

**IN THE COURT OF ADDL.DISTRICT & SESSIONS JUDGE-I
AIZAWL JUDICIAL DISTRICT, AIZAWL**

***Sc No.95 /2013,
A/o Crl.Tr.No. 3109/2012, Aizawl P.S Case No.580/2012
U/S 302 IPC***

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| State of Mizoram | : | Complainant |
| | Vrs | |
| Vanmawia & Ors | : | Accused |

**BEFORE
Vanlalmawia
Addl.District & Sessions Judge-I
PRESENT**

| | | |
|------------------------|---|---------------------------------------------------|
| For the opposite party | : | R.Lalremruata, Addl.PP Lily Parmawii Hmar, APP |
| For the Accused | : | Lalremtlunga. |
| Date of hearing | : | 9.11.2015 |
| Date of Judgment | : | 3.12.2015 |

ORDER

The prosecution story of the case in brief is that on 26.12.2012 a report was received from SI Lalzuiliana of Aizawl P.S to the effect that on 13.7.2012 @ 1:45 am, a telephonic information was received that one person was found dead inside Central YMA Office, Tuikhuahtlang, Aizawl on receipt of the information SI Lalzuiliana along with party immediately rushed to the location to enquire into thematter and do the needful. On arrival at the P.O the dead body of Tinawng (45) S/o Lianthanga of Tahan Tawngpila was found lying in a supine position on a wooden trunk inside Central YMA Office. Inquest over the dead body was conducted at the spot. Large bruised marks were found on both of the thighs,

both the wrist are notched as if they were tied with a cord. His right knee was found swelled and a small blood stain was found on the fourth toe of his right foot. Several contusions were found on left and right shoulder and four abrasion marks were found on the back side of both the thighs, no other external injury was found on the body. The actual cause of death could not be ascertained and the dead body was sent to Civil Hospital, Aizawl for Post Mortem Examination in order to ascertain the actual cause of death. Hence Aizawl P.S UD Case No.22/12 dt.20.7.2012 was registered and investigated into. During investigation, all available witnesses were examined and recorded their statements. PME results was received and the M.O who conducted PME opined that (considering the findings on post mortem examination, no individual injury on the body is its own, fatal in nature. However, the possibility of death caused by the cumulative effects of multiple injuries could not be ruled out. Moreover, there is no poisonous substance detected from analysis of viscera). During inquest a number of injuries were found on his body and also from the opinion of the Medical Officer who had conducted PME foul play was suspected as to the cause of death. Hence Aizawl P.S UD Case No.22/2012 dt.20.7.2012 was converted into a regular case Aizawl P.S C/No.580/2012 dt.26.12.2012 u/s 302 IPC and duly investigated by S.I. Vanlalruata of Aizawl P.S.

Since the case is converted from Aizawl P.S UD Case No.22/12 dt.20.7.2012 S.I.Lalzuiliana of Aizawl P.S while investigation of the UD Case had visited the P.O and examined athoroughly. He also examined all available witnesses and recorded their statement. During the course of investigation of Aizawl P.S C/No.580/2012 dt.26.12.2012 u/s 302 IPC. S.I Vanlalruata had examined as many as 16(sixteen) members of CADS under CYMA viz 1) Vanmawia (59) S/o Vanthanga of Dinthar Aizawl 2) Biakthansanga(53) S/o Lalthlengliana of Mission veng 3) H.Lalthakima(46_) S/o Chalkhuma(L) Dinthar North 4) Hrangmawia(45) S/o Sulliana (L) of Dinthar-II 5) James Lalrinsanga (48) S/o H.Tlangthanga(L) of Mission Veng 6) Lalthlantuma (62) S/o Ringliana (L) of Armed Veng South 7) Lalbiakliana (47) S/o Siamhluna(L) of Tuikhuahtlang 8) Ramhnehliana (42) S/o Thanchungnunga(L) of Tuikual North 9) Zonuntluanga (43) S/o Lalzuiliana (L) of Ramhlun Sport Complex 10) Zoramthanga (43) S/o

H.Lala(L) of Zarkawt PWD Tlang 11) C.Lalthanfela (54) S/o Lalhleia (L) of Zotlang 12) Chanchinmawia (45) S/o Lalliana of Bungkawn Tlang Veng 13) Lalbiakzuala (50) S/o Zirthanga (L) of Saikhamakawn 14) Zairemthanga (41) S/o Councilthanga of Upper Republic Hmar Veng 15) Lalremmawia Ralte (56) S/o Lalthlana(L) of Chawnga Road Khatla 16) Vanlalrawna (58) S/o C.Thlana of Aizawl Venglai and all of whom admitted to the act of apprehending the victim Tinawnga(Bawiha_ S/o Lianthanga on 12.7.2012 with a view to recover No 4 drugs which they suspect were being hidden away by the victim, they took the victim to various places within Aizawl City where the victim allegedly claimed to have hidden the drugs but no recovery was made. They stated that they left the victim Tinawng inside CYMA Office at @ 10:30 pm providing a place for his sleeping with the intention of having re-interrogation on the next day but denied of assaulting or using 3rd degree methods on the deceased. Later the case is investigated by me as the said SI Vanlalruata transferred from Aizawl P.S. from the statement of K.Zathanga S/o Kapsanga of Chanmari in whose house Tinawng(Bawiha) stalyed as guest before being apprehended by CADS members, it is learnt that Tinawng was brought to his residence by CADS members on 12.7.2012 @ 2:00pm, they searched for No.4(Heroin) but found nothing. The same persons brought him again at his residence on the same day at 9:00pm. They interrogated him but the victim did not reveal anything. K.Zathanga stated that during this time Tinawng(Bawiha) looked very exhausted and could not walk by himself, he also stated that one of the CADS duty members slapped the victim on his face twice when he failed to reveal the location of the suspected hidden drugs. After having found no drugs, they took him away from his residence. It is learnt from some witnesses that the CADS duty members brought Tinawng(Bawiha) in the CYMA Office between 10:00pm, tied him up with handcuff and cords at his hands and legs. The CADS members went home and left the victim at the CYMA office. It may also be mention that the Police personnel were posted to guard the office of the Central YMA during the period in question due to threats perceived from the insurgent group HPC'D' and the guards stated that at around 9:30pm of 12.7.2012 around 15-20 members of CADS members took out the victim from the CYMA Office and around half and

hour later brought him back again to the Office. The CADS members tied his hands and feet and they all left him alone at the CYMA Office. The guards latter groans of pain from the victim and they even gave him some water but when they enquired later, they were under the impression that the victim Tinawnga is dead so they informed the Office staff of CYMA Pu Marama who was staying nearby the Office who in turn informed the other staff of the CYMA. The Medical Officer who conducted the PME opined that "considering the findings on post mortem examination no individual injury on the body is, on its own, fatal in nature. However, the possibility of death being caused by the cumulative effect of multiple injuries could not be ruled out. Moreover, there is no poisonous substance detected from analysis of viscera." As per the Inquest report of Pu Zoremthara Ralte, the Magisterial Inquiry Officer, no sign of injury was found on his head and neck except some small bruise on his face near his right eye. There were bruise and wounds on almost throughout the whole of both his thighs. His right knee was seen swelling. His chin was found bruise. There was also a little drop of blood on the middle toe of his right leg. On checking the dead body there were bruise and sign of wounds on both of the deceased's shoulders and many parts of his arms. Small cuts were also notice on his thighs. There were many bruises on his calf and thighs. The Magisterial ;Inquiry Officer also after careful examination of the witnesses and careful study of the inquest, viscera analysis report, PME reports and opinion of the Medical Officer who conducted PME on the dead body opined that no individual injury on the dead body is, on its own, fatal in nature. However, there can be the possibility of the death caused by the cumulative effect of multiple injuries physical or mental suffering inflicted on the deceased while he was being detained. So in light of the police investigation, the PME report and the findings of the Magisterial Enquiry the burden of causing the death of Tinawng(45) S/o Lianthanga lies upon the above mentioned CADS members of CYMA who were involved in apprehending and interrogating the deceased on 12.7.2012. Due to the above circumstance a prima facie case u/s 302 IPC have been found well established against the above mentioned CADS members of CYMA who were involved in the apprehension and interrogation of the deceased.

I therefore, submit charge sheet against the above members of CADS of CYMA.

The honourable Court is prayed to issue necessary process against the above mentioned CADS members of CYMA to face their trial u/s 302 IPC.

Charge was framed against the 16 accuseds u/s 304/34 IPC by my predecessor by altering the charge section 302 IPC to which they pleaded not guilty and claims for trial. During the trial, the prosecution examined as many as 7(seven) prosecution witness.

P.W No.1 R.Lalnunmawia, Zozampui stated that I do not know all the accused persons. I am working as Havildar 5th IR Bn. While I was on night patrolling on the night of the incident at around 11.30 pm near Central YMA office I heard the sound of a person who seemed to suffer injury inside the Central YMA office. I informed the Central YMA office chawkidar and it seemed that he informed the Central YMA Leaders and later on the SP Aizawl and SI from Aizawl P.S arrived at the Central YMA office. I also entered the office of the Central YMA and I found the victim unconscious and his left hand was hand cuffed to the window bar.

Cross examination by the Defence counsel:

It is a fact that I cannot say for sure as to whether the chawkidar had informed the Central YMA Leaders about the incident.

It is a fact that I do not know the name of the SP Aizawl or SI of Police, Aizawl P.S who arrived at the Central YMA Office.

When I entered the said office the said SP, SI of Police from Aizawl P.S and some other Police personnel already entered the said office.

It is a fact that I did not checked the body of the said person.

It is a fact that I do not know who assaulted the victim and hand cuff in the said YMA Office.

P.W No.2 Lalzuiliana S.P Office Aizawl stated that I know some of the accused persons. I am working as SI of Police, SP Office Aizawl at present. I was posted at Aizawl P.S at the time of the incident. While I was on duty at Aizawl P.S on 13.7.2012 at around 1 : 40 am I received instruction from the O/C Aizawl P.S to go to Central YMA Office. Self with party approached the said office and on reaching the same one person namely Tinawng was found dead lying on the big trunk. On instruction of the O/C who arrived later on inquest over the dead body was conducted and bruise mark was found on both of his full legs, and right arm and his back side of the body. Since the actual reason of his death was not known the deceased was taken to the morgue house Civil Hospital Aizawl for PME. Faled play was suspected as to the cause of his death and I then submitted a request to the O/C Aizawl P.S to register a case.

Exbt P 1 is a request to the O/C for registration of case, P 1(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that I did not find any link evidence against all accused persons.

It is a fact that I submitted exbt P 1 to the O/C on 26.12.2012.

P.W No.7 C.Lalramthanga stated that I know the accused person. I am working in the office of CYMA and I am staying at the YMA officer quarter, Tuikhuahtlang.

At around 5:030 pm I left the office and went home to my quarter on 12.7.2012. after 7:00pm I went to the hall and I saw the victim being interrogated and the victim and the accused went to Chanmari where the victim stated to have kept his drugs. At around 12:00 and night I was awoken and called and when I went to the hall, I saw that the victim Bawiha was died.

Cross examination by the Defence counsel:

When I saw the accuseds being interrogated he was not lashed or beaten.

I heard no sound of torture when I was in my quarter.

It is a fact that my quarter and CYMA Office Hall where the victim was put were around 80 feet distance.

It is a fact that I found none of the accused assaulting the victim at any point of time.

P.W No.9 S.I Vanlalruata, Khatla PHQ stated that I was posted at Aizawl P.S in the year 2012. On 13.7.2012 a telephonic was received by S.I Lalzuiliana of Aizawl P.S to the effect that on 13.7.2012 one person was found dead inside Central YMA Office Tuikhuahtlang, Aizawl after that Aizawl P.S U/D Case No. 22/2012 dt.20.7.2012 was registered and investigated by S.I Lalzuiliana, whose findings revealed that there was foul play in the death of Tinawng. Hence a regular case was registered and I was endorsed to investigate the case. During my investigation, I examined and interrogated sixteen CADS members, all of whom admitted to the apprehension of Tinawng on 13.7.2012 regarding suspicion of possession of Heroin No 4. I also recorded their statements in which they all denied the use of third degree methods. I could not continue the investigation as I was transferred to Lunglei District.

Cross examination by the Defence counsel:

I am the first I/O in connection with the instance case.

It is a fact that I did not visit the P.O as case I/O.

It is a fact that all the sixteen CADS members denied that they use third degree methods against the victim Tinawng.

P.W No.10 Dr. Lalrozamastated that On 13. July 2012 I was posted as Medical Officer in the Department of Forensic Medicine at Civil Hospital Aizawl. On that day I received requisition from Aizawl P.S to conduct post mortem

examination on the death body of Tanawng @ Tinawng S/o Lianthanga (L) of Tahan.

Accordingly I conducted PME and my findings were as noted in the postmortem examination report and exhibited here in below as exhibit P-4.

Opinion : considering the findings on my PME, I am of the opinion that no individual injury on the body, on its own, is fatal in nature. However, the possibility of death being caused by the cumulative effect of multiple injuries could not be ruled out. Moreover, there is no poisonous substance detected from the analysis of viscera.

Exbt : P-4 PME report, P – 4 (a) is my signature.

Cross examination by the Defence counsel:

It is a fact that there is no evidence to prove that the injuries were necessarily caused by the act of human being.

P.W No.11 T.Lalropuia Deputy Director, Forensic Science Laboratory stated that on dt.16.7.2012 FSL received one person from SDPO Aizawl South Sub-Division in connection with Aizawl P.S GDE No.445 for scientific examination. Accordingly self with my assistant Director Lalhmachhuana thoroughly checked the Exbt containing viscera and scientifically analyzed the said exhibit and no poisonous chemical substances was detected in the said exhibit and the report was then sent back to the concerned forwarding authority on 7.9.2012.

Exbt P-2 is our report P-2(a) is my signature.

Cross examination by the Defence counsel:

In-chief –a I report hi a dik ngei em tih zawhna hi a dik ngei e tiin ka chhang e.

P.W No.13 P.B Singh, Aizawl P.S stated that On 26.12.2012 report was received from S.I Lalzuiliana of Aizawl P.S that on 13.7.12 around 1:45 am a telephonic information was received that one person was found dead inside Central YMA Office Tuikhuahtlang, Aizawl and as such he with party rushed to the P.O to inquire the matter. On arrival at the P.O the death body of Tinawng (45yrs) S/o Lianthanga of Tahan Dawngpila was found lying in a sufine position on a wooden trunk inside the Central YMA Office inquest over the dead body was conducted and large bruise marks were found on both of the thigh, both the waist are notched as if it were tided cord. His right knee was found smelled and small blood stain was found on the fourth toe of his right foot. Several contusion the right and left Shoulder and many other inquires were found on the death body. After inquest the death body Tinawng was sent Civil Hospital Aizawl for PME and order to ascertain the actual cause of death. Hence Aizawl P.S U.D case No 22/12 dt.20.7.12 was registered and investigated into.

During investigation all available witnesses were examined by S.I Lalzuiliana PME report was also received from the M.O who conducted PME opined that considering the findings on PME no individual inquiry on the body is on its own, fatal in nature. However, the possibility of death caused by the cumulative effects of multiple inquiry could not be ruled out. Moreover there is no poisonous substance detected from analysis of viscera . During inquest a number of inquiries were found on his body and also from the opinion of the M.O. who had conducted PME foul play was suspected as to the cause of death. Hence, Aizawl P.S Case No.580/12 dt.26.12.12 U/S 302 IPC registered and investigated by S.I Vanlalruata Aizawl P.S.

During investigation of UD case S.O Lalzuiliana visited the P.O and examined all available witnesses and record their statements. During investigation written by S.I Vanlalruata he had examined as many as sixteen members of CADS under Central YMA who are involved in arresting the deceased Tinawng, but all of them admitted of arresting the said decease on 12.7.12 with a view to recover drugs No.4. they said that they left the deceased aside Central

YMA office Tuikhuahtlang at around 10:30pm producing a place for sleeping, intending to have re-interrogation on the next day but denied of assaulting on using third degree method to the deceased.

As the previous I.O was transferred to other station, I took up the case for completing the investigation on being endorsed to me by the O.C Aizawl P.S.

During my investigation I have gone through all the records of the case and found that the cause of death of the deceased Tinawnga Magisterial inquiry was conducted by Zoremthara Ralte, Executive Magistrate Aizawl, District and a copy of his report was obtained through S.P Aizawl as per the statement of Lalthanga of Chairman who putted the deceased Tinawnga in his residence before he died. It is coming into light that Tinawng was brought into his residence by the CADS member on 12.7.12 @ 2:00 pm and search for No.4 but found nothing. The CADS member brought Tinawng at his residence and the next day @ 9:00 pm they interrogated him but Tinawng did not confessed, this time Tinawng looked very exhausted and could not walk by himself. As Tinawng did into confessed one of the CADS member slapped him on his face twice after hearing found no drugs the CADS member took him away from his residence. Some of the witnesses stated that the CADS duty members brought Tinawng in the CYMA office between 10.-11:30 pm, they tried him with handcuff and cords at his hands and legs and left him inside the Central YMA office. At night the accused made a sound of pain and see his condition looked very exhausted and later he looked dead. The medical officer who conducted the PME opined that cause of death is that no injury on the body or its own fatal in nature. However, the possibility of death caused by commutative effect of multiple injuries could not ruled out.

After careful and thoroughly one through the statements of the witnesses, accused, PME reports, Magisterial reports I found a prima facie case u/s 302 IPC against the accused i.e abovementioned CADS member of CYMA.

During my investigation, I found that there can be possibility of the death of the deceased is caused by the cumulative effect of multiple injuries, physical or mental suffering inflicted on the deceased while he was being detained by the member of CADS at CYMA office. So, the burden of causing of death of the deceased lies upon the accused CADS members of CYMA, who were involved in arresting and interrogating the deceased on 12.7.12.

And as such I submitted charge sheet against the accused persons as I found a prima facie case u/s 302 IPC well established against them(accused).

Exbt : P-3 is the charge sheet including statements of witnesses and accused, inquest report.

Exbt : P-3(a) is my signature.

Exbt : P-4 PME Report.

Exbt : P-5 is the Magisterial inquiry report.

Exbt : P-6 FIR u/s 154 Cr.PC.

Cross examination by the Defence counsel:

When I continue the investigation I perused all the previous investigation papers made by the previous case I/O the statement of the accused persons were recorded by Executive Magistrate Zoremthara Ralte I do not know as to where the same were recorded by the said Magistrate. When I took of the case I perused the said statements Magisterial report and I found sufficient evidence against the accused persons.

It is a fact that I did not examine P.W No.2 K.Zathanga during the course of my investigation.

It is a fact that I do not know on which parts of his body the victim sustained injuries.

The 15 accuseds were examined u/s 313 Cr.P.C as one accused K.Vanlalrawna was died during the trial and asked them same question of 13 points :

Q.1. It is from the evidence that you were a member of CADS, CYMA. What do you say?

Q.2. It is from the evidence that you are one of the members of CADS who apprehended one person named Tinawnga on 12.7.2012. What do you say ?

Q.3. It is from the evidence that you interrogated the victim Tinawnga @ Bawiha on 12.7.2012 @ 7:00 pm at Central YMA Hall Tuikhuahtlang asking where he kept his drugs No.4 (Heroin). What do you say ?

Q.4. It is from the evidence that you brought the victim at the residence of K.Zathanga of Chanmari where the victim claimed to have kept his drugs No.4 on 12.7.2012 @ 2:00 pm. What do you say ?

Q .5. It is from the evidence that you brought the victim again at the residence of K.Zathanga of Chanmari on 12.7.2012 @ 9:00pm to recover No.4 drugs, but again found nothing and you slapped the victim two times. What do you say ?

Q.6. It is from the evidence that when you brought the victim at the residence of K.Zathanga of Chanmari on 12.7.2012 @ 9:00pm for the second time, the victim looked exhausted and could not walk himself/properly. What do you say ?

Q.7. It is from the evidence that you brought the victim back to Central YMA Hall at Tuikhuahtlang. What do you say ?

Q.8. It is from the evidence that the victim groaned in pain inside the Central YMA Hall on 12.7.2012 night after you brought back from Chanmari. What do you say ?

Q.9. It is from the evidence that at around midnight (12.7.2012), the victim was lying unconscious with his hand cuffed to the window bar inside the Central YMA Hall. What do you say ?

Q.10. It is from the evidence that the victim Tinawnga @ Bawiha was found dead inside the Central YMA Hall on the night of 12.7.2012 around midnight. What do you say ?

Q.11. It is from the evidence that the victim suffered bruise marks on all his legs, right arm and at his back side, and his multiple injuries may be the reason of his death. What do you say ?

Q.12. It is from the evidence that the victim suffered his injuries while he was in your custody. What do you say ?

Q.13. It is from the evidence that you are responsible for the death of Tinawnga @ Bawiha and as such face trial u/s 302 IPC. What do you say ?

All the fifteen members of accused give the same answer in the examination u/s 313 Cr.P.C claiming to be member of CADS Central YMA but no responsible over the death of victim Tinawnga @ Bawiha. Some of accused present while the victim was brought to K.Zathanga, House where the victim stated that he hide the drug (No.4) and some of them are not present. Some accused answered that the victim Tinawnga was hand cuffed to the window bar of Central YMA office, and some accused did not see/know whether the victim was hand-cuffed or not. All the accused answered the question that they did not slapped the victim even when he tell them a lie and during interrogation. Some of accused stated that the victim was suffering from stomach problem and he is also bad smelling and may die of stomach problem.

Since the accused have no any defence evidence, both the prosecution and defence council are heard at length, and the Id. Addl. P.P highlighted the incident as followed :

1. That on 13.07.12 @ 1:00 Am one person Sh. Tinawnga (45), S/o Lianthanga of Tahan Tawngpila was found dead inside Central YMA Office, Tuikhuahtlang.
2. That the deceased Tinawnga @ Bawiha sustained several injuries on his face, arms and legs, and even at both of his wrists as if tied with a rope.
3. That the victim was apprehended by the CADS of Central YMA on 12.07.12 with a view to recover No. 4 drugs which the CADS believed that the victim had hid the same and they took the victim to various places in Aizawl where the victim allegedly claimed to have hidden the drugs.
4. That the CADS took the victim at the residence of K. Zathanga of Chanmari where the victim allegedly claimed to have kept his no. 4 drugs on 12.07.12 @ 2:00 Pm and @ 9:00 Pm on the same day, however no recovery of the same was made.
5. That the victim was brought to the office of the Central YMA Office, Tuikhuahtlang after returning from the residence of K. Zathanga of Chanmari.
6. That when the CADS brought the victim on 12.07.12 @ 9:00 Pm to Pu K. Zathanga's residence for the second time, the victim was exhausted and he could not walk properly and he was also slapped by the CADS at the said residence.
7. That the victim was then kept inside the CYMA Office Hall of Tuikhuahtlang on the night of 12.07.12 however around midnight, the victim groaned in pain inside the CYMA Office Hall and inside the said hall he was found that later.
8. That Police personnel posted to guard the Central YMA Office due to threats from insurgent group HPC'D' found the victim dead at around midnight of 12.07.12.
9. That the victim died when he was in the custody of CADS.
10. That the victim was found well before the CADS apprehended him and no other person was found assaulting the victim other than CADS member i.e. the accd persons.

And defence counsel Mr.Lalremtlunga Advocate submitted his written argument :

1. The prosecution story of the case in brief is that on the morning of 12.7.2012 one Myanmares nation Tinawnga @ Bawiha was found dead in Central YMA office Tuikhuahtlang Aizawl. Accordingly S.I Lalzuiliana was detailed to investigate the case and he submitted his report to competent authority for registration of a case. Hence Aizawl P.S C/No 580/2012 under section 302 IPC was registered.

2. That the case was endorsed to SI Vanlalruata but as he was transferred and posted out from Aizawl P.S and Inspector PB Singh continued the investigation and finally filed charge sheet.

3. That opening of the case u/s 226 Cr.P.C was conducted and after hearing the parties charge u/s 302/29 was altered to 304/29 IPC was framed against the accused persons on 30.1.2014 and the accused persons pleaded not guilty and claimed for trial.

4. During the course of trial the prosecution has examined the following witnesses and their evidence are :

- i) P.W No.1 S.I Lalzuiliana on his cross examination admitted that the accused persons are not known to him and he found none of the accused persons involved on the death of Tinawnga @ Thawnga.
- ii) P.W No.2 K.Zathanga was dropped as he failed to appeared before this Hon'ble court in spite of receipt of summons.
- iii) P.W No.3 R.Lalnunmawia was examined and cross-examined and his evidence are not relevant for the prosecution.
- iv) P.W No.4 RMS Dawngliana was examined and cross examined and his evidence are not relevant for the prosecution.
- v) P.W No.5 Lalthanmawia was dropped as he failed to appeared before this Hon'ble court in spite of receipt of summons.
- vi) P.W No.6 Ramdinsanga was examined and cross-examined and his evidence are not relevant for the prosecution.

- vii) P.W No.7 C.Lalramthanga was examined and cross-examined and his evidence are not relevant for the prosecution.
- viii) P.W No.8 Lalthuthlunga was dropped as he failed to appeared before this Hon'ble court in spite of receipt of summons.
- ix) P.W No.9 S.I Vanlalruata first case I/O was examined and cross-examined and his evidence are nto relevant for the prosecution.
- x) Dr. Lalrozama who conducted post mortem examination on the dead body of Tinawnga @ Bawiha was examined and cross-examined and he admitted that he found no concrete evidence to prove that the said deceased was murdered by any human being.
- xi) T.Lalropuia Forensic Expert, FSL Mizoram was dropped as he failed to appeared lbefore this Hon'ble court in spite of receipt of summons.
- xii) Zoramthara Ralte MCS, Executive Magistrate Aizawl who recorded statements of accused persons was dropped as statements of accused persons recorded by are not incrimination against accused persons.
- xiii) Inspector PB Singh who charge sheeted the accused persons was examined cross-examined and his evidence was of no use for the prosecution.

Law Points : None of the prosecution witnesses was able to prove that the accused persons had caused death to Tinawnga @ Thawnga and as such in the absence of concrete evidence on the part of the prosecution the accused persons cannot be held responsible for the death of the victim. Hence evidenced of the prosecution witnesses are not convincing, they cannot established the case beyond reasonable doubt and the accused persons entitled benefit of doubt and as such the accused persons be acquitted and it is prayed accordingly.

On careful perusal of material evidence available on case record, it is learnt that the victim Tinawnga @ Bawiha was apprehended by Central Anti Drug Squad (CADS) CYMA, for having possession of drug (No.4), the CADS interrogated the victim as where he had hidden another Quantity of drug, and the informed and stated many different places like K.Zathanga's house

Chanmary, Aizawl etc, but checking those places, the drug were not recovered, and keep him at Central YMA office, Tuikhuahtlang. Even on the relevant night of 12.7.2012 the victim stated many different places for hiding the drug, but no recovery was made by the CADS. He was then kept at CYMA office and hand-cuff him, to prevent him from his escape. It can be presumed that they slapped him for telling them a lie, the victim sustained several injury on his face, arms, and legs and his wrists, the victim was exhausted and could not walk properly when he was brought back from the residence of K.Zathanga of Chanmary to the Central YMA office. He was then kept in the CYMA office, Tuikhuahtlang, on 12.7.2012 and at around midnight, the victim groaned in pain inside the CYMA Hall, as submitted by the prosecution, and was found dead at about 1:10 am of the next date (13.7.2012).

But on the other hand, no prosecution witness can give evidence to find out the main culprit, there is no eye witness and even PW No.1 who heard the sound of a person who seem to suffer injury, does not know who assaulted the victim and who hand cuff the hand of victim into the window bar. P.W No.2 also submitted in his cross examination that he did not find any link evidence against all accused persons P.W No.7, also submitted that he found none of accused assaulting the victim at any point of times, the Medical officer, who is also P.W No.10, who done PME also submitted that he is in the opinion that no individual injury on the body on its own, is fatal in nature. However the possibility of death being caused by the cumulative effect of multiple injury could not be ruled out. There is no poisonous substance detected from the analysis of viscera. In his cross examination, the Medical Officer submitted that there is no evidence to prove that the injuries were necessarily caused by the act of human being. Case I/O also submitted that he do not know on which parts of his body the victim sustained injuries.

To sum up the case, it can be presumed had the victim is not apprehended by the CADS he may not died due to his unhealthy condition, but he was died due to apprehension, following hit, slap, beating, by the CADS, but there is no any direct, good evidence to find out the main culprit who caused the dead of Tinawnga @ Bawiha, the main culprit may be among the sixteen

accuseds or other CADS members who were not among the accused, but however there is no evidence from the examination of prosecution witnesses. If there is no evidence against any one, or whole of accuseds this court has no any other alternative except to acquit the accused.

I, therefore acquitted the following accused from the liability of the charge leveled against them u/s 304/14 IPC namely :-

- 1) Vanmawia (59) S/o Vanthanga of Dinthar Aizawl
 - 2) Biakthansanga(53) S/o Lalthlengliana of Mission veng
 - 3) H.Lalthakima(46_) S/o Chalkhuma(L) Dinthar North
 - 4) Hrangmawia(45) S/o Sulliana (L) of Dinthar-II
 - 5) James Lalrinsanga (48) S/o H.Tlangthanga(L) of Mission Veng
 - 6) Lalthlantuma (62) S/o Ringliana (L) of Armed Veng South
 - 7) Lalbiakliana (47) S/o Siamhluna(L) of Tuikhuahtlang
 - 8) Ramhnehliana (42) S/o Thanchungnunga(L) of Tuikual North
 - 9) Zonuntluanga (43) S/o Lalzuiliana (L) of Ramhlun Sport Complex
 - 10) Zoramthanga (43) S/o H.Lala(L) of Zarkawt PWD Tlang
 - 11) C.Lalthanfela (54) S/o Lalhleia (L) of Zotlang
 - 12) Chanchinmawia (45) S/o Lalliana of Bungkawn Tlang Veng
 - 13) Lalbiakzuala (50) S/o Zirthanga (L) of Saikhamakawn
 14. Zairemthanga (41) S/o Councilthanga of Upper Republic Hmar Veng
 - 15 Lalremmawia Ralte (56) S/o Lalthlana(L) of Chawnga Road Khatla
- and set them at liberty.

Seized articles if any shall be destroyed.

Announce in open court on this 3rd day of December 2015.

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

Memo No ADJ-I(A)/**614**/2015 : Dated Aizawl the,3rd December 2015

Copy to :-

1. District & Sessions Judge, Aizawl
2. Accused Vanmawia & others C/o Lalremtlunga Advocate.
3. I/C GR Branch.
4. Addl.P.P
5. App
6. Judicial Section
7. Case record.
8. Guard file.

PESHKAR