

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS-I, AIZAWL
JUDICIAL DISTRICT : AIZAWL
Crl. Tr. No. 211 of 2016
(A/O Aizawl P.S. Case No. 45/2016, dt. 19.1.2016, u/s 379 IPC)

State of Mizoram

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Complainant

Vs

1. Dominic Lalremsanga(25),
S/o John Lalremruata,
R/o Tuikual 'S', Aizawl.
2. Lalhriatpuia(20),
S/o Solomon Lalhmangaihkima,
P/A Tuikual 'S', Aizawl.

...

Accused

B E F O R E

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

P R E S E N T

For the Complainant	:Mrs. Lalrinsiami, A.P.P.
For the accused	:Mr. Roger C.Lalhmangaiha,(Legal aid counsel)
Date of hearing	:24.07.2018
Date of Judgment	:07.08.2018
Date of Sentence Hearing	:07.08.2018

JUDGEMENT AND ORDER

Dated Aizawl, the 7th August, 2018

1. The prosecution story of the case in brief is that on 19.1.2016, a written FIR was submitted by K.Lalduhzuala S/o K.Sanglura of New Capital Complex, Khatla stating that on 19.1.2016 at around 10:30am some unknown person(s) had stolen the front wheel of his wife's Scooty which they parked on the road side near their quarters at New Capital Complex. Hence, Aizawl

P.S Case No.45/2016 Dt.19.1.2016, U/S 379 IPC was registered and investigated into.

2. During the course of investigation, the complainant was examined, recorded his statements and from the light of his statement LT Tyre Works, Temple Square was visited and the suspected stolen wheel was seized in the presence of witness. On examination of the owner of the shop Lianthangi, she admitted that she bought the Scooty wheel from two persons to whom she was well acquainted. The two suspected persons Dominic Lalremsanga and Lalhriatpuia were arrested and interrogated in which both the accused persons admitted their guilt. On finding prima facie case well established against the two accused person charge sheet was submitted before the court.
3. On 16.3.2016, Copy of documents were furnished to the accused persons and Mr. Roger C.Lalhmangaiha was assigned as their legal aid counsel through Legal Services Authority. At the time of Consideration of Charge, Charge was frame U/S 379/34 IPC which was read over and explained in their known language to which both the accused persons pleaded not guilty and claims for trial.
4. Therefore, in order to establish their case the prosecution examined four witnesses out of five witnesses listed in the charge sheet while the defence examined none in support of their case. Pertinently, in their respective statements U/S 313 Cr.P.C both the accused persons fairly admitted all the allegations against them.

Therefore, Points for determination in this case should be-

- 1. Whether the accused persons had stolen Scooty Wheel from New Capital Complex with common intention or not?*
- 2. Whether the accused persons had sold the stolen Scooty Wheel at LT Tyre works or not?*
- 3. Whether the accused persons are entitled to be acquitted or not?*

Findings and reasons thereof:-

5. **For determination of Point no.1 as to whether the accused persons has stolen Scooty Wheel from New Capital Complex with common intention or not?** The prosecution examined the complainant K.Lalduhzuala as Pw-5 wherein he had deposed that on 19.1.2016 at around 10:30am, some unknown persons had stolen the front wheel of his wife's Scooty and he had submitted an FIR to the Aizawl P.S. Pw-5 exhibited his FIR as Ext P-II

and his signature on it as Ext P-II(a). In his cross examination Pw-5 stated that he had never known the two accused persons before the incident but he was present at the time when they were arrested by Police in connection with this case.

6. Albert Lalnunpuia, the case I.O is examined as Pw-4 and deposed before the Court that during the course of his investigation the two accused persons were identified by Lianthangi, owner of LT Tyre Works and he had arrested both the accused persons and during interrogation both of them admitted their guilt and he had submitted charge sheet against them. Pw-4 exhibited charge sheet as Ext. P-IV and his signature on it as Ext. P-IV(a). Arrest memo as Ext P-V & P-VI and his signature on it as Ext P-V(a) & P-VI(a). In his cross examination Pw-4 stated that he is the case I.O as well as seizing officer in this case and he had arrested both the accused persons at LT Tyre Works.

Statement of Dominic Lalremsanga U/S 313 Cr.PC is as follows-

Q. *The evidence against you is that on 19.1.2016, you along with your friend Lalhriatpuia had stolen the front wheel of scooty B/R No. MZ01-E-9402 from New Capital Complex, what do you have to say?*

Ans: *Yes, we had stolen the front wheel of scooty from New Capital Complex.*

Q. *It is also evident that you had sold your stolen scooty wheel at LT Tyre Works of Tuikual. Is it correct?*

Ans: *Yes, it is correct.*

Another accused Lalhriatpuia's statement U/S 313 Cr.P.C also runs as follows-

Q. *The evidence against you is that on 19.1.2016, you along with your friend Dominic Lalremsanga had stolen the front wheel of scooty B/R No. MZ01-E-9402 from New Capital Complex, what do you have to say?*

Ans: *Yes, it is correct. We had done it by using the wrench of Dominic.*

Q. *It is also evident that you had sold the stolen tyre/wheel at LT Tyre Works of Tuikual. Is it correct?*

Ans: *Yes, it is correct.*

7. While considering about this point this court also taken reliance from the decision of the **Hon'ble Supreme Court of India** in the case of **Laxman Alias Laxmaya Gangaram Vs The State of Maharashtra** decided on 9th May, 2012 the **Hon'ble Apex Court** observed that:-

"Statement u/s 313 Cr.P.C can constitute the sole basis for conviction and that it would be a salutary amendment of the Indian Law.

If we keep aside the statement u/s 313 Cr.P.C, the evidence on record does not prove the guilt of the appellant beyond reasonable doubt. Now it will be necessary to make a reference to the statement recorded U/S 313 Cr.P.C"

Also in the case of **State of Maharashtra Vs Sukhdev Singh**, the **Hon'ble Apex Court** held that

"5. Even on first principle we see no reason why the court could not act on the admission/confession made by the accused in the course of the trial or in his statement recorded U/S 313 Cr.P.C.

It is thus well established in law that admission or confession of the accused in the statement u/s 313 Cr.P.C recorded in the course of trial can be acted upon and the court can rely on these confession to proceed to convict him."

8. Considering the evidence of Pw-4 and Pw-5 with corroborated statements of both the accused persons U/S 313 Cr.P.C this court have no doubt that the accused persons had stolen Scooty wheel from New Capital Complex with common intention and therefore, this point is decided in a positive.
9. **For determination of Point No.2 as to whether the accused persons had sold the stolen scooty wheel at LT Tyre Works or not?** Lianthangi, owner of LT Tyre works is examined as Pw-1 and deposed that on 19.1.2016 at around 11:00 am two persons Dominic Lalremsanga and Lalhriatpuia comes to their shop i.e LT Tyre Works and offered to sell one scooty tyre. As they were well acquainted with one Lalhriatpuia they assumed that it was not a stolen tyre and also the accused persons affirmed that it was not a stolen property. Hence, in good faith they had purchased it at the rate of Rs.500/- Pw-1 exhibited seizure memo as Ext. P-I and her signature on it as Ext.P-I(a). In her cross examination Pw-1 stated that the accused persons sold the Scooty wheel on their own.
10. Salam Lalroa is examined as Pw-2 and stated that on 19.1.2016, some Policemen comes to LT Tyre Works and seized scooty tyre and as he was requested to witness the seizure he obliged to their request and signed in the seizure memo. Pw-2 exhibited seizure memo as Ext. P-II and his signature on it as Ext. P-II(a). In his cross examination Pw-2 stated that he did not know

the exact time and date when the Police personal arrested the two accused persons.

11. The case I.O, in his deposition as Pw-4 stated that during his investigation he had recovered the stolen scooty wheel from LT Tyre Works, Temple Square and he had seized in the presence of witnesses. Pw-4 exhibited seizure memo as Ext. P-I and his signature on it as Ext. P-II (c). In his cross examination Pw-4 stated that he had seized the scooty wheel at LT Tyre Works and recorded statements of seizure witnesses at LT Tyre Works.

12. For correct findings of this point let us look into the statements of the accused persons U/S 313 Cr.P.C

1. Statement of Dominic Lalremsanga.

Q2. Is it also evident that you had sold your stolen scooty wheel at LT Tyre Works of Tuikual. Is it correct?

Ans: Yes, It is correct.

Q3. Another evidence against you is that you had sold the stolen wheel at the rate of Rs.500/-. Is it correct?

Ans: Yes.

2. Statement of Lalhriatpuia

Q2. It is also evident that you had sold the stolen wheel at LT Tyre Works of Tuikual. Is it correct?

Ans: Yes, it is correct.

Q3. And you had sold at the rate of Rs.500/- only. What do you have to say?

Ans: Yes, it is correct and we had used the money for buying liquor.

13. On careful examination of available evidence on records it is the evidence of Pw-1, owner of LT Tyre works that on 19.1.2016 at around 11:00 am the two accused persons sold their stolen scooty tyre/wheel at the rate of Rs.500/- at LT Tyre works Tuikual and the same was seized by the case I.O, herein Pw-4 in the presence of Pw-2 and this court finds no discrepancies about the available prosecution evidences on records. With regards to the statements of the accused persons U/S 313 Cr.P.C, both the accused persons fairly admitted the allegations of selling the stolen scooty wheel at LT Tyre Works @Rs.500/- which is also in corroboration with the Prosecution evidences. Therefore, on the basis of corroborated prosecution evidences with admitted statements of accused persons U/S 313 Cr.P.C this point is decided in a positive.

14. **For determination of Issue no.3 as to whether the accused person are entitled to be acquitted or not?** On the basis of findings and reasons in the above two points the accused persons are not entitled to be acquitted but liable to be convicted.
15. In the result the Prosecution is succeeded in establishing their case beyond all reasonable doubt that the two accused persons Dominic Lalremsanga (25) S/o John Lalremruata and Lalhriatpuia (20) S/o Solomon Lalmangaihkhima both Tuikual South, Aizawl committed the offence of theft with common intention by stealing scooty tyre/wheel from New Capital Complex on 19.1.2016 and I hereby convict them.
16. On hearing on the quantum of the sentence the Ld APP submit prayer to inflict sentence at least 6 months S.I with fine whereas the Ld defence counsel and the offenders prays leniency and to inflict minimum sentence permissible on the ground that the seized property was already return to the complainant.
17. Considering the submission of both parties with circumstances of the case the offenders Dominic Lalremsanga and Lalhriatpuia are sentence to undergo S.i for a period of 4 months and to pay a fine of Rs.1000/- each I.d, S.i for another 10 days.
18. Detention period already undergone shall be set off under the provision of section 428 Cr.P.C.
19. Seized article released on Zimmanama vide zimman no.17/2016 is regularized.
20. With this order this instant CrI.Tr.No.211/2016, A/o Aizawl P.S C/No.45/2016 is disposed of.

Sd/-T. LALHMACHHUANA,
Judicial Magistrate 1st Class-I
Aizawl District, Aizawl.

Memo No. JMFC-1(A)/2018 : Dated Aizawl, the 7th August ,2018.

Copy to :

1. District & Sessions Judge, Aizawl.

2. Dominic Lalremsanga (25) S/o John Lalremruata of Tuikual South through counsel Mr. Roger C.Lalmangaiha, Advocate.
3. Lalhriatpuia (20) S/o Solomon Lalmangaihkima of Tuikual South through counsel Mr. Roger C.Lalmangaiha, Advocate.
4. Superintendent of Police, Aizawl.
5. Dy. S.P. (Prosecution).
6. S.D.P.O. Aizawl South.
7. Special Superintendent, Central Jail.
8. O/C Aizawl P.S.
9. Mr. Roger C.Lalmangaiha, Advocate
10. APP.
11. Registration Section.
12. Guard file.
13. Case record.

P E S H K E R

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A. List of Exhibits

1. For the Prosecution:

- (a) Ext. P-1 is the seizure form.
- (b) Ext. P-I(a) is signature of PW No.1
- (c) Ext. P-I(b) is signature of PW No.2
- (d) Ext. P-II is the FIR.
- (e) Ext. P-II(a) is the signature of Pw No.5.
- (f) Ext. P-III is the FIR
- (g) Ext. P-III(a) is the signature of PW No.5.
- (h) Ext. P-IV is the chargesheet.
- (i) Ext. P-IV(a) is the signature of PW No.4
- (j) Ext. P-V is the arrest memo of Dominic Lalremsanga.
- (k) Ext. P-V(a) VI(a) II(c) is the signature of Pw No.4
- (l) Ext. P-VI is the arrest memo of Lalhriatpuia.

For the Accused : NIL

B. List of Witnesses

1. For the Prosecution

- (a) PW No.1 Lianthangi.
- (b) PW No.2 Salem Lalroa.
- (c) PW No.5 K.Lalduhzuala.
- (d) PW No.4 Albert Lalnunpuia.

2. For the Accused : NIL