

registered with the election commission of India. There may be factions within the party but it does not cease to be a political party and that they are having a political demand. According to the Ld. Counsel, the political issue raised by the HPC or HPC (D) can by no means be interpreted as an attempt to disrupt the Indian union or to call for an independence from the Indian Union. In support of his submission, the Ld. Counsel has placed reliance on the decision of the honb'le Apex Court in the case of **Manoj Rai versus State of Madhya Pradesh** reported in **1999 AIR(SC) 300**, wherein the hon'ble Apex Court quashed the proceeding u/s 295-A IPC due to lack of prosecution sanction.

Heard the Ld. Counsel. Perusal of the record shows that the Investigating Officer while laying the charge sheet found prima facie case against the two accused persons for the offence punishable u/s 121/387/506/34/511 IPC. Except for the offence u/s 121 IPC the other offences are triable by Magistrate of the First Class. Section 196 Cr.P.C reads as under:-

“196. Prosecution for offences against the State and for criminal conspiracy to commit such offence. - (1) No court shall take cognizance of-

(a) *any offence punishable under Chapter VI or under Section 153A, section 295A or sub.section(1) of section 505 of the Indian Penal Code(45 of 1860), or*

(b)

(c)

Except with the previous sanction of the Central Government or of the State Government”

Chapter VI of the Code covers Sections 121 to 130. From a reading of the provision of law it is thus clear that no Court can take cognizance of the offence u/s 121 IPC without previous sanction from the Central/State Government. In the instant case, a careful checking of the Police Report u/173 Cr.P.C with all the connected documents does not contain any prosecution sanction. Therefore, it is clear that this Court cannot take cognizance of the offence u/s 121 IPC in the absence of previous sanction from the State/Central Government. Without commenting on the submission of the Ld. Addl.PP regarding the non-availability of sufficient materials for the offence under section 121 IPC, I propose to transfer the matter as follows :-

Let the case record be transferred back to the Ld. Chief Judicial Magistrate, Aizawl Judicial District, Aizawl. The matter shall be proceeded from the stage of consideration

of charge u/s 387/506/34/511 IPC. Needless to say, liberty is with the Ld. CJM to take up the matter in its Court or endorse it to any JMFC.

Send back the case record with this Order to the Ld. CJM, Aizawl.

Sd/- HELEN DAWNGLIANI
Addl. District & Sessions Judge
Aizawl Judicial District : Aizawl

Memo No:/AD&SJ(A)/2014 : Dated Aizawl, the 4th April, 2014
Copy to: -

1. Accused Lalhlawhtlinga & Jacob Zaute through Counsel Mr. Lalremtlunga, Advocate.
2. PP/Addl. PP, Aizawl District, Aizawl.
3. District & Sessions Judge, Aizawl.
4. Chief Judicial Magistrate, Aizawl.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

P E S H K A R