



Case Summary
Suai District Court
February 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: 14

Article	Type of Case	Number of cases
Article 145 of the Penal Code and Articles 2 and 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	1
Article 145 of the PC	Simple offences against physical integrity	1
Article 146 of the PC	Serious offences against physical integrity	1
Article 225 of the PC	Failure to fulfil an obligation to provide food assistance	1
Article 258 of the PC	Property damage	1
Article 173 of the PC	Aggravated rape	1
Article 177 of the PC	Sexual abuse of a minor	1
Article 157 of the PC	Threats	1

Article 316 of the PC	Smuggling	1
Article 154 of the PC	Mistreatment of a spouse	1
Article 278 of the PC	Perjury or providing false information	1
Article 252 of the PC	Aggravated larceny	3
Total		14

2. Total number of decisions monitored by JSMP: 7

Type of decision	Number of cases
Suspension of execution of a prison sentence (Article 68 of the PC)	2
Prison sentence (Article 66 of the PC)	1
Validated withdrawal of complaint (Article 262 of the CPC)	3
Fine (Article 67 of the PC)	1
Total	7

3. Total cases adjourned based on JSMP monitoring: 3

Reason for adjournment	Number of cases
Defendant and victim not present	3
Total	3

4. Total ongoing cases based on JSMP monitoring: 4

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

1. Crime of sexual abuse against a minor

Case No. : 0001/17.MFMFI
Composition of the Court : Panel
Judges : Samuel da Costa Pacheco
Nasson Sarmiento
Benjamin Barros
Prosecutor : Matias Soares
Public Defender : Fransisco Caetano Martins

Type of Penalty : 23 years in prison

On 7 February 2018 the Suai District Court announced its decision in a case of sexual abuse of a minor involving the defendant DF who allegedly committed the offence against his adopted daughter (DM) aged 9, in Manufahi District.

Charges of the Public Prosecutor

The public prosecutor alleged that at some time in 2012 (on an unspecified date and month) the defendant summoned the victim into the bedroom, removed the victim's pants, laid the victim on the bed and used force to have sexual intercourse with the victim and the victim suffered heavy bleeding from her genitals. After the incident the defendant continued to threaten the victim and said he would kill the victim if she told another person. After the incident the defendant continued to commit abuse (sexual) against the victim until she became pregnant in 2017.

Previously on an unspecified day and month, at some time in 2011, the defendant and the victim were heading to a plantation, and the defendant dragged the victim into the grass, removed the victim's pants and laid the victim on the ground, spread the victim's thighs and groped the victim's genitals.

On 21 March 2017 the victim's grandmother found out that the victim was pregnant, because she noticed that the victim looked different, therefore the victim told her grandmother that the defendant had raped her (the victim).

The public prosecutor charged the defendant for violating Article 177 (a) of the Penal Code on sexual abuse of a minor that carries a prison sentence of 5 - 20 years in prison and Article 182 (a) of the Penal Code on aggravation because the victim was very young, namely 12 years when the crime occurred.

Presentation of evidence

During the trial, the defendant stated that he committed abuse (sexual) against the victim, but only 3 times, however when he had sexual intercourse with the victim the defendant always gave money to the victim. After the first incident the defendant gave US\$10, on the second occasion he gave US\$20 and the last time gave her US\$10. The victim confirmed all of the facts in the charges of the public prosecutor, that the sexual intercourse did not just happen three times, but it happened continuously until the victim became pregnant.

Final recommendations

The public prosecutor stated that even though the defendant denied all of the facts in the indictment, the victim confirmed and reinforced the facts in the indictment. For this reason the public prosecutor requested for the court to sentence the defendant to 29 years in prison.

The public defender requested for the court to carefully consider the evidence produced during the trial and to impose a minimum penalty against the defendant based on the charges of the public prosecutor.

Decision

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime of sexual abuse of a minor against his adopted daughter. The court found that the defendant committed the crime under Article 35 of the Penal Code on joinder of crimes, because the crime was not committed on just one occasion, but repeatedly which resulted in the victim becoming pregnant.

The court also found that the defendant gave money to the victim three times which was corroborated by the victim, but this fact was irrelevant because the victim was only 12 years old. Based on an assessment and consideration of the facts that were proven in the trial the court concluded the matter and sentenced the defendant to 23 years in prison.

2. Serious offences against physical integrity

Case No.	: 0009/17.ANMBS
Composition of the Court	: Panel
Judges	: Constância Barros Basmerly Samuel da Costa Pacheco Nasson M.A.D. Sarmento
Prosecutor	: Matias Soares
Public Defender	: Manuel Amaral
Type of Penalty	: 3 years in prison, suspended for 4 years

On 8 February 2018 the Suai District Court read out its decision in a case of serious offences against physical integrity involving the defendant Marcus Soares Tilman who allegedly committed the offence against the victim João Pacheco in Ainaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 July 2017 the defendant took a machete and slashed the victim once in the head which caused the victim to suffer an injury and bleeding to his head. This act caused the victim to require treatment at the Maubisse Referral Hospital and he received 10 stitches and could not work for 4 days. The incident occurred because the defendant and the victim argued about the defendant pulling down the victim's fence that the victim had put up to stop animals from getting in and damaging coffee trees on his farm.

The public prosecutor alleged that the defendant violated Article 146 of the Penal Code on serious offences against physical integrity that carries a maximum penalty of 2-8 years in prison.

Presentation of evidence

During the trial the defendant stated that he did not pull down the victim's fence, because there was no fence, and the victim took a piece of wood and struck the defendant three times on the shoulder, and therefore the defendant became angry and slashed the victim. The victim confirmed all of the facts in the indictment, namely that the defendant slashed him in the head and he suffered an injury and bleeding and had to be given treatment at the hospital and received 10 stitches. Therefore the victim also asked the defendant to give compensation of US\$350.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and therefore he asked for the court to sentence the defendant to 4 years in prison.

The defence requested for the court to impose a prison sentence of 1 year, suspended for 2 years against the defendant, because the defendant admitted the facts about his actions.

Decision

The court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 4 years and ordered him to pay civil compensation of US \$ 100 to the victim which was less than the original request of the victim, as well as court costs of US\$20.00.

3. Crime of aggravated larceny

Case No.	: 0046/17/CVSUI
Composition of the Court	: Panel
Judges	: Samuel da Costa Pacheco Argentino Luisa Nunes Nasson Sarmento
Prosecutor	: Ricardo Godinho
Public Defender	: Fransisco Caetano Martins
Type of Penalty	: 6 months in prison, suspended for 1 year

On 8 February 2018 the Suai District Court announced its decision in a case of aggravated larceny involving the defendants Simão Amaral, Bartolomeu Filipe Amaral and Carlito Amaral who allegedly committed the offence against the State of Timor-Leste in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 June 2017, at approximately 8pm, the defendant Simão, who is the Director of EBC Lontale, gave a warehouse key to the defendants Bartolomeu and Carlito at nighttime to open the door of the warehouse. The defendants took four sacks of branded rice (Ministry of Tourism, Commerce and Industry - MTCI) which the government planned to distribute to schools for a school feeding program.

The public prosecutor alleged that the defendants violated Article 252.1 (a) and (e) of the Penal Code on aggravated larceny that carries a prison sentence of 2-8 years.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment. The defendants also stated that they immediately handed over the four sacks of rice that they took to the police on the night of the incident.

Final recommendations

The public prosecutor stated that all of the facts had been proven based on the confession of the defendants, and therefore he requested for the court to sentence the defendant Simão to three years in prison, suspended for five years. He recommended for the defendants Bartolomeu and Carlito to be sentenced to 2 years in prison, suspended for 3 years.

The public defender requested for the court to impose a fair penalty against the defendants, because they confessed all of the facts in the indictment and handed over the rice they had taken to the police.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered them to pay court costs of US\$ 25.

4. Crime of making threats

Case No.	: 0062/16.BBMLV
Composition of the Court	: Single Judge
Judge	: Argentino Luisa Nunes
Prosecutor	: Napoleão Soares da Silva
Public Defender	: Albino de Jesus Pereira
Type of Penalty	: Fine

On 9 February 2018 the Suai District Court conducted a hearing to announce its decision in a case of threats involving the defendant Domingos Barreto and the victim Ana Pereira (his neighbour) that occurred in Bobonaro District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 14 April 2016 the victim was washing a frypan and dishes when the defendant returned home from work and insulted the victim and the defendant took a piece of wood and chased the victim, but did not catch her. Then the defendant threatened the victim by saying “*If I catch you I will cut you in half*”.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of 3 years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and promised not to reoffend in the future. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. For this reason he requested for the court to impose a apply prison sentence of 1 year and 6 months, suspended for 2 years, to deter the defendant.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 90 to be paid in daily instalments of \$ 1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

5. Crime of failure to fulfil an obligation to provide food assistance

Case No.	: 0061/17.PDSUA
Composition of the Court	: Single Judge
Judge	: Nasson Sarmento
Prosecutor	: Napoleão Soares
Public Defender	: Albino de Jesus Pereira
Type of Penalty	: Validating withdrawal of complaint

On 12 February 2018 the Suai District Court announced its ruling in a case of failure to fulfil an obligation to provide food assistance involving the defendant JAN who allegedly committed the offence against his wife and children in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 21 April 2017 the defendant argued with the victim and left the house and never gave alimony for his 3 children who are still minors.

The public prosecutor alleged that the defendant violated Article 225 of the Penal Code on failure to provide food assistance that carries a maximum penalty of 3 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 defendant stated that he was willing to pay US\$30.00 every month for their child. The victim agreed and requested for the court to withdraw the complaint against the defendant.

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.

6. Property damage

Case No.	: 0004/17.CVSLL
Composition of the Court	: Single Judge
Judge	: Nasson Sarmento
Prosecutor	: Napoleão Soares
Public Defender	: Albino de Jesus Pereira
Type of Penalty	: Validating withdrawal of complaint

On 13 February 2018 the Suai District Court attempted conciliation in a case of property damage involving the defendants Vicente dos Reis, Antonio Ximenes and Verisimo Nunes Ximenes who allegedly committed the offence against the victim Angela Madeira Maia in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 2 March 2017 the defendants went to the home of the victim and used force and threats to seize two motorcycles belonging to the victim, namely a Honda Fit 1 and Yamaha Mio 1. This incident occurred because the younger brother of the victim had a child with the cousin of the defendants but the younger brother of the victim did not want to take responsibility for his child.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage with 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 defendants apologised to the victim and gave back the two motorcycles that they had taken. The victim agreed and requested for the court to withdraw the complaint against the defendants.

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.

7. Crime of simple offences against physical integrity and property damage

Case No.	: 0019/17.PDSUA
Composition of the Court	: Single Judge
Judge	: Argentino Luisa Nunes
Prosecutor	: Ricardo Godinho
Public Defender	: Fransisco Caetano Martins
Type of Penalty	: Validating withdrawal of complaint

On 27 February 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant CB (victim's husband), HB (victim's brother in law), AdL (victim's nephew) and MdF (victim's niece) and the victim PHN in Covalima District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 January 2017 the defendant CB took a machete and slashed two shirts belonging to the victim. The incident occurred when the victim took a plastic jar that the defendant had put in his room without telling the defendant.

Then on 17 January 2017 when the victim was going to her field in Bakun, and on the way she saw the defendants, and the defendant HB punched the victim twice in the face and held her tight so the defendant AdL (nephew) and MdF (niece of the defendant CB) could hit the victim and pull her hair. The incident occurred because previously the victim struck her husband CB, so the defendants did not accept the behaviour of the victim and committed these acts against the victim.

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 as well as Article 158 of the Penal Code on property damage 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 defendants apologised to the victim and were willing to pay for the victim's shirts that had been damaged by the defendant and to redress the victim's suffering with compensation of US\$200, as well as one traditional cloth (*tais*) for the victim. The victim agreed and requested for the court to withdraw the complaint against the defendants.

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.

For more information, please contact:

Luis de Oliveira Sampaio
Executive Director of JSMP
Email: luis@jsmp.tl
info@jsmp.tl