

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS - 1
AIZAWL JUDICIAL DISTRICT : AIZAWL**

Crl. Tr. No. 1069/2014
(A/o Aizawl P.S Case No. 235/14 U/S 419/393/323 IPC)

State of Mizoram	-----	Complainant
-Versus-		
D.Lalnunmawia S/o M. Zuktirai Zawlnuam Vengpui P/A Venghlui, Aizawl.	Accused

BEFORE

T. Lalhmachhuana, Judicial Magistrate First Class - 1.

For the Prosecution	: Ms. Venus H. Zomuankimi, APP.
For the accused	: Mr. F.Lalzuiliana, Advocate.
Date of Order	: 24.06.2016.

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

Dated Aizawl, the 24th June, 2016

The Prosecution story of the case in brief is that on 31.7.2014 a written FIR was submitted by Shri Lalhruaia Ralte S/o Siammawia, Vice Chairman, YMA Kumpuan Committee, Tuikual South Branch stating that on 30.7.2014 one D. Lalnunmawia S/o M.Zuktirai of Zawlnuam Vengpui P/A Venghlui, Aizawl claimed himself as member of Tuikual South YMA Kumpuan Committee and apprehended one Anguthua of Tuikual South at Zodin Square and tried to extort his properties resulting leg injury to Anguthua. Hence, Aizawl P.S C/No. 235/2014 Dt. 31.7.14 u/s 419/393/323 IPC was registered and duly investigated into.

During the course of investigation P.O. was visited, the Complainant Shri Lalhruaia Ralte was examined and recorded his statement with available witnesses. The accused person D. Lalnunmawia (20) S/o M. Zuktirai was arrested in the presence of witnesses and remanded into judicial custody and soon after released on bail.

On 25.9.2014 copy charge sheet was furnished to the accused and he was well informed of his rights to engage Legal Counsel of his choice. Thereafter, charge was framed u/s 419/393/323 IPC, read over and explained to the accused to which the accused pleaded not guilty and claimed for trial.

Hence, in order to establish their case, the Prosecution examined only two witnesses- the Complainant and the Case I.O. out of five witnesses listed in the charge sheet and the remaining three witnesses were dropped by my learned Predecessor due to non-appearance after repeated issues and returned of summons. However, the accused person in his statement u/s 313 Cr.PC strongly denied about the allegation against him but examined none in support of his case.

Therefore, point for determination should be –

Whether the accused person is guilty of the charged and liable to be punish or not?

In order to establish their case the Prosecution examined two witnesses, such as Shri Lalhruaia Ralte - the complainant and Shri J.Zohmingliana- the case I.O. wherein Shri Lalhruaia Ralte deposed that on 30.7.2014, at around 7:00PM, one D.Lalnunmawia S/o M. Zuktirai of Zawlnuam Vengpui claimed himself as Tuikual South YMA Kumpuan Duty and tried to rob Mr. Anguthua, who was local resident of Tuikual South area but while trying to run away from the accused person, Anguthua hurt one of his legs and he was taken to Aizawl Civil Hospital for medical check-up. He further deposed that as the accused person defamed the name of YMA very much and one of their local resident sustained injury, he had submitted an FIR to the Aizawl P.S. Ext. P-1 as an FIR, Ext. P-1(a) as his signature on it. On cross-examined by Ld. Defence Counsel, he had stated that the FIR was not written by himself but signed at the end. He also stated that he had given his phone number to the accused person and told him to inform about the drugs peddlers he had known.

Mr. J. Zohmingliana, the case I.O. deposed that during the course of investigation he had examined the complainant and other witnesses as well as the accused person wherein he had found prima facie case against the accused

person u/s 419/393/323 IPC and thereby submitted charge sheet against the accused. He had exhibited charge sheet as Ext. P-2, Ext. P-2(a) as his signature on it. On cross-examined by the Ld. Defence Counsel, the case I.O. stated that he does not visit the place of occurrence during the course of his investigation and also a fact that the complainant told the accused and gave his telephone number and requested to give information when he notice possessor of contraband articles. He further stated that the accused did not personally attack the victim to hurt him and the injury sustained by the victim was due to fallen at the step.

Arguments advanced, the Ld. APP submit that the Prosecution could establish their case against the accused person beyond all reasonable doubt and prayed to convict the accused person with exemplary sentence. Whereas the Ld. Defence Counsel submit prayer to acquit the accused person from the liabilities of this case on the ground inter alia that the accused person is a secret agent entrusted for informing the names and personalities of drugs peddlers around Zodin Square to the Tuikual South YMA Kumpulan Duty and also that the Prosecution examined only two witnesses – the Complainant and the Case I.O. who were interested persons in this instant case but failed to examined independent witnesses.

Considered both submissions, perused available evidences on records. It is the evidences of the complainant and the case I.O. that the accused person acted as a part of Tuikual South YMA Kumpulan Duty but when they were cross-examined by the Ld. Defence Counsel, both the witnesses stated that the Complainant, as Vice Chairman, Tuikual South YMA Kumpulan Committee gave his telephone number to the accused and requested to inform him when he notices possessor of contraband articles around Zodin Square. Therefore, if the evidences of the complainant and the Case I.O. are to believe, the accused person was just trying to comply with the request of the Complainant. Moreover, as rightly argued by the Ld. Defence Counsel, the Prosecution examined only two witnesses-the Complainant and the Case I.O, who were an interested person in this instant case but failed to examined not only the alleged victim but also an independent civilian witnesses.

Hence, on the basis of facts and circumstances of the case as stated above, this Court is of the considered opinion that the Prosecution failed to establish their case against the accused person beyond all reasonable doubt and the accused person is entitled to be acquitted.

ORDER

Hence, by virtue of Section 248(1) Cr.PC, the accused D. Lalnunmawia S/o M.Zuktirai of Zawlnuam Vengpui P/A Venghlui, Aizawl is acquitted on benefit of doubt, from the liability of this instant CrI.Tr.No.1069/2014 arising out of Aizawl P.S. C/No. 235/2014 dt. 31.7.2014 u/s 419/393/323 IPC and he is set at liberty forthwith.

Bail and bond stand cancelled by discharging liabilities of Surety.

With this order, this instant CrI.Tr.No. 1069/2014 stand disposed of.

Given under my hand and Seal of the Court on this 24th June, 2016.

Sd/-T. LALHMACHHUANA

Judicial Magistrate 1st Class -1

Aizawl Judicial District, Aizawl.

Memo No.____JMFC-1(A)/2016 : Dated Aizawl, the 24th June,2016

Copy to:-

- 1) Accused D. Lalnunmawia S/o M.Zuktirai, Zawlnuam Vengpui P/A Venghlui, Aizawl through Counsel Shri F. Lalzuiliana, Advocate.
- 2) District & Sessions Judge, Aizawl for information.
- 3) Superintendent of Police, Aizawl for information.
- 4) SDPO, Aizawl South for information.
- 5) O/C Aizawl P.S. for information.
- 6) Registration Section.
- 7) Guard File.
- 8) Case Record.

P E S H K A R