



SOME CONSIDERATIONS ON THE CIRCUMSTANCES THAT MUST BE PROVEN IN CRIMES COMMITTED BY A GROUP OF PERSONS

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Abstract: In this article, the author examines some issues related to the circumstances that need to be proven in connection with crimes committed by a group of persons. In particular, he analyzes the opinions of scholars on the circumstances that must be proven in crimes committed by a group of persons. He studies and analyzes the views of practitioners. In conclusion, he expresses his opinions and considerations regarding certain circumstances that need to be proven.

Key words: elements and constituent components of a crime, criminalistic characterization element of a crime, criminal case, collection, examination and evaluation of evidence in crimes, multiple criminal episodes, persons involved in the case as suspects and accused, circumstances subject to proof, grounds for rehabilitation.

The issue of collecting, verifying, and evaluating evidence for crimes committed by a group of individuals is of great importance. Prompt, comprehensive, complete, and objective verification of all circumstances subject to proof ensures high efficiency and quality of the preliminary investigation[1].

Some scholars consider these circumstances to be proven as an element of the criminalistic characterization of the crime[2], some researchers view them as an integral part of the methodology for investigating specific types of crimes[3], while others consider the circumstances to be proven as an inseparable component of the specific methodology for investigating crimes[4].

A distinctive feature of criminal cases committed by a group of persons is the large number of criminal episodes, the large number of persons involved in the case as suspects and accused, as well as the complexity of proof and the large number of documents that need to be formalized.

According to some authors, the elements of the criminalistic description of a specific type of crime constitute the subject of proof of this crime[5].

Kh. Khalikov emphasized that the scope of circumstances subject to proof is defined by criminal procedure legislation, noting that it cannot be replaced by a criminalistic description of crimes and other circumstances[6].

In this regard, N. Ramazonova proposed to include in the legislation the "causes and grounds that led to the commission of a crime" as a circumstance subject to proof[7].

U.N. Akhmedov stated that the causes and conditions that contributed to the commission of the crime were not sufficiently covered[8].

O.D. Allanazarov asserts that the negative influence of adults on the commission of crimes by minors must be proven[9].

In this regard, I.A. Danilenko and T.V. Isakova also emphasize that the negative influence of adults on minors[10] is a circumstance that needs to be determined[11].

The Criminal Procedure Code of the Republic of Turkmenistan also provides for the determination of the influence of peers, adults, and perpetrators on minors[12].

Article 296 of the Criminal Procedure Code of the Republic of Uzbekistan stipulates that the causes and conditions of the crime must be established in all criminal cases.

The Resolution of the Plenum of the Supreme Court "On Judicial Practice in Cases of Juvenile Crimes" also indicated that the reasons and conditions that allowed a minor to commit a crime should be fully established[13].

He includes the elements of the crime and records them as the subject of proof in each criminal case[14].

R. Khudoyberdiyev stated that he does not need procedural proof[15].

A. Davletov proposed to introduce a new article into the Criminal Procedure Code, common to all criminal cases, entitled "Conditions Subject to Proof," which, along with elements of the corpus delicti, should stipulate the requirement to prove circumstances that exclude the criminality and punishability of the act, mitigate and aggravate punishment, entail exemption from criminal liability and punishment, and contribute to the commission of the crime[16].

O.D.Allanazarov, by including in Article 82 of the Criminal Procedure Code such features as "the presence or absence of circumstances excluding criminal liability; the presence or absence of grounds for exempting a person from liability or punishment; the presence of mitigating and aggravating circumstances," emphasizes the need to change the title of this article to "Conditions Subject to Proof." However, Article 82 of the Criminal Procedure Code (grounds for accusation and conviction) specifies grounds for sending the case to court with an indictment or indictment and issuing a guilty verdict. This article does not provide for "the presence or absence of circumstances precluding criminal liability; the presence or absence of grounds for exempting a person from liability or punishment." That is, the grounds for prosecution and conviction are indicated. Therefore, it is reasonable to agree with the opinion of O.D. Allanazarov. Because Article 83 of the Criminal Procedure Code defines "Grounds for rehabilitation" and Article 84 "Grounds for termination of a criminal case without resolving the issue of guilt."

On the grounds established by Article 82 of the Criminal Procedure Code, courts pay attention to the fact that in the criminal cases under consideration, the crime is committed jointly by two or more persons, as well as the fact that all elements of the participants in the crime, combined with criminal intent, are considered in the investigation as one of the cases of proof[17], the presence of all elements of the corpus delicti.

According to Article 82 of the Criminal Procedure Code of the Republic of Uzbekistan (grounds for accusation and conviction), to send a case to court with an indictment or bill of indictment and issue a guilty verdict, the following must be proven: 1) the object of the crime; the nature and amount of damage caused by the crime, circumstances characterizing the personality of the victim; 2) the time, place, method of the crime committed, as well as other circumstances specified in the Criminal Code; the causal link between the act and the socially dangerous consequences that have occurred; 3) the commission of the crime by this person; 4) whether the crime was committed with direct or indirect intent or as a result of negligence

or self-confidence, the motives and purposes of the crime; 5) circumstances characterizing the personality of the accused, the defendant.

In our view, the content of the above-mentioned Article 82 of the Criminal Procedure Code is mainly aimed at identifying most elements of the committed crime and signs that are significant in bringing the person who committed it to justice.

However, in judicial and investigative practice, we believe that for a comprehensive, complete, and objective consideration of the case, all elements of the corpus delicti, mitigating and aggravating circumstances, which are taken into account when imposing criminal liability and punishment, must be proven.

A questionnaire survey was conducted to determine the extent to which these circumstances requiring proof are being identified among the employees of the judicial and investigative bodies. According to it, when asked "What circumstances do you consider to be proven in relation to crimes committed by a group of persons?," 55% of respondents answered that all elements of the corpus delicti, circumstances that are taken into account when imposing criminal liability and punishment, 40% - mitigating and aggravating circumstances, and 5% - circumstances that exclude the criminality of the act, which are grounds for exemption from criminal liability or punishment. This indicates that Article 82 of the Criminal Procedure Code correctly defines the circumstances that must be proven for sending the case to court with an indictment or an indictment and for issuing a guilty verdict, but it can only be seen that there is a need to further substantially supplement the norms established in this article.

In accordance with Article 330 of the Criminal Procedure Code, in each case of receiving or directly identifying information about a crime, one of the following decisions is made:

- 1) on the initiation of criminal proceedings;
- 2) on refusal to initiate a case;
- 3) on sending the application or notice, depending on the jurisdiction of the investigation.

However, in part two of Article 322 of the Criminal Procedure Code, it is advisable to change the words "Information indicating the presence of signs of a crime is the basis for initiating a criminal case" to "Information indicating the presence of signs and constituent elements of a crime is the basis for initiating a criminal case." The reason is that it is difficult for a reader to understand that this article implies elements of the corpus delicti.

If the act committed by a group of persons does not contain elements of a crime, a criminal event has not occurred, or is not related to the crime, a decision is made to refuse to initiate criminal proceedings.

The legal basis for making a decision to refuse to initiate criminal proceedings is defined in Article 83 of the Criminal Procedure Code (Grounds for Rehabilitation). A suspect, accused, defendant is found innocent and is subject to rehabilitation in the following cases:

- 1) a criminal event has not occurred in the case in which a case has been initiated and investigative actions or a court hearing have been conducted;
- 2) the absence in his act of signs and elements of a crime;
- 3) it is not related to the committed crime.

According to Article 322 of the Criminal Procedure Code, that is, in criminal cases initiated on the grounds and grounds for initiating a criminal case, Article 372 of the Criminal Procedure Code defines "Types of completion of preliminary investigation," which are

completed by issuing a decision to terminate the criminal case, drawing up an indictment, issuing a decision to send the case to court for the application of compulsory medical measures or reconciliation of the parties, or preparing a petition to the court to terminate the criminal case on the basis of an amnesty act.

It is also required that circumstances that preclude the criminality of the act, confirming the absence of signs and elements of a crime, be proven. At the same time, all circumstances that are grounds for exemption from criminal liability or punishment must be proven.

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