SPP Guiding Case No. 238: Supervision Case on the Filing of Charges Against Wang Moujia for Defamation

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Supreme People's Procuratorate Guiding Case No. 238 (Case-Filing and Investigative Activity Supervision Series)

Keywords

Case-filing supervision; online defamation; serious disruption of social order; private prosecution converted to public prosecution; investigation and verification

Holding

For offenses such as defamation that are handled only upon complaint, where the victim or his close relatives apply for supervision of the filing of a case, the people's procuratorate shall accept the case in accordance with the law and carry out investigation and verification work; where the conditions for public prosecution, such as "seriously endangering social order and the State's interests," are met, it shall perform its case-filing supervision duties in accordance with the law. For online defamation cases, the people's procuratorate shall give full consideration to the characteristics of online dissemination and the actual circumstances of the case, and accurately grasp the public prosecution conditions of "seriously endangering social order and the State's interests" in accordance with the law. In handling defamation cases, the people's procuratorate shall strictly implement the system of reporting to the higher-level procuratorial organ for examination and approval, and standardize the conduct of supervision and case-handling work.

Basic Facts

The defendant Wang Moujia, male, born in 1957, unemployed.

In 2005, Wang Moujia brought a lawsuit on the ground that medical equipment produced by a Tianjin company caused him personal injury, and Wang Mouyi appeared in response as the litigation agent of the sued company. After trial in accordance with the law, the people's court found that the medical equipment was a qualified product and that Wang Moujia could not prove that his illness was caused by use of the product, and dismissed Wang Moujia's claims. Wang Moujia did not appeal. In 2007, Wang Moujia applied to the original trial court for retrial, which was notified of dismissal. In 2008, Wang Moujia reported to the former State Food and Drug Administration that the medical equipment produced by the Tianjin company had falsified hospital clinical trial reports; the petition office of the former State Food and Drug Administration replied in writing, finding that the Tianjin company did not engage in the falsification reported by Wang Moujia. In 2009, Wang Moujia reported problems in the original trial to a higher-level court, which replied in writing that the original court was correct in dismissing the claims, that Wang Moujia's report was untrue, and expressed the hope that he would accept the judgment and cease petitioning. During this period, Wang Moujia published multiple articles on online platforms such as Tianya Community defaming Wang Mouyi, the judges of the original trial, and food and drug administration staff, infringing the parties' right to reputation and affecting their normal work and life.

In 2010 and 2013, Wang Mouyi twice brought reputation infringement lawsuits in the People's Court of Dongcheng District, Beijing. After trial, the court found that Wang Moujia's relevant conduct infringed Wang Mouyi's personal dignity, and ordered Wang Moujia to cease the infringement, apologize, and pay compensation for emotional distress. Wang Moujia failed to perform the effective judgment obligations and, after the court notified the relevant online platforms to delete the infringing articles, continued to publish articles on multiple online platforms such as Tianya Community and Sina Blog, slandering and falsely

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accusing Wang Mouyi, the judges of the original trial court, the judges of the Dongcheng District court, and food and drug administration staff.

In March 2019, Wang Mouyi reported Wang Moujia to the Dongcheng Branch of the Beijing Municipal Public Security Bureau on suspicion of the crime of false accusation, but the public security organ did not file a case. In July 2019, Wang Mouyi brought a private prosecution against Wang Moujia in the Dongcheng District People's Court on suspicion of the crime of defamation, which was dismissed by ruling. Wang Mouyi appealed, and the second-instance court dismissed the appeal by ruling. In January 2020, Wang Mouyi reported Wang Moujia to the Dongcheng Public Security Branch on suspicion of the crime of picking quarrels and provoking trouble, but the public security organ did not file a case.

Procuratorate Performance of Duties

Discovery of leads. On October 10, 2020, Wang Mouyi, dissatisfied with the public security organ's decision not to file a case, applied to the People's Procuratorate of Dongcheng District, Beijing for supervision of the filing of a case.

Investigation and verification. Because the case spanned a long period and involved many defamed persons, in order to accurately perform its supervision duties in accordance with the law, the Dongcheng District People's Procuratorate, after accepting the lead, carried out the following investigation and verification work in accordance with the Organic Law of the People's Procuratorates, the Criminal Procedure Rules of the People's Procuratorates, and other relevant laws. First, it heard the applicant's opinions, learning that the applicant had protected his rights through reputation infringement litigation, reports to the public security organ, and criminal private prosecution, but that his civil judgment had not been effectively enforced, the criminal report had not been filed by the public security organ, and the criminal private prosecution had been dismissed by the court. Second, it retrieved the court's litigation file materials and consulted the presiding judges on the civil litigation and the criminal private prosecution. Upon verification, with respect to the civil litigation, the Dongcheng District People's Court twice accepted the reputation dispute between Wang Mouyi and Wang Moujia in August 2010 and February 2013, both ordering Wang Moujia to cease the infringement, publish an apology on the website for seven consecutive days to eliminate the impact, and compensate the plaintiff for emotional distress; Wang Moujia failed to perform the effective judgments, and after the Dongcheng District People's Court notified the relevant online platforms, the infringing articles were deleted and the main content of the judgments was published continuously on the website homepage. Due to the lack of clues to Wang Moujia's property, Wang Mouyi withdrew the application for enforcement of the compensation portion, and the relevant property items were not enforced. With respect to the criminal private prosecution, both levels of courts dismissed Wang Mouyi's criminal private prosecution by ruling because of a lack of evidence proving that Wang Moujia constituted the crime of defamation. Third, it learned from the public security organ staff the reasons for not filing a case, and verified that the public security organ twice made decisions not to file a case on the grounds that Wang Moujia's conduct did not meet the elements of the crimes of false accusation and of picking quarrels and provoking trouble, and that the case should be under the jurisdiction of the people's court. Fourth, it verified the facts of the defamation seriously endangering social order. Using intelligent retrieval and screening case-handling assistance tools, the Dongcheng District People's Procuratorate ascertained that Wang Moujia published more than 80 articles on multiple online platforms such as Tianya Community and Sina Blog; in particular, after the Dongcheng District People's Court rendered the reputation infringement judgment, Wang Moujia still published articles on major online platforms defaming Wang Mouyi, the judges of the original trial court, and food and drug administration staff, and expanded the scope of the defamation to the Dongcheng District court judges and other food and drug administration staff and many other persons, fabricating false facts such as that Wang Mouyi was a "professional briber" who repeatedly solicited and corrupted public officials causing judicial corruption, that State organs shielded and condoned the Tianjin company in producing and selling counterfeit and inferior products, and that many public officials had

committed embezzlement and bribery, dereliction of duty, and perversion of justice in adjudication. After publication, the relevant articles attracted a total of 168,000 clicks and views, of which six articles exceeded 5,000 clicks and views, with the highest reaching more than 50,000; they triggered netizens' follow-up posts abusing Wang Mouyi, the presiding judges, and relevant staff, causing a seriously adverse impact on judicial authority and government credibility.

Supervision of case filing. On November 10, 2020, the Dongcheng District People's Procuratorate issued a Notice Requiring an Explanation of the Reasons for Not Filing a Case to the public security organ. On November 16 of the same year, the public security organ replied with an Explanation of the Situation of Not Filing a Case, stating that although Wang Mouyi had reported twice, Wang Moujia's conduct did not meet the criminal case-filing standards. Upon review, the Dongcheng District People's Procuratorate found that Wang Moujia's conduct was suspected of constituting the crime of defamation, fell within the circumstances of seriously endangering social order and the State's interests, and met the conditions for converting private prosecution into public prosecution. On April 1, 2021, with the consent of the Beijing Municipal People's Procuratorate, the Dongcheng District People's Procuratorate lawfully notified the public security organ to file and investigate Wang Moujia on suspicion of the crime of defamation.

Supervision results. On April 12, 2021, the Dongcheng Public Security Branch filed a case and investigated Wang Moujia on suspicion of the crime of defamation. On February 5, 2024, in accordance with the Notice of the Supreme People's Procuratorate on Issues Concerning Strictly Handling Criminal Defamation Cases in Accordance with the Law, and after reporting to the higher-level people's procuratorate for examination and approval, the Dongcheng District People's Procuratorate lawfully approved the arrest of Wang Moujia. On April 9 of the same year, in accordance with the requirements of the said notice and after reporting to the higher-level people's procuratorate for examination and approval, the Dongcheng District People's Procuratorate lawfully initiated public prosecution against Wang Moujia.

At the trial stage of the Dongcheng District People's Court, because the targets of the defamation included judges of the Dongcheng District court, upon designation by the Beijing Municipal Higher People's Court, the case was transferred to the Fengtai District People's Court for trial. On December 30, 2024, the Fengtai District court lawfully sentenced Wang Moujia to one year of fixed-term imprisonment for the crime of defamation. Wang Moujia did not appeal, and the judgment became effective.

Guiding Significance

(1) For criminal cases such as defamation that are handled only upon complaint, where the victim or his close relatives apply for supervision of the filing of a case on the ground of "seriously endangering social order and the State's interests," the people's procuratorate shall accept the case and carry out investigation and verification work in accordance with the law. Where, after investigation and review, it finds that the relevant conduct is suspected of "seriously endangering social order and the State's interests" and meets the conditions for public prosecution, it shall perform its case-filing supervision duties in accordance with the law.

(2) For online defamation cases, the people's procuratorate shall give full consideration to the characteristics of online dissemination and the actual circumstances of the case, accurately grasp the public prosecution conditions of "seriously endangering social order and the State's interests" in accordance with the law, and carry out case-filing supervision work upon application or on its own initiative. Cyberspace is not a place beyond the reach of the law, and the protection of personality rights is a higher rule-of-law need of the people in the new era. Online defamation spreads fast and widely, and causes more serious harm to social order and the victims' personality rights than traditional forms of defamation. Moreover, if victims seek relief through private prosecution, they often face practical difficulties such as difficulty in obtaining evidence and difficulty in initiating private prosecution proceedings. Procuratorial organs shall accurately grasp the nature and characteristics of online defamation; where a criminal suspect fabricates facts and defames multiple persons through the internet, or defames others repeatedly or over a long period, or where online defamation of others causes a major adverse impact, seriously disrupting online social order and seriously harming the

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victims' personality rights, the circumstances under Article 246 of the Criminal Law of "seriously endangering social order and the State's interests" may be found to exist, and the public security organ shall be supervised in filing and investigating the case in accordance with the law.

(3) In handling defamation cases, the people's procuratorate shall strictly follow procedures and standardize supervision and case-handling work. The Notice of the Supreme People's Procuratorate on Issues Concerning Strictly Handling Criminal Defamation Cases in Accordance with the Law clearly provides that procuratorial organs handling defamation cases shall, on the basis of accurately grasping the standards for distinguishing crime from non-crime and strictly distinguishing private prosecution from public prosecution, strictly implement the system of reporting arrests and prosecutions to higher-level procuratorial organs for examination and approval. In accordance with the spirit of the said notice, where procuratorial organs carry out case-filing supervision work in defamation cases, they shall, after obtaining the consent of the higher-level procuratorial organ, submit supervision opinions to the public security organ for filing and investigation.

Relevant Legal Provisions

Articles 98 and 246 of the Criminal Law of the People's Republic of China

Articles 990, 991 and 1024 of the Civil Code of the People's Republic of China

Article 113 of the Criminal Procedure Law of the People's Republic of China (2018 Amendment)

The Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases of Defamation Committed Through Information Networks (Fa Shi [2013] No. 21)

Articles 1 and 320 of the Interpretation of the Supreme People's Court on the Application of the Criminal Procedure Law of the People's Republic of China (Fa Shi [2021] No. 1)

Articles 557, 558, 559, 560, 561 and 563 of the Criminal Procedure Rules of the People's Procuratorates (Gao Jian Fa Shi Zi [2019] No. 4)

Articles 4, 5, 7, 8 and 9 of the Provisions of the Supreme People's Procuratorate and the Ministry of Public Security on Issues Concerning Criminal Case-Filing Supervision (for Trial Implementation) (Gao Jian Hui [2010] No. 5)

The Notice of the Supreme People's Procuratorate on Issues Concerning Strictly Handling Criminal Defamation Cases in Accordance with the Law (Gao Jian Fa Zhen Jian Zi [2010] No. 18)

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