

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

***Sc No.16/2014,
A/o CrI.Tr.No.1877/2013 U/S 302 IPC***

State of Mizoram	:	Complainant
	Vrs	
Sailothanga	:	Accused

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

For the opposite party	:	R.Lalremruata, Addl.PP Lily Parmawii Hmar, APP
For the Accused	:	Lalremtluanga, Advocate
Date of order	:	21.7.2015
Date of disposed	:	21.7.2015

ORDER

The prosecution story of the case in brief is that on 19.10.2013, a written FIR was lodged by Lalchhuanawma (26) S/o Zonunthara of Tuirial Airfield stating that on 19.10.2013 at about 10:00 am, one Sailothanga(Sailova) who has been living with them had stabbed one Khaia with a knife and the victim succumbed to his injuries moments later. Hence, Bawngkawn Police Station Case No.184/2013 dt.19.10.2013 u/s 302 IPC.

Prior to lodging of formal FIR, a telephonic information about the incident was received at Bawngkawn Police Station and Police party headed by SI

Lalsangpuii immediately rushed to the scene. On arrival at Tuirial Airfield, the dead body indentified as Thangzakhaia @ Khaia (55) F/o Vanlalliana of Tidim, Myanmar P/A Tuirial Airfield was found lying on the floor inside the residence of Lalchhuanawma S/o Zonunthara of Tuirial Airfield. Inquest over the dead body conducted in presence of witnesses namely K.Lalzidingliana s/o K.Vanmawia(L) of Tuirial Airfield and Zonunthara S/o Lalzinga of Tuirial Airfield. The dead body was found wearing a black trouser and without a shirt. After removing all the clothings worn by the deceased, the dead body was checked from head to toe. A small stab wound in vertical position about 2 cm long was found on the left rib and no other external injury found on the body. The dead body was forwarded to Civil Hospital for conducting Post-mortem examination to ascertain the actual cause of death. The complainant was examined and his statements recorded.

Laltleipuii(36) W/o Lalmalsawma of Tuirial Airfield and Lalramchhuana (28) S/o Vanlalnghaka of Mimbung P/A Tuirial Airfield who were present at the scene of crime at the time of commission of the offence were examined and their statements recorded. The said Laltleipuii stated that on 19.10.2013 around 10:00 am, the victim Thangzakhaia @ Khaia (who resides with their neighbor Rosiama) and Sailothanga @ Sailova (who lives in their residence) had an argument. As both men often quarrel in the past, she did not pay much attention to their quarrelling. However, during this argument, she saw Sailova reaching for kitchen knife which they kept in their kitchen above the stove, in a magnet. On seeing Sailova taking the kitchen knife, she scolded him and asked him to put the knife away. As both men often quarreled in the past, she did not apprehended that the said Sailova would actually stab the said Khaia and thus continued doing her household chores. When she was about to go out of her house to get a broom, she saw Khaia sharply stepping backwards and saying 'he stabbed me'. On hearing this she immediately took a piece of cotton from their bedroom to dress the wound. After fetching the cotton from their bedroom, she went to take care of Khaia who by then, was already outside their house and gave the cotton to Chhuana who was busy tying the wound with a piece of cloth. On seeing that the

wound was small and not bleeding much, she went inside the house and continued doing her work.

The other witness Lalramchhuana (28) S/o Vanlalnghaka of Mimbung who had been residing with Lalchhuanawma, the owner of the house where the crime took place stated that on 19.10.2013 after having breakfast, Sailova who is living with them, returned to their house after doing some work. And when the said Sailova entered their house, their neighbor Khaia (victim) and Sailova(accused) begin to quarrel. Since both men often argued and quarreled in the past, he did not pay much attention to them. A few moments later, while he was looking out of their window, he heard Khaia saying 'Min vit ania'. On hearing his words, he quickly turned around and saw Khaia and Sailova standing near the doorway and he quickly seized the kitchen knife from Sailova which he had used to stab Khaia. Then he kept the said kitchen knife on top of their refrigerator, which they kept near the main door. Then he tended to the wound of Khaia and tied a cloth around his wound to stop the bleeding. After getting his wound bandaged, Khaia walked towards the residence of Pu Rosiama, where he was living by then and he too went inside his own residence. A few moments later, he heard that Khaia had collapsed before entering the residence of Rosiama, he quickly ran out of their house to take care of Khaia. On seeing Khaia, he and others quickly rushed him towards BSF Hospital, Airfield. However, the said Khaia succumbed to his injury on the way to the Hospital.

The weapon used i.e Kitchen knife about 4 ½ inches long(excluding the handle) was seized on being produced by K.Lalzidingliana (43) S/o K.Vanmawia (L) Tuirial Airfield in presence of reliable independent witnesses namely T.Thangchhuana (38) S/o Upa T.Thangtluanga of Tuirial Airfield and Ramhmangaiha(44) S/o Thangvela (L) of Tuirial Airfield.

The accused Sailothanga (52) S/o Saithankhuma (L) of Sakawrdai P/A Tuirial Airfield was arrested on 19.10.2013 and he was informed of the ground of arrest. He admitted his guilt before Police and his statements recorded. He stated before Police that the victim often scorned him with insulting words in the past

and that day also, he (victim) insulted him again with discourteous words which he could no longer bear and in a fit of anger stabbed him using kitchen knife. He was forwarded to court on 20.10.2013 with a prayer for Judicial Remand.

The statements of witnesses as well as of the accused himself substantiated presence of motive on the part of the accused to murder the victim as he had history of feud towards the victim.

Post-mortem examination report in respect of the victim was received and Medical Officer Dr. Lalringmaia who conducted Post-mortem examination opined that 'the cause of death is due to injury of the heart resulting in haemorrhage (bleeding)'.

From the investigation, a prima facie case u/s 302 IPC is found well established against the arrested person Sailothanga (52) S/o Saithankhuma (L) of Sakawrdai P/A Tuirial Arifield.

Charge u/s 302 IPC is framed, read over in the language known to him to which he pleaded not guilty, and claims for trial. During the trial, prosecution examined eight witnesses.

P.W No.1 Lalchhuanawma stated that :

I know the accused who is standing in the court today.

I also know the victim

On 19.10.2013 when I was watching T.V at sitting room, Smt Laltleipuii told me that the accused stabbed the victim at the kitchen of our house at Tuirial Airfield Veng. I went to the kitchen and I saw the victim going out of the house and fell down and died. I then filed FIR at Bawngkawn P.S.

Exbt P-1 is FIR, P-1(a) is my signature.

Cross examination by D/L :

It is a fact that I did not see the accused and the victim together on the day of the incidence.

It is a fact that the contents of exhibit P-1 was written by Sangpuui and I put my signature thereon.

It is a fact that Sangpuui is a Police Officer posted at Bawngkawn P.S at that time.

P.W No.2 Laltleipuii stated that :

I know the accused. Who is standing in the court today.

I also know the victim.

I was inside the room of the incidence at the time of the incident i.e 19.10.2013.

On 19.10.2013, the accused was standing beside the Gas stove, and the victim was taking water from the top beside the Gas stove. The accused took the water of the victim. The victim then shouted that the accused Sailova had stabbed him with a knife. The victim then went out of the house and fell down and died.

I saw the knife(kitchen knife) that the accused used for stabbing the victim.

I saw the wound of the victim as the victim shouted that he was stabbed.

Cross examination by D/L :

It is a fact that the victim threatened the accused that he would give him first punch.

It is a fact that I did not see the accused stabbing at the victim.

It is a fact that I did not see the victim falling down at the courtyard.

It is a fact that I am not the one who had seen the victim lying on the courtyard.

It is a fact that the victim say nothing when I saw him on the courtyard.

P.W No.5 P.C.Zonunthara stated that :

I know the accused Sailothanga who is standing at the court today.

The accused used to stay at the residence of Pu Lalchhuanawma at Tuirial Airfield Veng.

I was the President of Y.M.A, Tuirial Airfield Branch at the time of the incident.

On 19.10.2013, after the incident i.e when the accused Sailothanga committed murder or murdered Pu Khaia, the victim I rushed to the P.O.A. on reaching the P.O.A, the victim was already dead. When the Bawngkawn Police conducted inquest over the dead body, I was present and I saw that there was a cut by a knife at the left chest of the victim, and I found no other wound/cut on the other part of the body, and I gave my signature at the inquest report at the P.O.A, after the inquest was conducted.

Exhibit P-4 is the inquest report., P-4 (a) is my signature

Exhibit P-5 is receipt of dead body, P-5(a) is my signature.

Cross examination by D/L :

I was not present at the time of the occurrence. I did not see the achieved hit the victim with knife. When I reached the place of occurrence, the victim Khaia already died. When I reached the place of occurrence these were more than 10 persons surrounding the dead body of Khaia. The deceased Khaia

was lying outside the house and his dead body was taken inside the house before the police arrived at the place of occurrence.

When I saw the dead body of Khaia the accused was already apprehended by civilian.

It is a fact that I did not know the background of the issue.

P.W No.6 T.Thangchuana stated that :

I know the accused Sailothanga. The accused used to stay at the house of Pu Lalchuanawma of Tuirial Airfield Veng.

I was a Vice President Y.M.A, Tuirial Airfield Branch. As soon the I came to know that the accused murdered Khaia on 19.10.2013, I rushed to the P.O.A, and when I reached the P.O.A, the victim was almost dead. When the police seized the knife used by the accused Sailothanga to kill Khaia, the victim, I was present and I gave my signature at the seizure memo.

Exhibit P-3(b) is my signature.

Exhibit M(1) is the knife, kitchen knife or S.A.

Cross examination by D/L : Lalremtlunga

It is a fact that today is the first time I have seen the exhibit M-1.

It is not a fact that I was not present at the time when the inquest was convicted by the Police and the death body Khaia.

It is a fact that I did not know the background of the problem or the issue.

It is a fact that I did not see the accused and the victim fighting.

Re-examination of P.W No.6 by Id. Addl. P.P

It is not a fact that today is not the first time I have seen exhibit M-1, after the same was seized by the Police.

Further cross examination by Id. D/L :

It is a fact that I did not see from where exhibit M-1 was recovered by the police, and when I saw it was already taken possession by the police.

It is a fact that I have no particular went on identification to prove that exhibit M-1 shown in the court today is the one seized by the police an the date mentioned herein before.

P.W No.7 Ramhmangaiha, executive member of Tuirial Airfield, stated he is seizure witness of seizing of kitchen knife and exhibited his signature in the seizure memo. In the cross examination the P.W No.7 further stated that :

I know the accused Sailothanga who is standing in the court today.

I was a member of executive committee Tuirial Airfield YMA last year, and as such I was called by the Police and made a seizure witness when the police seized a kitchen knife used by the accused to kill/murder Khaia on 19.10.2013.

Exbt P 3 seizure memo, P 3(a) is my signature.

Exbt M 1 is the kitchen knife/Seize article.

Cross examination by the Ld. D/L:

As far as I know the Police had recovered exhibit M- 1 from the inside of the house of Bawiha.

It is a fact that I was not present at the P.O when exhibit M-1 was recovered by the Police. When I arrived at the P.O the exhibit M-1 was already taken possession by the Police.

It is a fact that there was nothing written on the handle of the said kitchen knife taken possession by the Police at that time .

It is not a fact that I did not put my signature at the P.O.

It is a fact the seized kitchen knife was not pack at the P.O by the Police.

P.W No.8, Dr. Lalringmaia stated that :

While I was duty on dt. 20.10.2013 at Civil Hospital Aizawl I received Police requisition for PME a victim Thangzakhaia s/o Vanlalliana of Tiddim, Myanmar P/A Tuirial Air Field.

Accordingly I conducted PME on the said death body with the assistance of mortuary attendant. After I complete my examination I recorded my findings on the prescribe form and forwarded the said report from the case I/O.

Exbt P 1 is PMER P 1 (a) is my signature.

Cross examination by the Defence counsel:

It is not a fact that I did not find the injury found on the dead body is sufficient to cause death in the ordinary course of nature.

P.W No.9. S.I Lalsangpuii, stated that :

In the year 2013 I was posted at Bawngkawn P.S Aizawl. That on 19.10.2013 while I was on duty at Bawngkawn P.S Aizawl we received a telephonic information from Zonunthara of Tuirial Airfield stating that on 19.10.2013 at about 10 am one Sailova had stabbed one Khaia with a knife at their resident. I and other Police personnel rushed to the P.O, the victim Thangzakhaia @ Khaia father of Vanlalliana of Tidim, Myanmar, P/A Tuirial Airfield was found lying on the floor inside the residence of Lalchhuanawma S/o Zonunthara. I conducted inquest over the dead body of Khaia in presence of witnesses. The dead body was found wearing trouser and without a shirt, after removing all the clothing's worn by the victim, the dead body was checked. I found a small stab wound in vertical position about 2cm long on the left rib and no other external injury was found on the body of the victim. After that I forwarded the dead body of the victim to Civil Hospital for conducting post mortem examination to ascertain the actual cause of death of the victim.

On the same date i.e 19.10.2013 a written F.I.R was lodged by Lalchhuanawma S/o Zonunthara of Tuirial Airfield Aizawl at Bawngkawn P.S Aizawl stating that on 19.10.2013 at about 10am one Sailothanga (Sailova) who has been living with them had stabbed one Khaia with a knife the victim succumbed to his injury. And Bawngkawn P.S C/No 184/2013 dated 19.10.2013 U/S 302 IPC was registered.

I was endorsed to investigate into this case by the O/C Bawngkawn P.S Aizawl. During my investigation I examined the complainant Lalchhuanawma and also recorded his statement. I also examined Laltleipuii and Lalramchhuana of

Tuirial Airfield who were present at the time of commission of the incident and recorded their statements. And I also examined seizure witnesses of kitchen knife and recorded their statements. I also examined and interrogate the accused Sailothanga who admitted his guilt stating that he used to have an argument with the victim in the past and on that particular date i.e 19.10.2013 and he stabbed the victim by using a kitchen knife. I arrested the accused on 19.10.2013 by informing him the ground of his arrest. I also seized the kitchen knife used by the accused at the P.O in the presence of civilian witnesses.

That during my investigation I received postmortem examination report of the victim from the Medical Officer namely Dr.Lalringmaia conducted PME opined that the cause of death of the victim is due to injury of the heart resulting in hemorrhage.

From my investigation a prima facie case Under Section 302 IPC is found well established against the accused Sailothanga, however before filing of charge sheet I was transferred to CAW Cell Aizawl, I handover the case to the O/C Bawngkawn P.S Aizawl.

Exbt P-3(C) is my signature on the body of seizure memo.

Exbt P-6 is the arrest memo of the accused Sailothanga, P-6(a) is my signature.

Exbt M-1 is the kitchen knife used by the accused seized by me.

Cross examination by the Ld. D/L:

It is a fact that I did not send exhibit M-1 to FSL for biological examination.

It is a fact that there was no blood stain on the said exhibit M-1.

It is a fact that I did not see the accused using exhibit M-1 for any purpose.

It is a fact that when I interrogated the accused, he was already under Police custody.

It is a fact that before I interrogate the accused I did not inform him his right to remain silent while interrogation.

It is a fact that altercation and fighting took place inside the house of Lalchhuanawma.

It is a fact that my source of information is information which I received from witnesses mention in the charge sheet.

It is a fact that I did not make a particular mark on the exhibit M-1 to prove that the same was seized by me from the residence of Lalchhuanawma.

P.W No.10. Inspector Zarzokima stated that :

That on 19.10.2013 a written FIR was lodged by Lalchhuanawma s/o Zonunthara of Tuirial Airfield about 10:00 am, one Sailothanga (Sailova) who has been living with then had stabbed one Khaia with a knife and the victim

succumbed to his injuries. Hence, Bawngkawn P.S Case No.184/13 dt.19.10.13 u/s 302 IPC was registered.

S.I Lalsangpuui was endorsed by the O/C Bawngkawn P.S to investigate into this instant case. At that time I was posted at PHQ, Aizawl. All the investigation in this particular case was done by S.I Lalsangpuui, however, she was transferred to another station and I was transferred to Bawngkawn P.S and the case O/C endorsed me to continue/complete the investigation of this instant case.

I collected all the material evidence which were duly recorded and investigated by the former case I/O and I thoroughly gone through all the statements of the accused and other witnesses, medical report, seizure memo, arrest memo, case diary inquest report, sketch map of P.O, FIR, Post-mortem report of Khaia (victim) I found a prima facie case u/s 302 IPC well established the accused Sailothanga and I therefore, I beg to send him up before the Hon'ble court to face his trial under the aforesaid section of law.

Exhibit P-4 is the final form report submitted by me.

Exhibit P-4(a) is my signature.

I submitted charge sheet to the court as the previous case I/O was transferred before filing of the charge sheet.

It is a fact that I did not visited the P.O.

I was posted at BawngKawn P.S from the month of 14th January 2014 till date.

It is not a fact that I did not find prima facie case against the accused,

It is not a fact that I filed a charge sheet without finding prima facie case.

It is not a fact that I filed charge sheet from the presence of our superior.

It is a fact that I did not see the accused during my investigation.

Accused Sailothanga was examined u/s 313 Cr PC after prosecution evidence is closed, and answer the question put to him as followed :

Q.1.It is from evidence that you were staying at the house of Pu Lalchhuanawma of Tuirial Airfield veng till 19.10.2013. What do you say ?

Ans : Yes I am staying at Pu Lalchhuanawma residence.

Q.2. It is from the evidence that the victim Khaia was inside the house of Pu Lalchhuanawma of Tuirial Airfield veng on 19.10.2013. What do you say ?

Ans : Khaia entered the house of Khaia after me,

Q.3. It is from the evidence that you were standing beside the gas stove at the kitchen inside the house of Pu Lalchhuanawma while the victim Khaia was taking water from the tap beside the gas stove, and when you had taken water from the victim Khaia, Khaia got angry.

Ans : Khaia followed me when I enter the house of Lalchhuanawma, and Khaia asked for liquor, but no liquor was available on my bag and then he felt angry, and I tried to push him out.

Q.4. It is from the evidence that when the victim Khaia shouted and yelled that he would punch you, you took a kitchen knife placed on a magnet which is on the wall nearby a gas stove and stabbed Khaia at his left chest on 19.10.2013 @ 10:00 am. What do you say ?

Ans : I have already kept the knife, and I do not know to which side left or right stabbed on his chest.

Q.5. It is from the evidence that Khaia died on 19.10.2013 due to your stabbing with a kitchen knife at his left chest piercing his heart that led to bleeding while he was taken to B.S.F hospital Tuirial. What do you say ?

Ans : I do not know how Khaia was took after the incident, I was remain in the house.

The accused Sailothanga stated that he has no any defence witness and hence both the Id. Public Prosecutor and defence counsel submitted W/A as followed the Id. P.P. lalremruata submitted that :

1. That Sailothanga was arrested on 19.10.13 at Tuyirial Airfield veng on the strength of FIR lodged by Lalchhuanawma. S/O Zonunthara of Tuirial Airfield at Bawngkawn Police Station, stating that Sailothanga stabbed one Khaia with a knife and the victim Khaia succumbed to his injuries.

2. That PW No.1. Lalchhuanawma deposed before the court that on 19.10.2013 while he was watching T.V in his house at Tuirial Airfield veng, the accused Sailothanga stabbed Khaia, the victim to dead at the kitchen and he filed FIR.

3. That PW No.2. Laltleipuii deposed before the court that she was present at the time of the incidence on 19.10.2013. she stated that the accused stabbed the victim with a knife, the victim then sent out of the house, and fell

down. She also heard the victim shouting that the accuse. Sailothanga him, and saw the knife used by the accused.

4. That P.W No.5. P.C.Zonunthara, the then President, YMA Tuirial Airfield Branch deposed that the accused Sailothanga used to stay at the residence of Pu Lalchhuanawma of Tuirial Airfield veng and stated that he was present at the time of conducting inquest over the dead body and saw there was a cut injury at the left chest of the victim and found no other wound on the other part of the body.

5. That PW No.8. Dr.Lalringmaia who conducted PME reported that the victim died due to stabbed wound at his left chest piercing his heart that led to bleeding.

6. That the accused Sailothanga did not deny that he stabbed the victim on 19.10.2013 @ 10:00am at the time of examination u/s 313 Cr.P.C.

7. That there was no other person who could have been accused of stabbing the victim on 19.10.2013.

8. That from the above points, it is clear that the victim Khaia. Thangzakhaia S/o Vanlalliana of Tiddim, Myanmar P/A Tuirial Airfield veng died on 19.10.2013 due to stabbed wound at his left chest piercing his heart, stabbed by the accused Sailothanga with a knife at @ 10:00 PM on 19.10.2013 at the kitchen of Lalchhuanawma at Tuirial Arifield veng.

In the facts and circumstances mentioned above this Hon'ble court is earnestly prayed to convict the accused Sailothanga S/o Saithankhuma, Sakawrdai P/A Tuirial Airfield veng U/S 302 IPC or as your honour may deem fit and proper.

Pu Lalremtluanga, Id. counsel for the accused submitted that :

1.The prosecution story of the case in brief is that on the night of 19.10.2013 while she was on duty at Bawngkawn PS ,SI Lalsangpuii has received a telephonic information from Zonunthara of Tuirial Airfield that on the said night @ 10 pm, one Sailova had stabbed one Khaia with a knife at their residence. The said officer and her party then rushed to the PO ,found the victim lying on the

floor inside the residence of Lalchhuanawma..Hence Bkn PS C/No 184/13 dated 19.10.2013 u/s 302 IPC was registered against accused Sailothanga.

2.That the case was endorsed to SI Lalsangpuii and finally filed charge sheet.

3.Accordingly charge u/s 302 IPC were framed against the accused and the accused 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) Pw-8 ,Dr Lalringmaia, Civil Hospital Aizawl, who conducted PME on the dead body of Khaia .

(ii) Pw-4 Pw No 4 Ramhmangaiha of Tuirial deposed that he witnessed seizure of the seized material .

On his cross-examination he admitted that he was not present at the PO when S/A was recovered by the Police ,no marking was made on the spot.

(iii) Pw-9 SI Lalsangpuii deposed that on the night of 19.10.2013 while she was on duty at Bawngkawn PS ,SI Lalsangpuii has received a telephonic information from Zonunthara of Tuirial Airfield that on the said night @ 10 pm, one Sailova had stabbed one Khaia with a knife at their residence.The said officer and her party then rushed to the P.O found the victim lying on the floor inside the residence of Lalchhuanawma. Hence Bkn PS C/No 184/13 dated 19.10.2013 u/s 302 IPC was registered against accused Sailothanga. The case was endorsed to her for investigation, visited PO arrested the accused, record his statement, conducted Inquest on the dead body caused the said dead body for PME and received PMER, found prima facie case against accused and filed charge sheet.

On his cross-examination he admitted that the victim Tetea was the one who first made problem at the PO and accused is not the one who caused problem.

(iv) Pw 8 Dr Lalrinthangi, Civil Hospital Aizawl deposed that on 4.5.14 while she was on duty at Civil Hospital Aizawl, F Lalrinfela and F Laltlanzuala were brought to Casualty for medical attention and examined the two boys.

On her cross-examination she admitted that she did not send the Ext M-I to FSL for biological examination, she did not make a particular marking on the Ext M-I to prove that the same was the one she recovered and seized in connection with the case.

Law points : None of the prosecution witnesses was able to prove in the court that the accused has stabbed at the victim and can say for sure that the accused is the one who stabbed at the victim. The Ext M-I namely kitchen knife was not sent to FSL for scientific examination and in the absence of concrete evidence on the part of the prosecution the accused cannot be held responsible for the death of the victim. Hence evidences of the prosecution witnesses are not convincing, they cannot establish the case beyond reasonable doubt and the accused entitles benefit of doubt and as such the accused be acquitted and it is prayed accordingly.

The medical report revealed that as per external appearance and thorax columnas, 1000 ml of blood collected in thoracic cavity, and the Medical Officer who post mortem the victim stated that "In my opinion the cause of death is due to injury of the heart resulting in haemorrhage (bleeding)

From the evidence adduced by the prosecution witnesses, and on perusal of the medical report, the victim Khaia was died due to injury of heart resulting in bleeding which was caused by accused Sailothanga stabbing with knife, the reason of quarrelling begins when victim Khaia expected liquor from the accused, and accused did not bring home liquor, and the accused Sailothanga tried to push out of the house, and then the fighting begin, as stated by the accused in his examination u/s 313 Cr. P.C there may be no intention to kill on the part of accused, but used knife to stop the act of victim and then stabbed him, which caused death to the victim, it may be beyond his intention, the act fall u/s 299

IPC culpable homicide, not amounting murder, it is defined that "whoever causes death by doing an act with the intention of causing death or with the intention of causing bodily injury as is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide I find that there was no hatred between the accused and the victim, and there was no any pre-plan to murder the victim, and no intention to kill, and the act of killing of victim caused by provocation. Had the accused Sailothanga offered liquor to the victim, the killing might not happen.

The accused Sailothanga is therefore found guilty u/s 304 IPC, as the prosecution proved their case beyond doubt. I therefore convicted accused Sailothanga u/s 304 IPC.

The sentence period shall be heard in the next date.

Give copy of this order to all concerned.

Announce in open court today 29.6.2015.

16.7.2015 : The convicted Sailothanga is produced from Judicial Custody .
counsel for both parties are present. Today is fixed for hearing on sentence.

The Id. counsel for the prosecution submitted and prayed the court to award maximum sentence or life imprisonment for the convicted .

On the other hand the Id. D/L prayed that Sailothanga need treatment outside the Jail as treatment he needs namely permanent pacemaker implantation as recorded by Medical Health Officer, Central Jail, Aizawl by letter dated 10.7.2015 and prayed to release him on P.R on health ground.

Upon hearing of sentence period in the presence of accused Sailothanga, accused Sailothanga further informed the court that he could not control even his stool due to nerve problem, and used to defecate stool before reaching toilet. The medical report issued by Medical Officer Central Jail certified that accused

Sailothanga is suffering from sick sinus syndrome as certified by cardiologist, Dr. Loncy V.Lalzarliana of Civil Hospital, Aizawl and suggested him, the patient(Sailothanga) needs PP-I (i.e permanent pacemaker implantation) at a higher centre and he has also referred for the same. Since facilities in Central Jail do not sufficient for such treatment, the Medical Officer recommended that to undergo further medical management from outside the Jail as soon as possible.

In view of the health condition of accused Sailothanga severe punishment of sentence is not desirable, and leniency need to be shown to avoid custodial death in the jail.

So, it pursuance of Apex court ruling in Dev Singh Vrs State of Punjab, 2000 Cr L.J 347(Puny) which run as follow "*where accused who inflicted fatal injury on head of deceased which cause his death without intention to kill him is liable to be convicted u/s 304 Part-II while other accused who inflicted sword injury liable to be convicted u/s 324 IPC*".

With these observation the quantum of sentence of convicted Sailothanga is fixed for 21(twenty one) months and a fine of Rs.1000/- i.d one month.

The case is disposed.

Sd/-VANLALMAWIA
Addl.District & Sessions Judge
Aizawl Judicial District,Aizawl
Memo No _____/ADJ-I(A)/2015 : Dated Aizawl the,21st July 2015

Copy to :-

1. District & Sessions Judge, Aizawl.
2. Accused Sailothanga C/o Lalremtlunga Advocate.
3. Spl.Superintendent Central Jail,Aizawl.
4. App. Addl. P.P.
5. Judicial Section
6. Case record.
7. Guard File.

PESHKAR