

GHANA / JUDGMENT

REPUBLIC VRS. LARBIE AND ANOTHER (G/WJ/DG/487/22) [2025] GHADC 5 (17 February 2025)

[2025] GHADC 5

COURT

District Court

CASE / FILE NUMBER

G/WJ/DG/487/22

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IN THE DISTRICT COURT WEIJA HELD ON MONDAY THE 17TH DAY OF FEBRUARY 2025 BEFORE
HER WORSHIP RUBY NTIRI OPOKU (MRS.) MAGISTRATE G/WJ/DG/487/22 THE REPUBLIC V

1. MOSES LARBIE
2. KOBBO OKAI 1ST ACCUSED PERSON PRESENT AND SELF-REPRESENTED 2ND ACCUSED
PERSON ABSENT (INDISPOSED) CHIEF INSPECTOR JANET INUSAH SUGRI IS
PROSECUTING FOR THE REPUBLIC

RULING

The Accused Persons were arraigned before this Court on the charge of threat of harm Contrary to Section 74 of the Criminal Offences Act 1960, Act 29. THE FACTS OF THE CASE The facts of the case as presented by the prosecution is that the complainant, Moses Sefah is an Insurance Practitioner and resides at Gbawe Djaman whilst 1st and 2nd accused persons Moses Larbie and Kobby Okai are businessman and mason all resident of Gbawe Djaman, Accra. The complainant and the accused persons are neighbours and share a common boundary. That on 12th July, 2022 the complainant was constructing a fence wall around his house when the 1st and 2nd accused persons violently came to attack the complainant, insults and threatened him with words to wit "I will beat you to death whenever I see you" and asked him to stop work. On 22nd July, 2022 around 9:00pm 2nd accused person again on seeing the complainant coming from town started raining insults on him to wit "Foolish man, Foolish man". The matter was reported to the Police and the accused persons were subsequently arrested. After investigations they were charged with offences and arraigned before this honorable court. The Accused Persons pleaded not guilty to the charges preferred against them and so the Prosecution assumed the burden of proving its case beyond reasonable doubt for it to secure conviction against the accused persons. Prosecution relied on the following exhibits to prove their case: Statement of complainant - Exhibit A Statement of Godwin Kalatey - Exhibit B Investigation Caution Statement of A1- Exhibit C Investigation Caution Statement of A2 -Exhibit D Charge Statement of A1 - Exhibit E Charge

Statement of A2 – Exhibit F BURDEN OF PROOF Section 11(2) of the Evidence Act, 1975 (NRCD 323) reads; In a criminal action, 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 so that on all the evidence a reasonable mind could find the existence of the fact beyond reasonable doubt. Section 13(1) of NRCD 323 also provides as follows; In any civil or criminal action, the burden of persuasion as to the commission by a party of a crime which is directly in issue requires proof beyond a reasonable doubt. The standard of proof at the close of prosecution's case is a prima facie case. In *Sarpong v The Republic* [1981] GLR 790, it was held as follows “The laws enjoined a trial judge to hold that no prima facie case had been made and that the accused was entitled to be acquitted and discharged if at the close of Prosecution's case, no sufficient evidence had been adduced to prove beyond all reasonable doubt the charge laid against the accused, and it was wrong in law for the trial judge to ignore that legal duty and instead call on the appellant to enter his defence.” After the case of the prosecution, the question is whether the Prosecution has established a Prima Facie case for the Court to call upon the accused persons to open their defence, on the basis that the prosecution has proved all the ingredients or elements of the offence for which the accused persons have been charged. See *Kwabena Amaning alias Tagor & Anor v. The Republic* (200) 23 MRLG 78. Section 173 (1) of Act 30 reads; 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, that Court shall, as to that particular charge acquit the accused. In *State v. Ali Kassena* (1962) GLR 144-154, the Supreme Court stated that a submission of no cause to answer might rightly be made;

- a) When there has been no evidence to prove an essential element in the alleged offence.
- b) When the evidence adduced by the Prosecution has been so discredited as a result of cross examination or is so manifestly unreliable that no reasonable tribunal could safely convict upon it. EVALUATION OF PROSECUTION'S CASE Section 74 of Act 29 on threat of harm reads; A person who threatens any other person with unlawful harm with intent to put that person in fear of unlawful harm commits a misdemeanor. At page 185 of the book “Contemporary Criminal Law In Ghana” by Dennis Dominic Adjei, the learned author and jurist on threat of harm stated as follows; “This is an intentional offence. The prosecution is required by law to prove that the accused person threatened the victim, at the time of the threat, the accused person had the intent to put that person in fear of death. Threat of harm is a misdemeanor. The threat may be in any form of language spoken or used by the accused person. A deaf person may issue threat in sign language, print or electronic form provided the person is literate. Threat may be expressed in any form of language that the accused person speaks or uses.” PW1 in his witness statement and statement to the Police indicated that one Nii Odartey a Police Officer was present when the threats were authored by the accused persons however, the said Nii Odartey (PW3) in his witness statement at paragraphs 3 and 4 stated that he was the investigator on duty when the case was referred to him which indicates that he was not physically present when the alleged statement was made. PW2 claimed that PW1 recorded the accused persons on his phone however at paragraph 9 of his witness statement he stated that he could not remember the content of the recording.

Prosecution also failed to tender the said recording in evidence and also failed to lead evidence to prove that the accused persons intended to put PW1 in fear of unlawful harm by the utterance of the alleged words. From the totality of the Prosecution's case, I find that the Prosecution has not made out a case against the accused persons sufficiently to call upon them to open their defence. The Prosecution having failed to establish a prime facie case against the accused persons, I do hereby acquit and discharge them accordingly.

..... H/W. RUBY NTIRI OPOKU (MRS.) DISTRICT MAGISTRATE 4

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Prepared on 26 October 2026 · Esheria