



The Federal Supreme Court (F.S.C.) has been convened on 25.4.2021 headed by the Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali whom are authorized to judge in the name of the people, they made the following decision:

The Request:

The judge of Mosul left Side Investigation Court, requested the Federal Supreme Court in the letter no.(7631/2021) on 1.4.2021 to appoint the competent court in venue to consider the lawsuit of the bailed accused (Tareq Muhammed Amen, Muhammed Measer Hashem, and Qasim Yehea Salman) according to the provision of article (5) of the Law of Human Organ Transplantation and the prevention of Law to combat human trafficking no. (28) of 2012, it subject is (trafficking in the human organs), according to the provisions of article (93/8th/a) of the Constitution of Iraq for 2005.

The case has been set under scrutiny and deliberation by the F.S.C. and it decided the following:

Athraa



The decision:

During scrutiny and deliberation by the F.S.C., it found that on 11.10.2020 the judge of Mosul left Side Investigation Court decided to refer the investigation documents of the accused (Tareq Muhammed Amen, Muhammed Measer Hashem, and Qasim Yehea Salman) to Erbil Investigation Court to complete its investigation according to the venue jurisdiction according to the provision of article (53/alif) of the Criminal Procedures Law no.(23) of 1971 amended because the incident occurred in Erbil city. on 14.1.2021 the Investigation judge in Erbil court decided to return the investigation documents to Mosul Investigation Court to complete the investigation in it as the case was registered before Mosul Investigation Court in 30.9.2019, and it started the investigation and reached advanced stages in it. On 24.3.2021 the judge of Mosul Left Side Investigation Court decided to present the subject on the F.S.C. to decide the competent venue court to conduct the investigation according to article (93/8th/a) of the Constitution of 2005, considering the decision of Erbil Investigation Court of returning the investigation documents to it is refusing of the referral decision. The F.S.C. finds that on 19.12.2019 Mosul Right Side Investigation Court noted the statements of the secrets informers no.(27, 28), they stated that there are group of people trafficking in human organs by bringing people from Ninawa governorate, after agreeing with

Athraa



them and persuading them to sell their kidneys to Erbil city in order to perform the transplantation of the kidneys in Erbil hospitals and sell it to others whom are the sick people that needs it in exchange for financial amounts, after conducting the investigation and in light of its results, an order was issued to arrest the group of accused including the accused of this lawsuit (Tareq Muhammed Amen, Muhammed Measer Hashem, and Qasim Yehea Salman) in addition to runaway accused whom their cases are separated from this case. after arresting the accused subject of this lawsuit their statements was noted and they confirmed the statements of the secret informers. For the aforementioned, as article (53/alif) of the Criminal Procedures Law stated that (the jurisdiction of the investigation is determined by the place where the whole crime or part of it occurred or any act complementing it or any consequence resulting from it or an act that is part of a complex, continuous or consecutive crime or a habit crime, and it is also determined by the place in which the victim was found or where the money was found which the crime was committed about it after it was transferred to it by the perpetrator or a person knowing about it), this court finds that the agreement between the accused in this case and the runaways accused whom their cases are separated, about bringing peoples and persuading them to sell their kidneys occurred in Ninawa city, and that the investigation courts of Ninawa Federal Appeal court initiated the

Athraa



investigation on 30.9.2019 and that the investigation reached advanced stages, therefore, Mosul left Side Investigation Court is the court with venue jurisdiction to investigate the lawsuit subject of decision and to notify the Erbil Investigation Court about it, and about the obligation to refuse the referral if it sees that it is not competent to investigate after referring the investigation documents to it from Mosul left Side Investigation Court, and to present the subject on the F.S.C. in order to specify the competent court according to the provision of article (93/8th/a) of the Constitution, and the indication of paragraph (dal) of article (53) of the Criminal Procedure Law no.(23) of 1971 amended. This decision has been issued unanimously, final, and binding on all authorities according to the provisions of articles (93/8th/a) and (94) of the Constitution of Iraq of 2005, and articles (4) and (5) of the amended Federal Supreme Court's law no.(30) of 2005, on 25.4.2021.

Athraa