

COURT OF APPEAL OF DALOA

2nd CORRECTIONAL CHAMBER

JUDGMENT W100 / 14 OF JANUARY 23, 2014

THE OFFICE OF THE PUBLIC PROSECUTOR

VERSUS

1-Y.B.A

2-K.D.L

3-G.G.F

1 / Assault and battery - Assault and intentional injury - Confessions of the defendants -  
Confessions corroborated by testimonies and the medical certificate - Conviction.

2/ Sequestration - Victim beaten and kept tied to the forest until the next day -  
Confession by the accused - Conviction.

1 / It is wrong that the defendants have appealed against the decision which admitted their guilt when their confessions are corroborated by testimonies and the medical certificate.

2/ In declaring the defendants guilty of the facts and sequestrations, the court did not judge unfairly when the victim was beaten and kept tied at the outskirts of the sacred forest until the next day by the appellants who did not deny the facts.

## **THE COURT**

Having regard to the documents of the proceedings;

Considering the correctional judgment n ° 96/2013 of May 08, 2013;

Considering the appeal of the defendants dated May 13, 2013;

Considering the report prepared by judge N'GUESSAN K. ROGER;

Considering the requests made by Mr. Advocate General;

After having deliberated in accordance with the law;

## **OFFENCE**

Considering that the named Y.B.A, K.D.L, G.G.F appear before the Court charged with the acts of assault and battery ITI 15 days and sequestration, perpetrated on the 20 and 21 April 2013 at KOUETINFLA S / P SINFRA, facts provided for and punished by Articles 345-3 °, 348 and 374-3 ° of the penal code;

It stems from the proceedings that on April 20 and 21, 2013, following the death of the young G.G.F, lady G.S.J is designated as the witch author of this death;

She was therefore beaten, tied up and dragged towards the sacred forest by a group of Young people wearing the sacred masks forbidden to the vision of the feminine gender;

On April 24, 2013, Mrs G.L.J seized the post brigade of Sinfra with a complaint against Y.B.A, K.D.L, G.G.F that she said to have been able to recognize in the group, for acts of assaults and intentional injuries and sequestration; She explained that, following a land dispute with her cousin G.G.F, the customary authorities had decided in her favor;

She added that dissatisfied with this decision, her cousin's father made her husband arrested by the FRCI so that she had cursed the son who, a few months later, died;

She reveals that at the announcement of the death at 11 pm, Mrs Z.L, in her tears, designated her as being the cause of the death of her husband's son;

Thus young people, including the accused wore the sacred masks, set fire to her hut, tied her up by the feet and arms and dragged her to the outskirts of the sacred forest;

She indicated that, knowing her death had come, she asked them to let her breathe so that she could reveal to them the cause of death;

She specified that this is how she was left in this state until the next day when the same people took up the scenario of the day before and this time, sprinkled her body with chilli pepper before the arrival of the gendarmes;

Arrested and interrogated by the investigating agents, the defendants all denied having participated in the incriminated facts;

Y.B.A declared that late G.J was his uncle;

That the complainant, taken to the deceased's home, admitted to being the perpetrator of his death;

He claimed, however, that he had not taken part in the repression against her;

As for K.D.L, he declared that he was not wearing the sacred mask that day and specified that he only wear it on happy days;

Finally, G.G.F explained on his part that 05 months after his return to Europe, at the end of his leave, G.J. had died;

He pointed out that in the village the latter had tried to put the disputed lot in value against his cousin's wishes;

He added that the latter, having spoken curses against the deceased, had been fined but death had occurred anyway;

He concluded that it was as a result of this death that a group of young people of which he was not part had beaten the complainant;

Referred to the Public Prosecutor's Office near the section of the Court of Sinfra, all admitted the facts before the Substitute Resident;

However, at the hearing of flagrante delicto where they appeared; they reconsidered the confessions made before the Prosecutor and varied in their statements throughout the hearing;

Mrs G.L.J was a civil party;

Convinced of their guilt, the Court sentenced them to 36 months of imprisonment and a fine of 200,000 francs, 500,000 francs as damages by judgment n ° 96/2013 of May 8, 2013;

On May 13, 2013, the defendants appealed against the said Judgment, arguing in their respective appeal briefs that they request that the court declare them innocent and dismiss them for the purposes of the prosecution;

## **THEREFORE**

### **On the nature of the decision**

The defendants in detention were not extracted and did not appear at the bar of the court; It befits to rule by default decision;

### ***IN THE FORM***

The appeal was lodged in accordance with the required form and time limit; it is admissible.

### ***ON MERITS***

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

#### ***On the facts of assault and battery***

It appears from the appellants' statements that they beat Lady G.L.J. under the effect of anger when the latter confessed to have killed N.S.J using witchcraft;

The said confessions are corroborated by the testimonies and the medical certificate submitted to the debates; They were therefore wrong to appeal against the decision which admitted their guilt;

On the facts of sequestration

In addition, the victim was beaten and kept tied to the outskirts of the sacred forest until the next day by the appellants who did not deny the facts;

Therefore, in finding them guilty of the said facts, the court did not judge unfairly. But the latter being first offenders, it should be said that the sentence of 36 months imposed on them is excessive;

There is reason to reform the impugned judgment on this point and reduce the sentence to 9 months of imprisonment and the fine to 50,000 francs;

***On the civil action***

Mrs. GL J was attacked in her physical and moral integrity by the beatings inflicted by the defendants; Thus, the request for reparation is justified and in acceding to it, the Tribunal did not judge unfairly; It follows that the appellants are unfounded to appeal against this decision on this point;

***On the Costs***

That the appellants succumb, it befits to put the legal costs on them;

**FOR THESE REASONS**

Ruling publicly by default, in correctional matters and last resort,

-Receives Y B A, KDL and G G F in their appeal;

-Holds that it is partially founded;

- Reforms the appealed judgment;

Ruling again

Sentences them to 09 months in prison and a fine of 50,000 francs each;

Confirms the judgment appealed against in its all other provisions;

Order them to pay the costs;

In faith of what, this judgment has been signed by the Magistrate who rendered it and by the registrar, on the day, month and as aforementioned

President: M. DAFFOT G. J.