

IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS

AIZAWL, MIZORAM

Crl. Tr No 1121/2015 Aizawl PS Case No. 166/2015

Dt.24.04.2015 U/S 380 IPC

State of Mizoram

:

Complainant

Versus

Sh Lalmangaiha (32)

:

Accused

S/o Rohmingliana (L)

R/o Tlangnuam Tlang Veng, Aizawl

Aizawl District

PRESENT

H. LALDUHSANGA MJS

Judicial Magistrate First Class, Aizawl

For the Prosecution

: Smt Lalrinsiami & Smt Venus Zomuankimi APP

For the Accused

: Shri Bhanu Kwar, Legal Aid Counsel

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**JUDGMENT & ORDER**

**Dated: 25.10.2016**

INTRODUCTION OF THE CASE

1. Accused Lalmangaiha (32) S/o Rohmingliana R/o Tlangnuam Tlang Veng, Aizawl was arrested on 24.04.2015 as he was alleged to have committed an offence U/S 380 IPC. The accused was released on bail and provided Shri Bhanu Kwar, Legal Aid Counsel. The charge U/S 380 IPC was framed against the accused but pleaded not guilty. Hence, the Court entered into evidence but acquitted the accused. For more detail here in below.

PROSECUTION STORY OF THE CASE

2. The prosecution story of the case in nutshell is that on 24.04.2015, a written FIR was received from C Lalthakima, teacher, Pine Mount High School stating that some unknown person entered into the School and stole away a Pendrive and also one

spoiled Excide Battery and Electric Wire. Fortunately, the accused was apprehended by the neighbours. Hence, Aizawl PS Case No. 166/15 Dated 24.04.2015 U/S 380 IPC was registered against accused Lalhmangaiha (32) S/o Rohmingliana R/o Tlangnuam Tlang Veng, Aizawl and Case IO SI NG Lalchamlia, Aizawl PS, Aizawl investigated into the case. The Case I/O during the course of his investigation examined the accused and all other witnesses. On interrogation, the accused admitted his guilt and the stolen articles were also seized from the accused. Hence, in the light of his investigation, the Case I/O found Prima-facie case well established against the accused U/S 380 IPC and sent the case for trial to the Court.

#### DELIVERY OF DOCUMENTS

3. On 31.07.2016 as per requirement of Sec. 207 and 303 of Cr.PC, a copy of charge-sheet and other relevant documents were at free of cost furnished to the accused. He was also informed his right to engage a lawyer of his own choice or avail free legal aid. Accordingly, he was provided Shri Bhanu Kwar, Legal Aid Counsel

#### CHARGE CONSIDERATION

4. The charge U/S 380 IPC was framed against the accused on 06.09.2016 but pleaded not guilty and claimed to be tried.

#### DECISION AND REASONS THEREOF

5. The Ld Counsel for the accused at the time of oral argument prayed the Court to acquit the accused due to absence of the complainant and the Case I/O after being given sufficient opportunity. The Ld APP on the other hand prayed the Court to convict the accused on the ground inter alia although the Case I/O and the Complainant adduced no evidence in the Court, the stolen articles were also recovered from the accused and the two seizure witnesses adduced evidence.
6. In fact, the Case I/O cited only four Prosecution witnesses including himself. Heard both the parties and perused all the documents on record including the Case record. I found that the Court on 06.11.2015 had dropped PW 1. The Case I/O cited as PW 4 also had been dropped on 19.04.2016 due to failure in making his appearance before the Court although summons was issued to him on 06.11.2015, 09.12.2015 and 14.03.2016. On reading evidence adduced by PW 2 and PW 3, it appeared that they were only arrest and seizure witnesses. It is considered that when the accused

totally denied the allegation throughout trial of the present case even when he was examined by the Court, the evidences of the two arrest and seizure witnesses only are not quite strong enough to curtail liberty of the accused. In other words, when the accused pleaded not guilty of the offence, giving conviction in absence of evidence of the Case I/O and the Complainant would be improper and unjust. Furthermore, PW 2 deposed during his Cross-examination that he did not know from where the stolen articles were actually seized. PW 3 also during his Cross-examination deposed that he did not know from where the stolen articles were seized. He simply stood as a seizure witness on being requested. For all these reasons, it is considered that the prosecution does not appear to be well founded and so the prosecution fails to bring home the present case beyond the shadow of all reasonable doubts. Let the accused be given benefit of doubt.

#### ORDER

7. Accused Lalmangaiha (32) S/o Rohmingliana R/o Tlangnuam Tlang Veng, Aizawl is hereby acquitted of the offence and set at liberty.
8. The seized articles have been released on Zimmanama.
9. Bail bond shall be cancelled and surety shall also be discharged from all liabilities.
10. With the above order, the instant case stands disposed of.

**Given under my hand and seal of this Court on this day of the 25<sup>th</sup> Oct, 2016  
Anno Domini.**

Sd/-H. LALDUHSANGA  
Magistrate 1<sup>st</sup> Class,  
Aizawl

Memo No.....:

Dated Aizawl, the 25<sup>th</sup> October, 2016.

Copy to:-

1. Shri Lalhmangaiha (32) S/o Rohmingliana R/o Tlangnuam Tlang Veng, Aizawl through Counsel Shri Bhanu Kwar, Advocate.
2. The District & Sessions Judge, Aizawl
3. The Superintendent, Central Jail, Aizawl.
4. The Superintendent of Police, Aizawl.
5. The Sub-Divisional Police Officer, Aizawl PS.
6. Ld. APP, District Court, Aizawl.
7. Shri Bhanu Kwar, Advocate.
8. Case I/O SI NG Lalchamlia, Aizawl PS.
9. The Officer-in-Charge, Aizawl PS.
10. The DSP (Prosecution).
11. i/c Judicial section.
12. Case record.

PESHKAR