

**DALOA COURT OF APPEAL  
DALOA COURT OF FIRST INSTANCE  
SASSANDRA SECTION**

**JUDGMENT No 635/14 OF THURSDAY 11 DECEMBER 2014**

THE PROSECUTOR  
VERSUS  
Y.N

*1/ Violation of moral norms – Sexual indecency – Sexual indecency committed with violence on a young girl of 15 years – Constitutive elements (Yes) – Conviction.*

*2/ Sexual indecency – Sexual indecency committed with violence on a young girl of 15 years - Civil action - Constitution of civil party – Request for damages - Request founded – Conviction of accused.*

1 / The charges against the accused constitute sexual assault with violence on a fifteen-year-old minor, and it is appropriate to link up the accused with the charges, as he recognizes having tried inserting his fingers into the genital of the six-year-old victim without being able to penetrate her, even if the medical certificate produced concluded that there was no sexual violence.

2 / The accused must be ordered to pay the damages, as the father of the victim has declared to be a civil party and has claimed damages.

**THE COURT**

Considering the documents in the file of the proceedings against Y.T, on the count of sexual indecency committed with violence on a minor of 15 years;

Offence provided for and punishable under article 355 paragraph 1 and 2 point 3 and article 359 paragraph 2 of the penal code;

Considering the explanations of the accused;  
Considering the requisitions of the Prosecutor;  
The accused in his means of defense;  
After having deliberated in accordance with the law;

Whereas, according to the interrogation report in the event of flagrante delicto of the Resident Substitute to the section of the Sassandra court, dated 5 December, 2014, Mr. YT was summoned to appear before the court, to respond to acts of sexual indecency committed with violence on a 15-year-old girl;

Whereas on 3 December, 2014, Mr. D.A seized the police station of the 2nd district of San Pedro on a complaint against Y.T for sexual indecency committed on his six-year-old niece;

In support of his complaint, he explained that he had been informed by DC that DA had injuries on her genitals; he specified that following interrogation, his niece DA let him know that it is Y.T who had supposedly inserted his fingers into her genitals;

Her niece having been taken to hospital for examination, the midwife confirmed that she had indeed been sexually abused; he attached to the procedure a medical certificate, dated 4 December, 2014, issued by the doctor Y.P, gynecologist at the CHR of San Pedro;

As for D.A, she explained that she used to go to Y.T's home, in the company of her comrade A, and twice Y.T put his fingers in her genitals; she specified that she had not informed her parents because the uncle had asked her not to say anything, otherwise he was going to beat her;

When questioned, Y.T recognized the charges brought against him;

He explained that he is a neighbor to the parents of the little girl DA and she, like the other little girls in the neighborhood, has taken up the habit of going to play at his home in his room; he added that it was when he was playing with these little girls that he tried to insert his fingers into the genitals of DA, without penetrating her;

## **MOTIVES**

### ***ON THE FORM***

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

Whereas the accused appeared at the hearing while already in detention;  
Whereas the victim appeared;

That it is appropriate to rule on the basis of counter argumentation, in accordance with article 399 of the criminal procedure code;

### ***ON THE MERIT***

#### ***Concerning the criminal responsibility of the accused***

Whereas the accused is being prosecuted for sexual indecency committed with violence on a fifteen-year-old girl;

Whereas the medical certificate produced in the file certainly concludes that there was no sexual violence, but the accused did not hesitate to admit the charge, both during the preliminary investigation and during the hearing;

That he admits having tried to insert his fingers into the genitals of D.A, six years old, without succeeding in penetrating it;

That these acts constitute sexual indecency committed with violence on a minor of fifteen years old and that it is appropriate to tie him to the charges and to apply the law accordingly;

**Concerning the constitution of civil party**

Whereas D.A declared that he was a civil party and claimed the sum of two hundred thousand francs for damages;

That it is appropriate to admit his constitution of civil party as regular in the form;

That on the substance, the request being just and founded, it is appropriate to condemn the accused to pay him the sum of two hundred thousand francs as damages;

**On costs**

Whereas the accused succumbs;

That it is appropriate to condemn him to full costs, in accordance with article 464 of the criminal procedure code;

**FOR THESE REASONS**

Deliberating publicly, on criminal matters and in first instance;

Declares the accused guilty of the charges against him;

As sanction, condemns him to twenty-four (24) months of imprisonment and a fine of one hundred thousand (100,000) francs;

- five years of deprivation of rights provided for in article 66 of the penal code;
- five years of ban on appearing anywhere on the territory of the Republic of Cote d'Ivoire;

Admits Mr. D's request to constitute civil party;

Declares it well founded;

Condemns the accused to pay him the sum of two hundred thousand (200,000) francs for damages;

Condemns the accused to the costs;

Also condemns him to the reimbursement of the liquid costs at twenty thousand eight hundred (20,800) francs, including the stamp, registration, postal communication and service fees;

As for the fine, damages and payment of costs to the State, sets the duration of restrictions at the minimum, if these must be complied with within the period of three months from the day of the convict's release;

On the whole, by application of the above-mentioned articles and those below, 117,118, 55 of the penal code, 464 and 699 of the Criminal Procedure Code which were read at the hearing by Mr. President;

In addition, the President gave the convict the warning prescribed by Article 710 of the criminal procedure code;

In witness whereof this judgment has been signed by the Magistrate who rendered it and by the Registrar, on the aforesaid day, month and year.

**President: Mr. MOGNON PEPE SERAPHIN.**