

IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE 1ST CLASS

AIZAWL, MIZORAM

Case No

Crl. Tr. No. 259/2018

Vide Aizawl PS Case No. 218/2017 D 22.07.2017

U/S 380 IPC

State of Mizoram : Complainant

Versus

Shri Lalhrekima (32) : Accused

S/o Hmingthanmawia

R/o Chanmari, Aizawl

House No C - 22

Aizawl District

PRESENT

H LALDUHSANGA

Judicial Magistrate First Class

Aizawl

For Prosecution : Smt Lalthazuali Renthlei & Smt Lalremruati Pachuau APP

For Accused : Smt Lalnunpuii, Legal Aid Counsel

ORDER

Dated 12.03.2018

INTRODUCTION OF THE CASE

1. Accused Lalhrekima (32) was arrested and produced before the Court on 04.02.2018 as he was alleged to have committed an offence U/S 380 IPC. The accused was provided Smt Lalnunpuii, Legal Aid Counsel. The accused was convicted on his plea of guilt. We shall now go for more details.

PROSECUTION STORY OF THE CASE

2. The prosecution story of the case in brief is that a written FIR was received from Upa Rolungmuana, Secretary, Chanmari Presbyterian Church, Aizawl stating that in between 16.05.2017 to 21.06.2017 some unknown persons entered into the kitchen, Chanmari Presbyterian Church, Aizawl and stole away 30 Nos of Commercial Gas Regulator, 3 Nos of blow lamp and 5 Nos of blow lamp regulator. Hence, Aizawl PS Case No. 218/2017 Dt 22.07.2017 U/S 380 IPC was registered and SI Lalrammawia, Aizawl PS investigated into the case. The Case I/O during his investigation arrested the accused, duly examined and recorded statements of the accused and the witnesses. The accused confessed his guilt before the Case I/O during interrogation. He confessed further that he stole away all the said properties when he was a member of Refreshment Sub-Committee, Chanmari Presbyterian Church, Aizawl. As the accused had disposed of his stolen articles by way of sale to unidentified persons (Non-Mizo), recovery could not be made.

Hence, in the light of his examination and investigation, the case I/O found prima-facie case U/S 380 IPC well established against the accused and sent the case to the Court for trial.

DELIVERY OF DOCUMENTS

3. A copy of charge-sheet and other relevant documents were at free of cost delivered to the accused on 26.02.2018 and provided Smt Lalnunpuii, Legal Aid Counsel. On 12.03.2018, having heard the Ld APP and the Ld. Counsel for the accused and perused all materials on record, a Prima-facie case was found well established against the accused U/S 380 IPC. Accordingly, the charge was framed against the accused. Before reading out the charge, I explained to the accused that pleading guilty or pleading not guilty of the offence was at his option. There was no compulsion to either plead guilty or plead not guilty of the offence. I also informed him of the possible consequences of pleading guilty or pleading not guilty of the offence. Hence, the charge U/S 380 IPC was read over and explained to him in the language known to him to which he pleaded guilty by saying, "*Chanmari Presbyterian Biakin (Church) atangin Gas Regulator (30 Nos), Blow Lamp (3 Nos) leh Blow Lamp Regulator (5 Nos) ka ru a. Ka ti riral vek a ni*". On his own plea of guilt, I found the accused guilty and I convict him U/S 380 IPC without taking further evidence as per Sec 241 Cr.PC.

"If the accused pleads guilty, the Magistrate shall record and may, in his discretion, convict him thereon" (Sec 241 Cr.PC)

4. On careful perusal of materials available on record and on considering the nature and circumstance in which the offence was committed by the accused, this Court found no sufficient reasons to release the accused on Probation.
5. Hence, heard the Ld APP, the Ld Counsel for the accused and the accused himself. The Ld. APP strongly prayed the Court to inflict severe punishment and to punish the accused at least with three (3) years simple imprisonment. On the other hand, the Ld. Counsel for the accused prayed the Court to show leniency and so impose the minimum punishment.

SENTENCE

6. Heard the Ld APP, the Ld Counsel for the accused and the accused himself and perused all the documents on record. Considered the chronological age of the accused, a past criminal record was found or not, gravity of the offence and value of the stolen article as well. Looked into the Indian Penal Code (IPC) and found that the accused can be punished U/S 380 IPC **upto 7 (seven) years imprisonment and fine. In fact, India is a secular state. The right to freedom of religion is one of our Fundamental rights that enshrined in the Constitution. One should respect his own or other's religion. One**

should respect the sacred places of *any religions* in the country. The sacred places and the religious places of worship of any religions must be kept peaceful. It is our duty. Committing an offence or crime in the sacred places or the religious places of worship is a serious offence. In the present case, the place where the accused stole away the properties was not an ordinary building in the city but a kitchen of the existing Chanmari Presbyterian Church, Aizawl where the accused himself is a member of such Church. Again, it also appeared that the accused did not take away the said articles at once. As he was a member of Refreshment Sub-Committee, he was free to enter into the said kitchen and whenever he entered into it, he took away the said articles. Hence, it could be said that the accused committed an offence of theft not only once but a number of times at the same place on different days. Furthermore, no stolen articles were recovered as the accused had disposed of by way of sale. As per prosecution report, the accused has a past criminal record as well. For all the reasons stated in above, this Court considers that the accused deserved no lenient punishment.

Undue sympathy in imposing inadequate sentence, does more harm to the justice system. Punishment should be such as matches social expectations for justice in dealing with criminals (*BikramDorjee V State of WB AIR 2009 SC. 2539: (2009) 14 SCC. 233.*

Undue leniency may undermine public confidence (*State of MP V Sheik Shahid AIR 2009 SC. 2951: (2009) 12 SCC 715.*

7. Accused Lalhrekima (32) S/o Hmingthanmawia R/o Chanmari, Aizawl is hereby convicted and sentenced U/S 380 IPC to undergo SI for 2 (two) years and pay a fine of Rs 1,000/- (Rupees one thousand). Failure to pay a fine would attract simple imprisonment for another period of 10 (Ten) days.

8. **The period of detention already undergone shall be set-off.**

9. With the above order, the instant case stands disposed of.

Sd/- H. LALDUHSANGA

Magistrate 1st Class,
Aizawl, Mizoram.

Memo No.: Aizawl Dated 26.03.2018

Copy to:-

1. Mr Lalhrekima (32) S/o Hmingthanmawia R/o Chanmari, Aizawl C/o The Superintendent, Central Jail, Aizawl.

2. The District & Sessions Judge, Aizawl.
3. The Superintendent, Central Jail, Aizawl.
4. The Superintendent of Police, Aizawl
5. The DSP, Prosecution, Aizawl.
6. Smt. Lalremruati Pachuau & Smt Lalthazuali Renthlei, Ld APP.
7. Smt Lalnunpuii Legal Aid Counsel
8. Shri Case I/O SI Lalrammawia through the Officer-in-Charge, Aizawl PS.
9. The Officer-in-Charge, Aizawl PS
10. i/c Judicial section
11. Case record.

PESHKAR