SPC Guiding Case No. 98: Zhang Qingfu and Zhang Diankai v. Zhu Zhenbiao (Right to Life Dispute)

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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 December 19, 2018.

Keywords

Civil / right to life / brave act for a just cause

Holding

Where an actor, not out of a statutory duty, statutory obligation, or contractual obligation, acts to prevent an unlawful infringer from escaping in order to protect the state's or the public's interests, or the personal or property safety of others, a people's court may determine that the act constitutes a brave act for a just cause.

Basic Facts

The plaintiffs Zhang Qingfu and Zhang Diankai alleged: On January 9, 2017, the defendant Zhu Zhenbiao drove an Audi sedan in pursuit of Zhang Yonghuan, who was riding a motorcycle. Zhang Yonghuan later abandoned the motorcycle and ran ahead, and the defendant Zhu Zhenbiao also got out of the car and continued pursuing him from behind, ultimately causing Zhang Yonghuan to be struck and killed by a train at the 90 km + 495 m point of the Qiancao Line (Luannan section). During the pursuit, Zhu Zhenbiao spread and transmitted false information that Zhang Yonghuan had struck and killed someone; after Zhang Yonghuan verbally expressed that he would commit suicide and then collided with a vehicle in an act of suicide, Zhu Zhenbiao still continued the pursuit, exceeding the necessary limit; during the pursuit, Zhu Zhenbiao held a wooden stool and a wooden stick, posing a threat to Zhang Yonghuan's life, and repeatedly abused Zhang Yonghuan, so he acted with subjective intent and obvious fault regarding Zhang Yonghuan's death, and should bear liability for compensation for Zhang Yonghuan's death.

The defendant Zhu Zhenbiao argued: The defendant's act of pursuing Zhang Yonghuan, a hit-and-run traffic offender, was a brave act for a just cause, was subjectively without fault and objectively not unlawful, and there was no causal relationship between the act and Zhang Yonghuan's death; the defendant did not bear tort liability for Zhang Yonghuan's accidental death.

The court found upon trial: At around 11:00 a.m. on January 9, 2017, Zhang Yonghuan drove a two-wheeled motorcycle from south to north to the entrance of Qingtuo Pengsheng Aquatic Products on the Guliu Line, where he rear-ended a license-plate-free two-wheeled motorcycle driven in the same direction by Zhang Yulai without a driver's license. Zhang Yonghuan fell, Zhang Yulai fell to the ground and was injured, and the motorcycle was damaged. Zhang Yonghuan then got up, drove the motorcycle, and left the scene. The traffic police department of Caofeidian determined that Zhang Yonghuan bore primary responsibility and Zhang Yulai bore secondary responsibility for the accident.

At the time of the incident, the defendant Zhu Zhenbiao drove past the accident scene and, upon discovering the hit-and-run, drove in pursuit. During the pursuit, Zhu Zhenbiao repeatedly called the police at public security organs such as the Liuzan Border Defense Police Station and the 110 command center of the Caofeidian Public Security Bureau. The main content of the calls was: two motorcycles collided north of a gate in Liuzan Town, someone was injured, and the other party fled by motorcycle, and the caller was following the fleeing person; police were requested to be dispatched. While driving in pursuit of Zhang Yonghuan, Zhu Zhenbiao repeatedly shouted such words as "this man bumped into someone and is running

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away.” When Zhang Yonghuan rode his motorcycle into Xilianggezhuang Village, Hugezhuang Town, Luannan County, he abandoned the motorcycle, entered the home of the villager Zheng Rushen through the south gate, took a kitchen knife from the passage room of Zheng Rushen’s home, and left through the north gate. Seeing that Zhang Yonghuan had a knife, Zhu Zhenbiao picked up a wooden stool from Zheng Rushen’s home and continued the pursuit. Zheng Rushen later caught up with Zhu Zhenbiao and took back the wooden stool, and Zhu Zhenbiao then took a wooden stick and continued the pursuit. During the pursuit, there was dialogue in which Zhu Zhenbiao shouted “you’ve knocked someone to death, where are you running! The police are coming soon,” Zhang Yonghuan said “I’ll cut myself in a moment,” and Zhu Zhenbiao said “throw away the knife and I won’t chase you.”

After leaving Xilianggezhuang Village, Zhang Yonghuan ran onto the Luanhai Highway and at one point rushed toward passing vehicles. After being knocked down by a van driven by Li Jiangbo, Zhang Yonghuan immediately stood up again, walked along the road for a while, and then ran toward an open area in the direction of the railway. During this process, Zheng Zuoliang, deputy head of the Road Administration Law Enforcement Brigade of the Caofeidian District Transport Bureau, and others joined in, continuing the pursuit together with Zhu Zhenbiao and warning vehicles on the road to drive slowly and carefully, saying that the man wanted to throw himself at vehicles.

When Zhang Yonghuan reached the Qiancao Railway, he climbed over the guardrail and walked along the cutting, and Zhu Zhenbiao also climbed over the guardrail and continued to follow. While pursuing, Zhu Zhenbiao tried to dissuade Zhang Yonghuan, saying: the person you bumped into is fine; you have a family too, and they will worry about you; just turn yourself in. At 11:56 on January 9, 2017, Zhang Yonghuan walked between two tracks by himself. Video from locomotive No. 51618 showed Zhu Zhenbiao waving his coat to warn the approaching train. At 12:02 on January 9, 2017, Zhang Yonghuan was struck by train No. 51618 traveling from north to south, and was later confirmed dead after examination.

Throughout the entire process in which Zhu Zhenbiao followed Zhang Yonghuan, the two kept a certain distance and never had any physical contact. Zhu Zhenbiao had words urging Zhang Yonghuan to surrender, and also had words scolding Zhang Yonghuan.

The court further found that, after being injured in the traffic accident with Zhang Yonghuan, Zhang Yulai was sent that same day successively to the Caofeidian District Hospital and the Tangshan Workers’ Hospital for treatment, returned home that day to recuperate, and has not undergone an injury assessment to date. After Zhang Yonghuan’s death, he had two first-order legal heirs, namely his father Zhang Qingfu and his son Zhang Diankai.

On October 11, 2017, the Luannan Station of the Daqin Train Depot of Daqin Railway Co., Ltd., as Party A, and the plaintiff Zhang Diankai, as Party B, signed a “Railway Traffic Accident Settlement Agreement,” the content of which was: “At 12:02 on January 9, 2017, train No. 51618, traveling between Caobei Station and Luannan Station at 90 km + 495 m, struck and killed Zhang Yonghuan, who had entered the railway line without authorization, constituting a general Category B accident; the deceased Zhang Yonghuan bore full responsibility for the accident; the railway party, in the absence of fault, compensated the plaintiff Zhang Diankai 40,000 yuan.”

Judgment

On February 12, 2018, the People’s Court of Luannan County, Hebei Province, rendered Civil Judgment (2017) Ji 0224 Min Chu No. 3480: the claims of the plaintiffs Zhang Qingfu and Zhang Diankai were dismissed. After the first-instance judgment was pronounced, the plaintiffs Zhang Qingfu and Zhang Diankai were dissatisfied and appealed. During the trial, the appellants Zhang Qingfu and Zhang Diankai withdrew their appeal. On February 28, 2018, the Intermediate People’s Court of Tangshan City, Hebei Province, rendered Civil Ruling (2018) Ji 02 Min Zhong No. 2730: the withdrawal of the appeal by the appellants Zhang Qingfu and Zhang Diankai was permitted. The first-instance judgment took legal effect.

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Reasoning

The court's effective judgment held that Zhang Qingfu and Zhang Diankai's request to withdraw the appeal during the second-instance trial did not violate legal provisions, and the withdrawal was permitted.

The focal issues in this case were: whether the defendant Zhu Zhenbiao's acts were unlawful; whether the defendant Zhu Zhenbiao was at fault for Zhang Yonghuan's death; and whether there was a legal causal relationship between the defendant Zhu Zhenbiao's acts and Zhang Yonghuan's death.

First, after the road traffic accident in issue occurred, Zhang Yulai was injured and fell to the ground unconscious, and Zhang Yonghuan fled on a motorcycle. As an eyewitness at the scene, the defendant Zhu Zhenbiao promptly reported the incident to the public security organ by telephone, and drove and then walked in pursuit of Zhang Yonghuan, urging him to surrender. His acts were not unlawful in themselves. At the same time, under Article 70 of the Road Traffic Safety Law of the People's Republic of China, after a traffic accident occurs, the driver of a vehicle shall immediately stop, protect the scene, and rescue the injured; Zhang Yonghuan's hit-and-run was unlawful. As an ordinary citizen, the defendant Zhu Zhenbiao stepped forward to stop an ongoing unlawful act, which constituted a brave act for a just cause, and should be supported and encouraged.

Second, viewed from the process of the defendant Zhu Zhenbiao's acts, he had no intent or negligence to infringe upon Zhang Yonghuan's right to life. According to the mobile phone video of the defendant Zhu Zhenbiao and the video recording of the locomotive's travel, the two never had physical contact. Where Zhang Yonghuan held a knife and claimed he would commit suicide in order to stop others from pursuing him, Zhu Zhenbiao's picking up a wooden stool and a wooden stick was an act of self-protection. Where Zhang Yonghuan claimed he would commit suicide by colliding with a vehicle in order to stop others from pursuing him, Zhu Zhenbiao and the road administration personnel tried to dissuade him and warned passing vehicles. Considering that the traffic accident occurred suddenly and that Zhang Yulai was then in a state of collapse and unconsciousness on the ground, the defendant Zhu Zhenbiao was unable to accurately assess Zhang Yulai's injuries under those circumstances, and during the pursuit he sometimes shouted information that was inaccurate or used uncivilized language, but this did not constitute fault giving rise to civil tort liability, nor did it affect the nature of the pursuit. After Zhang Yonghuan crossed the railway fence and entered the section where trains operate in order to evade pursuit, the defendant Zhu Zhenbiao promptly dissuaded and warned him in a loud voice and waved his coat to warn the train driver, but still failed to prevent Zhang Yonghuan's death. Therefore, there was no legal causal relationship between that result and Zhu Zhenbiao's act of pursuit.

In summary, the claims raised by the plaintiffs Zhang Qingfu and Zhang Diankai in the first instance lacked sufficient grounds and were not supported.

Relevant Legal Provisions

Article 6 of the Tort Liability Law of the People's Republic of China.

Article 70 of the Road Traffic Safety Law of the People's Republic of China.

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