

**IN THE COURT OF LALRAMSANGA, MJS
JUDICIAL MAGISTRATE 1st CLASS, AIZAWL DISTRICT, AIZAWL
MIZORAM**

Police Station: Kulikawn P/S

Case No. 116/12

CRL TR No. 2797/12

Under Section: 354 IPC

State of Mizoram

..... Prosecution

Vrs

Joseph Lalvenhima(30)

S/o Lalfakzuala

Salem Chhim Veng

Aizawl, Mizoram

..... Accused/Defendant

**PRESENT:
LALRAMSANGA, MJS**

For the Prosecution

..... Lalremthangi APP
C. Lalremruati. APP

For the Accused

..... J. Lalremruata Hmar
R. Lalhungleiana
Lalbiaknunga Hnamte, Advocates.

Date of Judgment

..... 30th September, 2013

JUDGMENT AND ORDER

1. The story of the case, as alleged by the Prosecution, in brief is that on 22.11.12 a written FIR was received from K. Vanlalruata S/o Sapthanga of Salem Mualpui Road, Aizawl, Mizoram. Stating that on the morning of the same day at

around 8:00 Am her daughter aged 13yrs while she was on her way to school, one named Jopeh-a S/o Faka of Salem Chhim veng, Aizawl molested her by touching her buttock and Private Part. Hence, Kulikawn P.S C/No 166 dt. 22.11.12 u/s 354 IPC was registered and duly investigated into.

2. During the course of investigation, the Accused Joseph Lalvenhima was arrested and he stated that he could not remember and recall any of the incidents as he was too drunk; however the Victim girl identified him clearly and gave a clear statement. The victim was examined and recorded her statement. The victim girl stated that, on the morning of 22.11.12 @ 8:30 Am, she and her sister left house for school and when reaching Salem Presbyterian Church, one male named Joseph-a touched her School back and caressed her buttock and poked her vagina from her school Uniform skirt. After completion of the investigation charge sheet against the accused was submitted to the Court.

3. After compliance of Section 207 CrPC, my Ld predecessor framed charge u/s 435 IPc against the accused Joseph Lalvenhima. The accusation was read over and explained to the accused in his known language. The accused pleaded not guilty to the charged and claimed trial.

4. Prosecution has examined as many as three witnesses in order to substantiate its case.

5. PW No. 1 Shri. K. Vanlalruata is the complainant as well as the father of the victim girl Lalnuntluangi. He was examined in the court on 10th, May 2013. He deposed that at the time of incident, he was not with the victim girl, however, from his deposition he could clearly stated that he immediately ran to her daughter after he was informed that his daughter was assaulted and molested and touching her buttock and Private Part by the accused Joseph Lalvenhima as such he lodged a complaint against the accused at the Police station. Ext-P-III (a) is his signature, Ext P-IV is FIR Submitted by him and Ext P-IV (a) is his signature. Cross-examination of this witness was declined by Defense lawyer.

6. PW No. who is the victim in this case was examined on 7th May, 2013. She deposed that on the morning of 22-11-12 (thursday) at around 8:30 Am along

with her sister Lalhruaitluangi were on their way to school and on reaching Presbyterian Church , Salem veng, Aizawl one person named Joseph-a touched her school back and caresses her buttock and Private Part due to that she cried to him by saying to that 'I hur lutuk', and that Hriata (i.e uncle of victim) who was nearby at that time informed about the incident to his father (PW No 1). Hence, his father lodged FIR against the accused i.e Joseph Lalvenhima. During cross examination of this witness, she denied having known the accused before the incident happened and that the accused have sexual relationship with her.

7. PW No. 3 H. Lalhmingthangi SI, was examined on 7th May, 2013. She deposed that on 22.11.12 a written FIR was received from K. Vanlalrata S/o Sapthanga of Salem Mualpui Road, stating that on the morning of the same day at around 8:00 Am her daughter 13yrs was on her way to school. One Jopeh-a S/o Faka of Salem Chhim veng, Aizawl molested her by touching her buttock and Private Part. Hence, Kulikawn P.S C/No 166 dt. 22.11.12 u/s 354 IPC was registered and duly investigated into. And that As she was endorsed to the instant case she arrested accused Joseph Lalvenhima (30) S/o Lalfakzuala R/o Salem Chhim Veng, Aizawl. And that during the course of interrogation, the Accused Joseph Lalvenhima stated that he could not remember and recall any of the incidents as he was too drunk, however the Victim girl identified him clearly and gave a clear placement. That during the course of investigation, she examined the victim and recorded her statement. The victim girl stated that, on the morning of 22.11.12 @ 8:30 Am, she and her sister left house for school and when reaching Salem Presbyterian Church, one male namely Joseph-a touched her School back and caressed her buttock and poked her vagina from her school Uniform skirt. After completion of the investigation, a Prima facie Case U/s 354 IPC was found well established against the accused Joseph Lalvenhima S/o n Lalfakzuala of Salem Chhim veng, Aizawl and since a prima-facie U/S. 354 of IPC has been established against the accused person, so she submitted Charge sheet against him. Ext-P-I is final form submitted by her, Ext P-I(a) is her signature, Ext P-II is Arrest/Court Surrender form submitted by her and Ext PII(a) is her signature. During her cross-examination she deposed that she is not the eye witness who saw the accused assaulted the victim girl Lalnuntluangi and that as an FIR was lodge to Police station, she was endorsed to investigate the case.

8. PE in the matter was then closed. Statement of the accused has also been recorded u/s 313 CrPC. The accused then led his evidence. The accused examined two witnesses including himself for his defense.

9. Accused himself was examined under section 215 Cr.PC as DW No 1 and he deposed that he was not sure of the date of the incident happened. He also deposed that, on that morning around 8:30 Am he and his friend went for home from their morning walk and on reaching Presbyterian Church two female Students were walking right before them, since his friend H.lalmuanpuia was not able to walk on his own, he was helping his friend to walk allowing one hand upon his shoulder and that after getting tired, he pushed the rucksack of one of the girls who were walking before them and also asked them to walk faster and when reaching near his residence, the girls returned back towards them stating that they would not go to school. During his cross-examination he admitted the suggestion made by the Id APP that before he went out from home he was drunk and that his friend H. Lalmuanpuia used to drink liquor. He denied using mean word to the victim and stated that his friend was drunk. And that he had pushed the Victim girl Lalnuntluangi and that the road he, his friend and the victim were waking was a large enough to pass the victim when needed. He also admitted that if not the victim and her friend were not warned to walk fast like he does she would not be late for school and that the victim was somehow tall (nearly reaching his ear), and that after the incident, he knew from his friend H. Lalmuanpuia that the victim was crying due to the incident and return for home.

10. DW No 2 H. Lalmuanpuia stated on oath that on 22- 11- 12 he accompanied accused Joseph Lalvenhima. He also deposed that Accused touched the bag of victim Lalnunthluangi and shouted and warned to she and her friend might be late for school. And that not long after the incident happened, the victim girl Lalnuntluangi cried by saying to him and Accused that she would told to her parent about it. However at that time he denied having known what was happening. During his cross-examination he deposed that he denied using mean word to the victim and stated that his friend was drunk. DE was closed.

11. Final argument advanced. I also perused the case record carefully.

12. The ingredients of offence punishable U/s 354 IPC are:

- a) Assault or use criminal force to a woman
- b) With an intention to outrage or
- c) Knowing it to be likely that he will thereby outrage her modesty.

13. The victim (PW 2) has supported the case of the prosecution in all material particulars. Though the Ld counsel for the accused cross examine her and her evidence remained unshaken. Her evidence is further corroborated by the evidence of her father (PW1) which also remained uncontroverted. The evidence of the complainant (PW1) is admissible being a res gestae as the incident was disclosed to the complainant immediately. There is nothing to suggest in the evidence of the complainant (PW1) and the victim (PW2) that the present complaint is motivated filed with any oblique motive to falsely implicate the accused person.

14. The accused has stated in his statement recorded under Section 313 Cr.P.C. that he has been falsely implicated by the complainant, he merely pushed the bag of the victim. During examination as witness he deposed that on that morning at around 8:30 Am he and his friend went for home from their morning walk and on reaching Presbyterian Church two female Students were walking right before them, since his friend H.lalmuanpuia was not able to walk on his own, he was helping his friend to walk allowing one hand upon his shoulder and that after getting tired, he pushed the rucksack of one of the girls who were walking before them and also asked them to walk faster and when reaching near his residence, the girls returned back towards them stating that they would not go to school. On cross examination by the Ld APP he stated that he was drunk and he came to know from his friend H. Lalmuanpuia that the victim was crying due to the incident and return for home. DW No 2 Joseph Lalvenhima also deposed almost the same story as the accused. On careful perusal of the depositions of DWs, while the accused can clearly stated his action against the victim he did not know the reaction of the victim; this casts doubts against the story of the DWs. Moreover, the reason why the victim was cry was not explain.

15. It is a settled law that in sexual offence cases, the accused can be convicted on the sole evidence of the prosecutrix if the court finds it reliable, trustworthy and truthful. The testimony of the victim in the present case remained uncontroverted and fully inspires confidence. The victim had no hatred against the accused to concoct lies against him.

16. In the criminal cases burden of prove remains with the prosecution and it never shift and prosecution has to prove the case beyond shadow of all reasonable doubt. The defense is also at liberty to produce his witness. Hence, after producing evidence by defense, I do not find any cogent reason that the defense witnesses which has shaken the prosecution case. The factual scenario of the instant case clearly establishes commission of offence by the accused.

17. In view above discussion I am of the considered opinion that the accused by touching her buttock and private part of the victim who is a girl of about thirteen years has crossed the limit of decency and thereby outraged the modesty of the girl. The prosecution has proved the charge u/s 354 IPC against the accused beyond all the reasonable doubts. Accordingly, the accused, Joseph Lalvenhima is convicted for the offence punishable U/s 354 IPC.

ORDER

Hearing on question of sentence is conducted. The Id. APP prays the court to award punishment not less than one year as the crime against women is crime against the society and the guilty of the convicted accused is proved. On the other hand the Id. D/L submitted that the convicted accused is first time offender and he is the sole bread earner in the family. So he prayed the court to show leniency. After due consideration the accused is hereby sentenced to undergo SI for a period of 6 months and to pay a fine of Rs. 1000/- in default of payment of fine he shall undergo SI for a period of 10 days.

Bailbond stands cancelled. Surety is discharged.

Case is disposed of.

Sd/- LALRAMSANGA
Judicial Magistrate, 1st class
District Court, Aizawl, Mizoram

Memo No _____ /Magst Ist(A)/2013: Dated Aizawl the, 30th September , 2013.

Copy to:-

1. Joseph Lalvenhima (30) S/oLalfakzuala of Salem Chhim veng .
2. APP/GA
3. District & Session Judge, Aizawl District, Aizawl.
4. Deputy Superintendent of Police (Pros).
5. I/O of the case through Officer-in-charge, Kulikawn P.S.
6. I/C Registration, Judicial Branch.
7. I/C GR Branch.
8. Trial Magistrate, Lalramsanga Magistrate 1st Class.
9. Case Record.

PESHKAR

**IN THE COURT OF LALRAMSANGA, MJS
JUDICIAL MAGISTRATE 1st CLASS, AIZAWL DISTRICT, AIZAWL
MIZORAM**

***Police Station:Aizawl P/S
Case No. 264/13
CRL TR No. 1516/13
Under Section: 379 IPC***

State of Mizoram

..... Prosecution

Vrs

Zohmingsanga (36)
S/o Lalnunzira
Tuikual 'C' Aizawl

..... Accused/Defendant

PRESENT:
LALRAMSANGA, MJS

For the Prosecution	Lalremthangi APP C. Lalremruati. APP
For the Accused	F. Lalzuiliana Advocate.
Date of Judgment	12 th September, 2013

JUDGMENT AND ORDER

12-09-2013

The accused is produced from J/c.

APP and D/L are present.

Today is fixed for C.C.

After hearing both parties charge U/s 379 IPC is framed against the accused Zohmingsanga . The accusation is read over and explained to him in his known language to which he pleaded 'Guilty' saying ' Min puh ang hian bungrua te hi ka ru ngei e'.

After examing the accused I am satisfied that the accused pleaded guilty on his free will. Accordingly the accused Zohmingsanga is convicted U/S 379 IPC. Hearing on sentence is conducted. The Ld. APP prays the court to award severe punishment as accused admitted his guilt. On the other hand the Ld. Counsel for the accused submitted that the accused is first time offender and he is now reformed himself. Besides all the stolen properties are recovered. So he prays the court to show leniency upon the accused. After due consideration the accused Zohmingsanga is sentenced to undergo SI for a period of 1 month and to pay a fine of Rs. 1000/- . In default of payment of fine he shall undergo another SI for 10 days. Detention period shall be set off.

S/A if any shall be returned to the rightful owner.

Case is disposed of.

Sd/- LALRAMSANGA
Magistrate First Class,
Aizawl District,Aizawl.

Memo No _____ /Magst Ist(A)/201 3: Dated Aizawl the, 5th September , 2013.

Copy to:-

2. Zalianthanga S/o Hrangliansawn of Hmunlai Myanmar.
3. Bhanu Kawal Adv.
3. APP/GA

4. District & Session Judge, Aizawl District, Aizawl.
5. Deputy Superintendent of Police (Pros).
6. I/O of the case through Officer-in-charge, Aizawl P.S.
7. I/C Registration, Judicial Branch.
8. I/C GR Branch.
9. Trial Magistrate, Lalramsanga Magistrate Ist Class.
10. Case Record.

PESHKAR