

**The Federal Supreme Court**  
Criminal Circuit

Before: -

His Excellency: - **Abeer Almahy Abdulrahman** –President

Her Excellency: - **Insaff Ahmed Mahmoud**-Member

His Excellency: - **Salah Aldeen Hassan Ahmed** - Member

**The Trail of Alagib Omer Mohammed**

No: m.ein /t j /230/2016 /

**Judgment**

On 29/5/2016 the Juvenile criminal court of Khartoum convicted the accused Alagib Omer Mohammed for violating Section 45 –B of the Juvenile Act 2010. The court punished the convicted by imprisonment for 20 years to start from the date of his entry to custody recorded to be as from 12/12 /2015 (the date of his entry to police custody). The court inflicted on the convicted a fine of 1000 (one Thousand Sudanese Pounds) to be collected under section 198 of the Criminal Procedure Act 1991, through civil proceedings. The court order in the same decree to refer case papers to the Supreme Court for approval of the judgment pursuant to section 181 of the Criminal Procedure Act after the expiration of the period allowed for appeal.

On 2/6/2016 this decision was quashed by the court of appeal by its decision/a. c. j / 1030 /2016 ordering the return of the case papers to the court of First Instance to satisfy and comply with direction made on the ruling of the case. On 12/10/2016, the Court of First Instance acquitted the accused and orders his final release.

On the 26<sup>th</sup> of October 2016, the compliant Advocate applied before our court requesting the cancellation of the said decision. The Advocate discussed in his application the facts asserted to be the subject matter of the compliant as well as the evidence rendered by the prosecution, concluding that the prosecution had succeeded in proving the fact that the accused had induced the victim and kidnapped her from Nialla without the knowledge or consent of the victim relatives. The accused defense that he intends to marry the victim is a false statement delivered in bad faith. The advocate annexed an age estimation certificate showing that the victim age at that time of kidnapping was 16 years referring to the judicial precedent / m. ein. /t. j /121 /2009 and the chief justice circular No /1/ 2005.

The objection to the Supreme Court is an extraordinary way to re-examine the lower courts criminal decisions. Article 182 of the Criminal Procedure Act stipulated the definition as well as the conditions of the decisions that could be subject to such a process. The most important condition is the condition that, the rule should have been passed by the competent Court of Appeal, based on a wrong point of law, or a mistake in the law application and interpretation. Where the judgment is not final, in the sense that it's not subject to Appeal, or where the time for appeal had not lapsed, the objection could not be acceptable. It's worth saying that the court of first Instance judgment was issued on 12/10/2016, while this application for objection against the judgment was filed on the 26/10 /2016. thus, the time to appeal against the said judgment has not lapsed, hence it could not be considered as final judgment triggering the right for an objection application.

On the other hand, the purpose of the objection Application is to examine the judgment's conformity to the law whether as a matter of subjective, or procedural law application. The objection application is not aimed to examine the facts, check it prove or it's how about. These points should be accepted as it has come in the judgment of the court of First Instance. As the applicant is discussing these issues which are not subject to objection, therefore, I come to quashing this application upon the agreement of my colleagues.

Insaff Ahmed Mahmoud  
Supreme Court Magistrate  
15/2/2017

Abeer Almahy Abdulrahman  
Supreme Court Magistrate  
19/2/2017

Salah Aldeen Hassan Ahmed  
Supreme Court Magistrate  
22/2/2017

**Final Order**

- Dismissal of Objection Application

**Abeer Almahy Abdulrahman**  
Supreme Court Magistrate  
Circuit President  
22/2/2017