

Abstract

In the good of criminal justice system , it is not the efficiency in the prevention of Crime Control and correct the committed crime person back to the society. It must have the measure to protect the rights, the liberty of the person (Due Process) which involve in the process every stages.

The efficiency or success of the justice process depends on the co-operation of the important principle in protection the basic rights of the people in Constitution which involves in justice process to harmonize with the practices in the criminal procedure law and suitable of the real in enforcing law and criminal prosecution.

Although the Thai criminal procedure law is in the category of civil law system, which by the principle the procedure at the investigation stage and at the lawsuit is the same procedure. By that, the stage of finding the truth is done by the administration staff before the judge stage (the pre- trail stage).But the structure of Thai law is divided the investigation and the lawsuit separately. It designated the investigation officers have full authorities in control both the procedure and the investigation. It is done without the check and balance from other authorities in the criminal justice process.

In the prosecutor system around the world, the state prosecutor will control the investigation since the beginning of the case because the prosecutor has to bring the accused to prosecute in the court. It is fair to let the prosecutor handle the case since the beginning. The prosecutor is the one who has the power and duties in control the investigation of criminal law. But it is not meaning that the prosecutor has to involve in every cases but it means the prosecutor must has authorities to prosecute the investigation by their own or control the case. When compare the role of the prosecutor in western world with Thai prosecutor in checking the measurement in criminal law, it will find that Thai prosecutor has no authorities over the checking in criminal law such as the summon, the warrant which is against the general principle.

For the role of the court, it can said that it is the process of trial stage. Although with the criminal procedure law of Thailand, the injured person can prosecute the criminal offense himself. Most of the prosecution the criminal case in Thailand is done by the state.

Therefore by the principle, the prosecution of criminal offense in Thailand is the state prosecution. Every organizations or state agency have their duties to investigate the truth and must do actively in their role. The role to investigate the truth actively is not exclude even with the court. For example, the court has authority to ask the investigation file from the prosecution to consideration the case as in the article 228. It shows that the role of the court in investigation the truth and the passive acting of the court.

For the process of civil case, it uses the negotiation principle, and the criminal case uses examination principle. Therefore, there is no duty to question the witness in criminal case, it is the duties of the court. So, to question the witness in criminal case as there has been practiced long ago without the basic of law.

For the prosecution the criminal offense of politician, it finds that the role of the court in the trial stage as the principle of civil law system. The court will question the witness and has the role in question witness as active role. This role is as the role of the court in civil law system. Therefore, the role of the court in prosecution the criminal offense in general as passive role maybe not according with the examination system as above. When compare with the prosecution of criminal offense in general, according with the criminal procedure law will find as the following;

1.By law, the court exams the witness, in practice the court seldom doing like the law said and let the plaintiff and the defendant do this job and the court is the middleman and has a passive role. The court is only control this witness testimony as the principle with adversarial system which is prosecution by the people (Popular prosecution).

2. With the criminal procedure law, the court is not necessary have the file or record of the investigation officers. It finds that Thai law is not prosecution the same as in the country with the civil law system which it has the examination system to find the truth.

Therefore, from the study of the efficiency the prosecution system by the officer and the court, it may said that the indication of the success of justice process is the efficiency in crime control and peaceful and fair society.