

Before us is an appeal submitted by Advocate Ahmed Elfadl Mukhtar, the advocate on behalf of the Accused, he mentioned in his request that he announced the appealed decision dated 15/11/2015 and submitted his appeal on 15/11/2016.

He described the appeal judgment in contravention with the Law, and that assigning the Physician to come will not add anything in the evidence, nor what he wrote in Form (8), and that the absence of a liquid sample in the vagina was taken to criminal laboratory on the same date. Now, it is in vain that the redness of the vagina may be due to a disease or tightness of the child cloths. Therefore, the Advocate sees that the judgment of the trial court was right, and he requests revocation of the Appeal Court decision and support of the Trial court judgment.

Reasons:

The appeal is accepted because it is within the time limit of appeal submission. It is acceptable in formality and content. The report attached to form (8) Claimant's document, in which (1) stated presence of redness around the vagina and the presence of liquid. For, confirmation, a sample must have been taken to the criminal laboratory.

The Trial Court Cannot predict that the redness was a result of disease or another cause such as harassment as I had previously stated.

The criminal circular issued in the subject, requires the Trial Court to summon the expert or the Physician if the report was unclear. This requires making it clear so that the Court makes a fair judgment. That was the statement of the Appeal Court that the Trial Court directed to work according to these directives. The appealed arrangement does not restrict the accused in person, or his money as was set out in Article (179) of the Criminal Procedures, 1991. Therefore, I see that the appeal is to be dropped and support of the appealed decision.

Signed
Dr. Mohamed Abu Zaid Osman
Judge of the High Court
13/12/2016

Signed
Salah Elsharif
Judge of the High Court
15/12/2016

Signed
Ambli Babiker Ahmed
Judge of the High Court
19/12/2016

The Final Order:

- The appeal is to be dropped

Signed
Ambli Babiker Ahmed
Judge of the High Court
Chairperson of the Circuit
19/12/2016