

**REPUBLIC OF SENEGAL**  
**One Nation- One Goal- One Faith**

Dakar Court of Appeal  
High Court of Pikine-  
Guediawaye

No of the judgment:  
No of the public  
prosecution:

Public Prosecutor

And

.....

Versus

....

Counsel

Detention warrant dated  
23.05.18

Type of the offence

Attempt of rape

Decision

See end of judgment

**SUSPECT CAUGHT RED-HANDED**

**Hearing in correctional matters of 25 May 2018**  
**In the name of the People of Senegal**

At the ordinary public hearing of the High Court of Pikine-Guediawaye of May 25, 2018 held in correctional matters by Madam..., President, Mr... and Mr ..., sitting judges and members, in the presence of Mr. ..., Deputy Public Prosecutor and Maître..., Registrar, was rendered the judgment with following content:

Between:

The **Public Prosecutor**, plaintiff, based on the interrogation statement of a suspect caught red-handed No... of 25.05.2018;

And

Ms.... born on August 8, 1992 in Mbodieme, corporal in the army, domiciled in Pikine, appearing and pleading at the public hearing;

**ON THE ONE HAND**

Mr.... born on 16 April 1963 in Dakar, son of... and of..., tiler, domiciled in Dalifort;  
Suspect of attempt of rape;  
Detained on detention warrant of 23.05.2018 and assisted by his lawyer...;

**ON THE OTHER HAND**

At the hearing of 25 May 2018, in accordance with article 384 of the Criminal Procedure Code, the suspect stated that he wanted to be tried immediately and the case was argued;

The President read out the written submissions of the prosecutor filed in Court and interrogated the suspect;  
The public Prosecutor, after a summary of the facts

asked the court to acquit the suspect for the accusation of attempt of rape and sentence him for assault and battery which resulted in temporary incapacity to work for 15 days of deprivation of liberty;

The suspect made his submissions;

The Registrar took note of the submissions;

The debates were closed for deliberations;

After its deliberations in accordance with the law, the court made the decision in following terms:

### **THE COURT**

Whereas, according to the interrogation statement No....dated May 25, 2018, Mr... was brought before this Court, in any event before the prescription of the criminal action, on allegations to have attempted in Pikine in 2018, using violence, coercion, threat to have sexual relations with...., to have exerted assault and battery on the minor resulting in temporary incapacity of work for 15 days;  
*Offences provided and punished by articles 320, 320 bis and 307 of the Penal Code;*

### **ON MERITS**

#### **On the criminal action**

Whereas the public prosecutor asked for the acquittal of the suspect for the accusation of attempt of rape and applied for 15 days of imprisonment for the suspect for assault and battery;

Whereas while he was being interrogated, the suspect denied the facts;

Whereas counsel for the accused submitted that the suspect could be released on basis of the benefit of the doubt;

Whereas based on the court records and debates in the hearing, there is doubt as to whether the accused attempted to commit rape;

That he should be acquitted for that accusation on the ground of the benefit of the doubt;

That he should however be found guilty for assault and battery and sentenced to pay a fine of 50,000 FCFA;

#### **On Civil damages**

Whereas the civil action was duly initiated and that the claimant of civil damages asked for 500,000 FCFA;

That the Court has objective grounds for assessing this amount for civil damages to reduce it to fair and reasonable proportional amount;

That it is appropriate to fix the amount at 100,000 FCFA and to order the accused to pay it;

**FOR THESE REASONS**

Ruling publicly in the presence of parties in correctional matters and at first instance;

- Orders acquittal of the accused for the offence of attempt of rape;
- Declares the accused guilty of assault and battery;
- Sentences the accused to pay 50,000 FCFA of fine;
- Declares admissible the civil action by....;
- Sentences the accused to pay 100, 000 FCFA as reparation for all causes of suffering;
- Reserves pronouncement on the civil damages
- Orders the offender to pay the costs;
- Sets enforcement by committal to maximum;

Thus done, tried and pronounced on the above day, month and year.

And have signed

President (signed)

Registrar (signed)