

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS-I,
AIZAWL DISTRICT: AIZAWL
Crl. Tr. No. 1421 of 2017
A/O Vaivakawn P.S. Case No. 129/2017, dt. 23.8.2017,
U/S 354 A(3) IPC**

State of Mizoram	...	Complainant
Vs		
Vanlalpeka (22), S/o Kapthianga Renthlei, R/o Lower Kanan, Aizawl.	...	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	: Mr. Roger C.Lalhmangaiha (Legal aid counsel)
Date of Judgement	: 24.08.2018
Date of Sentence Hearing	: 24.08.2018

JUDGEMENT AND ORDER

Dated Aizawl, the 24th August, 2018

1. The story of the Prosecution case in brief is that on Dt.23.8.2017, a written FIR was submitted by Lalparmawii D/o Rangkhuma(L) of South Kanan stating that on the night of dt.16.8.2017 @9:00pm when she was returning from the residence of her son one Vanlalpeka S/o Kapthianga of Kanan was standing on the road side and showed his penis to her and masturbate therein and requested to take necessary action. Hence, Vaivakawn P.S C/No.129/2017 Dt.23.8.2017 U/S 354 A(3) IPC was registered and investigated into.

2. During the course of investigation, P.O was visited, the complainant with available witnesses were examined and recorded their statements. The accused Vanlalpeka was arrested and admitted his guilt that he had showed his private part to the said victim but he has done to the influence of alcohol. And, therefore, on finding prima facie case U/S 294/509/354 A(3) the case I.O prays to add another two sections under IPC against the accused.
3. On 3.11.2017 Copy of documents were furnished to the accused person and he was informed of his right to engage legal counsel of his choice. Latter on Mr. Roger C.Lalhmgaiha, Advocate was appointed as legal aid counsel through Legal Services Authority. At the time of consideration of charge, charge was framed U/S 354 A(3) IPC, which is read over and explained to the accused in the language known to him to which he pleaded not guilty and claimed to be trial.
4. In order to establish their case the prosecution examined three witnesses including the complainant and the case I.O while the accused examined none in support of his case but in his statement U/S 313 Cr.P.C . The accused denied the allegations against him and claimed that he was intoxicating drugs and liquor.

Therefore, Points for determination in this case should be-

- (i) Whether the accused shown his private part to the complainant and masturbate on the road side or not?*
- (ii) Whether the accused is liable to be convicted or not?*

Findings and reasons thereof:-

5. **For determination of Point no.1 as to whether the accused shown his private parts to the complainant and masturbate on the road side or not?** Lalparmawii, the complainant is examined as Pw-1 and stated that on 16.8.2017 at around 9:00 pm when she was going home with her three grand children's, the accused Vanlalpeka was standing on the roadside and showed his private part and also masturbate in front of her. The accused also followed her while she was approaching their house. Pw.1 exhibited her FIR as Ext P.I and her signature on it as Ext P.I(a). In her cross examination Pw.1 stated that

while the accused showed her his private parts she was accompanied with her three grand children's.

6. P.Laltlanmawia of Kanan Veng is examined as Pw.2 and stated that on the night of 22.8.2017 the accused Vanlalpeka was called upon by YMA Kumpuan sub-committee due to the incidence reported by daughter in law of Pi Lalparmawii wherein the accused admitted that he had shown his private parts and masturbate in front of Pi Lalparmawii and he has done because he was intoxicating liquor. In his cross examination Pw.2 stated that the accused is having previous records of similar offence.
7. Melody Lalengmawii, the case I.O is examined as Pw-5 and deposed that during her investigation she had examined the complainant and recorded their statement. Accused Vanlalpeka was arrested and during interrogation he admitted his guilt and recorded his statement. The case I.O further stated that on the basis of her findings at the time of investigation there is prima facie case U/S 294/509 IPC against the accused beside the original charged against him and prayed to add the charge sections. Pw.5 exhibited charge sheet as Ext P-II and her signature on it as Ext P-II(a), Arrest Memo as Ext P-III and her signature on it as Ext P-III(a). In her cross examination Pw.5 stated that she had recorded statements of witnesses at the P.S and knows the incidence after the FIR was submitted.
8. Considering the available Prosecution evidences on records it is the evidence of the victim as Pw.1 that while she was going home with her three grand children's the accused was standing on the road side and showed his private parts and also masturbate in front of her. Corroborating the evidence of Pw.1, another witnesses Pw.2 and Pw.5 deposed that the accused admitted his guilt before them but the reason for doing so was that he was intoxicating liquor. In his statement U/S 313 Cr.P.C the stated that he knows nothing about it because he was intoxicating Alprozalam(AP) and liquor. P.Laltlanmawia, who is one of the NGO members stated in his cross examination as Pw.2 that the accused is having previous records of similar offence and their evidence were not shaken at the time of cross examination.

9. In consideration of available prosecution evidences on records with statement of the accused U/S 313 Cr.P.C as stated above this point is decided in a positive.
10. **For determination of Point No.2 as to whether the accused is liable to be convicted or not.**
11. On the basis of finding and reasons in the above point the prosecution is succeeded in establishing their case against the accused Vanlalpeka and he is liable to be convicted.
12. On the basis of Prosecution Evidence adduced before this court with corroborated statement of accused U/S 313 Cr.P.C the accused Vanlalpeka is found guilty of the charged U/S 354 A(3) IPC and I hereby convict him.
13. Accused Vanlalpeka is produced before the court from J/C. The Ld APP and Ld legal aid counsel are also present.
14. As desire by both the parties hearing on the quantum of sentence is conducted today.
15. Heard both parties. The Ld APP submit prayer to inflict sentence at least 3 years S.i with fine whereas the Ld legal aid counsel prays leniency because the offender regretted his guilt very much.
16. Considering the submissions of both parties with nature and circumstances of the offence committed the offender Vanlalpeka is sentence to undergo S.i for a period of 12 months.
17. Detention periods already undergone shall be set off under the Provision of section 428 Cr.P.C.
18. With this order this instant Crl.tr.No.1421/2017, A/o Vaivakawn P.S C/No.129/2017 is disposed.

(T. LALHMACHHUANA),

Judicial Magistrate 1st Class-I

Aizawl District, Aizawl.

Memo No. JMFC-1(A)/2018 : Dated Aizawl, the 24th August, 2018.

Copy to :

1. District & Sessions Judge, Aizawl.
2. Accused Vanlalpeka(22) S/o Kapthianga Renthlei of Lower Kanan through legal aid counsel Roger C.Lalmangaiha, Advocate.
3. Superintendent of Police, Aizawl.
4. Dy. S.P. (Prosecution).
5. S.D.P.O. Aizawl North.
6. Special Superintendent, Central Jail.
7. O/C Vaivakawn P.S.
8. Roger C.Lalmangaiha, Advocate.
9. APP.
10. Registration Section.
11. Guard file.
12. 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 FIR.
- (b) Ext. P-I(a) is the signature of PW No.1.
- (c) Ext.P-II is the chargesheet.
- (d) Ext. P-II (a) is the signature of PW No.5.
- (e) Ext. P-III is the arrest memo.
- (f) Ext. P-III(a) is signature of PW No. 5.

2. For the Accused : NIL

B. List of Witnesses

1. For the Prosecution

- (a) PW No.1 Lalparmawii, South Kanan.
- (b) PW No.2 P.Laltlanmawia, Kanan Veng.
- (c) PW No.4 ASI. Melody Lalengmawii.

2. For the Accused : NIL