OF MARCH 24, 2020

REPUBLIC OF COTE D'IVOIRE
COURT OF APPEAL…

COURT OF FIRST INSTANCE
SECTION OF DIVO

N° 191/2020 of the Judgment
N°859/2019 of Prosecutor's Office

Office of the Public Prosecution
Versus
……

OFFENSE:

Battery and willful assaults

DECISION:

Trial
Guilty

MAIN PENALTIES:

06 months of imprisonment
300 000 F/A

ADDITIONAL PENALTIES AND SECURITY MEASURES

DAMAGES

1 000 000 francs to pay to
……..

At the public hearing of the court section of Divo held at the courthouse of the said city on Tuesday March 24, 2020 for correctional cases by: Lady…….. President;

In the presence of Lady… Substitute of the public prosecutor; with the assistance of Attorney ……. sworn registrar.
The following judgment was rendered;
Between
The Public Prosecutor's Office following a direct summons act dated 17/12/2019 from the public prosecutor's office;
On one hand
And the named …… .., born on 07/07/1958 in DIVO, of lates …… .. and …… hydraulic engineer, domiciled in DIVO military district, divorced with 6 children, not listed military, claiming to have never been convicted, of Ivorian nationality ……

Accused of assault and battery
Facts provided for and punished by articles 381-3 ° and 387 of the penal code;
On the other hand
On appeal at the hearing on Tuesday, January 14, 2020, the President, after having ascertained the identity of the accused regularly called at the bar, gave notice of the act which seized the court;
The case was postponed several times in order to wait for witness appearances and for other various reasons, held and tried and then reserved to be judged on March 24, 2020.

The defendant was questioned and then the witnesses were heard including …… who declared at the bar to be a civil party and concluded that the court should order the defendant to pay her the sum of 3,000, 000 Francs as damages;
The registrar took note of the statements of the witnesses, of the civil party and of the accused's answers.

The public prosecutor summed up the case and demanded the application of the law against the accused;

The accused presented his defense;

Therefore, the court, after having deliberated in accordance with the law, ruled in these terms:

Considering the documents of the proceedings initiated against the above-mentioned of the above facts;

Considering the statements of witnesses;

Considering the answers of the accused;
Considering prayers of the civil party;
Considering the submissions of the public prosecutor;
Considering the defense of the accused;

THE COURT

Considering that following a summons from Mr. Resident Substitute of the Prosecutor at the court section of Divo on December 17, 2019, the named..... was summoned to appear before the Correctional Court for the facts of assault and battery causing a temporal work incapacity (ITT) of 75 days in DIVO, on November 26, 2019;

That these facts are provided for and punished by articles 381-3 ° and 387 of the penal code;

THEREFORE

ON THE PUBLIC ACTION

IN THE FORM

Considering that the accused appeared;
That it befits to rule after trial;

ON MERITS

Considering that Mr. ..... denies the facts of battery and willful assaults brought against him;

That however, it emerges from the exhibits and the debates that it was at the end of his altercation with his ex-wife..... that the latter had a fractured leg and multiple contusions as evidenced by the medical certificate produced;

That he should be found guilty of the charges against him;

ON CIVIL ACTION

Given that lady ..... filed a civil party action and requested the conviction of Mr ..... to pay her the sum of 3,000,000 CFA francs as damages;

Considering that her civil party action is admissible;

That, however, the amount claimed is excessive in its quantum;

That it is necessary to bring it back to the right proportions and condemn Mr. ..... to pay her the sum of 1,000,000 CFA francs as damages;

FOR THESE REASONS

Ruling publicly, after trial, in correctional matters and in first instance;

Declares the accused ..... guilty of the facts against him;

Sentences him to six (06) months of firm imprisonment and a fine of 300,000 francs;

Declares admissible the civil party action of lady ..... Amenan Rita;

Holds that it is partially founded;

Condemns ..... to pay her the sum of 1,000,000 francs as damages;

Orders him further to pay the costs.