

**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.3 of 2015
Criminal Trial No.55/2015
u/s 4 of POCSO Act,2012
Ref: Darlawn PS C/No.25/14 dt.26-9-2014**

**State of Mizoram
Vrs
Zoparlana s/o Ronghaka(L) of Lamherh - Accused**

PRESENT

For the Prosecution : Mrs.K.Lalremruati, Spl. P.P.

For the Accused : Mr.HranghmingthangaRalte

Date of hearing : 28.10.2015

Date of Judgment Order : 28.10.2015

JUDGMENT AND ORDER

1. The prosecution story of the case in brief is that on 26/09/14, a written FIR is received from J.Rualthankhuma of Lamherh. Stating that their daughter Laldampuii (15) D/o Ralhnehthanga(L) of Lamherh was raped by her step father Zoparlana S/o Ronghaka(L) of

Lamherh. Hence Darlawn PS C/No. 25/14 Dt.26/9/14 u/s 376 (2) (i) IPC r/w 4 of POCSO Act, was registered and duly investigated into.

2. During the course of investigation, the Complainant was examined and his statements recorded, the PO was visited and thoroughly examined, the victim Laldampuii (15) D/o Ralhnehthanga (L) was medically examined by the Medical Officer Primary Health Center Darlawn. Who ascertained that her hymen had been ruptured and her last menstrual period was June 1st week 2014. Victim was carrying the child of accused. Victim is the step daughter of accused. Statement of the victim was also recorded by the Chief Judicial Magistrate Aizawl. The accused Zoparlana (29) S/o Ronghaka (L) of Lamherh was arrested and Judicially remanded. He was thoroughly interrogated by Police and he admitted his guilt before Police, stating that he had raped the victim Laldampuii during the end of May, 2014. His confessional statement was recorded by the Chief Judicial Magistrate Aizawl u/s 164 Cr.P.C.

Due to the above facts and circumstances a prima facie case u/s 376 (2) (i) IPC r/w 4 of POCSO Act is found well established against the accused Zoparlana (29) S/o Ronghaka of Lamherh. Accordingly case I/O submitted charge-sheet against the accused u/s 376 (2) (i) IPC r/w 4 of POCSO Act.

3. All police reports and its connected papers are delivered to the accused. The accused being a tribal and having no regular income Advocate Shri. Hranghmingthanga Ralte was appointed to defend the accused u/s 304 Cr.P.C at the states expense.

4. After hearing the Id. Spl.P.P. and the Id. Defense counsel charge u/s 4 of POCS Act 2012 is framed, read over and explained to the accused in his own language to which the accused pleaded not guilty and claimed for trial.

5. Accordingly trial proceeds. Summons were issued to the complainant and victims more than 6 times within a span of 8 months beginning from March 2015 to the end of October 2015. But they failed to appear. On perusal of the case record, the complainant, victim and other relatives in the presence and witness of their Local NGOs; namely YMA, MHIP and UPA Pawl had submitted prayer for withdrawal of the criminal case filed against accused Zoparlana on 8/10/2014. The case proceeds section 4 of POCSO Act 2012 is not compoundable under the law being in force.

6. However, the victim and complainant do not want to proceed the case against the accused and would not like to come to the court to give evidence. On perusal of the statements recorded u/s 161 of Cr.P.C and the confessional statement of accused recorded u/s 164 Cr.P.C,

it seems that the alleged victim carried the child of the accused and the victim and relative are unwilling to prosecute the father of her child.

7. In a case of rape, the evidence of victim is vital and without the evidence of victim there can hardly be EVIDENCE TO PROVE THE GUILT OF THE ACCUSED. In other words, it is almost impossible to convict the accused without the evidence of the victim.

8. This being the situation, this court heard the Ld.P.P. and the Ld. Defense counsel. The Ld. Counsel prayed for acquittal of the accused as the complainant and the victim are unwilling to come to the court to give evidence. The Ld. P.P. also has no cause to press for further proceedings as this court had already issued summons more than 6 times and had given more than sufficient chance to come to the court to victim and complainant. Also, the letter of compromise/ forgiveness submitted to the court by the complainant and victim with the signature of all the NGOs of their locality have confirmed the stand of the complainant and victim.

9. Therefore, on the above cited conditions, this court has no alternative but to acquit the accused due to want of evidence. I therefore, acquitted the accused from the charge section due to absence of evidence against him. The prosecution failed to prove the guilt of the accused.

10. Accused Zoparlana is acquitted from the charge section of 4 of POCSO Act 2012. Bailors are free from the Bailbond.

11. Given under my hand and seal of this court today the 28th of October 2015.

Sd/-LUCY LALRINTHARI

Special Judge, POCSO Act
Aizawl, Mizoram.

Memo No. SJ/A/ 2015: Dated Aizawl, the 28th October, 2015

Copy to:-

1. Zoparlana S/o Ronghaka(L) of Lamherh.
2. Mrs. K.Lalremruati, Ld. Spl.PP, POCSO Act.
3. Officer-in-Charge, Champhai PS.
4. Mr.Hranghmingthanga, Ld. Counsel.
5. i/c Judicial Section.
6. Case record.
7. Guard file

P E S H K A R