

**IN THE COURT OF SPECIAL JUDGE, PREVENTION OF CORRUPTION ACT,**  
**AIZAWL JUDICIAL DISTRICT, AIZAWL.**

**Crl. Trl No. 1511 of 2010 in ACB Case No. 2/2007**

**U/s 409/464/34 IPC R/w Sec. 13(I) (c) (d) and 13 (2) of PC Act, 1988.**

STATE OF MIZORAM

..... Complainant

VRS

1. Rasik Mohan Chakma

2. Rosendro Singh

..... Accused persons

**BEFORE**  
**SMT. LUCY LALRINTHARI**  
**SPECIAL JUDGE, P.C ACT**

**APPEARANCE**

For the Prosecution: Mr. H.Lalmuankima, Ld. P.P.

For the Accused persons: Mr. S.L.Thansanga, Ld. Advocate

Mr. J.N.Bualteng, Ld. Advocate

Date of hearing: 3.10.2016

Date of Order: 27.10.2016

**JUDGMENT & ORDER**

1. The two accused persons above were facing trial in connection with offences punishable under sections U/s 409/464/34 IPC R/w Sec. 13(I) (c) (d) and 13 (2) of PC Act, 1988, and the court deliver the following judgment.

**Prosecution Story of the Case:**

2. The prosecution story of the case in brief is that on 13.11.2007, Inspector Paul Thangzika of ACB (Anti Corruption Branch) lodged a written report to the S.P., ACB that (1) Pulin Bayan Chakma, MDC, CLP (Congress Legislature Party) Leader, ACDC (Autonomous Chakma District Council) and Chairman, Vigilance Committee, Chakma District Congress Committee, Kamalanagar, (2) Sushil Kumar Chakma, Vice President, Chakma District Congress Committee, (3) Nirupam Chakma, Chairman, Minority Department, MPCC, Aizawl and (4) Kalikumar Tongchongya, President, Chakma District Youth Congress Committee,

Kamalanagar had submitted a written complaint to His Excellency, the Governor of Mizoram against the authority of Chama Autonomous District Council for dishonestly mis-utilizing the Centrally sponsored Scheme (CSS) under the scheme of Rashtriya Sam Vikash Yojana (RSVY). The following works were taken up by CADC (Chakma Autonomous District Council) as Departmental work and executed by Public work Department (PWD) CADC, and Agriculture Department, CADC by use of Machines. The works are as under:

<u>Sl.No.</u>	<u>Name of Scheme</u>	<u>Physical Unit</u>	<u>Total financial allocation in lakh</u>	<u>Amount sanctioned in lakh</u>
1.	Vaseitlang to Borkobokhali Road	15KM	150	50
2.	Internal road at Kamalanagar	5 KM	100	50
3.	Land Development By machine	510 Ha	229.5	18

From the above sanctioned fund, 2 (two) Excavators ( L & T Case 851) costing 20.50 Lakhs each and 1 (one) Road Roller (L&T Case 450) costing Rs. 12.00 lakhs were purchased from L & T Case Equipment Private Limited through local dealer of Mizoram. The machines were purchased in the name of private firm called RM Enterprise, Proprietor, Mrs. Lalnuntluangi W/o Rasik Mohan Chakma, the then Chief Executive Member of Chakma District Council. The two Excavators bearing Engine No.ST 4400083, Chassis No.R.06 B.00802, and Engine No. ST 44000387, were temporarily registered with the registering authority at Indore, Madhya Pradesh in the name of RM Enterprise Prop. Lalnuntluangi, CADC, Chawngte, Mizoram. The sales certificates as well as the Temporary Registration Certificates of the two Excavators were then submitted to the District Transport Officer (DTO) Aizawl, for registration in which the name and address of RM Enterprise Prop. Lalnuntluangi, CADC, Chawngte, Mizoram were tampered with by erasing with correcting fluid and the name and address of Pu R.Lalthangzama S/o R. Chaltawna, Republic Veng, Aizawl was written on the certificates by using manual Type writer. These two excavators were then registered in the District Transport Officer office Aizawl in the name of R. Lalthangzama who is a close friend of Rasik Mohan Chakma, the then CEM, CADC by tampering with the Temporary Registration Certificate Pu Rasik Mohan Chakma and his close relatives thereby received undue benefit, which amounts to abuse of official position, punishable under the Prevention of Corruption Act, 1988 and under the Indian Penal Code

and the same was forwarded to the S.P., ACB through the State Chief Vigilance Officer Mizoram, Aizawl to conduct preliminary enquiry. Accordingly, S.P., ACB Enquiry No. 2/2007 dt. 5.2.2007 was registered and duly enquired into the matter. The Enquiry Officer Inspector, Paul Thangzika found a prima facie case of abuse of official position under PC Act 1988 as well established against Mr. Rasik Mohan Chakma, CEM, CADC and Mr. Rosendro Singh, E.E., PWD, CADC and obtained permission for registering a case against the said accused persons from Vigilance Department Vide their Letter No. 13017/203/07-VIG dt.1.11.2007. Hence, ACB PS Case No. 2/2007 Dt.13.11.2007 U/s 409/34 IPC R/w 13 (2) PC Act is registered and duly investigated into.

Inspector Lalsangzuala Bawitlung investigated the case and submitted charge-sheet against accused Mr. Rasik Mohan Chakma, CEM, CADC and Mr. Rosendro Singh, E.E., PWD, CADC vide ACB P.S. Charge-sheet No 2/2010 dt. 9/6 2010 u/s 409/464/34/IPC r/w u/s 13(1)(c)(d) of P.C Act, 1988.

4. Upon committal of the case, my learned predecessor framed charges under sections 409/464/34/IPC r/w u/s 13(1)(c)(d) of P.C Act 1988 which is read over and explained to the two accused persons to which the accused pleaded not guilty to the charged framed against them and claimed for trial.

3. In the course of trial, the prosecution produced and examined as many as 14 witnesses out of 16 witnesses to prove that the accused persons committed offences punishable u/s 409/464/34/IPC r/w u/s 13(1)(c)(d) of P.C Act 1988. After closure of the evidence of the prosecution evidence the accused persons were examined u/s 313 of Cr.P.C. The defence produced as many as 3 defence witnesses.

4. I heard the learned Public Prosecutor H. Lalmuankima as well as the learned defence counsel Mr. S.L.Thansanga

5. **Points for determination.**

In the instant case the prosecution has to prove beyond reasonable the following points:-

*(a) u/s 409 IPC, the two accused persons together mis-appropriated a sums of Government money amounting to Rupees fifty three lakhs out of Centrally sponsored scheme (CSS) under the scheme of RASTRIYA SAM VIKASH YOJNA (RSVY) committing criminal breach of trust*

*(b) u/s 464 IPC the two accused persons makes a false document*

*(c) u/s 13(1)(c)(d) P.C.Act, the two accused persons dishonestly or fraudulently misappropriates or otherwise converts for their own use the said Rupees fifty three lakhs or it equal value property for their pecuniary advantage.*

## **6. Discussion, Reasons and Decision thereof.**

7. Mr. H. Lalmuankima the Id. P.P. submitted that in the instant case on 13.11.2007 Inspector Paul Thangzika of ACB lodged a written report of his preliminary enquiry to the S.P. ACB, Mizoram, Aizawl by stating that four persons of Chakma District congress committee submitted a written complaint to His Excellency, the governor of Mizoram against the authority of CADC for dishonestly mis-utilizing the Centrally Sponsored Scheme (CSS) of Rastriya Sam Vikash Yajona (RSVY). From the above mentioned fund received from the Central Government they have purchased two Excavators also known as Backhoe Loaders costing Rs. 20.50 lakhs each and one Road Roller costing Rs 12.00 lakhs from L & T Case Equipment Private Limited through local dealer of Mizoram. The machines were purchased in the name of private Firm called RM Enterprise, Proprietor Lalnuntluangi, W/o Rasik Mohan chakma who then was the Chief Executive Chairman of CADC, which was later on change in the name of R. Lalthangzama S/o R. Challawma of Republic veng, a close relative of Rasik Mohan chakma and thereby received undue benefit which amounts to abuse of official position which is the cause of the instant criminal case.

8. In order to prove his point the Id. P.P. examines 14 prosecution witnesses and his witnesses proved that the CADC had indeed purchased two excavators also known as Backhoe Loaders or JCB costing Rs 20.50 each and one Road Roller costing Rs 12.00 lakhs. The machines were purchased in the name of private firm called RM Enterprise, Proprietor Lalnuntluangi w/o Rashik Mohan chakma, (accused 1), who was then the Chief Executive Member, CADC. It was later on change in the name of R. Lalthangzama s/o R. Challawma of Republic veng, Aizawl. The said R. Lalthangzama was allotted contract work amounting to Rs 49.00 lakhs. The evidence of prosecution witnesses clearly proved that the accused persons purchased the three machines at a cost of Rs 53,00,000/- out of Rs 118.00 lakhs received under the scheme of RSVY sanctioned for the construction of improvement of various roads within CADC. And before purchasing the said three machines the CADC did not obtained prior approval of Deputy Commissioner, Lawngtlai or from the State Purchase Advisory Board (SPAB) and hence amounting to abuse of official position by the accused No

1. The Id. P.P prays for conviction of the accused persons and for giving maximum punishment. The learned P.P. examines the following persons as prosecution witnesses.

9. P.W. No.1 S.P. Paul Thangzika identified the accused persons of the instant case. He had been endorsed to take up preliminary enquiry by the SP, ACB, Aizawl. During the course of his preliminary enquiry he had visited Chawngte and seized documents, he also seized other documents like MR No.9/09 from the CADC office, Vaseitlang road to Borkobokhali road to ascertain whether the said roads have been constructed or not. He established a prima facie case in the allegation against the accused persons, and on 13.11.2007 he submitted his enquiry report to the SP, ACB Aizawl praying for registration of criminal case against the two accused persons.

Exbt.M-1 is the seized documents, Exbt.M-2 bill register of PWD, CADC, Vaseitlang to Kukurdulaya road and Exbt.M-3 is also the seized document MR No. 9/09. All seized documents were produced before the Court. Exbt.P-2 is the FIR submitted by him to the SP. ACB

On Cross examination Pw No.1 had stated that *all documents in the case record are not original and they are photocopies*. He did not know the original FIR submitted by some individuals is sent to the Court or not. *He personally knew that the machine (backhoe loader) also known as excavator was for construction of the road from Vaseitlang to Kukurdulaya and also personally knew that the same machine was used for construction of Chawngte internal road. He also knows that the road roller which was seized by him in connection of this case is still being used by the CADC even after some time. As far as his knowledge is concerned certain fund was diverted by the CADC for purchased of the said machines but no individual got any personal gain and they were used for construction of roads by the CADC and in fact no personal benefit was there.* It is not a fact that he deposing falsely in the Court.

10. P.W. No. 2 R. Lalthangzama identified the accused persons. *In the year 2007 the said accused Rasik Mohan Chakma who was the then CEM, CADC contact him through telephone call by requesting him to meet him at the Chakma House, Hunthar Veng, Aizawl and as per his request he approached him and when he met him and told him that the CADC Executive Committee resolved to purchase JCB and Bulldozer but as the CADC could not take permission from the Government and he requested him to register the said JCB and Bulldozer in his name in the office of the District Transport Officer, Aizawl. He then refused his proposal and he said to him that there might be some problem in the future if the two*

machines were registered in his name which he had not purchased and owned by himself. Then, Pu Rasik Mohan Chakma told him that he is like such a person who would not claim ownership over the machines in the future even though the two machines were registered in his name. After a few days one accused Pu Rosendro Singh came to his residence at Republic Veng and brought Motor Registration forms and he requested him to put his signature in the said registration forms. He then put his signatures in the said Registration forms and after that Pu Rosendro Singh left him. After he put his signatures in the said forms he came to know that the two machines were registered in his name at the DTO office, Aizawl. What he would like to say about the registration of the two machines in his name that is that he trusted the accused Pu Rasik Mohan Chakma and he thought that there would not be any problem in the future if he agreed to register in his name and Pu Rasik Mohan Chakma also told him that as soon as they took permission from the Govt. they would change registration of the two machines into other names, and in good faith he agreed to register in his name.

After one or two years of the purchase of the two machines and registration of the two machines in his name purchased by the CADC were published in the Newspaper and local TV channel and as soon as he knew that breaking news he contacted Pu Rasik Mohan Chakma by complaining about registration of the two machines in his name and about the news and he talked to him that they will soon make clarification about the purchase and registration of the two machines and he would not have any problem. But as it was published in the newspaper and TV channel changing of registration of the two machines could not be done by the accused persons as the case was registered against them. But before the news broke out he also put his signature on one registration form (NOC) for changing of the two machines into their names he then put his signature in the NOC. They also told him that during processing of the file for changing of registration a complaint was filed against the accused persons as such registration was not possible in their names and he thought that the two machines were registered in his name till date. As far as he know the tow machines were purchased in the name of Pi Lalnuntluangi of Chawngte W/o Rasik Mohan Chakma the then CEM, CADC but it were registered into her name at the DTO Office, Aizawl. The said certificate of registration of the two Excavator and registration certificate which were registered in her name were produced before the Court and he have seen them and authenticated the same.

On Cross examination the Pw No.2 had stated that the reason for his accepting the two machines (vehicles) to be registered in his name was due to the fact that he know that accused Rasik Mohan Chakma is an honest person and he know that he would not do

anything for his future problems. In the year 2003 he worked for the Chakma House at Hunthar Veng, Aizawl and his request for registration in his name for the said machines was in the year 2007 and it has no connection with his work for the Chakma House in the year 2003. He knows that the said accused was honest in his dealing with him and he received his bill of Rs.30 lakhs in full and he did not ask to give him even a single rupee. He did not have received even a single rupee for allowing his name to be registered for the two machines. He did not know whether the said two machines were purchased in the name of Pi Lalnuntluangi W/o Accused Pu Rasik Mohan Chakma. He being a believer he did not want to get any gain in terms of money or property which is properly due to him. In other words he did not and do not want any wrongful gain for him. He also as far as his knowledge is concerned the accused Rasik Mohan Chakma does not want to indulge himself in unlawful and wrongful dealings. It is not a fact that he deposing falsely in the Court this day.

11. Pw No. 3 Sushil Kumar Chakma had stated that he is one of the complainants in this case. In the year 2006 two Excavators (JCB and Bulldozer) and one road roller were brought to Chawngte by Shri Rosendro Singh, E.E., PWD, CADC and then *it was rumor that those machines were brought by using RSVY money of the Centrally sponsored Scheme in the name of R.M. Enterprise, Proprietor Smt. Lalnuntluangi who is wife of Rasik Mohan Chakma the then CEM, CADC.* The Chakma District Congress Committee Vigilance Department, headed by Shri Pulin Bayan chakma decided to enquire the fact on the purchase of machines and to find out the real owner of those machines as the EE, PWD refused to give any information on the matter. It was decided to file RTI application to the DTO, Aizawl for obtaining sale documents, registration certificate etc. The said RTI application was submitted by Pu K.V.L. Siamkima, Secretary, MPCC, Aizawl for obtaining the said documents from the office of DTO. The documents obtained from DTO proved that the name R.M. Enterprise Proprietor Lalnuntluangi the original buyer was erased by correcting fluid and R. Lalthangzama's name was written by manual typewriter and the two machines were registered in the name of R. Lalthangzama, Aizawl. President of Indore city, Madhya Pradesh was requested to obtain temporary registration certificates of the machines were issued in the name of R.M. Enterprise. From the documents obtained we have found that there was mutilisation/misappropriation of the said funds during the period of the accused Pu Rasik Mohan Chakma and they have decided to submit a complaint to the competent authority. Complaint was submitted to H.E the Governor of Mizoram on 7.10.2006 by four persons including himself for taking action against Pu Rasik Mohan Chakma and Rosendro Singh. And the Governor has taken action and referred the matter to the State Vigilance

Department. In this RSVY fund Rs.118 lakhs was sanctioned for the construction of Vaseitlang to Borkobokhali road, internal road at Kamalanagar and land development by machine. The said temporary certificate of registration of the tow excavators at Indore and registration certificates which were registered in the name of R. Lalthangzama were produced before the Court today and he had seen them and authenticated the same.

On cross examination, PW No. 3 had stated that he became the Chairman of the CADC on 11.3.2008. After he became the Chairman of the CADC these people became the Executive Committee members of the CADC. Kalikumar Tongchongya became the CEM; Buddha Dhan, Buddhailila, Tarani sen, Ajoy Kumar, Susen and Mohan became the Executive members. Nipuram Chakma, Ex. Minister took the leading part in our discussion regarding the procurement of the two said machines by the predecessor CADC and the Vigilance Committee of the Chakma District Congress Committee headed by Pulin Bayan Chakma former CEM and Kali Kumar Tongchongya who was the Youth Congress President of the Chakma District. They filed an application under RTI through K.V.L. Siamkima, Secy., Mizoram Pradesh Congress Committee. RVSy means Rashtriya Sang Vikash Yojana which means upliftment of the backward areas. As far as he know 1.18 crore was sanctioned for the CADC area. At that time i.e. before 2008 it was not possible to have the said machines in the name of the CADC. He had stated that for the purchase of the three machines mentioned in his examination in chief around Rs.50 lakhs was spent and the said machines have been and are being utilized for construction of roads etc. by the present CADC. It is not a fact that the said three machines have not been released under zimmanama to any person.

*It is a fact that after the purchase of the said machines they were being used by the CADC headed by the accused Rasik Mohan Chakma for construction of roads in the Chakma District area and for another purpose that was left necessary by the previous CADC.*

By saying President of Indore City, Madhya Pradesh he mean to say the President of the Indore City Congress Committee whom they had asked for information regarding the sale and purchase of the said machines. It is not a fact that they were informed that the purchaser's name was Lalnuntluangi Proprietor of RM Enterprise. It is not a fact that it is appropriate to use the name of the private person for purchase of machines only for convenience.

*It is a fact that as he had stated earlier when the said machines were brought to CADC they were actually used for the CADC for construction of road etc. but they object to the machines being registered in the name of one private person and also one individual*



*person as the purchaser of the said machine and that is why they had complaint to the Governor.*

It is a fact that the said machines were released on zimmanama Rosendro Singh who was in charge of E.E.PWD under CADC.

It is a fact that the accused persons claimed that they had been using the said machines for construction of the road from Vaseitlang to Borkobokhali.

It is not a fact that they had submitted the complaint to the Governor in order to politically assassinate the accused persons who are the leaders of the MNF and being particularly instigated by Nirupam Chakma, Ex. Minister in the Congress Committee.

12. PW No.4 Kali Kumar Tongchongya had identified the accused persons present in Court this day. During the year 2006, he was president of Chakma District Congress Committee. During this period, the MNF Party was in government and the present accused Rasik Mohan Chakma was the Chief Executive Member of the Chakma Autonomous District Council (CADC). He was not holding any office in the CADC. He was one of the complainants in the allegations made against the present accused Rasik Mohan Chakma. They had submitted a complaint to the Governor of Mizoram. The complaint was submitted on 7.10.2006. The complaint was regarding alleged purchase of 2 nos. of Excavators, 1 no. Road roller allegedly under the Centrally Sponsored RSVY Scheme. Since there was no provision for purchase of machineries under RSVY Scheme, they enquired for sanctions for the above mentioned machineries and since no sanction was found with the CADC for purchase of the machineries, the complaint was submitted to His Excellency, the Governor of Mizoram. They made request through MPCC to the Indore Congress Pradesh Committee to obtain information through RTI regarding the alleged purchase of the machineries which were supposedly procured from Indore, Madhya Pradesh. The information received through RTI Indore mentioned that the above said machineries were procured in the name of Lalnuntluangi, W/o the accused Rasik Mohan Chakma. It was further discovered from the records of DTO, Aizawl that the above mentioned machineries were registered in the name of one R.Lalthangzama of Republic Veng, Aizawl. It was also seen that the name of Lalnuntluangi W/o accused Rasik Mohan Chakma was erased by correcting fluid and the name of R.Lalthangzama typed by manual typewriter. After obtaining copies of such incriminating documents, the same was submitted to the Governor of Mizoram. He believed that the Governor of Mizoram had instructed the ACB, Mizoram to carry out necessary enquiry into the matter. He is not aware of the outcome of such enquiry. During the year 2006, he personally visited Kamalanagar and saw the road roller. Thereafter, he saw one excavator in the field of JK Tongchongya at Moinabapsora. The other excavator was seen at

Vaseitlang where it had met with an accident and the same is still lying at Vaseitlang. At present, He is Chairman of CADC. His statement was recorded by ACB during the course of investigation and he was cited as one of the prosecution witnesses.

On Cross-examination PW No.4 had stated that the present CEM of CADC is Mr. Buddha Lila Chakma. He was CEM of CADC during the period 2008 to April, 2013. He was not removed from the post of CEM. Since adjustments in the postings made, he is now holding the post of Chairman, CADC since April 2014. The CADC receives funds from two sources, namely, Government of Mizoram from its State Budget and through Centrally Sponsored Scheme. Both these funds are placed at the disposal of CADC. The CADC formulates the allocation of such funds received through the Government of Mizoram. RSVY stands for Rashtriya Sam Vikash Yojana which is targeted for upliftment of backward areas under specific guidelines from the Central Government. RSVY also includes land development and road constructions by use of manual labour and also machineries.

It is not a fact that the above mentioned machineries are being maintained by the CADC. He is not aware of any decision being taken by the CADC on 20.12. 2005, regarding purchased of the machineries. He is aware that formation cutting of road between Vaseitlang to Kukurduleya Road was undertaken during the period 2006 and thereafter. He is aware that certain machineries were used for construction of road between Vaseitlang and Kukurduleya. The CADC has powers to allocate funds for development from the local receipts. The funds received from Centrally Sponsored Scheme are guided by norms specifically made by the schemes. He is not aware of any resolution regarding purchase of machineries by the CADC during the period 2003-2008. He is not aware of any decision thereby authorizing the then CEM for borrowing of money, purchasing of machineries and registration of such machineries in the name of other persons. He is not aware of any sanction made by the Government of Mizoram for maintenance of machinery which was in the budget for CADC.

It is not a fact that the complaint was made to the Governor of Mizoram due to the rivalry between Congress Party and MNF Party in CADC. It is a fact that complaint was not made to ACB. He is not aware of any personal gain by the present accused persons. He is not aware that the CADC is not at a loss due to purchase of the machineries. There is neither wrongful gain nor wrongful loss due to the purchase of machineries. The question of loss or gain does not arise since CADC did not purchase any machinery.

13. PW No.5 Pulin Bayan Chakma identified the accused persons Rasik Mohan Chakma and Rosendro Singh. He is a politician by profession and he belongs to the INC party. He is presently holding the post of Vice Chairman, Planning and Development Committee, CADC. He is one of the complainants in the instant case where complaint was initially submitted to His Excellency Governor of Mizoram on 7<sup>th</sup> October, 2006. Information in connection with this case was collected through RTI from (1) DTO, Aizawl and (2) Madhya Pradesh, DTO through President, Madhya Town Congress Committee regarding the three alleged machineries namely two number of Excavators and one number of Road Roller. After the information was received through RTI complaint was duly submitted to His Excellency Governor of Mizoram. The Governor of Mizoram referred the matter to Vigilance Department, Govt. of Mizoram for necessary action. He had seen the three machineries mentioned above when they were brought to CADC. During 2006 when he had seen the mentioned machineries they were in good condition. The officials of ACB had recorded his statement at Kalamanager during the course of investigation. He had seen the registration documents of the above mentioned machineries after information was received from RTI. The temporary registration at Madhya Pradesh was issued in the name of RM Enterprise, Proprietor Lalnuntluangi W/o Rasik Mohan Chakma, the then CEM of CADC. The temporary registration was charged at DTO, Aizawl and issued in the name of Lalthangzama, Republic Veng, Aizawl. The above mentioned machineries were allegedly purchased from the RSVY funds from the Central Government which was sanctioned by the Govt. of Mizoram through D.C., Lawngtlai for utilization of CADC. During the relevant period the funds allocated under RSVY totally amounted to over Rs. 1 Crore. The cost of one Excavator was Rs. 20,50,000/- each and the cost of Road roller Rs.12 lakhs.

On Cross-examination PW No.5 had stated that during the relevant period of the incident he was sitting member of the CADC in the opposition from the INC. After due deliberation, four complainants were decided to file the complaint before His Excellency Governor of Mizoram. It was decided that the complaint should be filed by the following persons/officials –

1. Chairman, Vigilance Committee, Chakma District Congress Committee (Himself).
2. Sushil Kumar Chakma, Vice President, Chakma District Congress Committee.
3. Kalikumar Tongchongya, President, Chakma District Youth Congress Committee.
4. Nirupam Chakma, Chairman, Minority Department, MPCC.

The accused Rasik Mohan Chakma was during the relevant time of incident was CEM, CADC and President, Chakma District, MNF Party. The complaint was filed before His

Excellency, governor of Mizoram since he was the highest authority in all administrative matters and funds for the CADC. The Town Congress Committee was for the city of Indore. The authorized agency to sanction the utilization of funds under RSVY was the CADC through the D.C, Lawngtlai. The Executive Committee of CADC is the authorized agency for utilization of administrative and developmental funds for CADC. *After the machineries were procured he learnt that the Executive Committee, CADC had decided to authorized purchased of this machineries. The machineries were utilized for construction and development of the Vaseitlang to Kukurduley road. He is not aware whether the machineries were utilized for development of internal roads in Kalamanager. He is not aware whether the accused persons gained any personal benefits from utilization of the machineries. It is not a fact that the complaint was filed due to political rivalry. It is not a fact that he deposed falsely this day.*

14. PW No.6 Nirupam Chakma had identified the accused persons Rasik Mohan Chaka and Rosendro Singh who are both present in Court today. He is one of the complaints in the present case instituted against the above mentioned accused persons. He had filed complaint on 07.10.2007 to His Excellency, Governor of Mizoram. At the relevant period of time he was Chairman of the Minorities Department, MPCC. During the relevant period the accused Rasik Mohan Chakma was the CEM, CADC, he belonged to the MNF party. At the relevant period the other accused Rosendro Singh was the Executive Engineer, CADC. He did not believe the accused Rosendro Singh is still holding the same post today. The complaint was made on information received from various sources alleging that two numbers of Excavators and one road roller were purchased by Rasik Mohan Chakma from funds which were allegedly for RSVY scheme and the same machineries were brought to Kalamanager. The machineries allegedly belonged to R.M. Enterprise of which the proprietor was Mrs. Lalnuntluangi who is the wife of accused Rasik Mohan Chakma. The complaint was made in order to find out the actual owner of the above mentioned machineries since the concerned E.E i.e, accused Rosendro Singh did not disclosed to our enquires regarding the ownership of the machineries. The complaint was also made to clarify whether the machineries were procure by utilizing RSVY scheme funds or whether it belonged to certain private parties as alleged. On enquiry through RTI the DTO, Aizawl it was revealed that the two Excavators were registered in the name of R. Lalthangzama S/o H. Challawma of Republic Veng, Aizawl. Their suspicions were made stronger since the sale document/certificate that they obtained from L & T Company Ltd. was issued in computerized format however the name of the purchaser was made by manual type writer

in the name of R. Lalthangzama. In order to confirmed their suspicions they filed RTI application with RTO, Indore, MP from where it was discovered that temporary registration was issued in the name of RM Enterprise which is belonging to Mrs. Lalnuntluangi wife of accused Rasik Mohan Chakma. On receipt of the above mentioned documents and in public interest it was decided that the Excellency, Governor of Mizoram be requested to institute an independent enquiry since the allegations involved high officials in the ruling party in CADC at the relevant time of the incident. On the above decision it was thought more appropriate to approach the Excellency, Governor of Mizoram who is the administrative head under the 6<sup>th</sup> Scheduled for District Councils areas. In public interest the four complainants in the present case who are all respectable citizens and holding prominent possession in the society decided to submit the complaint to the Governor of Mizoram. The Governor of Mizoram has accordingly instituted the investigation to be conducted by ACB even though their prayer was for investigation by CBI or by independent enquiry commission. He did not recollect whether his statement was recorded by the ACB officials during the time of investigation. He had personally seen the above mentioned machineries. It is believed that after the investigation the machineries were placed at the disposal of Rosendro Singh.

On Cross-examination PW No.6 had stated that he is not holding any official post either with the CADC or with the MPCC. He is simply a member of the MPCC. He contested in the last CADC election in the year 2013 but was not returned. He was Minister of State in the Govt. of Mizoram for two terms i.e. 1989 – 1998. The RSVY scheme in relation to Mizoram was for the upliftment of the backward areas. During the time of incident the MNF party was in power both in the CADC and Govt. of Mizoram. He personally had the opinion that at the relevant period of time road construction/improvement was most necessary need in the CADC area. He did not have any knowledge of loans allegedly being taken by CADC for purchase of machineries. He did not have any knowledge whether there were any restrictions for registration of machineries in the name of CADC or Government. He did not know whether machineries were utilized for construction/development of road between Vaseitlang and Kukurduleya. He did not know whether machineries used for construction of internal road. He is not aware of any resolution passed by the Executive Committee CADC for purchase of machineries in any manner. He did not know whether accused Rosendro Singh was detailed to Aizawl for making enquiry regarding purchase of machineries. The registration in the name of R. Lalthangzama of Republic Veng, Aizawl was not temporarily issued by the DTO, Aizawl. The other complainant namely Pulin Bayan Chakma and Sushil Kumar Chakma were respectively CLP leader, Chairman of Vigilance Committee, CDCC and

Vice President, CDCC. He did not have any knowledge whether the above mentioned machineries are being utilized by the CDAC and the whereabouts of them at present.

It is not a fact that the complaint was made due to political rivalry. The Deputy Commissioner appointed the executive agency for implementation of RSVY. The authority of the CADC is the Executive Committee within limits of their powers.

15. PW No.7 Abhijit Dey had stated that he know all the accused persons of this case. On 13.2.2007 Inspector Paul Thangzika of ACB came to E.E.,PWD Office CADC, Chawngte and seized some documents such as (1) Two numbers of Registration Certificate of the two excavators, Bill Register, measurement book, note sheet page 1-13, bill for Rs.48,05,259/- with receipt of R.Lalthangzama and bill for Rs. 10 lakhs with receipt of R.Lalthangzama produced by Shri. Rosendro Singh in connection with this case. The said Inspector ACB prepared seizure list in the office of CADC and he became one of the seizure witnesses and he put his signature in the seizure list. Exbt. M-1 (MR.No.9/09) is the seizure list of the said documents prepared by Inspector Paul Thangzika and Exbt.M-1(a) is his signature. Exbt.M-2 is the Bill Register seized by the said Inspector which he became as seizure witness and Exbt.M-3 is also seized by the said Inspector which he became as seizure witness. The seized materials which he became seizure witness were produced before the court this day and he had seen them and authenticated the same. The seized documents like two numbers of registration certificate, note sheet, two bills for Rs.48,05,259/- and bill for Rs.10 lakhs were enclosed under Exbt. M-1.

On cross-examination, PW No.7 had stated that at the time of the seizure of these documents he had mentioned in his examination in chief Mr.Rosendro Singh was in charge of the PWD, CADC and he was the Junior Engineer in the said Dept..

It is a fact that the two amounts namely, Rs.48,05,259/- and Rs.10 lakhs which he had stated in his examination in chief were apparently received by Mr.Lalthangzama but it is a fact that he did not witnessed or see Mr.Lalthangzama receiving the said amount.

It is a fact that he did not know that the said two amounts appearing to have been received by Mr.Lalthangzama have been paid for the price of the three machines because the price amounts were taken on loan from certain individual when the said three machines were actually purchased. It is also a fact that he did not know that Mr.Lalthangzama did not receive even a single rupee from the said two amounts. It is also a fact that he did not know that the said two amounts were actually paid to the persons from whom earlier some loans for the purchase of the said machines were taken by the CADC. It is a fact that at the time the CADC was under the MNF Govt.

It is a fact that these documents exhibit M-1, Exbt.M-2 and Exbt.M-3 were not in his custody before and while they were seized by Inspector Paul Thangzika. In other words these documents were in the custody of some other persons in the PWD office of CADC. It is a fact that road constructions between Vaseitlang and Kukurduleya was being done and road construction from Parva to Siminasora was being started and road construction within the town was also being carried out in the time when accused Rasik Mohan Chakma was the CEM of the CADC.

It is a fact that he did not know the aforementioned amounts were made for payment and recovering of loan taken earlier for purchase of the three machines. It is also a fact that Rosendro Singh is no more in the PWD of CADC and he is now in Rural Development Dept.,CADC.

16. PW No.8 Hmingthansanga had stated that on 16.2.2007, Inspector Paul Thangzika of ACB, Aizawl seized the below noted documents from the office of DTO, Aizawl. At the time of seizure of the said documents Inspector Paul Thangzika prepared Seizure Lists and he became one of the witnesses and he put his signature in the Seizure Lists.

1. Temporary Registration Certificate issued by Registering Authority RTO, Indore (MP) 2(two) Nos.
2. Original Sale Certificate of Excavator.
3. Form 22 Initial Certificate of Road Worthness 2(two) Nos.
4. Form 22 'A' 2(two) Nos.
5. Insurance Certificate 2 (two) Nos.

Exbt.M-1 (MR-No.8/09) is the seizure list and Exbt.M-2(a) is his signature. The said seized documents were produced before the court this day and he had seen them.

Cross-examination PW No.8 had stated that it is not a fact that the documents mentioned in Exbt.M-1 were not seized by Inspector Paul Thangzika. It is a fact that the documents mentioned in Exbt.M-1 could either have been in his custody or could have been in the custody of Zarzokimi D/o Vanlalpara. It is a fact that he personally did not find any fault in the documents mentioned in Exbt.M-1.

17. PW No.9 Zarzokimi had stated that on 16.2.2007, Inspector Paul Thangzika of ACB, Aizawl seized the below noted documents from the office of DTO, Aizawl. At the time of seizure of the said documents Inspector Paul Thangzika prepared Seizure Lists and she became as one of the witnesses and she put her signature in the Seizure Lists.

1. Temporary Registration Certificate issued by Registering Authority RTO, Indore (MP) 2(two) Nos.
2. Original Sale Certificate of Excavator.
3. Form 22 Initial Certificate of Road Worthness 2(two) Nos.
4. Form 22 'A' 2(two) Nos.
5. Insurance Certificate 2 (two) Nos.

Exbt.M-1 (MR-No.8/09) is the seizure list and Exbt.M-2(b) is her signature. The said seized documents were produced before the court this day and he had seen them.

Cross-examination PW No.8 had stated that it is not a fact that the documents mentioned in Exbt.M-1 were not seized by Inspector Paul Thangzika. It is a fact that the documents mentioned in Exbt.M-1 could either have been in his custody or could have been in the custody of Hmingthansanga S/o Tlungchina. It is a fact that he personally did not find any fault in the documents mentioned in Exbt.M-1.

18. PW No.10 Jadish Chakma identified the two accused persons in the instant case. On 19.12.2007 Inspector Paul Thangzika of ACB who is the enquiry officer seized one Road Roller which is parked at the road side near the house of the accused Shri. Rasik Mohan Chakma at kamalanagar. The enquiry officer prepared seizer list and Pu G.Barman, Assistant Engineer, CADC and Shri. Anand, IV-Grade, PWD, CADC became seizure witnesses and he, as the District Council Horticulture Officer, CADC, also received the said seizure list and he put his signature in the seizure list. Exbt.M-1 (MR No.6/08 dt.2.9.2008) is the seizure list and Exbt.M-1 (d) is his signature. The said seized Road Roller was again released on zimmanama in working condition in his name for and on behalf of the CADC. Exbt.M-3(A) is the released order of the said Road Roller on zimmanama and Exbt.M-1(A)(a) is his signature. The CADC had been using the said Road Roller for road construction within CADC area.

On cross-examination PW No.10 had stated that it is a fact that when the seizure of the Road Roller mentioned above in Exbt.M-3 accused Pu Rasik Mohan Chakma was still the CEM.

It is a fact that he knew that he said Road Roller is being used by the CADC at present. It is a fact that he ascertained the Chassis Number, Engine Number, etc. were correct. It is a fact that Inspector Paul Thangzika of ACB did not remove or take it away the said machine from it was lying at that time.

19. PW No.11 G.Barman identified the two accused persons in the instant case. On 19.12.2007 Inspector Paul Thangzika of ACB who is the Enquiry Officer seized one Road Roller which is parked at the road side near the house of the accused Shri. Rasik Mohan



Chakma at Kamalanagar. The enquiry officer prepared seizure list and he, and Shri. Anand, IV-Grade, PWD, CADC became seizure witnesses and he put his signature in the said seizure list. Exbt.M-1 (MR No.6/08 dt.2.9.2008) is the seizure list and Exbt. M-3(b) is his signature.

On cross-examination PW No. 11 had stated that it is a fact that when the seizure of the Road Roller mentioned above in Exbt.M-3 accused Pu Rasik Mohan Chakma was still the CEM. It is also a fact that he ascertained the engine no., chassis no.,etc. mentioned in Exbt.M-1 are correct and the machine really bore these numbers at the time of the seizure made by Inspector Paul Thangzika. It is a fact that the same machine is being used and utilized by the CADC and it is now used for construction of Parva to Simenasora road.

20. PW No.13 SI.Rosangzuala had stated that on 15.5.2009 Inspector Lalsangzuala Bawitlung, ACB, Aizawl came to their office and he stated that he required photo requisition form for examination of two sale certificates of L&T Case 851 loader backhoe (off-highway earthmover equipment) Engine No.ST44000383 and ST44000387 and chassis Nos.R 06 B 00802 and R 06 B 00801 respectively and two forms of C.R.TEM for Certificate of Registration of the two equipment's issued by registering authority RTO Indore, Madhya Pradesh. After he filled up the said requisition he then took photograph of the above mentioned four documents.

On 27.5.2009 the S.P.,ACB sent a letter to the Deputy Director, FSL, Aizawl requesting him to give expert opinion regarding the photograph of the said documents for the interest of investigation and for the end of justice. After the Deputy Director FSL received the said letter he was endorsed to examine and took expert opinion.

On 29.5.2009 he carefully examined the photographs of the documents and gave his opinion and suggestion on it. After he had examined the said photograph documents he had informed the Deputy Director, FSL and he written a forwarding letter to the S.P., ACB, Aizawl and the forwarding letter and his results of examination and opinion along with the ten photographs were sent to the S.P, ACB, Aizawl. Exbt. M-2 is the examination report and opinion of the said photograph documents sent to the S.P., ACB, Aizawl and Exbt.M-2(a) is his signature and Exbt.M-2(A) is the said forwarding letter of the Deputy Director, FSL. The said examination report and opinion along with ten photographs given and taken by him were produced before the court this day, he had seen them and authenticated the same.

On Cross-examination PW No.13 had stated that it is not a fact that he did not take the photograph of two sale certificates of L&T Case 851 loader backhoe (off-highway earthmover equipment) Engine No. ST 44000383 and ST 44000387 and chassis Nos. R 06 B 00802 and R 06 B 00801. And it is not a fact that he did not take the photograph of the two

forms of C.R.TEM for Certificate of Registration of the two equipment's issued by registering authority RTO, Indore, Madhya Pradesh. It is not a fact that he did not manipulate the photograph taken by him. It is not a fact that he did not find the said four documents tampered with. It is not a fact that in order to appease the ACB (the police) he produced two large copies of the photographs printed by him. It is not a fact that he did not find any of the said documents the words R.M. Enterprise Prop. Lalnuntluangi CADC, Chawngte, Lawngtlai. It is a fact that in order to ascertain the said photographs were taken by him he neither put his signature nor his full name but he impressed FSL, Mizoram, Aizawl photography on the reverse site of the said photograph.

21. PW No.14 HVL Krosthangi had stated that on 26.5.2007 Inspector Lalsangzuala Bawitlung ACB, Aizawl, Mizoram seized two documents i.e.invoice sales tax letter issued by L&T Case equipment Pvt. Ltd. Gauhati and a letter made by Pi Lalnuntluangi, R.M.Enterprise, Kamalanagar at ACB Office, Aizawl. The seizing officer prepared seizure memo and she became as one of the witnesses. Exbt.M-1(B) is the seizure memo, Exbt.M-1(B)(c) is her signature and Exbt.M-1(B1&2) is the said seized documents.

On Cross-examination PW No.14 had stated that it is a fact that she is a Constable in the Police Deptt. and she was in her same position as a police woman when the documents were seized by Inspector Lalsangzuala Bawitlung. It is a fact that when the documents were seized it was in the year 2007 and now she did not remember whether she had seen each and every document that was seized by the Police. It is a fact that the documents were brought to the ACB office and she was asked to witness the seizure of them. It is also a fact that even if she was shown the seized documents she would not have understood the meaning of the said documents.

22. PW No.15 Lalsangzuala Bawitlung had stated that he know the accused persons present in Court today. He is the case I/O in the instant proceedings. His predecessor case I/O was Mr. Paul Thangzika. He took over charge as case I/O since his predecessor was promoted to Dy. S.P. He sent the registration documents for forensic examination since there was alleged discrepancy in the name of the owner. He received the report of the forensic examination. He also recorded the statements of the accused persons. He recorded the statements of the witnesses who were not recorded by his predecessor. The seizure of documents was done his predecessor case I/O Mr. Paul Thangzika. He submitted the charge sheet in the instant proceedings. Exbt-P-3 is the charge sheet submitted by him.Exbt-P-3-A is his signature on the charge sheet.

On Cross-examination PW No.15 had stated that he was Inspector of ACB at the relevant point of time when he took over charge from his predecessor Mr. Paul Thangzika who was also Inspector. It is a fact that the original of the documents were submitted to the Court. The measure proceedings in the instant case were taken by his predecessor. His actions in this instant proceeding are as stated above in the examination in chief. The machineries in question in respect of the instant proceedings are – two numbers of Backhoe Loader and one number of Road Roller.

It is a fact that the above mentioned machineries were utilized by the CADC at the relevant point of time. He is not aware whether these machineries are still being utilized by the CADC at present.

23. Against the submission of the Id. P.P, the Id. Defence counsel Pu S.L.Thansanga submitted the following argument. That some members of the District congress committee (Indian National Congress) submitted a written complaint to the Governor of Mizoram stating amongst others that the two above named accused persons committed misappropriation of Government money to the tune of Rs 53 lakhs for purchase of two Excavators also known as Backhoe Loaders costing Rs. 20.50 lakhs each and one Road Roller costing Rs 12.00 lakhs. The prosecution witnesses including the complainants deposed in the court that utilizing such huge amounts of Government money amounted to misappropriation and also that registering the three machines quoted above in the name of the private firm the proprietor of which is the wife of the then CEM of CADC who is the main accused in the instant case. However, all prosecution witnesses have deposed before the court that neither the two accused persons has made any wrongful gain from the purchase of the three machines stated, Moreover, the said three machines have all been handed over to the CADC after their purchase and are being held, possessed and owned by the CADC till date. That is after the Congress Party formed CADC and run the administration.

24. The Registration of the machines in the name of the private firm was only a stop-gap arrangement in order to facilitate the conveyance of them to Mizoram State. In fact, at the relevant time, no sanctioned from the Government was received by the CADC but the need for their purchase was regarded as a must and inevitable for the development of the interior areas of the CADC. In anticipation of the incoming sanction from the Government of Mizoram the Executives committee of the CADC headed by Shri. Rashik Mohan Chakma, CEM 9 accused) made resolution to the effect that three machines mentioned before were to be purchased for the purposed of development of roads in the CADC area and since the

required money was no hitherto available with the CADC it was resolved that the money required should be procured on loan from private persons. This was exactly what the CADC did and it was carried out by the two accused persons. Awaiting the Governmental sanction the required money was collected by Shri Rosendro Singh (accused No. 2) and the transaction of purchase and transport of the said machine were consummated accordingly. When the Government sanction for development of the CADC was received proper registrations of the said machines were applied for by the CADC. In the whole transaction there was neither any wrongful gain on the part of the two accused persons above named nor there was any wrongful loss to the CADC, that is the Government.

25. The Ld. Defence counsel further submits that in the whole evidence of prosecution witnesses there is nothing to show that the two accused persons have committed any of the offence or offences leveled against them. The prosecution miserably failed to prove the guilt of the accused persons and they are liable to be acquitted and he prayed accordingly. 26.

The Ld. Defence counsels examined the following defence witnesses to establish the innocence of the accused persons.

#### **Defence Witnesses:**

26. DW No.1 Dayal Chandra Dewan had stated that he was an MDC (Member District Council) in CADC during 2003-2008 and held the post of Executive Member in the Executive Committee headed by Pu Rasik Mohan Chakma CEM. In the instant case the allegation of purchasing 2 back hoe loader (JCB) and one Vibratory Machine (Road Roller) by using government money sanctioned under RSVY by the accused Rasik Mohan Chakma and Rasendra Singha does not hold any ground. During that period as he was one of the Executive Members of CADC, he knew the matter in detail and no government money was used for purchasing the machines. In fact, after the District Level Committee of RSVY entrusted the work to CADC for construction of Vaseitlang to Kukurduleye Road with allocation of Rs.2.00 Crore, the Executive Committee caused detail survey & alignment of the road and also caused prepared Plan & Estimate. It was found that construction of the road cannot be completed with the earmarked amount. *Hence an Executive Committee Meeting was conducted on 20/12/2005 in which he was also present and in the meeting it was decided to purchase 2 back hoe loader (JCB) and one Vibrator Machine (Road Roller) by borrowing money from private parties which was suggested by Rasendra Singh, the then EE, PWD, CADC.* Hence using of government money sanctioned under RSVY does not arise. May

he be allowed to submit a true copy of the proceeding of the Executive Committee Meeting held on 20/12/2005 which is self-explanatory. *In the same meeting it was also decided that machines should be registered in private names who will be trustworthy and later will not claim ownership and after completion of work and repaying the borrowed money all such properties shall be registered in the name of CADC. The meeting entrusted Rasik Mohan Chakma, CEM for that purpose.*

The then Executive Committee also took initiatives for transforming the machines into CADC's property. After completion of the works and refunding the borrowed amount, the Executive Committee had another meeting on 22/8/2007 wherein it was resolved to apply for permission from Govt. of Mizoram to register those machines in the name of Executive Secretary, CADC and Rasendra Singh was detailed to do the needful. Necessary undertaking or declaration was also obtained from R.Lalthangzama to facilitate the change of ownership of the machines. May he allow to submit the copy of the meeting proceeding, detailment order to Rasendra Singha under Memo No.A.12032/5/2006-2007/CADC (G)/447 dt.24/8/2007, declaration letter made by R.Lalthangzama which are self-explanatory.

In spite of such noble endeavor, the opposition party leaders of Congress Party in CADC namely Nirupam Chakma, Kali Kumar Tongchangya, Sushil Kumar Chakma and others made the complaint against the Executive Committee of CADC. He felt that as the Congress Party in CADC was out of power since 1998 and MNF Ministry both in CADC and the Mizoram State made tremendous development they were very scared of not winning the upcoming elections. The Congress party leaders were so desperate to win the election whereas they have no issue to raise against the MNF Party so they picked up the issue of purchasing of the machine to have political mileage. During the election campaign in 2008 they utilized the issue extensively to divert voters mind. After winning CADC General Election in 2008 held in March the main complainant Shri Kali Kumar Tongchongya and Sushil Kumar Chakma became the CEM and the Chairman respectively.

Though they have made complaint of purchasing of such machineries when they were in opposition, but after forming government they used the same machines for construction of road etc. They have even made provision of sanction for maintenance of those machines in the Council Budget. In the Sanctioning Letters under Memo No.G.28012/3/2009-10/DCA/C dt. 23<sup>rd</sup> November, 2009 and 8<sup>th</sup> March, 2010 it was found that the Govt. of Mizoram has sanctioned Rs.50,000/- for maintenance of Road Roller. Further in the reply to an unstarred question put by Rasik Mohan Chakma, MDC during Monsoon Session of CADC, 2009 the CEM, CADC confirmed that the machine were being

used by the PWD, CADC. May he be allowed to submit the copy of Sanctioning Letters and the Question and reply sheet of the CEM as a proof to his statement.

Furthermore, in CADC Calendar of 2015 published by Information and Public Relation Department they displayed a photo of constructing Road undertaken by CADC where the very machines were displayed during using. May he be allowed to submit a copy of the Calendar to the Hon'ble Court.

Further, when he was informed that he have to be a defense witness of the case, he had gone through the charge Sheet. In his opinion the Investigation Officer has concealed some fact regarding Executive Committee's decision of borrowing money from private parties and not using the government money for purchasing the machines and subsequently the Executive Committee's Resolution to register the Machines in the name of Executive Secretary, CADC so that the Machines can be CADC's property. Had the case Investigating Officer had given due weightage to those documents the outcome of the investigation would have been different.

In this instant case he knew very clearly that there is no personal pecuniary gain out of the purchasing of the machines by the accused Rasik Mohan Chakma and Rasendra Singh. In fact there was no scope of making monetary gain as out of the sanctioned amount the CADC has to recover the cost of Machineries and at the same time the works was fully implemented.

Exbt. D-1-20 containing 20 pages which are either original or attested documents pertaining to the purchase of two back hoe loaders and one road roller. Exbt. D-21 calendar issued by Chakma Autonomous District Council, Kamalanagar of the year 2015 showing the road roller as being utilized by the CADC. The Exhibits are objected by the Ld.Addl.P.P.

On Cross-examination DW No.1 had stated that as he deposed in his examination in chief he was elected executive member, CADC for 2003-2008. Now he is an Ex-MDC and holding the post of General Secretary, Chakma District MNF Headquarters, Lawngtlai district. It is a fact that after the said CADC Executive Committee meeting held on 20.12.2015 Mr. Rosendro Singh (accused) was entrusted to take initiative to borrow for purchase of two back hoe loaders and one vibrator machine and Mr. Rosendro Singh (accused) borrowed money and he himself purchased the said machines, but he did not know from whose person he borrowed that money. He also did not know the amount of money borrowed by Mr. Rosendro Singh (accused). The borrowed money was repaid by Mr. Rosendro Singh (accused) but he did not know to whom he repaid the money and the amount he repaid. He also did not know how much money was spent for purchase of that machines. No state

government approval was obtained for purchase of machines. The CADC submitted application of approval for purchase of machines. He did not know on whose name that purchase machines were temporarily registered at Indore, Madhya Pradesh and he also did not know on whose name the machines were registered at the DTO office, Aizawl. He could not recall in which year that machines were purchased. However, he knew that the said purchased machines were not registered in the name of the Executive Secretary, CADC. As far as he knew around 2005 this CADC received sanction amounting to Rs.2 Crores from the office of DC, Lawngtlai District for the purpose of construction of roads within CADC, and after completion of construction works some amounts out of the received fund from DC Lawngtlai was utilized for repayment of the money used for purchase of that machines by the accused Mr.Rosendro Singh as per the executive committee meeting decision held but he could not recall the exact date and time. The full meaning of RSVY is Rashtriya Sam Vikash Yojana, a centrally sponsored scheme. He cannot recall his memory how much fund they received during his term as EM, CADC between 2003-2008.

It is a fact that in the Exbt.D-21 it is shown that the road roller as being utilized by the CADC, however in this calendar there is no record showing that road roller was utilized particularly during the period of Pu Rashik Mohan Chakma, CEM between 1999-2008. The documents exhibited as Exbt.P-1 are supplied to him by Mr.Rosendro Singh.

27. DW No.2 Nirma Lendu Singha had stated that he, Nirmalendu Singha S/o Raj Kumar Singha, had been serving in CADC since 1988 as Mechanic. In regards to instant case of allegation that the name and address in the booking vouchers of two backhoe loader and one vibratory machine issued by L&T case Equipment Private Limited were changed by tampering the name and the address of R.M. Enterprise Prop: Lalnuntluangi by erasing with correcting fluid and the name and address of Pu R. Lalthangzama S/o R. Challawma, Republic Veng, Aizawl was written on the certificates/vouchers by using manual typewriter, he want to say that such tampering and re-writing was not done by Rasendra Singha. The fact is that after the booking of the machines in the name of R.M. Enterprise, Pi Lalnuntluangi wanted to drop her name from the vouchers and instead to put the name and address of Pu R. Lalthangzama and submitted an application to that effect. Accordingly, he and Rasendra Singha proceeded to Gauhati with the application and submitted it to the Gauhati Branch Office of the Company on 21<sup>st</sup> March, 2006. The Company Sales Engineer, Simanta Ganguly readily agreed to make necessary change as applied for and did all the correction by applying correcting fluid on the original documents in the name & address and thereafter typed the proposed name of R.Lalthangzama S/o R.Challawma, Republic Veng,

Aizawl by using manual type writer. While doing so Rasendra Singha objected to and demanded fresh vouchers to be issued. But Simanta Ganguly assured him that there is no harm and if any objections are raised by any authority the company will issue fresh vouchers. However, Rasendra Singha again insisted that remarks should be made on the body of the application to the effect that the company has agreed to the alteration which Simanta Ganguly did and signed and put the company seal on the body of the application. May he be allowed to submit a photo copy of the application and the money receipts on the transaction to the Hon'ble Court.

Further, he want to state that he was present in the company's Gauhati Branch Office while all the business he had stated was executed and had seen in his own eyes.

Exbt. D-3 is an application by Smt. Lalnuntluangi of RM Enterprise or change of invoicing address to L&T Cased equipment (P Ltd.) Prithampur, Madhyapradesh. Exbt. D-4 is money receipt L&T Cased equipment (P Ltd.) Prithampur, Madhya Pradesh signed by Simanta Ganguly duly attested for Rs.46,42,681/-.

On Cross-examination DW No.2 had stated that from the year 1988 he was appointed Driver under CADC office, Kamalanagar and in the year 1994 he was promoted to the post of Mechanic and working under this CADC till date.

He knew that Rs.51 lakhs was used for the purchase of two back hoe loaders and one road roller, and He also knew that the machines were purchased from Guwahati. Mr.Rosendro Singh and he himself went to Guwahati for purchase of that machine. The machines were temporarily registered/booked in the name of Smt.Lalnuntluangi, wife of the accused Mr.Rasik Mohan Chakma. Later on the machines were registered at DTO office Aizawl in the name of Mr.R.Lalthangzama, Republic veng, Aizawl. He did not know who approached Mr.R.Lalthangzama requesting him to register the machines in his name. He did not know whether Mr.R.Lalthangzama had constructed any works under CADC. No fresh vouchers were issued by the company Sales Engineer, Simanta Ganguly after a complaint regarding purchase of the machines was raised by the complainants.

As far as he knew in the month of March 2006 he and Mr.Rosendro Singh went to Guwahati. He also knew that in the year 2006 the said machines were purchased, however he did not know from which fund or by whose money the said machines were purchased. He had seen the purchased machines at Guwahati. He had also seen the machines at Company peng, Aizawl. However he had not seen the said machines within CADC area. He does not know exactly the signature appeared in the Exbt.D-3 exhibited by him is the signature of Mrs.Lalnuntluangi, Proprietor RM Enterprises, Kamalanagar, Chawngte. He had



seen Mr.Simanta Ganguly applying erasion of the name of Lalnuntluangi in his office at Guwahati. He did not know on which date Pi Lalnuntluangi, Proprietor RM Enterprises, Kamalanagar, Chawngte made a letter requesting change of invoicing address to L&T Case Equipment (P) Ltd. Prithampur, Madhya Pradesh. The documents exhibited by him as Exbt. D-3 is furnished to him by the accused Mr.Rosendro Singh which he obtained from Guwahati, L&T Case office.

**Examination of Accused U/s 313 Cr.P.C:**

28. Name of accused No.1: Rasik Mohan Chakma (55 yrs)  
S/o Seihra Moni Ex-CEM, CADC, Kamalanagar,  
Chawngte.

Q. No.1. It is alleged by PW No. 4, Kali Kumar Tongchongya, President, Chakma District Congress Committee, No.6 Nirupam Chakma, Chairman, Minorities Department, MPCC and Pw 5 Pulin Bayan Chakma, Vice Chairman, Planning & Development Committee, CADC, Kamalanagar, Chawngte 2 nos. of Excavators at the rate of Rs. 20.50 lakhs each and I no. of Road Roller at the rate of Rs. 12.00 lakhs costing Rs. 53.00 lakhs were purchased by you while you are functioning as the Chief Executive Member of the Chakma Autonomous District Council (In short CADC) by using RSVY Scheme fund received by the CADC from Indore, Madhya Pradesh and submitted a complaint before His Excellency the Governor of Mizoram on 7.10.2006. What do you have anything to say in this matter?

Ans: RSVY Scheme fund was not used for purchasing of machineries but with the money borrowed by Rosendro Singh, the then EE, PWD, CADC as per decision taken in the E/C meeting held on 20.12.2005.

Q. No.2. That it is alleged by the said PWs that the said purchased machines were temporarily registered at Indore, Madhya Pradesh in the name of Smt. Lalnuntluangi who is your wife and Proprietor R.M. Enterprise, Chawngte. What do you have anything to say in this matter?

Ans: When Rosendro Singh informed me/us that was detailed managed the required money, he was detailed to Aizawl for purchasing the machineries from Johnson diesel Sales & Services, Dawrpui, Aizawl. However, after contacting the firm at Aizawl he verbally informed me if purchased from Aizawl for delivery of the machines it may require 3 to 6 six month time, as he suggested to purchase from Gauhati he was allowed to do so. It seems

all transaction for purchase of machineries was made with L & T case Equipment Private Ltd. Milanpur Road, Bamuni Maidan, Gauhati. How the matter of registering at Indore, Madhya Pradesh come up, I do not have any idea. The company branch offices on its authorized agent may know better. Purchasing of machines was done in the name of my wife Lalnuntluangi so that the machines can be converted into CADC property without any individuals benefit.

Q. No.3. That it is alleged by the said PWs that the Sale Certificates and the Temporary Registration Certificates of the two Excavators were then submitted to District Transport Officer (DTO) Aizawl, for registration in which the name and address of R.M. Enterprise Prop. Lalnuntluangi, CADC Chawngte were tampered with by erasing with correcting fluid and the name and address of R. Lalthangzama S/o R. Challawma, Republic Veng, Aizawl was written on the certificates by using manual type writer. These two Excavators were registered in the District Transport Officer (DTO) Aizawl in the name of R. Lalthangzama S/o R. Challawma of Republic Veng, Aizawl who is your close friend. What do you have anything to say in this matter?

Ans: At later stage it was felt that other than my wife other trusted person should be used who equally will allow changing the ownership of machineries into CADC property. Application was submitted by Pi Lalnuntluangi to change her name, in the name of Pu R.Lalthangzama with his consent. How the name was changed, by tempering I have no idea. However, in the body of the application the company representative written as allowed the necessary change and put his signature and seal.

Q. No.4. That it is alleged by Pw No. 2 R. Lalthangzama deposed before the court that the said two machines were registered as MZ-01/D-1158 and MZ-01/D-57 in the office of the District Transport Officer, Aizawl in his name as you requested him to do so. What do you have anything to say in this matter?

Ans: Yes, I have required him and he has given consent.

Q. No.5. That the said PW also deposed that you he has been allotted a contract work under CADC for earthwork amounting to Rs. 49.00 lakhs by you as a reward for the machines getting registered in his name and the said amount was released to R.Lalthangzama. What do you have anything to say in this matter?

Ans: Neither Pu R.Lalthangzama nor I received any monetary benefit out of this matter.

Q. No.6. The evidence against you is that while you were functioning as the Chief Executive Member, CADC you have diverted Rs. 53.00 lakhs meant for construction of Vaseitlang to Borkobokhali Road, Internal road at Kamalanagar and Land Development by machine and you have mis-utilized the said fund for the purchase of the said three machines, the fund received from the Central Govt. under Centrally Sponsored Scheme (CSS) under the scheme of Rastriya Sam Vikash Yojana (RSVY) as per the decision made by the Executive Committee, CADC, Chawngte without obtaining prior approval from the competent authority by abusing your official position. What do you have anything to say in this matter?

Ans: No diversion of Govt. money was made. All the works were completed through observing all official procedure.

Q. No.7. It is also clear from the records that you have detailed the co-accused Rosendro Singh to go to Indore, Madhya Pradesh to purchase the said machines in the name of your wife Lalnuntluangi, Prop: R.M.Enterprise, Chawngte and he went to Indore and when he returned to Aizawl the machines were registered in the name of R.Lalthangzama, S/o Challawma, Republic Veng, Aizawl as per your instruction. What do you have to say in this matter?

Ans: No, Rosendro was not instructed to proceed to Indore.

Q. No.8. Do you like to elaborate any point on the questions put to you?

Ans: No.

Q. No.9. Do you like to take defense step by adducing evidence?

Ans: Yes.

29. Name of accused No.2: Rosendro Singh  
S/o Ananta SinghAE, RD, CADC, Kamalanagar,  
Chawngte.

Q. No.1. It is alleged by PW No. 4, Kali Kumar Tongchongya, President, Chakma District Congress Committee, No.6 Nirupam Chakma, Chairman, Minorities Department, MPCC and Pw 5 Pulin Bayan Chakma, Vice Chairman, Planning & Development Committee, CADC, Kamalanagar, Chawngte that 2 nos. of Excavators at the rate of Rs. 20.50 lakhs each and 1 no. of Road Roller at the rate of Rs. 12.00 lakhs costing Rs. 53.00 lakhs were purchased by

you as a volunteer while you are functioning as the Assistant Engineer, RD Deptt. of the Chakma Autonomous District Council (In short CADC) by using RSVY Scheme fund received by the CADC from Indore, Madhya Pradesh and submitted a complaint before His Excellency the Governor of Mizoram on 7.10.2006. What do you have anything to say in this matter?

Ans: There was no utilized Government money for purchasing 2 Nos. of Backhoe Loader and one Roller. As per the Executive committee decision taken on 20.12.2015 money was borrowed from private parties particularly from my relatives of Lala bazar Dist: Hailakandi, Assam and Authority detailed me for booking at Gauhati.

Q. No.2. That it is alleged by the said PWs that the said purchased machines were temporarily registered at Indore, Madhya Pradesh in the name of Smt. Lalnuntluangi who is the wife of R.M. Chakma, CEM, CADC Kamalanagar, Chawngte and Proprietor R.M. Enterprise, Chawngte. What do you have anything to say in this matter?

Ans: I was detailed to Aizawl for purchasing machines on 6.2.2006 with immediate after borrowing many from relatives of Lalabazar. But the L & T Dealer office at Aizawl told me that it will take arrange 45 to 60 days for delivery of machines at Aizawl. Therefore, I back to Headquarters Kamalanagar with the said borrowed amount for discussion and first week of March, 2006 I along with Sri. Nirmalendu Singh mechanics, CADC proceed to Guwahati by V/No-MZ01-B6122 and booking for the said machines were done on 10.3.2006 at the L & T Company Branch office at Guwahati in the name of Lalnuntluangi, Proprietor R.M Enterprise, Chawngte.

Q. No.3. That it is alleged by the said PWs that the Sale Certificates and the Temporary Registration Certificates of the two Excavators were then submitted to District Transport Officer (DTO) Aizawl, for registration in which the name and address of R.M. Enterprise Prop. Lalnuntluangi, CADC Chawngte were tampered with by erasing with correcting fluid and the name and address of R. Lalthangzama S/o R. Challawma, Republic Veng, Aizawl was written on the certificates by using manual type writer. These two Excavators were registered in the District Transport Officer (DTO) Aizawl in the name of R. Lalthangzama S/o R. Challawma of Republic Veng, Aizawl who is the close friend of R.M Chakma. What do you have anything to say in this matter?

Ans: While we are returning to Aizawl after booking of machines Pi Lalnuntluangi and Authority of CADC instructed me to proceed to Guwahti again for changing the invoicing address in the name of Pu R.Lalthangzama S/o R.Challawma of Republic Veng, Aizawl by

submitting application to the company branch office at Guwahati and we ( I and Sri Nirmalendu Singh) proceeded again to Guwahati for the said purposes by the same vehicle and accordingly we submitted application on 21.3.2006 to the Branch office at Guwahati which was accepted by the company branch office at Guwahati on 21.3.2006. The company Branch office at Guwahati made necessary changes in the invoice by themselves. While the change of ownership/purchaser was made by applying correcting fluid and typing over it I and Nirmalendu Singh, Mechanics, CADC were present. When I request for a fresh invoice the Simanta Ganguli (Dealer Engineer of L & T Company) said that such fresh invoices are not necessary and with that documents DTO Aizawl accepted for Registration on 21.4.2006. If DTO Aizawl made any objection, I could have asked to the company branch office, Guwahati for clearance.

Q. No.4. The evidence against you is that PW No. 2 R. Lalthangzama deposed that you have approached him at his residence at Republic Veng, Aizawl and requested him to register the said purchased machines in his name and R. Lalthangzama agreed to get registered in his name. What do you have anything to say in this matter?

Ans: I have never approach to Pu R.Lalthangzama for purchase and registrations of machines in his name. Whatever I have done is as per the instruction of the authority of CADC.

Q. No.5. That it is alleged by the said PWs that you have submitted the Sale Certificates and the Temporary Registration Certificates of the two Excavators to the District Transport Officer (DTO) Aizawl, for registration in which the name and address of R.M. Enterprise Prop. Lalnuntluangi, CADC Chawngte were tampered with by erasing with correcting fluid and the name and address of R. Lalthangzama S/o R. Challawma, Republic Veng, Aizawl was written on the certificates by using manual type writer. These two Excavators were registered in the District Transport Officer (DTO) Aizawl in the name of R. Lalthangzama S/o R. Challawma of Republic Veng, Aizawl who is you're the close friend of R.M. Chakma, the then CEM, CADC Kamalanagar, Chawngte . What do you have anything to say in this matter?

Ans: Change of ownership by tempering with by erasing with correcting fluid and typing over it is done by the Simanta Ganguli (Sales Engineer) of L & T company Branch office of Guwahati as per our request ( Application submitted on 21.3.2006) in front of us ( I along with Nirmalendu Singh). Registration of the machines was done on 21.4.2006 with those documents.

Q, No.6. It appears from the record that you have volunteered yourself for and on behalf of the then CEM and his colleague members, CADC, Kamalanagar, Chawngte and went to Indore, Madhya Pradesh, and purchased 2 nos. of Excavators at the rate of Rs. 20.50 lakhs each and 1 no. of Road Roller at the rate of Rs. 12.00 lakhs costing Rs. 53.00 lakhs by using RSVY Scheme fund received from the Central Govt. in the name of Smt. Lalnuntluangi, Proprietor, R.M. Enterprise, Chawngte and wife of R.M. Chakma, who was the then CEM, CADC. What do you have anything to say in this matter?

Ans: I have never gone to Indore, Madhya Pradesh and regarding the purchase of machines I only contact with Company Branch, Office at Milanur Road, Bamuni Maidan, Guwahati, Assam – 781021 and costs of machines were Rs.20 lakhs for each Backhoe Loader and Rs.11,41,999.0 for Roller and the full amounts were borrowed from private parties particularly from my relatives and all the said amount were refunded after taking permission from the CADC authority and the satisfactory completion of the works. Sri Rasik Mohan Chakma was the then CEM, CADC.

Q. No.7. It also appears from the records and evidences that after you have purchased the said machines from Indore you have tampered the name of Lalnuntluangi by erasing with correcting fluid and the name and address of R. Lalthangzama S/o R. Challawma, Republic Veng, Aizawl was written on the certificates by using manual type writer. These two Excavators were registered in the District Transport Officer (DTO) Aizawl in the name of R. Lalthangzama S/o R. Challawma of Republic Veng, Aizawl by you by abusing your official position. What do you have anything to say in this matter?

Ans: I have neither committed any corruption nor abusing my official position.

Regarding tempering the name of Lalnuntluangi erasing correcting fluid I have mentioned in the above said para.

Q. No.8. Do you like to elaborate any point on the questions put to you?

Ans: Purchases of machines is due to the initiative taken by the authority of CADC, so, after completion of the works Pu R.Lalthangzama did not claim ownership of the machines and he willingly signed all the necessary papers/documents for transfer of ownership of machines in favour of CADC. Hence, machines remain for CADC and therefore CADC authority is using the machines particularly Road Roller.

In support of fact, the CADC authority provided fund provision for maintenance of Road Roller under Annual Plan fund 2009-2010.

Q. No.9. Have you repaid the borrowed money? If so, from which fund did you repay?

Ans: I have repaid all the amount after completion of the works satisfactory work against the Vaseitlang to Kukurduleya road after taking approval/instruction of the Executive Committee against Vaseitlang to Kukurduleya under RSVY.

Q. No.10. Do you like to take defense step by adducing evidence?

Ans; Yes.

30. From the evidences of all the prosecution witnesses and the defence witnesses the fact established is that the Central Government sanctioned Rupees 118 lakhs for the upliftment of backward areas under the Centrally Sponsored Scheme (CSS) under the scheme of Rashtriya Sam Vikash Yojana (RSVY) for construction of internal roads within the remote areas of CADC. Both prosecution evidence and defence evidence agreed that from the above sanctioned fund, 2 (two) Excavators ( L & T Case 851) costing 20.50 Lakhs each and 1 (one) Road Roller (L&T Case 450) costing Rs. 12.00 lakhs were purchased from L & T Case Equipment Private Limited through local dealer of Mizoram by CADC.

The said machines were utilized for making internal roads within the CADC area. PW No 1 categorically stated in cross-examination that He personally knew that the machine (backhoe loader) also known as excavator was for construction of the road from Vaseitlang to Kukurdulaya and also personally knew that the same machine was used for construction of Chawngte internal road. He also knows that the road roller which was seized by him in connection of this case is still being used by the CADC even after some time. As far as his knowledge is concerned certain fund was diverted by the CADC for purchased of the said machines but no individual got any personal gain and they were used for construction of roads by the CADC and in fact no personal benefit was there. PW NO 3 also in his crossed examination stated that It is a fact that after the purchase of the said machines they were being used by the CADC headed by the accused Rasik Mohan Chakma for construction of roads in the Chakma District area and for another purpose that was left necessary by the previous CADC.

Though they have made complaint of purchasing of such machineries when they were in opposition, but after forming government they used the same machines for construction of road etc. They have even made provision of sanction for maintenance of

those machines in the Council Budget. In the Sanctioning Letters under Memo No.G.28012/3/2009-10/DCA/C dt. 23<sup>rd</sup> November, 2009 and 8<sup>th</sup> March, 2010 it was found that the Govt. of Mizoram has sanctioned Rs.50,000/- for maintenance of Road Roller. Further in the reply to an unstarred question put by Rasik Mohan Chakma, MDC during Monsoon Session of CADC, 2009 the CEM, CADC confirmed that the machine were being used by the PWD, CADC. May he be allowed to submit the copy of Sanctioning Letters and the Question and reply sheet of the CEM as a proof to his statement.

Furthermore, DW 1 in his evidence clearly established with supporting documents exhibited that the said three machines were never used by any private individual but for the development of CADC. He stated that in CADC Calendar of 2015 published by Information and Public Relation Department the subsequent Congress party in CADC displayed a photo of constructing Road undertaken by CADC where the very machines were displayed during using. He submitted a copy of the Calendar to the Hon'ble Court. DW NO 1 Exbt. D-1-20 containing 20 pages which are either original or attested documents pertaining to the purchase of two back hoe loaders and one road roller. Exbt. D-21 calendar issued by Chakma Autonomous District Council, Kamalanagar of the year 2015 showing the road roller as being utilized by the CADC.

31. There is nothing in the evidence of prosecution witnesses that the said three machines were bought for private gain. All the evidences confirmed that the three machines were purchase by the Autonomous Chakma District Council for construction of internal roads with in CADC area. At the time the three machines were purchased the government was formed within CADC area by the MNF Party. When the Congress Party won victory in the 2008 election and formed Government in the CADC, the said three machines were used by the new Government and proudly displayed in the Calendar exhibited by the DW 1. Hence, we can safely said that there is no individual gain from the purchase of the said three machines, it can simply meant that complaint was made by the opposition party against the ruling party at the time of purchased of the aid three machines. As mentioned earlier, the three machines were used for construction of internal roads within CADC area by the CADC at that time it was purchased and it was still used by the CADC when the new government taken over in the 2008 election. Both parties utilized the machines during their governance. Hence, by purchasing the said three machines the two accused persons did not committed offence against the charged sections as there is no criminal breach of trust committed nor personal gain derived from it.



32. The complaint was made because the said machines were firstly purchased in the name of Pi Lalnuntluangi wife of the accused and later on registered in the name of Pu R.Lalthangzama S/o R.Chaltawna, Republic Veng, Aizawl. However, the defence evidence established that the purchase for these machines were made for CADC (Chakma Autonomous District Council), but as a stop-gap arrangement the name of Pi Lalnuntluangi was borrowed and it was later registered in the name of PU R.Lalthangzama. These were done for convenience's sake for CADC. As per the evidence of DW 1 the purchase of the said machines were carried out as per the decision of District Level Committee of RSVY. The said committee entrusted the work to CADC for construction of Vaseitlang to Kukurduleye Road with allocation of Rs.2.00 Crore, the Executive Committee caused detail survey & alignment of the road and also caused prepared Plan & Estimate. It was found that construction of the road cannot be completed with the earmarked amount. Hence an Executive Committee Meeting was conducted on 20/12/2005 in which he was also present and in the meeting it was decided to purchase 2 back hoe loader (JCB) and one Vibrator Machine (Road Roller) by borrowing money from private parties. In the same meeting it was also decided that machines should be registered in private names who will be trustworthy and later will not claim ownership and after completion of work and repaying the borrowed money all such properties shall be registered in the name of CADC.

33. The said machines were utilized by the CADC for construction of internal roads. Though the complainants themselves have made complaint of purchasing of such machineries when they were in Opposition party of CADC that is Congress Party, but after they won election in 2008 and formed Congress government in 2008 at CADC, they themselves used the same machines for construction of road etc. They have even made provision of sanction for maintenance of those machines in the Council Budget. In the Sanctioning Letters under Memo No.G.28012/3/2009-10/DCA/C dt. 23<sup>rd</sup> November, 2009 and 8<sup>th</sup> March, 2010 it was found that the Govt. of Mizoram has sanctioned Rs.50,000/- for maintenance of Road Roller. Further in the reply to an unstarred question put by Rasik Mohan Chakma, MDC during Monsoon Session of CADC, 2009 the CEM, CADC confirmed that the machine were being used by the PWD, CADC. The prosecution witnesses nowhere mentioned the two accused persons making undue profit nor gain from the purchase of the said machines. The defence witnesses exhibited all the necessary documents to show that the machines were purchased for CADC for developmental works within the area of CADC and was later on taken over by the complainants themselves when they gained authority in the 2008 election. It was never used for the private works of both Pi Lalnuntluangi and Pu

R.Lalthangzama. Nowhere, in the prosecution evidence it was alleged that the purchased machines were utilized for the individual gains of the accused persons.

34. Secondly, the prosecution witnesses alleged that the said machines were purchased with the money sanctioned by the Central Government and it was mis-utilized. However, the allegations made by the prosecution witnesses were not supported by any documents. It is only verbal allegation. The two accused persons stated that the purchased were made by borrowing money from individual persons for repayment and it was done by the authority of the committee formed by the government of CADC for the welfare and development of the CADC area.

35. From all the evidences as discussed above, in the instant case, nowhere in the evidence of PWS the guilt of the two accused persons were proved.

There is nothing in the evidence to show that the two accused persons made undue gain and benefit from the purchase of the said machines and therefore was not proved the guilt of the accused u/s U/s 13(1)(c) and (d) of P.C. Act 1988 and U/s 409/464/34 IPC

36. On the premises of discussions above, I hold that the prosecution could not established the guilt of the accused persons U/s 13(1)(c) and (d) and also u/s 409/464/34 of IPC. Accordingly they are acquitted from the charge sections.

Bailers are free from the bail bond and seized articles should be returned to the rightful owner.

Given under my hand and sealed today the 27<sup>th</sup> October, 2016.

Give copy of this order to all concerned.

**Sd/-LUCY LALRINTHARI**  
**Special Judge, PC Act.**  
**Aizawl, Mizoram.**

Memo No.\_\_\_\_\_/SJ(PCA)/2016 :

Dated Aizawl, the 27<sup>th</sup> October, 2016.

Copy to :-

1. Shri Rasik Mohan Chakma S/o Seihra Moni, Kamalanagar, Chawngte through his  
Ld. Counsel Mr. JN. Bualteng.

2. Shri Rosendro Singh S/o Ananta Singh, Kamalanagar-II, Chawngte through his Ld. Counsel Mr. SL. Thansanga.
3. Mr.H.Lalmuankima, Ld Spl.P.P.
4. SP, ACB, Aizawl.
5. i/c Judicial Section.
6. Case record.
7. Guard file.

**P E S H K A R**

#### APPENDIX

##### (A) PROSECUTION EXHIBIT

- |       |  |
|-------|--|
| Exbt. | M-1 - The seized documents/the seizure lists.                    |
| Exbt  | M-2 - Bill register of PWD,CADC, Vaseitlang to Kukurdulaya road. |
| Exbt. | M-1(a) - Signature of PW No.7.                                   |
| Exbt. | M-2(a) - Signature of PW No.8.                                   |
| Exbt. | M-2(b) - Signature of PW No.9.                                   |
| Exbt. | M-1(d) - Signature of PW No.10.                                  |
| Exbt. | M-3(A) – Released order of the said Road Roller on Zimanama.     |
| Exbt. | M-1(A)(a) - Signature of PW No.10.                               |
| Exbt. | M-3(b) - Signature of PW No.11.                                  |
| Exbt. | M-2(a) - Signature of PW No.13.                                  |
| Exbt. | M-2(A) - Forwarding letter of the Deputy Director, FSL.          |
| Exbt. | P-2 – FIR.   |

Exbt. M-1(B) - Seizure memo.

Exbt. M-1(B)(c) - Signature of PW No.14.

Exbt. M-1(B1&2) - Seized documents.

Exbt. P-3 - Charge sheet.

Exbt. P-3-A - Signature of PW No.15.

(B) DEFENCE EXHIBIT

Exbt.D-1-20 - 20 pages pertaining to the purchase of two back hoe loaders and one road roller.

Exbt.D-21 - Calendar issued by Chakma Autonomous District Council, Kamalanagar of the year 2015.

Exbt.D-3 - An application by Smt.Lalnuntluangi, Change of invoicing address to L&T Cased Equipment (P Ltd.), Prithampur, Madhya Pradesh.

Exbt.D-4 - Money receipt L&T Cased Equipment (P Ltd.) Prithampur, Madhya Pradesh signed by Simanta Ganguly.

(C) EXHIBIT PRODUCED BY WITNESSES - None

(D) COURT EXHIBIT - None

(E) PROSECUTION WITNESSES :

PW No.1 is SP. Paul Thangzika

PW No.2 is R.Lalthangzama

PW No.3 is Sushil Kumar Chakma

PW No.4 is Kali Kumar Tongchongya

PW NO.5 is Pulin Bayan Chakma

PW NO.6 is Nirupam Chakma

PW No.7 is Abhijit Dey

PW No.8 is Hmingthansanga

PW No.9 is Zarzokimi

PW No.10 is Jagadish Chakma

PW No.11 is G.Barman

PW No.13 is SI. Rosangzuala

PW No.14 is HVL. Krosthangi

PW No.15 is Lalsangzuala Bawihlung

(F) DEFENCE WITNESSES

DW No.1 is Dayal Chandra Dewan

DW No.2 is Nirma Lendu Singha

(G) COURT WITNESSES - None

**P E S H K A R**