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Research Article

SPECIFIC ASPECTS OF RECONCILIATION AND PRIVATE PROSECUTION AS GROUNDS FOR TERMINATING CRIMINAL CASES

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ABSTRACT

This article analyzes the relationship between the termination of a criminal case based on reconciliation and private prosecution, their specificity through the norms of substantive and procedural law. The article explores the scope of this institution through scientific and theoretical views put forward by scientists on the termination of a criminal case based on reconciliation and private prosecution. Based on the views and ideas of scientists, the termination of a criminal case based on reconciliation and private prosecution was analyzed based on scientific, theoretical, practical, and legislative norms.

KEYWORDS

Reconciliation, termination of the criminal case, a responsibility, guilty plea, victim, private prosecution, guilty, responsibility, termination of a criminal case on non-rehabilitation grounds, term of bringing to responsibility.

INTRODUCTION

In recent years, one of the priority tasks is to further liberalize and improve criminal and criminal procedural legislation in the implementation of judicial reforms. Implementation of this task is defined as one of the most important tasks in the Concept of Improving the Criminal and Criminal Procedural Legislation of the Republic of Uzbekistan [11] approved by the decision of the President of the Republic of Uzbekistan No 3723 of

May 14, 2018. In particular, in this Concept, to improve the guarantee of reliable protection of the rights, freedoms, and legal interests of a person in criminal proceedings, further expansion of the scope of application of the institution of reconciliation is defined as one of the important directions.

MATERIALS AND METHODS

Today, the institution of closing a criminal case is studied by many scientists [4, P.8]. In particular, the improvement of reconciliation in court proceedings (S. Sakhaddinov [10, P.25]), the problems of criminal responsibility and exemption from punishment due to the passing of criminal liability terms (Sh. Niyazova [5, P.25]) in the course of the liberalization of criminal laws the problems of improvement of exemption from liability (Sh. Berdiev [1, P.116]), the theory and practice of private prosecution in criminal proceedings (B. Rashidov [6, P.322]) were studied.

Logical methods such as induction and deduction, historicity, comparison, complex research of scientific sources, analysis of statistical data, interpretation of legal documents, a study of law enforcement practice, and study of materials related to criminal cases were used in the writing of the article.

RESEARCH RESULTS

The institution of closing the criminal case plays an important role in the implementation of the tasks of criminal procedural legislation, including quick and complete detection of crimes, exposure of every person who committed a crime, compensation of property damage caused to the victim, and rehabilitation of innocent persons. Because the termination of a criminal case on some basis affects the legal status of a person and causes various legal consequences.

Termination of the criminal case based on conciliation and private prosecution is not an exception. Because the termination of the criminal case based on conciliation or private prosecution, in addition to having similar features, is also distinguished by the fact that it has its features.

Based on this, the study of specific aspects of closing the criminal case based on conciliation and private prosecution and their relationship is one of the important issues in the criminal process. On the one hand, this affects the legal status of a person, and on the other hand, it allows conducting the case in a simplified form.

Exoneration of a person from criminal liability in connection with reconciliation or based on a private accusation is called the termination of a criminal case based on the non-rehabilitation of the person (does not exonerate the person). In this situation, there will be no legal grounds for bringing a person to criminal responsibility by certain circumstances: the expiration of the term for bringing criminal responsibility, the fact that the guilty person regrets his act, reconciliation, the absence of his complaint in cases initiated based on the victim's complaint, etc. [8, P.586].

Article 84 of the Criminal Procedure Code provides 13 grounds for closing a criminal case without resolving the issue of guilt (on grounds that cannot be rehabilitated) [2, P.110], including reconciliation and private prosecution.

Reconciliation as a basis for release from criminal responsibility is a mutual agreement between the guilty person and the victim. This is manifested in the reluctance of the victim to forgive the guilty person and to hold the person criminally responsible for the act he committed. In this case, the guilty person is required to admit his guilt and compensate for the damage caused [9, P.585].

A private charge is a charge filed by the victim and his representative (lawyer) on his behalf in cases of crimes that are initiated only upon the victim's complaint and are conducted at the request of the victim (or his representative) [7, P.71].

In agreement with this opinion, it can be said that a private prosecution is initiated based on the victim's claim, an investigation, and a court hearing are held, and the case is resolved on the merits, as well as the refusal to initiate a criminal case based on the victim's failure to apply, and when the case is abandoned after the case is initiated based on his application, the case is dismissed. represent business processes related to liquidation.

In the implementation of reconciliation, it is necessary to fulfill the conditions stipulated by the law (the crime falls within the scope of Article 661 of the Criminal Code, the damage caused as a result of the crime has been eliminated or waived, the victim has applied), otherwise the reconciliation cannot be implemented.

When closing a criminal case based on a private prosecution, it is required that the victim does not have a complaint or has withdrawn it in the cases that fall under the scope of private prosecution.

The Institute of Reconciliation of the Republic of Uzbekistan "On Amendments and Additions to the Criminal, Criminal Procedure Codes and Code of Administrative Responsibility of the Republic of Uzbekistan in connection with the Liberalization of Criminal Punishments" [13] of August 29, 2001 No. 254-II is a special basis for releasing a person from criminal responsibility was included in our legislation. At the moment, the number of criminal cases subject to reconciliation has reached 47.

The institution of private prosecution was partially expressed in Article 325 of the Criminal Procedure Code of the Republic of Uzbekistan adopted in 1994.

In 1994, only in non-aggravating circumstances, the cases of defamation and unnaturally forced sexual satisfaction (the first part of Article 118 and the first

part of Article 119 of the Criminal Code) were brought under the scope of private prosecution. By now, the number of criminal cases initiated based on the victim's complaint has reached 17.

Taking into account the fact that there are several positive aspects of conducting proceedings based on a private prosecution, it gives an opportunity to quickly find a solution in conflict situations related to crime, it is very urgent to ensure legality in the application of this institution and to achieve strong protection of the rights and legal interests of citizens. It is through the reflection of these guarantees in the legislation that private prosecution can be further expanded and applied more effectively.

While conciliation and private prosecution are similar (dismissal of a criminal case without a determination of guilt), they also have their characteristics.

First, according to the current regulation, the application of conciliation involves 4 stages: application by the victim, decision-making by the investigator and investigator, obtaining the consent of the prosecutor, and court hearing. In this case, conciliation is always used by the court.

In a private prosecution, that is, in criminal cases initiated based on the victim's application (Article 325 of the Code of Criminal Procedure), the stages of closing criminal cases consist of only two stages, in which the investigation, investigation or investigative body makes a decision based on the absence of the victim's application. That is, in contrast to conciliation, by Article 84 and Article 325 of the Code of Criminal Procedure, there are no stages of obtaining the consent of the prosecutor and trial in the termination of criminal cases on private charges.

In both cases, the case will be closed without the issue of guilt being resolved under Article 84 of the Criminal Code.

Second, another point of difference between the two institutions is the consequences of termination. That is, in the case of termination of the criminal case based on reconciliation, the victim or his legal representative loses the right to file a motion to resume proceedings.

In this case, at the time of receiving the application from the victim or his legal representative, the investigator, investigator, prosecutor, and the court will explain to them that in case of reconciliation, they will lose the right to file a motion for the resumption of criminal proceedings in this case, and a report will be drawn up.

The parties retain the right to appeal when the criminal case is closed on a private charge (in criminal cases initiated based on the victim's application).

Thirdly, there are also differences in terms of termination of the criminal case based on conciliation or private prosecution. Compensation for the damage caused as a result of the crime is one of the main requirements in the termination of the criminal case based on reconciliation.

E.V.Smakhtin also noted that in the settlement of the criminal case based on reconciliation, the damage caused as a result of the crime should be compensated and the existence of the fact of the damage compensation should be confirmed with relevant documents (receipt, receipt) [11, P.19].

Some authors also noted that compensation for the damage caused to the victim as a result of the crime and its voluntary implementation constitute the main essence of reconciliation [3, P.113].

The obligation to compensate for the damage caused as a result of the crime is not provided for in the termination of the criminal case on a private charge. In this case, the main criterion is that the committed crime falls within the scope of Article 325 of the Criminal Procedure Code and the victim does not apply for the prosecution of the person who committed the crime.

At the same time, in some cases, even if the victim does not have a complaint, the prosecutor may initiate a criminal case even without the victim's complaint.

In particular, in special cases where the victim is unable to protect his rights and legal interests due to being in a helpless situation, dependent on the accused, or for other reasons, the prosecutor must initiate a criminal case even if there is no complaint from the victim.

Fourthly, according to the second part of Article 661 of the Criminal Code, at the time of reconciliation, the suspect, accused or defendant must not have a previous conviction for a serious or extremely serious crime. This provision somewhat limits the application of the termination of the criminal case, using conciliation.

However, this provision is related to the purpose of the punishment, and it means that a person should conclude the act he committed. When closing a criminal case based on a private accusation, the fact that a person has committed a crime before or not, as well as the legal consequences arising from them, are of no importance.

ANALYSIS OF RESEARCH RESULTS

It should also be noted that there are some problematic situations in closing criminal cases based on private charges. In particular, this situation is related to the norm defined in paragraph 6 of the first

part of Article 84 of the Code of Criminal Procedure. That is, in this paragraph, it is established that in cases where the case is initiated only by the victim's complaint, if there is no complaint, the case will be terminated, except for the cases provided for in Article 325 of the Criminal Procedure Code.

Article 325 of the Criminal Procedure Code provides for criminal cases initiated based on the victim's complaint. If we analyze this norm, in cases initiated by the complaint of the victim based on the sixth paragraph of the first part of Article 84 of the Code of Criminal Procedure, if there is no complaint, the criminal case should be terminated without solving the issue of guilt. However, in this paragraph itself, the norm is established, except for the cases provided for in Article 325 of the Code of Criminal Procedure.

From the content of the article, it can be understood that, in a general sense, except for the cases provided for in Article 325 of the Code of Criminal Procedure (because this norm itself provides cases in which a criminal case is initiated based on the complaint of the victim), in cases where the criminal case is initiated by the complaint of the victim, if there is no complaint from him, the criminal case excludes the need for termination.

The main reason for the interpretation of the sixth paragraph of the first part of Article 84 of The Criminal Procedure Code is that Article 325 of the Criminal Procedure Code stipulates that the prosecutor can initiate a criminal case even without a complaint from the victim.

As indicated above, in special cases where the victim cannot protect his rights and legal interests, the prosecutor must open a criminal case even without the victim's complaint. Accordingly, it is necessary to make the following editorial changes to paragraph 6 of the

first part of Article 84 of the Code of Criminal Procedure.

“In cases where the case is initiated only by the victim's complaint and there is no complaint, the prosecutor initiates the criminal case even without the victim's complaint;”.

CONCLUSION

Based on the results of the above analysis, to improve the termination of the criminal case based on conciliation and private prosecution, the following is proposed:

First of all, there is a rule that persons whose convictions for serious or extremely serious crimes are not completed or whose convictions have not been removed are not exempted from criminal responsibility in connection with reconciliation, taking into account the severity of the crime, the identity of the guilty person, age, health, family status, and other circumstances. (minors, persons with disabilities of the first and second groups, women, and men over the age of sixty).

Secondly, it is proposed to make the following changes to paragraph 6 of the first part of Article 84 of the Code of Criminal Procedure.

“In cases where the case is initiated only by the victim's complaint and there is no complaint, the prosecutor initiates the criminal case even without the victim's complaint;”.

Thirdly, in the first part of Article 325 of the Code of Criminal Procedure, it is proposed to give the status of "victim's minor" as a condition that gives the prosecutor the right to initiate a criminal case even without the victim's complaint.

In conclusion, it can be said that the termination of the criminal case based on conciliation or private prosecution is convenient for both the victim and the person who committed the crime. Giving the victim the right to reconcile with the guilty person helps to expand dispositive changes in the criminal process because the parties have the opportunity to freely dispose of their right to reconciliation.

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