

REPUBLIC OF MALI
In the Name of the People of Mali

SUPREME COURT OF MALI

JUDICIAL DIVISION

Criminal Bench

APPEAL No.11 OF 29-7-2008

JUDGMENT No.64 of 31st May 2010

NATURE: Abduction, child trafficking and rape

THE SUPREME COURT

In its ordinary public session on Monday, the thirty-first of May of the year two thousand and ten, before:

M Sidi SININTA, President of the Criminal Bench, President ;
Mr Salikou DIARRA, Advisor at the Court, Rapporteur,
Mr Elie KEITA, Advisor at the Court, Rapporteur,

In the presence of Advocate General M'PERE DIARRA as State Prosecutor;

With the assistance of Maitre TOURE Adizatou H. MAIGA, Registrar;

Delivered the judgment which reads as follows:

ON THE APPEAL: by Maitre Mahamadou SIDIBE, Attorney acting for and on behalf of his client Amougnou SAYE, appellant, on the one hand

AGAINST: Judgment No.11, delivered on the same day by the Assizes Court of Mopti, respondent, on the other;

On the report by Advisor Elie KEITA and the written and oral submissions of FATIMATA NIENTAO and M'PERE DIARRA

Having deliberated in accordance with the law;

Having regard to the appeal filed on 29th July 2008 with the Registry of the Court of Appeal of Mopti by Maitre Mahamadou SIDIBE in the name and on behalf of his client Amougnou SAYE, against Judgment No.11 delivered on the same day by the Court of Appeal of Mopti;

Having regard to the certificate issued by the Chief Registrar of this Court showing that Amougnou SAYE, exempted from the statutory payment into court, did not submit any additional written statements,

Having regard to Article 513 of the Criminal Procedure Code which imposes forfeiture of the right of appeal on an appellant who fails to pay the statutory deposit into Court and/or submit additional written statements;

Having regard to the indictment of 2nd May 2010 by the Advocate General at the Supreme Court of Mali;

FOR THESE REASONS

Declares the appellant deprived of his right of appeal;

Leaves costs at the charge of the State;

Thus done, adjudged and pronounced by the Criminal Bench of the Supreme Court, in its public session on the day, month and year above-stated.

AND SIGNED BY THE PRESIDENT AND THE REGISTRAR

No 47/PG 08
No. 52/Judgment 08

Case

The State

v.

ALASSANE SAYE

Arrest Warrant of
18/4/2005

Charged with Rape, Complicity to abduction, and child trafficking

Sentence in absentia

ASSIZES COURT OF MOPTI

ORDINARY PUBLIC SESSION OF 29th JULY 2008

The Assizes Court of Mopti, in its Ordinary Public Session on the Twenty-ninth of July of the Year Two thousand and Eight, in criminal matters, before:

MESSRS:

BOUGARY CISSOKO, Advisor at the Court of Appeal of Mopti, **PRESIDENT**

CJIEICK MOHAMED CIERIF KONE) Advisor at the Court of Appeal.

ABDOULAYE COULIBALY), Judge of the Bench of the Court of First Instance of Mopti,
MEMBRES

In the presence of MOHAMED A MAIGA, Advocate General at the Court of Appeal of Mopti, as State Prosecutor;

With the assistance of MAITRE N'TOMINI DIAKITE, Registrar

And the assistance of Mr Seydou MAIGA, ad hoc interpreter, sworn beforehand in accordance with the law;

Delivered the judgment which reads as follows:

THE COURT

Having regard to Judgment No.45 of the Indictment Division of the Court of Appeal of Mopti on 29/7/08 referring the accused before the Court of Assizes of Mopti:

ALASSANE SAYE : Born around 1979 in Pégué, rural municipality of Sangha, Circle of Bandiagara , son of Domo Saye and of Edjougo Kodio, Security guard domiciled at Excellence High School in Faladié, Bamako.

Charged with abduction, child trafficking and Complicity, and rape. Arrest Warrant issued on 18th April 2005. Accused does not enter an appearance.

Having regard to the order of arrest issued against the above-named person and inserted in the referral judgment;

Whereas the accused referred to the Assizes Court of Mopti sitting at Sévaré and regularly summoned under conditions provided by Article 369 of the Criminal Procedure Code, does not enter an appearance

Whereas this is good reason to pass judgment in default against him;

Whereas the documents of the case file establish sufficient evidence

Against Alassane SAYE: for being, in Bamako, in the year 2005, in any case less than ten years ago, an accomplice to the crime of abduction charged against Amougnon SAYE, notably by receiving Miss Anne Dougnon in his house;

-2) To have, under the same circumstances of time and place as above, less than ten years ago, engaged in sexual relations with Miss Anne Dougnon without her consent, act defined and punished under Article 226 and 24 of the Penal Code

Having regard to these articles, together with Articles 363, 370 and following of the Criminal Procedure Code, 725 and following of the Social, Commercial and Civil Procedure Code, which read as follows:

Pursuant to these legal provisions above-mentioned and transcribed:

SENTENCES IN ABSENTIA

Alassane Saye to a penalty of Twenty (20) years of imprisonment and 5 years of banishment.

Also orders him to pay the costs under this ruling.

Thus done, adjudged and publicly pronounced by the Court on the day, month and year above-stated.

AND SIGNED BY THE PRESIDENT AND THE REGISTRAR -

REPUBLIC OF MALI

One People - One Goal - One Faith

COURT OF APPEAL OF MOPTI

COURT OF FIRST INSTANCE OF MOPTI

INDICTEMENT FOR PURPOSES OF THE TRANSMISSION OF PROCEDURAL DOCUMENTS TO THE ATTORNEY GENERAL AT THE COURT OF APPEAL OF MOPTI

The State Prosecutor at the Court of First Instance of Mopti, Having regard to the proceedings against:

1- **AMOUGNON SAYE**: Born on 10th April 1979 in Pégué, rural municipality of Sangha, Circle of Bandiagara, of Gordon and of Endielou SAYE, Well-digger, domiciled in Sedourou at the home of Assegueremou Daro, the village chief;

ACCUSED: of abduction and child trafficking, Article 240 of the Penal Code;

DETENTION WARRANT: of 11/3/2005

PLACED ON PROVISIONAL RELEASE on 23/5/2005

Having regard to the notification order of the Investigating Judge, Justice of the Peace of Koro, of 27th January 2006;

Having regard to Article 181 of the Criminal Procedure Code aimed at the final settlement of proceedings;

Whereas judicial inquiry established the following events:

During February 2005, at Sedourou C/dekoro, Mr Amougnon SAYE abducted Miss Anne Dougnon, aged 16 and a pupil. From Sedourou, where he abducted the girl, Mr SAYE, on a Honda motorcycle GC125, carried Anne to Sangha, from where they boarded a vehicle to

Bamako. Amougnon took up residence at the home of his friend Alassane SAYE, security guard at the Excellence High School in Faladie, Bamako. Amougnon SAYE, with his friend, then exchanged his victim against the vehicle used in the commission of his crime, that is, the CG125. In Bamako, Anne Dougnon became a housekeeper to Alassane SAYE, and constantly had sexual intercourse with him. It was after intensive search by the Gendarmerie that Anne Dougnon returned to her parents in Sédourou;

Whereas Bulletin No. 2 of the Criminal Record of Amougnon SAYE, by 11th April 2005, reveals no previous conviction against him; and that the information received on the personality of the defendant is favourable. Whereas the expert medical certificate by the chief physician of Koro of 14/3/2005 establishes that Amougnon SAYE suffers no physical or psychological abnormality which could influence his criminal liability.

-Whereas the judicial inquiry establishes that there is sufficient evidence against Amougnon:
1- To have, in Sedourou, Circle of Koro, in February 2005, in any case less than ten years ago, transported a child, in this case Anne Dougnon, from Sedourou to Bamako to hand her over to Alassane SAYE in order for the latter to use her as a housekeeper and engage in sexual intercourse with her in exchange for a CG125 motorcycle;

2- To have, in the same circumstances of place and time as above, in any case less than ten years ago, through fraud, removed an individual from the place where she was placed by those under whose authority she is submitted or confided, in this case Anne Dougnon, pupil of the sixth year in primary school in Sedourou;

Whereas these acts are defined and punished by Articles 240 and 244 of the Penal Code;

Having regard to Article 185 of the Penal Code.

Requests that it pleases the Investigating Judge to declare sufficiently established, against Mr Amougnon SAYE, the crimes of abduction and child trafficking.

Consequently, order the transmission of the case file to the Attorney General for his assessment and action in accordance with the law.

Mopti, 27th February 2006