

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

Criminal Trial No 14 of 2013  
U/S 27/29/51 of the Wildlife (Protection) Act, 1972

The State of Mizoram : Complainant

Versus

Mr. C Lalhruaitluanga : Accused  
S/o C Rualhleia  
R/o Tawizo  
Aizawl District

PRESENT

H. LALDUHSANGA, Judicial Magistrate First Class.

For the Prosecution : Shri B Lalramenga, Standing Counsel  
For the Accused : Shri. J Lalremruata Hmar, Advocate & ors.  
Judgment pronounced on : 26.05.2016  
Judgment & Order delivered on : 26.05.2016

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PROSECUTION WITNESSES

PW 1 : Shri. K Zonunkima  
PW 2 : Shri. Lalrodinga  
PW 3 : Shri. Zonunthara  
PW 4 : Shri. R Lalnuntluanga  
PW 5 : Shri. Lalsangzuala (absentee)

DEFENCE WITNESSES

NIL

LIST OF ENCLOSURES

1. Arrest memo.
2. Seizure List.
3. Notification.

**JUDGMENT & ORDER**

**Dt.26.05.2016**

INTRODUCTION OF THE CASE

1. This is a criminal complaint registered as a Criminal Trial No 14 of 2013 U/S 27/29/51 of the Wildlife (Protection) Act, 1972 filed by Shri R Lalnuntluanga, Range Officer, Tawi Wildlife Sanctuary, Hualtu, Mizoram against Shri C Lalhruaitluanga S/o C Rualhleia R/o Tawizo, Aizawl District (hereinafter called the accused) on 12.11.2013. As the accused pleaded not guilty of the offence, the Court entered into evidence and found no sufficient evidence for conviction. Now, for more detail below.

### PROSECUTION VERSION

2. The Prosecution version of the case in brief is that on 12.07.2013, while patrolling, Shri Lalsangzuala Forest Guard and Party came to know that one number of Phoebe SP known as 'Bul' measuring circumference of 16 Feet at the base and a length of 42 Feet from top to bottom (hereinafter called the said tree) within Tawi Wildlife Sanctuary was felled. It was investigated and known from reliable sources that the tree was felled by one Shri C Lalhruaitluanga. He was apprehended and interrogated. The accused admitted his guilt by making confession that he did encroach upon the said Sanctuary and felled the said tree with having no permission. It had also been calculated that the exact Geo-coordinate was 23 degree 32' 33" North and 92 degree 27' 37" East. Hence, a Prima – facie case was found well established against the accused U/S 27/29 of Wildlife (Protection) Act, 1972 and prayed for punishment U/S 51 of the same Act.

### DELIVERY OF DOCUMENTS

3. On 06.12.2013, a copy of complaint sheet and other relevant documents were delivered to the accused as per Sec 207 Cr. PC. He was also informed his right to engage a lawyer of his own choice or avail free Legal aid as per Se 303 Cr. PC. Accordingly, the accused engaged Shri J Lalremruata Hmar Advocate & others.

### FRAMING OF CHARGE

4. On 28.08.2015, the charges U/S 27/29 of Wild Life (Protection) Act, 1972 were framed against the accused. It was read over and explained to him in the language known to him to which he pleaded not guilty and claimed to be tried.

### POINTS FOR DETERMINATION

1. Whether the accused entered into Tawi Wildlife Sanctuary, Hualtu, Mizoram in violation of the Rules and Act of the Wild Life (Protection) Act, 1972.
2. Whether the accused felled one number of Phoebe SP known as 'Bul' measuring circumference of 16 Feet at the base and a length of 42 Feet from top to bottom within Tawi Wildlife Sanctuary without permission.

### DECISIONS AND REASONS FOR DECISIONS

2. The four (4) witnesses were examined for the Complainant in the present case.
3. POINT No 1: Here, we shall determine as to whether the accused entered into Tawi Wildlife Sanctuary, Hualtu, Mizoram in violation of the Rules and Act of the Wild Life (Protection) Act, 1972. No doubt, there was no ocular witness in the present case and a complaint against the accused was also filed after almost four months from the date of alleged incident. No witness for the complainant personally saw the accused entering into the Tawi Wildlife Sanctuary, Hualtu, Mizoram. No circumstantial evidence was collected. In the meanwhile, the accused denied the entire allegation throughout trial of

the present case even when the Court examined him as per Sec 313 Cr. PC. Accordingly, this Point No 1 is hereby decided in favour of the accused.

4. POINT No 2: We shall now consider as to whether the accused felled one number of Phoebe SP known as 'Bul' measuring circumference of 16 Feet at the base and a length of 42 Feet from top to bottom within Tawi Wildlife Sanctuary. As seen in the observation made in Point 1, there was no ocular witness. No witness in the present case saw the accused dishonestly removing or felled the said tree.
5. No witness stood for the accused. A written argument was received from the Ld. Counsel for the accused only. From the evidences adduced by the complainant and his three witnesses appeared that the complainant relied upon an extra-judicial confession made by the accused. The complainant who was examined as CW – 1 deposed that after the incident, they went to the house of the accused and asked him who had actually felled the said tree. However, in contrary to expectation, the accused told that he was the one who actually felled the said tree. In corroboration of this, the three witnesses stood for the complainant deposed that when they approached the accused at his residence after the incident, the accused confessed that he did fell the said tree. These examined witnesses extracted while giving evidence in the Court the same words used by the accused while making confession before them i.e "He felled the said Bul tree within the Sanctuary as he wanted to use for construction of a house". I would however move further that the same did not mean the confession was true, voluntary or sufficient. No other evidence corroborating this extra-judicial confession was found. No doubt, some material corroboration to an extra-judicial confession or a confession corroborated by circumstantial evidence is required to establish guilt of the accused.

"Extra-Judicial confession corroborated by circumstantial evidence, held, could not be brushed aside as unreliable" Gokaraju Venkatanarasa Raju Vs State of AP, (1993) 3 Crimes 235: 1993 Supp (4) SCC 191.

6. However, the extra-judicial confession was not backed by circumstantial evidence in the present case. During cross-examination, all the witnesses deposed that no tool (s) used for cutting the said tree was seized from the accused and, none saw the accused within the said Sanctuary.

In Sakharan Sankar Bansode Vs State of Maharashtra AIR 1994 SC 1594: 1994 Cr LJ 2189, the Supreme Court held that conviction could not be based solely on retracted extra-judicial confession.

7. Furthermore, it appeared from the evidence that all the witnesses before whom the accused was alleged to have made confession as per complainant's evidence were Forest Employee. The said Forest employee approached the accused at his residence after the incident. It is therefore on considering the time, place and the circumstances under which the confession was made by the accused, I would say that there was uncertainty. It was uncertain that the accused was totally free while making confession before the said witnesses and, doubtful that the confession made by the accused was voluntary, reliable and trustworthy.

In Chattar Singh Vs State of Haryana, AIR 2009 SC 378: 2009 Cr LJ 319 and Kusuma Ankama Vs State of AP, AIR (2008) Cr LJ 3502: (2008) 13 SCC 257 observed that the accused should be a free man at the time of making confession.

8. Apart from the above, the said tree which had been alleged to have felled by the accused had not been produced before the Court till date. In the meanwhile, from the evidence, it appeared that the said tree was lying within the said Tawi Sanctuary. It was also big and heavy in size and weight and so quite difficult to remove and produce before the Court. I would however say, even if so, it would be desirable to exhibit a photocopy of the said tree while establishing the case as the same occupied heart and soul of the case in the present case. Therefore, it would be concluded that with this observation, this Point No 2 is also hereby decided in favour of the accused.
9. For all these reasons, I would conclude that despite the Complainant and his witnesses including the Ld. Standing Ld. Counsel had given their best effort, the same is not quite strong enough for conviction while the accused totally denied the entire allegation throughout trial of the present case.

### **ORDER**

10. Accused C Lalhrualtuanga S/o C Rualhleia R/o Tawizo, Aizawl District is hereby acquitted of the offences and set at liberty on benefit of doubt.
11. The said tree is not produced before the Court and if the same is found lying within the said Tawi Sanctuary, it would be left at the disposal of the State Government as per Law.
12. With the above order, the instant case stands disposed of.

**Given under my hand and Seal of this Court on this day of the 26<sup>th</sup> May, 2016 Anno Domini.**

**(H. LALDUHSANGA)**  
Magistrate 1<sup>st</sup> Class,  
Aizawl.

Memo No.....:Dated Aizawl, the 26<sup>th</sup> May, 2016.  
Copy to:-

1. Shri. C Lalhrualtuanga S/o C Rualhleia R/o Tawizo, Aizawl District.
2. Shri B Lalramenga Advocate, Standing Counsel.
3. Shri J Lalremruata Hmar, Advocate.
4. Complainant Shri R Lalnuntluanga, Range Officer, Tawi Wildlife Sanctuary, Hualtu, Mizoram.
5. i/c Judicial Section
6. Case record.
7. Guard File.

**PESHKAR**