

Criminal Judgment of People's Court of Shenhe District, Shenyang City, Liaoning Province

(2014) SHXCZi No.820

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Sep. 21, 2017

Public Authority, the People's Procuratorate of Shenhe District of Shenyang City

The defendant YU Ming, Male, born in Shenyang, Liaoning Province on Oct. 11, 1972, Han nationality, ID Card: 210103197210115419, High School diploma, no work, now lives at 7-3-3, No. 17-3, Longfengsi Lane, Danan Street, Shenhe District, Shenyang, Liaoning Province He was reeducated through labor twice respectively in Jan. 2001 and Dec. 2003, because of using cult organization to destroy the enforcement of laws, and then reeducated through labor for two years and six months by Beijing Labor Education Management Committee on Mar. 31, in 2006 because of using cult organization to destroy the enforcement of laws. He was criminally detained on Nov. 1, 2013 because of suspected of using a cult organization to destroy the enforcement of laws and he was approved to be arrested on Nov. 27 and arrested in the next day. At present, he is in custody of the Shenyang Detention House.

Defender WANG Quanzhang, lawyer in Beijing Fengrui Law Firm.

Defender WANG Yu, lawyer in Beijing Fengrui Law Firm.

The defendant LI Dongxu, Female, born on Jul. 26, 1968 in Jilin Province, Han nationality, ID Card: 210105196807263164, University diploma, project management of the Northeast Branch of China Petroleum Pipeline Corporation, now lives in No. 39 Qishan Middle Road, Huanggu District, Shenyang City, Liaoning Province. She was reeducated through labor for two years by Benxi Labor Education Management Committee on Dec. 28, 2006 because of disturbing social order. She was criminally detained on Nov. 1, 2013 because of suspected of using a cult organization to destroy the enforcement of laws and he was in accordance with law to be arrested on Nov. 27 at present, he is in custody of the Shenyang Detention House.

Defender DONG Qianyong, lawyer in Beijing Jingchang Law Firm

Defender LAN Zhixue, lawyer in Beijing Jia Fa Law Firm.

The defendant GAO Jingqun, Female, born in Shenyang, Liaoning Province on Feb.11, 1969, Han nationality, ID Card: 210106196902114921, Secondary specialized school diploma, Shenhai Thermal Power Plant worker, now currently lives at 4-7-1, No.70-1 Qingzhen Road, Shenhe District, Shenyang City, Liaoning Province, she was criminally detained on Aug. 31 because of suspected of using a cult organization to destroy the enforcement of laws and arrested by law on Sep. 30 of the same year. At present, he is in custody of the Shenyang Detention House.

Defender LI Zhongwei, lawyer in Shandong Zhengtang Law Firm.

Defender ZHU Wanqing, lawyer in Liaoning Qinghe Law Firm.

District People's Procuratorate of Shenhe District of Shenyang prosecuted the defendant YU Ming, LI Dongxu and GAO Jingqun with SHJXS [2014] No. 417 indictment of using the cult organization to destroy the law to the court on Apr. 21, 2014. The court legal forms a collegiate bench to hear the case. ZHANG Chenyu, JIAO Zi and LV Kui, procurator of the people's Procuratorate of Shenhe District of Shenyang, appeared in court to support the public prosecution. The defendant YU Ming and his defender, the defendant LI Dongxu and his defender, the defendant GAO Jingqun and his defender all came to the court, and in the process of trial, the defender WANG Quanzhang, LAN Zhixue, LI Zhongwei withdrew the court without reasons, and the defendant GAO Jingqun relieved ZHU Wanqing as her defender.

The People's Procuratorate of Shenhe District of Shenyang City prosecuted the defendant YU Ming of buying 25 sets Dopod type No. 838 mobile phones in 2012, which were used to transmit phonetic information of the "Falun Gong" cult organization, and of instructing the defendant GAO Jingqun to reboot the 25 sets Dopod type No. 838 mobile phones to install the required software for the above information during May and Jun. of 2012. After getting the said mobile phones, the defendant GAO Jingqun, together with the defendant LI Dongxu rebooted the mobile phones at his house which is located at 4-7-1, No.70-1 Qingzhen Road, Shenhe District, Shenyang City. The defendant GAO Jingqun and defendant LI Dongxu respectively left a mobile phone to send voice messages of Falun Gong.

After searching, the public police officers detained some articles at the house of the defendant GAO Jingqun. After inspection, it was found that one of the SD cards among the detained articles had an electronic propaganda document involving the "Falun Gong" cult organization, of which a text document recorded 4924 Guangxi Baise mobile phone numbers. After checking the call records from the public police, the defendant GAO Jingqun used the mobile phone number 13124246330 to make calls to unspecified people of group in Baise areas in Guangxi from Aug. 24, 2013 to Aug. 29, 2013 to transmit the "Falun Gong" cult organization voice propaganda materials downloaded from the Internet for 140 times.

After searching, the public police officers detained some articles at the house of the defendant LI Dongxun. After inspection, it was found that some mobile phones and the SD cards inside among the detained articles had electronic propaganda documents involving the "Falun Gong" cult organization, of which a text document has a total of 1096 records including phone numbers, length of calls, and voice file names and other information. In addition, according to the call records collected by the public police, the defendant LI Dongxu used the phone number 13464039830 to make calls to unspecified people of group in Shenyang from Aug.18, 2013 to Aug. 29, 2014 to transmit the "Falun Gong" cult organization voice propaganda materials downloaded from the Internet for 160 times.

For the above facts, the public prosecution authority had submitted the source of the case and the arresting process, confession of the defendants YU Ming, LI Dongxu, GAO Jingqun, the testimony of witness Liu Wei, GU Ning, HUANG Kun, the written records of investigation and inspection, identification written records, the detainment list, the case description, the security punishment and the official papers carrying the decision of reeducation-through-labor and other evidence materials to the court. The prosecution authority believed that the actions of defendants YU Ming, LI Dongxu, and GAO Jingqun had violated the provisions of the 300 article of the *Criminal Law of People's Republic of China*, and the defendants YU Ming, LI Dongxu, and GAO Jingqun shall be punished for the crime of using a cult organization to destroy the law.

The defendant YU Ming argued that the criminal facts alleged by the public prosecution authority did not exist, and they did not give any mobile phones to the defendant LI Dongxu and GAO Jingqun to reboot.

The defendants LI Dongxu and GAO Jingqun denied all the criminal facts alleged by the public prosecution authority.

After the trial, we found that the defendant YU Ming bought sets Dopod type No. 838 mobile phones in 2012, which were used to transmit phonetic information of the "Falun Gong" cult organization, and the defendant GAO Jingqun rebooted the 25 sets Dopod type No. 838 mobile phones to install the required software for the above information during May and Jun. of 2012. After getting the said mobile phones, the defendant GAO Jingqun, together with the defendant LI Dongxu rebooted the mobile phones at his house which is located at 4-7-1, No. 70-1 Qingzhen Road, Shenhe District, Shenyang City. The defendant GAO Jingqun and defendant LI Dongxu respectively left a mobile phone to send voice messages of Falun Gong.

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The public prosecution authority provided the following evidence to the court to confirm the above facts:

1. The source of the case and the arresting process to confirm the occurrence of the case and the defendants' appearance situation.
2. The confession of defendant YU Ming proved that he gave the defendant GAO Jingqun more than 20 mobile phones to install the software that publicized the content of "Falun Gong" on one day in May or Jun., 2012, which was used for the sending mass voice messages. After the defendant GAO Jingqun completed the rebooting, she left 2 mobile phones and gave the rest phones to YU Ming, who gave them to CHEN Zhengda later.
3. The confession of defendant LI Dongxu proved that the fact and process that defendant LI Dongxu rebooted the phones in his house with defendant GAO Jingqun in May and Jun., 2012.
4. The confession of defendant GAO Jingqun proved that he was given more than 20 mobile phones by the defendant YU Ming, and was asked to install the software publicizing the content of "Falun Gong" on one day in May or Jun., 2012, and then GAO Jingqun and LI Dongxun rebooted the phones at GAO's house later. The defendant GAO Jingqun used the mobile phone to send messages with content of the "Falun Gong" to Baise, Guangxi.

5. The testimony of witnesses WANG Anfei, GU Ning, CHANG Shujuan, LIU Wei, HUANG Kun and others proved that the above witnesses had received voice calls propagating the content of "Falun Gong".
6. The testimony of the witness LIAN Xiaodong, proved the fact that the defendant GAO Jingqun was a practice of Falun Gong, who brought home 3 Dopod mobile phones on one day in May and Jun. of 2012.
7. The testimonies of witnesses CHEN Zhengda and CHEN Xinye proved that they borrowed 20,000 yuan to the defendant YU Ming in Jan. 2012 for purchasing the "truth-telling" mobile phones, and then YU Ming brought the purchased phones to CHEN Zhengda's company.
8. The written record of documentary search, the list of detention, the decision book of detention, photographs of a material evidence proved that police officers searched and detained the Falun Gong propaganda materials such as CDs, books, laptops on Aug. 30, 2013 at GAO 's house
9. The statement of the leading office dealing with Falun Gong of Shenyang Bureau of Public Security proved that the Falun Gong books, CDs and so on detained in the house of the defendant GAO Jingqun were Falun Gong propaganda materials.
10. Photos of the material evidences proved that the phones purchased by the defendant YU Ming were used for the propaganda of Falun Gong.
11. The official papers carrying the decision of reeducation-through-labor proved the fact that the defendants YU Ming and LI Dongxu were reeducated through labor because they had disturbed the social order.

12. The work records of electronic material evidence inspection proved that after the public police officers inspected the mobile phone memory card used by the defendant GAO Jingqun according to law, they found that the mobile phone was equipped with a software to propagate of "Falun Gong" and was used to send text messages to Baise area in Guangxi.

13. The calling records proved that the defendant LI Dongxu used the phone number 13464039830 to make calls to unspecified people of group to propagate the "Falun Gong".

14. The search warrants and the list of detentions proved that the public police officers discovered "Falun Gong" books, mobile phones, CDs and other items in the house of the defendant LI Dongxu.

15. The situation report issued by the leading office on preventing the problems of cult issues of Shenyang Bureau of Public Security proved that the contents of "Falun Gong Truth" and "Three withdrawals for safety" in the mobile phones of LI Dongxu and GAO Jingqun are the propaganda materials of "Falun Gong".

16. The audio-visual materials proved the simultaneous surveillance video of the interrogation of the defendants YU Ming, LI Dongxu and GAO Jingqun by the public police authority in the No.1 detention center of Shenyang.

In view of the testification and cross-examination of the above proof at court, the defendants YU Ming, LI Dongxu, GAO Jingqun proposed that the confirmed contents don't subject to the case, and part of the proofs are not true. Because being obtained by the police in accordance with law, the above evidence had objective authenticity and all the proofs were consistent with each other, the above objection is not supported and the above evidence is certificated.

This court is of the opinion that the behavior that defendants YU Ming, LI Dongxu, GAO Jingqun clearly know that it was CULT propaganda item and still disseminate it disrupted the order of social administration, and all constitutes the crime of sabotaging legal enforcement by using heretical religion, shall undertake the criminal liabilities. The Public Prosecution Organ accused accusation was true. Because apologizes made by the defendants YU Ming, LI Dongxu, GAO Jingqun has no factual and legal basis and synthesize evidence of the case, that defendants YU Ming, LI Dongxu, GAO Jingqun clearly know that "Falun Gong" was CULT and still disseminate the propaganda material with Falun Gong content is in conformity with the constitutive elements of the crime of sabotaging legal enforcement by using heretical religion. Therefore, the above apologizes are not accepted by the court. Considering that 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 in paragraph 1 of 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 ruling is as follows:

I. The defendant YU Ming was sentenced to four years in jail for the crime of sabotaging legal enforcement by using heretical religion.

(The term of imprisonment shall be started from the date of the execution of the judgment. In case the criminal was detained before the judgment was made, one detention day would count to reduce a day for the term of imprisonment, namely, from Nov. 1, 2013 to Oct. 31, 2017)

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 term of imprisonment shall be started from the date of the execution of the judgment. In case the criminal was detained before the judgment was made, one detention day would count to reduce a day for the term of imprisonment, namely, from Nov. 12, 2013 to May 11, 2017)

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.

(The term of imprisonment shall be started from the date of the execution of the judgment. In case the criminal was detained before the judgment was made, one detention day would count to reduce a day for the term of imprisonment, namely, from Aug. 31, 2013 to Feb. 28, 2017)

II. Particular case-related objects detained by the public security organ shall be confiscated and destroyed according to law.

If not satisfied with the judgment, an appeal can be made from the second Day of Judgment receipt within 10 days through the Court or directly to Shenyang Municipal Intermediate People's Court. In case the appeal is made in writing, one original and two copies of the appellate petition shall be submitted.

Chief Judge JIAO Yuling

Judge HUANG Gang

Judicial Officer LIU Yong

The People's Court of Shenhe District, Shenyang City (sealed)

May 19, 2015

Court Clerk GAO Xin

This copy is consistent with the
original upon verification.

The Judgment in Accordance with the Relevant Legal Legislation

The paragraph 1 of Article 300, of the *Criminal Law of the People's Republic of China*

Cases of sabotaging enforcement of laws and administrative laws by organizing and using superstitious sects and secret societies, heretical religion or superstition shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; For cases of a more serious nature, punishment shall be imprisonment of over seven years.

The paragraph 1 of Article 25, of the *Criminal Law of the People's Republic of China*

A joint crime is an intentional crime committed by two or more persons jointly.

Paragraph 1 of 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*

Making and disseminating the cult propaganda, publicizing the cults, sabotaging enforcement of laws, administrative laws, in one of the following cases, shall be decided as the crime of sabotaging legal enforcement by organizing and using heretical religion and punished according to paragraph 1 of Article 300, of the Criminal Law:

- (I) Making and disseminating more than 300 cult leaflets, pictures, slogans, and newspapers, 100 or more books, more than 100 CDs, and more than 100 boxes of audio and video tapes;
- (II) Making and disseminating DVDs, VCDs, and CD motherboard that publicize the cults;
- (III) Making by the use of internet. Disseminating information about cults;
- (IV) Hanging banner or streamer in public places, or publicizing cults by writing, spraying slogans, etc. causing extremely negative social effects;
- (V) Re-making and re-disseminating after being subject to criminal punishment or administrative punishment due to making and disseminating cult propaganda materials;
- (VI) Other cases of gross violation of making and disseminating cult propaganda materials.