord Denning. Also, see sections 11 (2) and 13 (1) of the Evidence Act, 1975(Act323). The accused for his part only has to introduce evidence which creates a reasonable doubt in the mind of the court regarding the prosecution's case. The evidence of the prosecution is that the complainant, Kwabena Owusu who is a 35 year old farmer, bought an unregistered Haojin Motorbike and gave it to the accused under an agreement for the latter to use it for commercial purposes. The accused then used the motorbike for commercial purposes for two weeks and reported to the complainant that the motorbike had been stolen. The prosecution alleged that the accused thereafter went into hiding until he was arrested. The accused has vehemently denied the charge in his previous statements to the police and in his oral evidence in court. The burden was therefor put on the prosecution to lead sufficient evidence to establish the ingredients of stealing. Evidence is said to be sufficient when it is of such probative force as to convince and which if uncontradicted will justify a conviction; see *The State V Ali Kassena* [1962] 1GLR 144 per Crabbe JSC. What evidence has the prosecution led to prove its allegations against the accused? The prosecution called two witnesses who testified in proof of the offence. PW1 is also the complainant. PW1 stated in paragraph 4 of his witness statement that he only suspected the accused of stealing the said motorbike. PW1 also stated that he was reliably informed that the accused and his brother sold the motorbike. PW1's evidence can only amount to suspicions and hearsay. Multitude of suspicions cannot amount to proof in law; see *State V Ali Kassena* [1962] 1 GLR 144. PW2 is the police investigator. She narrated how she investigated the case. The

prosecution tendered in evidence the cautioned statement of the accused through PW1. The accused has strongly denied the charge in his said statements. His oral evidence in court is also consistent with his previous statements given to the police. I have no good reason to disbelieve the evidence of the accused that he did not commit the offence. The allegation against the accused that he went in to hiding is not borne out of the evidence on the record. The evidence on the record clearly shows that the accused reported the case of the missing or stolen motorbike to the Wassa Akropong police. I am inclined to believe that if the accused had stolen the motorbike, he would probably have varnished. The prosecution's evidence is not sufficient to link the accused to the crime. The allegation against the accused that he and his brother sold the complainant's motor bike has not been proved. The evidence that PW1 proffered to prove this allegation of sale of the motorbike was even hearsay and inadmissible; see Section 117 of the Evidence Act, 1975, Act 323. The prosecution's evidence is only a multitude of suspicions which cannot amount to proof in law. For the reasons given above, I do not find the accused guilty of the offence. The accused is acquitted and discharged. MR. A. A. BRIGHT DISTRICT MAGISTRATE (SGD)

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