

**Ruling of a Criminal Action of Intermediate People's Court in Shenyang City,
Liaoning Province**

(2015)SZXEZZI No. 420

The original public prosecution organ is People's Procuratorate of Shenhe District, Shenyang City. The appellant (the defendant in the first trial) YU Ming, male, born in Shenyang City, Liaoning Province on Oct. 11, 1972, holds the ID number of 210103197210115419, Han nationality, with high school diploma, unemployed, lived in Room 7-3-3, No. 17-3, Longfengsi Lane, Danan Street, Shenhe District, Shenyang City, Liaoning Province before being arrested. He was detained on Nov. 1, 2013 for being suspected of the crime of sabotaging legal enforcement by using heretical religion and arrested on Nov. 27 of the same year and made an arrest at the next day. At present, he is in custody of Shenyang Detention House.

Defender WANG Haijun, lawyer of Hunan Tongcheng Law Firm.

Defender YU Shui, male, born on Feb. 19, 1968, Han nationality, live in Room 8-6-2, No. 34-1, North Erjing Street, Shenhe District, Shenyang City. He was elder brother of the appellant YU Ming.

The appellant (the defendant in the first trial) LI Dongxu, female, born in Jilin Province on Jul. 26, 1968, holds the ID number of 210105196807263164, Han nationality, with college diploma, project management of the China Petroleum Pipeline Engineering Corporation Northeast Branch, lived in No. 39, Qishan Zhong Road, Huanggu District, Shenyang City, Liaoning Province before being arrested. He was detained on Nov. 12, 2013 for being suspected of the crime of sabotaging legal enforcement by using heretical religion and detained on Nov. 27 of the same year and made an arrest the same year. At present, he is in custody of Shenyang Detention House.

Defender WANG Guangqi, lawyer of Beijing Zhongyin Law Firm.

Appellant (the defendant in the first trial) GAO Jinqun, female, born in Shenyang, Liaoning Province on Feb. 11, 1969, holds the ID number of 2101061969021, Han nationality, with diploma of Technical Secondary School, worker of Shenhai Thermal Power Plant, lived in Room 4-7-1 No. 70-1, Qingzhen Road, Shenhe District, Shenyang City, Liaoning Province. She was detained on Aug. 31, 2013 for being suspected of the crime of sabotaging legal enforcement by using heretical religion and was arrested on Sep. 27 of the same year and is currently detained at the Shenyang Detention House.

Defender LI Zhongwei, lawyer of Shandong Yuanhua Law Firm.

The case of YU Ming, LI Dongxu, GAO Jinqun, defendants in the first trial, were accused of the crime of sabotaging legal enforcement by using heretical religion by People's Procuratorate in Shenhe District of Shenyang City, was heard in People's Court of Shenhe District, Shenyang City and (2014) SHXCZI No. 820 criminal judgement was made on May 19, 2015. The defendants in the original trial, YU Ming, LI Dongxu and GAO Jinqun were appealed against the sentence. After the acceptance, the Court set a Collegiate Bench according to laws, and believed that the case is clear and determined not to hold a hearing after referring, interrogating defendants in the first trial and hearing opinions of defenders and parties concerned. The case has been concluded.

In the original judgment, the defendant YU Ming has purchased 25 mobile phones of Dopod 838 modle in 2012. To disseminate voice messages of "Falun Gong", from May 2012 to Jun. 2012, YU

Ming instigated the appellant GAO Jingqun to install the software needed for disseminating the information through mobile phone flash for the 25 mobile phones of Dopod 838. These phones were brushed by the defendant GAO Jingqun, with defendant LI Dongxu, at GAO Jingqun's home in Room 4-7-1, No. 70-1, Qingzhen Road, Shenhe District, Shenyang City after he received these phones with one being kept for each to send voice information of Falun Gong. After searching, some items from GAO Jingqun were distrained by the polices, of which one SD card contained electronic propaganda documents of cult "Falun Gong" after checking, and 4,924 mobile phone numbers in the Baise area of Guangxi were recorded in a text document and checked with the call history acquired by the public security organ, from which found that the defendant GAO Jingqun uses the mobile phone number 13124246330 from August 24, 2013 to August 29, 2013, to phone unspecified people from Baise for disseminating the voice propaganda materials of "Falun Gong" downloaded from the Internet for 140 times. After searching, some items from GAO Jingqun were distrained by the polices, of which one SD card contained electronic propaganda documents of cult "Falun Gong" after checking, and 1096 records in total referring to the information about the phone numbers dialed, talk time, and voice file names were recorded in a text document after checking. From the call history acquired by the public security organ, the defendant LI Dongxu used the mobile phone number 13464039830 from Aug. 18, 2013 to Aug. 29, 2014 to phone unspecified people from Shenyang for disseminating the voice propaganda materials of "Falun Gong" downloaded from the Internet for 160 times.

Facts of the appeal were submitted by the original public prosecution organ and interrogated in the trial of first instance, and were confirmed and ascertained by the evidences including the authenticated witness testimony, related documentary evidences, seizing list, search record, inquest record of electronic material evidences, audio-visual materials and confession of the defendant .

The court of first trial held that the behavior that defendants YU Ming, LI Dongxu, GAO Jingqun clearly know that it was cult propaganda item and still disseminate it sabotaged the order of social administration, and all constitute the crime of sabotaging legal enforcement by using heretical religion, shall undertake the criminal liabilities. Considering the defendant YU Ming had accepted reeducation through labor for many times due to sabotaging legal enforcement by using heretical religion and his role in the case, he was given a heavier punishment in the measurement of penalty. As regulated in paragraph 1 of Article 300, and paragraph 1 of Article 25, of the *Criminal Law of the People's Republic of China*, subparagraph (6), paragraph 1, Article 1, of the *Supreme People's Court and the Supreme People's Procuratorate's Interpretation on the Specific Application of Laws in Handling the Crimes of Organizing and Using Cult (ii)*, the judgment is that (i) the defendant YU Ming was sentenced to four years in jail for the crime of sabotaging legal enforcement by using heretical religion. The defendant LI Dongxu was sentenced to three years and six months in prison for the crime of sabotaging legal enforcement by using heretical religion. The defendant GAO Jingqun was sentenced to three years and six months in prison for the crime of sabotaging legal enforcement by using heretical religion. II. Case-related objects seized by the public security organ shall be confiscated and destroyed according to law.

The grounds for appeal proposed by the appellant YU Ming was: His behavior did not constitute the crime of sabotaging legal enforcement by using heretical religion. His defender raised the same defense opinions.

The grounds for appeal proposed by the appellant LI Dongxu was: his behavior did not constitute the crime of sabotaging legal enforcement by using heretical religion.

The grounds for appeal proposed by the appellant GAO Jingqun was: her behaviour did not constitute the crime of sabotaging legal enforcement by using heretical religion.

After the trial, the facts and evidences of the appellants YU Ming, LI Dongxu, GAO Jingqun's crime of sabotaging legal enforcement by using heretical religion were the same as those ascertained in the original judgment with no changes in the process of hearing at this court, and confirmed in this court according to law. Meanwhile, the appellants YU Ming, LI Dongxu, GAO Jingqun and their defenders did not provide new evidences during the second instance.

The Court hold the view that the behavior that appellants YU Ming, LI Dongxu, GAO Jingqun clearly know that it was cult propaganda item and still disseminate it sabotaged the order of social administration, and all constitute the crime of sabotaging legal enforcement by using heretical religion. Regarding the grounds for appeal and the defense opinions proposed by the appellants YU Ming, LI Dongxu, GAO Jingqun and their defenders of their behavior not constituting the crime of sabotaging legal enforcement by using heretical religion, upon investigation, the evidences including testimonium of the witnesses WANG Anfei, GU Ning, CHANG Shujuan, LIU Wei, HUANG Kun, LIAN Xiaodong, CHEN Zhengda and CHEN Xinye, search record, physical evidence photo, seizing list, validity examination record of electronic evidences, audio-visual materials, call records and arrest process and other evidences, with the confession of appellants at the investigation stage, are sufficient to determine that the appellant YU Ming has purchased a number of mobile phones and instigated the appellants GAO Jingqun and LI Dongxu to install the software needed for disseminating the information through mobile phone flash. III. Facts that the appellant used this method to disseminate voice messages of "Falun Gong" to unspecified people several times. Therefore, the vindication and defense opinions are not accepted by this Court. The conviction was accurate and the sentence was appropriate in the original judgment with legal trial procedure. It judged according to regulations in Item (1), paragraph 1, Article 225 of *Criminal Procedure Law of the People's Republic of China* as the following:

Rejecting an appeal and affirming the original judgment.

The ruling is the final verdict.

Chief Judge CAO Shijun

Judge WU Yongmei

Acting Judge HAN Yuchuan

Intermediate People's Court of Shenyang City, Liaoning Province (sealed)

Aug. 5, 2015

Court Clerk WU Jianan

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