

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

***Crl.Revision NO.18/2015
A/Crl.Tr(Ex) 179/2014
U/S 8(1) MLTP Act.***

Lalnunmawii & Ors : Petitioner

Versus

State of Mizoram : Respondent

BEFORE

**Shri. Vanlalmawia,
AD & SJ-I**

PRESENT

For the petitioners : Lalbiakkima, Advocate.
For the Opposite party : R.Lalremruata, Addl. P.P.
Lily Parmawii Hmar, APP.
Date of Order : 11.5..2015

ORDER

Case record put up today and today is fixed for hearing.

Seen criminal revision No.18 of 2015 along with vakalatnama duly executed by the convicted /petitioners Lalnunmawii and Vanlalthawma in favour of the Id. counsel Lalbiakkima & others. Which is accepted and registered.

The Id. counsel for the convicted/petitioners submitted that

1) The Id Judicial Magistrate Ist class proceeded the trial without complying of the provisions of 303/304 of Cr.PC 1973 which vitiated the whole process and that the conviction is had in law as well as in fact and cannot be stand in the eye of law and also a clear violation of their fundamental rights guaranteed by the constitution.

2) That the convicted/petitioners were not defended by a pleads. The importance of an accused being defended by a counsel has clearly been emphasized and given importance by the Hon'ble Gauhati High Court, Aizawl Bench in criminal petition no 3 of 2013 (J.Lalchharmawia versus State of Mizoram) is the said judgement it has been held that "it is a settled principle of law that no man be tried until and unless he is defended by a counsel appointed by him or a legal aid counsel is appointed.

3) That the Id. Judicial Magistrate Ist class did not inform the convicted/petitioners of their rights and they had no chance for defence against the charges leveled against them. The conviction is bad in law as well as in fact and cannot stand in the eye of law.

4) That there is no civilian witness at the instant case and its clearly violated the mandatory provision of law.

5) That the laboratory in charge who has tested the alleged S/A at the instant case was not amount expert under the provision of section 233 Cr.PC.

That the Id. counsel for the convicted/petitioner prays to set aside and quash the impugned conviction order and to release the petitioners for the end of justice.

On the other hand the Id. APP/AGA strongly objected the criminal revision and that prays the Hon'ble court to uphold the order passed by the Id. lower trial court.

On perusal of the case record of Lower court, the trial court did not inform the right of accused, to engaged defence counsel, and accused did not engaged any lawyer, and hence she was then convicted at the initial stage of trial, without defence by any lawyer.

In view of GHT High court ruling in criminal Petition No 3 of 2012(J) I am bound to involve in the judgment of trial court due to the violation of 303 CrI.PC.

So, the judgment and conviction of trial court is upheld by modifying the sentence period for the detention already undergone from the Quantum of 3 months and fine of Rs.1000/- i.d 10 days.

The CrI. Revision is disposed.,

Give copy of this order to all concern.

Case record of lower court be returned.

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

Memo No. AD&SJ-I/2015 : Dated Aizawl, 11th May 2015.

Copy to:

1. District & Sessions Judge, Aizawl.
2. Lalnunmawii D/o Thangkeuva & Ors C/o Lalbiakkima Advocate & ors .
3. Spl,Superintendent Central Jail, Aizawl.
4. Judicial Magistrate First Class Mamit District, Mamit with case record of CrI.Tr.No.(Ex) 179/2014
5. Judicial section.
6. Case Record
7. Guard file

P E S H K A R