

REPUBLIC OF SENEGAL
One People-One Goal-One Faith
In the name of the people of Senegal!

DAKAR COURT OF APPEAL

FLAGRANTE DELICTO

**REGIONAL COURT OF
DIOURBEL**

Of 03 MAY 2012

Judgment N°

Prosecution N°

AT THE ORDINARY PUBLIC HEARING of the Regional Court of Diourbel (Senegal) on **May third, two thousand and twelve**, held for correctional police cases by Mr. xxx, judge at the seat, President, assisted by xxx, judges at seat, members;

**PUBLIC
PROSECUTION**

In the presence of xxx, deputy of the Public Prosecutor and with the assistance of xxx, Registrar,

And: xxx (Civil Party)

Was rendered the following judgment:

VERSUS

Between: 1) Mr. Prosecutor of the Republic requesting according to the report of interrogation of flagrante delicto dated April 30, 2012;

xxx

And 2): xxx, aged 30, born in Pire (C.L. Touba Toul), xxx, housewife, domiciled in Touba Thiawène;

(D.W of 30/04/12)

Civil party appearing at the concluding hearing in person;
On one hand

And: 1) xxx, 35 years old, born in Pew Fall, xxx, laborer, passing through Touba;

Warrant of detention of April 30, 2012 Accused of indecent assault with violence and possession of cellulose product, provided for and punished by articles 320 al. 6 of the Penal Code and 109 of the Drug Code; Appearing and concluding at the hearing, in person;

OFFENCE

Indecent assault with violence and possession of cellulose product;
Articles 320 para. 6 of the Penal Code and 109 of the Drug Code

Arrested at the hearing on May 3, 2012, in accordance with article 384 of the Code of Criminal Procedure, the defendant declared that he wanted to be tried immediately and the case was usefully retained;

On the other hand

DECISION

See operative part

The Public Prosecutor explained that by the aforementioned report, he had the accused appear before the Tribunal at the hearing on that day to defend himself on account of the above-mentioned offence;

The Registrar then read the documents in the file.

And the defendant was heard, the Registrar took note of the defendant's statements and answers;

Then the witness produced by the prosecution was heard;

The civil party xxx declared that she was acting as a civil party, requested the Court to take notice of the act, which granted it to her, but declared that she was not claiming damages;

The public prosecutor summed up the case and demanded against the defendant the application of the law. The defendant presented his defense, Then the Tribunal, after having deliberated in accordance with the law, ruled in these terms:

THE TRIBUNAL

Having regard to the documents in the file;

Having heard the accused during his interrogation;

Having heard the civil party in her submissions, the Public prosecution in its requests, the defendants in their defense;

In the form:

Whereas xxx appeared before the Criminal Court under the offence of indecent assault with violence and possession of cellulose product;

That it befits to rule after trial with regard to him;

On merits:

Whereas according to the report of an interrogation of flagrante delicto of April 30, 2012, the Public Prosecutor had xxx appear at the bar of the correctional court here under the offence of having in Touba on April 28, 2012, in any case before the prescription of public action committed an indecent assault with violence on the person of xxx, to have in the same circumstances of time and place detained a bottle containing cellulose product for consumption;

These facts constitute the offenses provided for and punished by articles: 320 al. 6 of the penal code and 109 of the drug code;

Whereas the offense of indecent assault with violence reproached to xxx can best be analyzed as violence and assault, provided for and punished by article 296 of the Penal Code

That it is appropriate to disqualify the acts of violence and assault, to find him guilty and to sentence him to one (01) month of imprisonment;

Whereas the fact of possession and use of cellulosic product for which he is accused are constant; that it should be retained in the links of the offence;

That it befits to sentence him to one (01) month of imprisonment;

Whereas it is appropriate to order the concurrent sentencing and to say that he will be sentenced to a one-month imprisonment;

Applying the provisions of article 433 of the Penal Code to him;

On civil damages:

Whereas xxx declared to be a civil party; that the said action, made before the submission of the public prosecutor, is regular in form, that it should be declared admissible;

On merits:

Whereas xxx has concluded that she is not asking for anything; that it should be acknowledged;

Whereas it befits to sentence him to costs and to the maximum imprisonment term for failure to pay debt.

FOR THESE REASONS

Ruling publicly, after trial, in correctional matters and at first instance:

- De-characterizes the acts of indecent assault with violence alleged against xxx in violence and assault;
- finds him guilty;
- Sentences him to 01 month's imprisonment;
- Also declares him guilty of possession and use of cellulose products;
- Sentences him to one (01) month of imprisonment;
- Orders the concurrent sentencing;

DETAILS OF COSTS

Extract M.P: 75 F

Stamp: 4,000 F

Re: 8,000 F

Shipping edge: 75 F

T. F: 75 F

Tax rep.: 75 F

On civil damages:

In the form:

- Receives the constitution of civil party from xxx;

On merits:

- Declare it to be founded and give her notice that she is not asking damages;
- Also condemns xxx to pay the costs;
- Fix the maximum imprisonment for failure to comply;

TOTAL: 12 300 F

The whole in application of the aforementioned texts, which have been read by Mr. President.

Thus done, judged and pronounced on the aforementioned day, month and year.

And signed the **PRESIDENT** and the **REGISTRAR**.