

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

***Sc No.39 /2013,
A/o Crl.Tr.No. 114/2013, Aizawl P.S Case No.12/2013
U/S 489'B'/489'C' IPC***

State of Mizoram	:	Complainant
	Vrs	
Vanlalchhuanga	:	Accused

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

For the opposite party	:	R.Lalremruata, Addl.PP Lily Parmawii Hmar, APP
For the Accused	:	N.Lalzawmliani.
Date of hearing	:	26.10.2015
Date of Judgment	:	12.11.2015

ORDER

The prosecution story of the case in brief is that on 18.01.2013, a written FIR was submitted by SI Lalnunmawia of Aizawl Police Station to the effect that on 17.01.2013 while he was on duty at the PS, he received a telephone information from source that two unknown persons were purchasing cigarette by using Rs. 500/- denomination suspected to be fake from the possession of the following persons namely Vanlalchhuanga (51) s/o Lalringliana (L) of Zuangtui and Lalhmingthangi (42) d/o Lalringliana (L) of Ambasa, Tripura P/A Zuangtui, the same were seized in presence of reliable witnesses, Hence, Aizawl PS C/No 12 Dt. 18.01.2013 U/S 489B/489C IPC registered and duly investigated into.

During the course of investigation, the accused persons Vanlalchhuanga (51) s/o Lalringliana (L) of Zuangtui and Lalhmingthangi (42) d/o Lalringliana (L) of Ambasa, Tripura P/A Zuangtui were arrested by preparing proper arrest memo and remanded into Police custody of a period of 48 hours. During remand period, each of them were carefully interrogated and recorded their statement. One of the suspected accused Vanlalchhuanga (51) s/o Lalringlian (L) of Zuangtui had admitted his guilt before police stating that the seized FICN belongs to him and further stated that he had bought 24 nos of Rs. 500/- Indian denomination at a price of Rs. 8,000/- at Ambasa, Tripura from one unknown person knowing that the same is counterfeit currency and used the same for purchasing cigarettes at Chhing Veng, Aizawl. In pursuance of Supreme Court Ruling (DK Basu vs State of West Bengal AIR 1977 SC 610) he was forwarded to Medical Officer, Civil Hospital Aizawl for Medical Examination under proper escort. The copy of Medical examination report is enclosed herewith. And the other suspected accused Lalhmingthangi (42) d/o Lalringliana (L) of Ambasa, Tripura P/A Zuangtui was also carefully interrogated and recorded her statement. During interrogation, she strongly denied her involvement in this case and could not found out her involvement during remand period. Hence, she is discharged from the liability of the case.

The seized 17 nos of Rs 500 denomination of Indian Currency Note (Suspected to be fake) were forwarded to the Jt. Director, Forensic Science Laboratory for necessary examination. The examination report was also received in which two of them were found to be genuine Indian currency note and the other were found to be not genuine but counterfeit. The copy of FSL report is enclosed herewith.

From the above facts and circumstances, a prima facie case u/s 489B/ 489C IPC is found well established against the accused Vanlalchhuanga.

Charge u/s 489 (B) 489 (C) IPC is framed and explain in the language known to him to which he pleaded not guilty and claim for trial. During the trial, the prosecution examined as many as six witnesses.

PW No.1 Lalnunmawia, deposed that:-

I know the accused standing before the court today. During 2013 I was posted at Aizawl P.S the I/O. on 17.1.2013 I was on duty Aizawl Police Station when I was informed that two persons are using fake currency notes. I then went with my men to Lalremruati's shop at Chhing Veng. The accused Vanlalchhuanga and a Lalhmingthangi were in the shop and we were told that they were suspected to use fake currency notes. We thus checked their belongings and recovered 17 nos of Rs.500/- denomination suspected to be fake notes. I seized the said notes in the presence of two witnesses and submitted the FIR on 18.1.2013 at 7:40 am. I also submitted the seized currency notes. Exhibit P-1 is the FIR and exhibit P-1(a) is my signature. Exhibit P-2 is the seizure memo and exhibit P-2(a) is my signature. Exhibit M-1 is the seized article.

Cross examination by Id. D/L Ms N.Lalzawmliani.

1. I arrested the accused on 17.01.2013 and also prepared the seizure memo on 17.01.2013. He deposed that I did not give a copy of the seizure memo to the accused.
2. He deposed that I did not give a copy of the seizure memo to the accused.
3. He deposed that I suspected the seized currency notes to be fake and therefore seized by them.
4. He deposed that I do not know the numbers written on the notes seized by me.
5. He deposed that I did not make any special identification on the notes seized by me on identify whether the notes seized from the bag of the accused.
6. He deposed that the notes were seized from the bag of the accused to the accused since the accused admitted that the bag belonged to him.
7. He deposed that I did not seal the seized currency notes as exhibited in the Court today.

8. It is a fact that I seized the currency notes and handed the notes to the O.C.

PW No.2 Lalbiakdiki, deposed that:-

I know the accused standing before the Court today. I am a shop keeper at Chhinga Veng and sell all types of goods. On 17.01.2013 one lady along with the accused came to my shop and the lady purchased one packet of Wills cigarettes. I was quite busy at that time and did not look at the Rs. 500/- notes given to me by the lady with the accused properly. I think the name of the lady is Lalhmingthangi and I had given him the change for the cigarette purchased. After about 5 minutes, I looked at the Rs. 500/- note properly and I suspected the note to be fake. I ran after the accused and found the accused with the said lady in the shop nearby where she was purchasing some other items. I saw the lady hand over Rs. 500/- to the shop keeper while the accused was standing nearby waiting for her. I then went to the shop and informed the shop keeper that the Rs 500/- was a fake currency notes. I asked the shop keeper the item purchased by her and the shop keeper told me that the bag of the lady contained many packets of Wills Flake Cigarettes. I became suspicious and checked her bag and I saw many packets of Wills Flake Cigarettes and fake Rs. 500/- currency notes. I telephoned the police who then came to my shop since I had pulled the lady to my shop. The police seized the fake currency notes which were 17 in number and I signed as a seizure witness. Ext P-2 is the seizure memo and Ext P-2-B is my signature. I presumed that the seized fake currency notes exhibited in the court today as Ext M-1 are the same notes that were seized on 17.01.2013.

Cross-examination by learned D/L Ms. N.Lalzawmliani

1. The seized articles were seized from the bag of the lady who was with the accused on that day.
2. My statement was recorded by the police in my shop.

3. I did not see the seized article packed and sealed as shown to me in the Court today.
4. I know that the seized notes were fake when I touched the notes since I handle and touched many Rs. 500/- notes in my shop. I found the notes to be smooth and also did not change colour when I look at them in a certain angle.
5. I am not a forensic expert.
6. It is the lady who had purchased something from my shop.

PW No.3 Lalremruati, deposed that:-

I know the accused standing before the court today on 17.01.2013 the accused and one Lalhmingthangi came to my shop. They gave me Rs. 500/- notes for purchasing one packet of cigarettes and thereafter my friend came to my shop and told me not to accept the money since the Rs. 500/- note was fake. We then went to the shop of my friend Lalbiakdiki with the accused and the police arrived in the shop of my friend. When the police came they seized more fake currency notes of Rs. 500/- denomination from the bag of Lalhmingthangi since I was present at that time I was made a seizure witness. Ext P -2 is the seizure memo and Ext P-2-C is my signature. Ext.M-1 is the seized currency notes seized on 17.01.2013.

1. I personally do not know whether the currency notes were fake or not but my friend Lalbiakdiki was very positive that the notes were fake.
2. I did not make any identification mark on the currency notes to identify that the notes exhibited in the court today are the same currency notes.
3. I did not see the notes packed in the polythene bag and sealed as shown in the court today.
4. It is not a fact that I am not sure whether the seized article produced in the court today are the same notes seized on 17.01.2013.
5. It was Lalhmingthangi who had given me the Rs. 500/- note in my shop.

PW No. 4 T.Lalnuntluangi, deposed that:-

I know the accused Vanlalchhuanga.

On 18.1.2013, a written FIR was submitted by SI Lalnunmawia of Aizawl P.S to the effect that on 17.1.2013 while he was on duty at the P.S, he received a telephonic information from source that two unknown persons were purchasing cigarette by using Rs.500/- denomination suspected to be fake from the possessions of the following persons namely Vanlalchhuanga (51) S/o Lalringliana (L) of Zuangtui and Lalhmingthangi (42) D/o Lalringliana (L) of Ambasa, Tripura P/A Zuangpui, the same were seized in presence of reliable witnesses. Hence, Aizawl P.S C/No 12 dt. 18.1.2013 U/S 489 'C' IPC registered and duly investigated into.

During the course of investigation, the accused persons Vanlalchhuanga (51) S/o Lalringliana (L) of Zuangtui and Lalhmingthangi(42) D/o Lalringliana (L) of Ambasa, Tripura P/A Zuangtui were arrested by preparing proper arrest memo and remanded into police custody for a period of 48 hrs. During remand period, each of them were carefully interrogated and recorded their statement. One of the suspected accused Vanlalchhuanga (51) S/o Lalringliana (L) of Zuangtui had admitted his guilt before police stating that the seized FICN belongs to him and further stated that he had bought 24 nos of Rs.500/- Indian denomination of a price of Rs.8,000/- at Ambasa, Tripura from one unknown person knowing that the same is counterfeit currency and used the same for purchasing cigarettes at Chhingaveng, Aizawl. In pursuance of Supreme Court Ruling (DK BASU VS State of West Bengal AIR 1997 SC 610) he was forwarded to Medical Officer, Civil Hospital Aizawl for Medical Examination under proper escort. The copy of medical examination report is enclosed herewith. And the other suspected accused Lalhmingthangi (42) D/o Lalringliana(L) of Ambasa, Tripura P/A Zuangtui was also carefully interrogated and recorded her statement. During interrogation, she strongly denied her involvement in this case and could not found out her involvement during remand period. Hence, she is discharged from the liability of the case.

The seized 17 nos of Rs.500 denomination of Indian Currency Note (suspected to be fake) were forwarded to the Jt. Director, Forensic Science Laboratory for necessary examination. The examination report was also received in which two of them were found to be genuine Indian currency note and the other were found to be not genuine but counterfeit. The copy of FSL report is enclosed herewith.

From the above facts and circumstances, a prima facie case u/s 489B/489C IPC is found well established against the accused Vanlalchhuanga.

I, therefore beg to send him before the Hon'ble court to face his trial under the aforesaid section of law.

Exbt P-7 is charge sheet including arrest memo, seizure memo, statement of accused and witnesses, medical examination report, forwarding note and FSL report. P – 7(a) is my signature.

Exbt P-8 arrest memo P-8(a) is my signature.

Cross examination by the Ld. D/L:

I personally know the accused person who is standing before the court.

It is a fact that the seized articles were seized from the possession of the accused.

It is a fact that I am not present at the time of the seized articles was seized from the possession of the accused.

It is not a fact that all the seized 17 nos of Rs.500/- denomination Indian currency note is not fake, out of 17 two currency notes is genuine as per the FSL report.

It is a fact that the said seized article had already been submitted before this Hon'ble court.

It is a fact that on 17.1.2013 the accused had been apprehended and at the same time and date the seized articles was recovered from the possession of the accused. However, I am not present at the place of occurrence.

It is a fact that I could not recall back or remember all the serial no of the said seized articles (fake currency notes).

It is a fact that I identified seized articles. Hence I came to know that the seized articles were fake currency notes .

It is a fact that I had forwarded the said seized articles to FSL, Mualpui.

It is a fact that the seized articles was sealed and packed in white polythene.

It is a fact that when I made arrest memo the S/A was not with the accused.

PW No.5 Mary Lalziki, deposed that:-

I am working as Jr.Scientific Officer, FSL. Pu R.Vanlalkima, Asst. Director, FSL received a brown envelope containing suspected fake Indian currency notes of Rs 500 denomination from SDPO Aizawl South Sub-Division on dated 30th January 2013. After receiving by the Joint Director the case was endorsed to Pu R. Vanlalkima for further examination, and I assisted Pu R.Vanlalkima and we examined together. We had examined 17 nos of suspected fake Indian currency notes of Rs. 500 denominations further marks as Q.1 to Q 17 and found that Q 1 and Q 2 were found to be genuine Indian currency notes and the other Q 3 to Q 17 were found to be not genuine, but counterfeit. Exbt P 1 is the forwarding notes to the SDPO South by Joint Director, FSL.

Exbt P 4 is the examination reports. P 4 (b) is my signature.

Exbt P 5 is the reason for opinion, P 5 (b) is my signature.

Exbt P 6 is the details of the exhibit, P 6(b) is my signature.

Cross examination by the Ld. D/L:

It is a fact that I was present when Mr. R.Vanlalkima, Asst. Director, FSL received suspected Indian fake currency notes.

It is a fact that the suspected Indian fake currency notes was covered/packed by brown envelope.

It is a fact that we examined all the suspected Indian fake currency notes.

It is a fact that from the examination result 15 currency notes is fake out of 17 and 2 currency notes of Rs.500/- is genuine.

It is a fact that all the fake currency notes sl. No is verified and enclosed in the report form and marked as appendix-I.

It is a fact that we did received suspected Indian fake currency notes on 30.1.2013.

It is a fact that all the suspected Indian fake currency notes was delivered by Police constable named C/ Richard Lalsangzela.

It is a fact that I have never seen suspected person Vanlalchhuanga.

It is a fact that all the signature which is given in exhibit P-4(b), exhibit P-5(b) and exhibit P-6(b) is my signature.

PW No.6 R.Vanlalkima, deposed that:-

I received the brown envelope containing suspected fake Indian currency notes of Rs 500 denomination from SDPO Aizawl South Sub-Division on dated 30th January 2013. After receiving by the Joint Director the case was endorsed to

me for further examination. Findings the suspected fake Indian currency notes of Rs.500/- denomination further mark as Q 3 to Q 17 were found to be not genuine, but counterfeit.

Exbt P 3 is the forwarding notes to the SDPO South by Joint Director, FSL.

Exbt P 4 is the examination reports. P 4 (a) is my signature.

Exbt P 5 is the reason for opinion, P 5 (a) is my signature.

Exbt P 6 is the details of the exhibit, P 6(a) is my signature.

Cross examination by the Defence counsel:

I have never seen the accused who is standing for the court today.

It is a fact that I cannot say that the alleged fake Indian currency notes are the owner of the accused Vanlalchhuanga.

Accused Vanlalchhuanga was examined u/s 313 Cr.Pc and answer the Question put forward as follow:-

Q.1. It is from the evidence that you are staying at Zuangtui, Aizawl. What do you say ?

Ans : Yes, I stay at Zuangtui.

Q.2. It is from the evidence that you purchased Fake Indian Currency Note 24 nos of Rs.500/- denomination @ Rs.8000/- at Ambasa Tripura from unknown person. What do you say ?

Ans : I do not purchase.

Q.3. It is from the evidence that you purchased the said faked currency knowingly that the same were faked. What do you say ?

Ans : I do not purchase cigarette.

Q.4. It is from the evidence that you kept the said faked currency notes inside the bag of one Lalhmingthangi D/o Lalringliana (L) P.A Zuangtui. What do you say ?

Ans : I have no fake currency to keep inside the bag of Lalhmingthangi.

Q.5. It is from the evidence that on 17.1.2013 at Chhianga veng you along with Lalhmingthangi purchased wills flake cigarettes by using the said faked currency. What do you say ?

Ans : I do not purchase cigarette at Chhianga veng.

Q.6. It is from the evidence that after you purchased a pack of wills flake cigarette from Lalbiakdiki's shop at Chhianga veng, you were trying to buy some other items at the nearby shop by using faked currency. What do you say ?

Ans : I do not go to Lalbiakdiki's shop I do not where Lalbiakdiki shop location.

Q.7. It is from the evidence that while you were trying to purchase some other items from Lalremruati shop at Chhianga veng, Lalbiakdiki came and reported that you were spending fake currency notes. What do you say ?

Ans : I do not know while they said that I am spending fake currency notes.

Q.8. It is from the evidence that Lalbiakdiki reported the matter to the police and the police arrested you and seized 17 nos of fake currency notes Rs.500/- denomination from your possession. What do you say ?

Ans : Nothing have been seized even a single notes/paisa.

Q.9. It is from the evidence that the fake currency notes seized from your possession were confirmed faked notes by the F.S.L. What do you say ?

Ans : I have no fake currency to be proved.

Q.10. You are arrested for/possessing & spending fake currency. What do you to say ?

Ans : I was arrested on suspicious ground while I was roaming in the street.

Since the accused Vanlalchhuanga has no defense witnesses, both the prosecution and defence counsel submitted written argument. The Id Public Prosecution submitted that :

1. That the brief facts of the prosecution story are that on 18.1.2013, the Police Personnel arrested the accused on the alleged possession of Indian Fake Currency Notes. The accused was arrested for the alleged commission of an offence under Section U/S 489 B/489 C of IPC which was registered it as Aizawl PS C/NO. 12 and duly investigated by the Police and the case was endorsed to Shri. Vanlalmawia, Additional District and Session Judge-I, Aizawl District Mizoram and the documents related to the charge leveled against him was delivered by the Hon'ble Court and charged level against the accused persons under the afore mentioned section of Law was considered and the accused pleaded not guilt and claim for trial.
2. That the prosecution produced the following witnesses.
 - a) Lalnunmawia, S.I. of Police who was deposed that on 17.01.13 at one shop owned by Smt. Lalremruati at Chhinga Veng, Aizawl, the accd Vanlalchhuanga was inside the said shop and on checking his belongings, suspected faked currency notes of Rs. 500/- denomination (17 nos) were recovered from his possession and the same were seized in the presence of witnesses.

b) Smt. Lalbiakdiki, D/o R. Chalkunga, R/o Tuithianga deposed before the court that she is a shop keeper at Chhinga Veng and on 17.01.13 one lady accompanied by the accd purchased a packet of wills cigarettes at her shop. After five minutes she carefully checked the Rs. 500 note given by the accd she suspected that the said note to be faked and ran after the accd who was at the nearby shop. She informed the Police and the police came and seized suspected faked currency notes 17 nos. Rs. 500/- denomination in her presence.

c) Smt. Lalremruati, D/o Thangchuanga, R/o Saron Veng deposed that on 17.01.13 while Lalhmingthangi was trying to purchase cigarettes at her shop, her friend Lalbiakdiki went to her shop and informed her not to accept the Rs. 500/- notes given by Lalhmingthangi. The police came and seized Rs. 500/- notes suspected to be faked currency in her presence.

3. On perusal of all materials available on record, it is found-

a) that the accd Vanlalchhuanga purchased 24 nos of Rs. 500/- denomination of Indian faked currency for Rs. 8000/- from one unknown person at Ambosa, Tripura.

b) that the accd acquainted with Lalhmingthangi of Ambosa, Tripura and Lalhmingthangi was carrying the faked notes in her bag and on 17.01.13 the accd spent the said faked notes for buying wills cigarette at the shop of Lalbiakdiki and Lalremruati at Chhinga Veng, Aizawl knowing that the currency is faked.

c) that while the accd was spending the faked notes, he along with Lalhmingthangi were detained and arrested and 17 nos. of Rs. 500/- denomination of faked Indian currency were seized from the bag of Lalhmingthangi whom the accd asked her to carry the same.

- d) that the faked notes were sent to F.S.L. through proper channel by the police and the F.S.L., Mizoram confirmed that the said currencies were faked Indian Currency.
- e) Pu R. Vanlalkima, Asst. Director, F.S.L. deposed that the suspected faked currency were found to be not genuine, but counterfeit.
- f) Smt. Mary Lalziki, J.S.O., F.S.L. deposed that she and Pu R. Vanlalkima, Asst. Director, F.S.L. examined together and found that 17 nos of Rs. 500/- denomination are faked.
- g) T. Lalnuntluangi, S.I. of Police deposed that the accd Vanlalchhuanga and Lalhmingthangi were obtained for alleged possession of 17 nos of Rs. 500/- denomination of suspected Indian faked currency. She deposed that the accd Vanlalchhuanga bought 24 nos of Rs. 500/- denomination of faked Indian currency for Rs. 8000/- from Ambosa, Tripura. Since the involvement of Lalhmingthangi could not be found out and hence discharged. She also deposed that the S.A. were sent F.S.L. and the F.S.L. confirmed that the same were Indian faked currency.

Hence it is clear that the accd Vanlalchhuanga is found guilty of the charge U/s 489 B/489C IPC leveled against him.

In the facts and circumstances mentioned above, this Hon'ble Court is earnestly prayed to convict the accused Vanlalchhuanga, U/s 489B/489C IPC.

The defence counsel Mrs. N.Lalzawmliani also has submitted written argument as follow:-

The brief facts of the prosecution story are that on 18.1.2013, the Police Personnel arrested the accused on the alleged possession of Indian Fake Currency Notes. The accused was arrested for the alleged commission of an offence under Section U/S 489 B/489 C of IPC which was registered it as Aizawl PS C/NO.12 and duly investigated by the Police and the case was endorsed to

Shri. Vanlalmawia, Additional District and Sessions Judge-I, Aizawl District Mizoram and the Documents related to the charge leveled against him was delivered by the Hon'ble Court and charged level against the accused persons under the afore mentioned section of Law was considered and the accused pleaded not guilty and claim for trial.

Accordingly, on the 11th day on December, 2013 the Prosecution Witnesses No. 1, 2 and 3 was examined and cross examined and discharged them. That on 3rd July 2014 prosecution witness No. 6 was examined and cross-examined and discharged him on the same date. That on 10th day of October 2014 the prosecution witness No. 4 was also examined and cross examined and discharge him on the same date. That again on 15th July 2015 the prosecution witness No. 5 was examined and cross-examined; she was also discharged on the same date. That on 25.8.2015, the accused named Vanlalchhuanga was examined under Section 313 of Cr Pc by this Hon'ble Court, he was discharged on the same date.

GROUND

1. In the case of **RANBIR KUMAR DEY VS STATE OF ORISSA (1976) 4 SCC 233**, it was decided that " In order to Judge the truth or falsify of the version given by the defence three cardinal principles of criminal jurisprudence are well established/settled ,namely:-
 - a. That the onus lies affirmatively on the prosecution to prove its case beyond reasonable doubt and it cannot derive any benefit from weakness or falsify of the defence version while paving its case.
 - b. That in a criminal trial the accused must be presumed to be innocent unless he is proved guilty and
 - c. That the onus of the prosecution never shifts.
2. That on 11.12.2013 the Prosecution witness No. 1 namely Lalnunmawia deposed and deposed in his examination-in-chief that after receiving information regarding the use of fake currency notes, he went with his men to Lalremruati shop at Chhinga Veng on 17.01.2013. He further deposed that he and his men had recovered suspected fake currency

notes of 17 Nos of Rs.500/- from the belonging of the accused. He deposed that he seized the said notes in the presence of two witnesses on the same date and submitted FIR on 18.01.2013. However, in his Cross-Examination, prosecution Witness No.1 deposed that he did not give seizure memo to the accused. He further deposed that he does not know the numbers written on the notes he seized, and he did not make any special identification mark on the notes seized by him. **He also deposed that the suspected fake currency notes were seized from the bag of the accused. Moreover, the prosecution witness failed to give a copy of seizure memo which is mandatory as per the provision of law.** The prosecution witness also failed to prove the identify mark or the numbers of suspected fake currency notes. The prosecution Witness also failed to seal the seized article at the time when he seized the said fake currency note.

3. That on 11.12.2013 the prosecution witness No.2 named Lalbiakdiki D/o Chalkunga R/o Tuithiang Veng deposed in her Examination that she knows the accused standing before the court. The prosecution witness also deposed that the accused and one lady came to her shop and the lady purchased one packet of wills cigarettes. She further deposed that she was quite busy and she did not look Rs.500/- note given to her. She also further deposed that the police seized the said articles i.e suspected fake currency note on her shop and signed as a seizure witness. **However, in her cross-examination the seized articles was seized from the bag of the said lady, but she does not mention the accused. She also deposed that she did not see the seized articles packed and sealed which was produce before the Court on 11/12/2013.** The prosecution witness made contradictory statement as the seized articles was seized from the bag of the lady on her shop, but she did not see the seized articles packed and sealed produce before the Court. Hence, the case becomes very doubtful and the benefit of doubt goes to the accused persons.

4. That on 11th December, 2013 the prosecution witness No.3 named Lalremruati deposed before the Court. In her examination-in-chief she deposed that on 17.01.2013 the accused and one lady came to her shop for purchasing one packet of cigarettes. On the same day, **the Police seized fake currency notes from the possession (from the bag) of Lalhmingthangi.** She further deposed that she was present at the time when the police seized the said suspected fake currency notes. On Cross-Examination, she does not know whether the currency notes were fake or not. **She also deposed that she does not see the notes packed in the polythene bag and sealed shown in the Court** and she did not make any identification mark on the suspected fake currency note. **She also deposed that she does not sure whether the seized article produced in the court on 11th December, 2013 are the same notes seized on 17.01.2013.** She further deposed that she does not know whether the currency notes were fake or not. That the deposition of the prosecution witness No.3 has no legal stand as it fails to prove the case beyond reasonable doubt. Hence, the benefit of doubt goes to the accused.
5. That on 10th October, 2014 the PW No.4 T. Lalnuntluangi was examined and Cross examined. On her deposition, she deposed that on 18.01.2013, a written FIR was submitted by SI Lalnunmawia of Aizawl P.S to the effect that on 17.01.2013 while he was on duty at the P.S he received telephonic information from the source of two unknown persons purchasing cigarette suspected to be fake currency notes from the possessions of Vanlalchhuanga S/o Lalringliana(L) R/o Zuangtui and Lalhmingthangi D/o Lalringliana(L), Tripura P/a Zuangtui. **She further deposed that the said suspected fake currency notes were seized from the possession of the accused on 17.01.2013.** However, in her Cross-Examination **she was not present at the place of Occurrence and she also deposed that she was not present at the time of the seized articles was seized from the possession of the accused.** She deposed that **the seized articles was sealed and**

packed in white Polythene, and when she made arrest memo the S/A was not with the accused. She further deposed that when she made arrest memo the S/A was not with the accused. She also further deposed that she could not or did not remember all the serial No. of the said seized articles (fake currency Notes) and she had forwarded the said seized articles to FSL,Mualpui. She also further deposed that the said seized articles (fake currency notes) was sealed and packed **in white Polythene**. That the P.W No.4 deposed that the seized article was recovered from the possession of the accused. However, in her cross-examination, she deposed that she was not present at the place of occurrence and further she was not present at the time of the seized article was seized from the possession of the accused and when she made arrest memo the S/A was not with the accused. Therefore, the deposition of the P.W No. 4 contradicts each other. Hence, contradictory statement made by the P.W No.4 has no legal stand and the benefits of doubt goes to the accused.

6. That on 15th July, 2015 the PW No. 5 Mary Lalziki was examined and Cross-examined. On her deposition, **she deposed that on 30th January, 2013, Pu. Vanlalkima, Asst. Director,FSL received a brown envelope containing suspected fake Indian currency notes of Rs. 500/- denomination from SDPO,Aizawl South Division. He also deposed that the suspected fake currency notes was received from the Joint Director,FSL,Mualpui, Aizawl and the case was endorsed to Pu. Vanlalkima, Asst.Director FSL,Mualpui.** She further deposed that she assisted Pu. Vanlalkima and they examined 17 Nos of suspected fake currency notes. On her Cross-examination, **he deposed that she was present when Mr. Vanlalkima Asst. Director, FSL received suspected fake currency notes. She also deposed that the suspected Indian fake currency notes were covered/packed by brown envelope.** She also further deposed that they received all the suspected fake currency notes on 30.1.2013 and was

delivered by Police Constable named C. Richard Lalsangzela to the Asst. Director, FSL named R. Vanlalkima.

7. That on 3rd July 2014, the P.W No.6 R. Vanlalkima was examined and Cross-Examined. On his deposition, **he deposed that on 30th January 2013 he received brown envelope containing suspected Indian fake Currency notes of Rs. 500/- denomination from SDPO, Aizawl South Sub-Division. He further deposed that the suspected fake Indian currency notes was received by the Joint Director, FSL, Mualpui** and the case was endorsed to him for further examination. On his Cross-examination, he deposed that he cannot say that the alleged fake Indian Currency notes are the owner of the accused. **The P.W No. 6 statements contradict each other as in his examination he deposed that he did received alleged fake Indian currency notes of Rs. 500/- denomination on 30th January, 2013 from SDPO Aizawl South Sub-Division, and again he deposed that the Joint Director had received the said suspected fake Indian currency notes and the case was endorsed to him.** Hence, Contradictory statement made by the P.W No. 6 has no legal stands, for which the case become very doubtful and the benefits of doubt may goes to the accused person.

And in the case of **Jarnail Singh Vs. State of Punjab in connection with Cri. Appeal No.62 of 2009 arising out of SLP(CrI) No. 2872 reported in(2009) 9 SCC 719:2009(I) SCALE 610**

" A Court is not bound by the evidence of the experts which is to a large extent advisory in nature. The Court must derive its own conclusion upon considering the opinion of the experts which may be adduced by both sides, cautiously, and upon taking into consideration the authorities on the point on which he deposes."

Also Vide, **State of H.P Vs. Jai Lal and others (1999) 7 SCC 280.**

8. That on 25.08.2015, the accused named Vanlalchhuanga statements was taken on oath under Section 313 of Cr.PC by This Hon'ble Court. And that he denied the entire allegation and charge frame against him.
9. For that it is well settled that the statements under section 313 of Cr.PC cannot form the sole basis of conviction; but the effect thereof may be considered in the light of other evidence brought on record. It is true to say that the statements of accused under section 313 of Cr.PC alone in not suffice for leading conviction as held in **Raj Kumar Singh@Raju@Batya VS State of Rajasthan decided on May, 2013 in connection with Criminal Appeal Nos.931-932 of 2009.**

Hon'ble Supreme Court has held thus;-

" Thus, the statement of the accused is not a substantive piece of evidence and therefore, it can be used only for appreciating the evidence led by the prosecution, though it cannot be a substitute for the evidence of the prosecution. In case the prosecution evidence is not found sufficient to sustain conviction of the accused, the inculpatory part of his statement cannot be made the sole basis of his conviction."

10. That the P.W No. 3 deposed that she does not see the notes packed in the **polythene bag** as shown in the Court. The P.W No.4 deposed that the seized articles was sealed and packed in **white Polythene**. The P.W No. 5 deposed that Pu. Vanlalkima, Asst Director,FSL Mualpui received brown envelope containing suspected Indian currency notes, and suspected fake Indian currency notes were covered/packed by **brown envelope**. The P.W No. 6 also deposed that he received alleged fake Indian currency notes covered/packed with **brown envelope**. For which it clearly reveals that the deposition of the said P.W No. 3, P.W No.4 and P.W No.5, P.W No. 6 contradict each other. And the statement/deposition of all the P.W's fails to prove its case beyond reasonable doubt. Hence, the benefits of doubt go to the accused.

11. **That the P.W No.1 deposed before this Hon'ble Court that the suspected fake Indian currency notes were seized from the bag of the accused.** The P.W No.2 also deposed that the said seized article was seized from the bag of the Lady. **The P.W No.3 deposed that the Police seized fake currency notes from the possession (from the bag) of Lalhmingthangi. The P.W No. 4 deposed that the said suspected fake currency notes were seized from the possession of the accused on 17.01.2013.** The deposition of P.W No.1, P.W No.3, P.W No. 4 and P.W No. 2 contradict each other. Hence, the benefit of doubt goes to the accused.

In the case of **MOHAN SINGH@PREM SINGH VS STATE OF U.P AND LAKSHMI AND RATAN SINGH VS STATE OF H.P (2002) 10 SCC 236; 22003 SCC (CRI) 1514.** The prosecution will have to prove its case beyond reasonable doubt that the accused committed an offence.

12. That the prosecution having failed to prove their case beyond reasonable doubt. From the evidence on record there is no material record to convict the accused person under the charge brought against him and he is entitled to get the benefit of doubt. It is clear that the prosecution cannot get any benefit out of the weakness of falsify of the defence version. Hence, the accused person is entitled to be acquitted.

13. That the accused person is entitled to be acquitted as per the provision of Article 21 of the Constitution of India which read as " No person shall be deprived of his life or liberty except according to procedure establish by law."

14. That this written argument is filed bona-fide for the interest of justice and equity.

In the premises afore mentioned. It is therefore earnestly prayed that Your Honour may be pleases to acquit the accused person from the liability of the criminal charged leveled against him under Section 489 B and 489 C of IPC and to set him liberty at once.

On perusal of the materials evidence available in the record it is learned that accused Vanlalchhuanga s/o Laldingliana (L) had purchase 24 number of Rs 500 denomination at a price of Rs.8000 at Ambasa Tripura from the person whom he did not disclosed knowing that the same is faked currency the same is used for purchasing cigarette at Chhing Veng.

The evidence of Lalbiakdiki reveals that accused Vanlalchhuanga use a faked note of Rs.500 for purchasing cigarette, accused further intended to use the faked currency to Lalremrutati (PW 3) for purchasing other items of goods , the faked currency was recovering from accused Lalhmingthangi who is the sister of accused Vanlalchhuanga. 17 number of 500 denomination has been seized from the accused and all the seized faked currency was send to FSL and the FSL proved that 2 number of notes were found to be genuine note and the other 15 number of currency note are found faked currency as stated by PW 5 and 6. The accused Vanlalchhuanga intended to change the faked currency by purchasing cigarette and other items and some other boxes of cigarette are recovered from the bag of Lalhmingthangi. Suppose the accused Vanlalchhuanga is smoker, and the purchased of cigarette are mean for his personal consumption he would only purchased 1 box at one. But the accused Vanlalchhuanga purchased many boxes at once this means that accused Vanlalchhuanga wanted to change the faked currency into genuine note and this means that accused Vanlalchhuanga intended to concealed a faked currency.

On the other hand, on the examination of accused u/s 313 Cr.Pc accused Vanlalchhuanga answer all the question in negative but he prosecution proved the case beyond doubt through the witnesses that accused Vanlalchhuanga purchased 24 number of Rs. 500 denomination of faked currency @ 8000/- at Ambasa Tripura and intended to used a faked currency as genuine currency by purchasing cigarette and other items whatever convenience for he could make the faked currency into genuine currency.

With this observation I found accused Vanlalchhuanga guilty for using faked currency as genuine currency by purchasing cigarette and other items

which ever convenience for him and find him guilty u/s 489 (b) IPC, and I therefore convicted accused Vanlalchhuanga u/s 489 (c) for possession and intending using faked currency as genuine note.

Sentence period shall be fixed after hearing of both prosecution defense counsel.

12.11.2015 : Accused Vanlalchhuanga is produce before me to face sentence hearing, the Id. prayed to award sentence as less as possible as accused Vanlalchhuanga is suffering from T.B, but there is no certificate to show his sleekness as his certificate is at Tripura and is into available in the court today, and he is old age and prayed to show leniency.

The prosecution submitted to award maximum punishment of seven years, as per section 489'C' of IPC.

Accused Vanlalchhuanga also heard in person and stated that he has been facing breath problem while going and even while he is sitting, he is now about 56 years of age.

Considering the submission of both the defence counsel Baby V.L.Ruatkimi Advocate and Addl. Public Prosecutor and the accuse himself the accused Vanlalchhuanga is awarded sentence for a period of 4(four) years.

Detention period shall be set off.

Give copy of this order to all concern.

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

Memo No **569**/ADJ-I(A)/2015 : Dated Aizawl the,12th November 2015

Copy to :-

1. District & Sessions Judge, Aizawl
2. Accused Vanlalchhuanga S/o Lalringliana (L) C/o N.Lalzawmliani Advocate.
3. Spl.Superintendent of Central Jail, Aizawl.
4. I/C GR Branch.
5. Addl.P.P
6. App
7. Judicial Section
8. Case record.
9. Guard file.

PESHKAR