

False accusation is not a petty crime under UAE Penal Code

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In a very clear cut final judgment, the Court of First Instance established, first, that our client had no bad intention whatsoever while giving Dubai Police his witness statement and, secondly, that the police officer who wrote down our client's statement was accused in a different case of forging the same statement and asking for a bribe.

One of the main legal principles established by the court in this case, is the significant factor of bad faith in providing the police, or any administrative authority, with a false accusation that might lead to penalising an innocent person.

TYPES OF FALSE ACCUSATIONS:

When there is insufficient supporting evidence to determine whether an accusation is true or false, such an accusation can be described as "unsubstantiated" or "unfounded".

However, accusations that are determined to be false can be divided into three categories:

- a) An allegation that is completely false in that the events that were alleged did not occur;
- b) An allegation that describes events that did occur, but were perpetrated by an individual who is not accused, and in which the accused person is innocent.
- c) An allegation that is partially true and partially false, in that it mixes descriptions of events that actually happened with other events that did not occur.

BACKGROUND

This case arose out of a separate criminal complaint that was made by the first accused in this case (our client was the second accused). The first accused had initially submitted a criminal complaint against the complainant in this case, alleging that the latter had made threats to kill and injure. Our client was called as a witness. However, the complainant in this case took the view that those allegations were unfounded and, in a counter-attack, he submitted a criminal complaint against both men, alleging that they had made a false accusation against him, in accordance with Article 276 of the UAE Federal Penal Code (Law No. 3 of 1987 as amended).

During the time of giving his testimony to the Police, our client claims that he was harassed during the process by the police officer, who afterwards asked for a bribe in return for not pressing charges against him for making false accusations in his witness statement.

Although our client did not testify to anything that would fall under the definition of false accusations, our client's case is that the police officer, in order to request a bribe, had to manipulate and falsify the

statement, having to his advantage our client's lack of knowledge of the Arabic language, and the absence of a translator during his testimony.

Consequently, our client reported the request for a bribe to the Criminal Investigation Department of Dubai Police, who liaised with our client to arrest the police officer who, accordingly, was caught in the act.

The police officer is subject to criminal accusations of bribery, for which he is being tried before the court of law.

GROUNDINGS FOR ACQUITTAL

Al Tamimi and Company's approach in defending our client (the second accused in this case) was based on very definite and focused strategic challenges, which may be summarized as follows:

- As a civil claimant, we joined the ongoing bribery case filed against the police officer, in order to have a copy of the case file and submit it to the court that was reviewing the false accusations case. This was for the sole purpose of making the relevant judge aware of the alleged bribery with a view to him doubting the police report, in which our client's allegedly false statement was written.
- As per article 102 of the Civil Procedural Law, *"The court shall order a stay of the proceedings if in its opinion it should defer judgment on the subject matter pending determination of another question on which the judgment is dependent; as soon as the cause of the stay has ceased, either of the parties may recommence the action."* We argued the necessity of staying the case, pending a final judgment in the criminal case against the police officer for bribery.
- The bribery case comprised of a preliminary issue, which is the accusation of forgery of our client's witness statement by the police officer. This issue should be settled first, before any judgment could be issued in the false accusation case. (However, see below – as the Court was suspicious of the police report, it was not necessary to adjourn the case).
- Al Tamimi and Company's defences did not stop at this stage, however; we explained to the court the lack of the physical element of the crime and the criminal intention, as well as the forgery of the main evidence in the case, which was our client's witness statement.

On 2 July 2014, the Court of First Instance issued its judgment, ruling for the acquittal of our client, while penalizing the first accused for committing a false accusation crime, sentencing him to confinement for a period of 3 months and a fine. This judgment was not appealed by the Public Prosecution against our client, which made the acquittal in favour of our client a final judgment.

PRACTICE NOTE

As a general misconception, many people believe that an accusation against a person should only be refuted with the aim of proving the accused's innocence. However, this is not the case according to the [UAE Penal code](#), which clearly allows an innocent person to file a separate criminal complaint, against whoever has submitted a false accusation against him.

Since the sole evidence in the case against our client was the subject of a forgery accusation in another case, the Court of First Instance was suspicious of the police report, which included our client's alleged confession to committing the offence.

Consequently, the Court reiterated a very well known and common principle, which is that penal judgments should be based on certainty rather than on suspicion and speculation. Therefore, given the doubt as to the veracity of the police report, it was disregarded by the Court and, in the absence of any other evidence, our client was acquitted of the charge of making a false accusation. This doubt surrounding the police report was sufficient to secure an acquittal without the need for a final determination in the bribery case against the police officer,