

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

*Sc No 85/2013  
Crl.Tr.554/2015  
U/S 25(1AA) arms Act, Aizawl P.S Case No.114/2013*

State of Mizoram : Complainant

Vrs

Ngurthangi : Accused.

BEFORE

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

PRESENT

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

For the Accused : S.L.Thansanga, Advocate.

Date of Order : 15.3.2017

**ORDER**

The prosecution story of the case in brief is that on dt.21.3.2013, a written FIR is received from S.I RK Rosangliana CID(SB) Aizawl stating that in their operation with No. 1 FIT, 23 Sector, Assam Rifle they had seized one 9mm Pistol B/R No.5070 made in USA and one Empty Magazine from the illegal possession of Ngurthangi (47) D/o Kungliana (L) of Electric veng, Aizawl and requested for necessary action. Hence, Aizawl P.S C/no 114/2013 dt.21.3.2013 u/s 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 actual owner of the seized Pistol Ngurthangi (47) D/o Kungliana (L) of Electric

veng, Aizawl was arrested and confessed that she was trying to sell one 9mm B/R No.5070 made in USA and one Empty Magazine to a willing buyer at a price of Rs.2,00,000/- before she apprehended. Besides, she does not have any document and license to give her a right to possess the Pistol and she was arrested by CID(SB) staff and Assam Rifle at New Secretariat Complex. Later, she is forwarded to Judicial custody on 22.3.2013. the seized one 9mm Pistol B/R No.5070 made in USA and one empty Magazine was forwarded to FSL, New Secretariat Complex for necessary examination. FSL examination report was received on 25.6.2013.

From the above mentioned facts and circumstances, a prima facie case u/s 25(1AA) of Arms Act, 1959 is found well established against the accused Ngurthangi(47) D/o Kungliana (L) of Electric veng, Aizawl.

2. On the date of opening of the case the Id counsel for the accused has prayed for discharge of accused since no prosecution sanction has been obtained and submitted that for framing of charge against the accused u/s 25(A)(A) Arms Act prosecution sanction is required. The Id Addl. PP has on the other submitted that prosecution sanction is required only u/s 3 of Arms Act and section 25(1)AA Arms Act is not covered u/s 3 of Arms Act. After hearing both parties the court find it appropriate to framed charge against accused u/s 25(1) AA Arms Act finding that there is prima facie case against accused under the charge section. On framing of the charge u/s 25(1)AA of Arms Act, the charge is read over, explained to the accused Ngurthangi in the language known to her to which she pleaded not guilty and claims for trial. During the trial 4(four) prosecution witnesses has been examined out of 5 prosecution witness.

3. P.W No.1 R.K.Rosangliana, Sub Inspector of Police stated that during 2013 I was posted at CID, SP, Aizawl. On 21.3.2013 I got information from our source that some person was going to bring a gun illegally at New Secretariat Complex. My self and Constable Lalhmangaihi went to New Secretariat Complex and the accused along with one non-mizo person had come in a Taxi. We stopped the taxi and the accused got out of the taxi. The female constable who was with me checked the bag of the accused and found one wrapped 9 mm pistol in her bag. I called two witnesses and seized the gun in their presence. I

questioned whether the accused had any license to possess the seized gun and she said that she did not have any such license. I then took her to the police station and I submitted an FIR and also recorded her statement. I also submitted the seizure memo and seized article along with the FIR which I had submitted. Exbt P-1 is the FIR submitted by me and exbt P-1(a) is my signature, exbt P-2 is the seizure memo and exbt P-2(a) is my signature, exbt M is the seized articles.

4. The prosecution witness was cross examined by Defence counsel, and submitted that

The source which I received was from the Assam Rifles personnels. When I received the information the name of the accused was not revealed.

I got to know the accused only from the time I arrested her.

Besides the driver of the taxi there was only one male non-mizo in the taxi and he was a civilian.

It is a fact that when the bag of the accused was opened, the pistol which was wrapped could not be immediately seen. I cannot remember with what material the pistol was wrapped.

I did not see any person who appeared to be waiting for the accused when we apprehended her.

We apprehended the accused after passing the MPSC office.

It is a fact that I did not make any identification on the pistol that was seized on that day. I did not paste the yellow paper which was seen in the exhibit today.

It is a fact that no bullets were seized on that day.

It is a fact that I did not test whether the pistol is serviceable or not.

It appears to me that the seized pistol is local made.

On that day besides the lady constable, other three persons of the Assam Rifle were also present.

It is not a fact that the gun belonged to the non-Mizo who was also a passenger in the taxi.

I do not know whether the non-Mizo who was in the taxi had a contact to whom the was planning to handover the seized gun.

It is not a fact that I do not believe that the pistol belongs to the accused.

It is not a fact that the accused is not the owner of the gun.

It is a fact that I know that the accused do not possess a license from what was told to me by the accused.

The accused had mentioned that she had possessed the gun to sell it to some other person.

It is not a fact that the accused had said that the gun was given to her to be sold to some other person.

It is not a fact that the gun was difficult to remove from the wrapping.

It is not a fact that the accused said that she did not know that the gun was wrapped in the wrapping material.

5. P.W No.,2 Lalthanpuia, F.A Polution control Board stated that on 21<sup>st</sup> March 2013 at around 12:10pm the CID (SB) and Assam Rifles seized on 9mm pistol and one empty magazine from the possession of the accused Ngurthangi at New Capital Complex Aizawl in my presence and other witness. As I was present at the time of the said seizure I appeared as seizure witness of the said S/A and I put my signature on the seizure memo.

Exbt : P-5 is the seizure memo of one 9mm pistol and one empty magazine.

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

Exbt : M-1 is the S/A.

In the cross examination P.W No.2 stated that I did not see the act of recovery of the S/A from the accused, I only saw that some people i.e two or three police personnel, the accused and the Taxi Driver were outside the Taxi. I did not see from where the S/A was recovered.

It is a fact that I did not put my personal mark on the S/A and therefore I cannot say for sure that the one produced in the court today is the same 9mm pistol that was seized by the police on that day 23.3.2013.

It is a fact that David Lalrinawma F.A (Field Attendant) was also working with me on that day.

It is also a fact that I did not/do not know the maker of the gun and I do not know whether it is locally made gun.

6. P.W No.4 R.Sangzuala, Asst. Director FSL stated that he examined the S/A which is exhibited as exhibit P-3 between 3.4.13 – 28.5.2013, and stated in his cross examination that the exhibit 'M' which was local made was not seen in his court date and he was not supply any ammunition by the police for testing firing and he used the ammunition from FSL laboratory stock and test fired only one. He did not measure the velocity of the bullet fire while testing it, and did not lift any finger print on exhibit M.

7. P.W No.5 S.I Lalchhuanawma, SP(A) office stated on 21<sup>st</sup> March 2013 a written FIR was received from S.I R.K.Rosangliana , CID(SB) Aizawl stating that in their operation with Assam Rifle they had seized one 9mm pistol bearing registration No.5070 made in USA and one empty magazine from the possession of accused Ngurthangi at New Secretariat Complex Aizawl and requested for necessary action. And hence Aizawl P.S Case No.114/2013 dt.21.3.2013 U/S 25(1AA) Arms Act 1959 is registered.

S.I T.Lalnuntluangi is the previous case I/O in the instant case. The previous case I/O arrested the accused, she recorded the statement of the accused the complainant by R.K.Rosangliana, CID(SB), Aizawl. The seizure was made by R.K.Rosangliana, CID(SB), Aizawl and he recorded their statements. The previous case I/O submitted the S/A i.e one 9mm pistol bearing registration No.5070 made in USA and one empty magazine to the FSL for examination. The FSL examination record was also received by the previous case I/O T.Lalnuntluangi reporting that the 9mm pistol bearing registration No.5070 made in USA is a country made 9mm semi automatic pistol and is in working condition.

As the case I/O T.Lalnuntluangi was transferred to another station the O/C Aizawl P.S re-endorsed the case to me for investigation.

During my investigation I have gone through all the statements taken by the previous case I/O and the statements recorded by the seizing officer. I have also gone through the FSL report and I submitted the charge sheet against the accused Ngurthangi as I found a prima facie case u/s 25(1AA) Arms Act 1959 well established against the accused.

Exbt : P-4 is the final report submitted by me.

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

Exbt : P-5 is the seizure memo of 9mm pistol bearing registration No.5070 made in USA and one empty magazine.

Exbt : P-6 is the arrest memo of the accused Ngurthangi.

8. The P.W No.5 was cross examined and stated that the S/A 9mm pistol is not made in USA but it is locally made.

It is a fact that all the investigation was conducted by S.I.T.Lalnuntluangi and on her transferred I was endorsed the case but personally I did not conduct investigation and I depend on the investigation already learnt by the previous case I/O S.I. T.Lalnuntluangi.

It is also a fact that the examination result of the S/A by the FSL was received by S.I T.Lalnuntluangi the previous case I/O.

It is not a fact that on perusal of investigation report conducted by the previous case I/O I did not find a prima facie case against the accused U/S 25(1AA) Arms Act 1959.

It is a fact that I have not seen the seized 9mm pistol and the empty magazine today in the court.

9. Accused Ngurthangi was examined u/s 313 Cr PC and answer the question put forward to her

Q.1. It is from the evidence that on 21.3.2013 @ 12:10pm at New Secretariat complex you were intercepted by the police while going on in a taxi. What do you say ?

Ans : Yes, it is correct.

Q.2. It is from the evidence that when you were intercepted by police, you got out of the said taxi and you were carrying a bag. What do you say ?

Ans : Yes, it is correct.

Q.3. It is from the evidence that inside your bag you were carrying a pistol with one empty magazine and the same were seized by the police in the presence of witnesses. What do you say ?

Ans : One non-Mizo has given me, a bundle which I do not know, and put it on my back. I don't know his name, may be Singh ? I am not sure.

Q.4. It is from the evidence that the said pistol is local made pistol but it bears No.5070 made in USA. What do you say ?

Ans : I only came to know that the said bundle was take off, that the S/A is pistol.

Q.5. It is from the evidence that the said pistol is in working condition as checked by the F.S.L. what do you say ?

Ans : I know nothing more about pistol after arrest.

Q.6. It is from the evidence that you were trying to sell the said pistol. What do you say ?

Ans : I don't mean for sale it is nothing for me, and only came to know only when he put in my bag.

Q.7. It is from the evidence that you do not possess a gun license of the said pistol. What do you say ?

Ans :I have no gun license.

Q.8. It is from the evidence that you were arrested on 21.3.2013 by the police. What do you say ?

Ans : Yes, it is correct that I was arrested by the police on the said date the accused Ngurthangi could not produce defense witness in the court, and hence evidence stage of both parties are closed. And at the end of the trial both the Addl. PP and defense counsel submitted their argument in writing.

10. Pu R.Lalremruata, Id. Addl.PP submitted that The accd Ngurthangi, D/o Kungliana(L), R/o Electric Veng was arrested on 21.03.2013 by S.I. T. Lalnuntluangi on the strength of an FIR submitted by S.I. R.K. Rosangliana stating that on 21.03.2013 @12:10 p.m (noon) at New Capital Complex, Aizawl one 9mm Pistol bearing a no. 5070, made in USA along with empty magazine was recovered from the possession of the accd Ngurthangi which was planning to sell the same for Rs. 2,00,000/-.

The case I/O S.I. Lalchhuanawma after examining the accd and witnesses found a prima-facie case U/s 25(IAA) Arms Act, 1959 well established against the accd. Ngurthangi and sent the accd to the Court for trial.

The following witnesses are examined before the court:

(a) Shri R.K. Rosangliana who deposed that he along with constable Lalhmangaihi went to New Capital Complex on 21.3.13 pursuing his information received that some person was going to bring a gun illegally at New Capital Complex. He state that they stopped one taxi and the female constable checked the bag of the accd. Ngurthangi and found one wrapped 9 mm pistol inside her bag, and the same was seized by him in the presence of witnesses. As the accd did not



have a gun license in respect of the said pistol, he took her to the Police Station and filed an FIR.

(b) Shri R. Sangzuala, Asst. Director, FSL, PWNo. 4 exhibited the FSL report on the said gun before the court as Ext. P3. The FSL report Ext. P3 highlighted that the said pistol was in working order.

(c) Shri Lalthanpuia, R/o Bungkawn PW No. 2 deposed that he was present when one 9 mm Pistol was seized from the possession of the accd Ngurthangi on 21.3.13 @ 12:10 Om at New Capital Complex.

(d) S.I. Lalchhuanawma PW No. 5 deposed that S.I. T. Lalnuntluangi is the previous case I/O in the instant case, and due to her transfer the case was endorsed to him by the O/C Aizawl P/S. The deposed that after going through all documents available on record e found a prima-facie case U/s 25 (IAA) Arms Act, 1959 well established against the acccd Ngurthangi.

On examination of the accd U/s 313 Cr.P.C. by the Court, the accd Ngurthangi accepted that she was intercepted by the Police which going in a taxi at New Secretariat/Capital Complex on [21.3.13@12:10](#) Pm and also accepted that one pistol with empty magazine was recovered from her bag which she was carrying and also stated that the same was given to her by one person non-Mizo. She further stated that she had no given license in respect of the said gun.

In the facts and circumstances mentioned above, it is clear that on [21.3.13@12:10](#) Pm, one 9.mm pistol, working condition was seized from the possession of the accd Ngurthangi at New Capital Complex and the accd Ngurthangi did not have a gun license in respect of the said gun.

This Hon'ble Court is thus prayed to convict the accd Ngurthangi U/s 25(IAA) Arms Act, 1959.

11. Pu S.L.Thansanga also submitted that :

Let it be suffice to state that the Police arrested the accused Ngurthangi for possession (illegal) of a 9mm pistol, local made, and she has been tried in this court.

For brevity's sake your Honour, the prosecution has completely failed to prove the guilt of the accused person beyond all reasonable doubts.

It is a fact that there were three persons in the taxi including the taxi driver, there was another non-Mizo man in the taxi beside the accused.

The witness to the seizure deposed before the Court that he did not see from whether the SA was recovered. He did not even know the SA(gun) produced in the Court was the once that was seized from the taxi.

PW No.4 was the Asst. Director, FSL deposed before the court that he had test fired the seized gun with ammunition from the FSL because no bullets were supplied to him for the same. He further said that he did not see the seized gun in the court.

For these said reason alone the prosecution did not prove the guilt.

12. In this instance case, the FIR revealed that accused Ngurthangi (47) D/o Kungliana (L) of Electric veng, Aizawl was arrested and confessed before the seizing officer that she was trying to sell one 9 mm pistol B/R No.5070 made in USA and one empty magazine to a willing buyer @ Rs.2,00,000/- before she apprehended, she does not have any document and license to give her right to possess the pistol and she was arrested by CID(SB) staff and Assam Rifle at New Secretariat Complex the FIR was corroborated by the statement of witness no1 stating that he himself(Pw No1) and constable Lalmangaihi went to New Secretariat Complex and the accused along with one non-Mizo person had come in a Taxi they stopped the taxi and the accused got out of the taxi, the female constable checked the bag of accused and found one wrapped 9mm pistol in her bag. He called two witness and seized the gun in their present, and the accused have no license to keep the pistol. In his cross examination the P.W stated that

the gun was not belong to the non Mizo who was also passenger in the taxi, the accused had mentioned that she had possessed the gun to sell it to some other person. the P.W No.2 Lalthanpuia also stated in his examination in-chief that on 21.3.2013, @ 12:10pm CID(SB) and Assam Rifle seized one 9mm pistol and one empty magazine from the possession of accused Ngurthangi at New Capital Complex Aizawl in his presence and other witness and became seizure witness, the statement of PW No.5 also collaborated the FIR stating that in their operation of CID(SB) and Assam Rifle, they had seized one 9mm pistol bearing Regn No.5070 made in USA and one empty magazine from the possession of accused Ngurthangi at New Secretariat Complex, Aizawl.

The FSL reported which is exhibited as exbt P revealed that the weapon in exbt – A is a country made 9mm semi automatics pistol and is in working condition, the report of FSL also corroborated the FIR.

P.w no.5 S.I Lalchhuanawma, case I/O also stated that during his investigation he has gone through all statements taken by the previous I/O S.I T.Lalnuntluangi and the statement recorded by seizing officer, and also has gone through the FSL report he found a prima facie case u/s 25(1AA) of Arms Act 1959, this prosecution witness statement are also collaborated with the FIR.

13. On examination of accused Ngurthangi u/s 313 Cr PC by the court, accused Ngurthangi admitted that she was intercepted by the police while going in a taxi at New Secretariat complex on 21.3.2013 @ 12:10pm and also accepted that one pistol with empty magazine was recovered from her bag which she was carrying and also stated that the same was given to her by one non-Mizo which she did not remember his name, may be Singh. She further stated that she has no license for the said Gun.

The main point of Id counsel for the accuse is that the seized pistol is not seen/exhibited in the court during the trial, and PW No.2 stated that he did not see the act of recovery of the S/A from the accused in his cross examination. In this regard, the P.W No.2, was arriving to the P.O after seizing of the pistol from

the bag of accused by the seizing officer, and became seizure witness, seized articles are to be exhibited/shown in the court during the trial. While examining witnesses, but non-production of seized articles in the court during the trial does not defense the accused if the S/A is available and if the seizure is proved.

### O R D E R

14.From the light of above discussion the prosecution proved that one 9mm Pistol No.5070 was seized from accused Ngurthangi, who has no license, and means for sale, and accused Ngurthangi is therefore found guilty for possessing 9mm Pistol without license punishable u/s 25(1AA) of Arms Act 1959, and I therefore convicted accused Ngurthangi d/o Kungliana (L) of Electric Veng, Aizawl for keeping, possessing 9mm Pistol without license u/s 25(1AA) of Arms Act, 1959.

Seized Pistol shall be confiscated to the Government disposal.

Fix : 15.3.2017 for sentence hearing.

Accused/convicted Ngurthangi is produced from Judicial Custody to face her sentence hearing. Today is fixed for sentence hearing Mr.S.L.Thansanga Advocate, her Id. counsel submitted that :

The conviction shall be u/s 25(1)(b) of Arms Act and not 25(1)(AA) since the section dealt only prohibited arms and prayed to convict her u/s 25(1)(b) of Arms Act.

Accused is women, and is her first offence, and she is above 21 years old, and prayed to invoke section 360 Cr PC as accused is suffering from illness of many kinds.

On the other hand, the Id Addl. Public Prosecutor argued that to give minimum punishment, and in respect of charge section of 25(1) AA the

submission of defence counsel u/s 25(1)(b) is acceptable and no objection is raised.

Upon hearing of both parties, accused Ngurthangi is convicted and sentence her u/s 25(1)(b) of Arms Act, by altering the section from 25(1)(AA) as per provision of section 216, for a period of six months as provided Arms (Amendment) Act 1985(39 of 1985, section 2) id Rs.2000/- S.I as accused is women and is of first offence, and she suffering from sciatica, and other ailment.

The case is disposed.

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

Memo No **73**AD & SJ-I/2017 : Dated Aizawl the, 15<sup>th</sup> March 2017

Copy to :

1. District & Sessions Judge, Aizawl District, Aizawl.
2. Ngurthangi D/o Kungliana (L) Electric veng,Aziawl
3. S.L.Thansanga Advocate
4. Spl. Superintendent Central Jail Aizawl.
5. Addl. PP
6. Deputy Superintendent of Police (Prosecution).
7. Judicial Branch.
8. Case Record.
9. Guard file.

PESHKAR

Appendix : A

1. Exbt P-1 is the FIR, P-1(a) is signature.
2. Exbt P-2 is seizure memo, P-2(a) is his signature.
3. Exbt M is the seized articles..

Appendix – B

Defence witness - Non.