



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (นพว.) Human Rights and Development Foundation

เลขที่ 109 ซอยสิทธิชน ถนนสุทธิสารวินิจฉัย แขวงสามเสนนอก เขตห้วยขวาง กรุงเทพฯ 10310
109 Soi Sittichon, Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10310
Tel: (+662)277 6882/277 6887 Fax: (+662)277 6882 ext 108 E-mail: info@hrdfoundation.org

For immediate release on 23 February 2017

Press Release

Provincial Court of Ranong acquitting defendants in trafficking in person's case against Cambodian fishing crew members

On 22 February 2017, the Provincial Court of Ranong read a verdict in the case filed by the public prosecutor of Ranong against Mr. Banjob Kaenkaew, captain of the K Nawamongkholchai 8 and Mr. Somchai Jettanapornsamran, fish market's owner based on Samut Sakhon (in the Black Case KM 1/2016 and KM 3/2016). Both were accused of for committing trafficking in person, the collusion of three persons and upward to impose forced labour, coercing other persons to commit any act or to not commit any act, or to do anything simply because of the fear on their life, body and freedom of the person so coerced, by using violent force to deprive a person of liberty or to confine a person or to act in any way to cause a person to lose their freedom in their body and to force a person to serve the person who coerces them or other person. The offences had been committed against four victims who were fishing workers from Cambodia. The victims have appointed attorneys supported by the Human Rights and Development Foundation (HRDF) who have given them counseling and legal assistance including the filing of the motion to the Provincial Court of Ranong to request for becoming a co-plaintiff with the public prosecutor (more detail, please see <http://hrdfoundation.org/?p=1561>)

The Provincial Court of Ranong has read the verdict which can be summarized that ***the acts of the two defendants did not constitute an offence of trafficking in persons through the use of forced labour because;***

- 1. That the victims boarded fishing boats which were installed with fishing gear including fishing nets implied that the victims should have known that the boats were fishing boats used for fishing, not just passenger boats. The victims had boarded the boats without showing any hesitance. Also, prior to that the victims had already been asked by the authorities about their consent to working on the boats. It showed that the victims had agreed to change their job from fish head cutting to working on fishing boats.***
- 2. Regarding the duration of work, which was alleged to be 22 hours per day continuously for 13 months, and that the victims would be fed just two meals a day, judging from physical condition of a normal person, being subject to such hard work for such protracted period of time, their bodies must be so fatigue and they would not be able to bear with such working condition and living condition.***
- 3. As to whether the victims had been remunerated properly as to the contract of hired labour, the matter has to be further considered in light of the labour law, and;***
- 4. The Court is convinced that the reason the victims had reported the case against the defendants was simply to demand their overdue wages and overtime pay. Therefore, the Court has found the act of defendants not guilty for the trafficking in persons offence and dismissed the case against them.***

Advisor to the Human Rights and Development Foundation (HRDF)'s Anti Human Trafficking in Labour Project, Ms. Phattranit Yaodam, predicts the verdict shall have ramification on the interpretation of the definition regarding exploitation through forced labour as per Section 4 of the Anti-Trafficking in Persons Act B.E 2551 (2008), particularly the interpretation of the definition in the context of forced labour in fisheries and the working condition which is subject to restrictions and deprivation of liberty. The verdict might, also, not be compatible with the principle set forth in the International Labour Organization's Convention C029 - Forced Labour Convention, 1930 (No. 29) which provides that the act of deception, the deprivation of liberty, the improper payment of wages and the protracted duration of work constitutes an act of forced labour.

For more information, please contact Mr. Papob Siamhan, Project Coordinator, Anti Human Trafficking in Labour, tel. 094-5485306 E-mail: mthaim420@gmail.com