

IN THE CIRCUIT COURT '10' OF GHANA, ACCRA, HELD THIS THURSDAY, 3RD DAY OF JULY, 2025 BEFORE HER HONOUR EVELYN E. ASAMOAH, CIRCUIT COURT JUDGE

SUIT NO. D21/133/2023

THE REPUBLIC

V.

PATRICIA ASIEDUA ALIAS NANA AGRADAA

ASP EMMANUEL HALIGAH WITH ASP ISSAH ACHIBIRI AND ASP RICHARD AMOAH HOLDING CHIEF SUPERINTENDENT SYLVESTER ASARE'S BRIEF FOR PROSECUTION

MR. RICHARD ASARE BAFFOUR WITH MR. BENARD ESSIBUAH FOR THE ACCUSED PERSON

JUDGMENT

• Ms. Patricia Aseiduaa, also known as Nana Agradaa, is accused of defrauding some of her church attendees during an all-night service and publishing videos on social media with intent to deceive the public. She alleged that no incident happened on that day. The accused was charged with the following offences: charlatanic advertisement, contrary to section 137(1) of the Criminal Offences and Other Act, 1960, Act 29 (Count 1), and defrauding by false pretence, contrary to section 131(1) of Act 29 (Counts 2-5). She pleaded not guilty to all the charges.

"Oh, what a tangled web we weave when first we practice to deceive!" -Sir Walter Scott

• **Facts** – The facts, as presented by the prosecution, are as follows: The accused, Patricia Asiedua, alias Nana Agradaa, is the founder of Heaven Way Champions International Ministry, located in Weija, Accra, and resides in Weija. On 10th October 2022, the complainants, as indicated on the face of the charge sheet, reported to the Police that the accused demanded and received sums of money

CERTIFIED TRUE COPY

REGISTRAR
CIRCUIT COURT, ACCRA, GH

from them under the pretext of giving them various sums of money in return. Upon receipt of the report, Police commenced investigations into the matter, which led to the arrest of the accused. Investigations established that, on 5th October 2022, the accused advertised on Today's TV and other social media platforms that she was organizing an all-night service on 7th October 2022 at Heaven Way Champions International Ministry where she was going to share an amount of GH₵300,000.00 to all participants who needed money to fund their business or pay rent. The accused displayed the bundles of cash during the advert and encouraged the public to attend the service for a share of the money. Investigations also established that, due to the false representation made in the adverts on media platforms, complainants and other members of the public came from far and near to attend the all-night service.

Accused, during the all-night service, directed the congregation to form groups of 20 members, and each member was to pay an amount of money from various amounts - GH₵1000.00. She made the representation that if the first group of 20 could pay GH₵1000.00 each, she would give them GH₵50,000.00 to share. She continued in that fashion and promised the next group to pay GH₵900.00 each and would get a sum of GH₵40,000, and so on. Some of the complainants found themselves in a group of 19 who had to pay GH₵500.00 and above. The accused represented to them that she would give the group GH₵25,000.00 to share among the 19 persons in their group. Based upon this representation, the complainants parted with various sums of money. Accused, after obtaining the money, did not fulfill her promise to give them the sums of money in return and instead left them stranded on the church premises. Further investigations established that the accused undertook the charlatanic advertisement with the intent to defraud unsuspecting complainants. During interrogations, the accused admitted the complainants' assertions as correct. After investigation, the Accused was charged with the offences and arraigned before this court.

- Prosecution bore the legal burden of proving its case beyond reasonable doubt. In **Rahim Ibrahim and Three Others V. The Republic** [2017] DLCA 5012- Justice Barbara Ackah-Yensu JA (as she then was) stated:

*"It is trite learning that under Article 19(2) (c) of the 1992 Constitution, everyone charged with a criminal offence is presumed innocent until the contrary is proved. In other words, whenever an accused person is arraigned before any court in any criminal trial, it is the duty of the prosecution to prove the essential ingredients of the offence charged against the accused person beyond any reasonable doubt. The burden of proof is therefore on the prosecution and it is only after a prima facie case has been established by the prosecution that the accused person will be called upon to give his side of the story. See **Gligah & Atiso vrs. The Republic** [2010] SCGLR 870. While the burden of persuasion remains on the prosecution throughout the trial, the evidential burden shifts as and when it becomes appropriate. This position is stated in Section 15 of the Evidence Act, 1972 (NRCD 323) thus: "unless and until it is shifted, the party claiming that a person is guilty of crime or wrongdoing has the burden of persuasion on that issue".*

• Definition/Elements

- Section 132 of the Criminal and Other Offences Act 1960, Act 29 states:
"A person defrauds by false pretences if, by means of any false pretence, or by personation that person obtains the consent of another person to part with or transfer the ownership of anything."
- Section 133(1) of Act 29 defines false pretence as follows: *"A false pretence is a representation of the existence of a state of facts made by a person with the knowledge that the representation is false or without belief that it is true and made with intent to defraud."*
- Section 137(1) of Act 29 states: *Charlatanic advertisements in newspapers*

"The publication in a journal or newspaper of an advertisement or a notice relating to fortunetelling, palmistry, astrology, or the use of any subtle craft, means or device, by which it is sought to deceive or impose on a member of the public, or which is calculated or is likely to deceive or impose on a member of the public, is illegal".

● In the case of **Philip Assibit Akpeena V. The Republic** - Court of Appeal Suit No. H2/23/2018 dated 13th February 2020, Justice Adjei (J.A) outlined the elements of the offence of defrauding by false pretence as follows:

"...The main elements of defrauding by false pretence as discussed above which the prosecution is required by law to prove are five folds and they are; a representation has been made by the accused as to the existence of state of facts; the representation was made either in writing, uttered words or by impersonation ; the accused made the representation with the knowledge that it was false or he made it without belief that it was true; the accused made the representation with intent to defraud; and finally, the accused made the representation and based on it he obtained the consent of another person to part with something..."

● **Prosecution's Case**

The prosecution called four witnesses: the complainants, the Cyber Security Analyst, and the Investigator. The first complainant/prosecution witness (PW1), recounting the sequence of events, averred that the accused, through an advertisement, invited the general public to an all-night service on October 7th, 2022, at her church. She mentioned, among other things, that she had money to give to those who would attend the service, particularly to the needy and anyone who wanted to expand their business, or whose rent advance had expired. According to PW1, on 7th October 2022, he attended the all-night service, hoping to double his money to start a business. The accused displayed cash in bundles of GHC 200 denomination, which made him believe that she was a generous person.

After prayers, preaching, and collecting the offering, the accused told them it was time to share the money. She then informed the congregation that many people were in the church, and to ensure everyone receives a share of the money, they should form groups of at least 20 people. She directed those who could pay GHC 1000 to form one group and those who could pay GHC 900 to form another, in that order. She further stated that the GHC 1000 contribution group would receive GHC 50,000 to share among themselves, and the GHC 900 contribution group would receive GHC 40,000, among others. PW1 asserted that he joined the GHC 500 contribution group to receive GHC 25000 and that he paid GHC 540 because the number of participants in the group was less than 20.

He added that during the time of payment, the accused ordered her men or pastors to turn off the lights and cameras in the church. The accused issued a chit of paper to each group leader, confirming the payment and benefits to be gained from her. After collecting the money, the accused told them that the funds were meant for 'Kofi and Ama collection'. This angered them because that was not the representation she had made before collecting the money. He further recounted that the accused quickly announced that anyone who could pay GHC 2000 should go to the front to receive the paper chit. Later, some people from the crowd purported to pay the said GHC 2000, and the accused ordered them to hand over the papers. In their attempt to resist her tricks and get their money back, the accused called thugs to the church.

- The Cyber Intelligence Analyst, the third prosecution witness (PW3), asserted that he examined and analyzed the videos that went viral and tendered in evidence the cyber intelligence report (*Exhibit A*).

According to the Investigator, PW4, investigations established that those who made last-minute payments and collected the paper chits from the leaders were members or associates of the accused who were aware of her tricks. The investigator tendered in evidence video of the advertisement and church activities (*Exhibits B*), transcription of excerpts from the videos (*Exhibit C* series),

caution statement (Exhibit **D**), charge statement (Exhibit **E**), Request for Information letter (National Communications Authority (Exhibit **F**), and Request for Information letter—Office of the Registrar of Companies search report (Exhibit **G**). Prosecution also tendered in evidence the further caution and charge statements (Exhibit **J** series) and Ghanaweb publication (Exhibit **H**).

- On 4th July 2024, the court, after the close of the prosecution's case, ruled that a prima facie case had been established and called upon the accused to open her defence. The court, in its ruling, indicated that there was no denial by the accused of the all-night service held in October 2022, the display of the said money on social media and TV, and the advertisement to the public to attend the all-night church service.

In the case of **Eunice Adu V. The Republic** -Court of Appeal [2023] DLCA15135, Justice Bright Mensah J. A stated the court's mandate after close of prosecution's case:

*" ... where the Prosecution has closed its case in a summary trial, as it is in this instant case, the law requires the trial court to consider the evidence on record and to satisfy itself whether a prima facie case has been established or not. If the answer is in the positive, the court then invokes **S.174 of Act 30** and calls upon the accused person to enter into his defence. On the contrary, if it came to the conclusion that no sufficient evidence has been led in proof of the essential elements of the counts/charges or that the evidence led by the Prosecution has been so discredited by reason of cross-examination by the defence or that the evidence was so unreliable that no reasonable tribunal of fact can act on it, it shall then order the acquittal and discharge of the accused in accordance with **S.173 of Act 30**. It was precisely for this legal reasoning that the Court of*

Appeal held in that infamous fake currency case, Apaloo v The Republic (1975) 1 GLR 156 ...

*In summary, therefore, the mandate of the court at the close of the case of the Prosecution is to consider whether having regard to the evidence led on record, it is imperative to invoke **S173 of Act 30** and acquit and discharge on all the counts or to call upon the Accused person to enter into his defence in accordance with **S.174 of Act 30** ... At this stage, we are required by law to only consider whether the Prosecution established a prima facie case and not whether the guilt of the appellant could be inferred. The inference of guilt can only be properly made at the end of the full trial. This position is in accord with that policy of the law that the court has no mandate to make findings of fact at that stage of the trial where the prosecution has closed its case. Indeed, the issue as to what the court has to consider at the close of the case for the prosecution and what to determine at the end of the trial in its entirety i.e. after the accused has offered evidence in rebuttal, has been put beyond peradventure ..."*

• DEFENCE

The accused filed her witness statement on 22nd October 2024 and opened her defence on 27th November 2024. She testified that she is the founder and leader of Heaven Way Champion Ministries International Church located at Weija Junction. She alleged that they distribute money, rice, clothes, footwear, and other items during church services to attract more people into the Kingdom of God. They also planned 'a big and special all-night service on 7th October with a big donation', in celebration of her birthday. She pointed out that she had decided to donate GHC 300,000 on 7th October to new attendees and members of the church, with the intention of providing business capital for members and donations for visitors. She admitted to making a video on 5th October and that she gave it to the production team of Today's TV on 6th October, as they were going to discuss the all-night service.

According to the accused, on October 7th, they held an all-night service, which started at 6:00 p.m., with pastors opening the program, followed by praise and worship, and concluding with an offertory session. The accused also stated that the offertory was done voluntarily in a long, sequential line, accompanied by singing and dancing, without any promise of money or gifts in return, and that there was no 'Kofi ne Ama' that day. That she arrived at the church premises at 9:00 p.m. and took the microphone at 11:00 p.m. She preached, prayed, and did an altar call. Regarding the said donation, she disclosed that she randomly selected individuals from the congregation and distributed money during the preaching, calling on members who donate generously to the church, as well as visitors and long-standing members. She gave free clothes after the donations. She alleged that there was no light out on that day, and she never ordered the lights to be turned off. She never asked the congregants to form groups to contribute money. The accused further claimed that they closed at 4 a.m., and they all went home, and that she was the last person to leave the church premises.

- The first defence witness, DW1, who claims to be an active member of the church, stated that the church is based on donations to its members, specifically to encourage them to remain in the church and to attract new members to join the fold. He added that the accused gives money randomly to congregants, especially those who donate to the church, and that he received GHC 5000 during the all-night service, but he never gave any money in exchange for that amount. No incident happened on the day of the church service.

The women's leader of the church, DW2, alleged that on the day of the incident, at the end of the program, the accused made an altar call, and hundreds of people gave their lives to Christ, and so she does not believe that people would commit to Christ if they had been defrauded. She added that people freely danced to the offertory bowl and dropped the money they had; they gave freely to the Lord without any inducement.

- In **Richard Kwabena Asiamah V. Republic** Supreme Court [2020] DLSC 9911
- Justice Gertrude Sackey Torkornoo J.S.C stated:

"The criminal enterprise of defrauding by false pretence requires these people to agree to get a third person, to give consent to part with or transfer the ownership of a thing. They may obtain the consent directly or through personation of another person. For the charge of achieving this purpose by false pretence to succeed, these two or more people should have represented the existence of a state of facts, with the knowledge that such representation is false, or without the belief that it is true. They should also have made this false representation with an intent to defraud..."

Ivey V. Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67, the Court ruled:

"... To the extent that defrauding someone may take the form of depriving him of something which is his, or to which he might otherwise be entitled, it is plain, and wholly unsurprising, that a criminal offence of defrauding must contain in addition an element which demonstrates that the means adopted are illegitimate and wrong ... Dishonesty, in this context, supplies the essential element of illegitimacy and wrongfulness ..."

- **Representation- Request for Contributions/Payment**

In this case, prosecution tendered in evidence videos (Exhibit B) of the accused's church activities and advertisements. As shown in the video, the transcription (Exhibit C series), and the cyber report (Exhibit A), the accused indeed invited the public to an all-night service and stated that she would distribute money to attendees to start businesses, pay rent, and for other purposes. In the video, the accused said:

"...If you look at the money gathered here, it is about 3 billion. Anyone listening to Rev. Dr. Mama Pat, we are inviting you to this all-night, which takes place October on the 7th and October is a blessing month. And remember that this month is spiritual transformation ... Come this Friday! Come and be part of this all night! Come for money and start a business! Do you need money to hire a room, or do you need money as capital? Are you being rejected where you live? Are you suffering? Are you suffering from any disease ... We are taking all this money there..."

● The Scheme

First scheme - The cyber intelligence report (Exhibit A) and the videos established that the accused informed church members and attendees to give money in order to receive benefits. The accused, in her further caution statement (Exhibit J), admitted making representations to the public via social media about the all-night event and the said money to be given out to attendees.

She stated: "... on Wednesday 5th of September, 2022, I made an advertisement on social media thus Facebook to the effect that this month of October 2022 is my birth month therefore I was going to donate GHC 300,000.00 to the church members...on 7th day of October 2022, about 7:00 pm, our all-night program came up and about 500 people were in attendance ... I realized GHC 27,000 from the offering. I also spent GHC 260,000 on the church members as donation as I promised..."

Second Scheme- Following the representation, the complainants and others attended the all-night service. According to the investigator, after prayers and offertory, the accused displayed some money and asked the congregation to form groups and make payment before they could receive it. During the payment process, the accused ordered her pastors to turn off the lights and cameras. The accused, after taking the money, indicated that the money she collected from the group was 'Kofi ni Ama' offertory.

● **Shady Deals- Group Contributions- On the Altar**

The second complainant/prosecution witness, PW2, corroborating the evidence of PW1, indicated that based on the representation the accused made in the advertisement, he also decided to attend the all-night service because he needed money for his business. He travelled with his wife from Obuasi to Accra for the service. According to him, he parted with GHC 540 based on the representation of the accused that she would give his group GHC 25,000 to share. The accused personally collected the money from the groups and directed them to select group leaders so she could hand over the benefits to them for sharing with the members. She took out pieces of paper, wrote down the amount each group paid and the corresponding benefit, and then handed the papers to the leaders. She then announced that the amount they had contributed was 'Kofi ni Ama' offertory.

The congregation rose in protest and demanded their money. She ordered that the cameras and lights be turned off in the auditorium. PW2 further added that the accused then announced that if anyone had GHC 2000, they should bring it and take the chits from the group leaders. According to PW2, he realized that regular church members handed money to the accused and took the chits from the group leaders. The accused then gave the money she collected to them. The congregation opposed the accused and caused commotion. The accused disappeared and went to her office. He pointed out that those who made the last-minute payment and collected the chits were her associates who had knowledge of her tricks and followed the accused when she left them. Thugs arrived at the church, some dressed in military attire, and prevented them from pursuing the accused. They sacked everyone from the church and locked the building. According to PW2, they stayed outside the premises until 1:00 pm on October 8, 2022. However, the accused, in her witness statement, pointed out that they never had 'Kofi ni Ama' on that day, and no incident took place during

the church service. The narration of the complainants can be described in the following lines:

*To Heaven Way for donation
We journeyed all- night for donation
We danced for donation
We grouped for it
To the Altar for it
Paper chits and our money for it
She advertised for our money
Preached for our money
Danced for our money
And without the present
Our gains
Our sights were taken
Ours are lessons
Ours to the White Guards
Ours to the Call*

The accused, during cross-examination, stated that she did not take money from anyone or promise to give them money in exchange for anything. Contrary to her claims, she took the money from the groups during the all-night service and gave the promised benefits to about three people, whom the prosecution claimed were her collaborators.

• **Lights/Cameras Off**

The accused, as stated, claimed that the lights never went out, no heavily built men came to the church, and she did not ask the congregants to form groups. The third defence witness, DW3, tendered in evidence a video recording of the all-night service (Exhibit 1 series). During cross-examination, DW3 was asked: 'You just told this court that the lights never went off during the all-night service yet in

your Exhibit 1B – 1 hour 8 minutes – 35 second going, the MC was heard saying in the video that – there are too many people that is why the lights are going on and off because the place is jammed? He answered, 'I was present, and I did not see the lights go off.'

In Exhibit 1B, the speaker/MC indeed stated that the lights had gone off several times. This evidence corroborates the prosecution's case that the lights were turned off during the service.

● Chits of Paper

The complainants stated that they were instructed by the accused to form groups and were later given pieces of paper indicating how much each group was to contribute and the benefits they would receive. They gave the money they contributed to the accused, but they did not receive any benefit as represented by the accused. The accused denied it. However, in the video tendered in evidence by the accused witness, DW3, Exhibit 1B, the said collaborators were with the accused in front of the congregation, holding pieces of paper.

The accused told one of them that *"... it has reached her turn through offering... today, it was because she gave the highest offering, (the biggest offering), she has won 200 million... listen, this is Heaven Way. Give me a beat. Hei, I've come, hei, I've come (singing and dancing) ..."* (Exhibit C1, page 3). The evidence supports the prosecution's case that the accused distributed pieces of paper indicating the amounts to be contributed and the benefits thereof to the groups. The accused, however, gave the supposed benefits to the claimed collaborators, rather than to the groups/ complainants, contrary to her representation.

● Doctored Video- Sequence of Events

The accused and her witnesses stated that the church services began around 9 p.m. and concluded between 1:00 a.m. and 4:00 a.m. Consequently, the service

lasted approximately 4 hours. However, the video of the all-night service (Exhibit 1B), tendered by the defence, is only 1 hour, 52 minutes, and 30 seconds long. At 1 hour 7 minutes to 1 hour 9 minutes 15 seconds, the speaker called people to give their testimony, and many moved to the podium. PW2, during cross-examination, stated: *"The only person I saw who gave testimony was a lady who was part of the people leading praises and worship. She volunteered to give GH¢2,000.00 and was given a chit of the group that was offered GH¢50,000.00. When we were given the chits, the lights went off, and they were switched on when the lady who volunteered to give the GH¢2,000.00 was called to come for the chit. That is where I saw the lady giving testimony. Then the cameras were put on her. The light came back on when the accused person was about to hand over the money to the lady who volunteered to give the GH¢2,000.00"*.

The testimony period and subsequent contribution and payment activities were not included in the video (Exhibit 1B). At 1 hour, 9 minutes, and 35 seconds, a black screen appears for a few seconds. Afterwards, the accused is seen with her mentioned collaborators, holding pieces of paper. She gave them money and pointed out that they gave the highest offering. The video does not show the process by which the groups and the said collaborators made payments and received the paper chits. The video presented is not in sequential order; the entire video was not submitted to the court by the accused. The evidence reveals that the lights were turned off during the group contribution and payment period, deliberately to conceal the accused's activities.

In the case of **Blays V. The Republic (1968) GLR 1040**, the Court held:

"... In a charge of defrauding by false pretences, if the evidence showed that the statements relied on consisted partly of fraudulent misrepresentation of an existing fact and partly of a promise to do something in futuro there was sufficient false pretence on which a conviction could be based... To defraud was to deprive by deceit or to induce a cause of action by deceit." See also **Anang V. the**

Republic (1984-86) 1GLR page 458, the Court held: *"Dishonesty ... connoted moral obloquy ... as to cast a slur on the character revealing him as a person lacking in integrity or as a plainly dishonest person..."*

• Inconsistencies

Advertisement

The accused, during cross-examination, alleged that she had never posted an advert on social media and was unaware of how it was shared. She again said, *"I did not see that the video was aired to the public because I hardly watch television. I am the head pastor, and I made the video on the 5th, and the all-night service was supposed to come on the 7th, so I was fasting by then and didn't have the time to watch TV. I never saw the video until it was played for my lawyer in court."*

Contrary to this claim, in her caution statement - Exhibit J - she admitted to creating these videos and publishing them on social media, specifically Facebook and Today's TV. Her evidence was inconsistent.

Interest-Free Loan /Donation

As specified, the accused, in the videos, invited the public to the all-night service and stated that she would give out GHC 300,000 to the needy. However, in Exhibit 1C titled: *'Promotional video which was meant to be played on'*, another video submitted by defence, the accused stated she was going to give out interest-free loans, which is clearly an afterthought.

In **Yaw Obeng V. The Republic**, Court of Appeal [2020] DLCA9353, Justice Angelina M. Domakyaareh (Mrs), JA, opined:

"As a matter of fact, the irresistible and unavoidable inference that can be drawn from the inconsistencies in the testimony and statements of the Appellant is that little or no weight is to be given to his evidence as his credibility was seriously impugned by the stark

inconsistencies in his evidence on the Record. ..See the case of **THE STATE V OTCHERE [1963] 2 GLR463 at 467** ... His Lordships held thus at Holding 14. *"A witness whose evidence on oath is contradictory of a previous statement made by him whether sworn or unsworn is not worthy of credit and his evidence cannot therefore be regarded as being of any importance in the light of his previous contradictory statement unless he is able to give a reasonable explanation for the contradictions. This principle applies whether or not the previous contradictory statement was made by the witness at his own trial or otherwise"*

- In this case, on the totality of the evidence on record, the court finds that the accused published the videos with the intent to deceive the public, made false representations to the complainants, and successfully defrauded them. She is hereby convicted of counts 1, 2, and 3. Prosecution did not lead any evidence regarding counts 4 and 5, although the said complainants filed witness statements, they did not come to testify. Consequently, she is acquitted of counts 4 and 5.

- **Pregnancy Test- Non-Capital Offences**

Section 313A of the Criminal and Other Offences (Procedure) Act, 1960, Act 30 provides:

(1) Where a woman is convicted of a non-capital offence, the Court shall order that the woman be tested for pregnancy unless the Court has reasonable grounds to believe that the woman is post-menopausal.

(2) Where the woman tests positive for pregnancy, the Court shall pass on her a non-custodial sentence or may suspend the sentence for a period that it may determine.

(3) Where the sentence is suspended, the Court shall explain to the offender in ordinary language that if another offence is committed during the period of the suspension, she will be liable to serve the sentence for the original offence in addition to the sentence for the new offence.

The court, in accordance with section 313A of Act 30, ordered the accused to be tested for pregnancy. The medical report states that the accused tested negative for pregnancy.

• **Sentencing Hearing**

Plea in mitigation

Counsel for the Accused– At this stage, we will humbly approach your mercy seat and on bended knees. We pray that you temper justice with mercy and admit the accused person to a non-custodial sentence. We say so because the accused person is a mother of five. The firstborn is 24 years old and is currently pursuing law at the university. A custodial sentence may shatter the dream of this young lady who wants to be a lawyer. The lastborn is just three years old and will need the care and attention of her mother. Secondly, since the year 2022 when the case was first called, the accused person has virtually been present in all or most of the sittings, and her conduct in this court speaks to somebody who was willing to demonstrate her innocence in this charge. She has been remorseful and has stayed away from all the allegations that brought her to this court. The first count is a misdemeanor, which means your hands are not tight. If the court is minded to admit the accused person to a fine, you are speaking within the law.

As the court may be aware, the accused person is a leader of a congregation, most of whom rely on her for their livelihoods. Admitting her to a custodial sentence will have a huge impact on all these persons. The accused is a first-time offender; she has never had any brush with the law, and we honestly believe that participating in this trial for the past three years alone is sufficient

punishment. I am sure the accused person has not had any good sleep when she was called to appear before you today to hear the judgment of the court. For the following reasons, we humbly pray that the court exercise its discretionary power in our favor and admit the remorseful convict to a non-custodial sentence. We pray accordingly.

Mr. Essibuah – With respect, I want to align my voice to what counsel has already said, just to add that the accused person has been strongly involved in shaping the socio-religious sector of our dear nation, and her impact on people's lives positively is significant. We pray that the court will temper justice with mercy, admitting her to a non-custodial sentence. I pray accordingly.

Prosecution - Respectfully, we have some aggravating factors that we want the court to look at in sentencing the accused person. Premeditation with which a crime was executed by the accused. The prevalence or the surge in charlatanic advertisements on our airwaves these days and the effect on victims of these fraudulent activities. It is our humble prayer that the accused person will be given a sentence that will not only serve as a deterrent to her but also to others who engage in running such advertisements to lure their victims and defraud them.

The accused is not a first-time offender, and we want to say that in fact she has not learnt any lesson from the previous conviction in 2021 before Court 4, where the accused was convicted to a fine of GH¢10,000.00 in default nine months imprisonment. Here we are again in 2025, and this same offence is before your honourable court, just a year after she was convicted of that offence. We are saying that the punishment at that time was not retributive and deterrent enough. We want the court to exercise its discretion today. We want a sentence that will send shivers down the spines of like-minded persons. We humbly pray.

CERTIFIED TRUE COPY

REGISTRAR
CIRCUIT COURT, ACCRA, GHS

- **Sentence**

- In the case of **Kweku Quaye alias Togbe V. The Republic** – [2021] DLSC10794 Criminal Appeal No. J3/08/22 dated 28th July, 2021 - Prof. Mensa-Bonsu (Mrs.) J.S.C. stated:

"... The appellant appears to think that being a first offender or being young gives one an entitlement to lighter punishment than would otherwise be imposed. Nothing could be farther from the truth. It is important to highlight the fact that these are only two of the many factors that the court considers in imposing punishment. Any examination of a list of the factors would put the seriousness of the offence first before mitigating factors that the court could consider at its discretion. There is no entitlement since it is at the discretion of the court ... However, the list is not an exhaustive one, and the courts continue to add to it as appropriate ... The notion of "first offender" usually means that it is the first time the person has been caught in the net of the law, and not necessarily that it is the first time he has indulged in that activity..."

- Prof. Stephen Offei, in his book titled ***Jurisprudence and Legal Philosophy***, page 189, stated:

"Is the fact that conduct is, by common standards, immoral a sufficient ground punishable by law? Lord Delvin holds the view that there is a public morality providing the cement of any human society and that the law, especially the criminal law, must regard it as its primary function to maintain this public morality. Whether in a particular case the law should be brought into play by specific criminal sanctions must depend upon the state of public feeling. Conduct that arouses a widespread feeling of reprobation, a mixture

of intoleration, indignation and disgust, deserve to be suppressed by legal coercion in the interest of the integrity of society. The conclusion of Delvin is that if vice is not suppressed, society could crumble. " The suppression of vice is as much the law's business as suppression of subversive activities ..."

o In the book titled: ***Criminal Prosecution in Ghana – Practice and Procedure***, Mr. Daniel Korang Esq. outlined the factors to be considered when imposing sentence. The learned author, at pages 596–606, stated:

"... In imposing sentence, the court must consider the prevalence of the crime within the particular locality where the offence took place or in the country in general ... in determining a sentence, it is proper for the court to consider, on the one hand, the social or official position of the offender. Certain positions carry high responsibilities and abuse of such positions must carry high punishments. Where the accused is in a position of trust, he must be punished harshly to safeguard beneficiaries of the position... The courts may also consider the circumstances surrounding the commission of the crime in imposing sentence on the accused. Where the offence seems to have been committed on the spur of the moment, the court may consider it as a mitigation factor. On the other hand, where the crime was pre-arranged, premeditated and expertly executed, that may go to enhance sentence. Where the accused appears to be a "professional" or an "expert" in the particular crime for which he is charged, he may receive a harsher sentence..."

In this case, the court takes into consideration the following factors: the prevalence of such offences, within the jurisdiction, by such organizations and their leaders, the status of the accused as a leader of the religious organization, the fact that she skillfully/professionally executed the offences - making

advertisements, turning off cameras and lights in the church auditorium during the payment/contribution process and calling in thugs, among others.

The court also takes into account the prosecution's submissions and the fact that she showed no remorse. The court will impose a deterrent/custodial sentence to deter like-minded leaders and individuals from similar actions.

Sentencing Guidelines

The court is also guided by the *Ghana Sentencing Guidelines*, which categorize professional offenders/ gross aggravating factors/ several or serious convictions for the offense of defrauding by false pretence at Level E, and specify custodial sentence term of 10–25 years.

Section 137 (2) of Act 29 provides: The editor, publisher, proprietor and printer of a journal or newspaper in which the advertisement or notice is published commit a criminal offence and is liable to a fine not exceeding twenty-five penalty units.

Section 297(3) of Act 30 states: Where a person convicted of an offence is sentenced to pay a fine, the court may direct that if the person fails that within the time appointed for payment that person shall suffer imprisonment until it is paid.

The court hereby sentences the accused as follows:

Count 1 – 25 penalty units or in default 30 days

Count 2 – 15 years imprisonment with hard labour

Count 3 – 15 years imprisonment with hard labour

Sentence to run concurrently.

(SGD)
H/H EVELYN E. ASAMOAH (MRS)
CIRCUIT COURT JUDGE

CERTIFIED TRUE COPY

REGISTRAR
CIRCUIT COURT, ACCRA, GH