

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/1/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Sulayman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Determining the Competent Court: Sinjar Investigation Court which belongs to Presidency of Nineveh Appeal Court.

The Subject of the Request: determining the competent court to try the complaint according to the provisions of the article (93/8th/Alif) of the Constitution.

The Request

The Federal Supreme Court received the letter of the Presidency of the Nineveh Court of Appeal / Sinjar Investigation Court No. (6989) on 5/12/2022 and attached to it the investigative papers of the victim (Kawthar Taj Al-Din Abbas), the personal plaintiff (Taj Al-Din Abbas Murad), the defendants (Hussein Ali Hussein, Hassan Ali Hussein and Zainab Fadel Jaafar) and the fugitive defendant (Sadiq Amjad Khaled), against whom legal measures were taken by the Dohuk Investigation Court in the Kurdistan Region in accordance with the provisions of Article (2) of Law No. (6) of 2008 (Law on the Prevention of Misuse of Telecommunications Equipment in the Kurdistan Region - Iraq) in order to be referred from the Dohuk Investigation Court to the Sinjar

saady

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

Investigation Court based on the decision of the Dohuk Investigation Judge on 1/8/2022, in order to complete the investigation according to the territorial jurisdiction based on the provisions of Article (53/Jim) of the Code of Criminal Procedure No. (23) of 1971, as amended, the Sinjar Investigation Court Judge decided on 10/11/2022 to reject the referral because the subject of the complaint is located in Dohuk Governorate and to send the investigation papers to this court to determine the competent court spatially, based on the provisions of Article (93/8th/Alif) of the Constitution of the Republic of Iraq for the year 2005, the request was scrutinized and deliberated by the Federal Supreme Court and issued its following decision :

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that on 1/8/2022, the judge of the Dohuk Investigation Court affiliated to the Presidency of the Dohuk Court of Appeal, and in light of the reading submitted to him by the Duhok Anti-Crime Department / Khabat Office, decided to refer the investigative papers of the victim (Kawthar Taj Al-Din Abbas), the personal plaintiff (Taj Al-Din Abbas Murad), the defendants (Hussein Ali Hussein, Hassan Ali Hussein, Zainab Fadel Jaafar), and the fugitive defendant (Sadiq Amjad Khaled), legal procedures were taken. against them by the Dohuk Investigation Court in the Kurdistan Region in accordance with the provisions of Article (2) of Law No. (6) of 2008 (Law on the Prevention of Misuse of Telecommunications Equipment in the Kurdistan Region - Iraq), to the Sinjar Investigation Court to complete the investigation according to the territorial jurisdiction based on the provisions of Article (53/Jim) of the Criminal Procedure Law No. (23) of 1971, as amended, so the judge of the Sinjar Investigation Court decided on 10/11/2022 to reject the

saady

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

referral because the subject of the complaint is located in Dohuk Governorate and to send the investigative papers to this court to determine the competent court spatially, based on the provisions of Article (93/VIII/a) of the Constitution of the Republic of Iraq for the year 2005, and upon auditing this court, and upon auditing this court Reviewing the file of the investigation case sent, it was found that on 26/4/2022, he came to the Duhok Anti-Crime Department / Office of Khabat, the plaintiff of the personal right (Taj Al-Din Abbas Murad), and his statements were recorded, and he stated that his victimized daughter (Kawthar Taj Al-Din Murad) was subjected to material blackmail and defamation through social media (Instagram) and that he was ignorant of the perpetrator, on 6/6/2022, he appeared before the same department and without an appendix to his statements and asked to complain against the defendant (Hussein Ali Hussein) for blackmailing his victimized daughter and defaming her on social media, and on 25/4/2022, she came to the same directorate the victim (Kawthar Taj Al-Din Abbas) wrote down her statements and stated that she was subjected to defamation and blackmail on social media and requests to complain and take legal action against the perpetrator, and without an appendix to her statement on 6/7/2022 and explained that the so-called Zainab contacted her and that she was the one who created the site that Through which she was defamed jointly with the accused Hussein in order to offend the victim, the statements of the plaintiff were believed in the personal right and the victim judicially, and on the basis of that, the investigating judge issued an arrest warrant against the defendant Hussein Ali Hussein in accordance with the provisions of Article (2) of Law No. (6) of 2008 mentioned above, on 20/6/2022, the aforementioned defendant was arrested and detained, and his statements were recorded judicially on 22/6/2022, and he openly confessed to his

saady

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

participation with the defendant (Zainab) in defaming the victim through social media and blackmailing her, and on 21/6/2022, the brother of the aforementioned defendant (Hassan Ali Hussein) came to the Dohuk Anti-Crime Department / Khabat Office, and when examining his mobile phone, it was found that there were pictures of the victim in it, so the investigating judge decided to arrest him following the aforementioned article, and his mobile phone was seized according to the seizure report dated 22/6/2022 and emptied its contents Through which it was confirmed that there were pictures and messages that included defamation of the victim, his statements were recorded judicially on 26/6/2022, so he denied his relationship with defaming or blackmailing the victim, but he confessed to taking some published photos of the victim and saving them on his mobile phone, and on 26/6/2022, the Dohuk investigative judge issued an arrest warrant against the defendant (Zainab Fadel Jaafar) in accordance with the aforementioned article, so she came on her own to the Duhok Anti-Crime Department / Khabat Office and recorded her statements judicially on 3/7/2022 and confessed in detail to her participation with the defendants (Hussein Ali Hussein , Ahmed Khaled) approved the creation of an Instagram website on social media to abuse and defame the victim, and she was arrested according to the indictment article, and on the basis of the foregoing, the investigating judge issued an arrest warrant against the defendant Sadiq Ahmed Khaled in accordance with the aforementioned article, and it was also decided to release the arrested defendants on bail, and on 1/8/2022, the investigator at the Dohuk Anti-Crime Department / Khabat Office submitted a review to the investigating judge in which he clarified that the fugitive defendant (Sadiq Ahmed Khaled), the victim and the personal plaintiff are residents of Nineveh Governorate, Sinjar District, and requested that the

saady

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

investigative papers be referred to the Sinjar Police Station to facilitate the investigation. The investigating judge decided to refer the investigative papers to the Sinjar Investigation Court through the Dohuk Court of Appeal, the Federal Supreme Court finds that Article (53/Alif) of the Code of Criminal Procedure stipulates that "the jurisdiction of the investigation shall be determined by the place where all or part of the crime was committed, or any act complementary to it, or any consequence resulting therefrom, or an act that is part of a complex, continuous or consecutive crime, or a crime of habit, as well as the place where the victim was found or where the money in respect of which the crime was committed was found after being transferred to him by the perpetrator. Someone who knows it), Whereas the crime attributed to the defendants took place in the governorate of Dohuk, and the victim and the defendants present are residents of the governorate of Dohuk, according to their addresses proven when recording their statements judicially, and that the Dohuk Investigation Court has come a long way with the investigative procedures and has taken the necessary measures in order to complete the investigation, so the Dohuk Investigation Court of the Presidency of the Dohuk Court of Appeal in the Kurdistan Region of Iraq, It is the court that is competent spatially to hear the case, and its decision dated (1/8/2022) containing the referral of the investigative papers of the victim (Kawthar Taj Al-Din Abbas), the personal plaintiff (Taj Al-Din Abbas Murad), the defendants sponsored by (Hussein Ali Hussein, Hassan Ali Hussein, Zainab Fadel Jaafar) and the fugitive defendant (Sadiq Amjad Khaled), legal proceedings were taken against them by the Dohuk Investigation Court in the Kurdistan Region in accordance with the provisions of Article (2) of Law No. (6) of 2008 (Law on the Prevention of Misuse of Devices Communications in the Kurdistan Region - Iraq) to the Sinjar Investigation Court to complete

saady

Republic of Iraq
Federal Supreme Court
Ref. 271 / federal /2022



Kurdish text

the investigation according to the territorial jurisdiction based on the provisions of Article (53/Jim) of the Code of Criminal Procedure No. (23) of 1971, as amended, is incorrect and contrary to the law, so the Federal Supreme Court decided to consider the Dohuk Investigation Court affiliated to the Presidency of the Dohuk Court of Appeal in the Kurdistan Region of Iraq as competent to investigate the case in question and to notify the Sinjar Investigation Court of the Presidency of the Nineveh Court of Appeal of this. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93/8th/Alif and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4/8th/Alif and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. It has been edited in the session dated 25/Jamada Al-Akhir/1444 Hijri coinciding with 18/January/2023 AD.

Judge

Jassim Mohammed Abbood
President of the Federal Supreme Court

saady