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SOME ASPECTS OF PRE-TRIAL INVESTIGATION OF CASES OF TOUCH OF HONOR

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ABSTRACT

this article talks about the specifics of pre-trial investigation of defamation crimes. In the article, the author discussed the history of the institution of pre-investigation investigation, its application in practice, scientific analysis of the opinions of scientists in this regard, and gave his opinion on the concept of pre-investigation investigation. In addition, he theoretically substantiated their scientific solutions by pointing out some loopholes in the law before the investigation of defamation crimes.

KEYWORDS

Pre-trial investigation, defamation crimes, person, suspect, victim, preventive inspector, operative representative, application, examination, evidence.

INTRODUCTION

Pre-investigation investigation is the first step in bringing the case of defamation to court, in which the official of the pre-investigation body, the investigator or the investigator, based on criminal procedural legislation, takes actions related to the application, reports, and the results of their review. , as well as a form of proceeding to court, which includes measures to strengthen and preserve criminal traces, objects and documents that may be relevant to the case.

Based on this, we can say that the concept of "investigation prior to investigation", which is

considered a relatively new concept in bringing the case to court, is the Law of the Republic of Uzbekistan dated September 6, 2017 "On Amendments and Additions to Certain Legislative Documents of the Republic of Uzbekistan in Connection with the Improvement of the Investigation Institute" No. O'RQ-442 entered into the criminal procedural law with its adoption. According to this law, the stage of proceedings before the court was divided into the stages of investigation, investigation and preliminary investigation.

Analyzing the institution of pre-trial investigation, in accordance with the Criminal Procedure Law, in Article 3201, pre-trial investigation is a new stage of trial proceedings. is set to include investigation.

Pre-investigation investigation includes measures to check applications, messages and other information related to crime, to make a decision on the result of their consideration, as well as measures to strengthen and preserve traces of crime, objects and documents that may be important for the case.

Scholars have different opinions about the concept of pre-trial investigation. In particular, professor Z.F. Inog'omjonova and associate professor G.Z. Tolaganova thought that "...proceeding cases to court consists of an inquiry and a preliminary investigation," while associate professor A.Kh. Rahmonkulov said that "the forms of the preliminary investigation stage include an inquiry and a preliminary investigation." emphasizes. B.B. Khidoyatov and Sh.F. Fayzievlar expressed similar opinions.

It should be said that with the adoption of the law "On amendments and additions to certain legal documents of the Republic of Uzbekistan in connection with the improvement of the investigative institution", the essence of the investigative institution was fundamentally changed, the investigative bodies and their powers were separated before the investigation, and it directly indicates that the investigation is a form of preliminary investigation. was placed. This is exactly what we want to emphasize.

It is worth noting that the concept of inquiry mentioned by the above scientists appeared on the basis of the concept of the investigation that we are analyzing.

Nevertheless, in our opinion, there are a number of ambiguities in the concept of pre-investigation

investigation, and in order to clarify them, let's analyze some theoretical concepts of pre-investigation investigation and the opinion of scientists in this regard.

As we said above, there is no consensus in the legal literature regarding the concept of pre-trial investigation. This indicates the versatility of this institution. Some scholars interpret the pre-investigation investigation process as a form of crime investigation, while the second group of scholars emphasize the case as a stage of bringing the case to trial, an event that occurs before the initial investigation, and the next group of scholars say that the pre-investigation investigation is a form of activity of certain state bodies. scientists emphasize that pre-investigation is a clear concept, an independent stage of the criminal process.

We partially agree with the opinions of each of the first and second groups of scientists. After all, the law defines pre-investigation as a form of criminal investigation, and this is the stage of conducting an independent case before the court. But the opinion of the third group of scientists is somewhat controversial, because this process is not an event and it is a process that takes up to a month.

A. Matmurodov and D. Kenjaboev stated that before the investigation, the investigation includes applications, messages and other information related to the crime investigation includes measures to make a decision on the result of their review, as well as measures to strengthen and preserve criminal traces, objects and evidence important for the case.

Of course, the views of A. Matmurodov and D. Kenjaboev are interesting. They emphasized that it includes measures to strengthen and preserve crime traces, objects and evidence that are important for the

case during the investigation before the investigation. This suggests that attention should be paid to consolidating and preserving evidence from the stage under analysis.

In addition to the above points, it should be noted that the activity of pre-investigation investigation has its own characteristics in that it is aimed at performing not only criminal-procedural, but also rapid search functions. In turn, the criminal-procedural activities of investigative bodies before the investigation include the following: review and resolution of applications (reports) about crimes; conduct pre-investigation investigation when there are other reasons for initiating a criminal case; implementation of quick search activities and procedural actions on the assignment of investigators and investigators; assistance in carrying out certain investigative actions carried out by the inquirer and investigators, etc.

At the same time, the official of the body conducting the investigation before the investigation must fulfill the instructions of the investigator and the investigator on the execution of procedural actions and rapid search activities in accordance with the conditions, procedures and terms of execution.

If it is not possible to complete the task within the specified period, the person who gave the task will be informed about this and he may be asked to extend the period of execution or to change the terms and methods of execution. At the request of the inquirer or the investigator, the official of the inspection body prior to the investigation should assist him in conducting the investigation, he must also present the seized documents and other materials, which may be of evidentiary value for the criminal case, for perusal or to be added to the case. The investigator and the investigator shall send all their assignments, instructions and requests to the official of the pre-

investigation inspection body through the head of the pre-investigation inspection body.

In defamation crimes, the pre-investigation stage is very important, unlike other types of crimes, and it is at this stage that the nature and amount of damage caused by the crime specified in Article 82 of the Criminal Procedure Code, the circumstances describing the victim's identity, the time and place of the crime, method, as well as the causal connection between the act and socially dangerous consequences, whether the crime was committed by this person, whether the crime was committed with right or wrong intention, the reasons and goals of the crime, as well as other evidence related to the case and all the circumstances that need to be proven, and finally the crime one of the decisions to initiate a case, to refuse to initiate a criminal case, or to refer, as appropriate, is taken. According to our analysis, it was found that more than 75% of defamatory applications and messages are rejected. This serves to prevent innocent persons from being held accountable as a result of a thorough approach to the above-mentioned aspects in the investigation of defamation cases. There are two approaches to this issue.

First of all, there are cases where some citizens have insufficient legal literacy and apply for defamation to the internal affairs bodies in order to expect material benefits from voluntary sexual intercourse. A woman complains about the fact that women of a light nature have sex with a stranger for a certain fee according to a mutual agreement, and the man who had sex does not pay the agreed money. In this case, the man did not commit acts of sexual violence against the representative of the opposite sex, the woman's body and clothes show no signs of violence in the room where they had sex. The investigator and the investigator evaluate the evidence in the case and make a decision to refuse to open a criminal case.

Secondly, it is appropriate for us to assess the impartiality in making a comprehensive and objective decision on the applications and complaints received by the investigators and investigators of the internal affairs bodies on the cases of defamation based on the requirements of Article 22 of the Criminal Code, as well as their skillful approach to their work in identifying, collecting and strengthening evidence.

Therefore, the success in finding, identifying and seizing traces of a crime in order to investigate and expose it depends to a large extent on the efficiency of the official, investigator and investigator conducting the investigation before the investigation in the process of investigating reports of defamation. As S.A. Novikov pointed out, it is at the investigation stage before the investigation that the chances of identifying the important circumstances of the crime are high.

The analysis of some cases in the current practice in carrying out pre-investigation investigations of defamation crimes shows us that it is necessary to pay special attention to some cases. Let's take a look at them below:

First of all, according to our analysis, when examining the investigation materials and criminal cases before the investigation related to defamation conducted by the investigative bodies of internal affairs agencies, Order No. 100 of the Ministry of Internal Affairs of the Republic of Uzbekistan dated June 12, 2017 "On the approval of the instruction on the procedure for the organization of inquiries and preliminary investigations in the internal affairs bodies of the Republic of Uzbekistan" stipulates that the investigation actions before the investigation of the situation related to defamation will be carried out by the investigators of the investigative units. . That is, in the third paragraph of paragraph 54 of this order, defamation, violent satisfaction of sexual needs in an

unnatural way, extortion, small amount of robbery, fraud, violation of labor protection rules, hooliganism, as well as those that are controversial in qualifying the act and the symptoms of crime are clearly visible. it was indicated that the investigators of the investigation units should carry out investigations before the investigation and make a legal decision regarding the reports of the crime related to bodily injury. Although a mandatory norm has been adopted for the employees of the internal affairs bodies, in the practice of law enforcement, it is shown that in 60 percent of the cases related to defamation, from the applications and reports to the investigation, the inspection actions are carried out by the preventive inspectors and the employees of the bodies that carry out rapid-search activities. Investigating crimes against sexual freedom requires legal knowledge from a person, because the processes related to the characteristics of sexual violence committed by a man, the method of committing the crime, and the formalization of evidence from a person for qualification marks require criminal legal knowledge.

Unfortunately, 90% of preventive inspectors, 50% of the employees of the bodies carrying out rapid-search activities do not have a higher legal education, they do not have sufficient knowledge, skills or skills, for various reasons, they do not want to record the crime committed in the service area or the desire to achieve a positive indicator report. or as a result of the orders of the leaders, it is the reason that the investigation actions are not carried out completely, objectively and comprehensively before the investigation of crimes related to honor. As a result, it is a pity that decisions on refusal to open a criminal case, which is considered a negative indicator for investigative bodies, are canceled by the prosecutor's office and a decision is taken to open a criminal case.

For example, T.Z., born in 2005. let's take the criminal case initiated by the minor Q.N., born in 2007, in connection with this criminal case, the victim's mother Kh.D. applied to the preventive inspector of the relevant neighborhood. However, due to the lack of knowledge and experience of the prevention inspector, although there are obvious signs of a crime, he decided to refuse to initiate a criminal case based on the documents collected in connection with the injury of minor N. Kochkarova as a result of touching her honor. When this decision was studied by the prosecutor's office in the control procedure, it became clear that the decision was made illegally, a decision was made to open a criminal case, and the criminal case was sent to the Investigative Department of the M.Ulugbek district IIO FMB.

In our opinion, in order to ensure that the pre-investigation investigation of defamation cases is carried out in a high-quality way, all the circumstances that need to be proven in the case are carefully, comprehensively, fully and objectively investigated, to immediately end the practice of conducting pre-investigation investigations conducted by preventive inspectors and operative representatives. necessary.

The fact that some norms of the JPK are in conflict with each other also causes many mistakes and shortcomings to be made in the investigation before the investigation. For example, Article 321 of the Criminal Code stipulates that the investigator, the investigator, the prosecutor and the official of the pre-investigation body must initiate a criminal case if there is reason and sufficient grounds for the commission of a crime within the scope of their powers, but this normative basis, that is, before the investigation Article 15 of this Code entitled "Inevitability of criminal proceedings" does not indicate that an official of the investigating body may initiate a criminal case within the scope of his authority. In

Article 392 of this Code, the heads of each of the bodies listed in Article 391, while acting as the head of the body that carries out the pre-investigation investigation, may start the investigation before the investigation or delegate its conduct to another official subordinate to him, initiate a criminal case or refuse to initiate a case. it is noted that he has the right to transfer the application, the message according to the relevance of the investigation. It is known that the principles of JPK are the fundamental basis for all other norms. To be clear, other norms must not conflict with the principles of JPK. However, it is not stated in

Article 15 that the official of the body conducting the investigation is authorized to initiate a criminal case before the investigation specified in Article 321 of the JPK.

In the content of Article 392, it is noted that only the head of the body that carries out the investigation before the investigation has the right to initiate a criminal case. It is these factors that lead to contradictions in the pre-trial investigation of defamation cases.

In our opinion, it is necessary to include the official of the body conducting the pre-investigation investigation among the bodies that have the obligation to initiate a criminal case in the context of Article 15 of the Criminal Code. This requires the addition of Article 15 of the Criminal Procedure Code in the following wording: "The prosecutor, investigator, investigator, and official of the pre-investigation body, in every case where signs of a crime are found, within the scope of their powers, initiate a criminal case, commit a criminal incident, commit a crime they must take all measures provided for by law to identify persons and punish them".

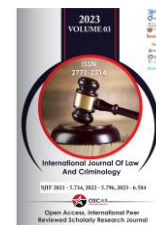
Also, part 7 of Article 392 of the Criminal Code should be supplemented with the following wording:

"Prior to the investigation, the official of the body conducting the investigation has the right to initiate a criminal case or refuse to initiate a case, or to transfer the application, the message, depending on the relevance of the investigation. Before the investigation, the decisions of the official of the body conducting the investigation must be approved by the head of this body. The written instructions of the head are binding for the official subordinate to him, who has the right to complain about these instructions to the prosecutor without stopping their execution."

In short, investigation is one of the important stages in defamation cases. Norms such as collection of evidence important for criminal proceedings, protection of rights and freedoms of a person play a role in this, from receiving a person's application to the initiation of a criminal case. Therefore, through this research, we tried to show that every process from the investigation stage to the investigation should be approached responsibly.

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