REPUBLIC OF SENEGAL ***FLAGRANTE DELICTO***

One People-One Goal-One Faith **ORDINARY PUBLIC HEARING**

DAKAR COURT OF APPEAL Of 19 November 2014

DAKAR REGIONAL COURT

Judgment no

Prosecution No

At the ordinary public hearing of the *Tribunal Régional Hors Classe* sitting in Dakar (Senegal) on 19 November 2014, in police correctional matters by Madam xxx Judge and President, assisted of Mr xxx and Mr xxx, judges, members, in the presence of Mr. xxx Debuty Public Prosecutor with the assistance of Attorney xxx, Registrar, was rendered the following judgment:

PUBLIC PROSECUTOR

AND

CIVIL PARTY

Parties

1) Mr. Public Prosecutor, applicant, following the report of flagrante delicto No xxx of 28.10.2014

AND

2) xxx, without particulars; civil party, neither appearing nor filing submissions nor represented in the hearing in which the Court ruled on merits of her action: **on one had**

VERSUS

XXX

VERSUS

XXX born in 1975 in Diambolo (Mbolo), son of xxx and xxx, *manoeuvre*, domiciled in La Cité Biagui/Dakar; detained following the detention warrant dated xxx; accused of willful battery and assault on a female person (Article 294 of Penal Code); Appearing and pleading himself in the hearing and with the assistance of his Counsel xxx, attorney at the Court:

On the other hand

OFFENCE

Willful battery

And assault on a

Female person

Decision

See operative part

Questioned par Madam xxx, the President at the hearing of 30 October 2014 in accordance with article 384 of Criminal Procedure Code, the defendant stated he wanted to be tried immediately but the case was postponed for 19.11.2014 waiting the appearance of the civil party and the production of the medical certificate. On that date, the case was argued and reserved for a judgment in today's hearing.

When the case was called, Mr. the public prosecutor submitted that he sued the accused before this court on account of the above mentioned offence;

The defendant was questioned. The registrar took note of his statements and answers. The public prosecution requested the application of the law to the defendant. The defendant submitted his defense. Then the Court, after deliberation in accordance with the law, ruled in these terms:

THE COURT

Considering the exhibits in the file;

Considering the questioning of the defendant;

Considering the default of the civil party;

Considering the submissions of the public prosecution;

After deliberating in accordance with the law;

Whereas following the interrogation report on flagrante delicto No xxx of 28 October 2014, the defendant xxx appeared before this Court charged with the offence of having, in Dakar in 2013, in any case before the public action was time barred, beaten and injured a female person named xxx entailing a temporary work incapacity (ITT) of 23 days; facts provided for and punished by article 294 of the penal code;

On merits

On the public action

Whereas the defendant denied the charges against him;

Whereas the facts of willful battery and assault on a female person in the indictment act shall be analyzed as violence and assault following the investigation during the hearing;

That it befits to de-characterize them in this sense, and declare him guilty of them and sentence him to 15 days of imprisonment;

On Damages

Considering that lady xxx neither appeared nor filed submissions nor was represented at the hearing;

That it befits to reserve on damages;

That it befits to sentence, furthermore, the defendant to pay costS

FOR THESE REASONS

Ruling publicly, after trial with regard to the defendant at by default with regard to the civil party, in correctional matters and in first instance;

De-characterize the willful battery and assault on a female person against the accused into violence and assault;

- Declares him guilty of them
- Sentences him to 15 days of imprisonment
- Reserves on damages
- Sentences the defendant to pays costs of 11 800 CFA;
  The whole in accordance with the above mentioned legal texts;

In witness thereof, the present judgment was signed by Madam the judge and the sworn registrar the day, month and year as above

THE PRESIDENT **THE REGISTRAR**