

**Case Summary****The Suai District Court****December 2018**

Affirmation: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution. JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

A. Summary of the trial process at the Suai District Court**1. Total cases monitored by JSMP : 18**

Article	Case Type	Number of cases
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence and Article 36 on domestic violence as a public crime)	2
Article 177 of the PC	Sexual abuse of a minor	1
Article 172 of the PC	Aggravated rape	1
Articles 23, 24, 139 (g) (PC) and Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Attempt, punish ability of attempt for the crime of aggravated homicide characterized as domestic violence	1
Article 138 of the PC	Homicide	1
Articles 23 and 138 of the Penal Code	Attempted homicide	1
Article 251 of the PC	Larceny	1
Article 259 of the PC	Aggravated property damage	1

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Article 316 of the PC	Smuggling	2
Article 145 of the PC	Simple offences against physical integrity	7
Total		18

2. Total decisions monitored by JSMP: 10

Type of penalty	Number of cases
Prison sentence	1
Suspension of execution of a prison sentence (Article 68 of the PC)	2
Fine (Article 67 of the PC)	1
Validated withdrawal of complaint (Article 262 of the CPC)	5
Acquitted	1
Total	10

3. Total cases adjourned based on JSMP monitoring: 5

Reason for adjournment	Number of cases
Prison transport vehicle not working	1
No fuel for prison transport vehicle	1
The defendant was absent	3
Total	5

4. Total ongoing cases based on JSMP monitoring: 3

B. Descriptive summary of decisions handed down in cases monitored by JSMP:

1. Crime of simple offences against physical integrity

Case No. : 0011/15.MFMMFI
Composition of the Court : Single judge
Judge : Nasson Sarmento
Prosecutor : Napoleão Soares da Silva
Public Defender : Manuel Amaral
Type of penalty : Validating withdrawal of complaint

On 3 December 2018 the Suai District Court attempted conciliation in a case of simple offence against physical integrity involving Arry Worang and the victim João Nunes Gonzaga who was

an employee at the My Friend Shop in Kotalala Sub-Village, Letefoho Village, Same Sub-District, Manufahi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 July 2015 at 3am in front of the My Friend Shop the defendant punched the victim twice in the vicinity of his left eye. As a consequence of this assault the victim suffered swelling and bruising to his eye. The victim received treatment at the Manufahi Referral Hospital. Previously the defendant and the victim had a problem.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the victim wanted to withdraw the complaint on the condition that the defendant would apologise to the victim, and promise not to commit any other crimes in the future. The defendant agreed with this request and immediately apologised to the victim in court. The defendant also stated that he regretted his actions and promised not to commit any further crimes against victim or other person in the future.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

2. Crime of aggravated larceny

Case No.	: 0006/14.MFMMFI
Composition of the Court	: Panel
Judges	: Florensia Freitas, Nasson Sarmiento and Samuel da Costa Pacheco
Prosecutor	: Matias Soares
Public Defender	: Albino de Jesus Pereira
Type of penalty	: 3 years in prison, suspended for 4 years

On 3 December 2018 the Suai District Court announced its decision in a case of aggravated property damage involving the defendants Pedro de Jesus Barbosa and Eldito da Costa, who allegedly committed the crime against the Municipal Administration, in Holarua Village, Same Sub-District, Manufahi District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 4 April 2014 the two defendants threw stones at the Manufahi Municipal Administration building which smashed a window and a sheet of corrugated iron at the Office of the Administrator was dented. After throwing stones the two defendants ran away and left behind a shirt and a piece of reinforced steel bar that was 12 metres long.

The prosecutor alleged that the defendants violated Article 259.1(a) of the Penal Code on aggravated property damage relating to a building for public use which carries a prison sentence of 2-8 years.

Presentation of evidence

During the trial the defendants completely confessed to the facts charged by the prosecutor and stated that they were willing to repair the damage. The defendants added that they stoned the building because they wanted to work as security guards at this office, but the vacancies for security guards were not yet available. The defendants also stated that they regretted their actions and were first time offenders. The defendants promised not to reoffend in the future.

Zakeu Marcal, who is a security guard representing the Manufahi Municipality authority, as the affected party in this case, reinforced the facts set out in the indictment of the prosecutor.

The witness João da Costa Oliveira, who is a security guard at the Manufahi Municipal Administration building, testified that at the time of the incident he had gone to eat a meal at his house which is near the Municipality building and the security guard Zakeu Marcal was at the building. At 12 midnight the security guard Zakeu heard the sound of a rock hitting the corrugated iron at the municipal office and he passed on this information to the witness. Then at 2am, the sound was heard again, so the witness left his home and walked along the base of the wall at the building and then climbed up on top of the wall.

When the witness was on top of the wall he shined his torch and saw the two defendants throwing stones at the building. The defendants were surprised and tried to hide but the witness kept the light on them and said *“I see that it is the two of you that threw the rocks, wait until tomorrow and I will report it to the police”*. When they heard the witness the two defendants ran away and left a shirt and a reinforced steel bar that had been used to build the Manufahi Municipal Administration building.

Final recommendations

The prosecutor stated that the facts set out in the indictment were proven because the defendants confessed to their actions and the witness also testified that he saw them when they were throwing stones at the building. For this reason the prosecutor requested for the court to impose a prison sentence of 3 years and six months, suspended for 5 years against the defendants.

The public defender requested for the court to impose a fair and adequate penalty against the defendants because they collaborated with the court, confessed, and regretted their actions. Also, they were first time offenders and were willing to pay for the damage caused and promised not to reoffend in the future.

Decision

After evaluating all of the facts, the court found that the defendants committed the crime of aggravated property damage by throwing stones and smashing a window and denting corrugated iron at the Manufahi Municipal Administration building. The court told the two defendants that this was a public building and provided a public service. Therefore, they were told not to repeat such acts in the future. Based on these considerations and findings, the court sentenced the defendants to 3 years in prison, suspended for 4 years.

3. Crime of simple offences against physical integrity

Case No.	: 0100/16.PDSUA
Composition of the Court	: Single judge
Judge	: Florencia Freitas
Prosecutor	: Napoleão Soares da Silva
Public Defender	: Fransisco Caetano Martins
Type of penalty	: Validating withdrawal of complaint

On 3 December 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Natalino da Costa, a member of the PNTL, who allegedly committed the offence against the victim Jacinto Tomás da Costa, in Suai Sub-District, Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 19 July 2016, next to the Tafara river, the defendant slapped the victim once across the face and put his hands on his hips and said to the victim *“Lucky that there are a lot of people, otherwise I would shoot you with my pistol”*. Then, Anito Conceição, who is a member of the OPS Police (Village Level Police) who was together with the defendant, pulled the defendant away from the victim. This offence caused the victim to suffer swelling and bleeding from his mouth and he fainted.

Before the assault the victim had killed a buffalo bull that had eaten the victim's corn in his plantation. After killing the buffalo the victim called the owner to resolve this problem at the victim's house. While they were resolving this problem, Anito Conceição, who is an OPS police officer, and the defendant, who is a member of the PNTL, were also present. When the victim and the owner of the buffalo were talking about this problem the defendant suddenly slapped the victim from behind.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim wanted to withdraw the complaint because previously the victim and the defendant resolved the issue in accordance with East Timorese cultural practices. However, in court the defendant apologised to the victim and promised not to reoffend in the future against the victim or other person.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case No.	: 0059/17.BBMLV
Composition of the Court	: Single judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Matias Soares
Public Defender	: Albano Maia (private lawyer)
Type of penalty	: 2 years in prison, suspended for 3 years

On 10 December 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RBV who allegedly committed the offence against his wife in Bobonaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 6 July 2017 the victim accepted an invitation from her colleague to go and cook for a PLP political party campaign. The victim told the defendant, but the defendant told the victim to cook some food, so the victim did not go. On the same day the victim was watching television at a neighbour's house and when she returned and was entering the house the defendant arrived home. The defendant got off his motorcycle and grabbed the victim by the blouse and pulled her inside the house. The defendant squeezed the victim on the cheek and took his motorcycle keys and struck the victim once on the left side of her head and caused an injury.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant partially confessed to the facts set out in the indictment that he took the motorcycle key and struck the victim on the head but he said he pushed the victim in the head. The defendant confessed to the other facts. The defendant stated that he regretted his actions and promised not to reoffend in the future.

The victim maintained and reinforced the facts set out in the indictment of the prosecutor and said she has reconciled with the defendant and she added that the defendant is the sole breadwinner of the family.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the corroboration of the victim. For this reason he requested for the court to impose a prison sentence of 1 year, suspended for 4 years. The public prosecutor stated that the penalty is a way of deterring the defendant from committing other acts in the future.

The public defender requested for the court to apply a fair and appropriate punishment against the defendant, because the defendant collaborated with the court, regretted his actions and promised not to reoffend against the victim in the future.

Decision

Based on the statement of the victim, the partial confession of the defendant and documentary evidence in the form of a medical report, the court found that the defendant committed the crime against the victim based on the facts set out in the indictment of the prosecutor. For this reason

the court concluded the matter and imposed a prison sentence of 2 years, suspended for 3 years against the defendant.

5. Crime of aggravated sexual abuse of a minor

Case No. : 0024 /17.ANANV
Composition of the Court : Panel
Judges : Álvaro Maria Freitas, Argentino Luisa Nunes and Benjamin Barros
Prosecutor : Matias Soares
Public Defender : Albino de Jesus Pereira
Type of decision : 7 years in prison

On 12 December 2018 the Suai District Court announced its decision in a case of aggravated sexual abuse of a minor involving the defendant AM who allegedly committed the offence against his sister in law, who had just turned 13 in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 24 April 2017 the victim went to visit her older sister and when the victim was studying in the guest room the defendant grabbed her and squeezed her breasts and pulled her by the arm into the bedroom. In the bedroom the defendant removed the victim's clothing and his own clothing and rubbed his genitals on the victim's vagina and stomach until he ejaculated. The defendant threatened to kill the victim if she informed her family about this incident.

Then on an unspecified day and date in 2017 the defendant grabbed the right breast of the victim in a plantation and asked the victim “Do you still remember what happened that time?” The victim pulled away from the defendant and immediately told her family about this incident.

The prosecutor charged the defendant for violating Article 177.2 of the Penal Code on the sexual abuse of a minor that carries a penalty between 5-15 years in prison for engaging in a sexual act with a child under the age of 14 and for violating Article 182 of the Penal Code on aggravation because the victim was under 14 years of age.

Presentation of evidence

During the trial the defendant confessed that he committed the acts as alleged in the indictment and stated that they have resolved this problem in accordance with East Timorese culture. The defendant gave one *belak* (traditional necklace), one *tais* (traditional cloth) and US\$200 cash to the victim and her family. The defendant also stated that he regretted his actions and was a first time offender. The defendant promised not to reoffend in the future.

In addition, the victim reinforced the facts set out in the indictment and confirmed the statement of the defendant that this case has been resolved in accordance with East Timorese culture and the defendant compensated the victim as he stated.

The witness CM who is the victim's aunty testified that she did not witness the incident but she was told by the victim. Therefore the witness took the victim to make a complaint to the police.

Final recommendations

Based on the statements of the defendant and the victim, the public prosecutor stated that the defendant had been proven guilty of committing the crime of sexual abuse against the victim. Based on these considerations, the public prosecutor requested for the court to impose a prison sentence of ten years against the defendant.

The public defender requested for the court to apply a fair and appropriate punishment against the defendant, because the defendant confessed, regretted his actions and promised not to reoffend against the victim in the future.

Decision

After evaluating the facts in this case, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the testimony of the defendant and victim, as well as the medical report, the court found that there were marks on the victim's genitals and that this case had already been resolved by the two parties, so the court concluded this case and sentenced the defendant to seven years in prison.

6. Crime of simple offences against physical integrity

Case No.	: 0061/18.PDSUA
Composition of the Court	: Single judge
Judge	: Samuel da Costa Pacheco
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Albino de Jesus Pereira
Type of penalty	: Validating withdrawal of complaint

On 13 December 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Moises de Jesus and the defendants Filomena de Jesus, Teresa de Jesus and Vitoria de Jesus (siblings) and the victims Delfina de Jesus and Veronica de Jesus Mendonsa (sisters) who are the cousins of the defendants, and Maria de Jesus (the victims' mother) who is the aunty of the defendants, in Camenasa Village, Suai Sub-District, Covalima District.

Charges of the Public Prosecutor

The prosecutor alleged that on 22 March 2018 at 12pm the victims saw the defendants burn a hut in a plantation belonging to the victims' mother (Maria de Jesus), because they did not want the

victims' mother to work the plantation on that land, so the victims and the defendants had an argument. During this argument the defendants Teresa de Jesus and Vitoria de Jesus pulled the hair of the victims Delfina de Jesus and Veronica de Jesus Mendonsa. The defendant Moises de Jesus pushed the two victims who fell to the ground. Then the defendants shoved the victim Maria de Jesus and she fell to the ground and ripped her clothing.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendants and victims.

During the attempted conciliation the defendants apologised to the victims, and stated that they regretted their actions. The defendants regretted their actions and promised not to commit any further crimes against victims or other person in the future. The victims accepted the apology from the defendants and wished to withdraw their complaint.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victims to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

7. Crime of simple offences against physical integrity

Case No.	: 0014/18.PDSUA
Composition of the Court	: Single judge
Judge	: Nasson Sarmiento
Prosecutor	: Napoleão Soares da Silva
Public Defender	: Escolástico da C. N Maia (private lawyer)
Type of penalty	: Validating withdrawal of complaint

On 14 December 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendants Joeder Alexander Roimiranda Qhirby and Duarte Agostinho Amaral and the victim Agostinho Amaral who is the boyfriend of the defendants' sister, that allegedly occurred in Tilomar Sub-District, Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 January 2018, at 7.30pm, the victim and his girlfriend were sitting inside the bedroom of the victim's girlfriend. Suddenly the defendant Duarte Agostinho Amaral went into the bedroom and punched the victim four times in the face near his left eyebrow and caused an injury and heavy bleeding.

Then the defendants' father (Marcos) contacted the defendant Joeder Alexander Roimiranda Qhirby and asked him to come home. When he arrived home the defendants' father said to the defendant Joeder “this person's parents live in Indonesia, if you see him, just hit him”. Upon hearing his father's statement the defendant Joeder punched the victim many times in the face, head and stomach and he grabbed the victim by the head and threw him on the ground. The defendant also stomped on the victim's chest with both feet and caused severe pain and the victim had to be treated at the Suai Hospital.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendants and the victim.

During this attempted conciliation the defendants apologised to the victim and expressed regret for their wrongdoing. The defendants regretted their actions and promised not to commit any further crimes against the victim or other person in the future. Therefore, the victim wanted to withdraw the complaint.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victims to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

8. Crime of simple offences against physical integrity

Case No.	: 0014/17.PDSUA
Composition of the Court	: Single judge
Judge	: Samuel da Costa Pacheco
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Albino de Jesus Pereira
Type of penalty	: Validating withdrawal of complaint

On 18 December 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendants, Américo da Silva do Nascimento, Domingos da Cruz (members of PNTL), and the victim Cipriano Asuk, in Aidila Laran, Debos Village, Suai Sub-District, Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 December 2016, at 9pm, the victim was sitting in his house together with three friends. Not long after stones were thrown at the house belonging to Mr. Alfredo (recently built), which was located approximately five metres from the house of the victim. Then a worker (José Cardoso) who was staying at that house came outside, approached the victim and swore at him and asked if the victim had thrown stones at the house. This worker also took a piece of wood and was going to strike the victim but a neighbour separated them.

Not long after that some police officers arrived in a patrol car at the scene of the incident, including the two defendants, and the defendant Américo punched the victim once in the forehead and took his baton and struck the victim in the stomach. Meanwhile the defendant Domingos slapped the victim once on his left cheek and punched the victim once on the left side of the face. These acts caused the victim to suffer severe pain and swelling to his forehead, and severe pain to his stomach and the victim lost control of his bowels. The victim was treated at the Suai Hospital and purchased medicine US\$ 10.00 at a chemist.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendants and the victim.

During this attempted conciliation, the court requested for the defendants to pay US\$100 for the victim's suffering. However, the victim did not want the money and just requested for the defendants not to repeat their actions in the future. The defendants agreed with the request of the victim and the defendants apologised to the victim. The defendants also stated that they regretted their actions and promised not to repeat such crimes in the future against the victim or anyone else.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

9. Crime of smuggling

Case No. : 0016/16.BBBGD
Composition of the Court : Panel
Judges : Benjamin Barros, Samuel da Costa Pacheco and Nasson Sarmiento
Prosecutor : Matias Soares
Public Defender : Albano Maia (private lawyer)
Type of penalty : Fine of US\$ 60.00

On 27 December 2018 the Suai District Court announced its ruling in a case of smuggling involving the defendant Silvester Mau who allegedly committed the offence against the State of Timor-Leste, in Tilomar Sub-District, Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 9 July 2018, at 6am, the defendant brought in 4 jerry cans of petrol, and each jerry can contained 35 litres. Each jerry can was purchased by the defendant for the price of US\$25, totalling US\$100. The defendant brought the petrol into the territory of Timor-Leste through Betun, Malaka, Indonesia and he was apprehended by members of the PNTL-UPF who were conducting a patrol and monitoring illegal activities along the border area, in Motamasin, Tilomar Sub-District.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison.

Presentation of evidence

During the trial, the defendant completely confessed to the facts set out in the indictment of the prosecutor and stated that he purchased the petrol from an Indonesian person, but it was purchased in the area of Timor-Leste and he was arrested when he was carrying the petrol. The defendant also stated that he purchased this petrol with the aim of reselling it to pay for his children's' schooling.

Final recommendations

The prosecutor stated that the defendant was guilty of illegally bringing petrol into Timor-Leste, and therefore the prosecutor requested for the court to impose a suspended sentence of three years imprisonment and two months. In addition, there was a request for the confiscated petrol to be given to the State.

The public defender stated that the defendant purchased this petrol in the area of Timor-Leste and he purchased it for resale so he could pay for his children's schooling. Therefore the public defender requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts the court found the defendant guilty of committing the crime of smuggling because he illegally brought 140 litres of petrol into Timor-Leste. Based on this evidence, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60 to be paid in daily instalments of \$ 1.00 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

10. Crime of aggravated rape

Case No. : 0184/16.PDSUA
Composition of the Court : Panel
Judges : Samuel da Costa Pacheco, Nasson Sarmento and Benjamin Barros
Prosecutor : Matias Soares
Public Defender : Escolástico da C. N Maia (private lawyer)
Type of penalty : Acquitted

On 27 December 2018 the Suai District Court announced its ruling in a case of aggravated rape involving the defendant APM who allegedly committed the offence against his friend aged 16, in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on September 2015, whilst a fair that was taking place at the stadium, the defendant dragged the victim behind the stadium into the bushes and threatened to kill the victim and forced the victim to have sexual intercourse. The defendant removed the victim's clothes and his own clothes, lay the victim on his jacket and had sexual intercourse with the victim until he ejaculated. The victim suffered heavy bleeding from her vagina. After the sexual intercourse the defendant threatened the victim not to tell her family. However, the victim told her aunty about the incident.

One week later the victim went to collect some dried wood from a café plantation and encountered the defendant. The defendant took the pile of wood from the victim's head and had sexual intercourse with the victim until he ejaculated. Before having sexual intercourse the defendant also threatened to kill the victim if she refused to have sexual intercourse with him. Also, after the sexual intercourse the defendant threatened the victim not to tell her family. As a result of these acts the victim became pregnant.

When the family found out that the victim was pregnant they asked who the father was and the victim said it was the defendant. During her pregnancy and up until she gave birth on 8 August 2016 (the baby could not be saved) the defendant did not look after the victim so she made a complaint to the police.

The prosecutor accused the defendant of violating Article 172 of the Penal Code on rape and Article 173 of the Penal Code on aggravation that carries a prison term of 5-20 years in prison.

Presentation of evidence

During the trial the defendant acknowledged that he had sexual intercourse with the victim but said it was based on the victim's consent. The defendant added that during the first incident the defendant went to urinate and suddenly the victim hugged him from behind and grabbed his hand. Therefore the defendant asked the victim to have sexual intercourse and the victim wanted to. At that time the defendant was drunk. During the second incident the defendant stated that that the sexual intercourse also happened because the victim gave consent.

Also, the victim stated that the defendant did not threaten her and did not force the victim to have sexual intercourse because the victim also agreed to have sexual intercourse with the defendant. However, the victim stated that the defendant did not drink alcohol and he was not drunk.

Final recommendations

The public prosecutor stated that even though the defendant and the victim stated that this incident was based on mutual consent, the prosecutor maintained the facts set out in the indictment, and requested for the court to convict the defendant pursuant to the provision of Article 173 of the Penal Code.

The public defender requested for the court to acquit the defendant from this crime because the sexual intercourse was based on the victim's consent. The public defender stated that the actions of the defendant did not fulfil the requirements of the crime of rape.

Decision

After evaluating all of the facts, the court decided that the incidents occurred based on the consent of the defendant and the victim. The court did not find evidence that the defendant threatened or forced the victim to have sexual intercourse. Based on these considerations the court acquitted the defendant from the charges of the prosecutor.

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