

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

Sc No.4/2014

A/o CrI.Tr.No.2625/2012 Bawngkawn P.S Case No.281/2012

U/S 147/435/436/457/380/427 IPC

State of Mizoram	:	Complainant
	Vrs	
H.Lalthlamuana		
Isaka	:	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 order	:	24.7.2015

ORDER

The prosecution story of the case instant case in brief is that on 27.10.2012 a written FIR lodged by CP Singh(53) S/o Mahabir Singh Camp Commandant Project Pushpak Thuampui that on 27.10.2012 @ 3:30 pm, one water Tanker Br.No.06ZE-68633 belonging to Project Pushpar, driven by Philip Soren (46) S/o Rasha Soren of Project Pushpak Thuampui while reversing inside the Project Pushpak Campus located within the vicinity of Thuampui knocked down one minor boy Suraj Karki(6) S/o Bhala Karki of Thuampui. As a result of which the boy sustained injury on his person and was evacuated to Hospital for medical aid. the City Traffic took up the case, but the driver out of fear take

refuge inside the Pushpak Camp and while talk was on with Traffic personnel present at the spot for investigation YMA President Thuampui got announcement done in the mike directing all the villagers to gather at the site of incident and in due course about 25-30 youths appeared at the side i.e within the Pushpak complex Thuampui and on being incited by the YMA President the youth started looting the property and vandalizing it and within no time, the crowd went on swelling and went rampant. The angry mob put on fire many Government vehicles and houses of the Project Pushpak Thuampui and looted the government property. Hence, Bawngkawn P.S Case No. 281/2012 dt.28.10.2012 u/s 147/435/436/457/380/427 IPC was registered and duly investigated into.

During the course of investigation, the P.O was visited and the complainant as well as other pushpak authorities who were present right from the beginning at the site of incident i.e inside Pushpak complex, were examined and their statements have been recorded. The traffic personnel i.e O/C Traffic Inspector Vanlalbiaka Zote and SI L.Ramnghahmawia who were there to investigate the road traffic accident were also examined and their statements have been recorded. All available witnesses were examined and their statements have been recorded. During inspection of the P.O, it was found that the angry mob actually ransacked the complex of Project Pushpak and the following was the detail of damage sustained to the Government properties as a result of public wrath due to knocking down of one boy by Project Pushpak vehicle.

I. Vehicle put on fire and completely burnt in the rioting : 1) Bolero Jeep No.CH No.69930, 2) M/Gypsy 1 No. B/A No/03B-14243 3) School Bus (Make of TATA 1no) B/A No.07C-19142.

II. Vehicle which was severely damaged by the way of pelting stone etc, by the mob : 1) Maruti Gypsy 2 nos i.e vehicle No.08B-14498 & No.02B-14124 2. TATA 207 vehicle No.11C-20405 3) water Truck make of TATA 4 nos i.e vehicle No.06ZE-68633, 06ZE-68686, 06ZE-68740, 06ZE-68743.

III. Stores looted and put on fire. 1) QM ration stores 2) QM clothing stores 3) QM expendable stores.

Iv Located stores : 1) MT Dvr living line 2) NCOS mess and sitting hall 3) QM cylinder stores 4) Gymnasium 5) WKPS living line 6) ORS dining hall 7) ORS

living barrack 8) Gas cylinder gowdown 9) Gas cylinder QM stores 10) Few quarters of type I and II 11) WKPS personnel living line 12) Personnel belonging and private property of few personnel residing in NCOS and ORS lines

v. *Regimental institutions* : 1) Grocery canteen owned by M/S ML Khandlwal looted and burnt to ashes. Property V/O Rs.80,00000(eighty lakh) was either looted or burnt.

During investigation, it revealed that on 27.10.2012 @ 3:30 pm, one water tank lorry belonging to Project Pushpak Br.No.06ZE-68633 driven by Philip Soren (46) S/o Rasha Soren of BRTF Pushpak Thuampui while reversing inside the Project Pushpak Campus located within the vicinity of Thuampui knocked down one minor boy named Suraj Karki (6) S/o Bhala Karki of Thuampui because of which the boy was evacuated to Hospital for medical aid. the City Traffic rushed to the spot for spot verification etc, but the driver out of fear take refuge inside the camp and while talk was on with Traffic personnel present at the spot for investigation, YMA Secretary Thuampui Branch named Isak-a(40) S/o H.Lalrinawma of Thuampui, interfered and demanded to the Pushpak authority to make immediate arrangement for handing over to the errant driver to Police and as the Pushpak authority didn't paid any heed to him, infuriated, he i.e Isak-a (40) S/o H.Lalrinawma of Thuampui YMA Secretary Thuampui Branch got announcement done in the mike directing all the youths above the age of 18 yrs to gather at the site of incident. The announcement resulted in huge gathering of people inside Project Pushpak campus Thuampui and after the people came to know about the incident they turned violent and vandalized the campus of Project Pushpak and looted it.

During diligent investigation one of the looter who identified as H.Lalthlamuana (29) S/o K.C Pauva of Thuampui Rose Garden was arrested and some of the looted materials i.e one no. of LCD TV and a empty gas cylinder which was looted by him from NCO Mess of project Pushpak in the wake of the looting, was recovered in presence of witnesses from his house located at Thuampui Rose Garden. During interrogation, he admitted to have involved in the arsoning and looting , he joined the looter after he heard the announcement made by YMA Secretary in the mike, he added. Hence, he was arrested in the

instant case and was subsequently forwarded to judicial custody. Further the following looted materials i.e 1) empty Gas cylinder 3 nos 2) Rain coat 4 nos 3) Bag containing about 20 kgs of lentil (Kali Dal) 4) Utensil (cooking Karahi 1 no) 5) Computer motherboard 1 no. 6) Computer hard disk 1 no 7) Computer DVD writer with cord-01 1 no 8)_ Stitching thread 1 no 9) Canister 2 nos containing about two liters of edible oil, which were looted from the Pushpak campus by the looters and dumped in the shrubs within the periphery of Thuampui were recovered and were duly seized in the instant case. All the seized property was later released on zimmanama vide Zima No.100/12 dt.5.11.2012 to the complainant. Further all efforts were made to detect the remaining culprit but all prove in futile.

Investigation further revealed that, it was one Isak-a (40) S/o H.Lalrinawma, Secretary Branch YMA, Thuampui, who made announcement in mike directing all the youth above the age of 18 years to gather inside Pushpak Campus and this incited the mass not only farom Thuampui but also from other parts of Aizawl who were going to and from the National Highway located adjacent to Pushpak campus. And as it is common phenomenon that there is anti army feeling which has been dormant since a long in the mind of the local people, because of the fact that the army personal being of different mindset and thinking towards civilians. This announcement made the mass infer that the Pushpak authorities after committing some blunder were hiding the wrong doer to screen him from facing the law. Infuriated, the people went on rampant and due to the public wrath Government properties worth to lakhs were damaged. Under the above facts and circumstances, the said Isak-a S/o H.Lalrinawma, Secretary Branch YMA,Thuampui emerge as abettor of this case. Had he not made announcement in mike calling the mass to gather inside the Pushpak Camp Thuampui this heinous case would not have been committed. However, as the abettor being a NGO leader having good rapport in the society, his arrest in the instant case would have a wide ramification which could spark tension amongst the general public inviting break of law and order problem, hence considering the pros and cons his arrest was not effected in the instant case. As it substantiated during investigation the said Isak-a S/o H.Lalrinawma, Secretary Branch YMA,

Thuampui, abetted this crime and the rioting was committed in prosecution of the common object which made him liable for the rioting, so the honorable court is prayed to add Section 109 IPC to the initially registered sections. Further the theft and arsoning was committed by several persons in furtherance of common intention, hence the honourable court is prayed to add section 34 IPC initially registered sections.

Under the above facts and circumstances a prima facie case U/S 147/435/436/457/380/427/34 IPC was found well established against accused H.Lalthlamuana S/o K.C Pauva of Thuampui Rose Garden for his involvement in the arsoning and looting.

Further, a prima facie case u/s 109/147/435/436/457/380/427 IPC was found well established against accused Isak-a S/o H.Lalrinawma Secretary Branch YMA, Thuampui for abetting offence punishable u/s 147/435/436/457/380/427 IPC. And in this regard the honorable court is implored to issue necessary process to compel his attendance before the honorable court to answer the charge.

Before framing of charge u/s 147/435/436/457/380.427/34 IPC Mr.J.Lalremruata, Id. counsel for the accused prayed to discharge accused Isak-a, without framing of charge and submitted that the name of accused Isaka is not mentioned in the FIR, the complaint sheet revealed that the President of YMA was the one who made announcement, the present accused was not President, but only Assistant Secretary of YMA, the complaint sheet further revealed that the announcement was made by Secretary YMA, but the present accused Isaka is not Secretary YMA, but Asst. Secretary, YMA the name of Isaka is not available in the complaint sheet lodged by Mr.C.P.Singh, Camp Commander Project Pushpak, Thuampui, the name of present accused is not available in all statement of witnesses, and his involvement is not known, case is registered against the present accused as being leader of YMA, and is therefore find unfit to frame charge against accused Isaka.

Pu Lalremruata, Addl. P.P against that there is nothing to say, as everything is clear in the charge sheet, and have nothing more to say beyond the charge sheet.

Perused the charge sheet No. 199/13 dt.18.11.2013 submitted by case investigating officer reveal that it was one Isak-a S/o H.Lalrinawma Secretary Branch YMA who made announcement in mike directing all the Youth above the age of 18 years to gather inside Pushpak Campus, and this incited the mass not only from Thuampui, but also from other part of Aizawl, who were going to and from on the National High way located to the Pushpak Campus.

On perusal of the said charge sheet, the present accused Isak-a may be one of the accused to this incident as being Leader of YMA Thuampui Branch, regarding President or Secretary of Branch YMA, it may be difficult for the complainant as well as case I/O to ascertain as to what post he was holding at the relevant time. Had he not been holding Assistant Secretary post or any other office bearer post in the Branch YMA, the present accused Isaka may not announce in the mike, but by virtue of the post he hold in the relevant time, and as being one of the leader of YMA or as the only available office Bearer of the said Branch YMA, he might be binding to do so.

So, I find no ground to discharge accused Isaka from the charge leveled against him based on the charge sheet submitted by the case I/O. so, charge u/s 109/147/435/436/457/380/427 IPC shall be framed against accused Isaka on the next fixed date.

Aggrieved party may approved Hon'ble High court, if so desire before the next date.

Charge under section aforesaid are framed to both accused to which they pleaded not guilty, claims for trial. During the trial, the prosecution examined 9(nine) witnesses.

P.W No.1 C.P Singh A.E(Civil) Assistant Direct Headquarter DGBR stated that : At the time of the incident I was performing the duties of Camp Commandant at Pushpak .On 27.10.2012 at around one motor truck within are campus was reversing the vehicle while one child came running from the side an got hit and injured by the truck. The child was taken to the Hospital and was given medical attendance immediately. After this incident some people gathered at the site of

incidence and started to have altercation. Two traffic Police officials at presence at that time. While the matter was discussed the YMA President of the nearby village was pressing us to hand over the driver to them.

At around 7 pm the YMA President made an announcement to the villagers to gather at the site. After that the youths gathering at the site started agitating the matter to hand over driver to them, they started to loot the property, and destruct it. The youths were also threatening us to put the vehicles and properties on fire. At around 7:30pm they started destroying the Government property and the Bawngkawn Police Station was informed and requested to dispatch force to the campus. Many property was damaged and the campus.

I filed F.I.R to Bawngkawn Police Station on 28.10.2012 for further investigation

Exbt P- I is the F.I.R U/S 154 CrPC, P I(a) is my signature.

Exbt P -II is the F.I.R of incident on 27.10.2012, P II (a) is my signature.

Cross examination by the Defence counsel:

1. It is a fact that I do not know and identify the accused persons appearing in the court today.
2. It is a fact that I did not see the incident happening on that day.
3. It is also a fact that I have not seen one of our water tank truck hitting the child and a such I cannot say whose fault caused it to happen.

4. It is also a fact that I cannot say who are the looters and the persons who allegedly cause damage to the properties our company and as such I cannot say the involvement of the two accused persons appearing before the court today.
5. It is also a fact that I did not see any persons or mob looting the canteen and its stores and I can say who cause damages to the other properties of our company.
6. It is a fact that what I am stated in my deposition is based on the information received from my subordinate staff.
7. Despite I am deposed that the President YMA made announcement, I did not know the President of YMA at the time of incidence.
8. It is a fact that the accused persons appearing before the court today are not the person who entered our campus claiming himself as a President of YMA at the time of incidence.

P.W No.2 HD Shakavawar MTO Project Pushpak stated that : At the time of the incident I was not in the Pushpak Campus as I was off duty that day. At around 3:30 – 4pm I was informed by the MT Driver Philip Soren of Pushpak about the accident, I then informed the Adm Supervisor Sudir Mehta to look into the matter. I also rushed back to the Pushpak Campus. The camp commander C.P Singh and Sudir Mehta and Capt. Dushyant Malik took the child to Green wood Hospital when he was given first aid. At around 6:30 – 7 pm people started gathering around the Pushpak campus to hand over the driver to them. More and more people and started gathering and started destroyed things and burned around 10 vehicles (three vehicles was completely burnt and 7 vehicles partially damage). For my safety I went outside the campus but I could see the vehicles burning from there. There after the O/C Troops informed the S.P Aizawl Police Station to send force to control the situation. At around 10:30 pm S.P Aizawl and

Executive Magistrate reach the Pushpak Campus and imposed curfew for around two or three days at the Pushpak Campus.

Cross examination by the Defence counsel:

1. It is a fact that I do not know and identify the accused persons appearing in the court today. As it was almost dark I could not see clearly the faces of the people gathering there.
2. It is a fact that there is an announcement in Mizo language but I did not know from where the announcement was made and also not know the statement made in announcement since I did not know Mizo language.
3. It is also a fact that the incident had happened on account of hitting of one child by our Departmental water tanker at Pushpak complex where outsiders are prohibited to enter as it was a place where we kept explosives such as petrols, diesels and lubricants.
4. It is also a fact that I did not see either of the two accused persons appearing in the court today putting fire to the properties of our company or they taking away any of our items including LCD TV, consumer gas cylinder etc from our compound at the P.O on the day of the incidence as I was staying outside out compound for my safety.

P.W No.3 Sudhir Mehta stated that : At the time of the incident I was in the Pushpak Campus. At around 3:30 – 4pm I was informed by the MTO Shakyawar regarding the accident of the vehicle driven by Driver Philip Soren of Pushpak. I then informed the Camp commandant CP Singh and Doctor Dushant Malik. I rushed to M.I o room of Pushpak Campus where the child was given first aid. The child was taken to Civil Hospital but before reaching Civil Hospital we took him to Green Wood Hospital to give him first aid again. Then we went to

Civil Hospital Aizawl and C.T Scan was done there we reached the Pushpak Campus at around 5:45 pm and some people were gathering at the Campus. The Camp Commandant, my self and some traffic official started discussing about the handing over of the M.T Driver to traffic Police. Approximately 20 to 25 people were gathering whether near the NCO Mess, one of them told us to handover to the Driver to him as he is the YMA President. They started destroying had the tables of the mess. I inform the O/C troops Vimal Goswami and he reached the spot immediately. The driver was taken to Bawngkawn Police Station by me, Camp Commander and the O/C troops. We got the information that vehicles were burnt and properties were destroyed at the Pushpak campus while we were at Bawngkawn Police Station. At 10 pm that night curfew was imposed by Civil administration at the Pushpak Campus for 2 or 3 days.

Cross examination by the Defence counsel:

1. It is a fact that I do not know and identify the accused persons appearing in the court today and I have never seen them before at any point of time.
2. It is also a fact that I did not see either of the two accused persons appearing in the court today putting fire to the properties of our company or they taking away any of our items including LCD TV, consumer gas cylinder etc from our compound at the P.O on the day of the incident as I was at Bawngkawn Police Station.
3. It is also a fact that the two accused persons were not there at the P.O on the day of incident.
4. From my personal opinion the reason of happening the incident is due to misunderstanding among local peoples.

5. It is a fact that I do not know the person who made announcement.
6. It is a fact that the accused persons are not included among the peoples who are entered at N.C.O mess.

P.W No.4 V.L.Biaka Joute stated : presently I am posted as O/C Traffic Aizawl City Traffic P/S.

That on 27.10.2012 @ 3:40 pm while I was on duty, I was informed by Traffic control room that, there was an Road Traffic Accident within Pushpak complex at Thuampui, Aizawl in which one boy was injured.

Immediately self with S.I L.Ramnghakmawia of Traffic Police station rushed to the spot and on my arrival I came to learn that the injured boy was already taken to Civil Hospital Aizawl for treatment. On reaching the P/O S.I L.Ramnghahmawia draw the sketch map of the P/O and we also inspect the scene of accident and observing needful formalities I requested the Pushpak authority to hand over the errant driven to us, to ask some question/interrogation him while the Pushpak Staff searched for the said driver, YMA members intervened and demanded immediate show or place the said driver to them and also asked the Pushpak authority where they hid the said driver. As some of YMA members started to gather at Pushpak complex, I immediately informed O/C Bawngkawn P.S and as well as my superior.

That within a shout while Police force arrived at the P/O I like to mention here that, had the Pushpak authority would have handed over the said driver to us, that this rioting could have been arrested/avoided.

Cross examination by Id. D/L accused No.1 :

It is a fact that I never know the accused H.Lalthlamuana and I had never seen him till date.

It is also a fact that I do not know the involvement of the said accused in the present case on his commission of any offence in the said incident.

Cross examination of the counsel for the accused No.1 is adopted by the Id. Counsel for accused no.2

P.W No.5 S.I L.Ramnghahmawia, Aizawl P.S stated : I was posted as S.I Traffic(Zonal Officer) and I left in the year 2013 and I am posted at Aizawl P.S. on the evening of 27.11.2012 at around 3:45pm traffic control room received information that there was a road traffic accident at Pushpak Complex Thuampui and self with my O/C rushed to the spot and on reaching we came to know that one boy was injured in the road accident and the boy was already taking to Civil Hospital Aizawl. There were about three or four women on the spot and they informed that one truck belonging to Pioneer (Pushpak) hit one boy. The Officer of the Pushpak also arrived at the spot and my O/C and I requested him to produce the driver of the said truck (Tanker) for legal action and the same was refused by the said officer. The said Officer even told that the driver of the said truck (Tanker) was not known. I then tried to inquire the same from the entry gate of Pushpak however I was not cooperated by the Pushpak. As time passed there were some civilians gathering at the spot and I saw one of the accused person, the Asst. Secretary of Thuampui YMA was trying to calm down the civilians and to disperse them. Later on after sunset I saw fire on a truck, Pushpak Canteen etc.

Since I could not take any legal action against the said driver of the tanker as he was refused to be produced by the Pushpak I filed and FIR against the Pushpak authority as they will fully prevent a public servant from discharging his lawful duty.

Cross examination by the Defence counsel:

It is a fact that the rioting within the Pushpak area was cause by the refusal on the part of the Pushpak authority to hand over the offending driver who had caused road traffic accident to the Police authority(Traffic).

As far as I know neither of the two accused persons committed any offence on the said day of rioting at the P.O.

P.W No.6. H.Lalbuatsaiha stated :

I know the accused Isaka, however I do not know accused Lalthlamuana.

I was the Secretary of Thuampui Branch YMA at the time of the incident.

I was not present when there was a fire on the Pushpak canteen, etc on 27.10.2012 as I was at the Masihi Sangatee convention at Thuampyu Church.

I was present on 4.11.2012 @ 3:00pm at JAC office Thuampui where the recovered materials from the shrubs located within the periphery of Thuampui such as 1) empty gas cylinder – 1no 2) Rain coat 4 nos 3) Lentil(Kali Bal) 20 kgs kept in a plastic sack, 4) Computer mother board 1 no 5) computer hard disk 1 no 6) computer DVD writer 1 no 7) stitching thread 1 roll 8) canister 2 nos 9) cooking karch 1 no and I was made a seizure witness of the said items.

Exbt P.3 is seizure memo.

Cross examination.

I agree the suggestion that accused no.2 Pu Isaka *did not abet the incident* at any point of time.

It is a fact that I do not know any relationship by the seized articles with the accused persons and the incident.

P.W No.7 Lalropianga of Thuampui stated : I know the accused persons.I was the Chairman Local Council Thuampui. I was at Thuampui at the time of the incident and I went to the P.O after the incidence. As requested by the Police we members of Local council and members of JAC including YMA, MHIP leaders tried to collect different materials around the P.O after the incidence and the materials were kept at the JAC Office Thuampui. I was present when the Police recovered and seized the materials from the JAC office, however I did not give my signature as seizure witness.

Cross examination by the Defence counsel:

It is a fact that I do not know the involvement of both the accused persons in the case arising out of rioting the broke out within Thuampui area.

It is also a fact that I am not listed as a seizure witness in the case.

It is also a fact that I have no document exhibited before the court today.

P.W No.8 H.Lalremruati of Thuampui stated : I started staying at Thuampui from the beginning of 2012. Our house is closest to the P.O at Thuampui. I was not at Thuampui at the time of the incident, however I was at my house the next day. I gave my signature as seizure witness on 1.11.2012 when the Police seized Samsung TV and empty gas cylinder.

Exbt. P-4 is the seizure memo, P-4(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that I do not know from where the Police personnel seized Samsung TV and empty gas cylinder stated by me in my examination in chief.

It is also a fact that I do not know the involvement accused No. 1 Lalthlamuana in the present case.

It is not a fact that exhibit P-4 is false and exhibit P-4(a) is not my signature.

I also do not know the contents of exhibit P-4.

It is a fact that I have no other exhibit before the court today.

P.W No.11 Deepak Pathak of Bawngkawn P.S stated : I know the accused person H.Lalthlamuana. on 27.10.2012 while I was on duty at Bawngkawn P.S we received a telephone information that some crowd burned pioneer camp at Thuampui, pioneer house building, and pioneer vehicle truck, bus etc. we then rushed to the P.O. on reaching the P.O we tried our level best to calm down the

crowd and then I was informed that on the said day evening one Project Pushpak Tanker knock down one minor boy Suraj Karki of Thuampui and as a result the boy sustain grievous injury. The people of Thuampui got angry and demanded the driver of the said Pushpak Tanker to be handed over to Traffic Police who were that at the P.O for investigation. As the O/C Troop Project Pushpak denied the handing over of the said driver to the Traffic Police people got angry, burnt down the property of Pushpak and looted and ransacked. On investigation, I found a prima facie against the accused H.Lalthlamuana as materials such as Samsung LCD T.V one number and empty gas Cylinder were recovered from his house. The accused namely Isaka was reported found that he as a leader of the YMA Thuampui was the one who made announcement in mike directing all the youth above age of 18 years together at Pushpak Campus and sparked tension that led to burning of Pushpak area including house and vehicle, ransacking and looting.

Exbt P-5 is the charge sheet, P-5(a) is my signature.

Exbt P-6 seizure memo of VIP suitcase, civil wearing apparels, P-6(a) is my signature.

Exbt P-7 seizure memo of Gas cylinder, P-3(a) and P-6(a) are my signature.

Exbt P-4 seizure memo of TV and Gas cylinder, P-4(a) is my signature.

Exbt P-8 arrest memo of H.Lalthlamuana,

Cross examination by the Defence counsel:

It is a fact that I did not see the accused no.1 looting the properties of Project Pushpak Camp at Thuampui.

I myself did not see the seized property while in the possession of the accused no.1 allegedly inside his house.

It is a fact that there is no document in the case record today to show that the seized properties belong to the complainant.

It is also a fact that I was not present when the said properties were recovered allegedly from the house of the accused No.1. I did not see the accused No.1 at the P.O on the day of incident .

It is also a fact that the seized properties could also have been bought by any civilian persons including the accused no.1 as they are easily available in the open market.

Prima facie against the accused no.1 in the present case was found based on the statement given by him which was taken by me while he was in my custody.

It is a fact the seized properties namely one LCD TV and one empty Gas cylinder were released on zimanama to the complainant based on their claim and I did not made any identification regarding the same.

It is not a fact that I did not find a prima facie against the accused no.1

It is not a fact that exbt P 4,5,6,7 & 8 are false and exhibit P-4(a) P-5(a), P-6(a) and P-7(a) are not my signatures.

Cross examination by counsel for accused No.2 .

It is a fact that accused no. 2 namely Isaka is not involved stealing L.C.D T.V and empty Gas cylinder.

It is a fact that I did not directly whether or not the accused No.2 was the one who brought together all the youth by announcing on public mike.

It is a fact that the accused no 2 as I have stated in the charge sheet brought together all the youth at Pushpak Campus not for rioting.

It is a fact that as far as I know the accused no 2 informed the people at Thuampui for general information and this instant incident was caused by some drunken youth without being insisted by accused no 2.

The accused are examined u/s 313 CrPC and answer the question as follow :

It is from the record that you are one of the leaders of Thuampui Branch Y.M.A. What do you say ?

Ans : Isaka is leader of Thuampui Branch YMA holding Assistant Secretary, and Lalthlamuana is not leader.

Q.2. It is from the record that on 27.10.2012 @ 3:30 pm one boy Suraj Karki (6) of Thuampui was knocked down by one water tanker Br.No. 06ZE-68633 belonging to Project Pushpak. What do you have to say ?

Ans : I heard the news from the public.

Q.3. It is from the record that when the Project Pushpak refused to hand over the driver Phillip Soren of a tanker that knocked down a boy to the traffic police, you made an announcement through the public mike directing all the villager to gather around Project Pushpak which inturn made the mob to loot the property of the Project Pushpak, burn down their houses and vehicles, etc. What do you have to say ?

Ans : No, I do not make announcement, I was in my house, I was at the Bike racing competition at Tuirial Airfield at the relevant time.

Q.1. It is from the record that you are staying at Thuampui. What do you say ?

Ans : Yes, I am residence of Thuampui.

Q.2 It is from the record that on 27.10.2012 @ 3:30 pm when the Pushpak refused to hand over the driver Phillip Soren of a Pushpak vehicle that knocked

down a boy to the traffic Police, you started looting the property of Project Pushpak, burning down their houses and vehicles, stealing LCD TV, Gas cylinder belonging to Pushpak. What do you say ?

Ans : It is not a fact, I was at my residence at the relevant time.

Since the two accused has no any defence witness, the Id. Counsel J.Lalremruata Hmar submitted written argument as followed :

1. That the above named accused No.2 is a permanent resident of Thuampui, Aizawl for which he is entitled to enjoy all the rights and privileges enshrined under the constitution of India and any other laws made there-under for the time being in force.

2. That the brief facts of the prosecution story is that on 27.10.2012, some unknown miscreant allegedly entered into the Camp of BRTF and burnt some vehicles belongs to the BRTF and those people are also alleged for looting and destroyed some articles of the BRTF personnel since one of the vehicle of the BRTF hit and severely injured one child ;and as the driver of the said vehicle was intentionally hided by the BRTF authority by refusing to handover the said driver to the State Authority(Traffic Police) despite several request made by the State Traffic Police so as to avoid unfavorable rioting. On the basis of the First Information u/s 154 Cr. P.C submitted by the BRTF official, Bawngkawn P.S Case No.281 of 2012 was registered and investigated into. After maintaining all necessary formalities, the case investigating officer submitted charge sheet to the court against the above-named accused persons. Moreover, the accused NO.2(Isaka) was charge as abettor in this case.

3. That the prosecution proposed as many as 9 witness and all of them are examined and cross-examined before the court and the accused persons are examined as per section 313 Cr.P.C and since the accused through counsel declined to give material evidence the counsel for the accused No.2 do hereby submits written argument which are as follows :

a) For that all prosecution witnesses could not identified the accused No.2

b) For that from the depositions of the prosecution witnesses it is crystal clear that the accused No.2 has no liability for abetting riot inside the BRTF camp. Moreover, at the time of the alleged incident, the accused No.2 hold the post of Assistant Secretary, Thuampui Branch YMA for which it is also crystal clear that the accused No.2(Isaka) had tried to calm down the tense situation and trying to be dispersed the angry people who gather at the BRTF Camp on the basis of the deposition of the examination of prosecution witness no.5 namely S.I, L.Ramnghahmawia. it is pertinent to mention here that being a leader of NGO(YMA), the accused No.2 never favour such alleged rioting at any point of time and he rather used to avoid the same.

c) For that the accused No.2 make no announcement on public mike at any point of time on the eve of the alleged rioting inside BRTF Camp and there is not any direct or indirect evidence to prove that the accused No.2 abetted the alleged rioting from the depositions of the prosecution witness. Hence, the accused No.2 has no liability in the present case.

4. That this written argument is made and submitted for the interest of justice.

And for which act of kindness, the accused No.2 as in duty bound shall ever prays.

From the above facts and circumstances as well as on the basis of all the available materials in the case record, it is therefore earnestly prays that Your Honour may be graciously be pleased to acquit the accused No.2 (Isaka) from the liability of criminal charge leveled against him in this instant case for the interest of justice.

From the evidences adduced by the witnesses, it is learnt that on 27.10.2012 at around 3:40 pm one boy named Suraj Karki of Thuampui was hit and injured by Pushpak Tanker Truck No 06ZE-68633 driven by Phillip Soren of Pushpak, and the boy sustain injury and got admitted to the Greenwood Hospital, the Traffic Police try to arrest the driver, but the Pushpak authority denied and did not co-operate and the people who were gather at the spot got angry and burnt down many properties belongs to the Pushpak.

There was announcement to the public villages to gather at the spot, the two accused are accused as the one who made announcement, and responsible in the burning, stealing of properties of the Pushpak property. But from the evidence, there is not prove of the identity of the two accused to commit offence, and no direct evidence against them, P.W No.1 did not know and cannot identified the accused P.W No.2 also stated that he did not see either of the two accused person putting fire to the properties or taking away of any item including LCD, TV Ga cylinder etc from the compound at the P.O on the day of incident. P.W No.3 stated in his cross examination that the two accused were not there at the P.O on the day of incident. P.W No.4 also stated her did not know the two accused, and had never seen him till date. P.W No.5 stated that one of accused Isaka, Assistant Secretary, Thuampui YMA was trying to calm down the civilian gathering at the spot.

So, lot of loophole are available in the evidence, so their involvement was not detected in the incident. They may actually involved, but there was no evidence. Both the accused informed the court that they are not available at the time of burning in the spot in their examination u/s 313 Cr. P.C.

So, the prosecution failed to establish a prima facie case against the two accused for the charges leveled against them. I have no other alternative except to acquit the two accused.

I therefore acquitted accused H.Lalthlamuana, and Isaka from the liability of the charges leveled against them u/s 147/435/436/457/380 IPC, and set them at liberty.

Bail and bail bond stand cancelled.

Seized article if any shall be given back to the rightful owner.

The case stand disposed.

Announce in open court today i.e 24.7.2015.

Give copy to all concern.

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

Memo No _____/ADJ-I(A)/2015 : Dated Aizawl the,24th July 2015

Copy to :-

1. District & Sessions Judge.
2. Isaka, Thuampui.
3. H.Lalthlamuana S/o K.C.Pauva Thuampui.
4. App. Addl.PP
5. Judicial section
6. Case record.
7. Guard file.

PESHKAR