

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

Crl. Rev. No. 10/2014  
A/o G.R. No. 194/2013  
u/s 457/380

Vanlalhriata : Petitioner  
Versus  
State of Mizoram : Respondent  
Date of Order : 02.05.2014

**PRESENT**

*Smt. Helen Dawngliani, AD & SJ*

For the Petitioner : Mr. F. Lalzuiliana, Advocate  
For the State : Mrs. Rose Mary, Addl. PP  
Ms. Rosy Lalnuntluangi, APP

**ORDER**

1. The instant Revision Petition is submitted by the Petitioner from Jail. The Petitioner has been convicted by the Id. Chief Judicial Magistrate, Champhai in G.R. No. 194/2013 u/s 457/380 IPC by which the Petitioner has been sentenced to undergo Simple Imprisonment for 1 year and to pay a fine of Rs. 500/- in default to suffer another SI for 3 days for the offence punishable u/s 457 IPC. In respect of the offence punishable u/s 380 IPC, the Petitioner has been sentenced to undergo Simple Imprisonment for 1 year and to pay a fine of Rs. 1500/- in default to suffer another SI for 15 days. The sentences have been ordered to run consecutively. The limited grievance of the Petitioner in the instant Revision is with regard to the sentence and has made a prayer for making the sentences run concurrently.

As the Revision Petition is submitted from Jail, Mr. F. Lalzuiliana, Advocate appeared as Counsel for the Petitioner under the Legal Aid Scheme.

2. Case Record is received from the Id. Trial Court.

3. Heard the Id. Counsels.

Mr. F. Lalzuiliana, Id. Counsel for the Revision Petitioner submitted that the offences u/s 457/380 IPC are warrant procedure case and that the Id. Trial Court committed irregularity in convicting the Petitioner on his alledged plea of guilt. The Id. Counsel further submitted that the alledged stolen properties i.e. 2 LPG Cylinders were recovered and as such no loss is suffered. The Id. Counsel also argued that the long detention in custody would not benefit either the accused or anyone else and that the accused being young, there is a danger of him being under a bad influence if he is

detained in prison for a long time. The Id. Counsel submitted that there are irregularity in the procedure adopted by the Id. Trial Court but he would limit his prayer only to the prayer made by the accused i.e. for making the sentences run concurrently. According to the Id. Counsel, the punishment inflicted is not proportionate to the gravity of the offence.

On the other hand, Mrs. Rose Mary, Addl. PP assisted by Ms. Rosy Lalnuntluangi, APP submitted that from the record it is clear that the accused is a habitual offender. The Id. Trial Court had duly offered an opportunity to the accused to engage a Counsel and that the Conviction Order was passed on the plea of guilt of the accused. The Id. Counsel argued that it is not the value of the property which is important but the mental element to commit the crime is what should be considered while passing sentence. The Id. Counsel therefore submitted that the sentence passed by the Id. Trial Court is reasonable and does not require interference.

4. Upon hearing the parties and on perusal of the record, it is seen that the accused was convicted on his plea of guilt for the offences punishable u/s 457/380 IPC. Sec. 361 CrPC provides that special reason has to be reported for not invoking the provision of Sec. 360 CrPC or under the Provision of Probation of Offenders Act. In this regard, the Id. Trial Court chose not to invoke the said provision on consideration of the antecedents of the accused and the nature and circumstances in which the offence was committed. This appears to be vague and sketchy reasoning. It is also noticed that while hearing on sentence was conducted, the Id. Addl. PP had made a prayer to inflict maximum punishment on the accused by making reference to 4 previous cases of the accused. The Impugned Order does not indicate the submission of the accused and simply stated that the accused prayed for leniency. Upon perusal of the Police Report submitted u/s 173 CrPC, the Investigating Officer while recording his observation about the accused and whether the accused had known Police Records in the Arrest/Court Surrender Form, the Investigating Officer did not notice that the accused had passed criminal records and that he is not wanted in any other case. The record and the submission of the Id. APP appears to be contradictory. There is no material to show that an enhanced sentence was passed in accordance with law. It appears that the Id. Trial Court was influenced by the submission of the Id. APP on the previous antecedents of the Accused Petitioner. The contradiction between the record and the submission of the Id. APP appears to have been over-sighted by the Id. Trial Court.

5. For the reasons indicated above, I am of the considered opinion that sufficient ground has been made out to interfere with the Impugned Order.

6. Accordingly, it is directed that the sentences passed for the offence punishable u/s 457/380 IPC by the Id. Chief Judicial Magistrate, Champhai in G.R. No. 194/2013 shall run concurrently as prayed for.
7. Give copy of this Order to the Superintendent, District Jail, Champhai and the accused.
8. Send back the Case Record of the Id. Trial Court.
9. With the above Order, the Revision Petition stands disposed off.

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

**Memo No.:.....AD & SJ/2014 : Dated Aizawl, the 2<sup>nd</sup> May, 2014**  
**Copy to:**

1. Vanlalhriata S/o Chhunhranga through Superintendent, District Jail, Champhai.
2. PP/Addl. PP/APP, Aizawl.
3. Superintendent, District Jail, Champhai.
4. Chief Judicial Magistrate, Champhai.
5. Registration Section.
6. Guard File.
7. Case Record.
8. Calendar Judgment.

**P E S H K A R**