

On the 02nd of December 2009, before the precedent Commission and in the absence of the parties, the following sentence was pronounced.

The Clerk of the Clerk of Court:

The judge : Honourable Mounir SULEIMAN

In the name of the people of Lebanon

In my capacity of unique judge at the criminal Court of AL-BITROUN, after investigations,

The public prosecutor of the Court of Appeal in AL-BITROUN, has tried a judicial action before this Court on the 01st of March 2008, against the defendants to judge them in application of Article 534 Penal Code for homosexual intercourse in contradiction with the nature and on the basis of a plenary judgement. After having reviewed all the documents related to the present case and their reading:

In the facts:

On the date of the 29th of February 2007, on the maritime road in AL-BITROUN, the members of a police brigade patrolling in the North, saw a car with the defendants inside it. The police patrol stopped near the car and the policemen stepped out and took the two defendants to the Police Station of AL-BITROUN to investigate with them with the accusation of committing homosexual intercourse. In the first investigation report no. 302/109 dated the 29th of February 2008, the members of the police patrol surrendered the defendants to the police station accusing them of committing homosexual intercourse.

On the basis of the information written in the two police reports, it is mentioned that acts of kissing and accolades but without any sexual act. The court heard the version of the police members whose names are Caporal Cherbil Fayad and Sergeant Taoufik Jerij as witnesses who did not confirm the sexual acts between the two defendants and not even an act of kissing simply because it was during the night. Moreover, there was a contradiction concerning the question of undressing and that the witness Fayad confirmed that one of the defendants undressed his trousers and underwear whereas the witness Jerij did not confirmed this.

On the other part, the police patrol did not find inside the car any prohibited materiel even not a condom which was mentioned in the report, in contradiction with what was written in the police report provided by the patrol of AL-BITROUN that when investigating the car they found a condom box as a prohibited materiel.

The solicitor asked for the pronouncement of the innocence of the two defendants.

For the proofs:

The facts presented by the general prosecutor – in the first reports- in the plenary hearing- and supported by the testimonies of the witnesses were attached with the documents of the case's file.

In the law:

The Court declared that the two defendants were effectively inside the car (...) stopped on the maritime road in AL-BITROUN.

That the two defendants were sitting on the car's seats inside the car.

That the case presented before the Court is related on the act of kissing, undressing trousers and the possibility of corporal accolades and that the general prosecutor's accusation is based on prohibited intercourse against the nature.

And that the first meaning of sexual intercourse is the separation between two sexual organs between two persons.

And that the case presented before the Court did not concern any physical contact and sexual intercourse.

That the law did not define the specific meaning of nature or any adopted and accepted criterion confirming to what extent the reason is contradiction nature and its laws.

And that if the question is concerning justice, it is clear that Man is unable to understand the nature's laws entirely and is still in the process of discovering it.

That the violation of nature is linked with the thinking mood of a society and its traditions and its capacity to accept the new norms of nature that are not yet usual.

And that Man is part of nature and one its elements and one its cells and no one can say that any act of his acts or behaviour is contradicting nature even if the act is criminal or offending simply because these are the rules of nature and if the sky is raining during summer time or if we have a hot weather during winter or if a tree is giving unusual fruits all these can be according to and with harmony to nature and are part of its rules themselves.

It is worthy to mention that the material elements found and reported can constitute a fact and that they were used by the defendants.

And that TV advertising, awareness programmes are making efforts to propagate health awareness among people inciting them to use condoms in their sexual intercourses to avoid infectious diseases brought by nature for a reason that will be found by Man.

And that the Condoms box found cannot constitute a prohibited material that must be confiscated except if the case is a sexual intercourse between the two defendants which is contradictory with the investigations and testimonies of witnesses and as this is reported in the Court's file.

On the basis of the preceding elements, all investigations must be stopped against the two defendants and refute all the causes and additional and contradictory claims.

For all these reasons:

The Court decides:

- 1- To stop all investigations against the two defendants in application of article 534 for absence of any felony.
- 2- Refute all the causes and additional and contradictory claims.
- 3- The validation of fees.

Judgment issued expressly in AL-BITROUN, on the 02nd of December 2009.

The Clerk of the Court