

Appeal No 683 / Year 45 Judicial at 12th of May 1975

The Case

The public prosecutor office charged the accused of committing habitual debauchery, as he was arrested having sex with another man and he was the bottom in this sexual relationship in El-Fayom district. The public prosecutor office charged him with the violation of articles No 1, 5, 6 and 10 of the law No 10/1961. The first-degree court of El-Fayom found the accused guilty and sentenced him to six months jail and 25 EGP fine, the accused decided to appeal and as such the case appeared in front of the appeal court in El-Fayom, which ruled to uphold the first-degree sentence, however the public prosecutor office did not find the final sentence to their liking and appealed to the court of cassation.

Court of Cassation Verdict

The public prosecutor office is concerned with implementation of the law in the case, as the court of appeals upheld the first degree sentence of punishing the accused for committing habitual debauchery and as such the court of appeal was mistaken in its implementation of the law, as the facts of the case from the investigation report or of the witness statement states that the accused was committing debauchery for his own pleasure and was not receiving any financial compensation in return and as such the elements of the crime he was convicted with do not exist.

The First-degree court sentenced the accused for committing habitual debauchery, as per the police investigation report the police received a tip that the accused commits debauchery in his house for financial compensation and as such the police issued a search warrant and when they executed this warrant, they found the accused committing debauchery with another man (the accused being the bottom and the other man being the top) and by questioning the witness (the top), he confirmed that he used to have sex with the accused more than once for pleasure and there's no financial agreement between the two. The Court of Cassation believes that strong evidences were provided by the police and the witness to convict the accused for committing habitual debauchery, as article 9 of law No 10/1961 on combating prostitution punished "Whoever habitually engages in debauchery or prostitution." The lawmaker meant by this article that the elements of the crime are full when the person commits it habitually and without differentiating of his sexual partners. The element of financial compensation was never a requirement for the crime of debauchery or prostitution to take place, even if it does exist it can only be used to support the element of committing debauchery or prostitution indifferently with multiple partners and since the first-degree court sentence was based on these evidences, we found the ruling to be correct, as all the elements of the crime do exist in

this case and to say that the implementation of the law was not correct because the crime require a financial compensation to be a crime is faulty and as such the court refuses this appeal.



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