

In the name of Allah, The Beneficent, The Merciful

National Supreme Court

Central States and Gadariff

Before Honorable Justices:

H.E./Musa Alnnail AlmokashfiPresident

H.E./Hakeem Altaib.....Member

Adlan Alnaim Aldow.....Member

No..../37/2015

Trial of

Mohammed Hassab-Alrasoul Mohammed

Ruling

The First Criminal Court in Al-Getaina had convicted the accused person above-mentioned, under Article (45/C) of the Child Code of 2010 and sentenced him to seven years in prison as of the date of being remanded in police custody on 8/4/2014. That, in addition to a fine of 5000 pounds, and in case of failure to pay, a two-years imprisonment term, to be spent consecutively.

The Court of Appeal in the White Nile State upheld the Court of First Instance's decision; the lawyer of the convict requests examining the procedures, and the canceling of the rulings by the lower courts and, also requested a decision be issued declaring an acquittal of the convict of all charges against him.

We hereby deliberate the request according to the authority vested on us under article (188) of the Criminal Procedures Code of 1991 to verify the correctness of the procedures and that justice is correctly served.

To settle the request of examination, and after reviewing all documents, I find that the circumstantial evidences presented in the plaint of the criminal action

are quite sufficient for reach a ruling of conviction against the accused, beyond any reasonable doubt, as follows:

Firstly;

The victim who is eleven years of age stated that the accused had lured her into the room and laid her on a mattress, took her clothes off as well as his. The victim then bit his finger. He then put his penis into her vagina, and bit her on the mouth, and that's when the prosecution's first witness/ Mawahib Hassen Altayeb arrived, the accused put on his clothes and jumped over the house-wall and ran away.

Secondly;

The prosecution's first witness testified that she had not been in the house on the day of the incident, and that when she had left the house the window was open. [She testified that] when she returned home at 4 in the afternoon she found out that the window was closed and so was the door. She then stepped into the courtyard and the accused person came out of the room, and behind him came out the victim, crying. [She testified that] that [the victim's] mouth was swollen and there was blood on her shirt, and that the accused ran and jumped over the wall.

Thirdly;

The detective stated that he had visited the location of the incident, which was the house of the prosecution's first witness, and inside the room he found evidence indicating that there had been a struggle. [He stated that] he found some of the victim's clothes – a blouse and knickers – as well as a flip-flop belonging to an adult, and some clothes with traces of a red substance. He also found footprints of a person coming out of the room and wearing one flip flop and that he left over the southern-wall and headed for the accused person's home, not far from the location where the incident took place. Also, on page 7 of the procedure's ledger, the detective testified that the flip-flop in the exhibits was shown to the accused and he acknowledged that it belonged to him. In addition to this, the convict acknowledged that he had beaten the victim when she was with him inside the room, which was when the prosecution's witness Mawahib arrived.

Fourthly;

The medical report, prosecution document no (1) proved there was a swelling and a wound under the victim's lower lip on the left, as well as a bruise of half a centimeter in length in the middle of the head, which supports the testimony by the

prosecution's first witness Mawahib, (the owner of the house where the incident took place) who saw the victim's mouth swollen and, that there was blood on her shirt when she came out of the room. Hence, I uphold the conviction as decided by the Criminal Court. As for the sentence, it was an appropriate penalty for the crime committed by the convict, and that it achieved the required deterrence, both on public and personal terms. I thus I see that the decision under appeal is to be upheld and that the appeal be dismissed.

Musa Alnnail Almokashfi

Supreme Court Justice

2/3/2015

Hkeem Altaib

Supreme Court Justice

9/3/2015

Adlan Alnaim Aldow

Supreme Court Justice

10/3/2015

Final decision:

- We uphold the challenged decision.
- Dismiss the Appeal.

Musa Alnnail Almokashfi

Supreme Court Justice

And

Head of the Circuit

10/3/2015