

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, AIZAWL DISTRICT, AIZAWL, MIZORAM.

Criminal Trial No.1371 /2011.

U/s 408 IPC.

Ref : Aizawl -PS C/No-271/11 dated 22.06.2011 U/s 408 IPC.

State of Mizoram. Prosecution

-Versus-

Zalianthanga
S/o Hrangliansawn
R/o, Hmunlai Myanmar. The Accused

PRESENT

LALRAMSANGA, MAGISTRATE FIRST CLASS, AIZAWL DISTRICT.

For the Prosecution : C. Lalremruati APP
For the Accused : Bhanu Kawal Adv
Date of Judgment : 5th September 2013.

JUDGMENT & ORDER

The prosecution story of the case in brief is that on 22.06.2011 @ 5:45 Pm, Written FIR was received from Lalkimi of Chhingaveng, Aizawl stating that one Thangtea, who was staying with her had misappropriated her money and then ran away to unknown destination. In this regard, she requested for necessary action. Hence, Aizawl PS C/ No. 271 Dt 22.06.2011 U/S 408 IPC was registered and duly investigated into.

During the course of investigation, the place of occurrence was promptly visited and the complainant was carefully examined and her statement was recorded. Many attempts were made to recover the misappropriated money and to locate the accused. Thus, on dt. 24.09.2012, the accused Zalianthanga (43) S/o Hrangliansawna of Myanmar was arrested in presence of witness obtaining witness signature and informing his ground of arrest. He is therefore taken to P.S lock up for further interrogation. He was carefully interrogated during detention in the police custody. In his statement, he

confessed before police that he had misappropriates his mistress money viz. Rs. 2,50,000 /- and further stated that he already spent all of them for his personal purpose like Rs. 50,000 /- for his daughter who is presently staying at Malaysia; Rs. 25,000 /- for his son who is presently staying at USA; Rs. 20,000 /- (approx) for travelling expenses and the remaining were loss in his business transaction at Myanmar. Hence, as it seem to be not possible to recover the misappropriate money. He is forwarded to judicial custody. The complainant is also informed that recovery could not be made. Then the IO filed the charge sheet to the court.

The accused was then furnished with relevant documents as required by Section 207 Cr.PC.

On finding prima facie, charge U/s 408 IPC was framed against the accused Zalianthanga. The accusation was read over and explained to him in his known language to which he pleaded not guilty and claimed trial. The matter was then listed for P/E.

To prove their case the prosecution examined MS. Dawngliana the case IO and he deposed the steps he had taken during investigation. The prosecution fails to produce the complainant despite ample opportunities.

Final argument advanced. I heard both parties and also perused the case record carefully. The prosecution examined only the IO and fails to examine the complainant. Hence the prosecution is not in a position to prove its case beyond reasonable doubt. Solely on the basis of documentation carried out by Police during investigation, the accused cannot be convicted U/S 408 IPC. I am of the opinion that the prosecution fails to prove its case beyond reasonable doubt and benefit must be given to the accused. Accordingly the accused Zalianthanga is hereby acquitted from the charge leveled against him and set him at liberty.

Bail bond is cancelled and surety is discharged.

Case is disposed of.

Give copy to all concerned.

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

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

Copy to:-

1. Zalianthanga S/o Hrangliansawn of Hmunlai Myanmar.
2. 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 1st Class.
10. Case Record.

PESHKAR

