SPP Guiding Case No. 259: Case of Tan Mouyi for intentional homicide and rape (retrial protest)

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Decided at the 74th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on April 3, 2026; issued on July 15, 2026.

Keywords

Retrial protest / intentional homicide / rape / examination of statements / presumption of innocence where the case is doubtful

Holding

Where a case lacks objective evidence and the original effective judgment mainly relies on the defendant's guilty statement as the basis for determining the case, emphasis shall be placed on examining the legality and authenticity of the guilty statement, and comprehensive consideration shall be given to whether to admit it in light of the evidence of the whole case. The different characteristics of "statement preceding evidence" and "evidence preceding statement" shall be fully considered so as to accurately ascertain the facts of the case. Where evidence collection was incomplete at the time of the crime, the evidence for conviction was insufficient, and the evidence system was incomplete, and the facts of the case still cannot be ascertained even after exhausting all means, an objective and impartial stance shall be maintained and the case handled in accordance with the principle of "no punishment where the case is doubtful."

Basic Facts

The original defendant, Tan Mouyi, male, born in November 1954, a farmer.

The victim, Tan Mouwang, male, died at the age of 58.

The victim, Wang Mouying, female, died at the age of 55.

The victim, Tan Mouna, female, daughter of Tan Mouwang and Wang Mouying, died at the age of 15.

On the afternoon of July 17, 1993, Tan Mouwang, Wang Mouying, and Tan Mouna were found killed in their home. Because Tan Mouna had stayed overnight at Tan Mouyi's home on the night of July 16, Tan Mouyi was listed by the public security organ as a major suspect. On March 4, 1999, the procuratorial branch of Zhoukou Prefecture (now Zhoukou City), Henan Province, initiated a public prosecution against Tan Mouyi for the crimes of intentional homicide and rape. On December 14, the Zhoukou Prefecture Intermediate People's Court sentenced Tan Mouyi to death with a two-year reprieve for the crime of intentional homicide. Tan Mouyi appealed. On May 18, 2000, the Henan Higher People's Court, upon trial, held that the facts of Tan Mouyi's crime of intentional homicide were unclear and ruled to revoke the original judgment and remand the case for retrial. On January 1, 2002, after retrial, the Zhoukou Intermediate People's Court held that the basic facts that Tan Mouyi raped Tan Mouna and then killed Tan Mouwang, Wang Mouying, and Tan Mouna successively to silence them were clear, and sentenced Tan Mouyi to death with a two-year reprieve for the crimes of intentional homicide and rape, with combined punishment for multiple crimes. Tan Mouyi appealed again. On July 31, 2003, the Henan Higher People's Court ruled to reject the appeal and affirm the original judgment. After Tan Mouyi was imprisoned, he and his family repeatedly petitioned and complained. On May 25, 2017, Tan Mouyi's family entrusted a lawyer to file a complaint with the People's Procuratorate of Henan Province.

The original effective judgment found that at about 22:00 on July 16, 1993, Tan Mouyi, returning home to use the toilet, saw Tan Mouna, who was staying overnight at his home, using the toilet. He suddenly conceived

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an evil intent, pressed both hands on the girl's shoulders, squeezed her into a corner, and raped her while standing. For fear that the matter would be exposed, Tan Mouyi conceived the idea of killing Tan Mouna's parents. At about 1:00 on July 17, 1993, Tan Mouyi secretly got up, carried an instrument of crime, sneaked into Tan Mouwang's home, and, using a sickle to chop and a blunt object to strike, killed Tan Mouwang and Wang Mouying while they slept, leaving the broken sickle head and the sickle handle at the scene, and then returned home. Afraid that Tan Mouna would suspect him after learning of her parents' death, Tan Mouyi tailed Tan Mouna, who had returned home that morning, and, inside the main room of Tan Mouwang's home, strangled her from behind with both hands, causing her death, and then wrapped a rope around Tan Mouna's neck and hung her body from the roof beam, tying the other end of the rope to a post of the livestock trough. After the crime, Tan Mouyi used a shovel to scoop plant ash from the kitchen of Tan Mouwang's home to cover the bloodstains at the scene, locked the door of the main room, and fled the scene.

Procuratorate Performance of Duties

(1) Requesting and filing the protest

After accepting the complaint in accordance with law, the People's Procuratorate of Henan Province, upon review, held that Tan Mouyi's grounds for complaint were to a certain extent reasonable and that the original effective judgment might be erroneous. On November 15, 2018, the People's Procuratorate of Henan Province decided to file the case for review. First, it comprehensively reviewed the original case file, conducted an on-site inspection of the crime scene, and interrogated Tan Mouyi on multiple occasions, finding that the original interrogation procedures were irregular and that the authenticity and legality of Tan Mouyi's guilty statement were doubtful; it questioned key witnesses and comprehensively verified the evidence, finding that Tan Mouyi's defense of innocence was to a certain extent reasonable. Second, as to the two bloody fingerprints extracted from the handle of the instrument of crime, the sickle, the original expert opinion was that "the quantity and quality do not yet meet the conditions for individual identification"; after re-submitting the fingerprint photographs for examination, the appraisal institution held that there were too few fingerprint features for identification; as to the bloodstain extracted from the door panel of Tan Mouyi's home, the original appraisal could only prove that it contained blood group substances of types A and B, which was not unique, and after repeated searches, the whereabouts of the bloodstain sample were unknown, so the objective evidence on file could not identify the defendant. Third, important physical evidence such as the sickle head, sickle handle, rope, and the victim's clothing were missing, and due to the passage of time, no new evidence could be supplemented even after exhausting all means. After review, it held that the facts found in the original effective judgment were unclear, the evidence on which the conviction and sentence were based was not reliable and sufficient, and the main evidence was contradictory, and the evidence on file could not establish that Tan Mouyi's conduct constituted the crimes of intentional homicide and rape. On June 18, 2020, the People's Procuratorate of Henan Province requested the Supreme People's Procuratorate to file a protest in accordance with law.

After accepting the case, the Supreme People's Procuratorate comprehensively verified the evidence of the original case, conducted an on-site inspection of the crime scene, interrogated Tan Mouyi, questioned relevant witnesses, learned about the handling of the case from the original case handlers, listened to the opinions of the complainant's attorney and Tan Mouyi's family, and conducted an on-site inspection of the crime scene. Handwriting appraisal was conducted on the signatures on the interrogation records, confirming that the signature on Tan Mouyi's guilty statement was not written by him. Combining the evidence of the whole case, it held that the authenticity and legality of Tan Mouyi's guilty statement were doubtful, and that there were contradictions among the main evidence that could not be eliminated, and that the People's Procuratorate of Henan Province's opinion requesting the protest was correct.

Upon decision after discussion by the Procuratorial Committee of the Supreme People's Procuratorate, the Supreme People's Procuratorate filed a protest with the Supreme People's Court on March 16, 2022.

(2) Opinions and reasons for the protest

The Supreme People's Procuratorate held that the existing evidence could not establish that Tan Mouyi committed the acts of intentional homicide and rape, and that the original judgment was indeed erroneous and should be corrected. The reasons were as follows:

1. This case lacked objective evidence. First, the autopsy report showed that because the body had decomposed by the time of examination, it was impossible to distinguish whether Tan Mouna's hymen had suffered a fresh or old rupture. There was also no record of the extraction and submission for examination of Tan Mouna's underwear or vaginal swabs, and there was no objective evidence proving that Tan Mouyi committed rape. Second, the two bloody fingerprints extracted from the handle of the murder weapon, the sickle, had too few detectable feature points to meet the conditions for identification; the four bloodstains on the door panel of Tan Mouyi's home all showed blood group substances of types A and B, and there was no extraction record, so the extraction procedure was irregular; Tan Mouyi had type B blood, the victims Tan Mouwang and Tan Mouna had type AB blood, and Wang Mouying had type A blood, so the expert opinion was not uniquely indicative and could not determine that the blood was left by Tan Mouyi; the bodies of Tan Mouwang and Wang Mouying had multiple severe injuries and there were multiple splattered bloodstains at the scene, but no clothing with bloodstains of Tan Mouyi was extracted.

2. The legality of Tan Mouyi's guilty statement was doubtful. The interrogation record of Tan Mouyi's first guilty statement was formed four days after his detention; he claimed that he had made a defense of innocence immediately after detention, but there was no relevant record in the case file. Tan Mouyi had the ability to read and write, but upon appraisal, the signature on the guilty statement was not written by Tan Mouyi himself. At the same time, there were problems such as the investigators' failure to sign the interrogation record and fatigue interrogation.

3. Tan Mouyi's guilty statement contradicted the evidence on file, and its authenticity was doubtful. First, the guilty statement was made after the autopsy report and the on-site inspection record had been formed; in his third, fourth, and fifth interrogations, he gradually confessed details such as dragging the body of Tan Mouwang, covering the bodies of Wang Mouying and Tan Mouwang with quilts and clothing, the separation of the sickle head from the sickle handle and the place where the sickle handle was discarded, the position of the knot of the rope used to hang Tan Mouna, and the use of plant ash to cover bloodstains; this belonged to "evidence preceding statement," and the statement went from contradicting to gradually conforming with the objective evidence such as the on-site inspection record and the autopsy report. Second, Tan Mouyi successively confessed to multiple instruments of crime such as a dagger, a sickle, and an axe, but no dagger was extracted, and the axe that was extracted could not have caused the injuries on the body of the victim Wang Mouying. Third, Tan Mouyi repeatedly stated that Tan Mouna was wearing trousers at the time of the rape, which contradicted the autopsy report and the testimony of Tan Mouzhen (Tan Mouyi's eldest daughter) proving that Tan Mouna was wearing a skirt on the night of the crime.

In summary, Tan Mouyi's guilty statement was a case of "evidence preceding statement," there were contradictions between the statement and the evidence, it had not been signed and confirmed by him, and its authenticity and legality were doubtful; the objective evidence could not determine a connection between Tan Mouyi and the case, and the evidence of the whole case could not form a complete proof system and did not reach the standard of reliability and sufficiency; the original guilty judgment was indeed erroneous and should be supervised and corrected.

(3) Outcome of the protest

On July 18, 2022, the Supreme People's Court ordered the Henan Higher People's Court to retry the case. On November 5, the Henan Higher People's Court held a closed hearing. On December 16, the Henan Higher People's Court rendered a retrial judgment, fully adopting the procuratorate's protest opinion, revoking the original guilty judgment, and declaring Tan Mouyi not guilty.

Guiding Significance

(1) For cases lacking objective evidence and mainly relying on the defendant's guilty statement as the basis for determining the case, emphasis shall be placed on examining the legality and authenticity of the guilty statement, and comprehensive consideration shall be given to whether to admit it in light of the evidence of the whole case. Where a defendant raises problems or clues such as having been subjected to extortion of confession by torture and the record not being signed by him or her, a review of the legality of the interrogation shall be promptly conducted, focusing on examining whether all interrogation records have been transferred, whether the audio and video recordings of interrogation were lawfully made, whether they are synchronized and complete, and whether they are consistent with the content of the interrogation records; where necessary, judicial appraisal of the handwriting of the signature shall be conducted to determine whether unlawful evidence collection exists. Where the authenticity of a guilty statement is doubtful, emphasis shall be placed on examining whether the guilty statement is stable, whether the main content is consistent before and after, whether it contradicts the evidence on file, whether the contradiction can be reasonably explained or eliminated, and whether it conforms to common sense of life, logic, and rules of experience, so as to comprehensively determine whether the content of the statement is truthful and credible.

(2) The different characteristics of the "statement preceding evidence" and "evidence preceding statement" aspects of a guilty statement shall be fully considered so as to accurately ascertain the facts of the case. For a guilty statement of "statement preceding evidence," emphasis may be placed on examining whether, based on the guilty statement, objective evidence such as physical evidence, documentary evidence, audiovisual materials, and electronic data that are highly concealed and difficult for outsiders to know—such as the instrument of crime—has been extracted, and whether the mode of the crime described in the statement conforms to expert opinions such as the cause-of-death appraisal; where the possibility of unlawful evidence collection can be excluded, the statement may be admitted. For a guilty statement of "evidence preceding statement," where the statement gradually conforms with the on-site inspection and relevant objective evidence as the investigation of the case progresses, the legality and authenticity of the statement may be made the focus of examination, examining the stability and consistency of the statement and its corroboration and contradiction with the evidence on file, so as to comprehensively determine whether to admit it.

(3) Where evidence collection was incomplete at the time of the crime, the evidence system is incomplete, and the facts of the case still cannot be ascertained even after exhausting all means, an objective and impartial stance shall be maintained and the case handled in accordance with the principle of "no punishment where the case is doubtful." Where some evidence points to the criminal suspect, but the legality and authenticity of the guilty statement on which the case is based are doubtful, the defense of innocence and other evidence favorable to the criminal suspect cannot be excluded, there is a lack of objective evidence identifying the criminal suspect, some evidence was not extracted in a timely and standardized manner at the time of the crime, no new evidence can be supplemented, and the case as a whole does not reach the standard of proof of "clear facts and reliable and sufficient evidence," the case shall not be determined.

Relevant Legal Provisions

Articles 132 and 139 of the Criminal Law of the People's Republic of China (1979).

Articles 254 and 256 of the Criminal Procedure Law of the People's Republic of China (2018 Amendment).

Articles 94 and 472 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 454, 455, 456, 583, 591, and 595 of the Criminal Procedure Rules of the People's Procuratorates (Gao Jian Fa Shi Zi [2019] No. 4).

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