

“ فلا تتبعوا الهوى أن تعدلوا ”

[So do not let your desires cause you to deviate from justice]



Verdict No: [XXX]
Date of Issue: [XXX]
File Serial No: [XXX]
Archive No: [XXX]

[Tehran] Criminal Court (1) Branch Number [XXX]

Complainants: Public Prosecutor and Bill G.

Defendants: John D. represented by [XXX], Attorney-at-Law; Mary J., represented by [XXX], Attorney-at-Law; and Bill G.

Accusations: Assault occasioning serious bodily harm, consumption of alcohol and criminal damage

Factual Background

The factual background for this case has been detailed in Court records and relevant bundles. In summary, according to the bill of indictment, police and medico-legal examiners' reports, on the 26th March 2021 Mr John D. was involved in an altercation with Mr Bill G. whilst intoxicated, firstly inside the 'Blue Moon' bar and later at around 10.30pm in the car park to the exterior. Upon exiting the bar and entering the parking area John, accompanied by Ms Mary J. and younger brother Mr Jack D., saw Bill scratching his car bonnet with a screwdriver. He came out of his car, disarmed Bill of the screwdriver and attempted to stab him with it in the chest and stomach, although he was initially unable to make contact with him. However, when Bill fell to the ground, with Mary falling over him, John managed to make contact and stabbed him in the neck with the screwdriver, injuring an artery and causing severe bleeding. Mary claims to have attempted to stem the flow of blood by applying pressure to Bill's neck wound, but was prevented from doing so by Bob, a friend of Bill, and subsequently fled the scene.

John also fled the scene with his brother, Jack, who drove John's car, in an attempt to escape. Emergency services personnel arrived at the scene of the incident relatively promptly, and medical personnel took Bill to hospital for emergency treatment whilst the police made enquiries of those present to establish the circumstances of Bill's injury. Medical reports confirm that Bill underwent emergency surgery and is now in a stable condition.

The altercation was recorded on the CCTV system operating in the parking lot, and a copy of the recording has been added to the criminal file, along with witness statements from patrons of the bar and Bill's associates, as well as police and medical reports.

John was subsequently arrested at hospital following his involvement in a road traffic accident whilst fleeing the scene. He confessed to attacking Bill and consuming alcohol at the Blue Moon bar. Mary was also arrested shortly after the incident in a nearby street, she admitted imbibing alcohol on the 26th March; however, she claims she tried to stop the altercation, and to render first aid to Bill and that she only left the scene to obtain help from a paramedic living nearby.

Following initial investigation, the police referred the case to the Public Prosecutors Office, who led the full investigation, collected evidence, and issued a bill of indictment against John

for assault occasioning serious bodily harm and consumption of alcoholic beverages. Mary was also indicted for assisting John in his commission of the assault against Bill and consumption of alcohol. A bill of indictment was issued against Bill in respect of the criminal damage he caused to John's car.

After reviewing all the evidence and reports in the case, and hearing the representations of the parties, the Court has concluded its hearing and will proceed to its judgement, seeking assistance from God and relying on humane honour and conscience.

Judgement

With respect to the accusations against John D. son of [XXX], born on [XXX] in [XXX], currently detained in [XXX] prison, represented by [XXX], Attorney-at-Law, of assault occasioning serious bodily harm and consumption of alcohol, the Court has considered all the evidence submitted before it and rejects the defence submissions that John acted in self-defence, and had lost his will completely through intoxication. Therefore, the Court finds John guilty of one count of assault occasioning serious bodily harm, and guilty of one count of consumption of alcohol.

It is the position of the defence that John acted in self-defence as Bill was intentionally damaging his car with a screwdriver, and John simply acted to prevent further damage to his property. However, the Court considers that John continued to attack Bill despite the fact that damage was no longer being done to the vehicle, and therefore John's conduct was not necessary to counter Bill's aggression; also that John's response to the situation was unreasonable and irrational, and did not constitute an action to prevent an imminent threat to his life as is required for this defence to succeed. Furthermore, the Court has determined that John's argument with Bill inside the Blue Moon bar is considered a voluntary action/aggression on his part, and that reporting the damage to the vehicle to the proper authorities would have been both practicable and reasonable in all the circumstances (Article 156 (a)-(d) of the Penal Code).

The defence argument that John was intoxicated and thus had lost his self-control/intent during the commission of the assault against Bill has been rejected by the Court, as there is no evidence to prove that John had totally lost his will through the consumption of alcohol (as required by Article 154 of the Penal Code). No defence was offered to the charge of drinking alcohol and, in any event, the hospital records show that John's blood alcohol level was at 1.2% on admission.

In mitigation, the defence claimed that John's actions were the result of provocation on the part of Bill. However, a violent assault is not a proportional response to a scratched car, and for this reason the Court considers that any provocation on the part of Bill was responded to disproportionately by John and therefore the Court does not consider that this defence affords any mitigation in sentencing.

The Court therefore sentences John to a term of 5 years' imprisonment for the assault on Bill resulting in a serious arterial neck injury, as well as payment of *diya* in accordance with Article 614 of the Penal Code and in consideration of Articles 412-4 (*diya* for neck injuries) in light of Bill's request for compensation. The aforementioned punishment has been issued in consideration of the need to protect public order and deter others from participating in such

altercations (*tajari*). The Court further sentences John to 80 lashes (*hadd*) for the consumption of alcohol under Articles 264-5 of the Penal Code.

Regarding the accusations listed in the bill of indictment against Mary J. daughter of [XXX], born on [XXX] in [XXX] and residing in [XXX] following her release on bail, represented by XXX, Attorney-at-Law, for participating in the assault on Bill as well as consumption of alcohol, the Court accepts the defence submitted in relation to the first count in that Mary attempted to break up the altercation and tried to assist Bill when she saw he was injured. The CCTV recordings and various witness testimonies support the defence position in this respect. Therefore, the Court finds that Mary is not guilty of assisting John during his assault on Bill and acquit her of all relevant charges under Article 37 of the Constitution. In respect of the offence of the consumption of alcohol, Mary was under the influence of alcohol at the time of arrest, as confirmed by a breathalyser test conducted by arresting officers, as well as her own admission of drinking alcohol prior to the incident. Therefore, the Court sentences Mary to 80 lashes (*hadd*) for this offence under Articles 264-5 of the Penal Code.

With respect to the accusations against Bill G. son of [XXX], born on [XXX] in [XXX], and residing in [XXX] following his release on bail, of criminal destruction/damage of another's property, the Court has considered all the evidence submitted before it and finds Bill guilty of one count of criminal damage to John's property and sentences him to payment of a fine in the amount of 250,000,000 Riyals in accordance with Article 677 of the Penal Code. The sentence is issued in consideration of Article 22 of the Penal Code, as well as the discretion conferred on judges in *taz'ir* crimes in which a sentence of imprisonment may be substituted with an appropriate fine.

This verdict is issued in the presence of the parties and their legal representatives. This decision may be appealed within 20 days of the date of issue in the [Tehran] Court of Appeal.

Judge of [Tehran] Criminal Court 1 Branch Number XXX

[signature of judge]

[signatures of court consultants/advisors]

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Verdict No: [XXX]
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**[Tehran] Criminal Court 1 Branch Number [XXX]
Special Juvenile Division**

Complainants: Public Prosecutor and Family of Olivia F. represented by [XXX] Attorney-at-Law
Defendant: Jack D. represented by [XXX], Attorney-at-Law
Accusations: Reckless driving, without a licence, causing death

Factual Background

In this case, Mr. Jack D., aged 17, stands accused of reckless driving, without a licence, resulting in death. The full details of the case have been recorded in the Court's files and relevant bundles. In summary, following an incident in which Jack's brother, John D., became involved in a violent altercation with Bill G. outside the Blue Moon bar on the 26th March 2021, Jack placed his brother in the passenger seat of a vehicle owned by John and departed the scene whilst driving at a high rate of speed in a reckless manner, without the headlights turned on. Jack was not in possession of a driving licence to operate the vehicle. He was allegedly attempting to avoid himself or John being identified, as an individual (Bob) was in pursuit of the vehicle following the stabbing of his friend Bill by John. Whilst driving recklessly at high speed (average 130 km/h), including failing to stop for red traffic lights, Jack fatally struck a pedestrian, Olivia F., a single mother of three children, who was crossing the road on a green pedestrian light at a crossing. Despite seeing Olivia, Jack was unable to stop the car due to the high rate of speed and the vehicle collided with Olivia at approximately 120 km/h, causing her to become airborne and strike a wall head-first resulting in massive brain trauma and multiple skull fractures, killing her instantly. As a result of the first impact, Jack lost control of the vehicle and was involved in a further collision causing John to be ejected through the car windshield, resulting in severe fractures to his skull, neck, arms and ribs. Jack's injuries were limited to fractured ribs and severe whiplash.

The incident was reported to the police by a local resident and they arrived at the scene, with other emergency services personnel, relatively shortly after the collisions occurred. The case was referred to the Public Prosecutors Office for further investigation and a bill of indictment was issued against Jack for reckless driving, without a licence, causing death of an innocent person. The case was initially filed in [Tehran] Criminal Court 1 for adults, and subsequently referred to this Juvenile Court due to the offender's age at the time of the commission of the crimes.

After reviewing all the evidence and reports in the case, and hearing the representations of the Police Road Traffic Accident Investigation Team as well as those of the parties, with the assistance of two members of Social Service Affairs, the Court has concluded its hearing and

will proceed to its judgement, seeking assistance from God and relying on humane honour and conscience.

Judgement

With respect to the accusations against Jack D. son of [XXX], born on [XXX] in [XXX], currently detained in [XXX] prison, represented by [XXX], Attorney-at-Law, of reckless driving, without a licence, causing death the Court has considered all the evidence submitted before it prior to issuing the sentence contained herein.

It is the position of the defence that Jack's actions were driven by his emotional state, namely he was focused on helping John, without considering the potential consequences of his actions. Jack was referred to the Medico-Legal Organisation and was assessed by the Social Service Affairs team to determine the level of his development. He was determined to be in the normal range for physical, intellectual, and mental development for a young man of his age. Therefore, this defence is rejected and is not considered in mitigation of the imposed sentence as, due to his normal level of development, Jack should have been aware of the risks of driving in the manner he did on the 26th March, and of driving without the requisite experience and permit/licence.

Consequently, the Court sentences Jack to 2 years and 10 months' imprisonment, and the payment of full *diya* for a female to Olivia's family, in relation to the charge of reckless driving resulting in death in accordance with Articles 714 of the Penal Code. Furthermore, as a result of Jack not being in possession of a full driving licence when the fatal accident occurred, he is further banned from driving for a period of 5 years from the date of this judgment, as prescribed within Article 718 of the Penal Code.

Regarding the injuries caused to John in the collision, as he has explicitly waived his right to bring a complaint against his brother Jack for the payment of *diya*, and in consideration of the sentence imposed against Jack for Olivia's death in the public interest, the Court will not contemplate the matter of the injuries to John any further.

This verdict is issued in the presence of the parties and their legal representatives. This decision may be appealed within 20 days of the date of issue in the Supreme Court.

Judge of [Tehran] Criminal Court 1 Branch Number [XXX] Special Juvenile Division

[signature of judge]

[signatures of court consultants/advisors]

THIS APPENDIX DOES NOT FORM PART OF THE JUDGMENTS

Appendix

Brief Background of the Iranian Criminal Justice System and Applicable Legal Provisions

Iranian law is based upon a completely distinct jurisprudential framework than that utilised by the common law, in that its principles and legality are as prescribed under Shari'a law. The Iranian legal system is established through its Constitution and mainly regulated by Statutes and their respective Instruments; it also utilises a system of precedence from the Supreme Court, although the guidance from this Court is limited to certain specific matters where conflict has arisen within lower tier judgments. An increasing number of judges sit on panels for the more important cases and those being appealed. The Supreme Court is the highest judicial authority in the Country; its responsibilities are to supervise the proper enforcement of laws by the courts of justice, to make judicial precedents and to revise judgments of the Public and Revolutionary Courts, including financial and regulatory matters. The Head of the Judiciary has the power to order a reversal of a judgment issued by the Supreme Court, but this reserved for exceptional cases relating to public order and national security.

When embarking upon the initial investigation for criminal matters, the authority responsible for its conduct and process through the Criminal Justice system is the Public and Revolutionary Prosecutor's Office (*Dadsaray-e Omoumi va Enghelab*). The system used in criminal justice within Iran is the inquisitorial system, meaning that the Judiciary plays a role in establishing the case and is actively involved in determining the facts, as opposed to an adversarial system where the role of the court is solely that of an impartial adjudicator between parties. The remit of the Prosecutor's Office is to undertake the pre-trial investigation of an offence, issuing a Bill of Indictment (*Keyfarkhast*) and transferring the matter to the relevant Criminal Court system (Criminal Court One and Criminal Court Two, etc.) if a case fulfills the criteria of successful prospect of securing a conviction.

Decisions made by first instance courts are subject to appeal within either the Appeal Court (*Dadgah-e Tajdidnazar*) or the Supreme Court (*Divan-e Aliy-e Keshvar*), depending on the subject matter of the case and the severity of the offence charged. The last stage of criminal proceedings in Iran is at the Enforcement Office (*Ejray-e Ahkam*), which implements any punishment prescribed by the court.

When a crime is discovered by a law enforcement authority (Security Forces, Police or other entitled bodies) they would be responsible for the immediate investigation and acquisition of evidence in that instance. They may interrogate and detain the individual on their own authority, but any detention is restricted to only 24 hours unless judicial permission is secured to extend this time (from the Prosecutor's Office). The authorised entities include the police, who form part of the Ministry of the Interior and the Judiciary, as well as the security forces operating under the Ministry of Intelligence and Information, the Islamic Revolutionary Guard Corps (particularly their intelligence unit) and the Basij (a voluntary militia authorised by the Judiciary to act as a law enforcement agency).

Criminal Courts One and Two have jurisdiction to hear cases based on difference categories of criminal offence, relating to the level of punishment likely for the alleged crime. To clarify, under Article 294 of the Iranian Criminal Procedure Code (adopted in April 2014), the criminal courts are divided into Criminal Court One, Criminal Court Two, the Revolutionary Court, the Court for Children and Adolescents (Juvenile Court Division), and the Military Courts. The court is composed of a presiding judge and two associate judges which can hold a trial comprised of the presiding judge with one of the associates (under a June 2015 amendment to the procedural law).

In terms of the jurisdiction of Criminal Court One, they preside over trials for offences of the following types (Article 302 of the Criminal Procedure Code):

- Crimes punishable by death;
- Crimes punishable by life imprisonment;
- Crimes punishable by amputation and cases of physical assault punishable by payment of half or more of a full *diya*;
- *Ta'zir* crimes of degree three and higher;
- Political and press crimes.

The Court for Children and Adolescents (Juvenile Courts) have jurisdiction over cases where the offender is under the age of 18, per Article 304 of the Criminal Procedure Code (CPC). According to this Code, the Juvenile Courts will retain their jurisdiction over juvenile cases even where the accused person reaches the age of 18 during the course of proceedings. However, should the accused reach the age of 18 prior to the commencement of the trial, the Juvenile Courts will no longer hold jurisdiction and the case will proceed in the appropriate adult Criminal Courts, but the defendant retains the benefits from the privileges of trials in Juvenile Courts (e.g. appointed social workers, etc. per Note 2 of Article 304 of the Code).

Under Article 298 of the above-mentioned Code (CPC), trials taking place in the Juvenile Courts comprise of a judge and two social workers (to counsel the judge). Article 315 of the Criminal Procedure Code mandates that Juvenile Court branches should be established within the Criminal Courts One of all provinces.

Regarding the contents of a criminal judgment, under Article 378 of the Iranian Criminal Procedure Code, a judgment should contain (but is not limited to) the name of the accused, the details of the prosecutor, a summary of the offence, the provisions of law relied upon in reaching a determination, the applicable punishment, and information regarding the subject's right of appeal. The name and position of the presiding judge(s) will also be included.

Provisions of Law Applicable to the Problem Scenario

Article 1- The Islamic Penal Code (IPC) consists of crimes and punishments of *hudud*, *qisas*, *diyat*, *ta'zirat*, the security and correctional measures, requirements and barriers of criminal responsibility and the rules that apply to them.

Article 14- Punishments provided in this law are divided into four categories:

- (a) *Hadd*
- (b) *Qisas*
- (c) *Diya*

(d) *Ta'zir*

Article 15- *Hadd* is a punishment for which the grounds for, type, amount and conditions of execution are specified in holy *Shari'a*.

Article 16- *Qisas* is the main punishment for intentional bodily crimes against life, limbs, and abilities which shall be applied in accordance with Book One of this law.

Article 17- *Diya*, whether fixed or unfixed, is monetary amount under holy *Shari'a* which is determined by law and shall be paid for unintentional bodily crimes against life, limbs and abilities or for intentional crimes when for whatever reason *qisas* is not applicable.

Article 18- *Ta'zir* is a punishment which does not fall under the categories of *hadd*, *qisas*, or *diya* and is determined by law for commission of prohibited acts under *Shari'a* or violation of state rules. The type, amount, conditions of execution as well as mitigation, suspension, cancellation and other relevant rules of *ta'zir* crimes shall be determined by law. In making decisions in *ta'zir* crimes, while complying with legal rules, the court shall consider the following issues:

- (a) The offender's motivation and his/her mental and psychological conditions when committed the crime
- (b) Method of committing the crime, extent of a breach of duty and its harmful consequences
- (c) Conduct of the offender after committing the crime
- (d) The offender's personal, family, and social background and the effect of the *ta'zir* punishment on him/her

Article 154 of the Iranian Penal Code (IPC): Drunkenness and indetermination resulting from voluntary consumption of alcoholic beverages, narcotic and psychedelic drugs, and the like, shall not prevent punishment, unless it is proved that the offender has totally lost his will. However, if it is proved that such substances were consumed in order to commit the offense, or with the knowledge that the offense would occur, and the intended offense [actually] occurs, the offender shall be punished for both offenses.

Article 156 - If anyone commits a conduct that is considered as an offense by law in defense of his/her, or someone else's, life or honor or chastity or property or physical freedom, against any actual or imminent aggression or danger, provided that the stages of defense and the following conditions are met, s/he shall not be punished:

- (a) The conduct committed is necessary to counter the aggression or danger.
- (b) The defense is based on reasonable circumstances or rational fear.
- (c) The danger and aggression are not results of the person's voluntary action or his/her aggression and another person's defense.
- (d) Resorting to governmental forces is not practicable in a reasonable time, or the intervention of such forces is not effective in repelling the aggression and danger.

Note 1- Defending someone else's life, honor, chastity, property, or physical freedom is permissible provided that s/he has a close relationship with the defender or the defender has a duty to defend him/her or if s/he is not able to defend him/herself or calls for help or is in a situation where they are unable to call for help.

Note 2 - Where the defense is basically established but whether or not the conditions are met is not proved, it is up to the aggressor to prove that the conditions for defense are not met.

Note 3 - In the cases of lawful defense, *diya*, too, shall not be given with the exception of defense against an insane person in which case the *diya* shall be paid from *beyt-ul-mal* (public treasury).

Article 264 - Consuming, including drinking, injecting, smoking, etc, of an intoxicant, whether [the amount] is a little or a lot, fluid or solid, intoxicated or not, pure or mixed, provided that the mixture does not exceed a certain limit so that it is not intoxicating any longer, shall be punishable by the *hadd* punishment.

Note - Consuming beer shall be punishable by the *hadd* punishment, even if it does not result in drunkenness.

Article 265 - The *hadd* punishment for consumption of intoxicants is eighty lashes.

Article 412 - Full mulct applies if the neck is broken in a manner that it stays broken.

Article 413 - If the neck is bent or it is damaged in a way that impairs swallowing, the judge decides on the amount of the penalty.

Article 414 - If a bent neck or a neck which has been damaged in a manner that swallowing is impaired, and is treated later, no mulct applies but the judge specifies the amount of the penalty. If the neck is straightened or swallowing is made with difficulty, the same penalty applies. [i.e. will be decided by the judge].

Article 614 - Anyone who commits an assault and battery against someone else that results in damaging or breaking or disabling a victim's limb or causes him a permanent illness or defect or loss of a sense or ability or loss of mind, in cases where *qisas* is not possible, if his act disrupts public order and the safety of the society or it is thought that it emboldens the offender or others [to commit assault again], he shall be sentenced to two to five years' imprisonment; and if the victim applies for it, shall be sentenced to *diya* as well.

Note- If the injury does not result in the abovementioned defects, and the means of committing the assault is a gun or knife or the like, the offender shall be sentenced to three months to one year of imprisonment.

Article 677 - Anyone who destroys or damages or ruins someone else's movable belongings or real estate shall be sentenced to six months to three years' imprisonment.

Article 714 - When negligence or recklessness or violation of state regulations or the lack of driving skills of a driver of land or marine or air vehicles or operator of a motorized vehicle causes a manslaughter, the offender shall be sentenced to six months to three years' imprisonment, and also payment of *diya*, if requested by blood owners.

Article 715 -When any one of the grounds mentioned in article 714 causes untreatable physical or mental illness or loss of a sense or disability of a limb that is crucial in human life, or the permanent disfiguration of a limb or face, or miscarriage, the offender shall be sentenced to

two months to one year of imprisonment, and the payment of *diya*, if requested by blood owners.

Article 716 - When any one of the grounds mentioned in article 714 causes a bodily injury that permanently impairs a sense or makes a limb defective, or if it destroys a part of the affected limb without causing disability of that limb, or causes a premature delivery by a pregnant woman, the offender shall be sentenced to two months to six months' imprisonment, and payment of *diya*, if requested by the victim.

Article 717 - When any one of the grounds mentioned in article 714 causes bodily injury, the offender shall be sentenced to one to five months' imprisonment, and payment of *diya*, if requested by the victim.

Article 718 - In the abovementioned articles, when a driver or operator of a motorized vehicle, at the time of commission of the crime, was drunk or lacked the [required driving] license or exceeded the speed limit, or used the motorized vehicle despite mechanical defects and malfunction which is effective in causing the accident, or ignores the special lines allocated for pedestrians, or drives through forbidden pathways, shall be sentenced to more than two-thirds of the maximum punishment provided in the above article. The court, in addition to the abovementioned punishment, may ban the offender from driving or operating motorized vehicles for one to five years.

Note- In execution of the punishments provided in articles 714 and 718 of this Code, paragraph 1 of article 3 of the Law of Clearance of some of the Government's Incomes and its Spending in Specific Cases adopted by the IRI Parliament on 19/03/1995 is not applicable.

Article 719 - When an injured person [in a car crash] needs urgent help and the driver, while being capable of taking the injured person to a medical center or calling for help from police forces, or in order to escape from prosecution leaves the scene and abandons the injured person, he shall be sentenced to more than two-thirds of the punishment provided in articles 714 and 715 and 716. The court is not allowed to mitigate the punishment under this article.

Article 728 - Considering the characteristics of a crime and the offender and the number of instances in which the crime was committed, when delivering the judgment and if required, the court may apply the rules regarding mitigation or the suspension of punishment and supplementary and substitute punishments such as the temporary deprivation of public services.

Article 37 of the Iranian Constitution: Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.