

**IN THE COURT OF
SPECIAL JUDGE,
PROTECTION OF CHILDREN FROM
SEXUAL OFFENCE ACT (POCSO)
MIZORAM, AIZAWL**

BEFORE

**Mrs. Lucy Lalrinthari
Special Judge, POCSO
Aizawl Judicial District, Aizawl**

SC. No.81 of 2014

Criminal Trial No.1122/2014

u/s8 of POCSO Act,2012

Ref: Bawngkawn PS C/No.143/14 dt.16-7-2014

State of Mizoram

Vrs

LalramlianaS/o Rothangkima of Lungpho,Serchhip District - Accuse

PRESENT

For the Prosecution : Mrs.K.Lalremruati,Spl.P.P. & Mr. H.Lalmuankima, Ld.Addl.P.P.

For the Accused : Mr.J.N.Bualteng,Ld.Counsel.

Date of Hearing : 30.11.2015

Date of Judgment : 2.12.2015

JUDGMENT & ORDER

1. The prosecution story of the case in brief is that on 16.7.2014, a written FIR was submitted to O/C Bawngkawn PS by F.Laldingliana, Local Council Secretary, Thuampui stating that one Malsawmtluangi (11 yrs) who lived in their locality with her step-father had been sexually harassed by their guest (her father's friend) Lalramliana of Lungpho by touching her lips and her caressing chest and request to take necessary action. Hence, O/C Bawngkawn PS registered C/Np.143, Dt. 16.7.14 r/w 8 of POCSO Act and the case is duly investigated into.
2. During the course of investigation the complainant F.Laldingliana, Local Council Secretary, Thuampui was carefully examined and his statement was recorded. He stated that he had been notified by the school teacher of Malsawmtluangi that she had been sexually harassed by their guest Lalramliana by caressing her chest and touching her lips in the absence of her step-father. After discussing the matter with other local council members and the teachers of Malsawmtluangi, he submitted a report to the police against Lalramliana. Victim Malsawmtluangi was also carefully examined and she stated that her mother was out of

station for a very long time to work outside Mizoram and she had been living with her step-father Laltanpuia who used to drink alcohol. On the night of 15.7.14 while her step-father had spent the night in his friend's house, their guest Lalramliana had tried to sleep on the same bed where she slept and caressed her neck, chest and lips. The accused Lalramliana (25) s/o Rothangkima of Lungpho, Serchhip District had been arrested on 17.7.14 and he was carefully interrogated. He stated that on the night of 15.7.14 he had caressed the neck of victim Malsawmtluangi as an act of joke. He was forward to judicial custody on 17.7.14. the Birth Certificate or Baptismal Certificate of victim to prove her age was not available. As such, the class-V progress report card of victim was seized from her school Govt. Tej Singh Middle School in presence of reliable witnesses.

3. Judicial statement of victim Malsawmtluangi was also recorded by Sylvie Z.Ralte, CJM Aizawl Court which corroborated with her statement recorded earlier.
4. From the above facts and circumstances a prima facie case is found well-established against accd.Lalramliana (25) S/o Rothangkima of Lungpho, Serchhip District. Hence, Case I/O submitted charges sheet against the accused Lalramliana.
5. As per section 207/208 Cr Pc all the police report and connection papers are furnished to the accused person and the accused being a tribal and having no regular income Ld. Advocate Mr.S.Pradhan is appointed to defense the accused U/s 304 of Cr PC at the state expenses.
6. I heard both the Ld.Spl.PP and the Ld. Defense Counsel after hearing both parties charge U/s 8 of POCSO Act, 2012 is framed, read over and explained to the accused in his own language to which the accused pleaded guilty and claims for trial.
7. During trial Pw No.1 & 3 are examined by the prosecution. However, the victim PW.No. 2 fail to appear before the Court for twelve consecutive times without explaining any reason. Hence, Ld. Defense Counsel prays for dispensation of Pw No.2. The Ld.Spl.PP also opine that the victim cannot be located and her where about is not known. According to her the victim is kept in a home but she escape from the home and her where about and not be located. In a case of rape or sexual assault the evidence of victim or prosecutrix is the paramount importance and without the victim's evidence conviction of the accused is almost impossible.
8. In the instant case the where about of the victim is not known and the court had issue summons repeatedly in the known address the victim but she fail to appear before the Court from 22.10.2014 till today, i.e. more than a year. During this time as many as twelve Court dates were fixed summoning Pw no.2 (Victim) in all the court dates but she fail to appear. As such issuing summon to the victim became futile and unfruitful therefore victim Pw No.2 is dispensed from appearing before the Court.

9. As the victim had been dispensed from Pw there is no chance of proving the guilt of the accused by the prosecution. Hence, case stands disposed. Accused Lalramliana is acquitted from the charge section. Bail bond shall stand cancelled and bailer shall be free from bail bond.
10. Give copy of this order to all concerned.

Sd/-LUCY LALRINTHARI
Special Judge, POCSO
Aizawl Judicial District, Aizawl.

Memo No

Dated Aizawl the 2nd December, 2015.

Copy to:-

- 1) Lalramliana C/o Mr.JN.Bualteng, Advocate.
- 2) Mrs.K.Lalremruati, Spl.P.PPOCSO Act.
- 3) DSP Prosecution.
- 4) O/C Bawngkawn P/S.
- 5) In charge, Judicial Section.
- 6) Case record.
- 7) Guard file.

PESHKAR