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Research Article

RETROSPECTIVE ANALYSIS OF THE SUSPENSION OF THE PRELIMINARY INVESTIGATION

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ABSTRACT

Relevance:. The article examines the emergence and development stages of stopping the preliminary investigation at the stage of bringing the case to court. The article analyzes the uniqueness of stopping the preliminary investigation in each period, the grounds on which the preliminary investigation was stopped, the ideas put forward by scientists in the formation of this norm, and developed suggestions and recommendations for the existing problems.

Explanation of the problem:. it was analyzed that this norm was carried out in the form of termination of the criminal case in the stages of development of stopping the preliminary investigation.

In the procedural legislation, the suspension of the preliminary investigation in the case of the first drug crime is recognized as an independent stage of the criminal process. It has been stated that stopping the initial kick-off will help to quickly and fully solve crimes, to ensure that every person who commits a crime is justly punished and that no innocent person is prosecuted and convicted, and that the guilty are exposed and that the law is properly implemented.

Aim of the research:. consists of studying the scientific basis of stopping the preliminary investigation, identifying its theoretical and practical problems and developing ways to eliminate them, as well as improving legal norms

Methods of the research:. the methods of analysis, synthesis, induction, deduction, historicity, logicality, comparative-legal, systematic analysis of knowledge are widely used in the implementation of scientific research.

Results and main conclusions:.In the process of this scientific research, the stages of development of stopping the preliminary investigation were systematized and studied. The socio-legal necessity of stopping the preliminary investigation was justified.

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KEYWORDS

Customary law, defendant, wanted, Islamic law, judge's court, hiding, district courts, preliminary investigation, criminal case, charter, decree, mental ill accused, amnesty, charter.

INTRODUCTION

In order to fully understand the essence of a social reality or event, it is necessary to first study its source, that is, its root. It is the rule of common logic that prompts us to study the establishment of the institution of suspension at the stage of bringing the case to court and its legal development. In addition, at the stage of bringing the case to court, the conclusion of the grounds for stopping the initial kicking, the factors of its occurrence, the stage of development, and the in-depth analysis of the actual situation will allow to make an opinion about the further improvement of this institution.

It's known from history that the system of crime and punishment in the ancient state existing in the territory of our republic was compiled on the basis of customary law [1] and the book "Avesta", which is the main source of Zoroastrianizm religion[2]. From the invasion of Arabs to the invasion of Russia, the system of crime and punishment in the feudal state structure in the territory of our country, that is, Khiva and Kokand Khanate and the Bukhoro Empire, was filled with the rule of custom and the rule of shariat infused with religious-Islamic ties[3]. At this time, the supreme judicial authority, which shuts down the criminal case, silently closed the case under the patronage of the khan and [4]. Khan appointed the Chief Judge of this court, i.e., the Supreme Judge, and at the same time, he also had the power to dismiss him. There was no concept of pre-investigation or preliminary investigation in the preparation of judicial proceedings [5].

Especially in proving the guilt of the person and freeing the person from responsibility or punishment, the confession of guilt played an important role. It is a clear evidence of this fiction that "the guilty person's confession is the best evidence for determining the truth" in the book "Hidaya" [6] by Burhoniddin Marginani.

In fact, after the conquest of Arabs society, it caused a deep impression on the roots of our great culture and ancient mepos. As noted by M.A. Pajabova, a scientist who has studied the important aspect of shariat, which is considered an integral part of our national legal history, "...for more than a thousand years, the main means of shaping social relations in the territory of our country is the creative part of our socio-political system and legal culture. It is important to scientifically analyze the existing Shariat rule, its rule related to crime and punishment, and use its positive aspect" [7].

At the beginning of the 20th century, the initiation of a criminal case, denial of the initiation of a criminal case, excessive denial of the relevance of a criminal investigation, even a violation of the investigation, preliminary investigation, due to the fact that it was not established by a specific law regarding criminal-possessional relations, but by the Islamic law or other general laws the concept of stopping did not exist. There was only a short-term investigation to shed light on the incident before bringing the person who committed a socially dangerous act to justice [8].

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If we pay attention to the history, we can see that the attitude towards taptib in that time is based on the Pahbapi idea in Shapiat with many of its aspects. We can observe that there is a meaning of forgiveness in the wise words of Amir Temur: "When your enemy comes to your shelter with his head down, take note of it and give him a lot of good and favor"[9]. As we know, during the reign of Sahibkiron Amir Temur, "Temur's rule" was also followed in the "Temur rule" with the shapiat nopmalapi [10]. Based on this, it can be said that the agreement between the parties, which is the most important part of the exemption from liability, has always been one of the most important issues [11].

After the occupation of the territory of our country by the Communist Party, although the use of pretext and custom was not prohibited by the speaker's judiciary and judicial court [12], in the system of suppressing the criminal case and stopping the criminal case, the crime happened differently.

After the conquest of Central Asia by the Persian Empire, a judicial system was established by the colonial government to protect the interests of the Soviet Union, and at the same time, the judiciary and judicial system were preserved [13]. The impunity of the judicial court, as well as the impossibility of the judge's court to deal with the case, and the impeachment of the judge's ruling, caused the decline in the authority of the judge's court [14]. On February 18, 1928, with the decision of the Centraly ijpoiya committee of the UzSSP and the Council of People's Commissariat, the judicial court was terminated, and the ongoing case was transferred to the appropriate district court[15]. The initial crackdown on criminal activity under the colonialism and former Soviet Union has evolved in two directions:

1) the law and non-legal documents under the law establishing the suspension of the preliminary investigation of the criminal case have been adopted;

2) based on the results of scientific research, a recommendation on suspending the preliminary investigation of a criminal case, in general, a procedural rule for investigating and suspending a crime of a particular type has been developed.

In this case, the non-optimative legal document was adopted, which allows the suspension of the preliminary investigation of the criminal case:

1. The Charter of Consolidation of Court Work, accepted on November 20, 1864. This non-legislative document focuses on certain issues related to the suspension of the preliminary kick in the investigation of the criminal case. For example, it should be noted that after the initial kick was stopped, the kick was accepted with the court's kick, and it was added that the kicker had a white apiza bepisi [16]. However, this charter did not include the concept of stopping the preliminary investigation in the criminal case.

2. Council of People's Commissariat of PSFSP until July 20, 1918 decree No. 3 "At the Courthouse". After the October Revolution of 1917, when the power was transferred to the Provisional Workers' and Peasants' Government, the current court regulations were replaced by the decree of November 24, 1917, "On the Court". In keeping with the provisions of the Criminal Procedure Code of 1864, the new government did not issue any non-legal documents for him. As a result, a lot of documents, documents, documents, and other documents were published that confirm the criminal direction of the court's activity, and the issue of suspending the prosecution of the criminal case was partially resolved [17].

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3. The Criminal Procedure Code of the PSFSP accepted in 1922. After the October coup of 1917, the criminal and criminal-possessional law in the territory of Uzbekistan took into account the local characteristics, but on the basis of the criminal and criminal-possessional legislation of the former Union. In 1922, after the adoption of the PSFSP Criminal-Possessual Code, this code began to apply in the territory of our country in cooperation with the ally Pespublikalap. On June 16, 1926, the fifth Criminal-Possual Code of the SSP of Uzbekistan was adopted, and this year It has been implemented since July 1 [18].From this date, the PSFSP Criminal Procedure Code of 1922 has been suspended in Uzbekistan.

In the PSFSP Criminal-Procedural Code, adopted in 1922, there is no special section called stopping the preliminary kick, but in Article 200 of this CPC, if the information collected and the examination conducted reveal the state of insanity of the accused during the commission of the crime or after the commission of the crime. , with his conclusion, the investigator decided to suspend the case until recovery and close the case[19].

4. PSFSP Criminal Procedure Code of 1923. In this code, the second chapter is focused on the regulation of the activities of the criminal justice system at the level of the law. Many, during the preliminary investigation, the cooperation of the secret police, the evidential value of the crime committed by the police was determined. However, when the person who committed the crime was not identified by the detective and the preliminary investigation, when his illness preventing him from coming to the investigation was discovered, the activities that should be carried out by the detective and detective at the time when his condition was unknown, the activity that should be carried out by the detective and detective was bypassed by the lawmaker by keeping silent, that is, this person was completely ignored. left out[20]. On the contrary, when the person who committed the crime was not identified, the criminal case was terminated without stopping, it proved that the reason for stopping the criminal case was found, and the practice requirement was not met.

5. PSFSP Criminal Procedure Code of 1926. On June 16, 1926, the fifth Criminal-Procedural Code of the SSP of Uzbekistan was adopted, but even in this code, there was no specific provision on stopping criminal activities. In the comparison between the CPC of 1926 and the PSFSP CPC of 1922, there is no serious problem with stopping the initial kick during the investigation of the criminal case. The structure of nopmalap in this CPClap is very similar to bip-bip[21].

6. The Criminal Procedure Code of the SSP of Uzbekistan in 1929. The sixth chapter of this code is devoted to the stoppage and finishing phase of the initial kick, and this chapter contains six nomps. That is, in Article 55, the preliminary investigation should be stopped in the following cases: a) in the event that the place of residence of the person being investigated is unclear; b) in case of his lung disease or other serious illness confirmed by the doctor. The investigation is stopped only when information is obtained for indictment, if such information cannot be obtained during the investigation, the case is not suspended, but terminated, the person conducting the investigation makes a report stating the essence of the case and the circumstances leading to the termination of the investigation, and the case is sent to the investigating officer; Article 56: When a person's place of residence is unclear, it is permissible to search for him in order to find him, and when it is impossible to find him It is possible to stop the criminal case with paragraph "a" of Article 55, if the person being investigated cannot cooperate due to his illness, he should be put in a medical foam and placed in a medical institution in order to determine his illness. (b) the reason for

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suspension of punishment, Article 57 of the initiation of a criminal case and termination of the initiated criminal case; In Article 58, upon termination of the case, the case must be issued by the prosecutor, a copy of the police report must be sent to the police officer, and a copy of the police report must be sent to the complaining party; In Article 59, in case of resumption of the criminal case, which was suspended or terminated without the prosecution of the person accused in the criminal case; Article 60 states that the person accused of a criminal case has the right to familiarize himself with the completed criminal case, that in the case where there is a complaint, it can be added to the report, and in the case that the investigation has not been completed, additional investigation can be conducted in the criminal case; In Article 61, the basis for drawing up an indictment in a criminal case; In Article 62, the information about the indictment in a criminal case is reflected in the information on the subject[22].

As we have already seen, in the Criminal Procedure Code adopted in 1929, the detective has many opportunities to stop the criminal case during the investigation of the crime. Although the criminal case has a positive effect when the person is removed from prison, the procedural status of suspension as a separate institution in the criminal code, the fact that the termination of the criminal case is not suspended when the person who committed the crime is not identified, but the termination of the criminal case is increased, what kind of procedural violation can be carried out when the residence address of the person who committed the crime is not determined. , it is not clear how he will cooperate with other HMQO oppanlapi after the termination of criminal activity. This, in turn, caused the crime to become a crime, and the people who were arrested as a result of the crime could not be released in time. It is interesting to note that, although a lot of time has passed, a certain part of the principles mentioned in the CPC of 1929 has found its expression in the current CPC, which increases the importance of the role in social relations. The important thing is that although a lot of time has passed, the foundation of the CPC of 1929 has found its expression in the current CPC, which increases how important the role of the ulap has been in social relations. In particular, for that period, "when it is not known where the place of residence of the perpetrator of the crime is, a search warrant should be issued against him" and "due to the fact that the person is sick, it is necessary to undergo a medical examination, to determine the degree of his illness" found expression in the legislation. served as an important tool in ensuring human rights and legal interests in society.

7. The Criminal Procedure Code of the SSP of Uzbekistan of 1959. In this Code, the basis of stopping a criminal case is noted for the first time as a separate institution, consisting of three bases.

In the CPC of the UzSSP, which was adopted in 1959, the principle of stopping the criminal case was mainly contained in Article 168, which is called "The reason for stopping the initial kicking" [23].

Ulap as follows:

- when the residence address of the accused is not clear;

- in the event that the accused has lung or other serious illness, in the event that it is not possible for him to come to the court for investigation;

- the person who committed the crime is in a state where the person who committed the crime has not been identified.

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Also, in Article 169 of this Code, before the deadline set for the preliminary investigation of a criminal case at the SSP CPC of Uzbekistan, the investigator may conduct a search to determine the whereabouts of the accused. Agap, if the whereabouts of the accused is unknown, the searcher announces a search for the accused when zapupat is born[24]. According to Article 170 of this Code, the preliminary investigation of the criminal case is suspended for the period before the trial in the event that the forensic medical expert or ex-expert-psychiatrist concludes that the accused's illness excludes his complicity in concealing the accused case, and that he has no possibility of being in court at the time of the investigation. it is determined that a relatively selected spare tire should be removed or replaced[25].

It is important to note that in order to declare a search against a person, the detective must have announced a charge against him, moreover, in the case where the wanted person is identified, it is stated that he can choose the preventive measure in the form of imprisonment with the sanction of the police against him.

It is known that most of the reasons for stopping the above-mentioned criminal case and announcing a search for the accused persons were expressed in the Criminal Code of the Republic of Uzbekistan adopted in 1994. But even so, the content of the grounds for stopping the preliminary investigation in the case of criminal proceedings and the scope of application of the law are not clearly defined in the CPC of the SSP of Uzbekistan. About this Opinions and detailed scientific-methodical questions will be analyzed in the next chapter of the research.

The above analysis allows us to make the following conclusions regarding the emergence and development of the legal norm of stopping the preliminary investigation at the stage of bringing the case to court:

secondly, in the era of the VII-VIII century AD, the system of crime and punishment in the existing ancient state in Uzbekistan was established based on the "Avesta", the main source of the Zardush religion;

secondly, from the 8th century to the end of the 19th century, crime and punishment in the territory of our country were regulated by the customary law, and also by the shapiat nopmalapi. As a result of the occupation of the territory of our country by the Arabs, the spread of Islam and the social life were stopped based on the shapiat nopmalap;

thirdly, the period of formation of the Soviet state was characterized by frequent and numerous deviations in criminal-possessional legislation. In addition to the fact that there were many contradictions in the text of the law at that time, it can be noted that in the Criminal-Procedural Code of the UzSSP, which was in force until 1959, the suspension of the preliminary investigation was carried out in the form of the termination of the criminal case. In the Criminal-Procedural Code of the UzSSP adopted in 1959, the suspension of the preliminary investigation in the case of the first drug crime is recognized as an independent stage of the criminal process, and a separate article is added on the basis of the suspension of the preliminary investigation. he is surprised by the fact that his suspension is determined when his whereabouts are unknown and his involvement in the investigation and court proceedings is excluded due to his illness;

fifthly, while in the Criminal-Procedural Code of 1926 and 1929, the grounds for stopping and terminating the investigation and termination of a criminal case were the same, in the Criminal-Procedural Code of 1959, the authority of the investigative officer was expanded to

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a certain extent, and the investigation was carried out in relation to the fact that the person who committed the crime was not identified in the case. publication rights granted.

After the independence of Uzbekistan, the judicial reform carried out on the basis of the new criminal-legal policy of the state improved the level of bringing the case to court in accordance with the acceleration of Japan's efforts to strictly ensure democracy and the priority of human rights throughout the world[26]. In the year of independence, the Criminal-Possential Code was further improved based on the needs of the times, it was amended and supplemented with more than 100 laws aimed at strengthening human rights and human rights.

In particular, in accordance with the Law of the Republic of Uzbekistan of July 11, 2007 "On Amendments and Additions to the Criminal Code of the Republic of Uzbekistan in connection with the transfer of the right to sanction detention to the court" No. "In the event that the wanted accused is found, if there is a reason (when the accused, the defendant is hiding from the investigation and the court) as mentioned in Articles 242 and 243 of this Code, a pre-trial detention order can be applied against him with the permission of the court" in connection with the improvement of the institution, in accordance with the Law of the Republic of Uzbekistan on the change of the criminal case to the legal document and the addition of it, Law of the Republic of Uzbekistan № 442, in connection with the organization of the investigation stage of the criminal investigation as a separate institution, the involvement of the accused in the criminal case even after the investigation has been completed If the necessary person is not identified, it is possible to stop the investigation, and the detective has the opportunity to identify the person who should be involved in the case and bring him to justice.

An important reform that is currently being carried out is the decree of the President of the Republic of Uzbekistan dated May 14, 2018 "On the implementation of the radical improvement of the criminal and criminal-possessional legal system" No. Decree of the President №3723[27] and the "Crime and Crime of the Republic of Uzbekistan" It is the implementation of the concept of "improving property legislation". We think that the above-mentioned opinion will serve to further improve the rule on the stage of suspension of criminal proceedings in the development of a new draft of the Criminal Procedure Code and to shape the rule in accordance with the requirements of today's times.

As a result of the reforms in the field of justice, which have been carried out in recent years, special attention has been paid to the investigative stage of criminal-possessional relations, and a lot of positive work has been done to improve this stage. However, the analysis of the forensic practice of our criminal-possessional legislation shows that there are many problems and shortcomings in Japan. As a confirmation of our opinion, we can cite the decree of the President of the Republic of Uzbekistan dated August 10, 2020 No. 6041 "On the purpose of further strengthening the guarantee of the protection of the rights and abilities of the individual in the activity of judicial investigation". At the stage of bringing the criminal case to court, in the event that the witness and the accused cannot be examined late due to illness or long-term travel to a foreign country, a preliminary examination of the case may be made by the court at the request of the suspect, the accused, the accused, the accused, the accused, the accused or the lawyer. to strengthen the criminal case, to find out the person who actually committed the crime and to attract the accused to work in the case of acquittal on the basis of the defendant's lack of involvement in the crime. was determined [28].

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