

SUPREME COURT'S JUDGMENT

delivered in Stockholm on 11 December 2025

Case no.
B 7798-24

PARTIES

Appellant

D.A.

Counsel and public defender: Attorney J.B.

Respondents

1. Prosecutor-General

Box 5553

114 85 Stockholm

2. L.B.

Counsel: Attorney E.R.

THE MATTER

Dismissal of charge

SUPREME COURT	Postal address	Telephone +46 8 561 666 00	Office hours
Riddarhustorget 8	Box 2066	Fax -	08.45–12.00
	103 12 Stockholm	Email: hogsta.domstolen@dom.se	13.15–15.00
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RULING APPEALED

Decision of the Svea Court of Appeal of 2024-09-23 in case B 6228-24

RULING OF THE SUPREME COURT

The Supreme Court overturns the ruling of the court of appeal and affirms the decision of the district court to dismiss charge 1.

J.B. shall receive compensation from public funds for the representation of D.A. in the Supreme Court of SEK 13,108. Of the amount, SEK 10,486 relates to work and SEK 2,622 relates to value added tax. The state shall bear the cost.

CLAIMS IN THE SUPREME COURT

D.A. has claimed that the Supreme Court shall reverse the decision of the court of appeal to remand charge 1 to the district court.

The Prosecutor-General and L.B. have opposed modification of the decision of the court of appeal.

REASONS**Background**

1. L.B. and D.A. are Swedish citizens. They were previously a couple. In the summer of 2021, they took a vacation trip to Italy.
2. D.A. was charged, among other things, for assault as follows in the statement of the criminal act charged (charge 1).

D.A. struck L.B. twice on her thigh with a cap. This occurred sometime between 9 July and 13 July 2021 in Polignano a Mare, Italy. L.B. was caused pain and bruising.

D.A. committed the act with intent.

3. It is apparent from the investigation that the assault offence of the gravity relevant in the case is punishable in Italy in accordance with Article 582 of the Italian Penal Code. In order to bring legal proceedings in Italy, it is required that the injured party has reported the offence within three months of the act. In the event a report is made thereafter, the matter is to be dismissed. L.B. has not reported the offence within said time, either in Italy or Sweden.

4. The district court dismissed the charge by reference to the fact that the Swedish court lacked jurisdiction since the requirement of Chapter 2, Section 5 of the Swedish Criminal Code regarding dual criminality for an offence which was committed abroad has not been met. The court of appeal has reversed the district court's decision to dismiss and remanded the case to the district court in this respect.

What is at issue in the Supreme Court

5. The case concerns the question whether an act which has been committed abroad is to be deemed punishable in accordance with the law in the area where the act was committed when, according to such country's law, it is necessary that the victim make a report within a certain period of time and such period of time has lapsed.

Legislation, etc.

Generally regarding the jurisdiction of Swedish courts when an offence has been committed abroad

6. Swedish courts have jurisdiction to adjudicate offences committed abroad where, among other things, the perpetrator is a Swedish citizen or resident in Sweden (see Chapter 2, Section 3(2) and (3) of the Swedish Criminal Code). In certain cases, however, as a main rule, it is necessary that the act is punishable

also in accordance with the law of the place where it was committed, so-called dual criminality (see Chapter 2, Section 5).

7. The requirement of dual criminality must be fulfilled both at the time of the act and when judgment is issued. In the determination, both the rules regarding limitation periods of the country in which the act was committed as well as other substantive penal conditions are to be considered. Dual criminality must exist in the individual case such that legal proceedings could have been conducted at the same time in the country where the act was committed. However, tolling measures in Sweden may play a role in the determination of punishability also in the other country. (*Cf.* Government Bill 2020/21:204, p. 114.)

8. In the examination of whether dual criminality exists, purely procedural prerequisites for prosecution in the country where the act was committed, such as the requirement that the injured party filed a criminal complaint, should not be considered (see, among others, Nils Jareborg, *Allmän kriminalrätt* [General Criminal Law], 2001, p. 249). A deficiency pertaining to a procedural requirement may generally be remedied and should therefore normally not be deemed to affect the punishability of the act.

Requirement of a filing by the injured party of a criminal complaint for the offence in accordance with the Swedish Criminal Code

9. As regards a number of less serious offences in accordance with the Swedish Criminal Code, the prosecutor may not, as a main rule, bring charges unless the injured party has filed a criminal complaint regarding the offence. Examples include causing bodily injury or illness if the offence is not gross (see Chapter 3, Section 12). There is no limitation in time within which the injured party must file a criminal complaint. As a rule, it is sufficient that the injured party has reported the offence in order for the requirement of filing of a criminal complaint to be fulfilled.

10. Where a filing by the injured party of a criminal complaint is required, the criminal complaint constitutes a procedural prerequisite. In the event the

requirement is not fulfilled, the prosecutor has no right of action and the charge is to be dismissed. A decision regarding dismissal is not final; the charge may always be brought anew if a criminal complaint is filed.

Swedish jurisdiction when there is a requirement that the injured party report the offence within a certain period of time

11. In the determination of whether dual criminality exists, a requirement that the injured party report the crime within a certain period of time need not be taken into account during such period of time. The starting point is that such a requirement may be fulfilled, and that legal proceedings are therefore possible in accordance with the law of the country in which the act was committed. (*Cf.* para. 8.)

12. When the period has expired, the situation is different. Where the injured party has not then reported the crime, there is a permanent impediment to legal proceedings in the country in which the act was committed. The effect of such impediment is that it is no longer possible to impose a punishment for the act.

13. For the aforementioned reasons, an act should no longer be deemed punishable in the area in which the act was committed where, according to the law of the country in which the act was committed, it is required that the injured party report the offence within a certain period of time and such has not occurred either in the country in which the act was committed or Sweden (*cf.* para. 7). In such a case, the requirement according to Chapter 2 Section 5 of dual criminality is not met. This is so irrespective of whether the fact that a report is made in a timely fashion is to be regarded as a substantive prerequisite for punishability or a procedural condition.

The assessment in this case

14. The prosecuted act was committed in Italy sometime between 9 and 13 July 2021. L.B. has not reported the offence – either in Sweden or in Italy – within the period prescribed by the Italian Penal Code. The prosecutor has not

asserted that there is any circumstance according to which the requirement of a report from the injured party is not applicable in this case.

15. This means that, at the time of the prosecution, the act was no longer punishable in Italy. Accordingly, it follows from Chapter 2, Section 5 of the Swedish Criminal Code that Swedish courts do not have jurisdiction to adjudicate the offence.

16. Accordingly, the decision of the court of appeal shall be overturned and the decision of the district court regarding dismissal shall be affirmed.

Justices of the Supreme Court Stefan Johansson, Petter Asp, Eric M. Runesson, Anders Perklev (reporting Justice) and Erik Sjöman participated in the ruling.
Judge referee: Olivia Ekeberg.