

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE-III
AIZAWL JUDICIAL DISTRICT : AIZAWL.**

PRESENT

Smt.Helen Dawngliani
Addl. District & Sessions Judge-III

**SR No. 464/2012
In Crl.Tr. No. 2386/2012
U/s 376(2)(f)/511/506 IPC**

Ref :- Bawngkawn P.S Case No. 255/12 dt.29.9.2012 u/s 376(2)(f)/511/506 IPC

State of Mizoram

Versus

Sangsawmthanga Accused

Date of hearing 17.02.2014

Date of Judgment 28.02.2014

A P P E A R A N C E

For the Prosecution Mrs. Rose Mary, Addl. PP

For the Accused Mr. Rualkhuma Hmar, Advocate

J U D G M E N T & O R D E R

1. The prosecution story of the case in brief is that on 29.9.2012 one Lalawmpuii W/o Ruvi Vanlalsanga R/o Zuangtui vengthar lodged a written FIR at Bawngkawn Police Station to the effect that on 29.9.2012 @ 4:30 pm, Sangsawmthanga of Zuangtui forcibly attempted to commit rape upon her daughter X, 8 years old by poking her private part and threatened to kill her if she makes any disclosure. The incident occurred in a Mela at 'Break Dance'.

On the basis of the said information, Bawngkawn P.S Case No.255/12 dt. 29.9.2012 u/s 376(2)(f)/511/506 IPC was registered and investigated into. Upon completion of investigation, having found prima facie case against the accused Sangsawmthanga for the offence punishable u/s 376(2)(f)/511/506 IPC Charge sheet was laid against him and committed for trial.

The name of the prosecutrix is withheld in the Judgment and she is referred with the letter 'X'.

2. Copy of the Police Report and all connected documents were delivered to the accused.

3. As the accused did not have the means to engage a counsel on his own, Mr.Rualkhuma Hmar, Advocate was assigned to defend the accused at the State expense u/s 304 Cr.P.C.

4. Charges u/s 376(2)(f)/511/506 IPC were framed against the accused. The charges were read over and explained to the accused in the Mizo language which is known to him to which he pleaded not guilty and claims for trial.

5. POINT(S) FOR CONSIDERATION:-

A. Whether the conduct of the accused upon the person of X amount to the offence of attempt to commit the offence of rape and thereby guilty of the offence punishable u/s 376(2)(f)/511 IPC?

B. Whether the accused criminally intimidated X and the accused thereby guilty of the offence punishable u/s 506 IPC?

6. The prosecution examined 6 witnesses. Accused was examined u/s 313 Cr.P.C two witnesses for the defence were also examined. The Ld. Counsels are heard.

Mrs. Rose Mary, the Ld. Addl. PP submitted that the prosecution has been able to prove by cogent and reliable evidence that the accused attempted to commit rape upon X. The Ld. Counsel argued that the statement of the prosecutrix is reliable and that the same is supported by medical evidence wherein it has been found that the hymen of X was freshly torn. The Ld. Counsel submitted that the accused and X were known to each other and since the matter was immediately reported to the Police and the prosecutrix named only the accused as the culprit, there was no reason for the prosecutrix or her family to cook up a false story against the accused. The Ld. Addl. PP further submitted that the defence evidence is vague and the two defence witnesses only deposed on their presumption without having any direct evidence against the statement of X. The Ld. Addl. PP therefore prays to convict the accused for the offence punishable u/s 376(2)(f)/511/506 IPC.

On the other hand, Mr. Rualkhuma Hmar, the Ld. State Defence Counsel submitted that the allegation made against the accused is false and fabricated. The Ld. State Defence Counsel submitted that the alleged incident occurred in a Mela where there were a lot of people. The two defence witnesses themselves were also riding on the 'break dance' where the incident is alleged to have occurred. The Ld. Counsel argued that in the presence of so many people, there is no possibility for the accused to commit the offence. The Ld. Counsel further argued that the accused sat with X in the break dance when the break dance made a circle with so many other riders. Within such a short time, the Ld. Counsel argued, there is no time for the accused to commit an offence. The Ld. Counsel therefore submitted that the prosecution evidence is not reliable and prays to acquit the accused.

7. DISCUSSION, DECISION AND REASONS THEREOF:-

The evidence adduced by the prosecution may be briefly highlighted:-

A. PW No.1/Lalawmpuii is the mother of X. She stated that X was born on 12.10.2003. On 29.9.2012 she had gone to the Mela at Rora field, Zuangtui to sell snacks with her daughter X. In the afternoon she left her daughter with her (PW No. 1) friend Lalrinawmi to prepare for the evening meal. At around 4:30 PM she received a phone call from her friend Lalrinawmi telling her that there was an incident. She rushed to the place of Mela and saw her daughter X with Lalrinawmi. Her daughter looked frightened and was shivering. When she asked her daughter about what had happened to her, she stated that she and her friends were given free entry by Pu Hlua in the merry go round which was known as breakdance. When they entered the enclosure the accused pulled her separately from her friends and made her sit with him. When the wheel started moving the accused slipped his hands beneath her underwear and started touching her private part. Her daughter also told her that when she told the accused that she wanted to get down, the accused forcibly held her back and said that later they will go to an isolated place and have sexual intercourse. When she alighted, the persons on duty near the break dance observe that she was very frightened and took her separately from her friends then to the friend of her mother. The witness also stated that since she was very panicky she did not check her daughter and the Police also soon arrived. She was taken to the Police Station and she submitted the FIR which she exhibited as Ext. P-1 and her signature as Ext. P-1(a). In her cross-examination she denied that she falsely implicated the accused due to personal enmity. She stated that she did not see the accused sexually assualting her daughter and Lalawmpuii.

PW No.2/X is the prosecutrix. She identified the accused and stated that she went to the Mela from the morning with her mother and her friend Lalawmpuii to sell snacks. In the afternoon her mother left to cook for dinner. After her mother left, she and her friends were offered a free ride in the 'break dance'. She was supposed to sit with her friend Lalawmpuii, but the accused pulled her and so she sat with the accused. She further stated that when the wheel started moving she wanted to get down because the accused touched her private part with his hands, but it was not very painful. When she stated that she wanted to get down, the accused pulled her back by keeping his arms around her and said that they will go to an isolated place and have sexual intercourse. She stated that she was also threatened by the accused by saying that if she make a disclosure, she will kill her. When she alighted, Lalawmpuii asked her what happened but he did not tell her anything. The witness stated that she thinks her friend has doubt from her appearance. The first person she told was a friend of her mother Anu Lalrinawmi, who in turn made a phone call to her mother. She stated that she was taken to a Police Station and at the time of Medical Examination she heard the Doctor saying that it was a serious case. In her

cross-examination she denied the suggestion that she exaggerated the story and that she was tutored. She stated that she was not assaulted by the accused. She has known the accused prior to the incident. She no longer feels pain on her private part,

PW No. 3/Dr. Lalbiakdiki examined X at Civil Hospital, Aizawl on 29.9.2012 @ 9:00 PM. Upon examination, the prosecutrix was found physically and mentally sound, no marks of violence or stains were found and no bruising or laceration were found on her external genitalia. Her hymen was found to be torn at 2 places at 8 o'clock and 4 o'clock position, it was fresh and there was slight bleeding on examination. Vaginal smear was taken for presence of spermatozoa and sent to laboratory for examination. She exhibited the medical examination report as Ext. P-2 and her signature as Ext. P-2(a). In her cross-examination she stated that there were no injuries on the other parts of the body of the prosecutrix.

PW No. 4/Krostana stated that on 29.9.2012 he was on duty at the Mela. The duty was carried out by the Village Defence Party (VDP) in order to prevent any public nuisance at the Mela. He stated that when the prosecutrix came out of the gate, they asked her what had happened to her but she could not say anything, she was frightened and cried bitterly. Only when her mother arrived she could speak. He further stated that the VDP kept the accused out from an angry mob. The Police were informed about the incident and they arrested the accused. In his cross-examination he stated that he did not personally see the incident. When the incident occurred it was already dark and he presumed it to be around 6 PM.

PW No.5/Lalramhluni was the President of Zuangtui Branch MHIP during the year 2012. She received a phone call about the present incident @ 5 PM. She went to the house of Pi R. Laltawnlui near the Mela site where the accused was kept. The Police arrived, they went to the Police Station with the Police and the Police recorded her statement.

PW No.6/SI H. Lalhmingthangi is the Investigating Officer. She stated that FIR was lodged on 29.9.2012 @ 6:15 PM by Lalawmpuii of Zuangtui Vengthar. During investigation she recorded the statements of Lalawmpuii, prosecutrix and other witnesses. She visited the place of occurrence which is a playground within the PWD Complex at Zuangtui, she arrested the accused on the same night itself, she seized the original Birth Certificate of X and after making a photocopy returned the original to her family. She interrogated the accused and recorded his statement. She exhibited the Charge Sheet at Ext. P-3 and her signature at Ext. P-(a), copy of the Birth Certificate at Ext. P-4. In her cross-examination she stated that she recorded the statement of the victim, 8 years in the Police Station which she could not have done as per law but clarify herself by stating that she did the same because the prosecutrix accompanied her mother to the PS at the time of

filing the FIR and that she did not call the prosecutrix to the PS to record her statement. She denied the suggestion that she conducted the investigation in a perfunctory manner.

8. Examination of accused u/s 313 CrPC is one of denial. However the accused stated that on the date of the incident, he drank liquor from morning. He was already drunk when they took a ride in the break dance. He sat next to her in the break dance, According to the accused, from the way they were sitting, it was not possible to slip his hands in her underwear and touch her private part.

9. At this point, the evidence adduced by the defence witnesses may also be highlighted: -

DW No.1/Lalrinmawii stated that she went to the Mela on 29.9.2012 and took a ride in the giant wheel where the accused was also there. She thinks that as there were many riders in the giant wheel, the accused could not have committed the offence. In her cross-examination she stated that the accused was seated behind her, the accused was smelling of liquor though she could not recollect if he was completely drunk or not. She was present at the Mela when the Police arrived but does not know whether the prosecutrix cried or not after she alighted from the giant wheel. The giant wheel must have taken about 4/5 minutes to make its movement and that she did not keep constant watch over the accused during that time.

DW No.2/Lallungawia stated that on 29.9.2012 he also took a ride in the giant wheel/break dance in the Mela where the accused was also there. He did not sit with the accused. Break dance was of round shape and moved in circle when all the boxes are filled with riders. One round would take about 10/15 minutes. In the presence of so many people, he does not think that the accused could have committed the offence. In is cross-examination he stated that while taking a ride in the break dance he did not pay full attention to the accused and did not watch him constantly. He also stated that he does not have any clear proof to the effect that the accused did not sexually exploit the prosecutrix.

10. In the case at hand, the accused is facing trial for the offence punishable u/s 376(2)(f)/511/506 IPC.

Dealing first with the charge u/s 376(2)(f)/511 IPC.

The term 'attempt' have not been defined in the Indian Penal Code. According to 'Halsbury's Law's of England', vol-9, page 259, "Criminal attempt" has been defined as:-

“Any overt act immediately connected with the commission of an offence, and forming part of a series of acts which, if not interrupted or frustrated, would, if the offence could be committed, and in the commission of the actual offence, is, if done with a guilty intent, an attempt to commit the offence, whether the offence which is

attempted is one that could or could not have been committed. Merely to make preparations for the commission of an offence is not to attempt to commit the offence. An act, in order to be a criminal attempt, must be immediately and not remotely, connected with and directly tending to the commission of an offence.”

11. In the instant case, PW No.1/Lalawmpuii who lodged the FIR stated that she was told by her daughter X that when the break dance started moving the accused slipped his hands beneath her underwear and started touching her private part.

PW No.2/X stated *“I was supposed to sit with my friend Lalawmpuii in the Break Dance, but the accused pulled me. So, I sat with the accused. When the wheel started moving, I wanted to get down because he touched my private part with his hands”*. The said statement of the prosecutrix have not been discredited during cross-examination. The prosecutrix stood firm on her statement that the accused sat next to her and touched her private part with his fingers when the break dance started moving.

PW No.3/Dr. Lalbiakdiki examined X on 29.9.2012 @ 9 PM and found her hymen torn at 2 places at 8 o'clock and 4 o'clock position, it was a fresh tear and there was slight bleeding on examination.

12. The accused in his examination u/s 313 CrPC stated that from the manner they were sitting, it was not possible to slip his hands beneath the underwear and touch the private part of X.

Upon appreciation of the evidence of the two defence witnesses, it is seen that both of them were also riding on the 'break-dance' at the time when the accused and X were also taking a ride. A reading of the statements of the two defence witnesses indicate that keeping in mind the surrounding environment with so many other people around taking a ride in the 'break dance', it would not be possible for the accused to commit the offence.

Therefore, the evidence of the two defence witnesses is their believe that in the presence of so many people, the accused could not have committed the offence. As such, they have no direct evidence to discredit the statement of the prosecutrix.

13. At this point, if we turn to the evidence of PW No.4/Krostana who was on duty in the Mela he stated that *“When the prosecutrix came out of the gate, we asked her what had happened to her and she could not say anything. She was very frightened and was crying bitterly. Only when her mother arrived, she could speak”*. The said statement of the witness have not been discredited during cross examination. The statement of this witness lend assurance to the evidence of PW No.2/X more particularly her statement *“When the wheel stopped, I got down and Lalawmpuii asked me what happened. I think that she has doubts from my appearance. But I did not tell her anything”*.

14. Upon appreciation of the prosecution evidence, it is seen that the matter came to light soon after the prosecutrix alighted from the break dance. The accused did not deny having sat with X in the break dance while the said wheel was moving. He also stated that after they alighted from the break dance he went towards the main gate and that he was apprehended by some persons on duty and taken to a house which was near the Mela site. PW no.5/Lalramhluni stated that at around 5:00pm she received phone call regarding the present incident. She went to the mela and by that time the accused was already apprehended and kept in the nearby house belonging to Pi.R.Laltawnluii. She further stated that she saw the accused in the said house. There is also no evidence to the effect that from the time X alighted from the break dance to the time she made a disclosure, she met with any other mishap/incident causing injury which can be connected with a fresh tear of hymen found upon examination on the night of the incident itself.

15. The prosecutrix and the accused are not strangers. PW No.1/Lalawmpuii also stated that she knew the accused. There is no evidence of any misunderstanding between the two families due to which there can be possibility of false implication. The prosecutrix herself was below 12 years old at the time of the incident and at such a tender age, it is very unlikely that she could have cooked up a story against the accused, that too at the cost of her own dignity and reputation.

Accordingly, upon appreciation of the evidence in its entirety, I am of the considered opinion that the probability factor leans in favour of the prosecution and that there is no reason to doubt the testimony of the prosecutrix.

16. Having come to a finding that the statement of the prosecutrix is reliable, it is seen from the prosecution evidence and the evidence of X in particular that the accused slipped his hands beneath her underwear and touched her private part.

The sine quo non for the offence of rape (the law as it stood at the time of the incident) is penetration of the male organ into the vulva or pudendum of a woman. The honb'le Apex court while dealing with the offence of an attempt to commit the offence of rape has held in *AmanKumar &Anr vs State of Harayna reported in (2004)4SCC 379* as follows :-

“10. An attempt to commit an offence is an act, or a series of acts, which leads inevitably to the commission of the offence, unless something, which the doer of the act neither foresaw nor intended, happens to prevent this. An attempt may be described to be an act done in part-execution of a criminal design, amounting to more than mere preparation, but failing short of actual consummation, and, possessing, except for failure to consummate, all the elements of the substantive crime. In other words, an attempt to consists in it's the intent to commit a crime, falling short of, its actual commission. It may consequently be defined as that which if not prevented would have

resulted in the full consummation of the act attempted. The illustrations given in Section 511 clearly show the legislative intention to make a difference between the cases of a mere preparation and an attempt.”

17. Upon appreciation of the evidence of X it is noticed that she has never stated that the accused tried to introduce his male organ to her private part. A reading of the provision of section 375 IPC makes it clear that the sexual intercourse in the said provision means heterosexual intercourse. Even a slightest penetration would constitute the offence of rape. In the case at hand, there is no evidence to the effect that the accused tried to penetrate his male organ to her private part. Though the prosecutrix stated that the accused threatened her and stated that later both of them will have sexual intercourse in an isolated place, there is no evidence that after both of them alighted from the break dance, the accused took her with him in order to fulfill his sexual desire. The hon’ble Apex Court in the case of ***Tarkeshwar Sahu versus State of Bihar*** reported in (2006) 8 SCC 560 has held

“22. In the backdrop of settled legal position, when we examine the instant case, the conclusion becomes irresistible that the conviction of the appellant u/s 376/511 IPC is wholly unsustainable. What to talk about the penetration, there has not been any attempt of penetration to the slightest degree. The appellant had neither undressed himself nor even asked the prosecutrix to undress so there was no question of penetration. In the absence of any attempt to penetrate, the conviction u/s 376/511 IPC is wholly illegal and unsustainable.”

Keeping in mind the decision of the hon’ble Apex Court, in the instant case also there is no evidence to the effect that the accused tried to penetrate his male organ to her private part, as such it would be too far fetched to hold the accused guilty of an offence of attempt to rape. Accordingly, the prosecution evidence is found insufficient in order to prove that offence of attempt of rape.

18. Having reached the said conclusion the question now is whether the act of the accused is completely harmless? The statement of X to the effect that the accused slipped his hands beneath her underwear and touched her private part with his hands have not been demolished by the defence. Whether the conduct of the accused would fall within the offence u/s 354 IPC? The essential ingredient of section 354 IPC are:-

- A. There must have been assault or use of criminal force on a woman.
- B. Such assault or use of criminal force must have been made-
 - (i) With the intention to outrage her modesty or
 - (ii) With the knowledge that her modesty was likely to be outraged.

19. The honbl'e Apex Court in the case of **Aman Kumar versus state of Haryana (supra)** it has been held that what constitutes an outrage of to female modesty is nowhere defined. The essence of a woman's modesty is her sex. The culpable intention is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this section is an attribute associated with female human being as a class. It is a virtue which attaches to a female owing to her sex. The act of pulling a woman, removing her dress coupled with a request for sexual intercourse, is such as would be an outrage to the modesty of a woman, and knowledge that modesty is likely to be outraged, is sufficient to constitute the offence without any deliberate intention having such outrage alone for its object.

Further the honble Apex Court in the case of **State of Punjab versus Major Singh** reported in **AIR 1967 SC 63** has held that '*A female child of tender age stands on a somewhat different footing. Her body is immature, and her sexual powers are dormant. In this case, the victim is a baby, seven-and-half months old. She has not yet developed a sense of shame and has no awareness of sex. Nevertheless from her very birth she possesses the modesty which is the attribute of her sex.*'

In the case at hand, the act of the accused in touching the private part of X with his hands can by no means be regarded as decent act. It is within the knowledge of every normal human being that the act of the accused upon the person of X would outrage her modesty. The prosecutrix who was below 12 years at the time of the incident also possess the knowledge that the act of the accused on her person was not proper. The fact that she has the said knowledge can be clearly inferred when she stated "*I wanted to get down because he touched my private part with his hands*". A person is guilty of an indecent assault if he intentionally assaults the victim and intends to commit not just an assault but an indecent assault i.e. an assault which right minded persons would think is indecent. In the instant case, the evidence explaining the conduct of the accused upon the body of the victim, cannot be regarded as decent. 'Woman' as defined in section 10 IPC denotes a female human being of any age.

20. On evaluation of the entire evidence and documents on record, I am of the considered opinion that the accused is clearly guilty of the offence punishable u/s 354 IPC.

21. Coming to the charge u/s 506 IPC. In order to find a person guilty of the offence of criminal intimidation u/s 506 IPC, burden is on the prosecution to prove that (i) the accused threatened some person (ii) such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of some one in whom he was interested (iii) he did so with intent to cause alarm to that person; or to cause that

person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.

22. In the instant case, the prosecutrix stated that *“When I said I wanted to get down, the accused pulled me back by keeping his arms around me. Then he said we will go to an isolated place and have sexual intercourse. He also threatened me by saying that if I make any disclosure he will kill me.”* The statement of the prosecutrix clearly contains the first two ingredients of the offence of criminal intimidation. The accused threatened the prosecutrix of killing if she makes any disclosure and the threat prevented the prosecutrix from getting down from the break dance even though she felt bad about the conduct of the accused on her person.

23. Therefore, after considering the facts and circumstances of the case, the law involved, evidence adduced by prosecution witnesses, statement of accused recorded u/s 313 CrPC and having regard to the judicial authorities cited above, this Court is of the view that the victim as well as the other prosecution witnesses are able to inspire confidence of the Court and there is no reason to disbelieve their evidence. That being the position, it is found that in the course of trial, the prosecution has succeeded in bringing home guilt of the accused for the offence punishable u/s 354/506 IPC.

24. Accordingly, the accused Sangsawmthanga is convicted for the offence punishable u/s 354 IPC. Though charge is framed u/s 376(2)(f)/511 IPC the same can be done in terms of section 222(2) IPC.

Accused Sangsawmthanga is also convicted for the offence punishable u/s 506 IPC.

25. Sentence will be passed on 03.03.2014 after hearing the accused, Id. State Defence Counsel and the Addl. PP.

26. Judgment is pronounced in open Court and given under my hand and the seal of the Court on this the 28th day of February, 2014

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

ORDER

04.03.2014:

Convict Sangsawmthanga is produced from judicial custody. Id. State Defence Counsel and the Addl. PP are also present.

Today is fixed for hearing on sentence.

Accused Sangsawmthanga submitted that his family is taking steps to reform his character by putting him Discipleship Training Institute (DTI) at Neihbawi. He also submitted that while he was detained in custody his wife left him and that he has many things to settle with his divorced wife. He also submitted that he has no previous criminal antecedents and that he was in the Assam Regiment for 13 years and during the period of his 13 years service he was in 13 different hospitals and ultimately he has to leave his employment due to illhealth. The accused also submitted that he is now running 37 years and has no issues and that his father who is still in Govt. service may require to go for voluntary retirement due to illhealth. Accordingly, he prays to show leniency so that he can settle matters with his divorced wife before the beginning of the new sessions at DTI.

Mr. Rualkhuma Hmar, Id. State Defence Counsel adopted the submission of the accused and further submitted that leniency may be shown to the accused and the sentence be reduced to the period of detention already undergone by him during investigation and trial.

On the other hand, Mrs. Rose Mary, the Id. Addl. PP submitted that sufficient leniency has already been shown by convicting the accused to a minor offence u/s 354 IPC though charge was initially framed u/s 376(2)(f)/511 IPC. The Id. Counsel submitted that considering the seriousness and the gravity of the offence appropriate sentence should be imposed and there is no question of setting off the sentence to the period already undergone. The Id. Counsel therefore prays to award maximum punishment u/s 354/506 IPC.

Heard the Id. Counsels and perused the record. In the case at hand, it is seen that due to the incident complaint of, the hymen of the prosecutrix was found freshly torn at 2 places and it was still bleeding on examination. In a conservative Indian Society, victims of sexual offences are often stigmatised and it affects not only the dignity and honour of the victim but the entire family. In the case at hand, the law as it stood during the time of the incident defines rape only as penile vaginal penetration. It may be pointed out at this stage that the injury and the damage suffered by the victim on her genitalia is no less than a victim of rape. It is also further seen from the record that the accused was granted bail on 24.7.2013 and his Bailor Liankunga who is the father of the accused stood as his Surety. On 13.1.2014 the Surety appeared with the accused and withdrew himself from

the Bond by stating that the accused who is his own son has not amend his habits of drinking liquor and creating problem in the family.

On the other hand, while considering the right of the accused, it is seen that he has not caused any other physical injury to the prosecutrix, he stopped is act after they alighted from the break dance without carrying forward the desire he expressed to the prosecutrix of having sexual intercourse in an isolated place, there is no material from the record to show that the accused has other criminal antecedents and there is also no evidence to the effect that due to the incident, the prosecutrix is unable to continue her normal activity.

Upon balancing the right/sufferings of the victim and the right of the accused as well as the nature and gravity of the offence and the effect on the victim, I am of the considered opinion that the aggravating circumstances outweigh the mitigating circumstance.

Accordingly, for the offence u/s **354 IPC**, the accused **Sangsawmthanga** is sentenced to undergo **Rigorous Impresonment** for a period of **1 (one) year and 2 (two) months** with a fine of **Rs. 5,000/- (Rupees five thousand)** and in default to further undergo **Rigorous Impresonment** for another period of **2 (two) months**.

The fine amount if paid, shall be handed over to the victim as compensation.

For the offence punishable u/s **506 IPC**, the accused **Sangsawmthanga** is sentenced to undergo **Rigorous Impresonment** for a period of **3 (three) months**.

Both the sentences shall run concurrently.

In terms of Section 428 CrPC, the period of detention already undergone by the accused during investigation and trial shall be set off from the sentence.

This Order shall form part of the Judgment dated 28.2.2014.

Give copy of the Judgment & Order free of cost to the accused.

With the above Order, the case stands disposed off.

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

Memo No: AD&SJ/(A) 2014 : Dated Aizawl, the 4th March, 2014

Copy to:-

1. Accused Sangsawmthanga through Counsel Mr. Rualkhuma Hmar, Advocate.
2. Special Superintendent, Central Jail, Aizawl.
3. PP/Addl. PP, Aizawl District, Aizawl.
4. District & Sessions Judge, Aizawl.
5. District Magistrate, Aizawl District, Aizawl.
6. i/c G.R.Branch.
7. Registration Section.
8. Guard File.
9. Case Record.

P E S H K A R

APPENDIX

(A) **PROSECUTION EXHIBITS**

Ext. - P-1 FIR

 P-1 (a) Signature of PW.No-1

Ext. - P-2 Medical examination report of the victim

 P-2 (a) Signature of PW.No-3

Ext. - P-3 Charge Sheet

 P-3 (a) Signature of PW.No-6

Ext. - P-4 Birth Certificate of the prosecutrix

(B) **DEFENCE EXHIBITS- None**

(C) **EXHIBITS PRODUCED BY WITNESSES - None:**

(D) **COURT EXHIBITS- None**

(E) **PROSECUTION WITNESSES:**

PW.-1 – Lalawmpuii

PW.-2 – Lalsangpuii

PW.-3 – Dr. Lalbiakdiki

PW.-4 – Krostana

PW.-5 – Lalramhluni

PW.-6 – SI H. Lalhmingthangi

(F) **DEFENCE WITNESSES - :**

DW-1 – Lalrinmawii

DW-2 – Lallungawia

(G) **COURT WITNESSES- : None**