

Cassation Appeal No 21122/ Judicial Year 62 on the 17th of November 2001:

The Case

The Public Prosecutor's office charged the accused with practicing habitual debauchery with men in return of financial compensation and requested him to be punished with articles 9(c) and 15 of the law No 10/1961. The first-degree misdemeanor court sentenced the accused to one-year jail time, the accused appealed the sentence and the appeal court sentenced him to 6 months jail time. The accused did not find this sentence to his liking and failed a cassation appeal.

Court of Cassation Verdict

The first-degree sentence found its reasoning for the sentence in the facts of the case as it came in the investigation report; "We (the police) have received a tip stating that one of the homosexual men is frequently standing in front of a hotel in 26th of July St. to hunt men who want to have homosexual sexual relations with him. The investigations has backed the tip we received, as we moved to the location mentioned and we found the accused walking in a feminine way and whispering to a guy and when he tried to runaway we stopped him and questioned him, then he confessed that he has been committing debauchery for one year and half and did it for about ten times in the last twenty days and that he doesn't receive any financial compensation in return. He confessed also in the public prosecutor's investigation report that; he does commit debauchery with other men indifferently and that he learnt how to do this from one guy he met in front of "the American's Coffee shop" for one year and half now and that he has sex with other men for his personal pleasure, as such the first degree court saw it was fit to punish him after feeling comfortable about the confessions he gave in the investigations report" The law did not specify a way for the court to identify the facts of the crimes and the court is free to understand the elements of the crimes and its facts as it see fit and when it feel comfortable about the facts the court received it shall has the right to sentence the accused as it sees fit. The law also did not specify a way to prove the element of "habituality" in the crime of "Debauchery" and the court justified its sentencing in a way that proves that the accused did commit the crime of "Debauchery" in all of its element.

Confession is one of the keyways in criminal matters to prove a crime did acquire and the court is free in its judgment to review the confession and judge whether it is true or not. In this case the Court found the confession to be true and valid to build its sentencing on, as the accused did confess in the public prosecutor's report that he did confess to committing "debauchery" with men. The accused is claiming that the confession was not true nor valid because the confession was forcibly taken by the arresting officer, however there's no indicators other than the accused's claim that the arresting officer forced him to confess to anything, as such and given the evidences that the arresting police officer collected that allowed him to do the arrest without an arrest warrant, we find

that the producers of the arrest were legal. Since the court built its sentencing on the confessions and other evidences provided to it and the court is free to understand the facts of the case in the light of evidences provided to it we find that the court sentencing was legal and correct and as such we reject the appeal.



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