

**In the name of God the most gracious the most merciful**

**NATIONAL SUPREME COURT  
Criminal Circuit**

**Before:**

Bakr Mohamed Bakr Abdulfatih  
Hussain Alfaki Alameen  
Mohamed Al Nazeer Ahmed

Head  
Member  
Member

TRIAL OF Zainab Mohamed Idris  
No. 23/2017

**JUDGMENT**

The appellant was convicted under section 159 of the penal Code 1991, and punished by a fine equal to SP 300, and if she does not pay she will be punished with imprisonment for two years, however, she was discharged for good conduct, this judgment has been issued by Umbada Civil Court.

Following an appeal to the Public Court, the conviction and punishment had been cancelled, whereupon, she requested permission against her ex-husband (divorcer) the complainant, to initiate criminal procedures against him. The Trial Court refused to grant her permission and the claim was rejected. The claim has also been rejected by the Court of Appeal, therefore, this claim was made, which she named it as review, based on a mistake of the court of Appeal when it had upheld the judgment issued by Umbada Public Court and requested that this decision shall be reconsidered.

**In form:-**

The claim can be treated pursuant to our power under section 188 of the Criminal Procedures Act.

**In subject:**

Without going into the details of the Court of Appeal's merits, which was right in its conclusion, I believe the following:

First: the right of litigation is guaranteed to the public at large whenever there is preliminary evidence, as it is a natural and constitutional right before being a legal right.

Second: if we state otherwise, people would refrain from litigating, in fear of being subject to accusation if they have not proved their allegation.

Third; in our case, there was a preliminary evidence which led to the initiation of the proceedings by the Public Prosecution until it had been referred to the Court, which had decided conviction and punishment, and then the judgment had been cancelled by the Public Court, which does not give her the right to pursue her divorcer because she has only

been decided innocent, as far as her innocence was in accordance with an appellate procedure.

Fourth: the Public Court has handled and the Court of appeal thereafter, have handled the grant claim validly, therefore, and for the reasons she stated, that we should uphold the decision of the Court of Appeal and consequently cancel this claim in subject.

Abu Zaid Osman	Head	
Hussain Alfaki Alameen		Member
	Member	

Bakr Mohamed Bakr Abdulatif "signed"  
Judge at the Supreme Court  
05/03/2017

Hussain Alfaki Alameen "signed"  
Judge at the Supreme Court  
06/03/2017

Mohamed AlNazeer Ahmed "signed"  
Judge at the Supreme Court  
08/03/2017

FINAL ORDER:

1. To uphold the contested judgment.
2. We issue our order to cancel the objection in subject.
3. Appellant shall be notified.

Bakr Mohamed Bakr Abdulatif "signed"  
Judge at the Supreme Court  
Head of the Circuit  
12/03/2017