



Case Summary
Baucau District Court
June 2021

Statement: 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.

1. Summary of the trial process at the Baucau District Court

2. Total number of cases monitored by JSMP: 14

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) and Articles 2, 3, 35 (b) and 36 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	9
Article 145 of the PC & Articles 2, 3, and 35 (b) of the LADV and Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons	Simple offences against physical integrity – DV and use of a bladed weapon	1
Article 154 of the PC & Articles 2, 3, and 35 (a) of the Law Against Domestic Violence	Mistreatment of a spouse	1
Article 20 (1), Article 2 (2 f) of the Law on Bladed	Bladed weapons	2

Weapons		
Article 146 of the PC	Serious offences against physical integrity	1
Total		14

3. Total decisions monitored by JSMP: 9

Type of decision	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	9
Total		9

4. Total cases adjourned based on JSMP monitoring: 0

5. Total ongoing cases based on JSMP monitoring: 5

A. Short description of the trial proceedings and decisions in these cases

1. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0118/20. BCBCV
Composition of the Court : Single Judge
Judge : Florencia Freitas
Prosecutor : Remizia de Fátima da Silva
Defence : António Fernandes
Decision : 4 months in prison, suspended for 1 year

On 2 June 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant JBBF who allegedly committed the offence against his father in Baucau Municipality.

Charges of the Public Prosecutor

The prosecutor alleged that on 7 October 2020, at 05:00 am, the defendant heard the victim swear at the defendant's mother, so the defendant became angry and kicked the victim once in his stomach, choked him once around the neck and threw the victim on the ground, so the victim bit the defendant's underarm and hand and then the defendant released the victim. These acts caused the victim to strike his head on a rock and suffer an injury and bleeding.

The public prosecutor alleged that the defendant 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 Articles 2, 3 (c), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial, the defendant used his right to remain silent. The victim stated that when the incident occurred the victim was carrying a chainsaw and was going to cut down a tree for someone, therefore the victim wanted to go early in the morning at 5am, therefore he woke up his wife so she could make breakfast, but his wife took a very long time to get up so the victim became angry and swore. Suddenly the defendant emerged and kicked the victim once in his stomach, choked the victim, and the defendant only released the victim when the victim bit the defendant's underarm and right hand. After this incident the victim made a complaint to the police and received treatment at the Waillili Health Centre. When the defendant returned from police detention they reconciled and since then the defendant has not committed any crimes against the victim and they have continued living together until now.

The witness MFB, who is the defendant's mother and the victim's wife testified that at the time of the incident the victim and the witness argued about the preparation of breakfast and the victim swore at the witness, therefore the defendant committed the assault against the victim.

Final recommendations

The prosecutor stated that the defendant chose the right to remain silent, however during investigations the defendant confessed all of the facts, and confirmation was provided from the victim and the witness, therefore the prosecutor stated that the defendant committed the crime against the victim (his father), and the defendant was the victim's son therefore he should have tried to talk to the victim rather than using violence, therefore the prosecutor requested for the court to impose a prison sentence of six months against the defendant, suspended for one year.

The defence stated that even though the defendant chose to remain silent, the victim and the witness gave confirmation, therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant kicked the victim once in the stomach, choked the victim once, and threw the victim on the ground. These acts caused the victim to strike his head on a rock and suffer an injury and bleeding.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that after the incident the defendant immediately reconciled with the victim and continues to live in the same house and the defendant has not committed any other crimes against the victim, therefore the court concluded the matter and imposed a prison sentence against the defendant of four months, suspended for one year.

2. Crime of using a bladed weapon and simple offences against physical integrity characterized as domestic violence

Case Number : 0009/20. BCVMS

Composition of the Court : Panel
Judges : José António D. Escurial, Florencia Freitas and
Sribuana da Costa
Prosecutor : Remizia de Fátima da Silva
Defence : Germano Guterres Ramos
Decision : Prison sentence of 3 years, suspended for 3 years

On 9 June 2021 the Baucau District Court announced its decision in a case of using a bladed weapon and simple offences against physical integrity characterised as domestic violence involving the defendant AS who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Public Prosecutor

The prosecutor alleged that on 4 July 2020, at 7pm, the defendant and the victim argued because the defendant had thrown away their child's clothing and at the time the defendant was holding a knife, so the victim and the defendant fought over the knife and the knife struck the victim on the second finger on her right hand and caused an injury.

The public prosecutor alleged that the defendant 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 Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence and Article 20.1 and Article 2.1 (f) of the Law on Bladed Weapons.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that suddenly the police arrested the defendant, and he was detained at the police cells in Vemasse. When the defendant returned from the police cells they immediately reconciled and the defendant has not hit the victim again. The defendant stated that they started a family in 2003 and have five children and this was the first time the defendant hit the victim. The defendant also stated that he regretted his actions and promised that in the future he would not commit any crimes against the victim, and he is a farmer and is the breadwinner of the family.

Also, the victim confirmed all of the facts in the indictment and stated that they she has reconciled with the defendant and since the incident the defendant has not committed any further crimes against the victim.

Final recommendations

The prosecutor stated that the defendant confessed, and the victim provided confirmation, therefore even though they have reconciled the prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 2 years.

The public defender requested for the court to issue a fair penalty against the defendant because the defendant confessed, regretted his behaviour and this was the first offence against the victim.

Decision

After evaluating all of the facts, the court found that the defendant was holding a knife in his hand, and therefore the victim and the defendant fought over the knife and the knife struck the victim on the second finger of her right hand and caused an injury.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, promised not to repeat such actions in the future, and was a first time offender, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 3 years.

3. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0053/20. PDBAU
Composition of the Court : Single Judge
Judge : José António d. Escorial,
Prosecutor : Bartolomeu de Araújo
Defence : Sidonio Maria Sarmento
Decision : 3 months in prison, suspended for 1 year

On 14 June 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant DJGF who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Public Prosecutor

The prosecutor alleged that on 18 May 2020, at 19:45, the defendant kicked the victim once in her left thigh and kicked the victim once on her right thigh and then pushed the victim onto a bed, then the victim got up and ran outside and the defendant chased her and threw a telephone at the victim and struck the victim on her right leg. Previously, the defendant and the victim argued about household necessities, and then the assault took place.

The public prosecutor alleged that the defendant 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 Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and said that he regretted his actions, has reconciled with the victim, has two children and this was the first time he had committed a crime against the victim and has reconciled with the victim, works as a farmer and is the breadwinner of the family.

The victim maintained the facts in the indictment and confirmed the statement of the defendant that this was the first time he has committed a crime against the victim and they have reconciled and they are still living together.

Final recommendations

The public prosecutor stated that even though they have reconciled and have continued living together, to deter the defendant from repeating such actions against the victim in the future and so he is not accustomed to using violence against the victim, the prosecutor urged the court to impose a prison sentence of three months suspended for one year.

The public defender stated that that the defendant confessed all of the facts, has reconciled with the victim, regretted his actions, and they have been together for a very long time and this was the first time that he had assaulted the victim, therefore the public defender requested for the court to issue a fair and appropriate penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant kicked the victim once on her left thigh and kicked the victim once on her right thigh and then pushed the victim onto a bed, then the victim got up and ran outside and the defendant chased her and threw a telephone at the victim and struck the victim on her right leg.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, has reconciled with the victim, and was a first time offender, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 1 year.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0054/20. MNMNT
Composition of the Court : Single Judge
Judge : Maria Modesta de Almeida Viera
Prosecutor : Bartolomeu de Araújo
Defence : Sidonio Maria Sarmiento
Decision : 1 month in prison, suspended for 1 year

On 14 June 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant TFdCJ who allegedly committed the offence against his wife in Manatuto Municipality.

Charges of the Prosecutor

The prosecutor alleged that on 9 December 2020, at 13:00, the defendant punched the victim once on the back of the neck and punched the victim twice on her shoulder, which caused the victim to suffer swelling and pain. Previously, the defendant and the victim argued because the defendant was suspicious that the victim met with her former husband, and then the assault took place.

The public prosecutor alleged that the defendant 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 Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts in the indictment and stated that he committed the assault against the victim because when the defendant and the victim were returning from mass they met with the victim's former husband and the victim winked at her former husband, so the defendant became angry and committed these acts against the victim. The defendant also said that he regretted his actions, this was the first time he had committed a crime against the victim, and they are still living together, and the defendant is a mechanic with a monthly income of US\$250.00.

Also, the victim confirmed all of the facts in the indictment and stated that the incident occurred when they were returning from mass and they were walking along the road with many people and the victim smiled at their child, however the defendant said that the victim smiled at her former husband, and the victim also said that after this incident they immediately reconciled and this was the first time that the defendant committed a crime against the victim and they are still living together as husband and wife.

Final recommendations

The public prosecutor stated that even though they have reconciled and have continued living together, to prevent the defendant from repeating such actions in the future and so he is not accustomed to using violence against the victim and their children, the prosecutor requested for the court to impose a prison sentence of three months suspended for one year.

The public defender stated that the defendant confessed, has reconciled with the victim, regretted his actions, and this was the first time he had assaulted the victim since they have been living together, and based on all of these reasons the public defender requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once on the back of her neck, and punched her twice on her shoulder which caused the victim to suffer swelling and pain.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, this was the first time he committed a crime against the victim, and he has reconciled with the victim, the court concluded this case and imposed a prison sentence of 1 month against the defendant, suspended for 1 year.

5. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0108/20. BCBCV
Composition of the Court : Single Judge
Judge : Sribuana da Costa
Prosecutor : Remizia de Fátima da Silva
Defence : Sidonio Maria Sarmento
Decision : Prison sentence of 6 months, suspended for 2 years, for the defendant AAFB, and prison sentence of 6 months, suspended for 2 years, for the defendant LMdCB.

On 15 June 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the male defendant AAFB who allegedly offended against the victim, LMdCB (his wife), and the female defendant LMdCB who alleged offended against her children VNdCB (aged 11), JLLdC (aged 8) and NNAA (aged 10) which allegedly occurred in Baucau Municipality.

Charges of the Public Prosecutor

The prosecutor alleged that on 20 December 2020, at 8pm, the female defendant took a white cable and struck the victim VNdCB on her left high, and struck the victim JLLdC once on her backside, and struck the victim NNAA once on her right thigh. Therefore, the defendant punched the victim LMdCB (his wife) many times in the head, punched the victim twice on her forehead, punched the victim twice in the nose, punched the victim once on her shoulder, punched the victim once on her back and punched the victim once in the arm. Prior to this assault the female defendant was washing clothes in the laundry and told their two daughters to tell the defendant to help her wash the clothes, but the male defendant did not want to and was listening to music that was really loud, so the victim LMdCB admonished the defendant and told him not to listen to loud music, because her mother was sick inside the house, so the defendant became angry and smashed the female victim's OPPO telephone and committed the other assaults against the victim.

The public prosecutor alleged that the female defendant LMdCB committed three crimes that 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 Articles 2, 3 (c), 35 (b) and 36 of the Law Against Domestic Violence.

The public prosecutor alleged that the male defendant AAFB 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 Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the male defendant AAFB stated that when he returned from the plantation his body was sore and he listened to music on a telephone, and the victim told their children to tell the male defendant to help the victim wash the clothes but the male defendant said he felt sore, because it was already 10pm, and the clothes could be washed the next day and suddenly the victim hit the children inside the house, so the male defendant became angry and smashed the telephone and punched the victim however the defendant did not know which part of her body that he hit, and the victim used an electrical cord to hit their children.

The female defendant LMdCB stated that she was washing clothes, and because it was late at night she felt cold, so she told her children to tell the male defendant to help wash the clothes but the male defendant did not want to so the female defendant became angry and used a cable to hit their children.

Also, the victim VNdCB, the victim JLLdC and the victim NNAA confirmed all of the facts in the indictment.

Final recommendations

The prosecutor stated that the defendant AAFB was guilty of committing the crime against the victim because he punched her many times on her body, but he didn't know which part of her body he hit, and the victim confirmed the alleged facts in the indictment. The female defendant LMdCB was guilty of committing the crime against their children who should have been given full protection by the female defendant, however on the contrary she assaulted the children. For this reason, the prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year against the male defendant AAFB, and a prison sentence of six months for each crime, suspended for 1 and a half years against the female defendant LMdCB.

The defence stated that the male defendant and female defendant confessed to all of the facts in the indictment relating to their crimes, and after the incident they reconciled, regretted their behaviour, were first time offenders, and therefore the defence requested for the court to apply a lenient sentence against the male defendant and the female defendant.

Decision

After evaluating all of the facts, the court found that the male defendant AAFB punched the victim LMdCB many times in the head, punched the victim twice on her forehead, punched the victim twice in the nose, punched the victim once on her shoulder, punched the victim once on her back and punched the victim once in the arm.

Regarding the female defendant LMdCB, the court found that she hit the victim VNdCB with a cable on her left thigh, struck the victim JLLdC with a cable on her backside, struck the victim NNAA on her right thigh.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendants confessed, regretted their actions, promised not to repeat such actions in the future, the court concluded this case and sentenced the male defendant AAFB to six months in prison, suspended for two years, and sentenced the female defendant LMdCB for three crimes, and for each crime the defendant received a prison sentence of six months, with a single penalty of six months in prison, suspended for two years.

6. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0001/21. BCQLC
Composition of the Court : Single Judge
Judge : Maria Modesta de Almeida Viera
Prosecutor : João Marques
Defence : José Maria Caetano Guterres
Decision : 3 months in prison, suspended for 1 year

On 15 June 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AF who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The prosecutor alleged that on 16 January 2021, at approximately 7am, the defendant punched the victim five times in the head. Prior to this assault, the defendant and the victim argued because the defendant asked the victim to get some rice at the market, however the victim did not want to, therefore the assault occurred, and the victim made a complaint to the police.

The public prosecutor alleged that the defendant 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 Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions, reconciled with the victim, started a family in 2019, this was the first time the defendant hit the victim, and they are still living together, and the defendant has not hit the victim again and the defendant is a farmer and he is the breadwinner of the family.

The victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and since the incident the defendant has not hit her again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the alleged crime, based on the confession of the defendant and the confirmation of the victim, and even though they have reconciled and are still living together, to prevent the defendant from repeating this behaviour in the future and also to educate community members who live near the defendant, the public prosecutor requested for the court to apply a prison sentence of three months, suspended for one year.

The public defender stated that that the defendant confessed, has reconciled with the victim, regretted this actions, and they have been together for a very long time and this was the first time that he had assaulted the victim, therefore the public defender requested for the court to issue an appropriate penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim five times in the head. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender, has reconciled with the victim, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 1 year.

7. Crime of mistreatment of a spouse

Case Number	: 0034/19. BCBCV
Composition of the Court	: Panel
Judges	: José António d. Escurial, Florencia Freitas, Sribuana da Costa
Prosecutor	: Remizia de Fátima da Silva
Defence	: Grigório Maria Lourdes de Lima
Decision	: Prison sentence of 2 years, suspended for 2 years

On 22 June 2021 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant MdC who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The prosecutor alleged that on 31 May 2019, the defendant kicked the victim once iha the leg, and then entered the kiosk and took a machete and told the victim "*I will cut you into pieces,*" therefore the victim ran away and hid for approximately one and a half hours, then she took a bus to make a complaint at the Baucau Vila Police Station. Prior to this assault, the defendant and the victim argued because the victim's family wanted to use the car belonging to the defendant and victim, and then the assault occurred and since they started living together in 2010 the defendant always hit the victim.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years together with Articles 2, 3(a), 35(a) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial, the defendant stated that at the time of the incident he kicked the victim once on her leg, and the defendant did say he was going to cut the victim into pieces, however the defendant did not go into the kiosk and take a machete, he only made the statement. Suddenly the police summoned the defendant to take him to the Baucau Vila Police Station. Regarding the allegation that since they have been living together the defendant always hit the victim, he said that this is not true, and that it only happened one time, and the defendant and the victim argued so he slapped the victim once on her cheek. The defendant also stated that after this incident he reconciled with the victim, regretted his actions and promised not to commit any other crime against his family or other person, and the defendant is a trader with a monthly income of approximately US\$1,000.00.

Also, the victim stated that the defendant said he would cut her into pieces, but he did not go into the kiosk to take a machete, and regarding the statement that since they have been living together the defendant always hit the victim, the victim said it was not true that he always hit her, however the defendant slapped the victim once on her cheek when the defendant and the victim were arguing.

Final recommendations

The public prosecutor stated even though the defendant and the victim tried to deny some of the alleged facts, the prosecutor maintained the charges and said that the defendant was guilty of committing the crime alleged in the indictment. The defendant committed this crime against the victim freely and based on his own desire. Therefore, the prosecutor requested for the court to convict the defendant in accordance with the provisions of Article 154 of the Penal Code.

The public defender requested for the court to apply an appropriate punishment against the defendant based on the mitigating circumstances, namely that the defendant only spoke about the acts he committed, and this was confirmed by the victim, and he regretted his actions, has reconciled with the victim and promised not to commit any further crimes against the victim or other person in the future.

Decision

After evaluating all of the facts, the court found that the defendant kicked the victim once in her leg and said "*I will cut you into pieces,*" and prior to this incident the defendant and the victim argued and the defendant slapped the victim once on her cheek.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant regretted his actions, and promised not to reoffend against the victim in the future, the court concluded this case and imposed a prison sentence of 2 years against the defendant, suspended for 2 years.

8. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0079/20. BCBCV
Composition of the Court : Single Judge
Judge : José António d. Escurial,
Prosecutor : João Marques
Defence : Germano Guterres Ramos
Decision : 2 months in prison, suspended for 1 year

On 28 June 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant JdS who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 21 July 2020, at 10am, the defendant punched the victim once in the stomach, punched the victim once above her eye. Prior to this assault, the defendant and the victim argued because the defendant wanted to take a sack of peanuts to their children in Dili, but the defendant said just take half a sack, so the assault occurred.

The public prosecutor alleged that the defendant 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 Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial, the defendant confessed to all of the facts in the indictment and stated that he reconciled with the victim, regretted his actions, and started a family in 1986 and has three children, and this was the first time he had assaulted the victim, and he works as a farmer and is the breadwinner of his family.

The victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and until now the defendant has not hit her again.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, based on the defendant's confession and the confirmation of the victim, regarding the facts alleged in the indictment. To prevent the defendant from repeating such acts in the future and to ensure he does not assault the victim or other family member, the prosecutor requested for the court to impose a prison sentence of three months against the defendant, suspended for one year.

Meanwhile, the defence requested for the court to impose an appropriate sentence against the defendant because they have been living together for more than thirty years and the defendant was a first time offender, he has reconciled with the victim and promised that he will not reoffend in the future.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim in the stomach and punched her once above the eye.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted her actions, has reconciled with the victim, and was a first time offender, the court concluded this case and imposed a prison sentence of 2 months against the defendant, suspended for 1 year.

9. Crime of using a bladed weapon

Case Number : 0102/18. LASIC
Composition of the Court : Panel
Judges : Maria Modesta d. A. Viera, José A. Escurial,
Sribuana da Costa
Prosecutor : Julio da Silva Correia
Defence : Jose Maria C. Guterres
Decision : Prison sentence of 3 years, suspended for 3years

On 30 June 2021 the Baucau District Court announced its decision in a case of using a bladed weapon involving the defendant David Ricardo who allegedly committed the offence against the State of Timor-Leste in Fuiluru Village, Lospalos Administrative Post, Lautem Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 16 November 2018, at 8pm the witness Cipriano da Costa was standing in front of his house and saw the defendant get off a motorcycle taxi and he was carrying a sword and said “22 stand still and I will stab you”, therefore the witness Cipriano da Costa was afraid and ran away as well as community members at the scene, and not long after the police arrived to deal with the defendant.

The prosecutor alleged that the defendant violated Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons.

Examination of evidence

During the trial, the defendant stated that at that time he and his friends had drunk two five-litre jerricans of palm wine, therefore the defendant was heavily intoxicated and didn't know what he did at that time, however when he sobered up he knew that he had done the wrong thing and the sword he was carrying belonging to his grandparents and was used as dowry. The defendant was a first time offender and regretted his actions.

Meanwhile, the witness Cipriano da Costa aged 58, lives near the scene and he stated that he was standing in front of his house and he saw the defendant get off a motorcycle

taxi and he was holding a sword and said “22 stand still and I will stab you”, and the witness didn’t understand what he meant by 22, therefore the witness and his children together with other members of the community ran off in different directions.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the alleged crime based on the statement of the defendant and the witness during the trial and the actions of the defendant traumatized members of the community. For this reason, the prosecutor requested for the court to impose a prison sentence of 2 years, suspended for 3 years against the defendant.

The defence said that at that time the defendant was intoxicated, and didn’t know what he was doing, and he took a sword belonging to his grandparents which was used for dowry, and he was a first time offender and regretted his actions. Therefore, the defence requested for the court to impose a lenient penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant got off a motorcycle taxi on the road and was holding a sword and yelled “22 stand still and I will stab you”.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 3 years.

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