

Beijing Municipal People's Procuratorate

Form of indictment [Copy]

No. 1128 [2011]

Defendant: L.Y., male, date of birth: 17 October, 1982. Place of birth: Hebei, Han, primary level education, farmer, address: Xinle, Hebei

L.Y. previously sentenced in 2004 to three years and six months imprisonment by Haidian District People's Court for theft; and on April 1, 2010, to one-year and six-months imprisonment for theft by Changping District People's Court.

L.Y. was apprehended by the Changping Branch of the Beijing Municipal Public Security Bureau on July 11, 2011, suspected of burglary and arrested on August 16, 2011 with the approval of the Changping District People's Procuratorate. The defendant is presently held in pre-trial detention at the Changping District Detention House, Beijing.

The investigation was carried out by the Changping Branch of Beijing Municipal Public Security Bureau, and was referred to this Procuratorate for review and prosecution for burglary, on October 14, 2011. The defendant was informed of his right to legal representation that day. The victim was also informed that same day of his right to representation, to question the accused according to the law and review all the case materials.

After reviewing the case in accordance with law, the Procuratorate found:

At 03:00 on July 3, 2011, L. Y. forcibly entered the residence of X.Y. in Huilongguan, Changping District, Beijing through a window.

L.Y. proceeded to steal a black leather purse with five bank cards and cash to a value of around two thousand yuan, one Dopod T5288W mobile phone, one Coolpad 6168H mobile phone and one car key.

L.Y. used the car key to take without the owner's consent one model BH7160BMY Beijing Hyundai car that had been borrowed from M.X. (male, 21) by the victim and stationed in the car park at the victim's residence.

At 15:00 July 11, 2011, L.Y. was arrested in Lijiazhuang Village, North Dayue County in the Xinle Municipality of Hebei Province.

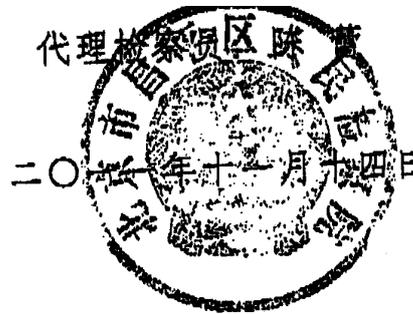
The estimated total value of the stolen property is 93,729 yuan.

The above facts are evidenced by: L.Y.'s confession and statement, the victim's statement, witness testimony, record of and notes from the investigation, conclusion, valuation certificate, and L.Y.'s

identity card.

The procuratorate finds that the defendant disregarded the laws of the People's Republic of China by burglarising a significant amount of property with the intent of depriving the rightful owner of his lawful usage, this action was in violation of Article 264 of the *Criminal Law of the People's Republic of China*. The facts of the crime are clear and the evidence sufficient to warrant that the defendant be held criminally liable. This is a repeat offense and in accordance with Article 65 of the *Criminal Law of the People's Republic of China*, should be given a heavier punishment. The procuratorate, according to Article 141 of *Criminal Procedure Law of the People's Republic of China*, submit this case to the court for prosecution according to the law.

The People's Court of Changping District, Beijing Municipality.



Acting Prosecutor: Lei CHEN
November 14, 2011

Criminal Law of the People's Republic of China (1997)

第六十五条 【一般累犯】被判处有期徒刑以上刑罚的犯罪分子，刑罚执行完毕或者赦免以后，在五年以内再犯应当判处有期徒刑以上刑罚之罪的，是累犯，应当从重处罚，但是过失犯罪除外。

Article 65. Convicted criminals sentenced to fixed-term imprisonments who reoffend within five years of either completing the sentence or receiving a pardon, for which the penalty is also fixed-term imprisonment, shall receive harsher punishment, with the exception of negligence.

前款规定的期限，对于被假释的犯罪分子，从假释期满之日起计算。

Where offenders are granted parole, the five-year period is to commence from the date parole is completed.

第二百六十四条 【盗窃罪】盗窃公私财物，数额较大或者多次盗窃的，处三年以下有期徒刑、拘役或者管制，并处或者单处罚金；

Article 264. Theft of relatively large amounts of public or private property and money and repeat offenses will receive a term of no more than three years in prison, criminal detention or surveillance, in addition to fines; or a fine.

数额巨大或者有其他严重情节的，处三年以上十年以下有期徒刑，并处罚金；

Theft of large amounts of property and money or involving other aggravating factors will receive a term of between three and tens years in prison, in addition to fines.

数额特别巨大或者有其他特别严重情节的，处十年以上有期徒刑或者无期徒刑，并处罚金或者没收财产；有下列情形之一的，处无期徒刑或者死刑，并处没收财产：

Theft of extraordinarily large amounts of property and money or involving especially aggravating factors will be sentenced to no less than ten years or life imprisonment, in addition to fines or confiscation of property.

Offenders who fall in one or more of the following cases are to be given life sentences or sentenced to death, in addition to confiscation of property:

- (一) 盗窃金融机构，数额特别巨大的；
- (二) 盗窃珍贵文物，情节严重的。

(1) Theft of extraordinarily large amounts of money and property from financial institutions;

(2) Theft of cultural relics, where there are aggravating circumstances.

Criminal Procedure Law of the People's Republic of China (1996)

Article 141. When a People's Procuratorate considers that the facts of a criminal suspect's crime have been ascertained, that the evidence is reliable and sufficient and that criminal responsibility should be investigated according to law, it shall make a decision to initiate a prosecution and shall, in accordance with the provisions for trial jurisdiction, initiate a public prosecution in a People's Court.