Republic of Senegal
One People-One Goal-One Faith

SAINT-LOUIS COURT OF APPEEL (SENEGAL)
SAINT-LOUIS REGIONAL COURT

Judgment N°31/13
Prosecution N°1223/2012

IN FLAGRANTE DELICTO

ORDINARY PUBLIC HEARING OF THURSDAY 10 JANUARY 2013

THE PROSECUTOR
And: N.D.

LR: Mama Y.D (Civil Party)

AGAINST

A.K.D.
D.W. of 27.12.2012

Nature of offense:

Rape of a mentally restarted woman (article 320 of the Penal Code)

At the ordinary public hearing of the Regional Court of Saint-Louis on January 10, 2013, held for criminal matters presided at by Mr. M.L.C, assisted by Ms. N.R.S. and Ms. N.D.D, Judges at the seat – members;

In the presence of Ms. F.A.C.L deputy public prosecutor;

And with the assistance of Maître H.A.B., Sworn Registrar;

The following judgment was rendered:

Between:

1- The Prosecutor, applicant, according to the interrogation minutes of flagrante delicto case of December 27, 2012;
2- Ms N.D: Born in 1970 in Dagana, daughter of the late A. and S.D, widow and housewife living at the place of birth, Gadaga neighborhood, telephone …;

The person with civil liability, Mama Y.D. appearing and concluding at the hearing in person;

On the one hand

Mr. Abdou Kadre DIOP: Born September 29, 1970 in Saint-Louis to M. and A.D.D, married to one wife and father of one child, tailor, domiciled in the medina neighborhood of Chérif Dagana;

Accused of raping a mentally retarded person;

Appearing and concluding at the hearing in person;

On the other hand:

When the case was called up on January 03, 2013, when questioned, in accordance with article 384 of the C.P.C, the defendant declared that he wanted to be tried immediately and the case was retained;

The Prosecutor explained that by the aforementioned minutes, he had summoned the accused to appear before the Court, at the hearing of that day, to defend himself with regard to the above-mentioned accusation;

The accused was heard, and the Registrar took note of his statements;

The Prosecutor summarized the case and requested against the defendant a

prison sentence of five (05) years;

The accused presented his means of defense;

Ms. N.D. became a civil party and withdrew her action;

The proceedings were then declared closed and the case adjourned to January 10, 2013;

On that date, the court, concluding its deliberation in accordance with the law, ruled as follows:

THE COURT

Having regard to the documents in the file;

Hearing the accused during his interrogation;

Hearing the civil party in her withdrawal;

Hearing the Prosecutor in his requisitions and the accused in his means of defense;

After having deliberated in accordance with the law;

Whereas all parties have appeared at the hearing;

That it is necessary to rule on the basis of counter-argumentation;

ON THE FORM

Whereas the action was brought in the legal form and time limit;

That it should be declared admissible;

ON THE MERIT

Whereas Mr. A.K.D. is accused of having in Dagana on December 20, 2012, using coercion, threat, violence or surprise, committed an act of sexual penetration on the person of N.D, mentally retarded;

Offences provided for and punishable under article 320 of the Penal Code;

Whereas it results from the file and from the hearings, a serious doubt about the guilt of the defendant, and that such doubt should be in the advantage of the latter;

That it is appropriate for him to benefit from the doubt and to be relieved of the accusation;

Whereas Madame N.D. became a civil party and subsequently withdrew her action;

That it should so be acknowledged;

Ruling publicly, on the basis of counter-argumentation, in criminal matters and in first instance;

ON THE FORM

- Declares the action admissible;

ON THE MERIT

- Relieves the accused for the benefit of the doubt;

- Acknowledges the civil party's non-claim for damages;

- Attributes costs to the public treasury;

Thus done, decided and pronounced publicly on the day, month and year above;

And signed by the President and the Registrar.

PAR

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