

Former prosecutors weigh in on Strauss-Kahn case

By Joseph Ax and Noeleen Walder

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(Reuters) - Even by the standards of a salacious and unpredictable international scandal, it was a whirlwind week in the Dominique Strauss-Kahn sexual assault case.



On Sunday, Strauss-Kahn's accuser, Nafissatou Diallo, 32, broke her silence and anonymity, telling the world in televised and print interviews her version of the incident with the former International Monetary Fund chief. Diallo, a hotel maid, alleges Strauss-Kahn forced her to perform oral sex on him and attempted to rape her at an upscale Manhattan hotel on May 14.

Strauss-Kahn, 62, who had been seen as a possible French president, has denied any wrongdoing.

On Tuesday, prosecutors requested and received a second postponement of the next court date in the case, originally scheduled for July 16. It is now scheduled for Aug. 23.

On Wednesday, Diallo met with prosecutors behind closed doors for more than eight hours.

The next day, a tearful Diallo appeared before a sea of cameras in a Brooklyn church, as her attorney accused prosecutors of abandoning her.

Yet through all the dizzying developments, the case remains in limbo. Despite speculation the prosecution would collapse after significant doubts arose regarding Diallo's credibility, a spokesperson for Manhattan District Attorney Cyrus Vance Jr. insisted the office was still investigating.

Interviews with eight former Manhattan prosecutors found agreement the case was an uphill climb, but no clear consensus on whether Vance should -- or would -- continue to prosecute Strauss-Kahn.

"Every juror has to be convinced beyond a reasonable doubt that she's telling the truth," said Bennett Gershman, a former Manhattan prosecutor and a law professor at Pace University. "The burden is enormous on the prosecutor. Do they want to go ahead with a case that seems so difficult?"

'TREASURE TROVE' FOR DEFENSE

Several former prosecutors said the decision to allow Diallo to speak publicly about the incident could create inconsistencies the defense would try to exploit at trial. Her credibility is already under siege after prosecutors said she lied about her past and about the immediate aftermath of the alleged attack.

"You're creating a treasure trove of material for the defense to dig into," said Jeremy Saland, a defense lawyer who worked as a prosecutor under Vance's predecessor, Robert Morgenthau.

Others have suggested that the media appearances show that Diallo's attorney, Kenneth Thompson, no longer believes the criminal case will hold up. Thompson argued on Thursday that she was forced to come forward to counter "lies" about her, including a report in the New York Post claiming she worked as a prostitute. Diallo has sued the Post for libel over that report.

The publicity could also backfire if it appears to be an effort to extract money from Strauss-Kahn to settle a potential civil lawsuit. Thompson has said she will file a civil claim soon.

Thompson's comments seemed to reflect his own uncertainty over whether the criminal case will proceed.

On Wednesday, following Diallo's meeting with prosecutors, Thompson said the discussion "went well." When questioned on Thursday about that assessment, he appeared to backtrack.

"You know, yesterday when I said it went well, I think that you read too much into that," he said in response to a reporter's question. "It was a meeting, I got out of it, I came outside. I don't know what the district attorney will do."

'PRETTY IMPRESSIVE SHOW'

But some observers say the media blitz could succeed in bringing pressure to bear on Vance's office.

"My sense is that they want to be done with it and they want to dismiss it," said one former city prosecutor who did not want to be named. "But, having said that, the victim has put on a pretty impressive show this past week."

John Moscow, the former deputy chief of the district attorney's investigations division, said the physical evidence was strongly suggestive of a forced encounter. That could be enough to overcome doubts about her credibility, Moscow said.

"Here's how I look at it: if she were run over by a car, would you still have a case?" he said. "Yes, you would. I just don't see any reason at all not to go forward."

Matthew Galluzzo, a former Manhattan sex-crimes prosecutor, said Diallo's story about being gang-raped in her home country of Guinea, which she later admitted was inaccurate, could be devastating to the case.

But Daniel Bibb, another former prosecutor, said jurors could forgive her, since she apparently told it to gain political asylum and entry into the United States.

"In the average rape case, I would say that discovery of a prior false allegation of rape is fatal to the prosecution," he said. "In this case, I'm not so sure, simply because her motives in claiming rape were not malicious."

Even if Vance goes ahead with the prosecution, former prosecutors say a conviction of Strauss-Kahn will be hard to secure.

"If what I've read and seen is accurate, it appears to me that this case will ultimately be dismissed," Saland said.

But like most of the prosecutors interviewed, Bibb warned it was impossible to assess from the outside whether the case will continue.

"I don't know what the right decision is," he said. "I don't have all the facts."

(Reporting by Joseph Ax and Noeleen Walder; Editing by Jesse Wegman and Peter Cooney)