

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

***Sc No.113/2013,
A/o Crl.Tr.No.262/2013, Aizawl P.S Case No.54/2013
U/S 25(1A)/25 (1AA) Arms Act.***

State of Mizoram	:	Complainant
	Vrs	
R.C Dingluaia & Ramnghahsanga	:	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	:	25.6.2015

ORDER

The prosecution story of the case in brief is that on dt.6.2.2013 @ 9:30 pm a written FIR is received from S.I Lalrokima Chhangte CID(SB) Aizawl stating that on 5.2.2013 @ 10:00 pm they along with 26th Assam Rifles and IFSU had apprehended one RC Dingluaia (43) S/o Kawlbunga of Nursery veng, Aizawl in their operation and seized one 9mm pistol with one magazine and one live round ammunition which he possessed illegally. An on 6.2.2013 @ 4:30 pm, owner of seized 9mmPistol Ramnghahsanga (25) S/o RD Lalhualiana of Sawleng, P/A Ramhlun North was also apprehended and requested for necessary action.

Hence, Aizawl P.S C/No.54/13 u/s 25(1A)/25(1AA) Arms Act, 1959 is registered and O/C endorsed me to investigate the case. Accordingly, I have taken up the case and duly investigated into.

During investigation, the complainant was carefully examined and his statement was recorded. All available witnesses were also examined and the accused R.C Dingluaia (43) S/o Kawlbunga of Nursery veng, Aizawl stated that the seized pistol actually belongs to accused Ramnghahsanga (25) S/o RD Lalhualliana of Sawleng, P/S Ramhlun North, Aizawl and both having common intention tried to seel it for their personal gain. As and both having common intension tried to sell it for their personal gain. Also the accused Ramnghahsanga (25) S/o RD Lalhualliana of Sawleng, P/A Ramhlun North, Aizawl and both having common intention tried to sell it for their personal gain. Also the accused Ramnghahsanga (25) s/o RD Lalhualliana of Sawleng P.A Ramhlun North stated that the actual owner of the seized Pistol is none but he himself which he bought it from Lalchhuanawma of Khanpui Village by Rs.800/- during January 2013. The two accused were arrested and remanded them in Police Custody for 24 hrs. during remanded period, they were thoroughly interrogated and both were forwarded to Civil Hospital Aizawl for medical examination. They confessed that they were trying to sell one 9mm pistol and one live round ammunition in front of Mizo Hnam Run near Vanapa Hall and they were trying to sell one 9mm pistol and one live round ammunition in front of Mizo Hnam Run near Vanapa Hall and they were arrested by CID(SB) staff and 26th Assam Rifle. Later they were forwarded to Judicial custody on 8.2.2013. the seized one 9mm pistol, one Magazine and one live round ammunition country made was forwarded Assam Rifle. Later, they were forwarded to Judicial custody on 25.6.2013. the seized one 9mm Pistol, one Magazine and one live round ammunition country made was forwarded to FSL, New Secretariat Complex for necessary examination, FSL examination report received on dt.21.3.2013 which revealed that the seized pistol is a country made fire arm and is in working condition and seized live round of ammunition is fired cartridge case loaded with 9mm fired bullet.

From the above mentioned facts and circumstances, a prima facie case u/s 25(1A)/25(1AA) of Arms Act, 1959 is found well established against the

accused RC Dingluaia(43) S/o Kawlbuanga of Nursery veng, Aizawl and Ramnghahsanga(25) S/o RD Lalhualiana of Sawleng, P/A Ramthar North, Aizawl.

Charge u/s 25(1A)/25(1AA) Arms act is framed in the language known to them to which they pleaded not guilty, and claims for trial. During the trial, the prosecution examined 3(three) prosecution witnesses.

P.W No.1 S.I Lalrokima Chhange submitted that I know both the accuseds who are standing in the court today. I am working as SI of Police, CID (SB) Aizawl. On 5.2.2013 evening we received information from 26th Assam Rifles and IFSU and stated that there was a Pistol to be seized and sought our help. As per detailment by superior officer I with party proceeded to Vanapa Hall. While we were nearby Vanapa Hall, the accused Laldingluaia was apprehended while riding a bike. The accused Laldingluaia possessed the S/A and the S/A i.e (9mm Pistol, 1 ammunition and 1 magazine) was seized from his possession. The next day the other accused Ramnghahsanga who is the real owner of the said S/A was apprehended. I then filed FIR to the O/C Aizawl Police Station.

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

Exbt P 2 seizure memo, P 2 (a) is my signature.

Exbt M 1 is the S/A

Cross examination by the Defence counsel:

I am the seizing officer of the seized property as well as the one who lodge FIR Exbt P 1.

It is a fact that I seized the seized property from the immediate possession of one person, pillion rider of accused R.C.Laldingluaia on the date mentioned here in above. As far as I know the empty magazine was put

inside the butt of the said gun, one ammunition put under the immediate possession of pillion rider.

It is a fact that cardboard/haitai cheese cracker container used for packing the said 9 mm Pistol I have seen today for the first time is not seen by me on the day of the incident.

It is a fact that the particulars of the said seized namely Sl.no and manufacturing company etc. were not entered by me in Exbt P 2.

It is a fact that I did not seized the Exbt M 1 from the immediate possession of the two accused persons.

In my opinion Arms of this type maybe available in Aizawl abundantly.

P.W No.4, Lalchhuanawma, Aizawl P.S stated that I know both the accused R.C Laldingluia (43) S/o Kawlbunga Nursery veng and Ramnghahsanga (25) S/o RD Lalhualliana Sawleng P/A Ramhlun North.

On 6.2.2013 a written FIR was received by SI Lalrokima Chhange CID(SB) Special Branch, Aizawl stating that on 5.2.2013 he along with 26th Assam Rifles and IFSU apprehended accused RC Laldingluaia and seized 19 mm Pistol with one magazine and one live round ammunition which was possessed by him illegally. The accused Ramnghahsanga was apprehended by them on 6.2.2013 at around 4:30 Pm and accused Ramnghahsanga seems to be the owner seized 9mm Pistol.

Aizawl P.S Case No 54/2013 U/S 25(1A)25(1AA) of Arms Act 1959 was registered and the case was endorsed to me by the O/C Aizawl P.S.

During the cause of investigation the complainant was examined and his statement was recorded and all the witnesses were also examined and both accused were forwarded to Civil Hospital for Medical Examination. The seized article were forwarded to FSL for examination and the examination report was

received on 21.3.2013 and reveals that the seized Pistol is a country made fire arm and is in working condition.

A prima facie case u/s 25(1A)25(1AA) of Arms Act 1959 is found well established against the two accused and I send them to the Hon'ble court for trial and disposal.

Exbt P 3 is the Final Form Report, P 3(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that I was not present at the time when the said S/A who were seized.

It is also a fact that I did not interrogate with the accused Ramnghahsanga & RC Laldingluaia.

It is also a fact that the O/C namely Lalchangliana endorsed the case to me and as such I prepared the charge sheet of the same.

It is a fact that I have come to know the instant case only when the same was produced to me for preparing charge sheet.

It is also a fact that I do not know as to whether the accused Ramnghahsanga the owner of the S/A and I also do not know as to whether the accused RC Laldingluaia his the owner of S/A or not.

It is also a fact that I know nothing about this case except the charge sheet and FSL which was forwarded by me.

P.W No.5, R.Sangzuala, Asst. Dir. FSL stated that On 19.2.2013 my superior received one Pistol marked as exhibit A by the case I/O and one cartridge marked as Exhibit B by the case I/O for ballistic examination in connection with Case No.54/2013 dt.6.2.2013 U/S 25(1A)/25(1AA) Arms Act from Aizawl P.S. On the same day my superior endorsed me to examine the case

along with the said exhibits. After I carefully examined the said pistol i.e 9mm semi-automatic pistol and test firing was done by me, my findings and opinion based on my examination are as follows :

1. The weapon in Exbt - A is the country made 9mm semi automatic Pistol which is in working condition.
2. The ammunition in Exbt.- B is 9mm fired cartridge case loaded with 9mm fired bullet in to its mouth and which have been fired through the weapon in Exbt.- A.

Exbt P- 4 is the FSL Report submitted by me.

Exbt P-4(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that I am a competent authority to examined the S/A.

I did not know what provision as I have given evidence.

I do not know whether as I have given my signature to the seizure index or not.

I was not present during search and seizure I do not know whether the S/A was seized from the possession of the accused or not.

P.W No.2 & 3 are drop as their where about is not known.

The two accused are examined u/s 313 Cr.PC.

Accused Ramnghahsanga answered the question that he was arrested on 6.2.2013 at around 4:30 pm the seized 9mm Pistol and one ammunition and magazine is not belongs to him.

Accused R.C Laldingluaia answer the question that he apprehended while riding a bike near Vanapa Hall, Aizawl on 5.2.2013 and the seized 9mm Pistol is not recovered from his possession.

The two accused have no any defense witnesses.

Mr. Lalremtlunga, Id counsel for the accused submitted in his written argument that :

1.The prosecution story of the case in brief is that on the night of 5.2.2013,accused RC Laldingluaia brought one person who later come to be an agent of CID towards Hnam Run by his bike .Both of them were checked and 9 mm pistol one live ammunition and magazine of the said pistol was recovered from the said pillion rider of accd RC Laldingluaia .Since the said pillion rider happened to be CID agent,accd RC Laldingluaia was arrested and the said service arms with ammunition were also seized in the presence of Sanju Deb and Abu Maya,Hotel Manager and Waiter by SI Lalrokima Chhangte .Accordingly the instant case was registered against accused persons.

2.That during the investigation accd Ramnghahsanga was also arrested under the same charge section

3.Accordingly charge u/s 25((IA)/25(IAA) of Arms Act were framed 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) Pw-I,Shri Lalrokima Chhangte SI of Police and seizing officer was examined and in his examination in chief he deposed that on 5.2.2013 he seized 9 mm pistol from the possession of accused RC Laldingluaia and also arrested another accd Ramnghahsanga .

On cross-examination he admitted that he seized the said pistol from the immediate possession pillion rider of accd RC Laldingluaia .He also admitted that he did not enter manufacturing company of the S/A .He also admitted that he did not seize the S/A from the immediate possession of the two accused persons.

(ii)Pw-4 Lalchhuanawma of Aizawl and case I/O was examined and he deposed that filed charge sheet against the two accused persons.

On his cross-examination he admitted that he did know which of the two accused persons owns the seized article .

(iii) Pw-5 Shri R Sangzuala Asst Director FSL was examined and proved FSL report and also cross-examined. However neither his examination in chief nor his cross-examination brings fruitful result to the parties.

The evidences of the two seizure witnesses namely Sanju Deb and Abu Maya were dispensed with due to non-co operation of court summons received by them .

Law points : The said seizure was not corroborated by independent witnesses .Moreover the seized pistol was not recovered from the accused persons but recovered from CID agent who was pillion rider of accd RC Laldingluaia and accd persons were falsely implicated without any base. Moreover the seized article has to be packed and seal by the seizing officer on the spot in the presence of the accused and independent witnesses which however was not done. Hence the prosecution has failed everything against accused persons and the accused entitles benefit of doubt and as such the accused be acquitted and it is prayed accordingly.

On perusal of the material evidence, available on record, it is learnt that the seized article was recovered from the immediate possession of one person, pillion rider of accused R.C. Laldingluaia on 5.9.2013 and the empty magazine was also seized from the immediate possession of the said pillion rider which was put inside the bullet of the said gun, as submitted by P.W No.1 Lalrokima

Chhange, S.I of Police in his cross examination, he further stated that he did not seized the S/A from the immediate possession of the two accused persons. Pu Lalchhuana of Aizawl P.S also stated in his cross examination by the defence council of accused that he did not know as to whether the accused Ramnghahsanga and accused R.C.Laldingluaia are the owner of the S/A or not. Pu R.Sangzuala also submitted in his cross examination that he did not know as to whether the S/A was recovered/seized from the possession of accused persons. So, the three prosecution witnesses submitted that they do not know as to the S/A belongs to the accused, and the S/A are not seized from the immediate possession of accused but from the pillion rider of the Bike with whom accused R.C.Laldingluaia boarded. The other two seizure eye witness are absconded and where about is known during the trial. They are Non-Mizo perhaps casual labour, and may return to their native state.

So, prosecution could not established prima facie case against the two accused u/s 25(1-A) 25(1AA) of Arms Act, over the seizure of 9mm Pistol, with one ammunition and magazine the said Arms and its Magazine are undoubtedly seized, but a lot of doubt from where they seized, and from whom are seized is not known. Benefit of doubt shall go in favour of accused as decided by Apex court. With this view the prosecution fails to establish prima facie case u/s 25(1A)(1AA) arms Act, against the accused R.C.Laldingluaia and Ramnghahsanga.

Accused R.C.Laldingluaia and Ramnghahsanga are hereby acquitted from the liability of the charges leveled against them, and set them at liberty.

Bail and bail bond stand cancelled.

Seized article of Pistol shall be confiscated.

Give copy of this order to all concern.

Announce in open court today 25.6.2015.

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

Memo No ____/ADJ-I(A)/2015 : Dated Aizawl the,25th June 2015

Copy to :-

1. District & Sessions Judge.
2. Accused RC Laldingluaia & Ramnghahsanga C/o Lalremtlunga Advocate.
3. APP/Addl. PP.
4. Judicial Section
5. Case record.
6. Guard

PESHKAR