

**ABIDJAN COURT OF APPEAL**

**COURT OF FIRST INSTANCE OF ABENGOUROU**

**JUDGMENT N ° 429/14 OF OCTOBER 29, 2014**

OFFICE OF THE PUBLIC PROSECUTOR

VERSUS

K.A

1 / Offence against morality - Indecent assault - Elements – Existence of sufficient charges: (yes)  
- Accused - Guilty - Conviction.

2 / Offence against morality - indecent assault with violence - Prejudice - Reparation - Damages.

1 / The accused must be declared guilty of the acts of indecent assault and condemned, since his victims have formally identified him and he has been described by his guardian as accustomed to immodest behavior and other acts of indecent assault with regard to women and that she herself was one of its victims; what recognizes the warned.

2 / The accused must be ordered to pay the victims damages, in compensation for their damage, as soon as it is noted that the act of indecent assault with violence committed on them, has undoubtedly caused them prejudice deserving to be repaired.

**THE COURT**

Considering the documents in the file of the case RP 441/2013 against K.A;

Considering the defense of the accused;

Considering the submissions of the Public Prosecution;

After having deliberated in accordance with the law;

**FACTS AND PROCEDURE**

According to the order of referral to the correctional police dated 27/05/2014, K.A appeared before this Correctional Court for the offence of having, in Cissekro S / P Agnibilekrou, on October 15 and 16, 2012, in any case since time not covered by the statute of limitations, committed an indecent assault consumed or attempted with violence on Y.C and Mss N.V;

Facts provided for and punished by articles 355 paragraph 1 and 359 of the penal code;

It results from the information that on 16/10/2012 and 17/11/2012, ladies N.V and Y.C seized the Urban and Frontier Police Station of Agnibilekrou of a complaint against K.A;

Lady Y.C explained that on 15/10/2012, she was in her cassava field in Cissekro when the aforementioned arrived there holding a knife and asked her to lie down on the ground so that he could have sex with her; faced with her refusal, a struggle began between them, which she lost;

She specifies that he was unable to sexually penetrate her, however, but threatened to return to

her if she informed anyone of the incident;

Lady Y.C, for her part, explained that she was also in her cassava field when K.A whom she could perfectly identify by his size and his stocky body came to grab her and surround her with his two arms from behind;

She goes on saying that when she got rid of him to flee, she was caught by the latter who, with the threat of his knife, demanded to have sex with her; and since she continued to cry for help, he abandoned her and fled;

Heard by the examining magistrate, Ladies N.V and Y.C declared that their attacker was indeed K.A whom they perfectly identified since the facts happened during the day;

Also heard, Lady K.N who was also the guardian and employer of the accused declared that she herself was a victim of the immoral and shameless behavior of the accused who did not hesitate to look at her naked often when she took her bath while slipping away behind the doors and windows;

She added that she had witnessed several cases of complaints against him for acts of sexual assault against women;

Interrogated at the preliminary investigation and by the investigating judge, the accused denied the facts, claiming to have never had any contact with those who accused him;

He reiterated these denials at the bar of the Tribunal, admitting that he was not often correct with lady K.N, his tutor;

The Public Prosecution requested to declare the defendant guilty of the facts charged to him and in repression, to condemn him to 05 years of imprisonment;

### **Therefore**

#### **In the form**

Considering that the accused appeared;

That it befits to rule by decision after all the parties have been heard;

### ***ON MERITS***

#### ***On the public action***

The defendant contests the facts of indecent assault he is accused of;

However, these allegations cannot prosper;

Indeed, the facts took place in broad daylight and his two victims in this case formally identified him;

In addition, he is described by Lady K.N, his tutor who otherwise employed him for some time, as accustomed to immodest behavior and other acts of moral attack towards women by specifying that she was even one of his victims, what the accused admitted;

In view of all the foregoing, it is appropriate to state that there are sufficient charges against the accused of the acts of indecent assault charged to him and to find him guilty;

It is appropriate in repression, to sentence him to 05 years of imprisonment and a fine of 300,000 Francs;

**On civil action**

Considering that Ladies Y.C and N.V request the condemnation of K.A to pay them respectively the sum of 1.00,000 francs and 500,000 francs as damages;

Their action must be declared admissible; It is common ground that the act of indecent assault with violence committed against them indisputably caused them damage which deserves reparation;

However, the amount of reparation should be reduced to reasonable proportions by ordering the accused to pay each of them the sum of 300,000 francs as damages;

**Costs**

As the accused succumbs to the proceedings, the costs should be paid by him;

**FOR THESE REASONS**

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

Declares the accused guilty of the facts charged to him; In repression, sentences him to 05 years of imprisonment and a 300,000 francs fine;

Declares admissible and partially founded the civil party action filed by ladies Y.C and N.V;

Sentences the accused to pay each of them the sum of 300,000 francs as damages;

Sentences the accused to the costs;

President: Mr. BEGNANKY ALEXIS N'DRI.