

THAK LANY

Summary

Sam Rainsy Party (SRP) Senator Thak Lany was convicted on defamation and incitement charges under the Criminal Code and sentenced to 18 months in prison over comments she allegedly made in Ratanakkiri province during a constituency visit, which placed the blame on Prime Minister Hun Sen for the 10 July 2016 murder of political analyst Kem Ley. A video clip of the speech in question was posted on Facebook, resulting in the charges. Her defense team has said the comments were taken out of context but has so far failed to produce supporting evidence. She was tried and convicted in absentia, after fleeing to Sweden where she was granted political asylum.



Charges

Criminal Code, Article 305: Definition of defamation

“Defamation” shall mean any allegation or charge made in bad faith which tends to injure the honor or reputation of a person or an institution. Defamation shall be punishable by a fine from one hundred thousand to ten million Riels if it is committed by any of the following means:

1. Any words whatsoever uttered in a public place or in a public meeting;
2. Written documents or pictures of any type released or displayed to the public;
3. Any audio-visual communication intended for the public.

Criminal Code, Article 494: Conditions for Existence of Incitement

For the purpose of enforcement of the present Chapter, the incitement is punishable when it is committed:

1. by speech of any kind, made in a public place or meeting;
2. by writing or picture of any kind, either displayed or distributed to the public;
3. by any audio-visual communication to the public.

Criminal Code, Article 495: Incitement to commit a felony

The direct incitement to commit a felony or to disturb social security by employing one of the means specified in Article 494 (existence of incitement) of this Code shall be punishable by imprisonment from six months to two years and a fine from one million to four million riels, where the incitement was ineffective.

2016

1 August – Prime Minister Hun Sen files a “slander” and “incitement” lawsuit against Thak Lany (and a separate lawsuit against CNRP President Sam Rainsy) over comments she allegedly made in Ratanakkiri province linking him to Kem Ley’s murder.¹

4 August – Thak Lany and CNRP President Sam Rainsy are summoned for questioning by the Phnom Penh Municipal Court over Prime Minister Hun Sen’s lawsuits accusing them of defamation and incitement for tying him to the murder of Kem Ley.²

8 August – Thak Lany is summoned for a second time to appear for questioning on 17 August over the Prime Minister’s defamation suit, after she missed a scheduled court date and a motion filed by her lawyer request a delay in the session was denied.³

1 September – Thak Lany is ousted from the Senate and has her parliamentary immunity stripped.⁴

28 October – The defamation trial against Thak Lany starts, focusing on the authenticity of the video allegedly depicting her blaming Prime Minister Hun Sen for the murder of political analyst Kem Ley. Thak Lany is not present at the trial and has not been seen publicly since the defamation lawsuit was filed.⁵

2 November – Thak Lany’s trial concludes with her defense lawyer failing to produce a video they had said would disprove the allegations against her. After the hearing, the lawyer told the press that he did not have time to show the video during the hearing and would use it during the appeal hearing.⁶

17 November – Thak Lany is convicted in absentia of defamation and incitement charges and sentenced to 18 months in prison and fined 8 million riels (2,000 USD) and a symbolic 100 riels in compensation to the Prime Minister. It is reported that she is in Sweden, where she has been granted political asylum.⁷

2017

23 February – Thak Lany resigns from the SRP for “personal reasons,” after the National Assembly passes controversial amendments to the Law on Political Parties.⁸

Updated March 2017

1 Phnom Penh Post, “PM’s suit targets senator, Rainsy for ‘slander’ and ‘incitement,’” 2 August 2016, <http://www.phnompenhpost.com/national/pms-suit-targets-senator-rainsy-slander-and-incitement>.

2 Cambodia Daily, “Sam Rainsy, Senator Summoned Over Kem Ley Murder Claims,” 4 August 2016, <https://www.cambodiadaily.com/archives/sam-rainsy-senator-summoned-over-kem-ley-murder-claims-116257/>.

3 Cambodia Daily, “Opposition Senator Summoned for 2nd Time,” 11 August 2016, <https://www.cambodiadaily.com/brief/opposition-senator-summoned-2nd-time-116544/>.

4 Phnom Penh Post, “Opposition senator ousted, to face courts over PM’s accusation,” 2 September 2016, <http://www.phnompenhpost.com/national/opposition-senator-ousted-face-courts-over-pms-accusation>.

5 Cambodia Daily, “Opposition Senator’s Defamation Trial Begins,” 29 October 2016, <https://www.cambodiadaily.com/news/opposition-senators-defamation-trial-begins-119920/>.

6 Phnom Penh Post, “Defence video a no-show for Lany,” 3 November 2016, <http://www.phnompenhpost.com/national/defence-video-no-show-lany>.

7 Cambodia Daily, “Senator Handed Jail Time for Hun Sen Remarks,” 18 November 2016, <https://www.cambodiadaily.com/news/senator-handed-18-month-jail-sentence-hun-sen-remarks-120683/>.

8 Phnom Penh Post, “Senator Thak Lany resigns from the SRP,” 6 March 2017, <http://www.phnompenhpost.com/national/senator-thak-lany-resigns-srp>.