



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
The Suai District Court
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Case of husband who killed his wife: the Court failed to impose pre-trial detention in a case of sexual abuse categorized as incest

JSMP regrets the court's decision that was issued after the first questioning to apply coercive measures against the defendant DP only ordering him to report once every two weeks in relation to him being charged with raping his daughter, because after these coercive measures were applied on 3 March 2021 the defendant committed the crime of aggravated homicide against his wife who was a witness in the rape case against their daughter, which occurred in Bobonaro Municipality.

“JSMP believes that coercive measures applied were not appropriate because cases involving rape characterized as incest and other crimes pose a serious risk to the victim or witness if the defendant lives nearby. In this case the defendant stated that he killed the victim because the victim made a complaint accusing the defendant of committing rape against their daughter (incest). JSMP believes that this case mirrors what has happened in other cases in the past, where victims and witnesses are always pressured and threatened by defendants and there is a high likelihood that defendants will commit another crime. Therefore, JSMP requests for the courts to consider all of the risks and circumstances in order to apply strict coercive measures in cases where such risks are present,” said Ms. Ana Paula Marçal, Executive Director of JSMP.

The Criminal Procedure Code (CPC) clearly sets out the requirements that allow for the application of coercive measures in the form of pre-trial detention. Article 183 of the CPC on general requirements regarding the application of coercive measures in part (b) states that reasonable fear that the investigation or trial hearing might be disrupted, namely for fear that the obtention, conservation or veracity of the proof might be negatively impacted, and part (c) states that (c) reasonable fear that the criminal activity might be pursued or that public order and peace might be disrupted as a result of the nature of the criminal offence and the circumstances surrounding it, as well as of the offender's personality and Article 194.1 (a) of the CPC states that pre-trial detention should be applied if the defendant has committed a crime punishable with imprisonment exceeding three years.

Rua Beco Lakateu, Aldeia Manu fuik,
Suku Colmera, Administrativu Vera Cruz
Dili Timor Leste
PoBox: 275

Telephone: 3323883 | 77040735

Website: <https://jsmp.tl>
info@jsmp.tl

Facebook: www.facebook.com/timorleste.jsmp

Twitter: @JSMPtl

In this case the defendant's circumstances fulfil the requirements of Article 183 (b) and (c) of the CPC and Article 194.1 (a) of the CPC because the defendant was the husband of the witness and they continued to live together in the same house which threatened the life of the witness and there was the possibility that the defendant could put pressure on the witness to no speak the truth about what she knew about the rape case. In this case the failure to apply appropriate coercive measures resulted in the defendant killing his wife, who was a witness who could have provided truthful evidence to the court, however the witness lost her life.

These circumstances pose a significant challenge to the courts to ensure the faith of the community in the formal justice process, if the courts don't apply measures to ensure the safety of the parties involved in proceedings.

This case occurred on 3 March 2021 at 7:00 am. The defendant went to his house and saw the victim cleaning the inside of a kiosk and the defendant approached the victim with a machete and small spear that he took from the victim's house. The defendant used the machete to slash the victim once on her side so the victim fled but the defendant followed her and used the small spear to stab the victim in the chest which caused her death.

On 5 March 2021 the Suai District Court conducted the first questioning of the defendant in relation to the crime of aggravated homicide committed against his wife. During this hearing the defendant stated that he killed the victim because the victim made a complaint against the defendant for the crime of rape against their daughter and when the defendant asked for money from the sale of a pig the victim did not want to give it to him and swore at the defendant. The defendant also stated that he has lived separately from the victim after a decision was made regarding the first questioning of the defendant in the case of rape of his daughter last year.

After hearing from the defendant, the Public Prosecution Service requested for the court to apply coercive measures in the form of pre-trial detention against the defendant for the crime of aggravated homicide characterized as domestic violence allegedly committed by the defendant which carries a sentence of more than three years in prison. The defence requested for the court to apply coercive measures against the defendant ordering him to periodically report to the authorities because the defendant needed to sustain their other children. After hearing from the parties, the court decided to apply coercive measures against the defendant in the form of pre-trial detention.

This case was registered by the court as Case Number 0002/21/BBBGD, and the first questioning was presided over by judge Patricia de Araújo F. B. M. Xavier. The Public Prosecution Service was represented by José Elo, and the defendant was represented by Domingos dos Santos from the Office of the Public Defender.

For more information, please contact:

Ana Paula Marçal
Executive Director of JSMP

Email: ana@jsmp.tl

Telephone: (+670) 33238883 | 77040735

Website: <https://jsmp.tl>

info@jsmp.tl