



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

Press Release

26 July 2007

SALE OF CHEST ORNAMENT RESULTS IN DEATH

On Wednesday 18 July 2007 the Suai District Court conducted a hearing in a case of murder. The defendant in this case is Martinho, who prior to the hearing had been serving a period of temporarily detention in Becora Prison. The defendant was transported in the prison vehicle, and was kept under close guard by 3 accompanying GNR vehicles.

Pursuant to Article 14 of the Criminal Procedure Code “Courts with more than one judge function collectively, on criminal matters, to adjudicate cases in connection with criminal offences, the maximum penalty of which, abstractly applicable, exceeds five years imprisonment”.

Due to the application of the aforementioned jurisdiction, this case was presided over by a panel of judges comprising one international and two national judges, namely Dra. Maria das Dores Gomes (international judge) together with Dr. Jose Maria de Araujo and Dr. Guilhermino da Silva (national judges). The Public Prosecution Unit was represented by Reinato Bere Nahak, S.H. and the defendant was represented by Public Defender Sebastiao Amado de Almeida, S.H.

According to the applicable law in Timor Leste, the court deemed competent to try the defendant is the court that holds jurisdiction.

The defendant in this murder case was being held at Becora prison, however it was necessary to try the defendant in the Suai District Court as that court holds jurisdiction over Suai, Maliana, Ainaro and Same. In accordance with the scene of the crime, this case had to be heard by the Suai District Court, pursuant to Article 16, Subsections 1 & 2 of the Criminal Procedure Code because the defendant is a member of the community in the aforementioned jurisdiction, even though he has been spent the preceding 6-8 months in temporary detention at the Becora Prison in Dili.

The defendant Martinho claimed in his statement that the incident culminating in the death of the victim was related to the sale of a traditional chest ornament that had been bequeathed by his father. The victim Bernardo Pacheco was the younger brother of the defendant's father and therefore felt that he had an entitlement to this valuable object. However, this issue resulted in his death after he returned from selling the chest ornament because he did

not give the proceeds from its sale to his nephew. The defendant felt angered and aggrieved and demanded the money from the victim. However the victim responded that he knew nothing about the chest ornament being bequeathed to the defendant.

At the conclusion of the trial the Suai District Court handed down a sentence of 9 years imprisonment against the Defendant Martinho (for murder) after the Panel adjourned the hearing for 10 minutes to deliberate on the charge presented by the Public Prosecutor, namely Article 338 of the Indonesian Penal Code which states “the person who with deliberate intent takes the life of another person shall, being guilty of manslaughter, be punished by a maximum imprisonment of fifteen years”.

The sentence of 9 years imprisonment handed down by the Suai District Court is more lenient than the recommendation provided by the Public Prosecutor who charged the defendant with Article 338 of the Indonesian Penal Code. Mitigating factors in sentencing were the cooperative attitude and honesty of the defendant in revealing his crime that caused the death of the victim in 2006.

JSMP recommends to all members of the community and to all relevant parties who are faced with similar circumstances to refrain from taking unlawful action or taking the law into your own hands, because if you do so then you will be held accountable for your actions and shall be placed in prison, just like the defendant Martinho in this case of murder.

For further information please contact:

Osorio de Deus

Legal Researcher, JSMP

Email: rio@jsmp.minihub.org

Or contact:

Timotio de Deus, Director of JSMP

Email: timotio@jsmp.minihub.org

Landline: 3323883