



The Federal Supreme Court (F S C) has been convened on 11.22.2017 headed by the Judge Madhat Al-mahmood and membership of Judges Farouk Mohammed AL-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi , Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-temman who authorized in the name of the people to judge and they made the following decision:

The Request

The custody mother the complainant was (alif.mim.sad) had move a law suit against the accused (ra.shin.qaf and his two sons mim.waw.ain) whom attended to Bardah Rash sub district which follows Duhok governorate to seeing the embosomed child (fa) the granddaughter of (ra.shin) and he took the child to the house of the accused in Orta Kharab town which follows Ba'shiqah which follows Nineveh governorate on 8.27.2017, and they had to bring the child to her mother on the next day, executing to the decision of seeing her four days in the month, but they refrained to bring the child again to her complainant custody mother. Therefore, she initiated a law suit against the accused in the investigation court of Bardah Rash who issued order of arresting against the accused according to article (382 penalties) and the investigation judge decided on 8.28.2017 to refer the law suit to investigation court of Ba'shiqah according to the venue jurisdiction. On 10.23.2017, the judge of Ba'shiqah investigation court rejecting the referral and sending the investigation dossier to the FSC to assign the specialized court to review the law suit according to article (93/8th) of the constitution, because taking the child was from the place of seeing in Bardah Rash sub district.

The request viewed on the FSC in its session on 11.21.2017 and the court the following decision publicly.

The decision

After scrutiny and deliberation by the FSC, the court found that the embosomed child (fa.nun.ra) was taken from the accused (ra.shin.qaf) and (mim) and (ain) the two sons of (ra), and they took her to their house sitting in Ba'shiqah and they did not bring her since 8.28.2017 to her complainant custodian mother (alif.mim.sad) which living with her embosomed daughter (Fatimah) in Bardah Rash sub district which follows Duhok governorate. Because the complainant moved the law suit against the accused according to article (382 penalties) at the investigation judge of Bardah Rash who referred the law suit to investigation court of Ba'shiqah, and the last judge refused the referral in his decision dated on 10.23.2017 and requested from the FSC to take a decision in specialty dispute, and clarifies the specialized court. Whereas the specialized court of reviewing the investigation law suit is the court of Bardah Rash and not the investigation court of Ba'shiqah, therefore, the investigation court of Bardah Rash is the venue jurisdiction specialized to investigate in the law suit, and sending the law suit to investigation court of Ba'shiqah to send to investigation court of Bardah Rash. The decision issued unanimously according to articles (93/8th) and (94) of the constitution on 11.21.2017.