

IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS – II

AIZAWL: MIZORAM

Crl. Tr No Ex-1904/2015 Vide Ex-A-763 Dt 14.11.2015

U/s 43 (1) MLPC Act, 2014

The State of Mizoram

.....Complainant

Vs

Shri Zonunsanga

S/o Lalzawna (L)

R/o Tlangnuam, Aizawl, Mizoram

.....Accused

PRESENT

H. LALDUHSANGA, Judicial Magistrate First Class

Aizawl

Counsel for the Prosecution : Smt Lalthazuali Rentlhlei & Venus Zomuankimi, APP

Counsel for the Defence : Shri Roger C Lalhmangaiha, Advocate

Judgment pronounced on : 14.06.2018

Judgment & Order delivered on : 14.06.2018

INDEX

LIST OF PROSECUTION WITNESSES

PW 1	: Shri Lalhmachhuana Pachuau, civilian seizure witness
PW 2	: Shri Laldawngliana, civilian seizure witness
PW 3	: Shri Lalmuanawma, Asst Director, FSL, Aizawl
PW 4	: SI Shri Thangchuanga, seizing officer
PW 5	: SI Shri Rohmingthanga, Case I/O

LIST OF DEFENCE WITNESSES

NIL

LIST OF ENCLOSURES

01. Forwarding letter of charge-sheet
02. Complaint sheet
03. Seizure and arrest memo
04. Report of seizure & arrest
05. Statement of the accused
06. FSL Report
07. Statement of witnesses
08. Destruction certificate

JUDGMENT & ORDER

Dated: 14.06.2018

1. The Prosecution story of the case in brief is that on 03.11.2015 at 04:30 Pm, SI C Thangchuanga arrested Zonunsanga (40) S/o Lalzawna (L) of Tlangnuam, Aizawl for alleged illegal possession of Rakzu about 14 liters. A case U/S 43 (1), MLPC Act,

2014 was registered against him. Case I/O SI Rohmingthanga investigated into the case, examined the accused and the witnesses.

The accused admitted his guilt by making confession that he was the actual possessor of the seized articles. Hence, as he found Prima-facie case well established against the accused U/S 43 (1) of MLPC Act, 2014, the Case I/O sent the case for trial to the Court.

2. As per requirement of Sec 207 Cr.PC, a copy of complaint sheet (charge-sheet) and other relevant documents were at free of cost delivered to the accused. As per Sec 303 Cr.PC, he was informed his right to engage a lawyer of his own choice or avail free legal aid. Having heard both side of the case and perused all documents on record, the charge U/S 43 (1) of MLPC Act, 2014 was framed against the accused. It was read over and explained to the accused in the language known to him to which he pleaded not guilty and claimed to be tried.

POINT FOR DETERMINATION

Whether the accused was the actual possessor of about 14 liters of Rakzu seized in connection with the present case.

DECISION AND REASONS THEREOF

3. Among the five cited witnesses, the three prosecution witnesses such as the Case I/O, the seizing officer and one civilian seizure witness adduced evidence in the Court. The accused was examined U/S 313 of Cr.PC and denied all the allegations. Despite fair chance, none appeared for defence witness. PW 5, Case I/O during cross-examination deposed that he did not record the statements of the seizing officer and the seizure witnesses. He did not know about drawing of sample from the seized liquor. In fact, the seizing officer had seized the alleged liquor. Hence, drawing sample from the alleged liquor and sending it to the Forensic Laboratory for examination done by himself would cause prejudice to the Defence. Furthermore, only one seizure witness adduced evidence in the Court. PW 2, civilian seizure witness was dropped from the prosecution witness on 20.10.2017 due to non-appearance despite issuance of summons to him on 07.06.2016, 19.07.2016, 19.08.2016, 05.10.2016, 03.11.2016, 13.07.2017 and 21.08.2017. For all these reasons, it considered that the prosecution evidences Are not quite strong enough

and fails to bring home the present case beyond the shadow of all reasonable doubts.

ORDER

4. Accused Zonunsanga (40) S/o Lalzawna (L) of Tlangnuam, Aizawl is hereby acquitted of the offence and set at liberty on benefit of doubt.
5. The seized articles shall be destroyed.
6. Bail-bond shall be cancelled and surety shall also be discharged from all liabilities.
7. With the above order, the instant case stands disposed of.

Given under my hand and Seal of this Court on this day of the 14th June, 2018 Anno Domini.

Sd/-H. LALDUHSANGA

Magistrate 1st Class,

Aizawl, Mizoram

Dated Aizawl, the 14th June, 2018.

Memo No.:

Copy to:-

1. Shri Zonunsanga (40) S/o Lalzawna (L) of Tlangnuam, Aizawl through Counsel Shri Roger C Lalhmangaihzualla, Advocate.
2. The Superintendent of Excise & Narcotics, Aizawl.
3. The Superintendent, District Jail, Aizawl.
4. APP, District Court, Aizawl.
5. Case I/O SI Rohmingthanga, Excise & Narcotics, Aizawl Station.
6. The Officer-in-Charge, Excise and Narcotics, Aizawl Station.
7. The Prosecution Branch (E&N), District Court, Aizawl.
8. i/c Judicial Section.
9. Case record.

PESHKAR