

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

**PRESENT**

Smt. Helen Dawngliani  
Addl. District & Sessions Judge

Session No.9/2014  
In Crl.Tr. No.2038/2013  
U/s 376(2)(1) IPC

Ref :- Aizawl PS Case No. 352/2013 dt.16.11.2013 u/s 376(2)(1) IPC

State of Mizoram

Versus

Lalhlimpaia                      .....                      Accused

Date of hearing                      .....                      25.7.2014

Date of Judgment                      .....                      28.7.2014

**APPEARANCE**

For the Prosecution	.....	Mrs. Rose Mary, Addl. PP Ms. Rosy, Asst. PP
For the Accused	.....	Mr. Lalruatzauva Mr. R. Laltanpuia, Advocates

**JUDGMENT & ORDER**

1. The prosecution story of the case in brief is that on 16.11.2013 Lalhmingthangi of Bethlehem Vengchhak lodged a written FIR at Aizawl Police Station to the effect that on 13.11.2013 in between 8;00 to 10:00am her niece X, 30 years who is mentally challenged was sexually assaulted by her son-in-law Lalhlimpaia Ngente inside his residence which is Baptist Church quarter. At Bethlehem Veng, Aizawl.

On the basis of the said information, Aizawl P.S Case No.352/2013 dt.16.11.2013 u/s 376(2)(1) IPC was registered and investigated into. Upon completion of investigation, having found prima facie case against the accused Lalhlimpaia for the offence punishable u/s 376(2)(1) IPC Charge sheet was laid against him and committed for trial.

The name of the witness 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. Charge u/s 376(2)(1) IPC was framed against the accused. The charge was read over and explained to the accused in Mizo language which is known to both of them to which they pleaded not guilty and claims for trial.

4. In the case at hand, the complainant and X appeared.

PW No.1/Lalhmingthangi stated that the prosecutrix X is her niece. She stated that she lodged the FIR against the accused on the basis of a wrong information given to her by X. Her niece told her that she lied out of fear of being beaten. She stated that on that day she told X that she will tell her parents to beat her if she does not say why she did not go for work. The witness further stated that out of ignorance she did not tell the Police of what she heard from her niece. She fully accepted that her niece lied to her when she said she was sexually assaulted by the accused.

PW No.2/X is the prosecutrix. She stated that she lied because she was badly beaten up by her paternal aunt for not going to the tea stall where she worked. She stated that the reason why she did not go for work on that day was because she was not feeling well. Initially she told her aunt that the reason she did not go for work was because she was not feeling well, so her aunt began to scold her and thereafter she started beating her. She stated that she took the name of the accused because her family suspect that she was having an affair with the accused.

5. Cross examination of both the witnesses were declined by the Ld. Defence Counsel.

6. The burden is on the prosecution to prove at least the essential ingredient of the offence. In the case at hand, it is for the prosecution to prove that there was sexual intercourse between the accused and X and that the said intercourse was performed within the descriptions given u/s 375 IPC.

7. As per section 3 of the Indian Evidence Act, "Proved" have been defined as –*"A fact is said to be proved when, after considering the matters before it, the court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists"*.

8. In the case at hand, it has been clearly stated by the prosecutrix that she made false allegation against the accused in order to avoid further beating from her aunt, the complainant. That being the only piece of evidence available, keeping in

mind the definition of “proved” given in the Indian Evidence Act, it cannot be said that the guilt of the accused have been proved.

**ORDER**

9. Accordingly, accused Lalhlimpaia is acquitted of the offence punishable u/s 376(2)(1) IPC.
10. In terms of section 437-A Cr.P.C the accused shall continue to be on bail for another period of 60 days.
11. Give copy of the judgment & Order, free of cost to the accused.
12. Pronounced in open court and given under my hand and the seal of this court on this the 28<sup>th</sup> day of July, 2014

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

**Memo No.:**\_\_\_\_\_/AD&SJ(A)/2014 : Dated Aizawl, the 28<sup>th</sup> July, 2014  
**Copy to: -**

1. Accused Lalhlimpaia through Counsel Mr. Lalruatzauva, Advocate.
2. District & Sessions Judge, Aizawl Judicial District, Aizawl.
3. District Magistrate, Aizawl District, Aizawl.
4. PP / Addl. PP, Aizawl.
5. DSP (Prosecution), District Court, Aizawl.
6. G.R. Branch.
7. Registration Section.
8. Guard File.
9. Case Record.
10. Calendar Judgment.

**P E S H K A R**

**APPENDIX**

PROSECUTION EXHIBITS:- None

DEFENCE EXHIBITS- None

EXHIBITS PRODUCED BY WITNESSES - None

COURT EXHIBITS- None

PROSECUTION WITNESSES:

P.W. No. 1 - Lalhmingthangi

P.W. No. 2 - Zonunsangi

DEFENCE WITNESSES - : None