

BAMAKO COURT OF ASSIZES

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JUDGEMENT IN A CIVIL MATTER

REPUBLIC OF MALI

ONE PEOPLE -ONE GOAL - ONE FAITH

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JUDGEMENT No. 65 /16 of 19/05/2016

CASE

THE STATE

v.

Jérémi DIARRA

CASE TYPE : Charged with Rape

ORDINARY PUBLIC HEARING OF 19 May 2016

The Bamako Court of Assizes, sitting in the Courtroom of the said Town, during its hearing of Nineteen May Two Thousand and Sixteen, before:

Mr Mohamed Abdourahamane MAIGA: Advisers at the Bamako Court of Appeal;

PRESENT

Mr Amadou H. CISSE:

Mr Diahara COULIBALY: (Advisers at the Bamako Court of Appeal)

MEMBERS

In the presence of **Me. BERTHE Rose DEMBELE**, Deputy Attorney General at the Bamako Court of Appeal.

THE STATE

Assisted by *Maître* DIAWARA Fatimata DE, REGISTRAR of the said Court.

THE COURT

Mindful of the ruling of the Indictment Division of this Court of Assizes on this day on the sentencing of Jérémie DIARRA to a penalty of three (03) years imprisonment:

After listening to Hassimi KAYENTAO in his launch of a civil proceeding for damages;

After listening to the State in its closing statements;

After listening to the defence counsel and the accused himself who spoke last in their plea;

CONSIDERING that **Hassimi KAYENTAO** has in accordance with the law filed a civil action in criminal proceedings and wishes that the accused should be ordered pay the sum of CFAF760,000 ;

CONSIDERING that the acts declared constant by the Court of Assizes against the accused caused certain moral or material prejudice to the party claiming damages;

That the request should be partially granted;

Mindful of Article 360 of the Malian Criminal Procedure Code;

NOW THEREFORE:

Orders Jérémie DIARRA to pay Hassimi KAYENTAO the sum of CFAF760,000F as damages ;

Orders him to pay costs:

It is therefore ordered, adjudged and decreed publicly by this Court on the days, month and year stated herein above.

Signed by the President and the Court Registrar.

BAMAKO COURT OF ASSIZES

REPUBLIC OF MALI
ONE PEOPLE -ONE GOAL - ONE FAITH

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JUDGEMENT

JUDGEMENT No. 64 /16 of 19/05/2016

CASE

THE STATE

v.

Jeremie DIARRA

CASE TYPE : Robbery

“IN THE NAME OF THE PEOPLE OF MALI”

ORDINARY PUBLIC HEARING OF 19 May 2016

The Bamako Court of Assizes, sitting in the Court of the said Town, during its hearing of Nineteen May Two Thousand and Sixteen, before:

Mr Mohamed Abdourahamane MAIGA: Adviser at the Bamako Court of Appeal;

PRESIDENT

Mr Amadou H CISSE:

Mr Diahara COULIBALY: (Advisers at the Bamako Court of Appeal)

Abel KONE :)
Lassane KEITA :)
Djenebou CISSE :)
Madani TRAORE :)

ASSESSORS

In the presence of **Me. BERTHE Rose DEMBELE**, Deputy Attorney General at the Bamako Court of Appeal

THE STATE

Assisted by **Maitre DIAWARA Fatimata DE, REGISTRAR** of the said Court

THE COURT

MINDFUL of ruling No. 181 Indictment Division of the Bamako Court of Appeal on 29 March, 2016 to refer to the Bamako Court of Assizes **Jérémie DIARRA**, born on 29 May, 1994 in Bamako, son of Samuel and Tabita DIARRA Apprentice-driver, domiciled in Nafadji, single with no child, Malian who claims to have a prior conviction of one (01) year six months of imprisonment from the Criminal Court, has not performed his military service;

Charged with Robbery: MD of 05/12/2015

Mindful of the arrest warrant issued against the above-named person and included in the referral order:

Mindful of the declaration, by the majority, of the Court of Assizes on that date attesting that the accused is guilty of the charges brought against him ;

Mindful of the declaration, by the majority, of the same Court, regarding the fact that there are mitigating circumstances for the accused;

After listening to the State in its arguments on the application of the penalty to acts considered established by the Court and upheld against the accused:

After listening to the defence counsel and the accused himself who spoke last in their plea;

After deliberating about this case in accordance with the law;

Considering that the acts considered established by the Court of Assizes against the accused are provided for and punished under articles 18, 252 and 253 of the Penal Code:

Mindful of the said articles, together with articles 346, 363, 631 of the Criminal Procedure Code, and 728 of the Civil, Commercial and Social Procedure Code, which read as follows:

Article 18 of the Penal Code: If the court finds that mitigating circumstances exist for the offender, it will rule as follows:

1°) If he/she faces the death penalty, life imprisonment or imprisonment of between five to twenty years:

2°) If he/she faces life imprisonment, imprisonment of between five to twenty years or imprisonment of between two to five years ;

3° If he/she faces imprisonment of between five to twenty years or imprisonment of between two to five year;

In the cases provided for in the three preceding paragraphs, residence prohibition may be ordered;

4°) If the offender faces imprisonment, the court, when declaring the existence of mitigating circumstances, even in an instance of repeat offence, may reduce this sentence below eleven days and the fine to 18,000 francs or to a lesser sum francs or to a lesser sum ;

5°) If he/she faces both imprisonment and a fine, the court may separately hand down either one of these penalties;

6° If he/she faces a fine, this may be reduced to penalties for simple offences.

The court may not, in any case, extend the benefits of mitigating circumstances to the perpetrator of a felony or misdemeanour committed when drunk.

The attribution of mitigating circumstances may not, in any case, alter the nature of the offence.

Article 252 of the Penal Code: Whoever fraudulently takes something that does not belong to him/her shall be guilty of robbery.

Article 253 of the Penal Code: The death penalty shall apply to whoever is guilty of gang or armed robbery.

The same penalty shall apply in the event of robbery committed using violence, with or without weapons, or using intoxicating or anaesthetic substances.

Article 346 of the Criminal Procedure Code: The decision of guilt shall be taken based on a simple majority. However, as concerns mitigating circumstances any decision which does not favour an accused facing the death penalty, shall be taken based on a majority of at least five votes.

Article 363 of the Criminal Procedure Code: An accused person found guilty shall be ordered to pay costs to the party claiming damages.

Article 631 of the Criminal Procedure Code: Sentences passed by criminal courts shall be enforced in compliance with existing provisions.

Article 728 of the Civil, Commercial and Social Procedure Code: Imprisonment for non-payment shall be enforced in the following manner :

- 2 to 10 days for a debt of between 100,000 to 500, 000 francs.
- 2 to 20 days for a debt of between 500,001 to 1,000,000 francs.
- 21 to 90 days for a debt higher than 1, 000, 000 francs.

Pursuant to the aforementioned and transcribed legal provisions;

NOW THEREFORE:

Sentences Jérémie DIARRA to a term of imprisonment of three (03) years;

Orders the accused to pay the costs for this ruling;

It is therefore ordered, adjudged and decreed publicly by the Indictment of this Court of Assizes in session on the days, month and year stated herein above.

Signed by the President and the Court Registrar.