SPP Guiding Case No. 216: Supervision Case on Investigative Activities Concerning Fu Mou’s Theft

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Supreme People's Procuratorate Guiding Case No. 216 (Batch 53, 2024)

Keywords

Investigation activity supervision; minor criminal cases; review of the voluntariness of guilty pleas and acceptance of punishment; prevention of wrongful convictions.

Holding

In handling cases, people's procuratorates shall strictly perform their review and supervision duties. Even in minor criminal cases where the criminal suspect has pleaded guilty and accepted punishment, supervision over the legality of investigative activities and review of the voluntariness of the guilty plea and acceptance of punishment shall be strengthened. The evidence-based adjudication principle shall be upheld to avoid wrongful convictions resulting from false guilty pleas and acceptance of punishment. Where clues to evidence of a suspect's innocence or lesser culpability are discovered, the procuratorate shall maintain an objective and impartial position, and collect evidence comprehensively and objectively by itself or by urging the public security organ to do so, and comprehensively review and determine the facts of the case.

Basic Facts

Fu Mou, against whom prosecution was not initiated, male, born in March 2000, unemployed.

At around 6:00 a.m. on November 10, 2019, a mobile phone worth RMB 1,722 placed by victim Shi Moumou at the cashier counter of a fast-food restaurant was stolen. After receiving the victim's report, the Fucheng District Branch of the Mianyang Municipal Public Security Bureau of Sichuan Province opened an investigation into the "theft case of Shi Moumou" on the same day. Upon retrieving the restaurant's surveillance video, it was found that a male diner had stolen the phone in the restaurant and then entered a nearby internet cafe to use the internet until 11:00 a.m., registering his identity information as "Fu Mou."

On the evening of May 8, 2020, Fu Mou was captured by the public security organ at an internet cafe in Mianyang and expressed a guilty plea and acceptance of punishment during interrogation on the same day. On May 9, Fu Mou was released on bail pending trial by the public security organ on suspicion of the crime of theft. On June 15, the public security organ transferred the case to the Fucheng District People's Procuratorate of Mianyang for review and prosecution against Fu Mou on suspicion of the crime of theft.

Procuratorate Performance of Duties

(1) Discovery of clues. During review for prosecution, the Fucheng District People's Procuratorate found that the evidence on file, including Fu Mou's guilty confession, internet cafe login identity information and on-site identification records, indicated that Fu Mou was suspected of theft. On June 22, 2020, during the first interrogation of Fu Mou, the Fucheng District People's Procuratorate found that Fu Mou also expressed a guilty plea and acceptance of punishment, and voluntarily compensated the victim's loss the following day. However, the evidence on file also contained doubtful points: the suspect in the surveillance video at the crime scene wore a hat and had unclear facial features, and his build differed to some extent from Fu Mou's; Fu Mou's statements regarding the types of food purchased at the fast-food restaurant, the placement of the stolen phone and whether it was charging were inconsistent with the victim's statements; and Fu Mou had, after interrogation, repeatedly called the handling prosecutor by telephone to inquire about the legal consequences of conviction and punishment, behaving differently from an ordinary suspect who pleads

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guilty and accepts punishment.

To address these issues, on June 24, the Fucheng District People's Procuratorate interrogated Fu Mou again. While re-verifying the details of the offense, it explained in detail the criminal liability for theft and the nature and legal consequences of a guilty plea and acceptance of punishment. After legal explanation and reasoning, Fu Mou changed his original guilty confession, stating that he had not committed the theft, that he was not in the city where the offense occurred at the time of the incident, and that he had previously lost his ID card; and that his guilty confession during the investigation stage had been made under the inducement of investigators who said he would be detained if he did not confess and that "the matter is not serious, and he could go home after paying compensation," and that he had confessed the entire process of "theft" and "disposal of stolen goods" in accordance with the restaurant surveillance video shown by the investigators, so that his guilty confession was untrue and his guilty plea and acceptance of punishment were not voluntary. Based on the evidence on file, the Fucheng District People's Procuratorate held that the voluntariness, truthfulness and legality of Fu Mou's guilty plea and acceptance of punishment were doubtful, and that investigators may have failed to collect and retrieve objectively and comprehensively evidence proving the suspect's innocence.

(2) Investigation and verification. Around the problematic clues, the Fucheng District People's Procuratorate organized investigation, verification and evidence collection supervision work. First, through inquiring of the investigators in this case, reviewing the case file materials and retrieving law enforcement video records, it was found that the investigators had determined that the case was committed by Fu Mou based on the internet cafe login identity information, and had not accepted Fu Mou's defense of innocence, nor collected and retrieved comprehensively in accordance with law evidence proving the suspect's innocence. Second, upon viewing the surveillance video at the crime scene, it was found that the video had poor clarity and did not meet the conditions for comparison and identification, while the internet cafe surveillance video of the suspect using Fu Mou's ID card had been overwritten due to the passage of time and could not be retrieved; the only objective evidence determining that the suspect was Fu Mou was his ID card login information, which could not form a complete chain of evidence. Third, in response to Fu Mou's defense of innocence, the public security organ, in accordance with the procuratorate's requirement to supplement relevant evidence materials, retrieved Fu Mou's mobile phone location records, riding records, and witness testimony of his relatives and colleagues, confirming that Fu Mou was in Meishan City during the time of the incident and not in Mianyang City where the incident occurred; retrieved Fu Mou's travel records, and after big data query and comparison, confirmed that Fu Mou had no travel records via public transport such as bullet trains, trains or buses before and after the incident; and checked the household registration system, confirming that Fu Mou had replaced his ID card twice in October 2016 and June 2018 due to loss.

(3) Supervision opinions. Based on the comprehensive investigation and verification and other evidence materials on file, the Fucheng District People's Procuratorate ascertained that during the time of the incident, Fu Mou was not in the city where the offense occurred and that the theft was not committed by him; the public security organ's determination of Fu Mou as the criminal suspect based solely on the internet cafe login identity information was erroneous. On July 29, 2020, the procuratorate made a decision not to prosecute Fu Mou in accordance with law, and required the public security organ to continue investigating the "theft case of Shi Moumou." On August 6, regarding the investigators' negligence in investigation, including the failure to collect and retrieve innocence evidence that was clearly collectible and retrievable, the Fucheng District People's Procuratorate issued a Notice of Correction of Violations to the public security organ, and simultaneously transferred the case clues suspected of dereliction of duty to the relevant department.

(4) Supervision results. After receiving the supervision and correction opinions, the public security organ replied in writing on its rectification, initiated a retrospective accountability procedure for the investigative violations in this case, and handled the investigators involved in accordance with discipline and regulations.

In addition, to regulate the internal supervision and review mechanism for criminal cases, the public security organ specially formulated the Operating Rules for the Review of Criminal Cases. The Fucheng District People's Procuratorate also, on the basis of summarizing the experience of handling this case, formulated the System for Detailed Review of Evidence in Cases of Guilty Plea and Acceptance of Punishment, refined the review of the voluntariness, truthfulness and legality of guilty pleas and acceptance of punishment, strengthened and regulated investigation activity supervision, and established and improved mechanisms for preventing and correcting errors in cases of guilty plea and acceptance of punishment.

Guiding Significance

(1) In handling minor criminal cases where the criminal suspect has pleaded guilty and accepted punishment, review and supervision over the legality of investigative activities and the truthfulness, voluntariness and legality of the guilty plea and acceptance of punishment shall be strengthened. In particular, in cases such as petty theft and dangerous driving, attention shall be paid to reviewing whether investigative violations such as violence, threats or inducement exist in the evidence collection process, and whether the criminal suspect understands the nature of the guilty plea and acceptance of punishment and the possible legal consequences, so as to prevent guilty pleas and acceptance of punishment made against the suspect's will.

(2) The evidence-based adjudication principle shall be upheld, and review and improvement of the evidence system shall be strengthened. Review of the relevance between objective evidence such as documentary evidence and physical evidence and the facts of the case, and of the identity of the criminal subject, shall be strengthened; attention shall be paid to the detailed differences among verbal evidence to ensure that all evidence in the case corroborates each other and forms a complete chain of evidence, so that the facts are clear and the evidence is reliable and sufficient. Where a criminal suspect makes a defense of innocence or lesser culpability, or review reveals clues to evidence of innocence or lesser culpability, the people's procuratorate shall maintain an objective and impartial position, collect evidence materials by supplementary investigation on its own, or urge the public security organ to continue or supplement investigation, so as to collect comprehensively and objectively evidence of innocence or lesser culpability. Where investigators are negligent in investigation and fail to collect evidence of innocence or lesser culpability that is clearly collectible and retrievable in accordance with law, the procuratorate shall put forward correction opinions in accordance with law, and where dereliction of duty is suspected, shall transfer the relevant clues in accordance with law.

Relevant Legal Provisions

Article 264 of the Criminal Law of the People's Republic of China; Articles 15, 52, 56, 57 and 177 of the Criminal Procedure Law of the People's Republic of China (2018 Amendment); Articles 72, 271, 365, 551, 552, 553 and 567 of the Rules of Criminal Procedure for People's Procuratorates (2019 Revision); Articles 3 and 28 of the Guiding Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice on the Application of the Leniency System for Guilty Pleas and Acceptance of Punishment (Gao Jian Fa [2019] No. 13); Article 187 of the Procedures for Handling Criminal Cases by Public Security Organs (Order No. 127 of the Ministry of Public Security, 2013).

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