

**In the Name of Allah, The Merciful**  
**Supreme court**  
**Department of Greater Darfur States**  
**(Department of Criminal)**

**Before:**

**Qassim Hamid Hussein Qassim**  
**Hassan Abdul Karim Osman**  
**Abdullatif Mohammed Alamin**

**President**  
**Member**  
**Member**

**Trial: Najwa Ahmed Issa and others**  
**GC / 56/2018**

**Judgment**

**First Opinion:**

In accordance with the trial No. 98/2017, the crimes of Al-Fashir Municipality were submitted for trial under Articles 135/142 of the Criminal law of 1991 in accordance with the decision of referral from the Public Prosecution to the judge of the said court. After hearing all the parties concluded a judgment on 19/10/2018 acquitted acquittal Square of the accused and their release.

This judgment did not receive support when it appealed to the Court of Appeal of North Darfur State, which concluded a decision to revoke the acquittal order and return the papers to the trial court to proceed with the trial in accordance with its Memorandum of Appeal No. 237/2017 dated 4/12/2016.

Against this accused judiciary and through their lawyers, Mr. Munir Mohammed Khater, lawyer and notary of contracts submitted this request as an application for examination under Article 188 of the law of Criminal Procedure of 1991 the rest of the confirmation of the safety of the proceedings because the judgment was contrary to the law and based on an unfavorable conclusion in the safety of the reasons of his leg Professor in his request, which can be summarized in the following:

The district court of the Court of Appeal has based on the inadmissibility of charging the accused under articles 142/139 of the Criminal law for the total testimony of witnesses that the accused did not beat the complainant and based on the precedent of Suleiman Hassan Koko.

The court of the subject was acquitted of the charge under article 136 and exercised its authority to amend the article of articles 142/135 of the Criminal law, which is more capable of adapting and weighing evidence than the Court of Appeal. Article 136 of the Criminal law requires that a complainant's pregnancy be established in order to establish the offense of abortion,  
- The case law has been established that the presumption of knowledge of the result is not found in the law and the professor in general sought to overturn the ruling of the Court of Appeal and keep the judgment of the court of the subject to acquit the accused of the charges attributed to them.

We accept the request of our authority in the provision of Article 188 of the Code of Criminal Procedure of 1991 in order to ascertain the validity and safety of the proceedings and their conformity with the law in order to achieve justice.

I have no doubt that the Court of Appeal is a court of fact and a court of law, while this court is limited to violating the law as referred to in article 182 of the Criminal Procedure Law of 1991 and since the role assigned. We consider the violations of the law without interfering with the facts or evidence or estimating the evidence and weight unless it is proved to us that there is an error in accepting the evidence or that the extraction of the lower courts of the guide was not sound and excessive, leading to unacceptable results, this is considered.

This is in violation of the law, which requires us to intervene in order to lift it. This view is supported by the Supreme Court's ruling in the case code P / C / 1080/91 / contained the Judicial Judgments Journal 1992 p.39.

In view of the statements made in the minutes of the trial, it is clear that the first and second accused, at least, have been found guilty of a criminal offense, according to the first defendant. Under the circumstances and circumstances of the quarrel and who participated in it and the transferee that ended this quarrel, the criminal proceedings were taken on 3/7/2106 and the abortions which the ignorance of the investigation began on 2 and 3/7/2016 according to indictment No. (1) 8 and indictment No. 2 (a).

**In my estimation**, under these circumstances, the doctor's testimony is not clear about the reason led to the abortion and the stage of abortion and whether it is apparent or that the accused are aware of the rope through the manifestations of the pregnant woman known to women and the fight that stretched up the fence referred to by the indictment All these circumstances and circumstances created the form of the Court of Appeal to intervene to cancel the verdict of innocence and we support it in the presence of what will be called for a retrial and see that the request of the distinguished professor premature.

**In summary**, We have agreed to go to the following:  
Rejection of the application.

Abdul Latif Mohammed Al Amin  
Judge of the Supreme Court  
27/4/2018

Second opinion:  
I agree

Hassan Abdul Karim Osman  
Judge of the Supreme Court  
3/5/2018

Third opinion:  
I agree

Kassem Hamid Hussein Qassim  
Judge of the Supreme Court  
13/5/2018

Final judgement:  
1 / The request is written off  
Kassem Hamid Hussein Qassim  
Judge of the Supreme Court  
President of the circle  
13/5/2018