SPC Guiding Case No. 187: Case of Wu Qiang et al. for Extortion, Robbery, and Intentional Injury

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Criminal / criminal group / evil-force criminal group / openness

Holding

An evil-force criminal group is an evil-force criminal organization that satisfies the statutory conditions of a criminal group. An evil-force criminal group shall possess the characteristic of "committing evils and oppressing the people," and its conduct "causes relatively serious adverse social impact"; therefore, its commission of illegal and criminal activities necessarily has a certain degree of openness, and its means should have a relatively serious degree of coercion and suppression. Where an ordinary criminal group commits criminal activities merely for the purpose of seeking unlawful economic benefits, and lacks the intent to cause relatively serious adverse social impact, it differs from an evil-force criminal group in aspects such as the openness of its conduct and the degree of coercion and suppression of its criminal means; it may be handled as a criminal group, but should not be determined to be an evil-force criminal group.

Basic Facts

In early February 2017, the defendants Wu Qiang and Ji Shaoting, to seek unlawful benefits, jointly agreed with the defendant Cao Bing to induce victims to drive motor vehicles after drinking by "urging them to drink" when inviting acquaintances to dinner, then to fabricate traffic accidents, and to extort money from others by threatening to report them for driving after drinking. The defendants Cao Jingyi and Li Ying, knowing that the defendants Wu Qiang and others intended to commit the aforesaid illegal and criminal activities, actively joined. Under the organization and arrangement of the defendants Wu Qiang and Ji Shaoting, a relatively stable criminal group with clear division of labor was gradually formed, and began to commit extortion crimes. In the course of committing illegal and criminal activities, to increase manpower, the defendant Wu Qiang also brought Ji X and Xu X (both minors, handled in separate cases) into the extortion criminal group through the defendant Shao Tianqi.

From late February to early March 2017, Ji X and Xu X lived with the defendant Wu Qiang in the rented residence in the Tongzhou High-tech Industrial Development Zone of Nantong City, Jiangsu Province, with Wu Qiang responsible for their daily living, life, and daily expenses. In a short period, a criminal group headed by Wu Qiang was rapidly formed, in which Wu Qiang was the ringleader of the criminal group; the defendant Ji Shaoting and Ji X and Xu X were the backbone members of the criminal group; the defendants Cao Jingyi, Li Ying, Shao Tianqi, and others were the main members of the group; and the defendants Ji Kaiwen, Cao Liqiang, Jiang Dongdong, Cao Bing, as well as Ying X (a minor, handled in a separate case) and Qiu X (handled in a separate case), were active participants in the criminal group. During this period, Wu Qiang assembled Ji Shaoting, Cao Jingyi, Li Ying, Shao Tianqi, Cao Bing, and Ji X and Xu X and others, and by means of threats and intimidation, successively committed extortion crimes on five occasions. Later, Wu Qiang discovered that a casino had more liquid funds and that persons participating in gambling generally feared being dealt with and did not dare to report to the police, so he again assembled Ji Kaiwen, Cao Liqiang, Jiang Dongdong, and Ji X, Xu X, Ying X, and others, who, carrying air pistols, controlled knives, electric batons, and the like, committed robbery by violent means.

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In December 2017, the Tongzhou District People's Procuratorate of Nantong City, Jiangsu Province, charged the defendant Wu Qiang and others with the crime of robbery and the crime of extortion, and initiated the public prosecution before the Tongzhou District People's Court of Nantong City, Jiangsu Province. During the trial, the Tongzhou District People's Procuratorate of Nantong City, Jiangsu Province, additionally charged Wu Qiang with the crime of intentional injury, and additionally determined that this case was a criminal group headed by Wu Qiang with evil-force characteristics.

Judgment

On June 28, 2018, the Tongzhou District People's Court of Nantong City, Jiangsu Province, by Criminal Judgment (2017) Su 0612 Xing Chu No. 830, determined that the defendant Wu Qiang committed the crime of robbery and was sentenced to fixed-term imprisonment of twelve years, deprivation of political rights for two years, and a fine of RMB 4,000; committed the crime of extortion and was sentenced to fixed-term imprisonment of two years and a fine of RMB 10,000; committed the crime of intentional injury and was sentenced to fixed-term imprisonment of ten months; it was decided to execute fixed-term imprisonment of thirteen years and six months, deprivation of political rights for two years, and a fine of RMB 14,000. The other defendants in this case were also sentenced to corresponding punishments. After the first-instance judgment was pronounced, none of the defendants appealed, and the procuratorial organ did not protest. The first-instance judgment has taken legal effect.

Reasoning

The court in its effective judgment held: The defendants Wu Qiang, Ji Shaoting, Cao Jingyi, Li Ying, Shao Tianqi, Ji Kaiwen, Jiang Dongdong, Cao Liqiang, Cao Bing, and others, together with Ji X, Xu X, Ying X, and others handled in separate cases, formed a relatively fixed criminal organization for the joint commission of crimes. During this period, they used violence, threats, and other means to repeatedly commit illegal and criminal activities such as extortion and robbery within a certain area, and in the course of committing crimes, their purpose was clear and the division of labor detailed, seriously disrupting economic and social life order and causing relatively serious adverse social impact. It could be determined to be a criminal group.

The defendant Wu Qiang organized and led the criminal group in committing a series of criminal activities and was the ringleader of the criminal group; the defendant Ji Shaoting and Ji X, Xu X, and others participated in planning the extortion or robbery crimes organized and committed by Wu Qiang and were backbone members of the criminal group; the defendants Cao Jingyi and Li Ying repeatedly and actively participated in the extortion criminal activities of the criminal group, and the defendant Shao Tianqi introduced the minors Ji X and Xu X, who usually followed him, to Wu Qiang, agreed to have Ji X and Xu X join the criminal group, and personally participated in the extortion criminal activities of the criminal group; the aforesaid defendants were main members of the group; the defendants Ji Kaiwen, Cao Liqiang, Jiang Dongdong, Cao Bing, and the minor Ying X, knowing that the criminal group headed by Wu Qiang was committing illegal and criminal activities, actively participated in discussion and commission; the aforesaid defendants were active participants in the criminal group. The people's court supported the public prosecution organ's charge that this case was a criminal group.

The criminal activities committed by the defendants Wu Qiang and others were obviously for the purpose of seeking unlawful economic benefits, but lacked the intent to "form illegal influence and seek a dominant position" and thereby cause relatively serious adverse social impact. In the extortion crimes, the main criminal means of the defendants Wu Qiang and others was to invite acquaintances to dinner, set up a scheme of "urging them to drink" to cause victims to drive after drinking, then fabricate traffic accidents, and then threaten to report to the police, achieving illegal possession of victims' property through so-called "negotiation." Under the domination of the simple intent of "seeking money," Wu Qiang and others committed extortion and robbery crimes; the characteristic of "committing evils and oppressing the people" was still not obvious, and their criminal means and conduct patterns differed markedly from those of a typical evil-force criminal group, and the legal interests actually infringed were basically concentrated on citizens' property

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rights. An evil-force criminal group is an evil-force criminal organization that satisfies the statutory conditions of a criminal group, characterized by: having three or more organization members, having an obvious ringleader, with important members relatively fixed, and organization members frequently gathering together to jointly and intentionally commit three or more criminal activities habitually committed by evil forces or other criminal activities. The defendants in this case committed illegal and criminal activities purely for the purpose of seeking unlawful economic benefits and did not possess the characteristic of "committing evils and oppressing the people." By reference to the determination requirements in the Guiding Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Several Issues Concerning the Handling of Criminal Cases of Mafia-style and Evil-Force Crimes, that evil forces and evil-force criminal groups should conform to the requirement of "frequently gathering together to repeatedly commit illegal and criminal activities within a certain area or industry by violence, threats, or other means, committing evils and oppressing the people, disrupting economic and social life order, causing relatively serious adverse social impact, but not yet forming a mafia-style organization," this case could not be determined to be an evil-force criminal group, and the defendants should be convicted and sentenced as an ordinary criminal group.

Relevant Legal Provisions

Article 26 of the Criminal Law of the People's Republic of China.

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