



Vicious legal battles in landmark smuggling case

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The State and the defence have locked horns over the constitutional right of the accused not to incriminate themselves, in a landmark rhino horn smuggling trial involving Chinese nationals, whose families are reportedly blissfully unaware of their legal troubles in Namibia. Li Xiaoliang, Li Zhibing, Pu Xuexin and Wang Hui appeared yesterday in the Windhoek Regional Court in Katutura. They have been arrested for trying to smuggle 14 rhino horns worth more than N\$2.3 million and a leopard skin of N\$50 000 out of Namibia last year. The items were found in two luggage bags at the Hosea Kutako International Airport on March 24 last year. Arguments yesterday centred around an application by the State to hand into evidence the bail proceedings of Li, Li and Pu, after the defence objected. While State prosecutor Simba Nduna argued it is imperative for the court to hear the

bail proceedings to make a proper ruling, defence lawyer Orben Sibeya objected by saying an accused has the right not to self-incriminate themselves, and this included not testifying against themselves. He argued that the accused were not informed that anything they said during a bail hearing may be used during a trial and their rights were not explained to them by the magistrate. Their legal representative at that time or even the prosecutor. Sibeya also wanted to hand in signed affidavits by the accused dealing with this. Nduna said the objections raised by the defence are without any merit and pointed out that even if a person is not informed of certain rights, it does not mean that there was failure of justice. He said by allowing the bail proceedings into evidence, it will show there was no failure of justice. "The court cannot assume that there was such an infringement, just because an objection is made," he said. Nduna said further there was no evidence that the accused had been compelled to testify. He said the constitution prohibits people from being compelled to testify against themselves, but does not prohibit an accused from testifying willingly. "Compel means to force or to oblige a person and how was the accused that was represented by a legal representative compelled to testify?" Nduna asked. He acknowledged there is no record of the magistrate and the prosecutor reading the accused their rights during the bail proceedings. However, he was adamant that their legal representative was actively involved in the proceedings and would have informed them. "The rights that the defence say were infringed were not infringed at all." A ruling will be made today on whether the bail application proceedings will be allowed into evidence. Blissfully unaware Meanwhile, Shi Yi, who works for the Oxpeckers environmental investigative journalism website, paid a visit to the home villages of the accused in China to investigate their backgrounds. She reports that the four accused are all from Nan Tong, which lies at the mouth of the Yangtze River. They live in different villages, only a few kilometres apart. Li, Li and Pu's families did not know the men had been arrested in Namibia, because they are still able to call home a few times a month. It is reported that according to Li Zhibing's wife it was Pu who recruited him for Wang. Li Zhibing told his wife he went to Namibia to work as a construction worker for Wang and would earn around US\$3 500 a month. She was expecting him to return during the Chinese New Year in February, Oxpeckers reported. He did not return as planned, and instead the wife received about US\$7 850 in February from Wang. Pu's family refused to meet Oxpeckers, but his son said on the phone his father had been a close friend and business partner of Wang's for many years. Villagers also told Oxpeckers that Pu's family received about US\$31 400 sometime last year, when he worked for Wang in Namibia. Li Xiaoliang's father said he was told by his son that he was doing well in Africa, and he was expecting him to return soon. His parents have not received any money from him since he left. Wang, who is regarded as the rhino horn smuggling kingpin, owns two grocery stores in Otjiwarongo. According to a Chinese friend of his in Namibia, he also has wood exporting businesses in Zambia and Angola. It is still not clear how he is connected to the poachers. ELLANIE SMIT



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