

SOCIAL SCIENCE AND HUMANITIES

Manuscript info:

Received November 4, 2018., Accepted November 17, 2018., Published November 30, 2018.

SOME QUESTIONS OF QUALIFICATION THEFT COMMITTED BY A GROUP OF PERSONS

XASANOV Temur Xolmamatovich,

Researcher at Tashkent State University of Law,
The Judge of Criminal Court



<http://dx.doi.org/10.26739/2573-5616-2018-12-24>

Abstract: this article analyzes aggravating circumstance of larceny, especially theft committed by previous concert by a group of individuals", same features and has developed a specific provision for qualifying the crime with this aggravating factor.

Key words: conspiracy, criminal complicity, previous concert, aggravating circumstance, committer, head, instigator, helpmate.

Recommended citation: XASANOV Temur. SOME QUESTIONS OF QUALIFICATION THEFT COMMITTED BY A GROUP OF PERSONS. 11-12. American Journal of Research P. 214-217 (2018).

Theft crimes committed by a group of individuals in previous concertings are considered as aggravating circumstances of Article 169 of the Criminal Code of the Republic of Uzbekistan (article 169, part 2 (c)). Criminal-legal features of the aggravating circumstance of the crime are determined on the basis of the analysis of the criminal law, the practice of its application and the theoretical principles of criminal complicity. In accordance with article 169, part 2 (c) of the Criminal Code of the Republic of Uzbekistan, theft can be acknowledged to have been committed by a group of individuals in the event of involvement in

several offenses committed by a group of individuals. Theft committed by previous concert by a group of individuals is a form of complicity crime. It also includes the following common attributes: a) theft involves at least two sane individuals aged fourteen years; b) joint participants; c) intentionally operating.

In particular, the Kamashi District Criminal Court initiated the actions of H. Norqulov and R. Norqulov, respectively, with the right of article 169, part 2, "c" Criminal Code of the Republic of Uzbekistan. In the midnight of March 25, 2017, X. and his son-in-law R. previously engaged in criminal

activities, illegally entered the barn in front of the house of F. and robbed the herds secretly by robbery .

Pre-conspiracy to commit theft describes the level of solidarity among guilty persons. Conspiracy means closer ties between criminals and, in turn, the degree of social danger of theft by prior concerted assassination by a group of individuals higher. Conspiracy -in the most common form, is a way to help the guilty perform their joint activities, is one of the symptoms of a crime committed by a group of individuals. It may relate to different aspects of the offense. Often, pre-conspiracies are made in relation to the place, time of theft, the method of making up, the choice of the victim. However, the offense under Article 169 of the Criminal Code to play for the full implementation of previous relevant enough to the situation to determine.

The act of the performer can not be claimed to have been committed by previous concert by a group of persons, unless the organizer, the instigator or helpmate did not directly participate in the seizure of his / her possessions. In that case, in accordance with Part 5 of Article 30, the actions of the organizer, the instigator, and helpmate should be qualified as referring to the fifth part of Article 30 of the Criminal Code of the Republic of Uzbekistan.

Characterized through the pre-indicator of conspiracy. Therefore, prior to the commencement of efforts to condemn the actions of guilty persons by pre-assessing the

possession of another person's property, before the court proceeds to seize the property of the other person, the role of participants in the criminal act the distribution should take place and that specific actions have been taken by each performer and other participants (organizer, instigator or helpmate). The state of conspiracy is before the offense of someone else's own property, as the head of each aggression is an intentional attempt to directly commit a crime, namely, an assassination attempt. The pre-consensus among the offenders may, however, be preceded by the commencement of the actions that constitute the objective aspect of the theft of offenses.

When theft is committed by several persons without prior consensus, two or more persons may be involved in criminal offenses in accordance with article 29 Criminal Code of the Republic of Uzbekistan, which may be subject to criminal liability for the commission of such offenses. If the offense is committed by persons who are not subject to criminal liability for theft, age, mental illness, or other circumstances, their actions should be qualified as indirectly criminal offense (Part 2 of Article 28, Criminal Code of the Republic of Uzbekistan).

Legal assessment of a person who commits a crime or who has committed a theft can not be prosecuted in advance is also based on this law. In such cases the person must be held accountable

indirectly. At the same time, if there are appropriate grounds, his actions should additionally be qualified under Article 127 of the Criminal Code of the Republic of Uzbekistan.

A group of individuals have previously agreed to commit theft with a confession of at least two persons who have been subjected to criminal offenses before they have been co-ordinated (before a joint act of aggression). It should be kept in mind that each of the theft thieves fully or partially performs the objective aspect of the offense, i.e. the co-operative. A group of participants who claim to be fired by one person is not considered as a predecessor group. In this case, the actions of the acting part 1 of Article 169 of the Criminal Code of the Republic of Uzbekistan with the qualifications to be criminal actions of other participants (organizers, instigators, auxiliary) - Part 1 of Article 169 of the Criminal Code with Article 28 of the Criminal Code will be part of the link without qualification.

If a group of previous conspirators intend to commit theft or robbery, and one of the participants threatens the life or health of a victim or is threatened with such abuse, his actions may be subject to the aggression by the actions of other actors, and has not been used for the purpose of capturing the property of the victim, should be qualified as theft or robbery.

In the case of the prior consensus of the participants, one of them has

taken away someone else's property, while others have committed some part of the objective part of the crime (e.g. helping to enter the room, breaking the door, etc.), the actions of such persons, and that it does not have to be a part of the general rules on participation. According to the law, when theft is committed by a group of persons previously engaged in theft, these persons are actually practitioners. Because each of them participates in the implementation of specific concrete actions, which directly constitute the objective side of the crime, without which it is impossible to commit the crime. It should be remembered that the institute of co-operation does not deny the sharing of roles among criminals.

But how should the qualifications of a group of individuals who have not directly participated in the seizure of their possessions, but who have provided some assistance in the commission of such a crime?

Here is an example of how a group of people has misinterpreted theft by the first instance court. On 20 April 2016, the Kamashi District Court sentenced B. B., who was previously convicted, under Article 169 part 2 (c) of the Criminal Code of the Republic of Uzbekistan. U. was previously convicted by a group of persons, illegally entering the home and confiscating a large amount of other person's property secretly. On October 27, 2015, the citizens of S., K., A., Sh. and D. they have agreed to steal from the house. For this purpose, they came to the house

through a car that was driving B. B. waiting for other participants to stay in the car to move the looted property to another location.

S., Sh., D. entered the home when K. stopped in front of the home to warn participants and watched the scene. Sh. was raised to the fifth floor area for the same purpose. P. and D. with the help of a pre-made metal bench, broke the door of the apartment on the fourth floor and landed there and took the goods into the bags they brought with them. Then K. and Sh. P. and D. helped to take ownership of E. Its amount made up 2 896 000 soums.

The Criminal Court of Kashkadarya Region changed the verdict and re-bailed the actions of B. under Article 169, Part 2, clause "c" of Article 5, Part 2, Article 169, Part 2 (c). In accordance with Part 2 of Article 28 of the CC, an act is recognized as the person who has been involved in the commission of an offense directly with other

persons (co-executors). However, according to the criminal case file, it is also mentioned in the judgment, B. did not directly participate in the activities of the offense set forth in article 169, paragraph 2 (c) of the Criminal Code, and did not facilitate the seizure of private property and the seizure of the property. The intention of the participants of the crime of theft of property larceny, driving them to learn about the crime was committed, planned, and then came to the place of larceny of property to another place to go. Under the Criminal Code, a group of people had previously been assaulted by a group of individuals who had previously been unaware of the intentional group presence and had come to the place of detention and their departure however, the actions of individuals who have not directly assisted in the transfer of their home and property should be considered as auxiliary form of crime.

References:

-
- The archive materials of Criminal Court of Kamashi, 2017.
The archive materials Criminal Court of Kashkadarya Region. №1-023-08