

This file presents practical cases of crimes against people.

Case 1: Statement

Alice is a 15-year-old girl with a passionate and obsessive temperament.

She had been dating Bernardo for eight months when she found out that he was cheating on her, flirting with other girls – she even saw him kissing Carla, a mutual “friend”...

Alice became desperate, ended the relationship amidst tears (and unconvincing apologies from Bernardo) and began to stop going to school so as not to meet Bernardo and Carla (who had since started dating).

Alice began to eat very little, isolated herself, spending most of her time in her room crying and listening to music. The parents downplayed the situation, thinking it was a temporary disappointment... Diana, Alice's friend but a little older (18 years old), became her only confidant. Diana tried, in vain, to cheer Alice up and get her to leave the house...

From a certain point onwards, Alice began to obsessively think about dying and insistently asked Diana to kill her... Diana refused over and over again, continuing to try to cheer her up... Then, Alice asked her to find out about some effective, quick and painless. Diana ended up promising that she would get information from her brother, who was studying pharmacy. And so he did. Without telling her brother about her purpose, she managed to find out and acquire a medicine that, taken in excessive doses, was capable of causing death.

One afternoon when Alice said again that her life made no sense and that she wanted to die, Diana handed her the medicine, saying: - If you take six of these pills, you will probably die.

That night, Alice took the pills, but soon afterwards she regretted it and called Diana, very distressed, telling her what she had done. Diana, also distressed and remorseful, called INEM, telling the doctors everything. Doctors managed to save Alice.

- Proceed with the legal-criminal framework of the present situation, legally and doctrinally substantiating your response.

Case 1: Resolution

- We are within the scope of crimes against life (articles 131 and ss. of the CP and article 24 of the CRP).

- Distinguish the crime of Homicide at the request of the victim (art. 134 of the CP) from the crime of Incitement or assistance to suicide (art. 135 of the CP).

- In this case there is no crime of homicide at the request of the victim, as it is the victim himself who dominates the action, carrying out the appropriate act to end his own life; on the other hand, if Diana were to carry out such an act, at Alice's request, such a request could not be considered serious, lucid and enlightened, taking into account Alice's age and also her depressive state (cf. 38th and 134th of CP). In this case we would be dealing with a simple homicide (art. 131) or privileged homicide (133 – depending on Diana's motives/state of affection).

- There is a crime of aiding suicide, through material assistance (art. 135 of the CP); paragraph 2 applies, taking into account the age of the victim and the victim's state of disturbance.

- To complete art. 135th, a suicide attempt is enough; Therefore, it makes no sense to talk about Diana giving up. However, her repentance is important, and there may be a special mitigation of the sentence (articles 72 and 73 of the CP)

Case 2: Statement

Eduardo contracted large gambling debts. Eduardo was a colleague of Fernando, a successful young businessman. He then asked to borrow a considerable sum of money to pay his debts. However, Fernando, not trusting

Eduardo refused to lend that amount.

Eduardo is a vengeful and obstinate young man. Knowing that Fernando is dating Gabriela, and knowing her routines, he decided to wait for her.

He grabbed her violently, pushed her into his car and took her to an old garage, in the middle of an open field. Afterwards, he called Fernando, telling him: - I have your girlfriend with me and I will only release her when you give me the money I asked for! And I don't want to borrow it, it has to be given!... Tomorrow, at the usual cafe, at the usual time, I'll get the money... if you don't give it to me, your Gabriela stays here to rot and hangs up.

In between He thought so much: Revenge would be more complete if I took advantage of the girl, who is actually “cute”!

He approached Gabriela, who was crying convulsively and, by force, he had copulation with the young woman, who continued to cry and scream.

However, shortly after, the police appeared and, alerted by Fernando, discovered where Eduardo and Gabriela were...

- Tell how Eduardo should be held legally and criminally responsible, legally and doctrinally substantiating his response.

Case 2: Resolution

- There is a crime of kidnapping (art. 161 of the CP).

- The legal good at stake here is freedom – more specifically freedom of movement.

- Abduction is distinguished from kidnapping (art. 158) by the need for the victim to move (which, in this case, occurred), by the means, which are typified (in this case, there was violence) and by the intended purposes (in this case, al . d) – constrain an action – donation

of money; one could also talk about al. w)).

- Thus, kidnapping involves the use of violence, kidnapping and even attempted coercion (art. 154). In fact, Eduardo tried to coerce Fernando into giving him a large amount of money, through the threat of “important harm” (keeping his girlfriend in prison); thus, this attempt is already covered by art. d) of paragraph 1 of art. 161st.

- However, there is an effective competition between art. 161 and the crime of rape (art. 164 no. 1). In fact, when Eduardo kidnapped Gabriela he had no intention of committing any crime against sexual freedom, but rather of coercing Filipe (as we have already seen). Afterwards, Eduardo decided to commit the crime of rape, completing it.

- Regarding the crime of rape – it is fulfilled, as there was copulation through violence (“by force”, in addition to the helpless situation in which the victim found herself – in a garage in the middle of an open field). Proof of effective resistance (struggle) by the victim is not necessary, but rather evidence of violence, serious threat or making the victim unable to resist; There are even those who understand that the victim's dissent is enough for there to be violence (in the sense of some physical force inherent to consummation and psychic violence).

Case 3: Utterance

Hugo is Isabel's co-worker.

Since Isabel arrived at the company, Hugo has tried, unsuccessfully, to seduce her, making jokes and asking her out.

However, Isabel ended up telling him, bluntly, that she has a boyfriend, and was not available for going out... Hugo became very angry and, to get revenge, one afternoon, he took advantage of an occasion when Isabel bent down to get some papers from a drawer. , he felt her buttocks while his colleagues laughed secretly...

Isabel left, furious, went to tell the company director what had happened and filed a criminal complaint.

-Say whether and how Hugo could be held legally and criminally responsible, legally and doctrinally substantiating his response.

Case 3: Resolution

- Pranks and invitations, being part of the process of attempted seduction, are not crimes... (one could think of a future criminalization, not exactly of pranks, but of verbal offenses relating to the sexual sphere, but that is not what is at stake here cause – today – art. 170 - proposals of sexual content).

- However, the “groping of the buttocks” must already be considered a contact of a sexual nature – not reaching the gravity of a major sexual act, as would be a contact in a more intimate area (art. 163).

- Since this contact of a sexual nature was practiced (taking into account the entire context) against the victim's will, it is clear that there was a constraint on the victim to endure such contact, the legal type of sexual harassment being met (art. 170).

- Although this legal type of crime generates controversy (exactly in terms of “constraint to contact of a sexual nature”), I think that the legal good that is intended to be protected here is, as in other sexual crimes, freedom and self-determination sexual morality, not a certain sexual morality.

In fact, what is punished are contacts of a sexual nature against the victim's will and, thus, harmful to their freedom in the sphere of sexuality.