SPC Guiding Case No. 188: Case of Shi Guangzhen et al. for Organizing, Leading, and Participating in a Mafia-style Organization

Dan Young Business Consultancy — www.danyoungcpa.com

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Keywords

Criminal procedure / crime of organizing, leading, and participating in a mafia-style organization / ownership of property involved in the case / outsider to the case

Holding

In the trial of cases of crimes of mafia-style organizations, the ownership of seized, impounded, and frozen property and its fruits shall be investigated. Where an outsider to the case raises an objection to the ownership of the seized, impounded, and frozen property and its fruits, the people's court shall hear his or her opinion, and where truly necessary, the people's court may notify the outsider to appear in court, so as to ascertain the ownership of the relevant property.

Basic Facts

The defendant Shi Guangzhen began engaging in illegal and criminal activities as early as December 2007. Since 2014, the defendants Shi Guangzhen, Zhao Zhen, Fu Ligang, and others successively committed illegal and criminal acts such as organizing, leading, and participating in a mafia-style organization, operating a casino, illegal detention, affray, picking quarrels and provoking trouble, and obstructing official duties. During the investigation stage, the public security organ seized and impounded one piece of real estate belonging to Shi Guangzhen's ex-wife, Wang X, and RMB 600,000 of proceeds from Wang X's sale of a Land Rover SUV under her name, and also impounded one ICBC bank card of Wang X, freezing a deposit of RMB 2,221. After the Xiuwu County People's Procuratorate of Henan Province initiated the public prosecution, Wang X raised an objection to the ownership of the seized property and provided relevant evidence to the court. During the trial, the people's court notified Wang X to appear in court.

The court ascertained upon trial that the defendant Shi Guangzhen and Wang X married in September 2012. In July 2013, Wang X purchased a piece of real estate in Jiaozuo City, Henan Province, which was now occupied by Wang X, her parents, and her daughter; in February 2014, Shi Guangzhen and Wang X purchased a Land Rover SUV in Wang X's name; and one ICBC bank card of Wang X was impounded, freezing a deposit of RMB 2,221. In December 2014, Shi Guangzhen and Wang X divorced by agreement, and the real estate and Land Rover SUV involved were attributed to Wang X. The Land Rover SUV had already been disposed of by Wang X, yielding RMB 600,000, which had been seized in the case.

Judgment

On December 28, 2018, the Xiuwu County People's Court of Henan Province, by Criminal Judgment (2018) Yu 0821 Xing Chu No. 331, determined that the defendant Shi Guangzhen committed the crime of organizing and leading a mafia-style organization, the crime of affray, the crime of picking quarrels and provoking trouble, the crime of operating a casino, the crime of illegal detention, and the crime of obstructing official duties, and decided on combined punishment, executing fixed-term imprisonment of sixteen years, deprivation of political rights for four years, and confiscation of all personal property (including the full RMB 600,000 proceeds from the sale of the Land Rover SUV and the RMB 2,221 deposit in Wang X's bank card).

The other defendants in this case were respectively sentenced to punishments ranging from fixed-term imprisonment of seven years and six months to fixed-term imprisonment of six months. After the judgment was pronounced, defendants Shi Guangzhen, Zhao Zhen, Fu Ligang, and others filed appeals. On April 19, 2019, the Jiaozuo Intermediate People's Court of Henan Province rendered Criminal Ruling (2019) Yu 08 Xing Zhong No. 68: dismissing the appeals and affirming the original judgment.

Reasoning

The court in its effective judgment held: The conduct of the defendants Shi Guangzhen, Zhao Zhen, Fu Ligang, and others respectively constituted the crime of organizing, leading, and participating in a mafia-style organization, the crime of affray, the crime of picking quarrels and provoking trouble, the crime of operating a casino, the crime of illegal detention, and the crime of obstructing official duties.

The Land Rover SUV under the name of Shi Guangzhen's ex-wife Wang X was purchased during the existence of the marital relationship between Shi Guangzhen and Wang X, but neither Shi Guangzhen nor Wang X had a legitimate occupation, and their legitimate income was unable to bear the purchase cost of the Land Rover SUV. Shi Guangzhen, because he was wanted online, was unable to apply for a bank card and had always used Wang X's bank card, the transaction records of which showed a large amount of funds flowing in and out. In summary, it could be determined that the cost of purchasing the Land Rover SUV and the remaining money in the bank card were all illegal gains, and therefore the seized RMB 600,000 of sale proceeds and the remaining money in the bank card should all be confiscated.

Relevant Legal Provisions

Article 294 of the Criminal Law of the People's Republic of China.

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