

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

Criminal Trial No 2864/2010

Vide. Aizawl PS C.No 450/2010

Dt 10.11.2010 U/S 420/409/468/471/34 IPC

The State of Mizoram : Prosecution

Versus

1. Shri Laltanpuia (54)  
S/o Lalnuntluanga  
R/o Shalom Veng, Bawngkawn, Aizawl

: Accused persons

2. Smt Lalropuii (41)  
D/o Zathiana (L)  
R/o Bungkawn H/S Veng, Aizawl

PRESENT

H. LALDUHSANGA  
Judicial Magistrate First Class

For the Prosecution	: Smt Lalthazuali Renthlei, APP
For the Accused No 1	: Shri H Laltanpuia, Advocate & others
For the Accused No 2	: Shri C Zoramchhana, Advocate
Judgment pronounced on	: 09.08.2017
Judgment & Order delivered on	: 09.08.2017

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PROSECUTION WITNESSES

PW 1	:	Shri SI C Hualthankhuma, Enquiry Officer (Absentee)
PW 2	:	Shri J Vanlalliana, Complainant
PW 3	:	Shri PC Lallawmzuala, Witness
PW 4	:	Smt Lalringliani, Witness
PW 5	:	Shri TK Chanda, Seizure Witness (Absentee)
PW 6	:	Shri PC Dutta, Seizure Witness
PW 7	:	Shri R Vanlalkima, Expert Witness
PW 8	:	Shri SI Vanlalruata, Case I/O

No of Total Pages of Judgment & Order: 12 (Twelve)

#### LIST OF ENCLOSURES

1. Copy of original FIR
2. Statements of complainant, witnesses and accused
3. Arrest memos of both accused
4. Seizure memo vide Azl PS MR/No. 473/2010
5. Bail bonds of both accused
6. Order passed by the District & Sessions Judge, Aizawl in connection with Bail applications Nos 105 of 2010 and 107 of 2010
7. FSL forwarding with specimen signature and FSL Report

#### PROSECUTION EXHIBITS

*Exhibit P – I is a complaint*

*Exhibit P – I - A is a signature of the complainant*

*Exhibit P – II is an Expert opinion of handwriting examination*

*Exhibit P – II (a) is a signature of the Expert witness*

*Exhibit P – III is reasons for opinion by the Expert witness*

*Exhibit P – III (a) is a signature of the Expert witness*

*Exhibit P – IV is a charge-sheet containing 43 pages*

*Exhibit P – IV (a) is a signature of the Case I/O*

*Exhibit P – V is a property search and seizure form*

*Exhibit P – V (a) is the signature of seizure witness (PW 6)*

#### DEFENCE WITNESSES

NIL

#### DEFENCE EXHIBITS

NIL

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### **JUDGMENT & ORDER**

**Dt.09.08.2017**

#### INTRODUCTION OF THE CASE

1. The complainant filed a written FIR at Aizawl PS on 06.10.2010. The documents were delivered to the accused persons on 24.07.2013. Both the accused persons engaged their choice Advocates. On 14.10.2013, the charges U/S 420/409/468/471/34 IPC were framed and both the accused persons pleaded not guilty of the offences and claimed for trial. The Prosecution out of cited eight witnesses examined six witnesses. The Defence produced no

witness. Received no written argument. Heard both side on Oral argument at length. This Court received the present case at the stage of Oral argument. We shall now discuss more detail below.

#### PROSECUTION STORY

2. The prosecution story of the case in brief is that on 10.11.2010, an enquiry report was submitted by SI C Hualthankhuma of Aizawl PS to the effect that on 06.10.2010, a written FIR was submitted to the Officer in Charge, Aizawl PS by Shri J Vanlalliana, ITI Veng, Aizawl stating that in September, 2008 he had applied for a Bank Loan at SBI Main Branch, Aizawl. The Loan was granted and the 1<sup>st</sup> and the 2<sup>nd</sup> installments were duly granted. Shri Laltanpuia, the Bank Officer demanded for the production of Pass-book, Insurance certificate, cheque book etc for drawing out the 3<sup>rd</sup> installment. These documents were duly submitted to him but the 3<sup>rd</sup> installment amounting to Rs 90,000/- was withdrawn by one Pi Puii. The matter was enquired upon and during enquiry, one cheque leaf was seized on being produced by the Bank Officers of the SBI Main Branch, Aizawl in presence of reliable witnesses vide Azl PS MR/No 473/2010. The seized cheque leaf bore on the back the signature of the said Pi Puii. She was located and interrogated. It was found that the said Pi Puii was Smt Lalropuii (41) D/o Zathianga (L) R/o Bungkawn H/S Veng, Aizawl working as a messenger at SBI Main Branch, Aizawl. Smt Lalropuii admitted that it was an usual practice in their office that if directed, she would usually withdraw money from the cash counters and keep the withdrawn money on the desk of the officer directing her. The said Laltanpuia had already been transferred to Silchar. He was also located and interrogated. He denied receiving money from Lalropuii or J Vanlalliana and also demanding documents from J Vanlalliana, the Complainant. The statement of the Complainant's wife clearly affirmed that the money had been misappropriated by either Lalropuii or Laltanpuia and so requested for registration of a case. Hence, Aizawl PS C/No. 450 Dt.10.11.2010 U/S 420/409 IPC was registered and Case I/O SI Vanlalruata, Aizawl PS duly investigated into the case. During the course of investigation, the Case I/O visited the place of occurrence, examined the complainant and the witnesses. Accused persons Shri Laltanpuia (52) S/o Lalnuntluanga R/o Bawngkawn Shalom Veng, Aizawl and Lalropuii (41) D/o Zathianga (L) R/o Bungkawn H/S Veng were on ad-interim bail, vide District and Sessions Judge Orders in connection with Anticipatory Bail Application No 105/2010 and 107/2010 respectively. Accused Laltanpuia (52) denied all the charges against him. He also argued that he did not demand for the production of Pass-book, Insurance certificate, cheque book etc. Accused Lalropuii (41) said that she must have withdrawn the said money

from the cash counter as the cheque bore her signature on the back but she would definitely have handed over the money to the Bank Officer who had sent her to withdraw it as it was a part of her job as well as their regular daily practices. The Specimen handwriting of both the accused were taken and forwarded to Forensic Science Laboratory, Mualpui, Aizawl along with the seized cheque leaf. The Expert opinion of the handwriting revealed that the writings on the seized cheque leaf used for drawing Rs 90,000/- (the 3<sup>rd</sup> installment) was the writing of accused Laltanpuia (52). Hence, as the Case I/O found Prima - facie case well established against the accused persons U/S 420/409/468/471/34 IPC, he sent the case for trial to the Court.

#### DELIVERY OF DOCUMENTS

3. A copy of charge-sheet and other relevant documents were delivered to the accused on 24.07.2013 . They were also informed of their right to engage a lawyer of their own choice or to avail free legal aid.

#### FRAMING OF CHARGE

4. On 14.10.2013, the charges U/S 420/409/468/471/34 IPC were framed against accused Laltanpuia and U/S 409/34 IPC was framed against accused Lalropuii. The charges were read over and explained to them in the language known to them to which they pleaded not guilty and claimed to be tried.

#### **Points for determination**

- (1) Whether accused Laltanpuia directed accused Lalropuii to dishonestly withdraw Rs 90,000/- which was to be the 3<sup>rd</sup> Installment of the complainant's loan from the SBI Main Branch, Aizawl.*
- (2) Whether accused Laltanpuia was at that point of time a Public servant/Bank Officer and committed criminal breach of trust in respect of the 3<sup>rd</sup> Installment of the complaint's Loan amounting to Rs 90,000/-.*
- (3) Whether accused Laltanpuia with intent to wrongfully gain Rs 90,000/- which was to be the 3<sup>rd</sup> Installment of the complainant's loan dishonestly directed accused Lalropuii to put her signature on the cheque leaf for drawing out the said amount from the SBI, Main Branch, Aizawl.*
- (4) If so the above, whether accused Laltanpuia used the said cheque leaf for drawing out Rs 90,000/- which was to be the 3<sup>rd</sup> Installment of the complainant's Loan from the SBI, Main Branch, Aizawl.*
- (5) Whether accused Lalropuii was at that point of time a Public servant/Bank staff and committed criminal breach of trust in respect of the 3<sup>rd</sup> Installment of the complaint's Loan amounting to Rs 90,000/-.*

5. **PW 2 Shri J Vanlalliana**, a complainant deposed that he was the complainant in the present case. He joined MAP as a driver on 12<sup>th</sup> June, 1989. In 2007, he applied for a Housing Loan at SBI Main Branch, Aizawl. After six month from his application, he thought that he was not going to be granted. Hence, he with one PC Lallawmzuala ITI Veng, Aizawl who was also an applicant with intent to give Rs 5,000/- each met accused Laltanpuia. Hence, in the next day, they got sanction and they gave Shri Laltanpuia Rs 5,000/- each. As far as he knew, that date was 11.09.2007. Thereafter, the 2<sup>nd</sup> installment amounting to Rs 90,000/- was granted and his wife drew the same on 12.10.2007. The 3<sup>rd</sup> installment and the Additional were kept pending. In order to get the Additional, they were informed that it was necessary to mention the 3<sup>rd</sup> installment on the Pass-book. Hence, accused Laltanpuia told him that it was necessary to submit Pass Book, Cheque Book and Insurance Certificate. Accordingly, his wife and Shri PC Lallawmzuala submitted the same to accused Laltanpuia. As he was waiting for eagerly, in April 2009 he sent his wife to the Bank but accused Laltanpuia had been transferred out. They asked the matter the person who sat on the chair where accused Laltanpuia used to sit. He replied that he knew nothing and told them to search for their Pass Book somewhere in the Office. Hence, they found their Pass Book, cheque book etc packed in a Polythene in the Office. The same was brought home by his wife. He also scolded his wife for bringing home the said Pass-book etc. When they perused the Pass Book, they found that Rs 90,000/- had been withdrawn on 25<sup>th</sup> March, 2008 and the same was paid to Pi Puii. In the next day, they approached Pi Puii in the said Bank. He showed Pi Puii his Pass-book which showed/indicated that the said amount had been withdrawn. They also recovered the cheque leaf with which the said amount was withdrawn. He also asked her whether she had withdrawn the said amount or not. Accused Lalropuii admitted that the signature appearing in the said cheque leaf was her signature and she withdrew the said amount. However, she could not remember that who had sent her to do so. Pi Puii added that she put the said amount on the table of accused Laltanpuia. Hence, he submitted a complaint to the said Bank but brought no positive result. As the said Manager had also been transferred out, they approached the new Manager. The new Manager asked accused Lalropuii (Pi Puii) about the matter and Pi Puii said that she did withdraw the said amount and did give it to accused Laltanpuia. Hence, he lodged a written FIR. He identified Ext P – I as FIR submitted by him and Ext P – I (A) as his signature. On cross-examination, he deposed that he did not know when did the accused withdraw the said money i.e Rs 90,000/- but accused Lalropuii withdrew the said amount. He did not know who the passing officer was for drawing out the said amount. The said Pass-book was recovered from the table where accused Laltanpuia used to hold. He did not present

when his Pass-book was recovered from the Bank but his wife was present. It was a fact that when the said Pass-book was recovered from the Bank, accused Laltanpuia had been transferred out from the said Bank. It was a fact that his wife Smt Lalringliani went to the said Bank to collect the 1<sup>st</sup> and the 2<sup>nd</sup> Installments. It was a fact that he did not see accused Lalropuii withdrawing the said 3<sup>rd</sup> installment or putting her signature on the cheque leaf. As far as he knew, accused Lalropuii was a messenger (Peon) having no authority and simply acted upon the directions of her superiors. It was a fact that he did not see the said cheque or payment on the case record. It was also a fact that his wife could have withdrawn the said amount as she was familiar with his signature.

6. **PW 3 PC Lallawmzuala** deposed that he and Shri J Vanlalliana (complainant) applied for the Bank Loan at the same time. They paid Rs 5,000/- each before a Loan processing to accused Shri Laltanpuia. When the complainant's wife submitted the complainant's Pass Book, Cheque Book and Insurance certificate, he accompanied her. On Cross-examination, he deposed that they did submit the said Pass-Book to the Manager. He did not accompany the complainant's wife when she got back the said Pass-book and cheque on that day. He did not personally see the said Cheque Book. He did not know who actually withdrew the said amount from the complainant's account and had no suspect as well. It was a fact that when they visited the Bank, the Manager asked the complainant's wife to submit their Pass-Book and other documents. He did not know as to whether the complainant had received the 3<sup>rd</sup> installment of the said Loan or not.

7. **PW 4 Smt Lalringliani** deposed that she was the complainant's wife. Her husband applied for a Bank Loan and the 1<sup>st</sup> and the 2<sup>nd</sup> installments were duly granted and withdrawn by her. In order to get the Additional, it was necessary to mention the 3<sup>rd</sup> installment on the Pass-book. Hence, accused Laltanpuia told that it was necessary to submit Pass-Book, Cheque Book and Insurance Certificate. Accordingly, she with Shri PC Lallawmzuala submitted the same before accused Laltanpuia. After two months, when they went to the Bank to enquire the matter, accused Laltanpuia had been transferred out. They asked the matter the person who sat on the chair where accused Laltanpuia used to sit. The man told them to search the documents in the Office. So, they recovered the documents packed in a Polythene and brought it home. When she with her husband opened the Pass-book, they found that the said Rs 90,000/- had been withdrawn. Hence, her husband lodged a written FIR. On Cross-examination, she deposed that she did not remember when they submitted the said Pass Book, Insurance Certificate and cheque to the Bank. But, she remembered

that they went to the said Bank to get it back the said Pass Book and she was also accompanied by Shri PC Lallawmzuala. Although she did not know who had withdrawn the said amount of Rs 90,000/- from her husband's account but it was recorded/reflected in the Pass Book as withdrawn. She had withdrawn the money from the said Bank twice as her husband signed on the cheque. Even though she had stated that they submitted the documents in the Bank, she had no witness to witness the same. She did not know who the passing officer of the said cheque was. They gave Rs 5,000/- to accused Laltanpuia voluntarily after processing the Bank Loan. It was a fact that she could imitate the signature of her husband with close similarity. When they recovered the cheque and the account book of her husband, she did not check as to whether the cheque leaf was missing or not. It was a fact that the said cheque leaf was taken back by them and there was no missing leaf from the recovered cheque book. In between submission of the said cheque and Pass Book and recovery, there was no any updating of Bank statement/transaction in the Pass Book. It was found exactly in the same condition as it was submitted earlier. It was not a fact that she had withdrawn the 3<sup>rd</sup> Installment and spent it. When they recovered the said cheque book on the table, no cheque leaf was missing. It was a fact that she did not personally see accused Lalropuii putting her signature on the said cheque leaf or withdrawing the money.

8. **PW 6 PC Dutta** deposed that at that time on 12.10.2010, he was posted at SBI Main Branch, Aizawl. On that day, the Police personnel seized the SBI Cheque amounting to Rs 90,000/- from the Chief Manager, SBI, Aizawl in connection with the present case. Hence, he stood as a seizure witness. He identified that Ext P – V was a seizure memo and Ext P – V (a) was his signature. On cross-examination, he deposed that as directed by his superior officer, he was putting his signature on the seizure memo without seeing the seized cheque leaf.
9. **PW 7 R Vanlalkima** deposed that he was Assistant Director, FSL. He examined the documents sent on 23.08.2012 by SI MS Dawngliana, Aizawl PS at Forensic Laboratory, Mualpui. He examined Exhibit 'B' (further marked as S 1 to S 18) and Exhibit 'C' (further marked as N 1 to N 15). He examined with Q2, Q3, Q4 and Q7. He therefore found and proved that Q2, Q3, Q4, Q7 and S 1 to S 18 were written by the same person. Hence, he sent the Report to the SDPO, Aizawl South. He identified that Ext P – II as Expert opinion, Ext P – III as Reason for opinion, Ext P II (a) and Ext P III (a) as his true signatures. On cross-examination, he deposed that it was a fact that only letters '2', '3', '5' and others

shown in Ext P – III were same. It was a fact that there could be no similarity on the handwriting of the same person and there could also be similarity on the hand writing of the different persons. It was also a fact that he did not see the said questioned exhibited on case record whilst giving evidence.

10. **PW 8 Case I/O SI Vanlalruata** identified both the accused persons. He deposed that SI C. Hualthankhuma of Aizawl PS on 10.11.2010 submitted his Enquiry Report. He reported that both the accused persons involved in misappropriation of money. Hence, Aizawl PS C/No. 450 Dt.10.11.2010 U/S 420/409 IPC was registered and he investigated into the case. During the course of his investigation, he found that the Enquiry officer had seized a cheque leaf Sl. No. 0552007 Dt 25.3.2008 (amounting to Rs 90,000/-). He collected the specimen handwriting of both the accused persons and sent it to FSL for examination with the said seized cheque leaf. The Expert who had conducted a Laboratory examination sent him that the writings on the seized cheque leaf used for drawing Rs 90,000/- was the writing of accused Laltanpuia and, accused Lalropuii was the person who had withdrawn the said amount Rs 90,000/- and her signature was also present on the back cheque leaf. Hence, as he found Prima-facie case well established against both the accused persons, he submitted charge-sheet before the Court. He identified that Ext P – IV was a charge-sheet and Ext P – IV (a) was his signature. On his cross-examination, he deposed that he neither recovered nor seized any cheque in connection with the present case. He obtained the signature of only accused Laltanpuia. He did not obtain the signature of accused Lalropuii. It was a fact that the name or designation of accused Laltanpuia was not indicated or mentioned on the body of the said cheque. It was also a fact that accused Laltanpuia was not the passing officer of the said cheque. It was a fact that on perusal and examination of the said cheque, it appeared that accused Laltanpuia was not the person who had withdrawn the said amount of money. It was a fact that neither of the accused persons was the Branch Bank Mananger at that point of time. It was a fact that he did not do anything during his investigation in respect of accused Lalropuii other than making arrest and interrogation.

#### DECISIONS AND REASONS THEREOF

11. I have repeatedly gone through the entire evidence, perused the charge-sheet and all other documents on record. Out of 8 cited prosecution witnesses, PW 2, PW 3, PW 4, PW 6, PW 7 and PW 8 adduced evidence in the Court. PW 1 and PW 5 were absent. The accused persons produced no witness. Both the accused persons totally denied the

allegations throughout trial of the present case even U/S 313 Cr.PC. I have heard the Ld APP representing the Prosecution and the Ld. Counsels for the accused persons at length.

12. Therefore, for the sake of brevity, we shall here determine Point No 1 to 5 drawn for determination. In fact, the two vital prosecution witnesses (PW 1 and PW 5) did not turn up for evidence. PW 1, SI C Hualthankhuma (Enquiry officer) who had enquired into the present case at the initial stage and seized the said cheque leaf adduced no evidence in the Court. At the same time, the Case I/O cited as PW 8 during his cross-examination deposed that it was a fact that he did not do anything during his investigation in respect of accused Lalropuii other than making arrest and interrogation. In fact, there was no ocular witness in the present case. None of the prosecution witnesses personally saw the involvement of the accused persons. No witness saw accused Laltanpuia filling the said cheque leaf for withdrawing of the said amount Rs 90,000/- or accused Lalropuii withdrawing the said amount. The complainant (PW 2) deposed that the new Manager also asked accused Lalropuii as to whether she had withdrawn the said amount or not. Accused Lalropuii replied that the signature appeared in the said cheque leaf was her signature and she withdrew the said amount as well. However, the said new Manager was not made a prosecution witness. At the same time, PC Lallawmzuala (PW 3) deposed that it was a fact that they did submit the said Pass-Book to the Manager but he did not accompany the complainant's wife when she got back the said Pass-book and cheque and he did not personally see the said Cheque Book. No doubt, the complainant (PW 2) and his wife (PW 4) are interested witnesses in the present case. The PW 6 appearing for seizure witness also deposed during his cross-examination that as directed by his superiors, he was putting his signature on the seizure memo without seeing the seized cheque leaf.
13. Since above is the matter, we would travel to the evidences given by the Expert witness and the Case I/O. The Case I/O (PW 8) deposed that he collected the specimen handwriting of both the accused persons and sent it to FSL for examination with the said seized cheque leaf. The Expert witness (PW 7) sent him that the writings on the seized cheque leaf used for drawing out Rs 90,000/- was the writing of accused Laltanpuia and, accused Lalropuii was the person who had withdrawn the said amount Rs 90,000/- and her signature was also present on the back cheque leaf. Although stated as such, no supporting document was exhibited in the Court. The Expert witness (PW 7) also deposed that he had examined the documents on 23.08.2012 sent by SI MS Dawngliana, Aizawl PS

at Forensic Laboratory, Mualpui. He examined Exhibit 'B' (further marked as S 1 to S 18) and Exhibit 'C' (further marked as N 1 to N 15). He examined with Q2, Q3, Q4 and Q7. He therefore found and proved that Q2, Q3, Q4, Q7 and S 1 to S 18 were written by the same person. Hence, he sent his Report to the SDPO, Aizawl South. Before moving further, the said questioned documents (exhibit P - II) are extracted as under:

*"The exhibits of this case further marked here as Q1 to Q7 were carefully and thoroughly examined and compared with the Specimen writings further marked here as S1 to S18 and N1 to N15".*

*"The person who wrote the specimen writings further marked here as S1 to S18 also wrote the Questioned writings further marked here as Q2, Q3, Q4 and Q7".*

14. On plain reading of the above Expert opinion, it was uncertain that whose specimen handwritings and specimen signatures were sent to the FSL and were examined. It was not known what did the said Q1 to Q7, S1 to S18, N1 to N15, Q2, Q3, Q4 and Q7 mean. Neither the Expert witness nor the Case I/O whilst giving evidence clarified or explained the said Exhibits. None of the prosecution witnesses explained or clarified these *letters* and *figures* during trial of the present case. It was not even explained/clarified in the charge-sheet. In fact, the Case I/O simply wrote in his submitted charge-sheet that the Expert opinion of the handwriting revealed that the writings on the seized cheque leaf used for drawing Rs 90,000/- (the 3<sup>rd</sup> installment) was the writing of accused Laltanpuia (52). Without explaining or clarifying the questioned documents, guilt of the accused could not be found. From a plain reading of the above Expert opinion, the involvement of the accused persons in the present case could not be found and guilt of the offence could not be proved beyond all reasonable doubts. Further, from the documents on record, it appeared that SI MS Dawngliana sent the specimen Handwritings and signatures of some suspects to the Joint Director, Forensic Laboratory, Aizawl for examination though the Case I/O deposed that he had collected the specimen handwriting of both the accused persons and sent it to FSL for examination with the said seized cheque leaf. PW 7, Expert witness also deposed that he received some documents from SI MS Dawngliana. In fact, the said Specimen Handwritings and signatures were neither exhibited nor proved whilst giving evidence by the prosecution. The said SI MS Dawngliana who had sent the said specimen handwritings and signatures was also not made a prosecution witness in the present case. Furthermore, during cross-examination, the complainant (PW 2) deposed that the seized cheque leaf was not found on record whilst giving his evidence. Even the Court, on perusal of the documents on record, did not find the said seized cheque leaf (Sl. No. 0552007 Dt 25.3.2008 (amounting to Rs 90,000/-) on record.

15. It thus appeared that the Police officer (PW 1) who was said to have seized the said cheque leaf i.e Sl. No. 0552007 Dt 25.3.2008 (amounting to Rs 90,000/-) at the initial stage adduced no evidence and the Police officer who had sent the said specimen handwritings and signatures to Forensic Science Laboratory was also not made a prosecution witness. In the meanwhile, the Case I/O during cross-examination deposed that he neither recovered nor seized any cheque in connection with the present case. He obtained the signature of only accused Laltanpuia. He did not obtain the signature of accused Lalropuii. The name or designation of accused Laltanpuia was not indicated or mentioned on the body of the said cheque leaf. Accused Laltanpuia was not the passing officer of the said cheque. The Case I/O further admitted that on perusal and examination of the said cheque, it appeared that accused Laltanpuia was not the person who had withdrawn the said amount of money. He did not do anything during his investigation in respect of accused Lalropuii other than making arrest and interrogation.

*"Investigating Officer has to perform his duties with the sole object of investigating the allegations and in the course of the investigation has to take into consideration the relevant material whether against or in favour of the accused."* **Mohd. Jainal Abedin V State of Assam, (1997) 2 Crimes 660 (Gauhati).**

*"Prosecution is to prove its case beyond all reasonable doubt, if the data leaves the mind of the Judge in equilibrium, the decision must be against the prosecution and the accused must be acquitted".* **Harish J. Mal Vs State 1982 Cr. LJ 2123.**

In **Narain Singh v. State, (1997) 2 Crimes 464 (Del)**, it was held that *the prosecution can succeed by substantially proving the very story it alleges. It must stand on its own legs. It cannot take advantage of the weakness of the defence. Nor can the Court, on its own make out a new case for the prosecution and convict the accused on that basis.*

13. When an accused is acquitted of a criminal charge, a right vests in him to be a free citizen and this Court is very cautious in taking away that right. The presumption of innocence of the accused is further strengthened by the fact of acquittal of the accused under our criminal jurisprudence. The courts have held that if two views are possible on the evidence adduced in the case, then the one favourable to the accused, may be adopted by the court..... 14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. **(Supreme Court of India in CRIMINAL APPEAL NO. 984 OF 2007 Govindaraju @ Govinda (Appellant) Versus State by Sriramapuram P.S. & Anr. (Respondents), Swatanter Kumar, J. March 15, 2012). ....**

16. For all the reasons stated in the above, it is concluded that the prosecution fails to bring home the present case beyond the shadow of all reasonable doubts.

## **ORDER**

17. Accused Laltanpuia (54) S/o Lalnuntluanga R/o Bawngkawn Shalom Veng, Aizawl and accused Lalropuii (41) D/o Zathianga (L) R/o Bungkawn H/S Veng, Aizawl are hereby acquitted of the offence on benefit of doubt and set at liberty.
18. Bailbonds shall be cancelled and sureties shall also be discharged from all liabilities.
19. With the above order, the instant case stands disposed of.

***Given under my hand and Seal of this Court on this day of the 9<sup>th</sup> August, 2017 Anno Domini.***

**(H. LALDUHSANGA)**

Magistrate 1<sup>st</sup> Class,  
District Court, Aizawl

Memo No..... :Dated Aizawl, the 9<sup>th</sup> August, 2017  
Copy to:-

1. Shri Laltanpuia (54) S/o Lalnuntluanga R/o Bawngkawn Shalom Veng, Aizawl through Counsel Shri H Laltanpuia & ors Advocate
2. Smt Lalropuii (41) D/o Zathianga (L) R/o Bungkawn H/S Veng, Aizawl through Counsel Shri C Zoramchhana & ors Advocate
3. The District & Sessions Judge, Aizawl: Mizoram.
4. The Superintendent of Police, Aizawl.
5. The DSP, Prosecution, Aizawl.
6. The Superintendent, Central Jail, Aizawl.
7. Smt. Lalthazuali Renthlei, APP
8. The Officer-in-charge, Aizawl PS, Aizawl.
9. Case IO, SI Vanlalruata, Aizawl PS
10. i/c Judicial Section
11. Case record.
12. Guard file.

**PESHKAR**