

IN THE COURT OF SHRI VANLALMAWIA ADDL. DISTRICT & SESSIONS JUDGE –I  
AIZAWL JUDICIAL DISTRICT, AIZAWL.

Criminal Revision No.84/2015  
A/o CrI.Tr(Ex) 151/2015,  
Serchhip Excise Case No.99/2015  
U/S 43(1) MLPC Act. '14

Lalnunziri : Petitioner

Vrs

State of Mizoram : Respondent

**BEFORE**

Vanlalmawia  
Addl.District & Sessions Judge-I

**PRESENT**

For the petitioner	:	J.N.Bualteng, Advocate
For the opposite party	:	Lalremruata Addl.PP
		Lily Parmawii Hmar, APP
Date of Hearing	:	7.12.2015
Date of order	:	7.12.2015

**ORDER**

Case record put up on called. Today is fixed for hearing of CrI.Revision No.84/2015 arising out of Excise case No. CrI.Tr.No.151/2015 u/s 43(1) MLPC Act. lower court case record called for is put up along with the Revision Petition. Hence hearing is conducted accordingly.

Ld. counsel for the petitioner submitted that the petitioner was arrested on 27.6.2015 by S.I Laldawngliana of Excise and Narcotic station, Serchhip on allegation that she was in possession on allegation of Rakzu(local made liquor) and she was charged u/s 43(1) MLPC Act. and hence trial was proceeded and the petitioner was convicted on 7.10.2015 on her plea of guilt and sentenced her to undergo S.I of 6 months and also to pay a fine of Rs.5000/- i.e S.I for another 30 days. And that highly aggrieved by the said conviction order Ld. counsel for the

convicted/petitioner submitted the following grounds amongst others for Revision of the said impugned orders :

1) For that the case being a warrant case, conviction based on the plea of the accused especially at the stage of consideration of charge is bad in law and infact. Hence, no proper evidence was taken in this instant trial/case. As such the conviction order cannot stand in the eye of the law.

2) For that no civilian witness were present in this instant case. It thus clearly proved that the case is convicted one since the place of occurrence is submitted by the arresting authority is within the town of Serchhip at around 12 :10 pm. Hence it is a clear violation of law and the Id. trial court failed to appreciate the evidence and without taking any further evidence, the conviction is against the very principle of natural justice. Needless to mentioned that the prosecution failed to explain why no civilian witnesses were present nor enlist as the witness. Hence the conviction is bad in law and need to quash for the end of justice.

3) For that no warrant nor any grounds of belief was available in the case record which is a clear violation of law.

4) For that the alleged S/A was not property tested to proof that there was alcohol content or not. Since the essence of the prosecution case is build up on proving the alleged S/A contains alcohol or not. Hence the conviction is bad in law.

5) It is further submitted that the convicted/petitioner is the sole bread winner of a family winner of a family and as such upon careful perusal of the aforesaid submission, the Id counsel earnestly prayed for quashing in conviction order dated 7.10.2015 rendered by the lower court for the end of justice.

On the other hand, the prosecution submitted that a prima facie u/s 43(1) MLPC Act is found well establish against the convicted/petitioner and in fact she admitted the same. He also submitted that the Id. Magistrate was right in convicting the petitioner as the convicted petitioner pleaded guilty at the time of consideration of charge. Hence, there is no point of setting aside the judgment and conviction order.

On hearing both sides and on perusal of materials available on record, it is learnt that no witness is examined by the Id. trial court. Since the case is a complaint case, at least one witness be examined before consideration of charge as per Hon'ble High Court order in Zohmingthanga Vs State of Mizoram. Hence the order dt.7.10.2015 passed by the Id. CJM Serchhip District in CrI.Tr(Ex) 151/2015 is quashed and set aside accordingly. The petitioner is thus set at liberty.

With this order, the instant CrI. Rev. Petition 84/2015 is disposed off.

Case record be returned to Chief Judicial Magistrate Serchhip District.

Give copy to all concerned.

Sd/-VANLALMAWIA  
Addl. District & Sessions Judge-I  
Aizawl Judicial District, Aizawl.

Memo No \_\_\_\_\_/AD&SJ-I(A)/2015 : Dated Aizawl the, 7<sup>th</sup> December 2015.  
Copy to :

1. District & Sessions Judge, Aizawl.
2. Lalnunziri C/o J.N.Bualteng Advocate.
3. Spl.Superintendent Central Jail, Aizawl.
4. Chief Judicial Magistrate Serchhip with case record of CrI.Tr(Ex) 151/2015.
5. Judicial Section.
6. Case record.
7. Guard file.

PESHKAR