SPP Guiding Case No. 1: Case of Shi XX and 16 Others for Affray

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Holding

In handling criminal cases arising from mass incidents, procuratorial organs shall, from the perspective of promoting the resolution of social conflicts, thoroughly understand the various complex factors behind the case, handle the matter prudently in accordance with the law, actively participate in mediating and resolving disputes, in order to promote social harmony and achieve the organic unity of legal effects and social effects.

Basic Facts

The criminal suspects Shi XX and eight others are residents of Xicen Village, Yongning Town, Shishi City, Fujian Province.

The criminal suspects Li XX and seven others are residents of Ziying Village, Yongning Town, Shishi City, Fujian Province.

Xicen Village and Ziying Village in Yongning Town, Shishi City, Fujian Province are adjacent and originally had friendly relations. In recent years, the two villages developed disputes over land and drainage issues. In order to resolve the disputes between the two villages, the Yongning Town government had organized personnel to carry out on-site construction on the boundary area where the land and drainage issues arose, but the work was obstructed on multiple occasions without success. At around 8:00 a.m. on December 17, 2008, the town organized town officials and a construction team to carry out construction again. At around 9:00 a.m., the criminal suspects Shi XX and eight others, together with dozens of Xicen Village villagers wearing safety helmets and carrying bags containing stones and wielding wooden sticks, shovels, and other implements, arrived at the construction boundary area between the two villages. The criminal suspects Li XX and eight others, together with dozens of Ziying Village villagers, then also arrived at the construction boundary area, wielding wooden sticks, shovels, and other implements and confronting the Xicen Village villagers. The two sides exchanged insults and threw stones at each other. Officers of the Shishi City Public Security Bureau who arrived at the scene separated the villagers of the two sides and persuaded them to leave, but some villagers refused to comply, continuing to shout insults and throw stones, causing two police vehicles to be damaged (the assessed loss value was RMB 761 yuan) and three police officers to be injured on the hands (assessed as not reaching the level of minor injury).

Procuratorate Performance of Duties

After the incident, the Shishi City Public Security Bureau requested the Shishi City People’s Procuratorate to approve the arrest of Shi XX and eight others of Xicen Village and Li XX and eight others of Ziying Village, who had actively participated in the affray, on suspicion of the crime of affray. In order to prevent the situation from further expanding and to create favorable conditions for resolving the conflict, the Shishi City People’s Procuratorate, while making the decision to approve the arrest in accordance with the law, suggested that the public security organs and relevant departments work together with the village committees of the two villages to resolve the conflict and promote reconciliation between the two sides. On March 16, 2010, the Shishi City Public Security Bureau transferred the case to the Shishi City People’s Procuratorate for review and prosecution. In handling the case, the Shishi City People’s Procuratorate, focusing on resolving the longstanding grievance, specially established a conflict-resolution working group to strive to promote the resolution of the conflict between the two villages. After obtaining the support of the local Party committee, the people’s congress, and the government, the working group visited the Party committee and government of Yongning Town, where the two villages are located, on multiple occasions,

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went to the disputed locations of the two villages for on-site inspection, and communicated with the village committees to formulate a work plan. It then coordinated with the town government to take the lead in soliciting expert opinions and carrying out construction at the disputed locations in accordance with the town's drainage and sewage plans. From the perspective of traffic safety and environmental protection, guardrails and sidewalks were built around the disputed drainage ditch and incorporated into the town government's unified planning. This measure was generally recognized by the villagers of the two villages. During the conflict-resolution work, the working group also patiently and meticulously carried out legal interpretation, policy education, emotional counseling, and ideological persuasion. The relevant parties of the two villages and their families all reflected on and expressed regret for using illegal means such as affray to resolve the dispute, and all demonstrated a clear willingness to reconcile. On April 23, 2010, the village committees of Xicen Village and Ziying Village signed a reconciliation agreement between the two villages, and the persons involved separately issued written undertakings stating that they would no longer cause trouble over this matter and would comply with laws and regulations. Thereupon, the dispute between the two villages was properly resolved and the root cause of the conflict was eliminated.

The Shishi City People's Procuratorate held that the acts of Shi XX and seventeen others had all violated Paragraph 1 of Article 292 and Paragraph 1 of Article 25 of the Criminal Law of the People's Republic of China, constituting the crime of affray, and that criminal liability should be pursued in accordance with the law. In view of the fact that the purpose of the seventeen persons' participation in the affray was not to pursue a personal grudge or to dominate one area, that the property losses and personal injuries caused were minor and did not cause serious consequences, that the village committees of the two villages had reached a reconciliation agreement, and that Shi XX and the seventeen others had also issued written undertakings, proceeding from the principle of combining punishment with education and from the perspective of promoting social harmony, on April 28, 2010, the Shishi City People's Procuratorate, in accordance with Paragraph 2 of Article 142 of the Criminal Procedure Law of the People's Republic of China, decided not to prosecute Shi XX and the seventeen others.

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