



Case Summary

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Summary of the trial process at the Dili District Court November 2012

Introduction

In November 2012 JSMP continued its normal monitoring activities at the Dili District Court.

For approximately one month JSMP observed 11 cases, which were all criminal in nature. These cases comprised: 3 cases of domestic violence, 1 case of aggravated murder, 2 cases of ordinary maltreatment, 1 case of serious maltreatment, 1 case of attempted murder, 2 cases involving the crime of corruption, falsification of documents and fraud as well as 1 case involving the sexual abuse of a minor.

Just like previous editions, this summary aims to disseminate information about the trial process at the Dili District Court during November 2012.

The following information provides a summary of cases tried:

1. Domestic Violence, Case No. 413/C.Ord/2012/TDD

On 5 November 2012 the Dili District Court conducted a trial in a case of domestic violence involving the defendant ADC who allegedly committed the crime against FG (his wife). This incident allegedly occurred on 18 October 2011, in Mascarenhas Village, Balide, Dili.

This case was presided over by judge António do Carmo. The Public Prosecution Unit was represented by Nelson de Carvalho, and the defendant was represented by Emilio Marques who was appointed by the court.

The public prosecutor stated in his indictment that on 18 October 2011 at approximately 8pm the defendant wanted to exchange some money with the victim; however the victim did not do so. Therefore, the defendant became angry and struck the victim. The defendant threw the victim to

the ground and took a hammer and hit the victim on the back part of her body. This action caused the victim to suffer an injury to her knee and swelling to the back part of her body.

Before the court the defendant and the victim corroborated the facts that were contained in the indictment of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to issue an admonishment against the defendant, while the lawyer for the defendant requested for the court to hand down the fairest punishment possible against the defendant.

The trial was scheduled to continue on 15 November 2012 at 10 am.

2. Crime of aggravated murder, Case No. 388/C.Ord/2012/TDD

On 6 November the Dili District Court read out its decision in a case of aggravated murder that was registered as Case No. 388/C.ord/2012/TDD. This case involved the defendant Maria de Lourdes who allegedly committed the crime against the deceased Damião Soares who was a member of F-FDTL (*Falintil – Forças Defesa de Timor-Leste*) and the husband of the defendant.

The hearing to read out the decision was led by judge José Maria de Araújo. The Public Prosecution Service was represented by Domingos Barreto and the defendant was represented by public defender Marçia Sarmiento.

This incident allegedly occurred on 25 November 2011 in Comoro Village, Don Aleixo Sub-District, Dili District.

After considering all of the evidence the court found that the defendant guilty of being the main perpetrator who committed the aggravated murder of her husband. The defendant carried out the act by stabbing the victim in the chest which caused the victim to die immediately at the scene of the crime.

Based on the aforementioned facts the court sentenced the defendant to 15 years imprisonment in accordance with Articles 2 and 35 of the Law Against Domestic Violence as well as Article 139 (g) of the Penal Code.

3. Crime of simple offence against physical integrity, No. 687/C.Ord/2011/TDD

Then on 6 November 2012 the Dili District Court conducted a hearing in a case involving a simple offence against physical integrity committed by the defendant GXB against the victim MERP. This incident allegedly occurred on 10 June 2011 in Bedois, Becora, Dili.

The indictment stated that the two parties quarreled because the defendant disposed of nappies in the yard/plantation of the victim; however the defendant claimed that the victim had disposed of the nappies in the plantation of the defendant. Therefore, they quarreled and the defendant pulled the victim by the arm and the victim fell down the stairs and then the defendant squeezed the arm of the victim and choked the victim.

In response to being attacked by the defendant, the victim took a small stone and hit the defendant in the forehead twice causing the defendant to suffer an injury and a lot of bleeding. At

that time the defendant shouted and their neighbor JDC came over and tried to separate them, however the neighbor was unable to do so. This incident also caused the victim to suffer a sprained wrist.

Before the court, the defendant stated that at that time the defendant and the victim were arguing about dirty nappies; however the victim threw the nappy in the defendant's face.

Then the defendant took the dirty nappy and went to the plantation of the victim, however suddenly the victim threw a rock at the defendant and hurt the ear of the defendant and the victim also used a rock to hit the defendant in the forehead.

The victim suffered a sprained wrist and the defendant stated that at that time the defendant was holding the arm of the victim to prevent the victim from further injuring the defendant. However because the victim tried to break free from the defendant's grip the victim suffered a sprained wrist.

Then on 21 November 2012 the court conducted a hearing to hear testimony from the witness JDC.

In his testimony, the witness stated that at that time the witness heard the defendant shouting so the witness approached them and saw that they were pushing each other. At that time the witness saw the defendant bleeding from the forehead; however the witness did not see who did it.

In his final recommendations the public prosecutor requested for the court to carefully consider the matter because the defendant had suffered an injury and had lost a lot of blood.

The public prosecutor also requested for the court to take into account the money spent by the victim for treatment in hospital.

The trial was adjourned until 6 December 2012.

4. Crime of Serious Offence against Physical Integrity, Case No. 1356/C.Ord/2012/TDD

On 7 November 2012 the Dili District Court conducted a trial in a case involving serious offence against physical integrity which was registered as Case No. 1356/C.Ord/ 2012/TDD. This case involved the defendant AdC who allegedly committed the crime against the victim FM. This incident allegedly occurred on 21 May 2011, in Kaikoli, Vera-Cruz Sub-District, Dili District.

The trial was presided over by a panel of judges comprising Edite Palmira (presiding judge), António Gomes and Jose Maria de Araújo. The Public Prosecution service was represented by Mateus Nessi and the defendant was represented by public defender Manuel Exposto.

The hearing commenced with the reading out of the charges by the public prosecutor. The indictment stated that on 21 May 2011 the defendant threw the victim to the ground and then bit the right ear of the victim and severed the victim's ear. This incident allegedly occurred because the victim abused the defendant with inappropriate words and stated that the defendant was a liar and was occupying land that belonged to the victim.

In relation to this incident the public prosecutor charged the defendant with Article 146 of the Penal Code regarding serious offences against physical integrity.

During the trial the defendant testified that before they had started pushing each other the victim had hit the defendant. In addition, the defendant testified that a dog had bit the ear of the victim whilst the victim was unconscious.

After hearing testimony from the defendant and the victim, the court announced that the trial would be adjourned until 21 November 2012 at 9.30am to hear testimony from witnesses.

5. Domestic Violence, Case No. 0386/C.Ord/2012/TDD

On 8 November 2012 the Dili District Court conducted a hearing in a case involving domestic violence which was registered as Case No. 0386/C.Ord/2011/TDD. This case involved the defendant JdC and the victim JH. This case allegedly occurred in July 2011 in Pantai Kelapa, Don Aleixo Sub-District, Dili District.

The trial was presided over by single judge Edite Palmira. The Public Prosecution service was represented by Angelina Saldanha and the lawyer for the defendant was public defender Manuel Exposto.

The indictment stated that in 2011 at approximately 2am the defendant committed violence against the victim by punching the victim in the forehead and kicking the victim in the back. These acts caused the victim to suffer injury and swelling. The incident occurred because the victim suspected the defendant of having a relationship with another woman.

In relation to this incident the public prosecutor charged the defendant with Article 145 of the Penal Code as well as Article 35 of the Law Against Domestic Violence.

During the trial the defendant corroborated the facts as charged. The victim also testified that the defendant had indeed committed the aforementioned acts, however after the incident the victim had forgiven the defendant and until now there had been no further problems.

In the indictment the public prosecutor requested for the court to hand down a prison sentence of 6 months, to be suspended for 3 years.

The lawyer for the defendant requested for the court to hand down a fine against the defendant because the defendant had admitted all of the facts relating to this case and they had reconciled. In addition, the defendant was the head of the family and the breadwinner who has three children.

The hearing to announce the decision will be held on 23 November 2012 at 4.30pm.

6. Crime of Attempted Murder, Case No. 426/C.Ord/2009/TDD

On 9 November 2012 the Dili District Court conducted a trial in a case involving the crime of attempted murder which was registered as Case No. 426/C.Ord/2009/TDD. This case involved the defendant JS and the victim DCS and allegedly occurred on 10 November 2009 in Fatumeta, Don Aleixo Sub-District, Dili.

The trial was presided over by a panel of judges comprising Antonio Gomes, Ana Paula Fonseca and Edite Palmira. The Public Prosecution Service was represented by Remizia de Fatima, and the defendant was represented by public defender Cancio Xavier.

The indictment of the public prosecutor stated that on 10 November 2009, at approximately 8pm the defendant and the victim were drinking rice wine. When they were drunk the defendant stabbed the victim in the chest causing serious injury. The victim was then taken to the Guido Valadares National Hospital and received treatment for three weeks.

The public prosecutor charged the defendant with Articles 24 and Article 138 of the Timor-Leste Penal Code regarding the crime of attempted murder.

During the trial the defendant corroborated the charges of the public prosecutor. The victim also stated that the defendant had stabbed the victim when they were heavily drunk. However after the incident they reconciled and were living together as behaving like normal cousins.

In his final recommendations the public prosecutor requested for the court to hand down a fair punishment against the defendant to educate the defendant and all of society that this act was a crime within the legal framework of Timor-Leste.

The lawyer for the defendant requested for the court to hand down a fair punishment against the defendant because this case allegedly occurred when they were drunk. In addition they have already reconciled and no other problem has occurred between the two parties.

The hearing to announce the decision will take place on 19 November 2012.

7. Crime of corruption, falsification of documents and fraud, Case No. 204/C.Ord/2012/TDD^[1]

Also on 9 November 2012 the Dili District Court continued a trial of a case involving corruption, falsification of documents and fraud which was registered as Case No. 204/C.Ord/2012/TDD. This case involved the two defendants FdJS and AdCG who were suspected of committing the crimes between 2008 and 2009.

A panel of judges comprising José Maria de Araújo, António Gomes and Edite Palmira presided over this trial. The Public Prosecutor Service was represented by José Ximenes and the defendant was represented by public defenders Fernando de Carvalho and Jaime Leite (international).

The trial continued with the examination of witness testimony. The witness CX at that time was part of a logistics team and this witness stated that the IT equipment provided by the company was complete; however four computers and a laptop were not working. The witness tried to contact the company supplying the aforementioned equipment, but the defendant did not give permission.

^[1] Refer to a Press Release dated 19 September 2012 entitled “Dili District Court tries case involving the crime of corruption, falsification of documents and fraud, as well as Case Summary - Setembro 2012, 8 October 2012 on the JSMP Website: www.jsmp.tl

In relation to the rehabilitation of the corridor and bathroom, the witness CX testified that the tender process for the provision of materials did not go through the procurement department.

In addition, the witness JSL testified that he did not have information about the Alegna Supplier Ltd Company which was awarded the contract. The witness stated that the defendant had intervened so that the Alegna Company would win the tender. The witness explained that the defendant's justification was to help develop local entrepreneurs.

The trial will continue on 20 November 2012.

8. Crime of sexual abuse of a minor, Case No. 839/C.Ord/2011/TDD

Also on 9 November 2012 the Dili District Court conducted a hearing to read out its final decision in a case involving the defendant Salvador Lopes and the victim RL who is still underage. This case allegedly occurred in 2007, in Fatumeta, Dili.

The hearing to announce the final decision was led by António do Carmo. The Public Prosecution service was represented by Jose Ximenes, and the defendant was represented by public defender Canção Xavier.

The court concluded that based on the facts revealed during the trial the two parties had consensual sexual intercourse without any threats from the defendant. At that time the victim's physical appearance did not show that she was aged 13.

Therefore the court had sufficient evidence that the defendant had not committed sexual violence against the victim, so the court acquitted the defendant from all charges.

9. Crime of simple offence against physical integrity, Case No. 316/C.Ord/2012/TDD

On 13 November 2012 the Dili District Court read out its final decision in a case of simple offence against physical integrity involving the defendants Pedro and Gaspar who allegedly committed the crime against the victim Placio de Araujo da Costa. This incident allegedly occurred on 9 October 2011, in Ermera.

The hearing to announce the decision was led by single judge Ana Paula Fonseca. The Public Prosecution Service was represented by Nelson de Carvalho, and the defendant was represented by trainee lawyer Ermegildo.

The two defendants were charged with committing the crime of assault against the victim, as set out in Article 145 of the Penal Code.

During the examination phase of the trial the defendant Pedro rejected all charges leveled against him. Therefore, the court decided to sentence the defendant Gaspar to 1 year and 6 months imprisonment, to be suspended for four years. The defendant Pedro was acquitted by the court.

10. Crime of abuse of power, passive corruption for an unlawful act, extortion and continuous crimes, Case No. 403/C.Ord/2012/TDD

On 14 November 2012 the Dili District Court conducted a hearing in a case involving the abuse of power, passive corruption for an unlawful act, extortion and continuous crimes that were allegedly committed by the defendant LD (former Sub-District Administrator of Liquidoe). This case allegedly occurred in 2010 in Liquidoe, Aileu District.

The trial was presided over by a panel of judges comprising Edite Palmira, António Gomes and Jose Maria de Araujo. The Public Prosecution Service was represented by Jose Ximenes, and the defendant was represented by public defender Olga Barreto.

This case allegedly occurred because the defendant promised to help take care of documents for veterans in Liquidoe, however the defendant asked for a commission of US \$ 200 per person.

Before the court, one of the victims (MDA) testified that the defendant had indeed helped them to take care of their documents, then after they received their money the defendant approached them and asked MDA and DA to give him US\$ 400. They both gave US\$ 200.

Also the defendant MF testified that the defendant also came to his home and asked for cigarette money (commission) totalling US\$ 200.

The trial was scheduled to continue on 21 November 2012.

11. Crime of Domestic Violence, Case No. 0142/C.Ord/2012/TDD

On 20 November 2012 the Dili District Court tried a case of domestic violence involving the defendant VM and the victim EM (his wife). This case allegedly occurred on 29 July 2012.

The hearing to announce the final decision was led by António do Carmo. The Public Prosecution service was represented by Hipolito Santa, and the defendant was represented by public defender Cançio Xavier.

In his indictment the public prosecutor stated that the two parties had quarreled and the defendant had slapped the victim once, choked the victim, and pushed the victim against the side of the house.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Article 35 of the Law Against Domestic Violence.

Before the court the defendant and the victim corroborated the facts set out in the indictment of the public prosecutor. However, the defendant had tried to reconcile with the victim but the victim had refused and they had been separated for four months.

In his final recommendations the public prosecutor stated that the defendant had admitted all of the facts set out in his indictment. Therefore the public prosecutor requested for the court to decide the matter fairly.

The defendant requested for the court to issue an admonishment because the defendant had tried to reconcile with the victim even though the victim had rejected the good intentions of the defendant.

This case was scheduled to be decided on 27 November 2012 at 11am.

For more information, please contact:

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