

PRINCE POPO, Appellant, vs. **THE REPUBLIC OF LIBERIA**, Appellee.

LRSC 6; 1 LLR 305

[January Term, A. D. 1897.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

False Imprisonment.

A motion in arrest of judgment for legal defects upon the face of an indictment may be made before the rendition of final judgment whether a demurrer was previously made or not; a defective indictment on material points is not aided by the verdict, as in civil suits the declaration might be.

This case is an appeal from the several rulings and final judgment of the Court of Quarter Sessions and Common Pleas, Montserrado County, in the above case. In the bill of exceptions, the appellant thinks the court below erred in not sustaining the motion in arrest of judgment. From the record this court discovers that the Grand Jury for Montserrado County, at the June term of said court, A. D. 1896, indicted one Prince Popo for false imprisonment, and after a verdict of guilty was rendered against the prisoner, a new trial was prayed for by the prisoner's attorney and denied by the judge of the court below. The prisoner then motioned for an arrest of judgment and in said motion disclosed his real line of defence, which was for insufficiency in stating the time in the indictment. The ruling of the court below on the motion states that the time is not the essence of the offence, and therefore immaterial.

It is much to be regretted that the learned judge stopped so short and did not proceed with his research from the same authority, i. e., Blackstone's Commentaries. That honored authority says: "But when he, the prisoner, appears in person either for a capital or inferior conviction, he may at this period, as well as at his arraignment, offer any exception to the indictment, in arrest of judgment, as for want of sufficient certainty in setting forth either the person, the time, the place, or the offence, and therefore a defective indictment is not aided by a verdict as defective pleadings are in civil cases." In examining the evidence for the State this court finds that none of the State's witnesses gave any date or even an approximate date when the offence is said to have been committed.

In all democratic governments the rights and liberties of citizens should be respected with scrupulous certainty. We do not mean the license of the noble called liberty, but the liberty

we inherit from our Magna Charta, is e., the provisions bequeathed to us by our fathers in the entire second section of the Bill of Rights. Therefore, this court is of opinion that the court erred in not sustaining the motion in arrest of judgment.

It is therefore the judgment of this court that the judgment of the court below be reversed; and further, it is ordered that the clerk of this court issue a mandate to the court below to the effect of this judgment.