

IN THE COURT OF LALDINPUIA TLAU JUDICIAL MAGISTRATE FIRST CLASS-II, AIZAWL  
JUDICIAL DISTRICT : AIZAWL: MIZORAM

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Crl. Tr. No. 553/2013

Arising out of Aizawl Police Station Case No. 113/2013, dt. 21.3.2013,  
U/S 380/468/471 IPC

State of Mizoram : Complainant

Versus

Lalhruaizela,  
S/o Lalhruailiana,  
R/o Armed Veng, Aizawl, Mizoram. : Accused

**Present**

***LALDINPUIA TLAU, JUDICIAL MAGISTRATE FIRST CLASS***

For the Prosecution : Ms. Lalthanmawii, APP  
For the Defence : Mr. Laltanpuia, Advocate  
Judgment pronounced on : 29.04.2014

**JUDGMENT AND ORDER**

1. The prosecution story of the case in brief is that on 21.3.2013, B. Lalremruati Principal, Winsome English School, Chhinga Veng, Aizawl, home address, Kanan Aizawl lodged a written FIR to the Officer in charge Aizawl Police Station stating that on 8.3.2013 unknown miscreants stolen away two nos. of cheque leaf, serial No. 42852 and 42853, Account no. 97000499745 from Winsome English School, Chhinga Veng, Aizawl which was lying inside the drawer and used for drawing cash Rs. 20,000/- (twenty thousand rupees) from Mizoram Rural Bank, Zarkawt, Aizawl with a forged signature on the cheque leaf serial no. 42852.

Hence Aizawl P.S. Case No. 113/13 dt. 21.3.2013 u/s 380/468/471 IPC was registered and duly investigated into.

During investigation, visited P.O. and examined the complainant with all available witnesses by recording their statements which is enclosed herewith in separate sheet. Mizoram Rural Bank Zarkawt Aizawl was visited and seized one cheque leaf serial no. 42852 Account no. 97000499745 from the possession of C. Zanghinglova (51 yrs) s/o Chalkunga of Electric veng, Aizawl Bank service Mizoram Rural Bank Zarkawt, Aizawl in presence of witnesses, which was used by unknown miscreants for drawing cash Rs. 20,000/- (twenty thousand rupees) for the interest of the case. The specimen handwritings of (1) Lalhruaizela, Armed Veng (2) Lalhmingthanga, Armed Veng (3) Lalzuimawia, Dinthar (4) Vanlalfela of Khatla (5) Vanlalremi Tuikual South, all are Winsome English School Teachers are collected in presence of Magistrate.

The collected specimen handwriting and seized cheque leaf Account No. 97000499745 sl. No. 42852 is sent to FSL (Forensic Science Laboratory) New Capital Complex Khatla for examination. The FSL examination report was received vide No. FSL/171/D(AZL)-21/2013/379 dt. 30.5.2013, (enclosed herewith). The expert (FSL) Aizawl opined that, the specimen handwriting of Lalhruaizela of Armed Veng is identical with the handwriting contained in the seized cheque leaf serial no. 42852 account no. 97000499745 and also mentioned that there is no fundamental differences between the specimen handwriting of Lalhruaizela Armed Veng and handwriting containing in the seized cheque leaf vide MR no. 125/13.

So, the accused Lalhruaizela 25 yrs s/o Lalhmuakliana of Armed Veng, Aizawl was arrested and conducted interrogation against him by recording his statement which is enclosed herewith. During interrogation, the accused person (Lalhruaizela) gave contradictory statement. But the expert opined that the specimen handwriting of accused Lalhruaizela is identical with the handwriting contained in the seized cheque leaf.

Hence a prima facie case u/s 380/468/471 IPC is found well established against the arrested accused Lalhruaizela (25) s/o Lalhmuakliana of Armed Veng near 1<sup>st</sup> Bn. MAP main Gate Armed Veng, Aizawl.

2. The charge sheet was submitted u/s 380/468/471 IPC. The court received and accepted charge sheet No. 193 of 2013 on 01.07.2013. When this court framed a charge u/s 380/468/471 IPC against the accused person, the accused person did not plead guilty and claimed for trial.

3. On perusal of case record and submission of parties, the following point is chalked for determination.

(i) Whether the accused person committed theft by stealing the two nos. of cheque leaf, serial No. 42852 and 42853 or not?

(ii) Whether the accused committed forgery intending that his forged signature shall be used for withdrawal of money or not?

(iii) Whether the accused fraudulently or dishonestly used as a genuine the cheque bearing forged signature which he knew to be a forged or not?

4. The prosecution examined six witnesses out of proposed nine witnesses. The defence did not examine any witness. The accused also declined to be examined as per sec 313 Cr.PC.

5. B. Lalremruati cited as PW No. 1 was examined on 6.11.2013. She is the informant of this case. She stated that on 15.3.13, she found out that two numbers of cheque leave s/no 42852 and 42853 were torn off and stolen. When she updated her account pass book and it was shown that Rs. 20,000 was withdrawn with the use of cheque no. 42852. During cross examination, she stated that she did not have any suspected Teachers to take away the cheque leaf.

4. Vanlalremi cited as PW No. 2 was dropped from the list of witnesses on 2.4.2014.

5. Lalzuimawia cited as PW No. 3 was examined on 26.2.2014. He stated that he withdrew a sum of Rs. 20000 from MRB Zarkawt with a cheque given by the principal on 8.3.2013. During cross examination, he stated that he never had gone to the MRB Zarkawt with accused Lalhruaizela for withdrawal of money and he does not know whether the accused had any involvement in the instant case.

6. Lalhmingthanga cited as PW No. 4 was examined on 26.2.2014. He stated that he accompanied Lalzuimawia on 8.3.2013 for withdrawal of money. In his cross examination, he stated that he did not go out with Lalhruaizela on 8.3.2013 and he did not know the involvement of the accused in the instant case.

7. C. Zanghinglova cited as PW No. 5 was dropped from the list of witnesses on 2.4.2014.

8. Zothanmawia cited as PW No. 6 was examined on 2.4.2014. He is a seizure witness on 22.3.2013 when police seized cheque leaf A/C No. 97000499745 Sl. No. 42852 from the possession of Pu Zanghinglova. During cross examination, he stated that he does not know whether the accused had any involvement in the present case or not.

9. Lalnuntluanga cited as PW No. 7 was examined on 2.4.2014. He is a seizure witness on 22.3.2013 when police seized cheque leaf A/C No. 97000499745 Sl. No. 42852 from the possession of Pu Zanghinglova. During cross examination, he stated that he does not know whether the accused had any involvement in the present case or not.

10. R. Vanlalkima cited as PW No. 8 was dropped from the list of witnesses on 24.1.2014.

11. P.S. Rokhuma cited as PW No. 9 was examined on 26.8.2013. He is a case Investigating Officer. His deposition is not reproduced at length as it is more or less the same with the content of the Charge-sheet. During cross examination, he stated that the accused did not admit his guilt before him, but he saw a prima facie case against the accused person on the basis of FSL report.

12. Appreciating the evidence available before me, there is not even single evidence against the accused. The case I/O himself stated that he totally relies on the finding of the FSL Report. At the same time, the Expert is not examined during trial.

In my opinion, the prosecution evidence is not so strong since the informant/victim had the wish to dispose of the case in favour of the accused before conclusion of the trial, which is apparent from her letter received by this court.

13. Regarding expert opinion, the report submitted by an expert does not go in evidence automatically. The Apex Court has held in *Murari Lal vs. State of Madhya Pradesh* (AIR 1980 SC 531) that "...we are firmly of the opinion that there is no rule of law, nor any rule of prudence which has crystallized into a rule of law, that opinion-evidence of a handwriting expert must never be acted upon, unless substantially corroborated. ....all other relevant evidence must be considered. ...in cases where there the reasons for opinion are convincing and there is no reliable evidence throwing a doubt, the uncorroborated testimony of an handwriting expert may be accepted."

In *Kanchansingh Dholaksing Thakur vs State of Gujarat* report in (AIR 1979 SC 1011), the Supreme Court find it wholly unsafe to base the conviction of the appellant merely on the testimony of the expert, as the evidence of the expert has been disbelieved by the High Court on the most material points.

14. For the above given reasons, I have a fair doubt based on reason and common sense which grows out of the evidence in the case to bring home the guilt of the accused as the prosecution evidence is insufficient and doubtful. Getting the benefit of doubt, the accused is acquitted from the charge level against him u/s 380/468/471 IPC.

15. As such, surety is discharged from her liability.

16. SA shall be destroyed.

With this, the case is disposed of.

Given under my hand with the seal of the Court on this 29<sup>th</sup> day of April, 2014.

Sd/-LALDINPUIA TLAU,  
Judicial Magistrate 1<sup>st</sup> Class,  
Aizawl District, Aizawl

Memo No. /JMFC-II(A)/2014 : Dated Aizawl, the 29<sup>th</sup> April, 2014

Copy to :

1. District & Sessions Judge, Aizawl Judicial District, Aizawl.
2. Trial Judge.
3. Superintendent of Police, Aizawl District, Aizawl.
4. Public Prosecutor/Asst. Public Prosecutor.
5. Dy. Superintendent of Police (Pros.), District Courts, Aizawl.
6. Office-in-Charge, Aizawl Police Station, Aizawl.
7. Accused Lalhruaizela, S/o Lalhruailiana R/o Armed Veng, Aizawl, Mizoram through Mr. Laltanpuia, Advocate.
8. Judicial Branch.
9. Guard File.
10. Case record.

P E S H K E R