

# Summary of the Constitutional Court Ruling No. 3/2544

Dated 18<sup>th</sup> January B.E. 2544 (2001)\*

**Re : The Chon Buri Provincial Court referred the application of the defendant (Mr. Hayachi (or Yochimi) Kasinori or Kasinori or Tanaka) in a criminal case to the Constitutional Court for a ruling.**

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## 1. Background and summarized facts

Mr. Hayachi Kasinori, the defendant, was prosecuted by the State Attorney of Chon Buri province at the Chon Buri Provincial Court on charges of having in possession for use counterfeit foreign banknotes which had been obtained with the knowledge that they were false and jointly obtaining property belonging to another by deception in a total of three pending cases, i.e. Case Nos. 663/2539, 1105/2539 and 1227/2539. Later, Mr. Hayashi (Yoshimi) Kasinori (Tanaka) submitted an application to the Chon Buri Provincial Court, which, in brief, stated that he had been unfairly treated by being chained by the ankle for 24 hours a day for the entire duration of his imprisonment which had so far been 2 years and 4 months. Such unfair treatment was inconsistent with section 4, section 30 and section 33 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Chon Buri Provincial Court considered that this was a case on rules or regulations being inconsistent with the Constitution and set a date for a fact-finding inquiry. The Chon Buri Central Prison Warden was summoned to the inquiry. Mr. Hayachi made submissions through an interpreter. The Chon Buri Provincial Court held on the facts that there was an actual chaining of the defendant who was imprisoned at the Chon Buri Central Prison for the entire duration as stated in the application. The matter at issue was therefore an application that provisions of laws, rules, regulations and codes of the Corrections Department were inconsistent with the Constitution, which was a case for the Constitutional Court to rule upon. However, the Chon Buri Provincial Court considered that such a case was not one where provisions of law to be applied to a case on the defendant were inconsistent with provisions of the Constitution. A temporary stay on the case was therefore unnecessary. Nevertheless, such an application deserved a ruling of the Constitutional Court. The application and documents were therefore referred to the Constitutional Court.

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## **2. Preliminary issue**

Was the application made by the applicant, who was a defendant, which was referred by the Chon Buri Provincial Court via official channels to the Constitutional Court for ruling in accordance with the rules in section 264 of the Constitution?

The Constitutional Court held that, as the Chon Buri Provincial Court was the referrer of this application made by the applicant to the Constitutional Court for ruling and the case according to the application was the submission of the opinion of a party to a case who objected to a provision of law to the Constitutional Court for a ruling under section 264 paragraph one of the Constitution, the application referred to by the Chon Buri Provincial Court was accepted for consideration.

## **3. The issues considered by the Constitutional Court**

Were the provisions of laws, rules, regulations and codes of the Corrections Department which were applied to the chaining of Mr. Hayachi's ankles, the applicant, who was a defendant in a criminal case at the Chon Buri Provincial Court, contrary to or inconsistent with section 4, section 30 and section 33 of the Constitution?

During the consideration of this application, the Corrections Department delivered a letter with supporting documents to the Constitutional Court. In summary, it was stated that Japan's National Police Headquarters submitted a request for the extradition of Mr. Hayachi to Japan. The Criminal Court passed Criminal Case Judgment No. P.42543 to detain the defendant in Bangkok Special Prison for extradition. The defendant was extradited to Japan on 27<sup>th</sup> June B.E. 2543 (2000).

The Constitutional Court held the following opinion:

Pursuant to the Corrections Department notification to the Constitutional Court that the defendant had been extradited to Japan and was no longer in Thailand, the application was no longer beneficial for the defendant (applicant). Regarding the application for the Constitutional Court to rule on whether or not section 4 (2) and sections 14 (1) to (5) of the Corrections Act, B.E. 2475 (1932) were inconsistent with the Constitution in connection with the defendant's (applicant's) prosecution on charges of jointly having in possession for use of counterfeit foreign banknotes, as the Courts of Justice no longer applied the Corrections Act, B.E. 2475 (1932) to the case under the application, the provisions of law was no longer one which the Court was going to apply to the case in the application. The case was therefore not in accordance with section 264 paragraph one of the Constitution.

## **4. Ruling of the Constitutional Court**

The Constitutional Court dismissed the application.

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