

THE "FITTJA-CASE"

Sweden



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Key facts of the case

The Fittja Case (Fittjafallet) is the name used by the media in reports concerning a Swedish criminal case of a suspected gang rape, said to have taken place in Fittja, Botkyrka municipality on the 14th of August 2016.

The victim had, according to the judgement, travelled to the center of Fittja in August 2016 to purchase drugs. During the police hearings, she has stated that she met a man who took her to a residential building where several men, waiting at the gate, torn off her clothes and raped her in the stairwell. According to the prosecutor, the woman had been forced into oral, anal and vaginal intercourse through the means of threats and violence.

The case has sparked widespread debate in the media, especially after the five men who were indicted were acquitted of all charges by Södertörn District Court on the 19th of December 2017.

Applicable law

Three men were indicted for gross rape in accordance with the Swedish criminal code Chapter 6, Section 1, p. 3. [1] The penal code states that a person who performs sexual intercourse, or some other sexual act that in view of the seriousness of the violation is comparable to sexual intercourse, with a person who is not participating voluntarily is guilty of rape and is sentenced to imprisonment for at least two and at most six years. When assessing whether participation is voluntary or not, particular consideration is given to whether voluntariness was expressed by word or deed or in some other way. If an offence referred to in the first paragraph is considered gross, the person is guilty of gross rape and is sentenced to

imprisonment for at least five and at most ten years. When assessing whether the offense is gross, particular consideration is given to whether the perpetrator used violence or a threat of a particularly serious nature, or whether more than one person assaulted the victim or took part in the assault in some other way, or whether, in view of the method used or the young age of the victim or otherwise, the perpetrator exhibited particular ruthlessness or brutality.

Two men were indicted for aiding the offense. Chapter 23, Section 4 of the Criminal code induces responsibility under the provisions of this Code for a given act also to anyone who promoted the act by advice or deed.[2] According to the indictment, the two men had laughed at and filmed parts of the crime with a mobile phone.

For a conviction in a criminal case, it is required to be proved beyond reasonable doubt that the defendant has committed the act on which the indictment is based. [3] In other words, it must be practically impossible for the act to have been carried out in any other way than as stated in the indictment.

Criminal proceedings

After the alleged rape, on the 14th of August 2016, the victim traveled to Sergels Torg (central Stockholm) where she got in contact with the police. [4] The victim told the police officers that she had been raped by several men, after which she was taken to the hospital where a doctor documented multiple injuries. In the police bus, she furthermore indicated the site of the incident via a web mapping platform, which was then determined to be Vårdshusvägen 6. [5] It will however not be until June 19, 2017, when the victim was driven to the supposed crime scene by the police, that she points out Vårdshusvägen 8,

Sources:

[1] Swedish Criminal Code, (1962).

[2] Swedish Criminal Code (1962).

[3] C.f., NJA 1980 s 72

[4] Södertörns Tingsrätt, Dom mål nr: B 8127-17, p 19..

, instead of Vårdshusvägen 6 as the site of the crime, which will later be the crime scene referred to in the indictment. [6]

The forensic investigation displayed traces of narcotics as well as other types of drugs in the blood and urine of the victim. Traces of semen from the victim's clothes, hands, mouth and abdomen were furthermore secured at the hospital. In the autumn and winter of 2016, the NFC (National Forensic Center) informed the police that semen from the three subsequently indicted men were found on the clothes of the victim. [7]

In the summer of 2017, there were 10 suspects in the case. [8] However, the detention of only five suspects was requested. The prosecutor requested the court to detain four suspects on June the 14th 2017. [9] One of these four men was however set free and acquitted of all charges before the indictment. One suspect was further detained on the 27th of June 2017. [10]

On November the 10th 2018, the prosecutor filed charges against five men accused of the aggravated rape. Three of the men were charged with aggravated rape and two were charged with aiding. Four of these men had, as described above, been requested detained prior to the indictment, while the fifth man had not been requested detained before the indictment was brought.

The accused men claimed that the woman had offered sex as payment for drugs. [11]

The district court found it clear that there had been oral sex between three of the defendants and the victim, and that sperm from the three defendants and other, unidentified, men had been found on the clothes the victim was wearing.

The court however uplifted that these findings do not in themselves point out where the sexual acts took place or whether the acts were performed by force or if the victim was in a particularly vulnerable situation. [12] The court further directed unusually strong criticism at the preliminary investigation on which the indictment was based. [13]

Due to the shortcomings in the police investigation, such as the wrong crime scene being pointed out, the documentation of the investigation being considered deficient, and the general execution of the investigation being accompanied by a large number of shortcomings, the court upheld that the evaluation of the information provided during the trial is considered crucial. [14]

It was proved that the victim had several types of narcotics in her body on the day of the suspected rape and, overall, the district court assessed that the credibility and reliability of the information provided by the victim during the trial was low due to, i.a., contradictory statements. The district court however found it clear that the woman "was exposed to something Fittja", but nonetheless it was impossible to determine what, where or by whom. Subsequently, the accused men were acquitted of all charges. [15]

The acquittals were initially appealed since the prosecutor expected new evidence, e.g. in form of a video from a mobile phone which had supposedly documented the alleged rape. [16] The prosecutor, however, withdrew the appeal seeing that no new evidence was accessed, and as he made the assessment that the currently available evidence would not lead to change in the acquittal. [17]

The Parliamentary Ombudsmen initially

Sources:

[6] Södertörns Tingsrätt, Dom mål nr: B 8127-17, p 21.

[7] Södertörns Tingsrätt, Dom mål nr: B 8127-17, p 21.

[8] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17

[9] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17

[10] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17

[11] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17, pp. 14-15.

[12] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17, pp. 56 ff.

[13] E.g. Södertörns Tingsrätt, Dagbok mål nr: B 8127-17, p 35.

[14] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17, p 58.

[15] Södertörns Tingsrätt, Dagbok mål nr: B 8127-17, p 59 ff.

[16] Aftonbladet (2018), Åklagaren överklagar Fittjadomen – mobiler undersöks i Tyskland (4/1).

[17] TT (2018), Åklagaren drar tillbaka överklagan i Fittja-målet (23/5).

considered to investigate the work of the police, but announced in early 2019 that they did not intend to investigate the case since the police themselves had decided to conduct an internal investigation. [18] In the police internal investigation, general criticism was directed to the lack of urgency in the work. It was furthermore questioned the fact that several of the men, who were later charged with the crime, were not detained for almost a year after the investigation began, regardless there was enough evidence to consider them at least reasonably suspicious six months before their detention, according to the review. In the review, the investigation was further criticized for a lack of documentation of the woman's testimony and deficient routines for identifying perpetrators. It was also criticized the fact that the police did not carefully examine the victim's claim regarding the location of the alleged rape. [19]

Disclosure of information

Information regarding the criminal case first appeared in media about a year after it was said to have taken place, i.e. publications about the ten men suspected of committing the crime. In one of the earlier reports was published information from an anonymous source, who claimed to have an insight into the investigation, stating that that 20 people participated in the rape. [20]

Usually, the names, as well as other personal information about the suspects and the victim, is usually kept undisclosed before the prosecutor press charges. If the prosecutor requests a suspect's detention from the court, his or her name usually becomes public. However, other information is predominantly kept concealed at this stage, with regard to the preliminary investigation. [21] In this case, the identity of five people was thus disclosed in connection to the

prosecutor's detention requests.

The five detainees were mentioned by name and discussed on internet forums such as the popular internet forum "Flashback", but they were not mentioned by name in the newspapers. However, personal information about the suspects, such as their age and crimes they have previously been convicted of, was disclosed in newspapers at this stage. [22]



Furthermore, when the prosecutor submits the indictment, it becomes a public document along with the preliminary investigation report which the prosecutor attaches. [23] Sometimes the names of the victims are not revealed, for example in the case of a sexual offense. [24] Subsequently, the suspect who had not been subject to a detention request and whose identity, therefore, had not previously been disclosed, was de-anonymized at this stage, while the victim's identity remained undisclosed.

Media coverage

Critique of the investigation

The incident began to receive attention in media approximately a year after the suspected rape took place, specifically in connection to the arrests of suspects. These earlier reports highlighted the fact that the suspects were

Sources:

[18] SvD (2019) *JO granskar inte våldtäkt i Fittja (25/1)*.

[19] *Polisen (2020), Granskning av Polisens förundersökning i det så kallade fittjafallet*.

[20] *Public Access to Information and Secrecy Act, Chapter 18, Section 1*.

[21] *Cf. Expressen (2017), Tio misstänkta gripna – ett år efter gruppvåldtäkt (13/9); Metro (2017), Available at: Tio män misstänks för gruppvåldtäkt – Polisbrist försenade gripanden (13/9)*.

[22] *The Freedom of the Press Act, Chapter 2 section 3*.

[23] *The Freedom of the Press Act, Chapter 2 section 3*.

[24] *The Freedom of the Press Act, C.f. Chapter 2, Section 2*.

arrested almost a year after the incident was believed to have taken place, despite several of the men were identified months ago. [25] The media attention increased during the autumn of 2017 and reached its peak after the final judgment on the case. After that, a special focus continued to be placed on the shortcomings of the investigation. The major national newspapers published articles with headlines such as "The weak evidence is due to the police investigation" (*Svaga bevisningen beror på polisens utredning*), "The police's wreckage in Fittja" (*Polisens haveri i Fittja*), "The Fittja case is a tragedy of many levels" (*Fittjafallet är en tragedi med många bottnar*), "Expert: Cash police work should be examined" (*Expert: Kasst polisarbete borde granskas*). [26] These articles highlighted and heavily criticized the defects of the investigation which were already accessible by the public given that the preliminary investigation had already been published. For example, the fact that an inaccurate crime scene was pointed out and that was not corrected for one year after the incident occurred, that it took so long before the suspects were arrested, and that interrogations were neither adequately documented, nor conducted properly.

In both conventional and alternative media, it was intermittently indicated that the suspects were guilty of the crime but that the imperfect work of the police resulted in insufficient evidence and made it impossible to convict them. For example, an editorial in the newspaper Dagens Nyheter wrote: "It is thus, and this is essential, the work of the police that makes it impossible other than to free the five men. The rape case in Fittja is a judicial scandal. Not because the men are acquitted, but because it happens as a result of the police's incompetence." ("Det är alltså, och det här är väsentligt, polisens arbete som gör det omöjligt annat än att fria de fem männen." "Våldtäktsfallet i Fittja är en rättsskandal. Inte för att männen frias utan för att det sker till följd av polisens inkompetens").

In an article about a debate published in the newspaper Aftonbladet, the following was written: "In addition, and this does not make sense, it took the police a year before they interrogated the men or investigated the crime scene! Perhaps the verdict would have been different if they had been able to secure more traces on the site. Or if the men did not have every chance in the world to talk to each other and agree on their story." (*Dessutom, och detta är heller inte klokt, det tog polisen ett år innan de förhörde männen eller undersökte brottsplatsen! Kanske hade domen blivit en annan om de kunnat säkra fler spår på platsen. Eller om männen inte haft alla chanser i världen att snacka ihop sig och enas om sin story.*) [28]

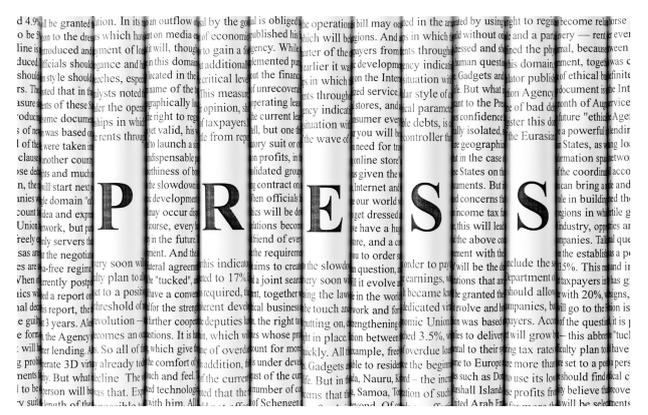
Information regarding the suspects and the cruelty of the supposed crime

Furthermore, significant attention was drawn on the suspects as well as the cruelty of the supposed crime, even though the main focus in the media coverage of the case was the deficient investigation.

The initial reports on the case, which transpired when five suspects were taken into custody, contained "fact boxes" indicating the age of the men, in which areas they were currently residing, as well as crimes for which they have been convicted in the past. [29] Additional information about the suspects' lifestyle and criminal past was later

Sources:

- [25] *Expressen* (2017), *Tio misstänkta gripna – ett år efter gruppvåldtäkt* (13/9); *Metro* (2017), *Tio män misstänks för gruppvåldtäkt – Polisbrist försenade gripanden* (13/9).
- [26] *DN* (2017), *Polisens haveri i Fittja* (19/12); *DN* (2017), *Svaga bevisningen beror på polisens utredning* (19/12); *SvD* (2017), *Expert: Kasst polisarbete borde granskas* (20/12); *SvD* (2017), *Fittjafallet är en tragedi med många bottnar* (20/12).
- [27] *DN* (2017), *Polisens haveri i Fittja* (19/12).
- [28] *Inci* (2017), *Våra liv inskränks när samhället misslyckas* (19/12).
- [29] *DN* (2018), *Folk kollar på mig som jag vore ett monster* (4/1).



disseminated in several newspapers. For instance, a local newspaper published an article with the headline: "Here are the drug dealers indicted on a gang rape charge" (*Här är langarna som åtalas för gruppvåldtäkt*). [30] A police officer, with whom the local newspaper conducted an interview, expressed that "[i]t is tragic that it had to go so far as to rape a girl when there has been opportunity to adjudge more severe penalties early" (*Det är tragiskt att det ska gå så långt att man förgriper sig på en tjej när det funnits läge att ge kraftigare påföljder tidigt*). In a reportage by the newspaper Dagens Nyheter, interviews were conducted with people living and/or working in Fittja. In the article, a woman who claimed herself to be familiar with the suspects stated that: "We're talking about young people who do not want to make anything out of their lives, who just hang out here. These guys have no respect for women they do not know, either you are a 'sister' or you are an object" (*Vi pratar om ungdomar som inte vill något med sitt liv, som bara hänger här. De här grabbarna saknar respekt för kvinnor de inte känner, antingen är man en "syster" eller så är man ett objekt*). [31]

Additionally, information regarding the ethnicity of the suspects was disseminated and discussed in alternative far-right media channels and on internet forums. [32]

The aggravated violence and ruthlessness of the alleged crime were also in the spotlight. The victim's counsel expressed in the newspaper Svenska Dagbladet that this was one of the worst rape cases that she had ever come across, and that it caused her client lifelong psychological suffering and trauma. She described the experience as "torture-like" (*tortyrliknande*). [33] In the newspaper Expressen, a journalist published an article with the headline "The woman's story is the most disgusting story that I have read" (*Kvinnans berättelse är det värsta jag har läst*). [34]

In the article, the author described the rape according to the victim's account in the indictment. It illustrated how the victim was brutally raped for hours by several men in a stairwell as they took turns, laughed at her, hit

her, and filmed each other. It was later revealed by the media that the woman reported to the police that she cried in vain for help during the rape and a man who lived in an apartment next door came out with a garbage bag, while she was being raped, but did not intervene. [35]

The woman and the supposed impact of her social status

Moreover, the case sparked discussion on how socially disadvantaged women are treated by the judiciary not only in the context of this specific case, but also in more general terms. One reporter asked the rhetorical questions: "Are all equal before the law? Are all raped women equal before the law?" and reached the conclusion that apparently that was not the case after having read the preliminary investigation. [36]

One newspaper raised the issue that the woman aired her concerns over not being believed during her first interrogation since she was considered a socially vulnerable person. "Who will believe me, I'm an addict and I'm not behaving like the perfect victim the court is used to" (*Vem ska tro på mig jag är ju missbrukare och betar mig inte som det perfekta offret domstolen är van vid*). [37] In a film recorded by the woman herself after the acquittal, which was disseminated in many media channels, she furthermore criticized sharply the way the chairman and the chief councilor treated her during the hearing. "She smiled nicely at the perpetrators, but she barely looked at me." In the film, the woman said that the judge interrupted her several times which made her feel worthless and crucified. She said that she did not want any woman to ever have to be treated the way she was treated in court. (*Hon log trevligt mot förövarna, men mig tittade hon knappt åt. Kvinnan berättar att domaren avbröt henne flera gånger. Det fick mig att känna mig värdelös. Jag kände mig korsfäst. Hon säger att hon inte vill att någon kvinnan någonsin ska behöva bemötas som hon blev bemött i domstolen*.) [38]

Sources:

[31] DN (2017), *Domen som satte tilltron till rättsväsendet i gungning* (27/12).

[32] DN (2017), *Polisens haveri i Fittja* (19/12).

[33] SvD (2017), *Massi Fritz: Värsta gruppvåldtäkt jag jobbat med* (19/12).

[34] Expressen (2017), *Kvinnans berättelse är det värsta jag har läst* (9/12).

[35] Ibid: GP (2017), *Detta är Fittja och Sverige* (24/12)

[36] SvD (2017), *Kvinnans berättelse är det värsta jag har läst* (9/12).

[37] SvD (2017), *Massi Fritz: Värsta gruppvåldtäkt jag jobbat med* (19/12).

[38] Aftonbladet (2017), *Kvinnan i Fittjamålet vill tacka för allt stöd* (22/12).

Impact on the suspect or accused person and on the general public

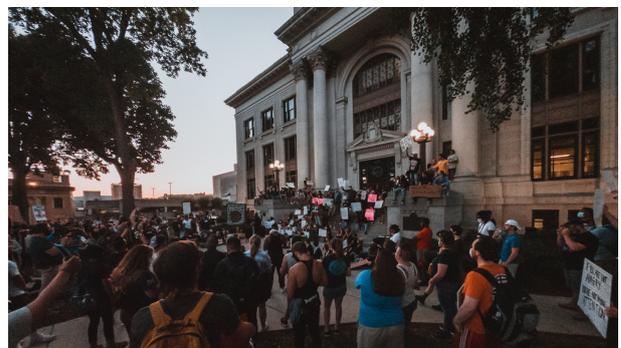
The accused men were acquitted in court, but according to the vast majority of the general public, they were guilty. The simplified picture on social media was that the accused men were guilty, but that the rape could not be proven because of the deficient investigation. [39] The acquittal was further regarded by some as proving the fact that the rule of law cannot protect female victims of sexual crimes.

Petitions and demonstrations

The trial coincided with the hashtag and the movement "me too". After it became public that the men accused of the Fittja rape were released pending the verdict, a demonstration was organized on Mynttorget, Stockholm in support of the woman. One of the initiators of the event expressed that "[w]hen we learned last week that these men were released, we understood that it was leaning towards an acquittal and we were cursed. We do this entirely from the bottom of our hearts and we want to support this woman. She should not have to be alone in this situation. (*När vi fick veta förra veckan att de här männen släpptes förstod vi att det lutade mot en friande dom och vi blev förbannade. Vi gör det här helt och hållet från hjärtat och vi vill stötta den här kvinnan. Hon ska inte behöva vara ensam i den här situationen.*) [40]

Demonstrators later gathered in several other parts of the country. In Malmö, hundreds of people were reported to participate in a demonstration on Stortorget. A demonstration was also held in Fittja, where the alleged rape had taken place. [41]

On the same day as the verdict was handed down on the 19th of December 2017, a petition was started with the aim of showing support for the victim in the case as well as for the victims' stories, in general, to be taken more seriously, and rape crimes to be investigated more carefully. At 6 pm the following day, 69,000 people had signed the petition. [42]



Threats towards the court

The acquittal, as stated above, caused a broad outrage among the general public. Even though the criticism was directed mainly at the police's deficient investigation, the court also was subjected to strong criticism from the public after the acquittal. In the most extreme cases, criticism was expressed through the means of threats. After the acquittal, Södertörn District Court received about 20 hateful and threatening emails. Some of the emails contained, inter alia, the following sentences: "I hope your daughters or girlfriends are brutally raped and abused next time" "We will soon take the law into their own hands" "Shameful pitiful people" "The judiciary in this country is a disgrace to the country and its people". [43]

Sources:

[39] DN (2017), Domen som satte tilltron till rättsväsendet i gungning (27/12).

[40] SvT (2017), Manifestation till stöd för kvinnan efter Fittja-domen (19/12).

[41] SvD (2017), Män störde demonstration i Fittja: "Vilde jävlas" (19/12).

[42] SvD (2017) Tiotusentals i upprop för kvinnan i Fittjafallet (21/12).

[43] DN (2018) Hotbrev till tingsrätt efter Fittjadomen (22/1).

Impact on the suspects and accused

In an article published by the newspaper Dagens Nyheter, headlined "People look at me as if were a monster" (*Folk kollar på mig som jag vore ett monster*), [44] two of the acquitted suspects were interviewed. In the interview they raised that although they were acquitted of all charges by the district court, they still felt convicted by the general public.

One of the previous suspects said that "I might as well have been convicted, because I am convicted in the eyes of others. People look at me like I'm a monster, I cannot walk with my back straight anymore and do not know how to speak" (*Jag hade lika gärna kunnat dömas, för jag är dömd i andras ögon. Folk kollar på mig som om jag vore ett monster, jag kan inte gå med lika rak rygg som tidigare och vet inte hur jag ska prata*).

The other previously suspected man stated that "[i]t's sad that people who do not know anything sit at home in front of their computers, read an article, build up a whole story and send threatening letters. I try not to put energy into it, they do not know me, but deep down do it hurts and you cannot move as freely as before." (*Det är sorgligt att människor som inte vet någonting sitter hemma framför sina datorer, läser någon artikel, bygger upp en hel historia och skickar hotbrev, säger A. Jag försöker att inte lägga energi på det, de känner ju inte mig, men innerst inne gör det ont och man kan inte röra sig lika fritt som förut*).

Sources:

[44] DN (2018), "Folk kollar på mig som jag vore ett monster" (4/1).