

Appeal No 977/ Year 47 judicial at 29th of January 1978

The Case

The public prosecutor office charged the accused of providing a house to others to aid them committing adultery in return for financial compensation and requested him to be punished with article 9 of the law No 10/1961. The misdemeanor first degree court fined the accused with 50 EGP and 3 months jail. The accused later appealed to Alexandria Elementary Court and the court upheld the sentence from the misdemeanor court. The accused did not agree with the sentencing and decided to appeal to the Court of Cassation.

Court of Cassation Verdict

The accused is concerned with the implementation of the law in his convention, as he was accused with renting his house to prostitutes. He sees the implementation of the law here is wrong as the incident he was convicted for -even if true- is not criminalized because he did not know that he was renting the house for prostitutes as it shows in the rental agreement, he also says that the habituality element of the crime of prostitution does not exist, as he said in his defense that one of the ladies arrested is a friend of the tenant and the other lady is her colleague and not two prostitutes. Even though the strong defense arguments, the court does not feel that this defense is enough for an appeal in the Court of Cassation, as the first degree sentence stating in its reasonings for the convention that; The vice police's officer knew from his secretive investigations, that the accused rents out houses for others to practice prostitution. The Police officer received a search warrant from the public prosecutor office and moved to the house owned by the accuse to search and there they found inside for Libyan men and the second accused hiding under the bed in the bedroom wearing a transparent lingerie and next to her was her underwear, as for the third accused she was found wearing a man's clothes on the street after she jumped from the flat, once the flat raided the house. The police questioned the men and women they found in the flat and the men confessed that they did rent the flat from the accused to practice adultery in with prostitutes and that the accused knew about that and two of the men confessed that they did commit adultery with the two women arrested in the flat after paying them. The convention was based on strong evidences came from the tenants confessions that the day before the arrest the accused saw some women leaving the house they are renting and did not object to it and that he also committed adultery in the same house six months before the arrest, as for the women arrested they confessed that they did practice prostitution in the house regularly . the convention showed that the accused did know about the activities taking place in his house, as this was proven

through the confessions of the men and women arrested in the house, as he did not object to it and requested a very high rental fee for the house. The first section of article 9 of law No 10/1961 stats that “Whoever lets or offers in whatever fashion a residence or place run for the purpose of debauchery or prostitution, or for the purpose of housing one or more persons, if they are to his knowledge practicing debauchery or prostitution shall be punished with minimum 3 months and maximum three years of jail time or a fine of minimum 25 EGP and maximum 300 EGP or one of those punishments” this section is clear that it is criminalizing two incidents; first renting or offering a house or a place to be operated as place for debauchery or prostitution and knowing about it and in this case the element of “knowledge” of the activities taken place in the place is core for the crime to happen, the second incident is renting a house or accommodation for a person knowing that the person is renting the place to commit adultery in and in this case the element of “habituality” in the crimes of debauchery or prostitution is not required, as was explained by the committee consisting of the legislative and social affairs committees in the Egyptian Parliament entrusted with writing Law No. 68/1951 (the law that was later replaced with law No 10/1961). The definition of “Debauchery” and “Prostitution” in the law is to commit adultery with people indifferently, if a woman commits it its prostitution and if a man commits its debauchery and as such the legal text is implacable whether adultery is committed by a man or a woman in the house, as long as the owner renting it and knowing about the activities taking place in the house and the law does not require the element of habituality in the crimes taking place inside the house to convict the owner of Article 9 Section A. The court does not share the same concerns as the accused in regards of the legal application of the law and view that the first two courts (misdemeanor and appeal courts) did give a convention based on strong evidences that were provided, as the elements of the crime the accused committed are in accordance to the legal texts and as such the court rejects his appeal.