

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS-I,  
AIZAWL DISTRICT : AIZAWL  
Crl. Tr.(Ex) No. 1020 of 2016  
(A/O Excise Case No. A-251/2016, dt. 6.6.2016, U/S 43(1) of MLPC Act  
2014)**

State of Mizoram	...	Complainant
Vs		
Lalrinawma(37), S/o C.Siamliana, R/o Sihphir Venghlun.	...	Accused

**B E F O R E**

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

**P R E S E N T**

For the Complainant	: Mrs. Lalrinsiami, A.P.P.
For the accused	: Roger C.Lahmangaiha, (Legal aid counsel)
Date of Judgment	: 20.8.2018.

**JUDGEMENT AND ORDER**

**Dated Aizawl, the 20<sup>th</sup> August, 2018**

1. The prosecution story of the case in brief is that on 5.6.2016 at 8:00 pm, S.I Lalsangzuala Ralte seized 30 litres of Rakzu packed in 72 Polythene at Sihphir and also arrested the alleged owner Lalrinawma(37) S/o C.Siamliana of Sihphir Venghlun. About 300ml of the S/A was taken on the spot for FSL Sample. The seizing Officer submitted report of seizure and arrest to the Excise Station Aizawl District and Ex-A 251/2016 Dt.6.6.2016 U/S 43(1) of MLPC Act '14 was registered and investigated into.
2. During the course of investigation the accused person and available witnesses were examined and recorded their statements wherein the accused person admitted the allegations against him that on 4.6.2016 he had bought 45

polythene packets of Rakzu from Rangvamual and again on 5.6.2016 he had bought another 27 polythene packets and the same were recovered by members of Village Council, Sihphir Venghlun. It is further stated that FSL examination report reveals that the S/A contains Ethyl alcohol of 16% VV. Hence, on finding prima facie case against the accused Crl. Compl. U/S 190(1)(a) of Cr.P.C is submitted against the accused person.

3. On 1.7.2016, Copy of documents were furnished to the accused persons and he is informed of his rights to engage legal counsel of his choice. Later on free legal aid is given through Legal Services Authority. At the time of Consideration of Charge, charge is frame U/S 43(1) of MLPC Act '14 which is read over and explained to the accused in his known language to which he pleaded not guilty and claims for trial.
4. Hence, in order to establish their case the prosecution examined three witnesses listed in the complaint sheet while the defence examined none in support of their case and strongly denied the allegations against him in his statement U/S 313 Cr.P.C.

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

1. *Whether the S/A belongs to the accused or not?*
2. *Whether Sihphir Venghlun Local Council have any authority to detained the accused person or not?*
3. *Whether the S/A contains alcohol or not?*
4. *Whether the accused person is liable to be convicted or not?*
5. **For determination of Point No.1 as to whether the S/A belongs to the accused or not?** The case I.O Lalmalsawma is examined as Pw-6 and deposed that during his investigation he had thoroughly examined the accused person wherein he had stated that on 4.6.2016 Sihphir Village Council members saw 45 packs of Rakzu inside his Maruti Van and on the next day he had bought another 27 packs of Rakzu from Rangvamual @ Rs.400/- and concealed near side drain but the same was recovered by members of Village Council. Pw-6 further stated that the accused person admitted the ownership of the S/A before him. Pw-6 exhibited complaint sheet as Ext.P-1 and his signature on it as Ext-P-1(a) as his signature on it. In his cross examination Pw-6 stated that he had recorded statement of the accused at Excise and Narcotics Station, Aizawl.

6. P.C Pazawna, Secretary, Village Council Court Sihphir Venghlun is examined as Pw-1 and deposed that on 4.6.2016 they had received reliable information that accused Lalrinawma transported Rakzu by using his Maruti Van and when inspecting the Maruti Van with VCP they saw Polythene packets behind the seat and the accused Lalrinawma told them that it was 45 packets of Rakzu. And again on the next day i.e 5.6.2016 the accused transported 27 packets of Rakzu from Rangvamual and concealed near side drain which was recovered by Village Council members and therefore they had apprehended the accused with his liquors/rakzu at the residence of Village Council President and he was later arrested by Excise duty. Pw-1 exhibited his signature in the seizure memo as Ext-P-II (b). In his cross examination Pw-1 stated that Excise duty do not seized the S/A from the hands of the accused but he was arrested from the residence of Pu Lalthantluanga VCP and also seized the S/A. Pw-1 also stated that the S/A was transported by Laltanpuia and Mawia from Rangvamual.
7. The seizing officer, Lalsangzuala Ralte is examined as Pw-3 and deposed that on 5.6.2016 @ 8:00 Pm he had arrested the accused Lalrinawma with 30 litres(72 packets) of Rakzu at Sihphir and the accused fairly admitted that the S/A belongs to him. Pw-3 further stated that he had drawn S/A Sample for FSL examination in the presence of the accused and seizure witness. Pw-3 exhibited seizure and arrest memo as Ext P-II and his signature on it as Ext P-II (a). Report of Seizure and arrest as Ext P-III and his signature on it as Ext P-III (a). In his cross examination Pw-3 stated that he had arrested the accused and seized the S/A in the presence of Village Council President and Secretary of Sihphir Venghlun while he was detained by them.
8. On careful examination of the available prosecution evidence on records it is the corroborated evidence of prosecution witness that on 4.6.2016 the accused person transported 45 packets of Rakzu which have been seen by Village Council members of Sihphir Venghlun inside the Maruti Van of the accused person and on 5.6.2016 the accused person bought another 27 packets of Rakzu and concealed near side drain which was recovered by members of Village Council and therefore, he was apprehended with his Rakzu. Although the accused person denied all the allegations against him at the time of examination U/S 313 Cr.P.C, the above prosecution evidences

were not shaken by cross-examination by Ld. Defence counsel. Hence, this point is decided in a positive.

9. **For determination of Point No.2 as to whether Sihphir Venghlun Local council have any authority to detained the accused person or not?** P.C Pazawna, Secretary Village Council Court, Sihphir Venghlun stated in his cross examination that on 5.6.2016 they had seized 45 packets of Rakzu from the accused Lalrinawma and another 28 Packets were seized near the side drain whereas Lalsangzuala Ralte the seizing officer deposed as Pw-3 that on 5.6.2016 @ 8:00 Pm he had seized 30 litres of Rakzu(72 Packets) from the accused Lalrinawma in the presence of witness. In his cross examination pw-3 stated that he had seized the S/A from VC House Sihphir in the presence of VCP and VC Secretary.
10. On the basis of the above Prosecution evidence it is evident that on 5.6.2016 the accused Lalrinawma along wit the S/A were detained by Sihphir Venghlun local Council and he was arrested by the seizing officer, here in Pw-3 on the same day. And there is no delay or unnecessary detention from the part of the Village Council.
11. For just and proper findings let us see relevant sections of law under MLPC Act '14.

**Sect 35 Officers of Government, Members of Village/Local Council and Village Defence Party are bound to give information:**

*"Every Officer of the Government, every member of a Village/Local Council, and Village Defence Party shall be bound to give immediate information to the nearest Excise & Narcotics or Police Station of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to his knowledge."*

**Sect 36 Arrest by private person or group of persons and procedure on such arrest:**

*"Any private person or group of persons may arrest or cause to be arrested any person who commits a non bailable and cognizable offence under this Act, and without unnecessary delay, shall make over or cause to be made over any person so arrested to the Excise & Narcotic Officer or Police Officer, or in the absence of the Excise or Police Officer, take such person or cause him to be taken in custody to the nearest Excise & Narcotic Station or Police Station."*

12. From the plaint reading of the relevant sections of law under section 35 and 36 of MLPC Act '14 it is appears that members of Village/Local Council as well as Private person or group of persons are bound to assist Excise or Police Officer or may arrest or cause to be arrested any person who commits any offence under the MLPC Act '14. And, therefore, this point is decided in a positive.
13. **For determination of Point No.3 as to whether the S/A contains alcohol or not?** The seizing Officer Lalsangzuala Ralte deposed as Pw-3 that as soon as seizing the S/A he had drawn S/A Sample in the presence of witnesses for FSL examination whereas P.C Pazawna stated in his cross examination as Pw-1 that he does not eye witness the seizing officer drawing the S/A sample and knows nothing about it. While the case I.O stated that on the basis of FSL report the S/A contains Alcohol.
14. On careful examination of the Prosecution evidences it is the evidence of the seizing officer that as soon as seizing the S/A he had drawn S/A sample in the presence of witnesses for FSL examination whereas Pw-1 the seizure witness stated in his cross examination that he does not eye witness the seizing officer drawing the S/A sample and knows nothing about it. Moreover, during the whole process of trial neither the seizing officer not the case I.O exhibited the alleged FSL examination result before the court in order to ascertained the S/A actually contains alcohol. In the result, on the basis of discrepancies in the prosecution evidences on records this point is decided in a negative.
15. **For determination of Point No.4 as to whether the accused person is liable to be convicted or not?** On the basis of findings and reasons in the above Point No.3 the prosecution failed to prove their case beyond all reasonable doubt that the seized article actually contains alcohol and therefore, the accused person is not liable to be convicted but entitled to be acquitted.

### **ORDER**

16. Upon careful consideration of available evidences on records with facts and circumstances of the case the prosecution fails to establish their case beyond all reasonable doubt against the accused Lalrinawma(37) S/o C.Siamliana of Sihphir Venghlun and he is acquitted on benefit of doubt from the liabilities of this instant CrI.Tr.(Ex)No.1020/2016 arising out of Excise C/No. A-251/2016 and he set at liberty forthwith.

17. Bail and bonds stand cancelled by discharging liabilities of surety.
18. With this order this instant Crl.Tr.(Ex)No.1020/2016 is disposed of.
19. Given under my hand and seal of the court on this 20<sup>th</sup> August, 2018.

**Sd/-T. LALHMACHHUANA,**

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

Aizawl District, Aizawl.

Memo No. JMFC-1(A)/2018 : Dated Aizawl, the 20<sup>th</sup> August, 2018.

Copy to :

1. District & Sessions Judge, Aizawl.
2. Lalrinawma(37) S/o C.Siamliana of Sihphir Venghlun through counsel Roger C. Lalhmangaiha, Advocate.
3. Superintendent of Excise (Prosecution).
4. O/C Excise & Narcotics Station, Aizawl
5. G.R. Branch Excise & Narcotics.
6. APP.
7. Roger C. Lalhmangaiha, Advocate
8. Registration Section.
9. Guard file.
10. Case record.

P E S H K E R

**CRL.TR.(Ex)NO. 1020/2016**

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**A. List of Exhibits**

**1. For the Prosecution:**

- (a) Ext. P-1 is the complaint sheet.
- (b) Ext. P-I(a) is signature of PW No.6
- (c) Ext.P-II is seizure and arrest memo.
- (d) Ext. P-II(a) is signature of PW No.3
- (e) Ext. P-II(b) is the signature of PW No.1
- (f) Ext. P-III is the report of seizure and arrest.
- (g) Ext. P-III(a) is the signature of PW No.3.

**For the Accused : NIL**

**B. List of Witnesses**

**1. For the Prosecution**

- (a) PW No.1 P.C Pazawna R/o Sihphir Venghlun.
- (b) PW No.3 Lalsangzuala Ralte R/o Khatla.
- (c) PW No. 6 Lalmalsawma R/o Nursery Veng.

**2. For the Accused : NIL**