

In the name of Allah, The Beneficent, The Merciful

**The Judiciary
The Supreme Court of Kurdufan State
The Criminal Circuit**

Honorable Judges:

**H. E/Ali Alshareef Dowalbeit.....President
H. E/Dalya Basheer.....Member
H. E/Adam Ismail Adam.....Member**

Trial of: Aisha Al Radi Hamouda

Number: M. Ain/D. Waw. K/T.J./10/2017

The Decision:

First Opinion:

- Under articles 157, 160 of the Criminal Code of the year 1991, Al Fullah Criminal Court of the first instance rules against Aisha Al Radi Hamouda on the 20/10/2016 sentencing her to 80 lashes for violating article 157 G.J. and to pay a fine of 750 Pounds for violating article 160 G.J. or imprisonment for a period of one month.
- The convict was not satisfied with the decision and filed an appeal justifying her reasoning with the appeal court of northern Kurdufan, the resulting court's judgment number A.S.J/D.A./611/2016 came as follows:
 1. To revoke the conviction and the penalty under article 157 G.J for the year 1991
 2. To support the conviction and the penalty under article 160 G.J. for 1991 on 13/11/2016.
- The applicant was not satisfied with the decision of the court and on the 4/12/2016 she presented her appeal to this department.

I was not able to establish a notification date for the applicant from the document of the decision of the court of appeal; therefore, the date she filed the application shall be the date of notification of the decision of the appeal court, and therefore, the appeal is **accepted in form**.

As to the subject

First Reasoning for the Appeal: The appellant did not specify how the judgment contradicted the law except that she was not satisfied with the judgment pursuant to 157 G.J.

The Facts

The appellant stated that the convict has verbally abused her by calling her names (You whore, you worthless wondering whore) and said to her face (you were caught with the man, and they forced you to marry him.) Therefore, a case was filed, and the convict was brought to the due process of the law. When the investigations were concluded, the convict was brought to trial, and the court of first instance, under articles 160, and 157 G.J, made its judgment but revoked the judgment and conviction of the

appeal court under article 157 G.J and supported the conviction and judgment under article 160 G.J. and therefore, this application.

After reviewing the report, I conclude to the validity of the judgment issued by the appeal court.

First: It had been established that the convict had insulted the applicant, and the validity of the convict and penalty under article 160 G.J. for the year 1991.

Second: As to the conviction under article 157 G.J. and as the appeal court had stated, that insulting is a crime, and such crimes are included under article (3) G.J. which as 'Drinking of Alcohol, Apostasy, Fornication, Insulting, Accusation, Causing Conflict and Stealing)

- Subject to Article 63 of the Evidence Act stipulates "Subject to article 62," Proving the crime of adultery" All Shari'a Hidood [Islamic Penalties] shall be established in either of the following ways:
 1. The explicit acknowledgment, even for once **before the court.**
 2. The testimony of **two male witnesses**, as evidenced also by the testimony of a man and two women, or four women. "

And whereas the accusation of "the accused being caught with the man whom she was forced to marry" this statement does not have any weight, except a hint to an adultery accusation, and establishing such a hint is only possible through the convict's acknowledgment of the act of adultery; or only by the testimony of two male witnesses, or one male witness and two female witnesses, or four female witnesses which is not available in this case. And the non-availability of such witnesses denies the criminal Had [Islamic Penalty] for failure to establish the crime, due to lack of evidence, which is required by the law. Therefore, there is no room for going further with the case; and since this was the essence of the appeal court, its ruling shall thus be deemed as consistent with the law. This ruling is subject to the consent of my honorable colleagues.

1. Agree with the appeals court's decision
2. Parties shall be notified

And God's help and guidance we seek

(signature)
Dalya Basheer Siraj
Supreme Court Judge
10/1/2017

Second Opinion:

I agree and approve of the above mentioned

(signature)
Adam Ismail Adam
Supreme Court Judge
11/1/2017

Third Opinion:

I agree

(signature)

Ali Al Shareef Dhaw Al Beat

Supreme Cour Judge

16/1/2017

Final Verdict:

- 1. Approve of the appealed decision**
- 2. Notify the parties**

(signature)

Ali Al Shareef Dhaw Al Beat

Head of the bench at the Supreme Court

District of Greater Kurdufan

16/1/2017