

# SPC Guiding Case No. 272: Case of Ai [X] et al. for Dangerous Driving

---

Dan Young Business Consultancy — [www.danyoungcpa.com](http://www.danyoungcpa.com)

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

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on February 13, 2026.

## Keywords

Criminal / crime of dangerous driving / meritorious performance / instigation of dangerous driving / joint crime

## Holding

Where a person, by deception, instigation, or other such means, instigates another person to commit the crime of driving while intoxicated, and the circumstances are egregious, the instigator shall be punished in accordance with the law as an accomplice in the crime of dangerous driving. Where a person merely encourages a drunk driver with remarks such as “you will not be caught,” “you have not drunk much,” or “it cannot be detected,” and the circumstances are ordinary, the person need not be punished as an accomplice in the crime of dangerous driving.

## Basic Facts

In June 2023, Li [X], a defendant in a separate case, was prosecuted by the Tianning District People's Procuratorate of Changzhou City, Jiangsu Province, on suspicion of fraud. During the period of release on bail pending trial, in order to obtain lenient treatment, Li [X] conceived the idea of exposing another person's crime to create an opportunity for meritorious performance. In mid-August, Li [X] commissioned defendant Nie [X]huan to “set up” another person to drive a motor vehicle while intoxicated on a road, so as to “manufacture” an opportunity for meritorious performance for him, promising to pay Nie [X]huan a reward of RMB 20,000 (currency same hereinafter). Nie [X]huan in turn commissioned defendant Fang [X]cheng to select a candidate, and defendant Ai [X] was ultimately chosen as the person to be exposed for drunk driving. Thereafter, Nie [X]huan, Fang [X]cheng, Li [X], and Li [X]'s girlfriend Liang [X]yu, through separate consultations, determined a division-of-labor plan whereby Fang [X]cheng, Liang [X]yu, Nie [X]huan's girlfriend Kuang [X] (a minor at the time of the incident, not prosecuted), and others would accompany Ai [X] in drinking, instigate Ai [X] to drive drunk on a highway, and then Li [X] would expose him. Li [X] paid Nie [X]huan an advance reward of RMB 3,000.

On August 29, 2023, defendant Nie [X]huan arranged for defendant Fang [X]cheng to invite defendant Ai [X] to a dinner gathering in Yunlong Town, Liangping District, Chongqing, provided a car for Fang [X]cheng to lend to Ai [X] to drive, and arranged for Kuang [X] to drink with them; Li [X], the defendant in the separate case, arranged for defendant Liang [X]yu to pose as Kuang [X]'s cousin and drink with them. That afternoon, after Ai [X] drove the car carrying Fang [X]cheng, Liang [X]yu, Kuang [X], and others to meet, they dined at a restaurant in Yunlong Town, and all of them drank alcohol during the meal. Liang [X]yu and Kuang [X] separately reported Ai [X]'s drinking to Li [X] and Nie [X]huan via WeChat, and Li [X] instructed them to make Ai [X] drink baijiu so as to reach the intoxication threshold. Liang [X]yu deceived Ai [X] into drinking heavily without worry by claiming that a designated-driver service would be arranged. When Ai [X] expressed an intention to stay overnight locally, Kuang [X], in order to induce Ai [X] to drive after drinking, falsely claimed that friends had already booked a private room at a bar near Liangping South Station and invited Ai [X] and the others to go there together. To ensure that Ai [X] would drive drunk on a highway, Nie [X]huan pretended to run into them by chance at the restaurant entrance and, when Ai [X] said he dared not drive after drinking, instigated Ai [X] to drive his car and follow the car Nie [X]huan was riding in back to Liangping urban area via

the G42 Shanghai–Chengdu Expressway, falsely claiming that if a police checkpoint were found ahead, he would notify Ai [X] in advance. Ai [X] then drove the car carrying Fang [X]cheng, Liang [X]yu, Kuang [X], and others, following the car Nie [X]huan was riding in, entering the G42 Shanghai–Chengdu Expressway from the Yunlong toll station and heading toward Liangping. Nie [X]huan reported to Li [X] the information that Ai [X] was driving on the highway, and Li [X] immediately called the police to expose Ai [X]'s drunk driving. At 22:44 that day, Ai [X] was caught by police at the exit of the Liangping toll station. Upon testing, Ai [X]'s blood alcohol content was 129.2 mg/100 mL, constituting intoxication.

In late August and early September 2023, Li [X], the defendant in the separate case, paid defendant Nie [X]huan a reward of RMB 10,000, and retained a lawyer to obtain his exposure materials from the public security organ and provide them to the Tianning District People's Court of Changzhou City, Jiangsu Province as evidence of his meritorious performance. The Tianning District People's Court found that Li [X] had meritorious performance, gave him a lighter punishment, and on September 13, 2023 sentenced him to two years and three months of fixed-term imprisonment and a fine of RMB 30,000 for fraud. In October 2023, the Liangping District Public Security Bureau of Chongqing, in the course of investigating the case against Ai [X] for dangerous driving, discovered that defendant Ai [X] had driven while intoxicated as a result of being “set up” by defendants Nie [X]huan, Fang [X]cheng, Liang [X]yu, and Kuang [X]. From November to December of that year, Liang [X]yu and three others successively surrendered voluntarily and truthfully confessed the above criminal facts. The Tianning District People's Procuratorate of Changzhou City additionally prosecuted Li [X] for the crime of dangerous driving, and the Tianning District People's Court initiated a retrial, revoking the original judgment and re-sentencing Li [X] to three years of fixed-term imprisonment and a fine of RMB 30,000 for fraud, combined with two months of criminal detention and a fine of RMB 10,000 for the crime of dangerous driving, and decided on a combined sentence of three years of fixed-term imprisonment and a fine of RMB 40,000.

## Judgment

The Liangping District People's Court of Chongqing rendered the criminal judgment (2024) Yu 0155 Xing Chu No. 4 on January 12, 2024: (1) defendant Ai [X] was convicted of the crime of dangerous driving and sentenced to one month of criminal detention, suspended for two months, and a fine of RMB 10,000; (2) defendant Nie [X]huan was convicted of the crime of dangerous driving and sentenced to two months of criminal detention and a fine of RMB 11,000; (3) defendant Fang [X]cheng was convicted of the crime of dangerous driving and sentenced to two months of criminal detention and a fine of RMB 10,000; (4) defendant Liang [X]yu was convicted of the crime of dangerous driving and sentenced to two months of criminal detention and a fine of RMB 10,000. After the judgment was pronounced, there was no appeal or protest, and the judgment became legally effective.

## Reasoning

In this case, defendant Ai [X] drove a motor vehicle on a highway while intoxicated, and his act constituted the crime of dangerous driving; there was no dispute on this point. The focus of dispute was the characterization of the act of instigating another person to drive while intoxicated.

Paragraph 1 of Article 29 of the Criminal Law of the People's Republic of China provides: “Whoever instigates another person to commit a crime shall be punished according to the role he plays in the joint crime...” In judicial practice, the circumstances in which a person shares a common intent with a drunk driver are diverse; whether the person should be punished as an accomplice in the crime of dangerous driving should be determined through comprehensive consideration of factors such as the role the person played in bringing about the drunk driving, the person's relationship with the drunk driver, the consequences of the drunk driving, and the necessity of criminal punishment. For a person who, by deception, instigation, or other such means, instigates or compels another person to drive drunk, and the circumstances are egregious, the person should be punished in accordance with the law as an accomplice in the crime of dangerous driving; for a person who merely encourages a drunk driver with remarks such as “you will not be caught,” “you have

not drunk much,” or “it cannot be detected,” and the circumstances are ordinary, the person need not be punished as an accomplice in the crime of dangerous driving.

In this case, defendants Nie [X]huan, Fang [X]cheng, and Liang [X]yu, in order to “manufacture” an opportunity for meritorious performance for Li [X], the defendant in the separate case, repeatedly instigated defendant Ai [X], who had no criminal intent, to drive on a highway while intoxicated; their criminal motive was despicable and the circumstances were egregious. The three defendants should be punished in accordance with the law as accomplices in the crime of dangerous driving, and, compared with Ai [X], the three defendants played a greater role in the joint crime and should bear heavier responsibility. Therefore, Nie [X]huan, Fang [X]cheng, and Liang [X]yu were sentenced to actual imprisonment in accordance with the law, while Ai [X] was given a suspended sentence in accordance with the law.

In addition, as to the characterization of the acts of Li [X], the defendant in the separate case: Paragraph 1 of Article 4 of the Opinions of the Supreme People's Court on Several Issues Concerning the Handling of Voluntary Surrender and Meritorious Performance (Fa Fa [2010] No. 60) provides: “Where an offender, by illegal means such as bribery, violence, or coercion, or, after being detained, in the course of meetings with lawyers, relatives, or friends in violation of supervision regulations, obtains leads on another person's crime and ‘exposes and reports’ them, this shall not be found to constitute meritorious performance.” Li [X], in order to obtain lenient treatment, paid a reward and directed defendants Nie [X]huan and Liang [X]yu to instigate defendant Ai [X] to commit a crime, and then exposed and reported it; this did not constitute meritorious performance. Li [X] not only initiated the criminal intent, but also, in the process of Nie [X]huan, Liang [X]yu, and others “setting up” and instigating Ai [X] to commit dangerous driving, maintained close contact with the two and directed them remotely; he likewise constituted an accomplice in the crime of dangerous driving, and should be strictly punished in accordance with the law in light of the circumstances of his crime.

### **Relevant Legal Provisions**

Articles 25, 29, 68, and 133-1 of the Criminal Law of the People's Republic of China.

Paragraph 1 of Article 4 of the Opinions of the Supreme People's Court on Several Issues Concerning the Handling of Voluntary Surrender and Meritorious Performance (Fa Fa [2010] No. 60).

Disclaimer: This translation is provided for reference and informational purposes only. In the event of any discrepancy, the official Chinese text issued by the Supreme People's Court shall prevail. This translation does not constitute legal advice.