

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS-1,  
AIZAWL DISTRICT : AIZAWL  
Crl. Tr. No. 667 of 2014  
(A/O Vaivakawn P.S. Case No. 107/2014, dt.03.05.2014, u/s 25(1B)(a)  
Arms Act.)**

State of Mizoram	...	Complainant
Vs		
1. Zamsianmang S/o Suakkhogin. R/o Vaivakawn, Zotlang Road.		
2. M.Lalvuana. S/o Thanghlira. R/o Chanmari, Aizawl.		
3. Sangliana. S/o C. Darbuanga(L). R/o Luangmual	...	Accused

**B E F O R E**

**Shri T. Lalhmachhuana, Judicial Magistrate First Class-1,  
Aizawl District, Aizawl.**

**P R E S E N T**

For the Complainant	:Mrs. PenluiVanlalchawii, A.P.P. Ms. LalremruatiPachauu, A.P.P.
For the accused	:Mr. C.Lalzamlia, Advocate (Legal Aid Counsel).
Date of hearing	:16-10-2017
Date of J.O.	:16-11-2017
Date of Sentence hearing	:21-11-2017

**JUDGEMENT AND ORDER**

**Dated Aizawl, the 21<sup>st</sup> November, 2017**

1. The Prosecution story of the case in brief is that on 03.05.2014a written FIRwas submitted by S.I.Lalzawmlia of CID (SB) stating that Field Intelligent Team of 23 Sector Assam Rifles, 39 Assam Rifles and CID(SB) conducted operation on 02.05.2014@6:45 PM at the residence of Zamsianmang@SenaSuante S/o Suakkhogin(L) of VaivakawnZotlang Road and recovered Arms and Ammunitions from the illegal possession of Zamsianmang such as –

1.(a) .22 Rifle Made in Germany Reg.No. 18850 belonging to Dengchhuana(b) .32 Rifle (without bolt) (c) Ammunitions of .32 live round-5 Nos., 9mm live round 3 Nos., 65mm live round-2 nos. and 315 Rifle round 1 No.

2. .22 Rifle made in USA Registration No. 8810 belonging to M.Lalvuana S/o Thanghlira (L) of Chanmari. 3. DBBL Gun made in India Registration No. 17522 along with license No. 3873/Aizawl belonging to Darbuanga S/o Dokhuma of Reiek which is possessed by Sangliana S/o C.D. Buanga of Luangmual without valid retainership license. 4. DBBL Gun Registration No. H50 (Without Bolt) Belonging to BiakzamiW/oVanlalruata of Electric Veng. Hence ,vaivakawn PS C/No- 107/2014 U/S 25(1B)(a) of Arms Act was registered and duly investigated into.

2. During the course of investigation the complainant with available witnesses were examined and recorded their statements. The above noted Arms and Ammunitions are seized and also arrested the accused persons 1. Zamsianmang@ SenaSuante(40) S/o Suakkhogin(L) of VaivakawnZotlang Road . 2. Sangliana(46) S/o C.Darbuanga(L) of Luangmual and 3. M.Lalvuana(54) S/o Thanghlira(L) of Electric Veng. In the course of investigation the seized articles license No. 3873/AZL and DBBL gun Reg.No. 17522 are released on Zimmanama Vide Zimma No. 183/14 and 207/14 respectively to Sangliana as per order of CJM Aizawl. Thereafter, Prosecution sanctions have been received from District Magistrate, Aizawl District against the three accused persons vide memo no. J.18016/1/2011-DC(A)/17 dated 9<sup>th</sup> Sept.2014. Hence, on finding prima facie case against the accused persons u/s 25(1B)(a) of Arms Acts chargesheet have been submitted.

3. It may also be pertinent to note here that during the process of trial the case has been proceeded against accused Zamsianmanga while no proceedings were initiated against another two accused- M. Lalvuana and Sangliana, and when they were belatedly call upon to appear before the court one of the accused persons M.Lalvuana was reportedly passed away on 22.06.2016 and Sangliana alone was present before the court and subsequently he was discharged from the liability of this case for non-prosecution on 21.06.2017 on the ground that the prosecution fails to appear before this court for seven consecutive court dates without just cause. Further, the case is abated in respect of accused M. Lalvuana S/o Thanghlira of Chanmari, Aizawl because he was passed away on 22.06.2017.

4. With regards to accused Zamsianmang, Copy of chargesheet was furnished to him on 14-10-2014 and at the time of consideration of charge, charge was framed u/s 25(1B)(a) Arms Acts, read over and explained to him to which he had pleaded not guilty and claimed for trial.

5. Hence in order to established their case the prosecution examined all the six witnesses listed in the chargesheet whereas the accused in his statement u/s 313 Cr.PC denied the allegations of having no valid license for repairing arms and examined none in support of his case but submit Xerox copy of his alleged arms repairing license.

6. **Therefore, Points for determination in this case should be-**

*(a) Whether arms and ammunitions were actually seized from the possession of accused at his residence of Vaivakawn, Zotlang Road, Aizawl or not?*

*(b) Whether the accused persons possess valid license for repairing arms or not?*

*(c) Whether the accused person is entitled to be acquitted or not?*

**Findings and Reasons thereof:-**

7. ***For determination of Point No.1 as to whether arms and ammunitions were actually seized from the possession of accused at his residence of VaivakawnZotlang Road, Aizawl or not*** the complainant V.Lalzawmliana is examined as PW-1 and deposed before the court that on 02.05.2014 Field Intelligent Team of 23 Sector Assam Rifles, 39 Assam Rifles and CID(SB) conducted joint operation at the residence of Zamsianmang of VaivakawnZotlang road and seized Arms and ammunitions as mentioned in the seizure memo which were illegally possessed by the accused. Accordingly, arms and ammunitions were seized in the presence of witnesses. PW-1 exhibited the FIR as Ext. P-1 and his signature on it at Ext. P-1(a), Seizure memo as Ext. P-2 and his signature on it as Ext. P-2(a).

8. K.L Remsiamao of Vaivakawn is examined as PW-2 and deposed that on the evening of 02.05.2014 CID had seized arms and ammunition from the residence of the accused Zamsianmang and he had signed in the seizure memo as a witness. PW-2 exhibited his signature as Ext. P-2(b). In his cross examination PW-2 stated that he does not know as to whether they were Police or CID because they did not wear their uniform and he was call upon by them to witness the seizure.

9. W.Chhuanawma of Vaivakawn is examined as PW-3 and stated that in the evening of 02.05.2014 CID(SB) and Assam Rifles seized Arms and ammunitions from the residence of the accused Zamsianmang and he had personally witness the seizure on the spot and signed as the seizure witness. PW-3 Exhibited property search and seizure form as Ext P-2 and his signature on it as Ext. P-2(c), The seized articles as Ext.-M.

10. Zoramsanga, the first case I.O is examined as PW-5 and deposed that on 3<sup>rd</sup> May of 2014, S.I.Lalzawmliana submitted written FIR and stating that CID(SB) had seized arms and ammunitions from the illegal possession of Zamsianmang@ SenaSuante S/o Suakkhogin of VaivakawnZotlang Road and therefore Vaivakawn PS C/No. 107/2014 Dt. 03.05.2014 U/s 25(1B)(a) Arms Acts was registered and he had conducted investigation. During the course of his investigation he had arrested the accused Zamsianmang and confessed before him that Arms and ammunitions were seized from his illegal possession. PW-5 further stated that he had sent the seized articles to the FSL for examination but before the completion of his investigation he was transferred to Champhai P.S. In his cross examination PW-5 stated that he had arrested the accused at the Vaivakawn P.S. in the presence of his relatives.

11. R.Malsawmdawngliana, Second case I.O is examined as PW-6 and deposed that as the case I.O Zoramsanga was transferred to Champhai P.S. before completion of the investigation he had takenup the case and during the course of his investigation he obtained prosecution sanction from the Gov't of Mizoram and also received FSL report which reveal that the seized articles were in working condition and all the ammunitions are live rounds. PW-6 further stated that he had gone through the investigation done by the former Case I.O and all the statements recorded by him whereas the accused Zamsianmang confessed his guilt. PW-6 Exhibited chargesheet submitted by him as Ext. P-4 and his signature on it as Ext. P-4(a) seized article as Ext. M. In his cross examination PW-6 stated that the accused Zamsianmang has possess the Seized articles for repairing and he has repairing workshop.

12. For correct findings of this point let us go through the relevant points from the statements of accused U/s 313 Cr.PC, thus-

*Q1. The evidence against you is that on 02.05.2014@ 6:45 pm you are arrested by Mizoram Police CID(SB) with 23 sector and 29 sector Assam*

*Rifles for the illegal possession of Arms and Ammunitions , what do you have to say?*

*Ans. Yes, Arms which were under repair for myself were seized.*

*Q2. The S/A are like 1(a).22 Rifle(German made) (b) .32 Rifle (c) live ammunitions of .32, 2 .22 Rifle(USA Made) 3. DBBL Guns 2 Nos. which were kept without proper license and without valid retainer license, what do you have to say?*

*Ans. It is not correct. All the seized arms were posses with valid license.*

12. On careful consideration of available evidence on records it is the evidence of PW-1, PW-5 and PW-6 that on the evening of 02.05.2014 Mizoram Police CID(SB) with Assam Rifles seized arms and ammunition(Ext. P-2 and Ext. M) from the residence of the accused Zamsianmang of VaivakawnZotlang Road and the same is corroborated by the evidence of PW-2 and PW-3 that they had witnesses the seizure made by CID(SB) and Assam Rifles which were not shaken when they were cross examined by the Id.defence counsel. Moreover, in his examination U/S 313 Cr.PC the accused person also admitted that arms and ammunitions were seized from his residence but claimed that the S/A were under his repair. Therefore, on the basis of corroborated evidence on records with statement of accused u/s 313 Cr.PC. This point is decided in a positive

13. **For determination of Point no.2 as to whether the accused person possess valid license for repairing arms or not** V. Lalzawmliana deposed as PW-1 that they had seized arms and ammunitions from the illegal possession of the accused person. In his cross examination PW-1 stated that the accused has a license to repair the arms and ammunition and the S/A were not his own property but possess by him for repair.

14. K.L Remsiana, PW-2 stated in his cross examination that as far as he knows the accused persons has repairing license but when he is re-examined he had further stated that as the accused person has run workshop for repairing arms he believes that he has possess valid license but he does not know he had actually possess license or not.

15. Zoramsanga, the first case I.O stated in his cross examination as PW-5 stated that at the time of arrest the accused person claimed that he has repairing license but as he could not produce the said license before him, he had arrested the accused.

16. R.Malsawmdawngliana, the second case I.O deposed as PW-6 that during his investigation, he had also gone through the investigation done by Zoramsanga herein PW-5 and all statements recorded by him wherein the accused Zamsianmang confessed his guilt. In his cross examination PW-6 stated that the accused Zamsianmang has possess the S/A for repairing and he has repairing workshop.

17. In his examination U/S 313 Cr.PC the accused person claimed that he has valid repairing license thus-

*Q3. Another evidence against you is that you do not have license to keep/possess all these arms. What do you have to say?*

*Ans. I have repairing license.*

*Q4. It is also evident that at the time of seizure and arrest you do not have any repairing license to show to the Police. Is it correct?*

*Ans. When Vaivakawn Police arrested me I show my repairing license to the O.C.*

*Q5. Another evidence against you is that some of the seized arms were kept without license. What do you have to say?*

*Ans. All arms and ammunitions were kept with valid license.*

*Q6. Do you have anything else to say?*

*Ans. I had kept all the seized arms with proper license and I kept my license which is valid upto 13.06.2017.*

18. Arguments advanced where in Mrs.PenluiVanlalchawii the Id. APP strongly submits that the accused Zamsianmang possess Arms and ammunitions without proper license and his excuse for possessing valid repairing license No. 5010/0/584/PMT/551/29/89 was issued in the name of his father Suakkhogin but the license holder Suakkhogin had been passed away in the year of 2013. The Id. APP further argued that as per the conditions of the repairing license the place of Business is mention under column 3 of form XI as Hnahlan and thereafter it was changed from Hnahlan to Tuikhuahtlang, Aizawl vide T.A's order dt 04.05.1993. But in the present case the accused person carries his repairing works at Vaivakawn Zotlang road and therefore, the accused is liable to be convicted.

19. On the other hand Mr. C.Lalzamlia the Id. Defence Counsel argued that the accused person is having repairing license which belongs to his father and does not commit any offence. The Id. defence counsel also argued that the license holder of the seized Guns does not have any complaint and the same were kept by the

accused with their prior permission and, therefore, prays to acquit the accused from the liability of this case.

20. While considering the available evidence on records with statement of the accused u/s 313 Cr.PC. and arguments advanced by both the parties this court also carefully examined the Gun repairing license as submitted by the accused person (Ext.D-1) wherein it is found that Gun repairing license No. 5010/0/584/PMT/SS1/29/89 was issued in the name of Suakkhogin on 24.04.1985 and the place of Business is for Hnahlan. Thereafter, the said Gun repairing license has been renewed from time to time and as rightly argued by the Id. APP the place of business was changed from Hnahlan to Tuikhuahtlang, Aizawl vide T.A's order dated 04.05.1993 and although the said license was renewed on 10.06.2014 with a validity upto 13.06.2017 the license holder Suakkhogin had already passed away in the year of 2013. Moreover, under the conditions of the license, the license holder is supposed to carry his repairing works within Tuikhuahtlang, Aizawl but in the present case the license has been misused by the accused, who is the son of the license holder and carried his business at VaivakawnZotlang Road.

21. Therefore, on the basis of facts and circumstances of the case as stated above this court is of the considered opinion that the accused person does not possess valid license for repairing arms at the time of seizure and arrest but misused the license of his deceased father and this point is decided in a negative.

22. **For determination of Point no.3 as to whether the accused person is entitled to be acquitted or not.** On the basis of findings in the above points the prosecution Case is proved beyond all reasonable doubt that on 02.05.2014 arms and ammunitions were seized from the possession of the accused Zamsianmang S/o Suakkhogin(L) at his residence of VaivakawnZotlang road and the accused person does not have valid license to keep or to repair all the arms and ammunitions and he is found guilty of the charged U/S 25(1B)(a) Arms Act for violation of Section 3 of the same Act and I hereby convict him.

23. On hearing the quantum of sentence, the Id. A.P.P. submitted prayer to inflict sentence at least three years imprisonment with fine because the offender is undertaking Arms repairing without proper license whereas the Id. legal Aid Counsel and the offender prays leniency because the offender obtained heirship certificate in the month of December, 2014 and he has no guilty mind and repairing arms in good faith.

24. While considering the quantum of sentence, this Court had also going through the Hon'ble Supreme Court's decision in the case of **Sevaka Perumal, Etc vs State Of Tamil Nadu as decided on 7 May, 1991 reported in 1991 AIR 1463, 1991 SCR (2) 711** thus-

*"It will be a mockery of justice to permit the accused to escape the extreme penalty of law when faced with such evidence and such cruel acts. To give the lesser punishment for the accused would be to render the justice system of the country suspect. The common man will lose faith in courts. In such cases, he understands and appreciates the language of deterrence more than the reformatory jargon'.*

*Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine to public confidence in the efficacy of law and society could not long endure under serious threats. If the courts did not protect the injured, the injured would then resort to private vengeance. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc."*

Also In the case of **Md. Abdul Sufan Lasker & Ors Vs State of Assam, 2008 (12) SCR 561: 2008 (9) SCC 333: 2008 (11) SCALE 620** The Hon'ble' Supreme Court observed thus-'

*"Now it is no doubt true that every crime is considered to be an offence against the society as a whole and not only against an individual even though an individual might have suffered thereby. It is therefore, the duty of the State to take appropriate action against the offender. It is equally the duty of a Court of Law administering criminal justice to punish a criminal"*

25. Considering the submissions of both parties and the charge section in which the offender has been convicted with facts and circumstances of the case with the Hon'ble Supreme Court decisions as stated above, the offender Zamsianmang S/o Suakkhogin (L), Vaivakawn Zotlang Road is given minimum sentence permissible under the charge section i.e. Simple Imprisonment for a period of one year and to pay a fine of Rs. 1,000/- i.d. S.I. 10 days.

26. Bail and bond stands cancelled by discharging liabilities of surety.

27. S/A released on Zimmanama vide Zimma No. 183/14 and 207/14 are regularised.



28. S/A kept in Court Malkhana vide CMR No. 361/14 shall be confiscated under the provision of Sect 32 of Arms Act for disposal by the appropriate authority.

29. With this order, this instant CrI.Tr.No. 667/14 A/o Vaivakawn P.S. C/No. 107/14 u/s 25(1B)(a) of Arms Act is disposed of.

30. Given under my hand and seal of the Court on this 21<sup>st</sup> day of November, 2017.

(T. LALHMACHHUANA),  
Judicial Magistrate First Class-1  
Aizawl District, Aizawl.

Memo No. JMFC-1(A)/2017 : Dated Aizawl, the 21<sup>st</sup> November, 2017.

Copy to :

1. Accused Zamsianmang, S/o Suakkhogin (L), R/o Vaivakawn Zotlang Road, Aizawl through C.Lalzamlia, Advocate.
2. District & Sessions Judge.
3. District Magistrate, Aizawl for kind information and necessary action.
4. Superintendent of Police, Aizawl.
5. Dy. S.P. (Prosecution).
6. S.D.P.O. Aizawl North.
7. Special Superintendent, Central Jail.
8. O/C Vaivakawn P.S.
9. In charge, Court Malkhana for information and necessary action.
10. Shri C.Lalzamlia, Legal Aid Counsel.
11. Registration Section.
12. Guard file
13. Case record.

PESHKAR

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**A. LIST OF EXHIBITS**

**1. For the Prosecution:**

- (a) Ext. P-1 is FIR.
- (b) Ext. P-1(a) is signature of PW No.1
- (c) Ext. P-2 is Seizure Memo.
- (d) Ext. P-2(a) is signature of PW No.1.
- (e) Ext. P-2(b) is Signature of PW-2.
- (f) Ext.P-2(c) is signature of PW No.3
- (g) Ext.P-3 is report & Findings.
- (h) Ext.P-3(a) is signature of PW-4.
- (i) Ext.P-4 is Final Report/Form.
- (j) Ext.P-4(a) is signature of PW-6.
- (k) Ext.M is seized articles.

**2. For the Accused :**

Ext.D-1 is Arms repairing license of Suakkhogin

**B. LIST OF WITNESSES**

**1. For the Prosecution**

- (a) PW No.1 V.Lalzawmliana, Vaivakawn P.S.
- (b) PW No.2 K.L. Rremsiama, Vaivakawn.
- (c) PW No.3 W.Chhuanawma, Vaivakawn.
- (d) PW No.4 R.Sangzuala, FSL Expert
- (e) PW No.5 Zoremsanga, Vaivakawn P.S.
- (f) PW No.6 R.Malsawmdawngliana, Vaivakawn P.S.

**2. For the Accused : **NIL****