

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

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Crl. Tr. No. 346/2013

Arising out of Aizawl Station Case No. 73/13, dt. 20.02.2013,  
U/S 341/354 IPC.

State of Mizoram : Complainant

Versus

V.L. Remruatpuia,  
S/o Vanlalchhawna (L),  
R/o Mission Vengthlang,  
C/o Rothangpuii near Jubilee Church. : Accused

Present

*LALDINPUIA TLAU, JUDICIAL MAGISTRATE FIRST CLASS*

For the Prosecution : Mrs. Lalthanmawii, APP  
For the Defence : Mr. R. Lalawmpuia, Advocate.  
Judgment delivered on : 26.06.2014

**JUDGMENT AND ORDER**

1. The prosecution story of the case in brief is that on 20.02.2013, a written FIR was received from Lalhriatpuii c/o Remruatdika stating that on the same day i.e. 20.02.2013 at around 5:00 PM, her neighbour Remruatpuia at around 5:00 pm, her neighbour Remruatpuia of Bungkawn H/S Veng invited her for paying attention to his wife who had been hospitalised at Aizawl Hospital. Despite dropping to Aizawl Hospital, he misleads her to a remote area somewhere at Mission Vengthlang. He then grabbed her and touched her breast and caressed over her private area. He also took out his private part and forced her to touch it. She struggled as much and finally escaped and then ran away from him. Hence, AZL-PS C/No-73/13 dt. 20.2.2013 u/s 341/354 IPC registered and the case was duly investigated into.

During investigation, the complainant/victim was carefully examined recording her statement and one witness was also examined. According to the statement given by the victim, accused had only touched her breast and forcefully let her touched his private part, she was not sent for M/E. Accused was arrested and interrogated, he disclosed the fact stating that he actually mislead the victim by his scooty at the outskirt of Mission Vengthlang and touched her breast her further stated that he could not clearly remembered the incident as he was too drunk, he then forwarded to court for judicial remand on 21.2.13 as he could not furnished any reliable bailor/surety at Police Station. The said vehicle scooty (wego) B/R No. MZ-01H-1687 with its all valid documents which was used for wrongfully restrained by taking the victim by the accused was seized in presence of reliable witnesses and left on zimmanama vide Z/No. 20/13. Hence, a prima facie case u/s 341/354 IPC is found well established against Remruatpuia (36) s/o Vanlalchhawna (L) of Mission Vengthlang P/A Bungkawn H/S.

2. Hence, a prima facie case u/s 341/354 IPC is found well established against the accused V.L. Remruatpuia s/o Vanlalchhawna (L) of Mission Vengthlang near Jubilee Church.
3. The charge sheet was submitted u/s 341/354 IPC. The court received and accepted charge sheet No. 63 of 2013 on 11.03.2013. When this court framed a charge u/s 341/354 IPC against the accused, the accused did not plead guilty and claimed for trial.
4. On perusal of case record and submission of parties, the following point is chalked for determination.
  - (i) Whether the accused person voluntarily had carnal intercourse against the order of nature with the victim girl or not?
5. The prosecution examined eight witnesses. The accused person is examined u/s 313 Cr.P.C. The defence examined one witness.
6. Lalchhuanawma cited as PW No 1 was examined on 9.4.2013. He is the informant of this case. He stated that her daughter Zothankimi was molested by the accused on her anus and private part and he therefore submitted the FIR. During cross examination, he stated that though an FIR was lodged in his name, he does not know the content of the FIR. He did not see the accused having any sexually intercourse with the victim and he also did not see the accused inserting his penis on the private part of the victim. He submitted the FIR on the basis of the information given by the victim.

7. Lalrinpuii cited as PW No 2 was examined on 9.4.2013. She stated that in the month of October, 2012, the accused carried her with the victim on coming back from North Vanlaiphai. On their way home, the accused brought the victim to an isolated place to see a horse and she awaited them near the bike. Then the accused touched the private part of the victim. As the accused had earlier touched her anus and private part, she had suspicion and she asked the victim whether the accused touched her or not. Being warned by the accused, they did not disclose the offence committed by the accused. During cross examination, she states that on their way to North Vanlaiphai, she did not see the accused inserting his penis on the anus of the victim or teasing the victim. But he asked the victim whether the accused touched her vagina or not and the victim gave her positive answer by saying 'yes'. She also states that she did not see the accused inserting his penis on her anus and she was confused whether the fellow who inserted his penis on her anus was the accused or not. She also stated that she was told by her mother before entering this court to say the above mentioned lines and she deposed the same as she was told and guided.
8. R. Lalnunmawii cited as PW No 3 was examined on 9.4.2013. She stated that her daughter Lalrinpuii told her that the accused used to touch her private parts and also the private parts of Zothankimi. Accordingly, Lalchhuanawma f/o Zothankimi lodged an FIR to the North Vanlaiphai Police Station. During cross examination, she stated that she did not see on caught the accused inserting his penis on the private part of the victim and also did not see and know the place of occurrence. There is no eye witness who saw the accused having sexual intercourse with victim.
9. Khawvelthangi cited as PW No 4 was examined on 28.5.2013. She stated that the Police seized Baptismal Certificate of her daughter Zothankimi from her possession on 7.7.2012. During cross examination, she stated she was present when her husband and one Ramthari discussed about filing/lodging FIR to the Police. She knew what they have stated but does not remember today. She also stated that she does not know whether her husband lodged FIR against the accused person to this case.
10. R. Mankima cited as PW No 5 was examined on 3.9.2013. He stated that on 7.7.2012, North Vanlaiphai Police seized Baptismal Certificate of Zothankimi d/o R. Lalchhuanawma of Lungkawlh from Pi Khawvelthangi w/o R. Lalchhuana of Lungkawlh. As requested by the Police, he appeared as seizure witness and he put his signature in the seizure memos. During cross examination, he stated that he has no other knowledge relating to this case other than the seizure of the same.

11. F. Thanchhunga cited as PW No 6 was examined on 3.9.2013. He stated that on 7.7.2012, North Vanlaiphai Police seized Baptismal Certificate of Zothankimi d/o R. Lalchhuanawma of Lungkawlh from Pi Khawvelthangi w/o R. Lalchhuana of Lungkawlh. As requested by the Police, he appeared as seizure witness and he put his signature in the seizure memos. During cross examination, he stated that he has no other knowledge relating to this case other than the seizure of the same.
12. Dr. Lalmuanawma Jongte cited as PW No 7 was examined on 5.11.2013. He stated that on 30.6.2012 at 1:15 PM, he examined Zothankimi aged about 9 years in connection with this case. During cross examination, he stated he did not see any injury on the part of the victim and laceration on her anus.
13. Robert L. Hnamte cited as PW No 8 was examined on 8.10.2013. His deposition is not reproduced as it is more or less exactly the same with the content of the charge-sheet because he is the case I.O. During cross examination, he stated that this case is instituted based on the hearsay of the victim and witness. He further stated that during investigation, only Birth Certificate of the victim was seized.
14. The accused during his examination u/s 313 Cr.P.C. states that he was falsely implicated and there is a malicious prosecution. He never admitted his guilt before the Police. He did not molest nor had sexual intercourse with the victim.
15. Thangkhuma cited as DW No. 1 was examined on 11.3.2014. He stated that the accused was falsely implicated due to personal enmity. There are no rumours in their locality in connection with the instant case and most of their locality did not pay heed to the same. During cross examination, he stated that he does not know anything about the instant case.
16. Vanlalrema cited as DW No. 2 was examined on 11.3.2014. He stated that one day he asked the victim whether the accused had committed the offence punishable u/s 377 IPC or not but the victim replied him in the negative way. He also asked the victim the reason why she implicated the accused and she replied him that her parents directed her to do so.
17. Ricky Lalremruata cited as DW No. 3 was examined on 11.3.2014. He stated that one day when he was at home, the parents of the victim came to his mother requesting her to write an FIR against the accused but his mother at the first instance refused to do so. They came many times for the same purpose and at last his mother wrote an FIR on their behalf. When he asked his mother the reason why she wrote such false complaint to the Police and she

replied him that she is not liable and she wrote on their behalf. He also stated that another day, he asked the victim as to the reason why she implicated the accused and she replied that her father forced to do so and she also told him that the accused did nothing upon her. That is why; this witness knows that the implication is false. During cross examination, he stated that he does not know anything about the instant case.

18. Analyzing the evidences available before this court, the entire case is almost based on the statements of the informant, Lalrinpuii and R. Lalnunmawii. However, their statement has no concrete base. The victim is not cited as prosecution evidence and she was not examined during trial. Khawvelthangi, who is the mother of the alleged victim did not state about the commission of the offence of the accused, but only stated the seizure of baptismal certificate of the victim from her possession. The police officers who investigated the cases did not find any material to corroborate the allegations made by the informants.
19. The medical expert also did not see any injury on the part of the victim and lacera on her anus. I am of considered view that to some extent, the case at hand is similar to that of rape committed upon a female. Prudence requires corroboration at least by medical evidence. In the light of the ruling of the Supreme Court in State of AP v. Lankapalli Venkateswarlu AIR 2000 SC 3555, since there is medical evidence not supporting the version of the prosecutrix, the accused is entitled to acquittal.
20. Analysis of evidence further reveals that there is no report of failure on the part of the victim to attend the school or any other normal activities. Though inadmissible as evidence, it is pertinent to mention that I was informed by one Medical Officer, specialist in surgery that, has a mature man had sexually molested the small child in her anus, her parents are supposed to have the knowledge of its effect immediately as it will adversely affect the victim.
21. 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 377 IPC.
22. As such, surety is discharged from his liability.
23. S A shall be released to the rightful owner.

With this, the case is disposed of.

Given under my hand with the seal of the Court on this 20<sup>th</sup> day of May, 2014.

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

Memo No.                /JMFC-II(A)/2014        :        Dated Aizawl, the 20<sup>th</sup> May, 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 V.L. Remruatpuia s/o Vanlalchhawna (L) of Mission Vengthlang c/o Rothangpuii near Jubilee Church through Mr. R. Lalawmpuia, Advocate.
8. Judicial Branch.
9. Guard File.
10. Case record.

P E S H K E R