SPP Guiding Case No. 200: Case of Sui Moumou for Using the Internet to Molest Children, Rape, Extort, and Produce, Sell, and Disseminate Obscene Materials for Profit

Dan Young Business Consultancy — www.danyoungcpa.com

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

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Keywords

Network protection of minors / molestation via the internet / rape / blocking dissemination / comprehensive governance of network protection

Holding

Crimes of sexual assault against minors shall be severely punished in accordance with law. Where an offender, after committing online molestation, threatens to disseminate private photos and videos to coerce a minor victim into having sexual relations with him, two independent criminal acts are constituted and shall be separately determined as the crime of molesting children and the crime of rape. Where, during case handling, it is discovered that a minor victim's private photos and videos are being spread on the internet, the procuratorial organ shall promptly coordinate with the relevant departments to delete the information and block dissemination. The procuratorial organ shall actively exercise its legal supervision function, proactively promote coordination and joint efforts among all parties, and jointly strengthen the network protection of minors.

Basic Facts

The defendant, Sui Moumou, male, born on December 6, 2002, unemployed.

The victim, Liu Moumou, female, born on February 27, 2009, a student.

In January 2022, Sui Moumou added the minor victim Liu Moumou as a friend through online social software, and subsequently sent obscene videos to Liu Moumou on multiple occasions, and threatened and induced Liu Moumou to take nude photos and nude videos of herself and send them to him for viewing. On February 8 and February 15, 2022, Sui Moumou, threatening to disseminate Liu Moumou's nude photos and nude videos, twice coerced Liu Moumou into having sexual relations with him. Sui Moumou also, by threatening to disseminate the photos and videos, demanded money from Liu Moumou on three occasions, obtaining a total of RMB 840. On March 5, 2022, Sui Moumou sold the edited videos of Liu Moumou to Wang Moumou and several others at a price of RMB 5 each, seven of whom were minor students, making a profit of RMB 50.

Procuratorate Performance of Duties

Examination for arrest. On March 11, 2022, the head teacher, having discovered that Liu Moumou was behaving abnormally, reported the matter to the police. A district branch of the Public Security Bureau of a city in Shandong Province arrested Sui Moumou on the same day. On April 11, 2022, the public security organ requested the People's Procuratorate of a district of a city in Shandong Province to approve the arrest of Sui Moumou on suspicion of rape, extortion, and producing, selling and disseminating obscene materials for profit. The public security organ held that committing molestation via the internet was the means by which the criminal suspect accomplished the crime of rape, and should be handled as a single crime of rape. Upon examination, the procuratorial organ held that this case involved a crime of sexual assault against a minor, the circumstances were vile, it seriously damaged the physical and mental health of the minor, and it should

be severely punished in accordance with law. According to the evidence in this case, Sui Moumou initially demanded, for the purpose of stimulation and sexual gratification, that the victim take nude photos and nude videos and send them to him for viewing. After receiving the victim's photos and videos, he considered the victim easy to deceive and control, and then formed the criminal intent to have sexual relations with the victim, and subsequently committed the act of rape. In this case, the molestation and the rape were nine days apart, with an obvious temporal and spatial interval, and the molestation and the rape caused two injuries of different nature and degree to the victim. Sui Moumou's online molestation was an independent criminal act and therefore should not be evaluated as the means of the crime of rape, and should be determined as the crime of molesting children. While approving the arrest of Sui Moumou in accordance with law, the procuratorial organ promptly communicated with the public security organ, clarified the direction of supplementary investigation, and urged it to further ascertain the facts of Sui Moumou's commission of the crime of molesting children.

Examination for prosecution and disposition result. On June 17, 2022, the public security organ transferred Sui Moumou to the procuratorial organ for examination and prosecution on suspicion of molesting children, rape, extortion, and producing, selling and disseminating obscene materials for profit. On July 15, 2022, the procuratorial organ filed a public prosecution with the people's court. On August 11, 2022, the people's court rendered a judgment sentencing Sui Moumou to fixed-term imprisonment of one year and six months for the crime of molesting children; fixed-term imprisonment of eight years and six months for the crime of rape; fixed-term imprisonment of six months plus a fine of RMB 2,000 for the crime of extortion; and fixed-term imprisonment of nine months plus a fine of RMB 1,000 for the crime of producing, selling and disseminating obscene materials for profit. The sentences were combined and a fixed-term imprisonment of ten years plus a fine of RMB 3,000 was decided.

Protection of the victim's rights and interests. Sui Moumou sold the victim's private videos through his circle of friends, causing the videos to spread among multiple students at the school the victim attended. In order to minimize the harm of the crime as much as possible, the procuratorial organ urged the public security organ to promptly ascertain the dissemination path of the relevant videos and, after fixing the evidence, to thoroughly delete the videos through technical means. At the same time, it coordinated with the functional departments to promptly track and handle improperly leaked information related to this case and block the dissemination of the victim's photos and videos. It jointly worked with the public security organ to carry out rule-of-law education for students who purchased the relevant videos, and issued supervision orders for guardianship to the parents of the students, so as to avoid secondary harm to the victim. The procuratorial organ also contacted specialized institutions to assign professional psychological counselors to provide psychological counseling to the victim, continuously follow the victim's condition, and help her overcome the psychological trauma as soon as possible.

Promotion of comprehensive governance. In response to the problems reflected in this case, such as improper online social interaction by minors and insufficient ability to prevent online harm, the procuratorial organ carried out a special investigation and analysis and then issued procuratorial suggestions to the school involved and the administrative department of education, urging the school to establish a working mechanism for preventing and handling online harm, implement the mandatory reporting system for cases of harm to minors, adopt scientific and reasonable methods to cultivate and improve minors' online literacy, and effectively reduce the occurrence of harm. In response to problems such as minors' reluctance to say no and poor ability to seek help when subjected to online harm, the procuratorial organ developed online security education themed courses and organized the activity of "bringing a clean internet to campuses," exposing through special lectures, short videos and online security knowledge quizzes the common tactics used by criminals, revealing the risks and traps in online social interaction, teaching the correct methods of responding to online sexual assault, guiding students to make friends rationally, protect themselves and seek help in a timely manner, and enhancing minors' awareness and ability to use the internet in a civilized and safe manner. With respect to the network protection of minors, it invited deputies to the people's congress,

members of the CPPCC and functional departments related to the protection of minors to hold discussions, and promoted the relevant functional departments to strengthen the transfer of clues of online harm involving minors; nine clues have now been reported and transferred.

Guiding Significance

(1) Where an offender, after committing online molestation, uses the private photos and videos obtained through online molestation to coerce the victim and commits the offline crime of rape, it shall be determined that two independent crimes, namely molesting children and rape, are constituted, and the punishments shall be combined. Crimes of sexual assault against minors shall be severely punished in accordance with law. Where an offender, for the purpose of sexual gratification, uses the internet to coerce or deceive a child into taking nude photos or videos of private body parts for his viewing, his conduct constitutes the crime of molesting children. Where, after committing "molestation via the internet" against a child, the offender threatens to disseminate the private photos and videos obtained through online molestation to coerce the victim into having sexual relations, the online molestation and the offline rape are relatively independent in time and space, respectively causing injuries of different degrees to the victim's personal dignity and physical and mental health, and are two independent criminal acts that should be separately determined as the crime of molesting children and the crime of rape, with the punishments combined.

(2) When handling cases of sexual assault against minors committed through the internet, the procuratorial organ shall promptly urge the functional departments to block the dissemination of private information, and comprehensively protect minors from secondary harm both offline and online. The internet has the characteristics of fast dissemination speed and wide influence, and the online dissemination of the private photos and videos involved in a case will further seriously harm the physical and mental health of the minor victim and is not conducive to the victim's trauma recovery. While severely cracking down on crimes of sexual assault against minors committed through the internet, the procuratorial organ shall pay attention to examining whether the victim's private photos and videos have been disseminated; where it discovers that they are being spread in cyberspace, it shall promptly urge the functional departments to quickly and precisely block the dissemination, so as to avoid, from offline to online and from groups directly in contact with the victim to the dissemination path in cyberspace, secondary harm to the victim as much as possible.

(3) In view of the complexity of the network protection of minors, the procuratorial organ shall proactively exercise its legal supervision function and comprehensively perform its duties to help all parties form a joint force for protection. In response to the problems of minors' insufficient awareness of online risks and vulnerability to harm, it shall precisely carry out rule-of-law education and popularize knowledge of identifying, preventing and responding to online harm; in response to the problem of insufficient guardianship, it shall carry out family education guidance and enhance the awareness and ability of guardians to supervise online safety; in response to the problem of insufficient performance of duties by functional departments, it shall issue social governance procuratorial suggestions; and it shall convene joint departmental meetings to promote the establishment of a mechanism for transferring clues of online harm involving minors, and with the comprehensive performance of procuratorial duties actively promote the joint efforts of families, schools and society, so as to create a healthy and safe online environment for minors and enhance the comprehensive protection effect for minors.

Relevant Legal Provisions

Articles 236, 237, 274 and 363 of the Criminal Law of the People's Republic of China.

Article 6 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Specific Application of Law in the Handling of Criminal Cases of Producing, Reproducing, Publishing, Selling and Disseminating Obscene Electronic Information by Using the Internet, Mobile Communication Terminals and Voice Message Stations.

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Article 1 of the Interpretation (II) of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Specific Application of Law in the Handling of Criminal Cases of Producing, Reproducing, Publishing, Selling and Disseminating Obscene Electronic Information by Using the Internet, Mobile Communication Terminals and Voice Message Stations.

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