

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

*Sc No 17/2015
Crl.Tr.No271/2015,U/S 302 IPC,
Vairengte P.S Case No.51/2014.*

State of Mizoram : Complainant

Vrs

Lalvanneiha : Accused.

BEFORE

Vanlalmawia
Addl District & Sessions Judge,
Aizawl Judicial District, Aizawl.

PRESENT

For the Opposite party : R. Lalremruata, Addl. P.P.

For the Accused : C.Lalrinchunga, Advocate.

Date of Order : 20.4.2016

Date of Judgment : 22.4.2016

ORDER

The prosecution story of the case inbrief is that on 11.9.2014 @ 6:10 am, a written FIR received from Lallawmkima (24) S/o Rokunga (L) of Bilkhawthlir Kualmawi to the effect that on 10.9.2014 @ 7:00 pm his uncle Vanlalthaa(48yrs) (brother of his mother)S/o Liankhuma (L) of Bilkhawthlir Kualmawi was stabbed by one Lalvanneiha (62) S/o Challiana (L) of Bilkhawthlir Kualmawi on his left armpit by using a knife in the residence of Pu Khawlremthanga of Bilkhawthlir, Kualmawi. As a result, his uncle Vanlalthaa succumbed to his injury on the way

to bPHC Bilkhawthlir. Hence, Vairengte P.S case No.51/2014 dt.11.9.2014 u/s 302 IPC was registered and duly investigated into.

During investigation, P.O was visited and draw rough sketch map. The complainant Lallawmkima was examined and recorded his statement. Also examined two eye witness namely Pu Khawlremthanga(63) S/o Taia(L) and his wife Pi Lalkhumi (48) of Bilkhawthlir, Kualmawi and recorded their statement. They stated that, on the night of 10.9.2014 @ 7:00pm while they are watching T.V News in their residence with the deceased Vanlalthaa, the accused Lalvanneiha (62) S/o Challiana (L) of Bilkhawthlir, Kualmawi told Vanlalthaa to go out side but he denied, Lalvanneiha then get into their house and stabbed Vanlalthaa by using a knife. The weapon knife was taken from the hands of accused Lalvanneiha by Lalkhumi and throw outside from the window.

During investigation, the weapon used kitchen knife stainless steel 26 cm length was recovered and seized below the house of Pu Khawlremthanga in presence of witnesses and recorded statement of witnesses blood stain from the P.O also collected and preserved in a gauze. The cloth worn by the deceased Vanlalthaa during the incident also seized in presence of witnesses and recorded their statement.

During investigation, inquest was conducted over the dead body of deceased Vanlalthaa(48) S/o Liankhuma (L) of Bilkhawthlir, Kualmawi in his residence on the morning of 11.9.2014 in presence of witnesses. The dead body was sent to the Medical Officer Kolasib District Hospital for post mortem examination under proper escort with requesting to draw blood sample for sending to FSL for comparison of collected blood from the P.O and seized weapon knife. Later PME report received from the Medical Officer Dr.Laltlanzovi which revealed as to cause of death is that injury to the left lung, both upper and lower lobes, which cause hemothorax and hypovolemic shock, leading to death.

During investigation the accused person Lalvanneiha (62) S/o Challiana(L) Bilkhawthlir, Kualmawi was arrested and interrogated thoroughly and admitted his guilty and recorded his statement.

his confessional statement recorded by judicial Magistrate First Class Kolasib also received which revealed that he argued with the deceased

Vanlalthaa over the missing of his local bread eggs and he punched him on his temple in his house, after that he went out in search of him(Vanlalthaa) with carrying his vegetable knife and he found him in the residence of Pu Khawlremthanga and told him to come outside which he denied. He then got into the said house and stabbed Vanlalthaa on his left rib portion/below left armpit. After obtaining permission from the Chief Judicial Magistrate, Kolasib, drawn blood sample of the accused from District Jail Kolasib for comparison with the blood stain collected from the place of occurrence and seized weapon.

During investigation, victim/deceased blood drawn kitchen knife(offending weapon), blood stain collected from the P.O deceased cloth staining with blood and blood sample drawn of accused Lalvanneiha (62) are sent to the Joint Director, Forensic Laboratory (FSL), New Secretariat complex Aizawl, Khatla for comparison of the blood groups. FSL report could not be received till date.

During investigation, a prima facie case u/s 302 IPC is found well established against the accused Lalvanneiha (62) S/o Challiana (L) of Bilkhawthlir, Kualmawi.

Charge u/s 302 IPC is read over to the accused Lalvanneiha in the language known to him to which he pleaded guilty stating that the deceased/victim Vanlalthaa is his neighbour, and he(accurse) is living alone, the deceased Vanlalthaa used to eat/drink his egg of about 10(ten) in number and some used to eat/drink with needle and kept the empty egg in the same place. In this relevant night he rebuked felt angry and beat him and in return he(accurse) stab him with the kitchen knife.

During the trial the prosecution examined as many as 9(nine) Prosecution witnesses P.W No.1 Lallawmkima stated that he knew accused Lalvanneiha and the victim is his relative. On 10.9.2014 at about 7pm Pi Lalkhumi @ Nukhumi came to his residence with crying stating that Pu Vana has stabbed Lalthaa with knife and run toward the place of incidence. On reaching the place of occurrence, Pu Khawlremthanga has covered the injury portion with cloth, and I called him saying Pu Thaa, but did not answer then I called Auto Rickshaw and ran toward Bilkhawthlir PHC but on reaching the Hospital, the victim was already died and submitted FIR to the Bilkhawthlir Police Out Post and exhibit P-1 is FIR and P-

1(a) is his signature. In his cross examination Lallawmkima stated that he did not see the incident at the relevant time, and FIR is written as stated by Nukhumi who is wife of Khawlremthanga. On reaching the place of occurrence, there is no one except Khawlremthanga and the victim.

P.W No.2, Khawlremthanga stated that he knew accused who is living in his nearby house. He is keeping crochery, victim Lalthaa came to his shop for purchasing smoking and quava. Accused also came afterward and stated to Lalthaa that he has stolen his egg, and Lalthaa answered that he did not stolen the egg accused Lalvanneiha enter his house and grabbed Lalthaa and stabbed on his left rib. He sent his wife Lalkhumi to call Lallawmawma, and together brought the victim to the Hospital, and the victim was died before reaching Hospital. In his cross examination, P.W No.2 stated that accused Lalvanneiha was wearing gamcha, and did not know whether he hided the knife among the gamchha.

P.W No.3 Lalkhumi stated that accused Lalvanneiha came to her house and accused the victim of stealing his two egg to which the victim denied accused grabbed the victim while victim was sitting in her house, the victim shouted that the accused was having knife and the accused stabbed the victim at his left rib. She further stated that while he was trying to stab again, her husband Khawlremthanga hold the accused and she snatched the knife and threw it out of window, the victim succumbed to injuries, the victim was brought to the Hospital, and died before reaching the Hospital. She further stated that she does not know whether the accused and the victim have some enmity between them.

P.W No 4 & 5 are the seizure witness stating that they were present at the time of seizure of knife used by the accused to stab the victim and the knife they saw at the court was the one seized by the case I/O.

P.W No.6&7 are the seizure witness of T.Shirt deposing that they are present while the T.Shirt worn by the victim was seized by the Police, and the exhibit is the black T.Shirt belong to the deceased wearing before he was stabbed by the accused which was seized by the case I/O.

P.W No.8 Dr.Laltlanzovi deposed that On 11.9.2014 while I was on duty at District Hospital Kolasib the dead body of Vanlalthaa S/o Liankhuma (L) Bilkhawthlir Kualmawi was brought by the police personnel and his grandson for conducting post mortem on the dead body of Vanlalthaa. I conducted post mortem on the dead body of Vanlalthaa on 11.9.2014, after conducting the said post mortem my findings were :-

Left mid-axillary laceration approx 2x1 cm size, depth up to chest cavity.

- 1) Laceration at the right arm, 2x1 inch approximately 7cm above the elbow joint.
- 2) Left forearm laceration approximately 2x1cm, 4cm below the elbow, through and through.
- 3) 0.8x2cm in laceration on the chest approximately 2cm below the sternal notch.
- 4) Chest wall was open and about 2 litres of blood was collected on the chest cavity.
- 5) Laceration of the left lung approximately 2x1cm size both on the upper and lower lobes.

That the injury to the left lung, both upper and lower lobes which causes hemothorax and hypovolemic shock leading to death of Vanlalthaa.

After conducting the post mortem on the dead body of Vanlalthaa the death body was handed over to the police.

Exbt : P-10 is the post mortem report of Vanlalthaa conducted by me.

Exbt : P-10(a) is my signature.

Exbt : P-11 is a letter for handing over the dead body of Vanlalthaa to the police personnel issued by me.

Exbt : P-11(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that I did not know the exact time when the victim was allegedly stab by the accused.

It is also a fact that I did not know whether the victim consume alcohol.

It is a fact that I did not know the direction of the weapon as the chest wall of the dead body was fully covered by blood.

P.W No.9 S.I R.K.Vanlalruala stated that I know the accused Lalvanneiha. I am working as O/C Bilkhawthlir Police Out-post. On 10.9.2014 at around 7:00 pm while I was on duty at the said Out –Post we received a phone call informing us that one Vanlalthaa of Bilkhawthlir Kualmawi was stabbed by one Lalvanneiha of the same locality inside the residence of Pu Khawlremthanga Bilkhawthlir Kualmawi. Myself with party rushed to the spot and when we reached the P.O the victim was already taken to Bilkhawthlir PHC and we apprehended the accused Lalvanneiha from his residence and brought to Out-Post. At the P.O the victim blood collected from plastic chair was seized by me, kitchen knife (26cm) used by the accused was recovered from nearby the residence of Pu Khawlremthanga the P.O and the same was seized by me and black T.Shirt worn by the victim was also seized by me from the Bilkhawthlir PHC. The accused revealed and confessed his guilt and he was also arrested on the same night. The victim succumbed to his injury on the same night i.e 10.9.2014. inquest was conducted by me the next day and the dead body was sent to Kolasib District Hospital for PME. The confessional statement of the accused was recorded by the Id. Judicial Magistrate Ist class Kolasib on 12.9.2014. After examining the accused, witnesses and also on the basis of confessional statement a prima facie u/s 302 IPC was found well established against the accused and I sent the accused to the court for trial.

Exbt : P- 3 is seizure memo of blood stain collected from plastic chair.

Exbt : P-3(b) is my signature.

Exbt : P-4 seizure memo of stainless steel knife.

Exbt : P-4(c) is my signature.

Exbt : P-5 seizure memo of T.Shirt of the victim.

Exbt : P-5(c) is my signature.

Exbt : P-6 is inquest report of the victim.

Exbt : P-6(a) is my signature.

Exbt : P-7 is confessional statement of the accused

Exbt : P-8 is arrest memo of the accused.

Exbt : P- 8(a) is my signature.

Exbt : P-9 is the charge sheet including statement of accused, witness sketch map of the P.O.

Exbt : P-9(a) is my signature.

Cross examination by the Defence counsel:

It is a fact that the victim blood collected from plastic chair, knife allegedly used by the accused and the T.Shirt worn by the victim were sent to the FSL for examination but we do not received any report from FSL.

It is not a fact that we did not know the owner of the knife allegedly used by the accused for committing this offence .

It is a fact that the accused Lalvanneiha was not assigned a lawyer at the time of interrogation but I do not know whether he is assigned a lawyer at the

time of recording judicial statement as the accused was already in the judicial custody.

It is not a fact that we received FSL report but the same was not submitted before the court as the report is against the prosecution of the accused.

Exbt : M-1 is a knife, exhibit M-2 is a black T.Shirt.

After prosecution evidence is closed accused Lalvanneiha was examined 313 Cr.P.C and answered the question put to him as follow :

Q.1. It is from the evidence that you are a resident of Bilkhawthlir Mizoram. What do you say ?

Ans : Yes I am from Bilkhawthlir.

Q.2. It is from the evidence that on the night of 10.9.2014 @ 7:00pm you went to the house of your neighbor Pu Khawlremthanga. What do you say ?

Ans : I do not remember as I was fully drunk.

Q.3. It is from the evidence that Mr. Vanlalthaa, Pi Lalkhumi and her husband Pu Khawlremthanga were inside the house of Pu Khawlremthanga at that time. What do you say ?

Ans : I cannot fully recollect who were inside the House, as I was drunk.

Q.4. It is from the evidence that on 10.9.2014 @ 7:00pm when you went to the house of Pu Khawlremthanga you called Vanlalthaa to go out of the house in anger as you accused him of stealing your eggs. What do you say ?

Ans : I was fully drunk, and remember that I called Vanlalthaa.

Q.5. It is from the evidence that Vanlalthaa said and replied that he did not steal your eggs and you entered the house if Pu Khawremthanga having a knife. What do you say ?

Ans : I do not bring knife.

Q.6. It is from the evidence that you stabbed Vanlalthaa at his left rib with your knife. What do you say ?

Ans:I do not know whether I stabbed Vanlalthaa, as I was fully drunk, since I myself consump about 5 litres of liquor.

Q.7. It is from the evidence that as you were trying to stab Vanlalthaa again, Pu Khawremthanga stopped you, your knife was snatched by Pi Lalkhumi and she threw down the knife out of the window. What do you say ?

Ans : I donot remember as I was abnormal due to heavy confumption of liquor.

Q.8. It is from the evidence that Vanlalthaa was taken immediately Bilkhawthlir PHC by Lallawmkima who is a closed neighbor of Pu Khawremthanga. What do you say ?

Ans : I do not know whether the victim was brought to PHC.

Q.9. It is from the evidence that Vanlalthaa died as he was taken to Bilkhawthlir PHC due to your stab at his left rib. What do you say ?

Ans: I just came to know about the incidence at this time of today.

Q.10. It is from the evidence that Vanlalthaa sustained cut injury at his left lung due to your stabbing with a knife thereby losing blood leading to his death. What do you say ?

Ans : I know nothing as I was fully drunk.

Q.11. It is from the evidence that you admitted your guilt before the police and confessed that you stabbed Vanlalthaa with a knife before the Judicial Magistrate First Class Kolasib. What do you say ?

Ans : Yes, I confessed before the Magistrate at Kolasib.

Q.12. It is from the evidence that you were arrested on 10.9.2014 for alleged commission of murder by the Police. What do you say ?

Ans : Yes I was arrested for commission of murder of Vanlalthaa, by the Police.

The accused Lalvanneiha producing one witness, Hrangthankunga, to defence him from the charge and stated that I know the accused who is present in the court today, he is my close friend but we have no family relationship with him. And I also know the victim(Vanlalthaa) for the past few years and also I know the family where the incident took place. As far as I know the victim Vanlalthaa had an affair with the wife of Khawlremthanga who is the owner of the house where the incident took place and I also heard as I was there was an argument between Khawlremthanga and his wife on the evening when the incident took place as I was passing by their house. On my way home from work I tried to enter the house of Khawlremthanga but since I heard the two of them arguing I decided to walk away When I saw the dead body of the victim Vanlalthaa I believe that he was not intoxicated.

Cross examination

It is a fact that I was not present at the time when the incident took place i.e Pu Khawlremthanga's house.

Though I stated that the victim had an affairs with the wife of Pu Khawlremthanga, I cannot say the link with the death of the victim Vanlalthaa.

It is not a fact that I have stood as defence witness due to the fact that the accused is my closed friend.

When I heard the shouting between Pu Khawlremthanga and his wife inside their house, I do not know whether the accused Lalvanneiha and the victim Vanlalthaa were inside the said house or not.

The Id. Addl. Public Prosecutor R.Lalremruata submitted his written argument as follows : -

1. That the accd Lalvanneiha, S/o Challiana (L), R/o Bilkhawthlir was arrested on 10.09.01 @ 7:30 P.M at Bilkhawthlir on allegation that he stabbed one Vanlalthaa (48), S/o Liankhuma (L), R/o Bilkhawthlir on 10.09.14 @ 7:00 PM with a knife and Vanlalthaa succumbed to his injuries .
2. That the case I/O S.I. R.K. Vanlalruata after investigation found a prima-facie case U/s 302 IPC well established against the accd and filed a charge sheet.
3. That the prosecution produced the nine witnesses.
 - a) Shri Lallawmkima, PW No. 1 who deposed that the victim Vanlalthaa is the younger brother of hid mother. He deposed that he had taken the victim to the PHC Bilkhawthlir soon after he was stabled on 10.09.14 @ 7:00 PM. He filed an FIR at the Bilkhawthlir Police Outpost.
 - b) PW No. 2 ShriKhawlremthanga deposed that while the victim Vanlalthaa was at his house, the accused Lalvanneiha came to his house and accused the victim of stealing his two eggs to which the victim denied. He deposed that the accused grabbed the victim and stabbed him with a knife at his left rib.
 - c) PW No. 3 Smt. Lalkhumi, W/o Khawlremthanga deposed that on 10.09.14 @ 7:00 PM, the accused grabbed the victim while he was sitting in our house. The victim shouted that the accused was having a knife and the accused stabbed the victim at his left rib. She deposed that while he was trying to stab again, my husband hold the accused

and I snatched the knife and threw down/it out of the window, and the victim succumbed to his injuries.

- d) PW No. 4 and 5, Shri. Zaithanmawia and K. Biakzuala respectively deposed before the court that they were present at the time of seizure of knife used by the accused to stab the victim and deposed that the knife they saw at the court was the one seized by the Case I/O.
 - e) PW No. 9, S.I. R.K. Vanlalruata deposed before the court that the accused Lalvanneiha confessed his guilt before him that he stabbed Vanlalthaa on 10.09.14 @ 7:00 PM.
 - f) PW No. 10, Dr. Laltlanzovi deposed that she conducted post mortem on the dead body of Vanlalthaa and found that there was a laceration 2X1 cm size, depth upto chest cavity, laceration of the left lung both upper and lower lobes leading to the death of Vanlalthaa.
4. That on examination of the accused U/s 313 Cr.P.C., he stated that he confessed before the Magistrate at Kolasib and admitted that he was arrested for commission of murder of Vanlalthaa.
5. That on perusal of all documents available on record, it is pretty clear-
- a) that the accused Lalvanneiha went to the house Pu Khawlremthanga on 10.09.14 @ 7:00 PM and accused Vanlalthaa of stealing his eggs as stated clearly by Pu Khawlremthanga and his wife Pi Lalkhumi.
 - b) that the accused Lalvanneiha then stabbed Vanlalthaa at his left rib with a knife. PW No. 3 Pi Lalkhumi saw the accused having a knife with his hand just after the accused stabbed the victim, infact, Pi Lalkhumi snatched the said knife from the hand of the accused while he was grabbed/hold by her husband Khawlremthanga.
 - c) that there was only four persons at the time of the incident inside the house of Pu Khawlremthanga and no other person could be suspected of stabbing the victim other than the accused Lalvanneiha.
 - d) that the victim Lalvanneiha died as a result of stab wound causing injury to his left lung as deposed by PW No. 8 Dr. Laltlanzovi who conducted post mortem.

- e) that the accused did not deny that he stabbed the victim Vanlalthaa at the time of framing of charge, infact he stated that he beat the victim as he used to steal his eggs which clearly proves that the accused had an intention to cause harm to the victim.
- f) that the accused admitted his guilt before the case I.O S.I. R.K. Vanlalruata.
- g) that accused confessed before the Magistrate 1st Class, Kolasib that he followed the victim from his house to the house of Pu Khawlremthanga with a kitchen knife in his hand and confessed that he stabbed him at his left rib.

In the facts and circumstances mentioned above, the prosecution proved beyond reasonable doubt that the accused Lalvanneiha stabbed Vanlalthaa on 10.09.14 @ 7:00 PM at his left rib with a knife and Vanlalthaa succumbed to his injuries, and this Hon'ble Court is earnestly prayed to convict the accused Lalvanneiha, U/s 302 IPC.

Mr. C.Lalrinchhunga, Advocate, Ld. council for the accused also submitted his argument in writing that That there is no proper chargesheet/Final report under Section 173 CrPC, the IO submitted chargesheet through case diary which is mandatory to the prosecution case.

1.That there is no Forensic Expert Opinion in the instant case to prove the case as the IO failed to collect the blood sample of the victim which is necessary to compare the blood sample collected from the PO and the blood stain found in the weapon of the offence as well as wearing apparels of the victim and the accused, in which case the Dy DIG(NR) also instructed the Superintendent of Police Kolasib District, to call for explanation Vide No R/CR-KLB-23/14/702 dt 15-10-2014.

2.That the Prosecution witness No 2 Mr Kawlremthanga who is the owner of the building of the alleged place of occurrence informed the court that while the accused was entering his residence he was sitting nearby the entrance door doing same craft works and he saw the accused was naked only wearing kamchha in his waist and was with empty hand carrying no weapon and that the

said witness did not see the accused stabbing the victim and the witness no 3 Lalkhumi who was also present at the place of occurrence stated that she did see the incident. It is also pertinent to mention here that their statement recording during the investigation and their evidence recorded are different and contradictory. The accused 3 denied the suggestion that his wife had some affair with the victim. **Anutangla vs State Of Assam 2008 (2) GLT 241** *"...Having scrupulously analyzed the deposition of all those witnesses, we are of the considered view that the evidence of all those witnesses were full of contradictions and inconsistencies to rope in the appellant for committing the offence of murder of his wife so as to attract the conviction Under [Section 302 IPC](#). We do not find that the chain of evidence so complete as to indicate that in all human probability the act must have been done by the appellant and the circumstances adduced were of conclusive nature and tendency. Accordingly, having regard to Sharad's case (supra), we are of the firm view that the appellant is entitled to get the benefit of doubt...."*

3. That the seizure witness No 4 and 5 who is leaders of Kualmawi Branch YMA in their cross examination stated that they saw the accused in the Police Custody and they believed that he was not in a position to commit such offence as he was intoxicated and loss consciousness and they further stated that they came to know from some person that the victim and the witness no 3 were having some affairs and the case IO also knew the same story.

4. That from the un-rebutted statement of defense witness it was clear that the Witness no 2 and 3 (Who is husband and wife) had some misunderstanding and quarrelling with a loud voice when he trying to enter their residence just before the alleged incident was happened.

5. That from the facts and evidence highlighted above the prosecution could not establish guilty of the accused beyond reasonable doubt. And for the evidence there may be two possible view; one is that the accused stabbed the victim but required some presumption not appearing in the evidence and the other one is that the victim was already stabbed/wounded when the victim reached the place of occurrence. According to the decision of Hon^{ble} Supreme Court Chandrappa & Ors vs State Of Karnataka (2007) 4 SCC 415 *"... But it is*

well-established that if two views are possible on the basis of evidence on record and one favourable to the accused has been taken by the trial Court, it ought not to be disturbed by the appellate Court. In this case, a possible view on the evidence of prosecution had been taken by the trial Court which ought not to have been disturbed by the appellate Court. The decision of the appellate Court (High Court), therefore, is liable to be set aside...."

In the facts and circumstances mentioned in the above, the accused is entitled to be acquitted and prayed accordingly.

Accused Lalvanneiha confessed before the Magistrate 1st class, Kolasib on 12.9.2014 stating that they used to accompany with the victim consuming liquor together. Accused kept three hens and the victim used to steal his eggs, but accused denied saying that it may be stolen by rat. The egg still stolen away, and there was quarrel, and the victim beat him in right eye while they are at his house while preparing/cutting vegetable etc with knife, the victim then left his house and went to the house of Khawlremthanga house which is short distance from his house. He(accused) then angry and ran after him with his knife, and called to come out of the house. But the victim did not like to come out, and entered in the said house and stabbed on left rib while he was standing.

On careful perusal of the case record it is learnt that complainant who is also P.W No.1 Lallawmkima submitted FIR to the Bilkhawthlir out post to the effect that Lalvanneiha S/o Challiana (L) of Bilkhawthlir Kualmawi vengthar had stabbed Vanlalthaa S/o Liankhuma (L) and the victim was died on the way to Bilkhawthlir P.H.C.

The decease Vanlalthaa was postmortem, and the post mortem result revealed that "injury to the left lung, both upper and lower lobes which causes hemothorax and hyponolemic shock leading to death".

The accused Lalvanneiha has voluntarily confessed his guilt before the Magistrate Kolasib stating that he stabbed the victim in his left rib with knife as they were quarrel over the loss of chicken egg.. accused Lalvanneiha also stated

before the court while framing of charge u/s 302 IPC that victim Lalthaa is his neighbor, and used to steel his egg, and one day he rebuked while they were drinking liquor and he was beaten by the victim and in return he stabbed him with the kitchen knife which was available nearby.

The prosecution examined as may as 9(nine) witnesses, and their statement are collaborated to each other, and one of the eye witness Lalkhumi stated accused intended to stab again, but his knife was taken away by her and throw it out of the window.

The 1(one) defence witness Hrangthankunga of Bilkhawthlir, Kualmawi stated in his examination in chief that he know the victim Lalthaa had in affair with the wife of Khawlremthanga (Pw No.3) who is owner of the house when the incident took place and also heard an argument between Khawlremthanga and his wife on the evening when the incident took place as he was passing by their house. On his way home from work he tried to enter in the house of Khawlremthanga but since he heard the two of them arguing he decided to walk away. But in the cross he cannot say the link with the death of the victim Vanlalthaa. Mr. C.Lalrinchunga, Id. council for the accused, by taking on advantage of the defence statement he submitted that there may be two possible view, one is that accused stabbed the victim, but required some presumption not appearing in the evidence and the other one is that the victim was already stabbed/wounded when the victim(accused) reached the place of occurrence, and submitted the ruling, of Hon'ble Supreme court in Chandrappa & Ors Vs State of Karnataka (2007) 4.SCC 415 to support his point.

But in this connection, the accused Lalvanneiha himself confessed before the case I/O, Magistrate 1st class Kolasib, and to the trial court while framing of charge u/s 302 IPC.

On careful perusal of the case record and all available evidence available on record. It is learnt that accused Lalvanneiha and victim were sometime accompany to each other, and used to consumed liquor sharing to each other

even at this relevant night, this means that there was no enmity between them, and find no hatred character between them. Had accused clear intention to kill the victim, he had better chance before the incident. But the accused is cruel in nature as stated by two prosecution witness, and he was fully drunk, and became full of angry over the loss of his chicken egg, and hence the incident took place without thinking the consequence.

The prosecution also does not highlight any intention to kill enmity and hatred between the accused and the victim, and no pre-plan to commit murder.

So, the prosecution proved their case, but I find that the nature and act of accused does not amount to 302 IPC (Murder), and therefore find it fit to alter the charge from 302 IPC to 304 IPC, and do hereby altered in exercising provision of section 216 Cr.P.C.

I therefore convicted accused Lalvanneiha u/s 304 IPC.

Fix : 22.4.2016 for sentence hearing.

22.4.2016 : The convicted Lalvanneiha is produced from Judicial Custody. Today is fixed for hearing on sentence. The convicted Lalvanneiha is informed about the punishment which the court could impose and he is given a chance to give his submission regarding the punishment. Accordingly the convicted Lalvanneiha and his counsel submitted orally and prayed the court to show leniency considering the behavior of Lalvanneiha during his remand period in Central Jail and also his old age i.e 64 yrs and prayed the court to convict u/s 304 IPC and give a minimum sentence.

On the other hand, the Id. Addl.P.P submitted that Lalvanneiha has been looked u/s 302 IPC and accordingly convicted under the aforesaid section of law and hence prayed the court to impose a maximum sentence.

Upon hearing of both the Id counsel accused himself and the Public Prosecutor, the sentence is fixed for 7 yrs R,I and a fine of Rs.2000/- i.d 2(two) month S.I.

The detention period shall be set off.

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

Memo No **87**AD & SJ-I/2016: Dated Aizawl the,22nd April 2016
Copy to :

1. District & Sessions Judge, Aizawl District, Aizawl.
2. Accused Lalvanneiha S C/o C.Lalrinchhunga Advocate.
3. R.Lalremruata, Addl. PP
4. Spl.Superintendent of Central Jail, Aizawl.
5. Deputy Superintendent of Police (Prosecution).
6. Judicial Branch.
7. Case Record.
8. Guard File.

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