

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

**Crl. Tr. No. 1115 of 2015  
(A/O Bawngkawn P.S. Case No. 110/15, dt.30.5.2015,  
u/s341/394/34 IPC)**

State of Mizoram ... Complainant

Vs

- (1) Lalropianga (20),  
S/o Lalchhuanawma,  
R/o Thuampui, Senhri Section, Aizawl.
- (2) Lalnuntluanga (21) @ Sena,  
S/o Lawmthanga,  
R/o Thuampui, Senhri Section, Aizawl. ... Accused

**B E F O R E**

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

**P R E S E N T**

For the Complainant :Mrs. Laldinpuii, A.P.P.  
For the accused No. 1 :Mr. SaurabhPradhan (Legal Aid Counsel)  
For the accused No. 2 :Mr. Albert V.L. Nghaka(Legal Aid Counsel)  
Date of hearing : 06.02.2017  
Date of Judgment & Order : 17.02.2017

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

**Dated Aizawl, the 17<sup>th</sup> February, 2017**

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1. The prosecution story of the case in brief is that on the night of 30.5.2015 a written FIR was submitted by Benjamin C. Lalzahawma S/o Eddie C. Zothansanga of ZemabawkKawnVeng-II, Aizawl to the effect that on the night of 30.5.2015 he along with his friend David Vanlalchhuanga (Band mate) were practicing Music at Jam-on Studio, Dawrpui Near Tandoori House and on their way home, on reaching ThuampuiVeng, Aizawl, three (3)

unknown persons followed them from Ch. Chhunga Bus Terminal, Thuampui and on reaching dark place before approaching Zemabawk main road from Lane Tawi short cut road, Thuampui Area @ 8:30pm to 9:00pm the 3(three) unknown person had assaulted them without any reasons as a result of which they sustained injury on their persons and took out the complainant's Wallet from his pocket without his consent and snatch away his Money Rs. 980/- (Nine hundred and eighty) and requested to locate the assaulters, also who snatch away his money and to take legal action. Hence, Bawngkawn P.S. C/No. 110/15 dt. 30.5.2015 u/s 341/394/34 IPC was registered and duly investigated into.

2. During the course of investigation, the complainant and other available witnesses were examined and recorded their statements. The victims were examined at Civil Hospital, Aizawl and the Medical report revealed that the injuries were simple in nature. The three accused persons namely – (1) Lalropianga (20) s/o Lalchhuanawma, (2) Hmangaihkima and (3) Lalnuntluanga (21) s/o C. Lawmthanga all of ThuampuiVeng, Senhri Section were arrested. Being a Juvenile one of the accused persons Hmangaihkima was forwarded to Juvenile Justice Board and another two accused persons were forwarded to the Court and remanded into J/C and later released on bail.
3. On 23.7.2015 copy of charge sheet was furnished to the accused persons and at the time of framing of charge u/s 341/394/34 IPC both the accused persons pleaded not guilty and claimed for trial.
4. Therefore, in order to establish their case the Prosecution examined seven witnesses out of eight witnesses listed in the charge sheet but failed to examine the complainant who has been dropped from the PW's after issues of summons for nine times followed by telephonic conversation from the court and Warrant of arrest (bailable) which had never been executed by the concerned Police Station.
5. At the time of examination u/s 313 Cr.PC, both the accused persons fairly admitted that they had assaulted the victim and his friends on the relevant night because they got drunk and regretted their guilt. However, the defence examined none in support of their case.
6. ***Therefore, points for determination in this case should be –***

- (i) *Whether the accused persons had wrongfully restraint the complainant and his friend in the night of 30.5.2015 or not ?*
- (ii) *Whether the accused persons had voluntarily caused hurt to the victims and also took the wallet of the victim Benjamin C. Lalzahawma or not ?*
- (iii) *Whether the accused persons are liable to be convicted or not ?*

**Findings and reasons thereof –**

- 7. *For determination of Point No. 1 as to whether the accused person had wrongfully restraint the complainant and his friend in the night of 30.5.15 or not.*
- 8. The victim David Vanlalchhuanga deposed before the court that on the night of 30.5.15 @ 8:30PM while they were returning from DawrpuiVeng, Aizawl they were assaulted and restrained at Thuampui short cut by the accused persons. On cross-examined by Ld. defence counsel PW-2 stated that he could not identify the accused persons because it was dark and his spect was damaged by the accused.
- 9. PW-5 and 6 deposed similar evidence that they were present and eye witness the seizure of spect made by BKN Police from the victim David Vanlalchhuanga which was damaged at the time he was assaulted by the accused persons at Thuampui. Both the witnesses exhibited seizure memo and their respective signatures. On cross examined by Ld. defence Counsel both the PW's stated that nothing had been seized by Police from the Possession of the accused persons.
- 10. The case I.O is examined as PW-8 and stated that on the basis of his investigation on the night of 30.5.2015 @ 8:30PM while the victims were approaching Zemabawk main road from Lane Tawi short cut at Thuampui, three persons – Lalropianga s/o Lalchhuanawma, Lalnuntluanga s/o C. Lawmthanga and one Juvenile had assaulted them without any reason. Therefore, three accused persons were arrested and being a juvenile one of the accused persons was forwarded to JJB, Aizawl District. PW-8 also exhibited a number of documents in support of his case.
- 11. As the defence examined none in support of their case let us look into the relevant points from their statements u/s 313 Cr.PC.

### **Statement of Lalnuntluanga @ Sena**

Q.1. *The evidence against you is that on the night of 30.5.2015 @ around 8:00 to 9:00 PM you had followed the victim/complaint along with your two friends near Ch. ChhungaBus Terminal, what do you have to say ?*

*Ans : Yes, we were drunk.*

Q.2. *And on reaching dark place at Lam tawi short cut, you had assaulted the two victims. What do you have to say ?*

*Ans. Yes we had assaulted two persons but only three times.*

Q.3. *Another evidence against you is that you had taken the wallet of one of the victim Benjamin C. Lalzahawma. Is it correct ?*

*Ans. I don't know.*

Q.4. *It is also evident that while assaulting the victims you had destroyed the glass/spect of David Vanlalchhuanga. What do you say ?*

*Ans. I don't know.*

Q.5. *Another evidence against you is that the two victims sustained simple injury due to your assault, what do you say ?*

*Ans. It is our fault because we were drunk.*

Q.6. *And you had threatened the victim by saying that you and "Thuampuikete" do you really mean that ?*

*Ans. I did not say that.*

Q.7. *Another evidence against you is that you had spent all the money you had snatched from the victim. Is it correct?*

*Ans. It may be true.*

Q.8. *Do you have anything else to say?*

*Ans. No.*

### **Statement of Lalropianga**

Q.1. *The evidence against you is that on the night of 30.5.15 @ 8:30Pm you had followed the victim near Ch. Chhunga Bus terminal. What do you have to say ?*

*Ans. One of our friendsLalnuntluanga told us to follow them.*

Q.2. *Another evidence against you is that on reaching dark place you had assaulted the victim along with your friends. Is it correct ?*

*Ans. Our friends Lalnuntluanga assaulted them and I also assaulted Davida.*

*Q.3. Due to your assault the spect of David Vanlalchhuanga had beendestroyed/broken. Is it right?*

*Ans. It was not me, but Lalnuntluanga and Hmangaihkima.*

*Q.4. And you took the wallet of the victim ?*

*Ans. It was not me, but Lalnuntluanga took the wallet and used all the money by himself.*

*Q.5. Both the victim sustained simple injury, what do you have to say ?*

*Ans. Yes, they sustained injury.*

*Q.6. Do you have anything else to say ?*

*Ans. I regretted our guilt very much.*

12. On careful consideration of the Prosecution evidences on records it is evident that on the night of 30.5.2015 @ 8:30PM while the two victims were approaching Zemabawk main road, they were assaulted and wrongfully restrained by the accused persons at Lane tawi short cut road which is fairly admitted by both the accused persons in their respective statements u/s 313 Cr.PC. Therefore, this point is decided in favour of the prosecution.
13. For determination of Point No 2 as to whether the accused persons had voluntarily caused hurt to the victims and also took the wallet of the victims Benjamin C. Lalzahawma or not, David Vanlalchhuanga deposed as PW-2 that after they were assaulted without any reasons one of them had took out the complainant's wallet from his pocket without his consent and snatch all his money. However, the wallet was gives back to the complainant by the accused person on being requested by the complaint.
14. PW-3 & 4 also deposed that they were present and eye witness when BKN Police seized the wallet from the complaint and as such they had appended their signature at the seizure memo. Both PW-3 & 4 exhibited seizure memo and their signatures or it respectively.
15. Dr. Joseph Lalhruaitluanga, who had conducted Medical examination of the two victims is examined as PW-7 and deposed before the court that on the basis of his examination Benjamin C. Lalfakawma sustained simple injury above his left eyebrow and root of his nose while another victim David Vanlalchhuanga also sustained simple injury inside his upper lips and his left eye. PW-7 exhibited the injury reports and his signatures on it. On cross-

examined by the Ld. defence counsel PW-7 decided the suggestion that no injuries were sustained by the victims.

16. The case I.O deposed as PW-8 that on the basic of his investigations one of the accused Lalnuntluanga threatened the victims and took the complainant's wallet and snatch away his money amounting to Rs. 980/- and spent it all by himself and therefore, recoveries of money could not be done. PW-8 exhibited a member of documents in support of his evidence.
17. For correct findings of this instant point, this Court also carefully examined the statements of both the accused persons u/s 313 Cr.PC in which they had fairly admitted their guilt.
18. Therefore, considering the Prosecutions evidences on record as stated above it is reveals that on the night of 30.5.2015 the accused persons had assaulted the two victims and caused hurt to their body and further one of the accused persons Lalnuntluanga took the wallet of the victim Benjamin C. Lalzahawma and spent it all by himself and this is firmly corroborated by statements of the accused persons u/s 313 Cr.PC.
19. In the case of **Ashok Debbarma Vs State of Tripura (2014) 4 SCC 747**, **the Apex Court** has held that statement made under section 313 Cr.PC, solely by themselves are not enough for conviction. Section 313 Cr.PC statement can be used for corroboration along with other evidences for conviction.
20. In the present case one of the accused Lalropianga fairly admitted all the incriminating evidence against them but claimed that the victim's wallet had been taken by his friend co-accused Lalnuntluanga. Whereas accused Lalnuntluanga claims that it was their fault because they were drunk and may be trace that he had spent all the money he had snatched from the victim.
21. **The Apex Court** also observed in the case of **Ganish Lal Vs State of Maharastra (1992) 3 SCC 106**, that the mere denial of the Prosecution case complied with absence of any explanation was held to be inconsistent with the innocence of the accused".
22. Therefore, on the basis of Prosecution evidence on records with statements of the two accused persons u/s 313 Cr.PC and the Hon'ble Apex Court's observations as stated above this point is decided that accused persons had

voluntarily caused hurt to victims and one of the accused Lalnuntluanga S/o C. Lawmthanga took the wallet of the victim.

23. **For determination of Point No. 3 as to whether the accused persons are liable to be convicted or not.**
24. On the basis of findings and reasons in the above two points, both the accused persons Lalropianga and Lalnuntluanga are liable to be convicted u/s 341/34 of IPC and further that Lalnuntluanga is also liable to be convicted u/s 394 IPC.
25. Hence, both the accused persons are convicted u/s 341/34 IPC and further, accused Lalnuntluanga is convicted u/s 394 IPC.
26. On hearing of the quantum of sentence, the Id. APP submitted prayer to inflict at least six months simple imprisonment for both the offenders for offence u/s 341/34 IPC and also R.I. for 24 months with a fine of Rs. 2000/- against the accused Lalnuntluanga for conviction u/s 394 IPC whereas the offenders and the Id. Defence Counsels prays leniency and to set off detention period already undergone by the offenders.

### **ORDER**

27. Considering the submissions of both parties with nature and circumstances of offence committed both the offenders are sentenced u/s 341/34 IPC to undergo S.I. for a period of 1 month each and further, the offender Lalnuntluanga is sentenced u/s 394 IPC to undergo R.I. for a period of 12 months with a fine of Rs. 1000/- (Rupees one thousand) only I.D. R.I. for 10 days. However, sentences shall run concurrently and detention period already undergone as UTP shall be set off.
28. With this order, this instant Crl. Tr. No. 1115/15 arising out of Bawngkawn P.S. C/No. 110/15 is disposed of.

**(T. LALHMACHHUANA),**

Judicial Magistrate 1<sup>st</sup> Class-1

Aizawl Judicial District, Aizawl.

Memo No. JMFC-1(A)/2017 : Dated Aizawl, the 17<sup>th</sup> February, 2017.

Copy to :

1. Accused Lalropianga s/o Lalchhuanawma of ThuampuiVeng, Senhri Section, Aizawl through SaurabhPradhan, Advocate.
2. Accused Lalnuntluanga @ Sena, R/o Thuampui, Senhri Section, Aizawl through Albert V.L. Nghaka, Advocate.
3. District & Sessions Judge, Aizawl.
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 Bawngkawn P.S.
9. Mr. SaurabhPradhan, Advocate.
10. Mr. Albert V.L. Nghaka, Advocate.
11. Registration Section.
12. Guard file
13. Case record.

P E S H K E R



**CRL.TR.NO. 1115/2015**

**INDEX**

**A. List of Exhibits**

**1. For the Prosecution:**

- (a) Ext. P-I is Property Search and Seizure Form
- (b) Ext. P-I(a) is signature of PW No.3
- (c) Ext.P-I(b) is signature of PW No.4
- (d) Ext. P-I(c) is signature of PW No.8
- (e) Ext. P-II is Seizure Memo.
- (f) Ext. P-II(a) is signature of PW No. 5
- (g) Ext. P-II(b) is signature of PW No. 6
- (h) Ext. P-2(c) is signature of PW No. 8
- (i) Ext. P-III is Injury Report.
- (j) Ext. P-III(a) is signature of PW No.7
- (k) Ext. P-IV is Injury Report.
- (l) Ext. P-IV(a) is signature of PW No.7
- (m) Ext.P-V is the Final Form/Report.
- (n) Ext.P-V(a) is signature of PW No.8
- (o) Ext. P-VI is Arrest/Court Surrender Form
- (p) Ext.P-VI(a) is signature of PW No.8.
- (q) Ext.P-VII Arrest/Court Surrender Form.
- (r) Ext.P-VII(a) is Signature of PW No.8.

**2. For the Accused** : NIL

**B. List of Witnesses**

**1. For the Prosecution**

- (a) PW No.2 David Vanlalchhuanga, Falkland, Aizawl.
- (b) PW No.3 Ngurthanpari, Zemabawk, Aizawl.
- (c) PW No.4 C.Lalrammuani, Dinthar, Aizawl.
- (d) PW No.5 C.Malsawma, Falkland, Aizawl.
- (e) PW No.6 Lalremtluangi, Falkland, Aizawl
- (f) PW No.7 Dr.JosephLalhruaitluanga, Civil Hospital, Aizawl.
- (g) PW No. 8 Hunter Hnamte, Case I.O.

**2. For the Accused** : NIL