



HUMAN TRAFFICKING WORKING GROUP
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CASE REPORT

Current as on: October 16, 2009

Case Name	<i>R v Nguyen and Tran</i>
Reported in	<i>R v Nguyen and Tran</i> [1998] 4 VR 394
Date(s)	Arrest: May 29, 1995 Conviction: October 31, 1996 Appeal: November 28, 1997
Court/Jurisdiction	Melbourne, Victoria
Charges	s 77(1) <i>Crimes Act 1958</i> (Vic): Aggravated burglary s 74 <i>Crimes Act 1958</i> (Vic): Theft False imprisonment (common law) Kidnapping (common law)
Appeal	<i>R v Nguyen and Tran</i> [1998] 4 VR 394

Case Summary

The case of *R v Nguyen and Tran* involves two Thai women who were brought into Australia to work in an illegal prostitution racket run by a man called Le Van Chau (who was not an accused in this case). Mr Van Nam Nguyen and Mr Huy Quoc Tran worked for Mr Chau after they arrived in Australia from Thailand, on tourist visas, in 1995.

Mr Chau employed illegal sex workers in his private home and in a number of brothels in Melbourne in the mid 1990s. Mr Chau was involved in organising their journey to Australia and was responsible for their accommodation and prostitution. The Thai women working for Mr Chau gave substantial parts of their earnings to him and feared violence as a result of the threats he made to them.¹

The two Thai victims were kidnapped by Mr Nguyen and Mr Tran, in cooperation with a further two accused, one of whom was acquitted, whilst the other, Mr Sung Ly, was tried separately. Mr Tran and Mr Ly entered the premises of Mr Chau with weapons in the early morning of May 29, 1995. The two then forcibly bound and took the women to Nguyen, who was waiting outside with the car. Tran and Sung Ly also proceeded to remove certain property belonging to Mr Chau. The two victims were then taken by the three men to two separate premises.

It appears that the victims, Ms Toi, 34, and Ms Luai, 31, had come to Australia to work as sex workers at the direction of Chau. They were expected to pay off a debt of AUD 30,000 to Mr Chau,² and also to contribute AUD 80.00 each per week to the rent on Mr Chau's home where they stayed, as well as paying for Chau's phone bill, a proportion of the household expenses and for his trips to Thailand. Contrary to earlier promises, Mr Chau failed to send money to Thailand on behalf of the victims in return for their work.³ The women were also afraid of Chau because they feared he may harm their families in Thailand.⁴ There was evidence that additional women were being accommodated at Mr Chau's premises, and that they were being made available to illegal brothels in the local area.

At trial, Mr Nguyen and Mr Tran were each found guilty of aggravated burglary,⁵ kidnapping and one count of false imprisonment (they were acquitted of false imprisonment in relation to the second location). Mr Tran was also convicted of a single count of theft,⁶ whilst Mr Nguyen was acquitted of the theft charges.⁷ In sentencing the judge noted that each of the accused had an extensive criminal history. Mr Nguyen, the main orchestrator, was sentenced to six years imprisonment with a non-parole period of five years, while Tran received a sentence of 4.5 years imprisonment with a non parole period of three years.⁸

The two accused appealed against both conviction and sentence. They contended that the extent of Mr Chau's criminality had not been properly disclosed at trial, rendering the evidence given by Mr Chau, and the two women, who were purportedly under his control, unreliable. However, the appeal was dismissed as the concerns raised were not sufficient to render the verdict unsafe or unsatisfactory.⁹ Moreover, the Court of Appeal dismissed

¹ *R v Nguyen and Tran* [1998] 4 VR 394 at 395–398.

² *R v Nguyen and Tran* [1998] 4 VR 394 at 400.

³ *R v Nguyen and Tran* [1998] 4 VR 394, at 402.

⁴ *R v Nguyen and Tran* [1998] 4 VR 394, at 402.

⁵ Section 77(1) *Crimes Act 1958* (Vic).

⁶ Section 74 *Crimes Act 1958* (Vic) 4.

⁷ *R v Nguyen and Tran* [1998] 4 VR 394 at 396.

⁸ *R v Nguyen and Tran* [1998] 4 VR 394 at 396.

⁹ *R v Nguyen and Tran* [1998] 4 VR 394 at 403.

arguments raised by the defence that the common law offence of kidnapping was abolished by s 63A of the *Crimes Act 1958* (Vic).¹⁰

Mr Chau was charged with prostitution related offences in 1996, according to an affidavit from the Australian Federal Police made available at the appeal of Nguyen and Tran.¹¹ Sexual servitude, slavery and trafficking in persons offences did not exist at that time.

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¹⁰ *R v Ngyuen v Tran* [1998] 4 VR 394 at 406.

¹¹ *R v Ngyuen v Tran* [1998] 4 VR 394 at 399.