

IN THE SUPERIOR COURT OF JUDICATURE. IN THE HIGH COURT OF JUSTICE HELD AT ADUM - KUMASI ON TUESDAY THE 9TH DAY OF APRIL, 2024. BEFORE HER LADYSHIP JUSTICE PRISCILLA DIKRO OFORI – JUSTICE OF THE HIGH COURT.

SUIT NO. D13/01/2022

THE REPUBLIC

RESPONDENT

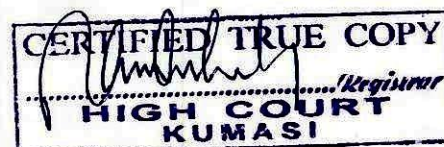
VS.

ALEXANDER KWABENA SARFO KANTANKA ACCUSED/APPLICANT

RULING

1 The accused person was charged with 26 Counts of corruption in respect of Public Election, contrary to **SECTION 256 (1) and (2) OF ACT 29/60** as amended by **SECTION 9 OF the Criminal Offences (Amendment) Act, 2020 (Act 1034)** and was arraigned before this Honourable Court for trial and he pleaded not guilty to all the Counts. Trial Commenced and in total, Prosecution called six (6) witnesses to establish their case against the accused person. However, immediately prosecution announced the closure of their case, Counsel for the accused informed the Court that they want to make a submission of No Case to answer and the Court granted the prayer and Ordered the defence Counsel to file the Submission of No Case to enable the prosecution to respond to it. So, on the 6th day of November 2023, defence Counsel filed a Submission of No Case on behalf of the accused person. He evaluated the evidence of the Prosecution Witnesses per their witness statements and cross – examination and submitted that the witnesses the accused was alleged to have given them GH¢5,000.00 and in other cases, GH¢2,500.00 to influence them to vote for him as the Chief

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Executive of Juaben Municipal Assembly, denied ever Collecting such monies from the accused person. Defence Counsel further submitted that; the evidence adduced by the prosecution witnesses failed to prove the essential elements of the crime allegedly committed by the accused person. Defence Counsel also submitted that, the evidence of the prosecution witnesses has been so discredited under cross – examination and cannot be relied on. Finally that, the prosecution could not lead sufficient evidence cogent enough to establish a prima facie case against the accused and he should not be made to open his defence. Defence Counsel cited legal authorities to support his submissions.

2. Counsel for the Republic filed his written response to the submission of no case on the 29th day of November 2023. In his response, Counsel for the Republic submitted that, P.W.1, P.W.2 and P.W.3 all admitted in their witness statements which were adopted as their evidence-in-chief that, the accused gave them money to vote for him to become the Juaben Municipal Chief Executive. That the evidence of P.W.1, P.W.2 and P.W.3 under cross – examination contradicted their own previous statements and they did not give any reasonable explanation to those contradictions and hence, their evidence under cross – examination is not worthy of credit. He submitted further that, by P.W.5 evidence, the accused gave a confession statement to police in the presence of an independent witness and he admitted the offences he was charged with and the said confession statement was admitted in evidence as Exhibit ‘B’. That accused person’s further statement tendered as Exhibits ‘B1’ and ‘B2’ which contradicted his previous confession statement (Exhibit ‘B’) are not worthy of credit since the confession statement was made by the accused voluntarily without duress in the presence of an independent witness. Counsel for the Republic also submitted that, by P.W.6 evidence, the accused was seen on an audiovisual recording demanding refund of monies he paid to Assembly members of Juaben Municipal Assembly and the said audiovisual recording was tendered in evidence as Exhibit ‘D’. Finally that,

by all the facts and evidence, the prosecution produced before this Court, a prima facie case has been made against the accused person. As at this stage, the burden on prosecution is to establish a prima facie case and that has been done. Counsel for the Republic prays the Court to dismiss the submission of No case and call on the accused person to open defence. He cited legal authorities to support his submission.

3. I have evaluated the evidence adduced by the prosecution witnesses in prove of the charges preferred against the accused person. And I have also considered the submissions made by both counsels in support of their respective cases and I also considered **SECTION 173 OF ACT 30** which provides that, "if at the close of prosecution's case, the Court evaluated the evidence adduced by prosecution in support of the charge and it appears to the Court that a case is not made against the accused, the Court shall acquit the accused on that charge or charges as the case may be."

However, having evaluated the evidence of the prosecution witnesses especially, that of P.W.5 and P.W.6, I am of the honest view that, the evidence of the prosecution witnesses established a prima facie case against the accused person with regard to count one, count two and Count 23. Accused is hereby called upon to open his defence on counts 1, 2 and 23. **See: SECTION 174 OF ACT 30.** The evidence on record however, did not establish a prima facie case against the accused on the rest of the counts and he is hereby acquitted on those counts as they remain allegations. The submission of No Case is partly upheld and partly dismissed.

(SGD).

**H/L. PRISCILLA DIKRO OFORI
JUSTICE OF THE HIGH COURT
ADUM – KUMASI.**

COUNSELS:

1. AKUA ADIYIAH ESQ. FOR THE REPUBLIC.
2. MABEL AMANKWAH ESQ. FOR DENNIS OSEI ANTWI ESQ. FOR THE ACCUSED.

JUDICIAL SERVICE

