

THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN
ITS MARCH TERM, A.D. 2025

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON..... ASSOCIATE JUSTICE

Francis Saah Fayiah, Bangalee Sheriff, Josephus Hinneh,)
Hassan Yousef, Christian Weh and Joseph Momo to be)
identified, of the City of Monrovia, Liberia)
.....Appellants)

Versus)

APPEAL)

Republic of Liberia by and thru Mano Manufacturing)
Company represented by its Administrative Manager,)
Montgomery Wolo, Montserrado County, Republic of)
Liberia.....Appellee)

GROWING OUT OF THE CASE:)

Republic of Liberia by and thru Mano Manufacturing)
Company represented by its Administrative Manager,)
Montgomery Wolo, Montserrado County, Republic of)
Liberia.....Plaintiff)

Versus)

CRIMES:)

THEFT OF PROPERTY)
& CRIMINAL)
CONSPIRACY)

Saah Fayiah, Bangalee Sheriff, Josephus Hinneh, Hassan)
Yousef, Christian Weh and Joseph Momo to be identified,)
of the City of Monrovia, Liberia.....Defendants)

Heard: March 19, 2025

Delivered: May 28, 2025

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION FOR THE COURT

The grand jury for Montserrado County, sitting during the August Term of Court, A.D. 2023, returned a true bill against the appellants finding them more probable than not guilty of the crimes of theft of property and criminal conspiracy; thus, necessitating the trial of the appellants. The indictment alleges that the appellants, in a joint criminal enterprise, designed a criminal scheme to divert to their personal use and benefit money received from the sale of goods left in the charge

of the appellants after selling to the private prosecutor's customers in Kakata, Gbarnga and Ganta.

This case is now on appeal from the final judgment of guilty by the First Judicial Circuit Court Criminal Assize "C" against the appellants.

Stated more fully, the indictment charges that co-appellant Fayiah, sales agent of the private prosecutor, Mano Manufacturing Inc. ("MANCO"), on July 6, 2022, was entrusted with assorted goods to include vegetable oil, chlora, soap of all types, various kinds of alcohol, candles, etc., all valued at United States Dollars One-Hundred and Six-Thousand Four-Hundred and Twenty-seven (US\$106,427.00) for delivery to customers in Kakata, Margibi County, Gbarnga, Bong County and Ganta, Nimba County; that upon collecting the money from the various sales, co-appellant Fayiah in joint accord with the others, conspired to and did convert the money to their personal use and benefit; thus, committing the crime of theft of property in violation of Section 15.51 of the New Penal Law of the Liberia.

Before the commencement of the trial, the state entered a plea of nolle prosequi on behalf of defendant Hassan Yousef. As for defendants Christian Weh and Joseph Momo, they were granted severance as they were not brought under the jurisdiction of the Court. Thus, leaving appellants Francis Saah Fayiah, Bangalee Sheriff and Josephus Hinneh for trial. Following arraignment, the appellants entered a plea of "Not Guilty"; thus, joining issue with the State.

During the trial of the case, the prosecution produced nine regular witnesses and one rebuttal witness while the appellants produced two regular witnesses.

The prosecution first witness, Montgomery Wolo, the Administrative Manager of the private prosecutor, MANCO, testified that on Wednesday, July 6, 2022, the co-appellant Fayiah, along with his team, consisting of four drivers on four different trucks and one conductor, Josephus Hinneh, embarked on the journey to deliver goods to various customers; however, the truck drivers and the conductor returned without the co-appellant Fayiah, and when he could not be found, the police was then contacted the office of the Major Crimes Department which had Officer Vandi Kromah assigned on the matter. Officer Vandi and the witness requested the co-appellants to take them to private prosecutor's various customers that the appellants had dealt with, and upon encountering these customers, it was revealed that the goods were delivered and the money paid to co-appellant Fayiah who did not issue any receipts.

The police commenced its investigation, and during said investigation a call came in from co-appellant Fayiah to the witness, Mr. Wolo. The witness said that co-appellant stated that he had encountered some challenges and that there were things that went bad but he would explain it upon his return; Fayiah explained that one particular customer still had some money in Ganta

and that he would reach out to said customer to have the money deposited in the company's account; that however upon being quizzed about his location, co-appellant Fayiah stated that he was in Ivory Coast, but later stated that he was in Guinea, and again in Maryland; that through the initiative of the police, the co-appellant was arrested in Ghana by Interpol and returned to Liberia; upon his return, he was escorted at the police station where he provided a written statement implicating the other co-appellants Bangalee Sheriff and Josephus Hinneh.

Explaining the procedure for delivery of goods, the witness testified that the quantity of goods to be supplied to customers who booked their supplies is noted on pre-recorded invoices; the goods are then loaded onto the truck and are recorded in a ledger which is turned over to the sales department where co-appellant Fayiah served as the sales agent responsible to deliver the said goods to the various customers. The witness explained that for those who did not book in advance, cash sales are done, wherein the customers buy from the truck directly and pay cash to co-appellant Fayiah who is then required to have the money deposited in the business nearest bank account or return the cash from the sales to the office.

Prosecution's second, third and fourth witnesses, Mr. Assad R. Fadel, Marsuh M. Mulbah and Nitch Chand respectively, who were also employees of the private prosecutor, all testified supporting the averments of witness Wolo's testimony. They mainly confirmed that they initiated contact with the police through the insistence of Mr. Fadel, the General Manager of MANCO ; that the co-appellant Fayiah had signed for a receipt book for goods that were to be delivered but he did not return with those receipts; that in fact, it was the co-appellant Fayiah who followed up with customers' orders, and based on that, invoices were generated and sent to the warehouse for the goods to be uploaded onto the trucks. They concluded their testimonies stating that the total value of the goods stolen was US\$106,627.00 (United States One Hundred & Six Thousand Six Hundred and Twenty-Seven Dollars)

The prosecution fifth and sixth witnesses, CID investigators, Sam S. D. Ballah and Charles B. Blake testified to the strategies employed in investigating the crime and arresting co-appellant Fayiah through an INTERPOL notice after a United States Dollars Five-thousand (US\$5,000) bounty was placed on him.

The last three witnesses for prosecution, namely; Morgan A. David, Taro Nya Dekpah and Moses Freeman, who are all businessmen residing in Gbarnga, Ganta and Suacoco respectively, all testified that they had received goods from the co-appellant Fayiah valued at US\$7,400; US\$10,350 and US\$790.00, respectively, but were never issued receipt. The prosecution rested with its regular witness after its 9th witness, Moses Freeman, rested with his testimony.

The appellants then took the stand in seeking to discredit the weight and credibility of the testimonies provided by the appellee's witnesses.

Testifying for themselves, co-appellants Bangalee Sheriff and Josephus Hinneh spoke about their activities on July 6, 2022, and their job description at MANCO. Co-appellant Sheriff, who is a driver, stated that he arrived to work on the morning of July 6, 2022, and was ordered to get out the truck to take supplies of goods to the private prosecutor's costumers; that he did as was instructed, and the goods were loaded unto the trucks and taken to various customers, after which he returned to the factory. When questioned on the cross examination as to delivery of goods to one Morgan David, the private prosecutor's costumers, co-appellant Sheriff testified that they supplied goods to him, but as a driver, he was not involved with payment; that he worked under a conductor (Josephus Hinneh) who supervises the truck movements, including where to stop to supply goods.

In giving his testimony, co-appellant Hinneh spoke about his employment history at MANCO as a conductor, and that on the said July 6, 2022, he was in the yard when co-appellant Fayiah brought orders down to the warehouse for loading of the goods and to dispatch said goods to customers in Ganta, Gbarnga and Kakata. He stated that after they had supplied the goods in 2-3 days, they returned to Monrovia. On the cross examination, the witness stated that he was there when the co-appellant brought down the orders and the goods were loaded on the trucks; that the total trucks loaded were three; that co-appellant Fayiah as team supervisor and sales agent for MANCO was in charge of the team as the trucks departed the company's premises, and at the instruction of co-appellant Fayiah, he (Hinne) executed his job by offloading goods to customers along the way. He denied that he received United States Ten Thousand Dollars (US\$10,000) from co-appellant Fayiah as he stated when he was investigated by the police and that he did not received money from customers while on the field.

We see from the records that co-appellant Fayiah in exercise of his rights under Criminal Procedure Law Rev. Code 2:2.5 opted not to testify and same was granted by the Court.

Both parties having rested with the production of oral and documentary evidence, final arguments heard and a judge's charge issued, the jury returned to its room of deliberations and brought a unanimous verdict of guilty against the appellants.

Co-appellant Fayiah as well as co-appellants Sheriff and Hinneh through their respective counsels, filed for a motion for new trial alleging that the jury verdict was contrary to the weight of the evidence produced by the prosecution. The motions were heard and disposed of, with the judge denying both and granting the resistance thereto.

The judge of the lower court ruled confirming and affirming the jury verdict and adjudged the co-appellant Fayiah guilty of the crimes of theft of property and criminal conspiracy, sentencing him to three years imprisonment. He was also ordered to restate the amount of US\$106,427.00 representing the value of the goods. As to co-appellants Hinneh and Sheriff, they were adjudged guilty of criminal conspiracy to commit theft and were sentenced to six (6) months imprisonment.

It is from this final ruling of the trial court judge that the appellants noted exceptions and announced an appeal. Co-appellants Sheriff and Hinneh jointly filed a nine-count bill of exceptions while Fayiah filed an 11 count bill of exceptions.

The co-appellants Sheriff and Hinneh nine-count bill of exceptions read thus:

1. That your Honor committed a reversible error when you empaneled the trial jury before the process of discovery was done, which is a pre-trial procedure.
2. That, your Honor committed a reversible error when you upheld the trial jury verdict, which was contrary to the weight of the evidence adduced during trial.
3. That, prosecution 1st and 2nd Witnesses; Montgomery Wolo and Assad R. Fadel, testimonies were based on hearsay as they were not present when the goods were loaded on board, but rather alleged that the total value of the goods that was taken by the co-defendants, Bangalee Sheriff and Josephus Hinneh was US\$106,427.00 without producing any receipt or invoice indicating that the defendants signatures were on the invoices of the goods received from the plaintiff by the co-defendants, Bangalee Sheriff and Josephus Hinneh, as drivers and carboy/conductor, and that they are only subject to instruction from their bosses. Hence, the jury verdict was contrary to the evidence adduced during trial.
4. That, prosecution 3rd and 4th Witnesses in person of Marsuh H. Mulbah and Nitcha Chand took the stand and testified that they supply invoices to Francis Fayiah, but he Francis Fayiah did not sign for those invoices, which is a clear indication that the evidence was inconclusive to hold the defendants liable and that the prosecution 3rd and 4th witnesses testimonies were contrary to the weight of the evidence adduced during trial.
5. That Your Honor committed a reversible error when he upheld the jury verdict based on the testimonies of prosecution 5th and 6th witnesses that created a reasonable doubt as to the manner and form of the investigation, Inspector Sam Balla took the defendants statement without the defendant answering the question as to whether he can understand and read and write English. Moreover, according to Inspector Balla, he took statement from vendors that were supplied by the co-defendants but failed to produce or annex the said statement from the vendor to the police's report. Thus, his investigation created serious doubt.
6. That the police committed an error when they charged co-defendants Josephus Hinneh and Bangalee Sheriff based on the allegation made by Francis Fayiah that he gave both Josephus and Bangalee US\$10,000.00 each and based on this allegation, the police charged co-defendants Josephus Hinneh and Bangalee Sheriff with theft of property and criminal conspiracy without the police investigation. And also based on prosecution 6th

witness's testimony that he was not involved in any investigation but only arrested the defendants and turned them over for investigation.

7. Prosecution 7th, 8th and 9th Witnesses in persons of Morgan A. David, Taro Nya Dekpah and Moses Freeman took the stand and told the Court that they were supplied goods totaling US\$7,400.00, US\$10,350.00 and US\$790.00 respectively but failed to produce any invoice or delivery note as to the goods that were received and the payment that were made to the co-defendants. Moreover, the total value of the three (3) payments as alleged by the three witnesses is US\$18,540.00, by far lesser than the amount of US\$106,427.00 claimed by the private prosecution which also creates doubt and the doubt should operate in favor of the accused.
8. Moreover, the co-defendants produced two (2) witnesses in persons of Bangalee Sheriff and Josephus Hinneh, who testified that they are Drivers and Carboy/conductor whose operation is based straightly on instruction of their Boss, Francis Fayiah to drop goods to the various destinations but did not receive any proceed from Francis Fayiah. Francis Fayiah also denied given money to co-defendants, Bangalee Sheriff and Josephus Hinneh during the probation Officer' investigation.
9. That, the Jurors based on the evidence adduced during trial, did not find no probable cause to hold Bangalee Sheriff and Josephus Hinneh guilty for theft of property but held them for criminal conspiracy which is the axillary to the main suit theft of property, and where theft of property is dismissed against the co-defendants, criminal conspiracy should also crumble.

Co-appellant Fayiah 11-count bill of exceptions reads as follows:

1. That Your Honor committed a reversible error when you denied Appellant/Co-Defendant's Motion for New Trial, but upheld the trial jury verdict of guilty of theft of property and criminal conspiracy against the appellant/co-defendant Fayiah and rule that co-defendant/Appellant Fayiah retribute the total sum of US\$106,427.00 (One Hundred Six Thousand Four Hundred Twenty Seven United States Dollars) when indeed said verdict ignored prosecution failure to prove that the goods given to co-defendant Fayiah was actually of the value stipulated in the indictment; and that said verdict of the trial jury also ignored the fact that none of prosecution witnesses testifies hat they received goods of such value from Appellant/Co-Defendant Fayiah.
2. Further as to Count One above, appellant says Your Honor committed a reversible error when you upheld the jury verdict of guilty against appellant and ruled that appellant retribute US\$106,427.00 (One Hundred Six Thousand Four Hundred Twenty Seven United States Dollars), when in fact during trial, there were only two witnesses, that is prosecution seventh and ninth witnesses who testified on the 24th and 25th day jury sitting to giving money to appellant in the amount of US\$7,400.00 and US\$790.00 respectively. Therefore, appellant says assuming without admitting that he is guilty of theft, he cannot be held to retribute any amount exceeding UD\$8,190.00 which is the amount proved by prosecution.
3. That appellant/co-defendant says Your Honor committed reversible error when you upheld the trial jury verdict because said verdict failed to consider the doubt created by prosecution fourth witness testimony as to the genuineness of the purported invoices testified to by the said witness on the 19th day jury sitting, in that, although the witness testified that the procedure governing the issuance of invoices within the company is that, whenever invoices are printed, they are

signed by him, the procurement officer before they are presented to appellant/co-defendant for delivery, contrary to this testimony by the witness, the set of invoices testified to by the witness were never signed by the witness or anyone else within the procurement division. Hence, appellant/co-defendant says had the jury considered the contradiction, they would have noticed that the invoices presented were not genuine but were printed solely to convict appellant/co-defendant.

4. Further as to Count Three above, appellant/co-defendant says Your Honor committed a reversible error when you upheld the trial jury verdict of guilty against appellant/co-defendant because said verdict failed to consider the contradictions within the set of invoices testified to by prosecution witnesses and the witnesses called to testify as customers who placed the order for supply. The invoices presented bear the names: DO ME DO YOU BUSINESS IN GANTA, M & DAUGHTER IN GANTA, AOB BUSINESS CENTER IN KAKATA, ALVINA ENTERPRISE IN GANTA AND THREE OTHER BUSINESSES IN KAKATA NOT SPECIFICALLY NAMED IN THE PURPORTED INVOICES. To the contrary, the witnesses who testified were not those named in the purported invoices: PROSECUTION SEVENTH WITNESS MORGAN DAVID FROM GBARNGA, PROSECUTION EIGHTH WITNESS TARO NYA DEKPAH OF DEKTA, INC. IN GANTA AND PROSECUTION NINTH WITNESS, MOSES FREEMAN OF MOSES FREEMAN BUSINESS CENTER IN GBARNGA. Appellant/Co-Defendant says had the trial jury considered the variances within the invoices and the witnesses who appeared, they would have brought a not guilty verdict against Appellant/Co-Defendant. Therefore, Your Honor made a reversible error when you upheld the erroneous verdict of the trial jury.
5. Appellant/Co-Defendant says Your Honor committed a reversible error when you upheld the trial jury verdict which failed to give consideration to the hearsay nature of prosecution first and second witnesses testimonies on the 17h and 18th day jury sitting as to the value of the goods. Prosecution First Witness testified on the 17h day jury sitting that what he narrated to the police in his complaint and to the court in his testimony were based on what he was allegedly told by staff assigned at the warehouse, while Prosecution second witness testified on the 18th day jury sitting that he was out of the country when the alleged theft occurred, the witness testified that his account/testimony was based on what he was told by Prosecution first witness Montgomery Wolo.
6. That appellant/co-defendant says Your Honor committed a reversible error when you upheld the trial jury unanimous verdict which failed to consider the contradiction and doubts presented by prosecution fifth witness testimony on the 19th day jury sitting because although prosecution fifth witness, Sam Gballah of the Liberia National Police testified during trial that upon receiving the complaint of the alleged theft, he visited the customers involved, interviewed and took statements from them, he however, failed to present evidence of the statements taken from the witnesses, while, those he claimed to have interviewed took the witness stand and testified that at no time did the police visit their places of business or conduct interviews with them, neither were they ever invited by the Liberia National Police for questioning. Appellant/Co-Defendant says had the trial jury consider the contradictions presented by the testimonies of Prosecution fifth witness and other witnesses, they would have presented a verdict of not guilty against appellant/co-defendant.

7. That Your Honor committed a reversible error when, over the objection of appellant/co-defendant legal counsel, you granted prosecution request on the 23rd day jury sitting to play an incriminating audio recording in open court, which audio recording was illegally obtained by prosecution through its first, second and fifth witnesses in a three-way telephone conversation with appellant/co-defendant Francis Fayiah.
8. That further as to Count Seven above, appellant/co-defendant says, although the incriminating and illegally obtained audio recording was never pleaded by prosecution as a discovery in its submission to this honorable court, and although prosecution Fifth Witness, a police officer with 27 years' experience admitted on Sheet Five of the 23"d day jury sitting that appellant/defendant was not informed that he was being recorded because according to the witness, appellant/defendant would not have provided the desired information, it was therefore erroneous for your honor to grant the playing of said recording in open court.
9. That Your Honor committed a reversible error because your final judgment failed to consider Appellant/Co-Defendant's legal counsel contention that Appellant/Co-Defendant was not properly appraised of his Miranda/Constitutional rights during his appearance before the Liberia National Police (LNP) as evidenced by the police report testified to by Prosecution Fifth Witness and marked as Prosecution Exhibit P/11 in bulk, a review of which indicates that Appellant/Co-Defendant Francis Saah Fayiah did not specifically sign/check the question "do you understand all of your rights?".
10. Further as to Count Nine above, Appellant/Co-Defendant says had your honor considered the contention of Appellant/Co-Defendant, your honor would have set aside the jury verdict and order a new trial.
11. That Appellant/Co-Defendant says your honor final judgment is erroneous and reversible because it upholds the trial jury unanimous verdict against him despite Appellant/Co-Defendant's contention that said verdict was contrary to the weight of the evidence produced by prosecution during trial, in that, prosecution failed to produce evidence of the quantity and value of the goods allegedly entrusted to Appellant/Co-Defendant. Appellant/Co-Defendant says the Honorable Supreme Court of Liberia held in the Case: Cummings v. RL, 4 LLR 16 (1934) that "In larceny, under our statute as under the principles of law in all jurisdictions where larceny is divided into grades, the value of the property taken must be alleged and proven as a constituent element of the offense; and mere allegations of value do not constitute sufficient proof to support a conviction of larceny."

From the facts and circumstances of the case, the issue this Court find most germane is whether the prosecution proved its case beyond a reasonable doubt to warrant upholding the trial court's conviction.

In answering our first question, we note that at the election of co-appellant Fayiah, he chose to exercise his right not to testify, whereas, co-appellants Sheriff and Hinneh exercised their constitutional right to testify in their own behalf and confront their accusers through cross-examination as provided under rules governing criminal trial in our jurisdiction. While ordinarily, in

criminal cases, the prosecution or the state has and maintains the burden of proof, by co-defendant electing not to testify, it effectively left the trial jury with the opportunity of reviewing only the prosecution's side of the case – the evidence and the witnesses' testimonies. This Court says that just like the trial jury, it is similarly compelled to test and evaluate the materiality, relevance and probative nature of the witnesses' testimonies and the evidence the state adduced at trial to effectively resolved this matter.

In his bill of exceptions, co-appellant Fayiah raised three main challenges, namely, i) the value of the goods alleged to have been stolen; ii) the veracity of the testimonies of the prosecution's witnesses personal account of the situation; and iii) the constitutional procedures in the investigation of the crime. All of these, when put together, then raise the question whether the prosecution satisfied the burden of proof beyond all reasonable doubt.

We shall begin with the first challenge posed by co-appellants Sheriff and Hinneh about the trial judge failure to dispense with the process of discovery of evidence prior to the empanelling of the trial jury.

Criminal Procedure Law Rev. 2:17.2 states that the Court, on motion, may direct that books, papers, documents, or other things designated in a subpoena duces tecum be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit such books, papers, documents, or other things or portions or parts thereof to be examined and copies thereof to be made by the parties and their attorneys.

No where in the records did co-appellants Sheriff and Hinneh make an application to the judge for such papers or documents and were denied. From the reading of the records, when prosecution prayed the court for permission to have the audio recording of the conversation between co-appellant Fayiah and the General Manager Mr. Assad alluded to by prosecution's 5th witness, ACP Sam S. D. Gballah brought into evidence to provide clarity, the counsel of the co-appellant Fayiah did not object for suppression of evidence and the court granted the request. This Court has held that exceptions not taken in the lower court cannot form part of the exceptions to the Supreme Court for review. *The Heirs of the late S. B. Nagbe, Jr. v. The Intestate Estate of the late S. B. Nagbe, Sr.*, 40 LLR 337, 348 (2001); *Benson v. Johnson*, 23 LLR 290, 297 (1974).

From the records, the co-appellants Sheriff and Hinneh's main contention is that they were not responsible to account for goods delivered in the field since they served as mere driver and conductor, therefore their challenge that the trial judge committed a reversible error by failing to dispense with discovery of evidence prior to the empanelling of the jury seems to us irrelevant under the given facts and circumstances, since the prosecution evidence of receipts and invoices of goods received and dispatched was verified by co-appellant Fayiah who was the one

responsible for receiving orders and dispatching goods based on said orders. The co-appellants link to the crime was based solely on the written statement of co-appellant Fayiah and his phone conversation with the General Manager of the private prosecutor that he shared proceeds of the sales with the co-appellants.

Since none of the appellants denied that they took goods to be delivered to the private prosecutor's customers, but they rather are contending the value of the goods, we must look to the evidence to see whether the prosecution did prove the value of the goods as charged in the indictment.

The indictment alleges that the appellants were charged with the responsibility of delivering goods to customers across Kakata, Gbarnga and Ganta all valued at US\$106,427.00, and proceeds collected from the delivered goods was supposed to be deposited in the private prosecutor's account or the cash brought and delivered to the office of the private prosecutor. To prove that the goods were placed in the trucks and the co-appellant Fayiah placed in charge to deliver them, the prosecution admitted into evidence invoices in-bulk, and receipt book as well as the ledger which the goods was recorded in. From our review of these documents, we have found five invoices all drawn on six customers, amounting to US\$106,427.00. The numbers on these invoices (PW89776-PW89780) match a listing of goods supposedly placed into the trucks which the prosecution had admitted into evidence as proof of the amount of goods that the co-appellant Fayiah signed for to have the goods loaded on the trucks. We must ask whether it is realistic for a salesman like co-appellant Fayiah who has worked with the private prosecutor for more than four months prior to this incident to have taken charge of 3 trucks loaded with assorted goods without fully being aware of the value of the goods onboard? We think not.

The prosecution's first witness who is the administrative director of MANCO testified on the direct examination that the specific value of the goods which co-appellant Fayiah and his team took on the field was US\$106,427.00. He also testified that co-appellant signed invoices for the goods that were loaded in the trucks for distribution. On the cross examination, when asked whether co-appellant signed for the goods put into his care before his departure, witness Wolo replied thus:

“By our procedure as a company, Fayiah receives the invoices from the sales department and goes to the warehouse, the goods are delivered to him with the truck, he takes those invoices which is recorded in the ledger that I previously mentioned and he goes with the truck”

The witness further explained that the value of the goods is derived from the invoices issued which contained the quantity and the value of the goods that was taken along by co-appellant Fayiah who was the salesman.

Co-appellant Fayiah contends that assuming without admitting that he is found guilty of theft, he cannot be held to retribute any amount exceeding United States Eight Thousand One-Hundred and Ninety Dollars (US\$8,190.00) as the prosecution's seventh and ninth witnesses testified giving money \$7,400 and US\$780 respectively for goods delivered.

This Court says that the co-appellant Fayiah having failed to return any of the goods dispatched, he was responsible for the total amount of goods taken from the private prosecutor's warehouse; that he not having returned with the goods or cash for said goods he is liable for commission of the charge of thief.

A particular but very significant aspect of this case is the fact that immediately following the said criminal activity, the co-appellant went into hiding and on July 13, 2022, secured a flight on ASKY that was intended for Accra, Ghana. While in Ghana, prosecution witness stated that co-appellant Fayiah placed a phone call and provided conflicting stories about his whereabouts and even said that he was afraid of what Mr. Fadel, the private prosecutor's General Manager, would do to him if he returned. After spending a total of ten months in Ghana, he was brought back to Liberia with the assistance of Interpol to answer for the crime of theft.

Under our criminal jurisprudence and confirmed by Opinions of this Court, flight is an indication of consciousness of guilt in a criminal case because the urge to flee is a natural consequence of fear; and where a crime has been committed, fear proceeds from a mind clothed with responsibility or guilty knowledge; that it is also a strong presumption of guilt. *Corneh et al v. R.L.*, Supreme Court Opinion, March Term, August 13, 2014; *Jusu v. R.L.*, 34 LLR 291, 302 (1987). Why would co-appellant Fayiah flee when he had not done any wrong or committed any crime?

Compellingly, we see from the records that co-appellant Fayiah provided written statement at the police station where he was remanded for investigation. He admitted to the sale of the goods intended for delivery to customers and the distribution of the proceeds amongst his co-conspirators.

This statement, made in the presence of his lawyer, is quoted below:

“My name is Francis Saah Fayiah, I am a student of the United Methodist University. The Day we departed to Ganta, Kakata and Gbarnga, we took oil and chloride and soap and we decided to sell the goods and share the money. After the sales, the money we got was US\$61,000. We were rubbed of US\$19,000. We did not sell the goods for the correct amount.

1. Francis Saah Fayiah – US\$20,000
2. Bangalee Sheriff – US\$10,000
3. Josephus Hinneh – US\$10,000
4. Hasan Yousef – US\$8,000 (Was to be delivered by Christian Wleh)
5. Christian Wleh – US\$3,000
6. Joseph Momo – US\$10,000

Sign: _____

Francis S. Fayiah

0775974582/0886918809”

During the question-and-answer period of the investigation, co-appellant Fayiah answered to a question posed to him about the reason for fleeing the country and he stated, “I left the country because of fear and my friends even told me to leave because maybe, they never wanted to be caught; if they (private prosecutor) caught me, they might harm me.”

In count 9 of the co-appellant Fayiah’s bill of exceptions, he contended that the process leading to the obtainment of the statements from him at the police station violated his Miranda rights or constitutional rights, particularly as he did not understand all of his rights.

The records of the case, however, do not support this contention. A review of the police statement form shows a detailed description of the identity of co-appellant Fayiah as well as a well written narration of his rights, including the right to remain silent and not to admit to guilt, and that his silence will not be interpreted as an admission. Separate from the fact that it was all written in plain English, his lawyer, Attorney Anthony D. Kromah who was present at the investigation attested to the procedural process of his investigation and also signed the statement.

This statement of co-appellant Fayiah admitting to the commission of the crime is material and relevant. Criminal Procedure Law Rev. Code 2:21.4 on admissions, statements and confessions made by defendant as evidence, states that “any admission or statement, including a confession of guilt, made by a defendant during an interrogation, interview, examination, or other inquiry by a peace officer or other employee or representative of the Republic shall not be admissible in a criminal prosecution until it is established by the prosecution that it was made voluntarily, and that the rights to be accorded an accused set forth in section 2.2: 2, 3, 4 and 5; Section 2.3, and section 10.11 of this title have been complied with and that either legal counsel was made available to the defendant....”

As co-appellant Fayiah’s lawyer was present when he wrote his statement and he even signed the statement, this Court dismisses this claim in the bill of exceptions, holding that the statement was made voluntarily and was therefore an admission of the crime by Fayiah.

In his final ruling, the judge affirmed the verdict of guilty of criminal conspiracy to commit theft brought against the codefendants Sirleaf and Hinneh, and had them sentenced to six (6) months imprisonment.

The co-appellants contend that the police committed an error when they charged them based on the allegations made by co-appellant Fayiah that he gave them each US\$10,000 when they were not involved in any investigation.

Co-appellant Hinneh and Sheriff alleged in count 6 of their bill of exceptions that they were not investigated by the police, but arrested, indicted and brought directly to the court and tried.

This Court says that our criminal courts can assume jurisdiction by a writ of arrest or indictment brought before it. In a case where a matter is initiated by an investigation by the police, it is the investigation of the police and the findings thereof that normally leads to the determination of the charge and the court to which the charge is cognizable. Our criminal jurisprudence does not require that criminal cases commence with police investigation. Criminal Procedure Law, Rev. Code 2, Part 2: 10:10.6 requires a warrant issued by a court for the arrest of a person accused of an offense a) upon the filing of an indictment, or b) when a complaint is preferred before a magistrate or justice of the peace charging that an offense has been committed and it appears from the contents of the charge and examination, under oath or affirmation, of the complainant or other witnesses, if any, that there is reasonable ground to believe that an offense has been committed and that the person against whom the complaint was made has committed the offense.

This Court has however held that an issue of fact is not to be determined merely by the number of witnesses testifying in support or in contradiction of it, but a greater weight and sufficiency of evidence may be established by a single witness as against a greater number of witnesses who testify to the contrary, and that a jury's verdict is conclusive as the jurors are the triers of the facts, they give weight and credibility to a witness or set of witnesses' testimonies in determining the guilt or innocence of an accused brought and tried before said jury in a criminal case, and unless the verdict is manifestly and palpably against the weight of evidence, courts of justice ought not to set aside a jury verdict. *Liberian Oil Refinery Company v. Mahmoud*, 21 LLR 201, 213 – 214; *Fatorma v. Republic*, Supreme Court Opinion, October Term A. D 2010; *Haider v. Kassas*, 20 LLR 324, 329 (1971). This Court says therefore that it will not disturb the guilty verdict of the jury and the ruling of the lower court confirming same.

WHEREFORE AND IN VIEW OF THE FOREGOING, the judgment of trial Court against the appellants is affirmed. The Clerk of this Court is ordered to send a mandate to the lower court to resume jurisdiction over the case and give effect to the judgment of this Opinion. And it is hereby so ordered.

WHEN THIS CASE WAS CALLED FOR HEARING, THE MINISTRY OF JUSTICE APPEARED FOR THE STATE. COUNSELOR J. AUGUSTINE TOE OF THE LAW OFFICES OF SAYEH AND SAYEH APPEARED FOR THE CO-APPELLANT FRANCIS SAAH FAYIAH. COUNSELOR JAMES N. KUMEH OF THE PEARSON LEGAL CONSULTANCY CHAMBER APPEARED FOR CO-APPELLANTS BANGALEE SHERIFF AND JOSEPHUS HINNEH.