

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

*Sc No 87/2015  
Crl.Tr.711/5015, U/S 324 IPC  
Bawngkawn P.S Case No.193/2015*

State of Mizoram : Complainant  
Vrs  
Laltlinlana : Accused.

BEFORE

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

PRESENT

For the Opposite party : R. Lalremruata, Addl. P.P.  
For the Accused : H.Laltanpuia, Advocate.  
Date of Order : 8.2.2017

**ORDER**

The brief story of the case for prosecution is that on 26.9.2014, Pu Lalziriana S/o Zatluanga (L) of Ramhlun North, Aizawl. Appeared at the PS and submitted written report that on 25.9.2014 at 9:00pm, one Laltlinlana of Falkland, Aizawl assaulted him by striking on his head by hammer three times at Jhum hut located at the outskirt. He run away from him and jumped off the road and remain there in unconscious condition for 1(one) hour. Hence, Bawngkawn P.S Case no.193/14 dt.26.9.2014 u/s 307 IPC has been registered and duly investigated into.

During the course of investigation, the place of occurrence was visited and draw a sketch Map of P.O. the hammer, the weapon used by the accused person, was seized in the presence of witnesses and recorded the statement of

seizure witnesses. The complainant Lalziriana S/o Zatluanga (L) of Ramhlun South, Aizawl was examined and recorded his statement and he was also send to the Medical Officer, Aizawl Civil Hospital for medical examination to ascertain the nature of injury. According to the Medical report, the nature of the injured person is simple in informing his legal rights as well as ground of Arrest. His arrest intimation is also given to his wife Biaklianmawii and the accused person was also examined. He stated that on that particular day he and the complainant take liquor together at the jhum hut, he told the complainant to go home before too much drinking of liquor and also told that he might have vehicular accident on the way. His advice was resented by the complainant in which the complainant quickly lean upon him on the ground. As he was too weak to overcome him(complainant), he took hammer and strike him(complainant) on his head. all formalities have been observed by examining all available witnesses.

During investigation, it is substantiated that a prima facie case u/s 307 IPC could not established against the accused person. However, the accused person caused head injury to the complainant by hammer. Therefore, the honorable court is requested to alter the charge section into 324 IPC. The case may be tried u/s 324 IPC.

Charge u/s 324 IPC was framed, read over, explained in the language known to him to which he partly pleaded guilty stating that they are fighting with the victim and hitted with hammer while the victim was over him.

During the trial, the prosecution examined three witnesses P.W No.2 Lalramliana is seizure witness of the seized of hammer which was used by accused Laltlinliana for hitting Lalziriana on his head on the relevant date. In his cross examination P.W.No.2 stated that the use of exhibit M-1 hammer, by the accused form hitting the victim was hearsay and derived from police.

P.W No.5 Inspector Zirtluanga stated that I know the accused Laltlinliana standing before the court today. I have been transferred to Sakawrdai P.S from Bawngkawn P.S since April 2015. While I was at Bawngkawn P.S I was posted as Sub-Inspector.

While I was on duty at Bawngkawn P.S on 26.9.2014 one Lalziriana S/o Zatluanga (L) of Ramhlun North submitted FIR stating that on 25.9.2014 at around 9:00pm one Laltliniana of Falkland Aizawl assaulted him by striking on his head by hammer at Jhum hut located at Sihphir outskirts and as a result he was unconscious for one hour. Bawngkawn P.S Case No.193/2014 dt.26.9.2014 has been registered. The complainant was examined at the P.S and on the same day, self with party visited the P.O, seized the said hammer at the P.O in the presence of witnesses, the witnesses were also examined. When the complainant filed FIR on 26.9.2014, he was sent to Civil Hospital Aizawl for medical examination.

On reaching the P.O the accused was not present and on 4.3.2015 the accused Laltliniana was arrested. His statement was recorded and accused admitted that he assaulted the complainant Lalziriana on 25.9.2014 by hitting him on his head with a hammer. After investigation I found a prima facie case u/s 324 IPC well established against the accused and I sent the accused before the court for trial. Though initially the case was registered U/S 307 IPC however the charge section has been altered to section 324 IPC.

Exbt : P-1 is seizure memo, P-1(b) is my signature.

Exbt : P-2 is charge sheet including statement of accused, witnesses, victim, sketch map of P.O and FIR submitted by the complainant, P-2(a) is my signature.

Exbt : P-3 arrest memo, P-3(a) is my signature.

**Cross examination by the Defence counsel:**

The alleged incident happened on 25.9.2014. I visited the P.O on 26.9.2014.

At the time when I visited the P.O the accused was not present however the victim was present as I took along with me to the P.O.

It is a fact that the victim suffered simple injury on his head.

I did not see the accused fighting with the victim.

It is not a fact that the accused assaulted the victim for his self defence.

It is not a fact that the accused did not assault the victim.

It is not a fact that there is no eye witness of the alleged incident.

In his cross examination, Pw No.5 stated that it is a fact that the victim suffered simple injury on his head.

P.W No.6 Dr. K.Mankima, stated that while I was on duty at Civil Hospital Aizawl Lalziriana aged 38 resident of Ramhlun South Aizawl was brought to the Hospital for Medical checkup Police on 26.9.2014. On thorough checkup findings are as follows :

Laceration 2cm long on the occipital region i.e back side of the head.

1. Laceration 1cm long on the occipital region i.e back side of the head ( means there are two wounds at the back side of the head).

2. Investigations :

a) X ray of skull shows no abnormality .

b) CT Scan of the head shows no abnormality.

Exbt : P-4 is the injury report, P-4 (a) is my signature.

**Cross examination by the Defence counsel:**

It is a fact that the injuries are of simple in nature.

It is also a fact that the reason for the simple injury is due to the force which is mild in nature and not brute force.

On examination of accused u/s 313 CrPC , accused Laltliniana admitted that he is from Falkland and he was at Jhum hut located at Sihphir on 25.9.2014 with the victim Lalziriana accused further admitted that he beat Lalziriana with hammer during the fighting on his head as the victim was over him at around 9:00pm on 25.9.2014 the accused admitted that the victim suffered head injury due to his assault, and he was then arrested by Police on 4.3.2015 for assaulting Lalziriana.

1. Mr.R.Lalremruata, addl. Public Prosecutor submitted his argument in writing that on 26.9.2014 On 26.9.14 one Lalziriana, S/o Zatluanga (L), R/o Ramhlun South filed FIR to Bawngkawn P/S stating that on 25.9.14 Laltliniana, the accd hit him at his head three times with a hammer in a jhum hut at Sihphir. The accd was then arrested on 4.3.15.

2. Charge U/s 324 IPC was framed against the accd Laltliniana, on 22.5.15 and the accd pleaded partly guilty.

3. The prosecution produced three witnesses:

(a) Shri Lalramliana who stated that the police seized one hammer on 26.9.14 from the hut of the victim Lalziriana at Sihphir in his presence and stated that the said hammer was said to have been used by the accd for hitting the victim.

(b) That Inspector Zirtluanga, Case I/O deposed that pursuing the FIR filed by the victim on 26.9.14, Bawngkawn P/S case No. 193/2014 dt. 26.9.14 was registered, visited the P.O. seized the hammer, examined the witnesses, arrested the accd Laltliniana on 4.3.15 and also deposed that the accd admitted his guilt by assaulting Lalziriana on 25.9.14 with a hammer.

(c) Dr. K. Mankima deposed that he conducted medical check-up on the victim Lalziriana at Civil Hospital on 26.9.14 and stated that the injuries are of simple in nature.

4. That on questions put to the accd U/S 313 Cr.P.C. the accd admitted that he was with the victim in the Jhum hut on 25.9.14 located at Sihphir and beat the victim with a hammer.

5. **From the above points, it is clear that the accd Laltliniana hit the** victim Lalziriana on his head with a hammer on 25.9.14.

In the facts and circumstances mentioned above, this Hon'ble Court is earnestly prayed to convict the accd Laltliniana, S/o Lalhlimsanga, R/o Zuangtui, U/s 324 IPC.

1. Mr.H.Laltanpuia, Id. counsel for the accused also submitted his argument in writing that the brief fact The brief facts leading to the instant case is that on 26.09.2015 one Lalziriana S/o Zatluanga (L) of Ramhlun South, Aizawl submitted an FIR to the Bawngkawn Police Station stating that on 25.09.2015 he was hit in his head for three times with a hammer by the Accused in a jhum hut located at Sakawrhmutuai Tlang, Sihphir. Accordingly, the above mentioned criminal case was registered and duly investigated into. During the course of investigation, Accused was arrested on 4.03.2015. After investigation was completed Charge Sheet No.56 of 2015 dated 27.03.2015 was submitted before the Court. Charge was considered on 22.05.2015 in which the Accused partly pleaded guilty.

2. The prosecution proposed six witnesses out of which they examined only three witnesses.

3. (i) PW No.2 Mr. Lalramliana who is a seizure witness stated before the court that he was brought by the police to the place of incidence day after the incidence and does not witnesses the incidence. He stood as witness for seizure of the hammer and does not know the incidence.

(ii) PW No.5 Mr. Zirtluanga is the case I.O. who visited the place of incidence but his evidences based on the information given to him by the complainant and therefore his evidences could not be admitted as it was hearsay.

(iii) PW No.6 Dr. Mankima deposed that the injury is simple in nature.

4. Another PW No.1, 2 & 4 could not be located and does not give evidence before the court.

5. On 18.11.2016 the Accused was examined under section 313 Cr.P.C.

6. From the light of the evidence there is no evidence on record showing that the Accused had hit the victim with a hammer for three times and there is no any evidence that the injury of the victim was caused by the Accused. It is doubtful that the victim was actually suffering from injury of any kind and it is further doubtful that the injury, as if it occurs, was caused by the accused and this benefit of doubt shall be given to the Accused in spite of the decision of the Hon'ble Court in the case of *Mano Dutt 7 Anr Vrs State of U.P in Criminal Appeal No.77 of 2007*.

I pray this Hon'ble Court to acquit the Accused from the liability of the instant case and to set him at liberty.

The FIR was collaborated by the evidence adduced by witness No.2, and 5 certifying that accused Laltliniana hitted victim Lalziriana with hammer on his head, and caused injury due to his hitting the evidence of Pw No.6 about the injury on the head of victim is also collaborated by the statement of accused Laltliniana on his examination u/s 313 Cr.P.C to which accused admitted that the victim suffered head injury due to his assault/hitting.

Accused Laltliniana is therefore find guilty for committing an offence punishable u/s 324 IPC and is therefore convicted and sentence to undergo S.I for a period of 11 months with a fine of Rs.1000/- i.d SI for 10 days S.I.

The case is disposed.

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

Memo No \_\_\_\_AD & SJ-I/2017 : Dated Aizawl the, 8<sup>th</sup> February 2017

Copy to :

1. District & Sessions Judge, Aizawl District, Aizawl.
2. Laltliniana C/o H.Laltanpuia Advocate.
3. H.Laltanpuia Advocate
4. Spl.Superintendent of Central Jail, Aizawl.
5. Addl. PP
6. Deputy Superintendent of Police (Prosecution).
7. Judicial Branch.
8. Case Record.
9. Guard file.

PESHKAR