

APPLICATION OF THE PRESUMPTION OF INNOCENCE IN CASES INVOLVING RECONCILIATION

Yulchiev Bakhodirjon Sobirovich

Senior Inspector of the Main Department of Migration
and Citizenship of the Ministry of Internal Affairs,
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Annotation: This article examines certain criminal cases resolved through reconciliation at the pre-trial stage, providing a theoretical and legal analysis. It also identifies practical problems currently arising in the application of the law and proposes recommendations and solutions to address these issues.

Keywords: presumption of innocence, proving a person's guilt, sufficiency of evidence, reconciliation, confession of guilt, evaluation of evidence.

According to Part Four of Article 84 of the Criminal Procedure Code (CPC) of the Republic of Uzbekistan, criminal cases involving reconciliation must be terminated without resolving the issue of the person's guilt. However, this provision is rather controversial from the perspective of the presumption of innocence.

It is well known that a significant portion of cases concluded by investigative bodies involve reconciliation. In particular, 6,717 cases in 2021, 5,871 in 2022, 5,175 in 2023, 5,838 in 2024, and 3,429 cases in the first quarter of 2025 were submitted to court through reconciliation based on Article 584 of the CPC. The introduction of the reconciliation institution indicates the consistent implementation of reforms in the judicial and legal system of our country¹. According to Article 661 of the Criminal Code (CC), a person may be released from criminal liability through reconciliation if they confess to the crime, reach an agreement with the victim, and compensate for the damages caused².

Special attention should be paid to the phrase "*if the person confesses to the crime.*" It implies that the individual must admit to the charges brought against them by the investigative body. In accordance with Article 585 of the CPC, if during the court hearing it is determined that the confession was not made voluntarily, the court shall issue a ruling to return the case to the prosecutor³.

In reconciliation-related cases, the accused's confession of guilt often allows the investigative bodies to avoid the obligation, stipulated by Article 84 of the CPC, to prove that the crime was indeed committed by that individual. As a

¹ Analysis of statistical data related to reconciliation during the research study.

² Criminal Code of the Republic of Uzbekistan – T. 2024. <https://lex.uz/docs/111453> (Accessed 22.05.2025)

³ Criminal Procedure Code of the Republic of Uzbekistan – Vol. 2024. <https://lex.uz/docs/111460> (Accessed 22.05.2025)

result, the necessary investigative and procedural actions aimed at uncovering the truth are not conducted.

To be candid, in current investigative practice, even if the victim and the suspect reconcile, the case is often still submitted to the court with a bill of indictment. This is done out of concern that the victim may later retract their statement in court.

Moreover, in some investigative situations—especially in cases involving bodily harm — the victim may not know who actually caused the injury. In fraud-related crimes, which are increasingly common today, investigators often classify only one of several affected individuals as the victim and conclude that part of the case through reconciliation. Meanwhile, the remaining part is treated as a civil matter and dismissed accordingly.

For example, in a criminal case initiated under Article 277, Part Two (a, b) of the CC for an incident where citizens Kh.M. and A.E. assaulted D.Sh. without reason, causing moderate bodily harm, the case against A.E. was closed due to lack of evidence. The charge was then reclassified under Article 105, Part One of the CC and concluded through reconciliation⁴.

When a case is concluded through reconciliation without proving that the suspect or accused committed the crime, the CPC's principle of "ascertaining the truth" and the CC's principle of "inevitability of responsibility" are grossly violated. As B.B. Murodov noted, before terminating a case on any of the grounds outlined in the CPC, it must first be proven that the crime was indeed committed by the person involved in the case. Article 9 of the CC stipulates that an individual may only be held liable for socially dangerous acts whose guilt has been established through legally defined procedures. The obligation to prove this rests with the relevant law enforcement agencies. Such an approach fully aligns with the principles and norms of the Criminal and Criminal Procedure Codes, ensuring that innocent persons are not held criminally liable and that actual perpetrators are not left unpunished⁵.

Additionally, Part Two of Article 585 of the CPC states that in reconciliation-related court proceedings, the suspect, accused, defendant, victim (civil claimant), their legal representatives, defense counsel, and the prosecutor must be present. However, witnesses, impartial parties, and other procedural participants are not mentioned. In practice, court investigations in such cases are often conducted formally, involving only the victim and the suspect or accused, sometimes the defense counsel, while other participants are not

⁴ Criminal case documents stored in the archives of the Tortkol district court on criminal cases.

⁵ B.B. Murodov "Improving the Criminal Investigation Institute" doctoral dissertation, T-2018. 318 p.

summoned. Courts frequently consider reconciliation-related cases as routine and unproblematic. This leads to situations where the actual perpetrator of the crime remains unidentified, and another person may be held responsible in violation of the presumption of innocence⁶.

As a simple example, in a case terminated under Article 584 of the CPC, if a person later files a complaint claiming they were not guilty and only admitted guilt because the investigative body promised no punishment from the court, the passage of time may make it impossible to gather the necessary evidence, resulting in the crime remaining unsolved.

Furthermore, in cases concluded through reconciliation, a “Form-2” record may be issued for the person, which creates a criminal record. This contradicts the presumption of innocence by imposing liability on an innocent individual and may leave the crime unresolved.

To prevent such outcomes and ensure the implementation of the principles of ascertaining the truth and the presumption of innocence, Article 585 of the CPC should be amended as follows:

“If during the court hearing, it is not fully proven by the collected evidence that the crime was committed by the suspect, accused, or defendant, or if the reconciliation, confession of guilt, or compensation of damages is found to be involuntary, or if it is determined that the act committed contains elements of a more serious crime, the court shall issue a ruling to return the case to the prosecutor for further inquiry or preliminary investigation in accordance with the general rules.”

List of References:

1. Criminal Procedure Code of the Republic of Uzbekistan, Tashkent, 2025. <https://lex.uz/docs/111460> (Accessed: 06.04.2025)
2. Criminal Code of the Republic of Uzbekistan, Tashkent, 2024. <https://lex.uz/docs/111453> (Accessed: 22.05.2025).
3. Statistical analysis of reconciliation-related cases during the research study.
4. Case documents from the archive of the Tortkol District Criminal Court.
5. B.B. Murodov, “Improving the Institution of Termination of Criminal Cases,” Doctoral Dissertation. Tashkent, 2018. Page 318.

⁶ Criminal Procedure Code of the Republic of Uzbekistan – Vol. 2024. <https://lex.uz/docs/111460> (Accessed 22.05.2025)