



Press Release
Dili Court of First Instance
15 August 2024

The Dili Court of First Instance imposes a single penalty of 25 years in prison against a father who committed the crime of rape (incest) against his daughter

On 7 August 2024 the Dili Court of First Instance convicted a defendant in a case of rape characterized as incest and imposed a single penalty of 25 years in prison, because it was proven that the defendant committed the crime of rape against his own daughter aged 14 over a three year period, in Liquiça Municipality.

“This penalty is appropriate and truly reflects the gravity of the crime committed by the defendant because the defendant’s behaviour caused serious harm to the victim, that she will suffer for her entire life. Actually, as a father the defendant should have protected the victim from any type of crime, and should not have perpetrated a deviant crime like this against his daughter”, said Ms. Ana Paula Marçal, the Executive Director of JSMP.

Incest is sexually deviant behaviour that is extremely offensive to social, moral, cultural and religious values. Incest causes extremely serious physical, psychological and emotional harm to victims for many years, and in this case, the defendant’s actions can never be justified in any way.

On many occasions JSMP and its partners have expressed concern and demanded for the relevant entities and all components of society to pay attention to this crime. In particular, JSMP and civil society organizations led by the Secretary of State for Equality (SEI) and the Ministry of Justice have expressed their opinion to request for the Penal Code to be amended, so as to include a separate article on specific acts of incest to underline that incest needs to be given specific and additional attention. These efforts have taken place over a number of years, however there has been a wide range of interpretations that have caused many girls to be victimized by members of their own immediate family.

In relation to this case, the prosecutor alleged that the defendant violated Article 172 of the Penal Code on the crime of rape and Article 173 (a and d) of the Penal Code on aggravation.

The court found that victim was the daughter of the defendant and also proved that on an unspecified day and month during 2019, at 21:30, the victim was asleep in her bedroom, and the defendant went into the victim’s bedroom, grabbed her arms and squeezed her private parts.

On the following evening, after the first incident, when the victim’s mother and her siblings were not at home, the defendant again went into the victim’s bedroom and

got on top of the bed and used force to have sexual intercourse with the victim. After having sexual intercourse with the victim, the defendant threatened the victim and instructed her not to tell her mother or siblings about this incident.

The court also found that based on the statements of the defendant and the victim, sexual intercourse took place seven times, starting in 2019 and continuing until November 2021, and this crime was only discovered when the victim became pregnant, and then the family made a complaint.

Based on the facts that were proven and after considering all of the circumstances surrounding this crime, the court concluded this matter and convicted the defendant on each count (seven charges) with a prison sentence of seven years, and the court accumulated these penalties and imposed a single penalty against the defendant of 25 years in prison.

JSMP applauds the court, because during the first trial it immediately replaced the coercive measure of having to provide Proof of Identity and Residence (TIR) with pre-trial detention, to ensure that the defendant did not continue to commit any crimes against another family member who was living with the defendant.

This is a practical example that adheres to the law. Because there have been many occasions that have shown when crimes characterized as incest occur, the defendants remain free, and this allows defendant to exert pressure, make threats, terrorise or influence victims to change their stance regarding the evidence that they have provided during investigations. Also, this can give the impression to the defendant that incest is not a crime because when he gets to court he is told to go home and the defendant can have more confidence in continuing to commit the same crime against another potential victim.

Previously, on 3 May 2024, the court also read out its decision in another case characterized as incest and convicted the defendant NC with a prison sentence of ten years, because it was proven that he committed the crime of rape against his daughter aged 14, in Dili Municipality.

Crimes characterized as incest normally place intense pressure because they involve a person exploiting a position of authority in the family, an abuse of trust and these crimes harm social relations within the family. Often, the defendant in a case of incest is a person that the victim trusts and lives together with and naturally it is hard to discover the crime in cases like this. There are a number of factors that victims face such as pressure, threats, shame for exposing the case and a lack of adequate information, and other cultural obstacles.

JSMP applauds this decision of the court to again impose a heavy penalty against a perpetrator of rape characterized as incest. Even so, JSMP continues to demand that the relevant State institutions need to develop a strategy of comprehensive intervention to prevent incest from continuing to increase in society. In particular, JSMP requests for the current version of the Penal Code to be amended to include a provision that explicitly defines “incest” as a crime to help the relevant institutions

and society to develop a national strategy for prevention and to increase public awareness about the negative impact of incest.

This case was registered by the court as Case No. 0026/22.LILIQ. The trial was presided over by a panel of judges represented by Ana Paula Fonseca. The Prosecution was represented by Gustavo August da Silva Moreira and the defendant was represented by Americo Martins, who is a private lawyer.

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