

**IN THE COURT OF
DISTRICT & SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT: AIZAWL**

BEFORE

**Mr.R.Thanga
District & Sessions Judge
Aizawl Judicial District, Aizawl**

**SR No.396 of 2012
Criminal Trial No.1269/2012
u/s 302 IPC
Ref: VAIVAKAWN PS C/No.76/2012 dt.27-5-2012**

**State of Mizoram
Vrs
Vanlallawma S/o Lalthanzauva(L), of Rangvamual- Accused**

PRESENT

For the Prosecution : Mr.H.Lalmuankima & Mrs.K.Lalremruati, Ld. Addl. P.Ps.

For the Accused : Mr.J.Lalremruata Hmar, Advocate

Date of Hearing : 26-05-2014

Date of Judgment : 05-06-2014

JUDGMENT & ORDER

1. The story of prosecution in brief is that on 27.05.12, a written FIR was received from Lalsiampuii of Vaivakawn stating that on the night of 26.05.12, her brother Hrangthansanga (41) S/o Thanglurha of Champhai, present address, Vaivakawn was physically assaulted by unknown person at Rangvamual. As a result, he sustained severe injuries and was evacuated to Civil Hospital, Aizawl. However, he succumbed to his injuries on 27.05.12 @ 1:00 PM. Hence, Vaivakawn P.S. C/No. 76/12 dt.27.05.12 u/s 302 IPC was registered and investigated into. Prima facie case was found and charges u/s 302 IPC was registered against the accused Vanlallawma (49) s/o Lalthanzauva(L) of Rangvamual and committed for Trial.
2. Relevant copies of documents were handed over to the accused and Mr. J.Lalremruata, Ld. Advocate appointed as Defense Counsel since the accused did not have means to engage counsel. Accordingly, charge u/s 302 IPC was framed against the accused and explained to him in the language known to him, to which he pleaded not guilty and claimed for trial and hence, trial commenced.

3. The prosecution produced and examined 9 Nos. of witnesses in order to prove their case. The accused was also examined by the trial judge u/s 313 Cr.P.C.
4. P.W. No.1, Vanlalthanga, deposed that on the night of 26.05.2012 at around 9 to 10 PM, his daughter Lalsiamthari called and informed him that one person had rolled down the steps. At that particular time, power supply was not available within their locality and they proceeded towards the place of occurrence with a flashlight and they found one person lying on the ground near the ground floor of their residence and he saw that the victim's face was stained with blood and that the victim had told him that he rolled down due to his bad leg. Thereafter, they took him up to the verandah.
5. PW No.2, Zoneihthuama stated that on the night of 26.05.2012, he along with his wife and their children visited his relative Vanlalthanga. While they were inside the residence of Pu Vanlalthanga, his daughter informed him that one unknown person had rolled down the steps of the residential building. At that time, there was no power supply around the locality and they proceeded towards the place of occurrence with a flashlight and they saw one person on the ground floor near the chicken coop. The person appeared to have sustained injuries and his face was stained with blood and on being asked where he was going, he replied that he was going to the residence of Nghaktea. Thereafter, they took him to the verandah of Nghaktea. He does not know whether PuVanlalthanga's daughter saw the person rolling down or not.
6. P.W.No.3, Ramnghakmawia stated that he was living in the first floor of Laldinthara's building at Rangvamual. On the night of 26.05.2012, they were sleeping around 8:00 PM and they did not hear any unusual sound near their residential building. Unfortunately, on the following morning at around 6 to 7 AM, somebody woke him up and they saw that Hrang was lying unconscious on the verandah. A number of local people had gathered to watch the body of Hrang. Thereafter, they informed the victim's relative, U Thlengi. After sometime, Rina took Hrang to Civil Hospital, Aizawl.
7. P.W.No.4, R.Lallianchama stated that he was the YMA President in the year 2012. On 28.5.2012, the Police personnel conducted investigation near the residence of P.Lalthakimi. They collected blood sample from under the house of

Pu Zaawka and he was also stood as one of the seizure witness. He put his signature on the body of the seizure memo.

Ext.P-1 is seizure memo and

Ext.P-1(a) is his signature.

8. The P.W.No.5, Lalsiamthari stated that on the night of 26.05.12 at around 10 PM, she went out from their residential building to answer the call of nature. In the meantime, one person asked her the location of Nghaktea's residential building. That person's eye was covered with blood and his clothes were also soaked with blood. Thereafter, he rolled down on the step till the basement. She then informed her parents and they immediately proceeded towards the place of occurrence. On the following morning at around 7 to 8 A.M., the said victim was taken to Civil Hospital, Aizawl.

9. The P.W.No.6, Dr.Lalrozama stated that on 27.05.2012, a requisition for post mortem examination of the dead body of Hrangthansanga S/o Thanglurha of Champhai brought to him by SI Melody Lalmuanpuii of Vaivakawn P.S. Accordingly, he conducted PME and his findings areas noted below:

- 1) Abrasions were found on the left ankle, front of right leg, right knee, right abdomen, back and side of right chest, forehead and right eyebrow.
- 2) Contusion both periorbital regions (both eye) with swelling, lower and inner aspect of upper lip.
- 3) Laceration on right upper eye lid, and inner aspect of lower lip.
- 4) Diffuse subdural hemorrhage and subarachnoid hemorrhage with collection of blood clot over left cerebral hemisphere.

The detailed descriptions of the above injuries were as noted in the PME report form. In his opinion, the cause of death in this case was head injury due to blunt force/impact.

Ext.P-2 is his PME report and

Ext.P-2(a) is his signature.

10.P.W.No.7, Lalsiampuii, complainant, stated that she was the paternal cousin of the victim and was living at Vaivakawn. The present accused was living in Vaivakawn at a rented house and that he was also a casual laborer. On 27.5.2013, she received telephonic information from her elder sister Thlengi

who informed that the victim Hrangthansanga was found unconscious at Rangvamual and they suspected that he was assaulted by some person and that the victim was brought to Aizawl and that she had also visited the victim. Unfortunately, the victim passed away due to his injury. Thereafter, *Lalrinliana* contacted the accused by phone and the present accused answered the phone and stated that he assaulted the victim and saying that, "Kathikhuchhia in kut ka lo thlakve deuh anih kha" (I had assaulted him due to jealousy) So she submitted FIR to the Vaivakawn P.S.

Ext.P-3 is FIR submitted by her and

Ext.P-3(a) is her signature.

11.The P.W.No.8 Vanlalthlangi stated that on the morning of 27.05.2012, Biaksangi w/o Lalrinliana told her through telephone that the victim Hrang was found lying unconscious near the residence of Nghaktea. Thereafter, Pu Rina brought the victim to her residence at around 9 AM. From the appearance of the victim, he had sustained several injuries on his head, neck and left side of his abdomen. They cleaned his wounds. After sometime, they brought him to the Civil Hospital, Aizawl. He was still unconscious. Thereafter, he passed away at around 1 PM due to his injuries.

12.The P.W.No.9, Melody Lalmuanpuui, S.I. of Police stated that on 27.05.2012, a written FIR was lodged by Lalsiampuii of Vaivakawn stating that on the night of 26.05.2012, her brother Hrangthansanga, aged about 41 years was allegedly assaulted by unknown person at Rangvamual. As a result of which he sustained severe injuries and passed away at Civil Hospital, Aizawl due to his injuries on 27.05.2012 at around 1:00 PM. The case was registered as Vaivakawn P.S. Case No. 76/2012 u/s 302 IPC. The case was endorsed to her for further investigation and during her investigation, she conducted inquest over the dead body and she make requisition for PME examination and she also visited the place of occurrence. She seized and collected blood sample from the place of occurrence and the same was sent to the FSL for further examination. She also examined the complainant and she recorded her statement. Thereafter, she arrested the accused person and recorded his statement. She also examined other reliable witnesses and recorded their respective statement. Thereafter, she

received FSL Report and PME. Hence, she found prima facie u/s 302 IPC against the accused person and she submitted chargesheet accordingly.

Ext.P-1 was seizure memo and

Ext.P-1(b) was her signature.

Ext. P-4 was inquest report and

Ext.P-4(a) was her signature.

Ext.P-5 was arrest memo and

Ext.P-5(a) was her signature.

Ext.P-6 was chargesheet containing 6 pages and

Ext.P-6(a) was her signature.

13.After completion of the examination of the prosecution witnesses, the accused was duly examined u/s 313 Cr.P.C. on 04.04.2014.

14.The Defense also prays to produce witnesses on their behalf and produce one (1) witness namely, R.Lallianchama who was examined, cross examined and discharged on 7-5-2014. He stated in his deposition that he was President of the local YMA during the time of incident and on being informed of the occurrence he had proceeded to PO and inquired from Lalsiamthari told him that she had seen the victim roll down the steps and that she informed her father, Vanlalthanga, about the matter. The DW also stated that the PO is about 1 km from the house of the accused.

15.Arguments were heard from both the parties. It is submitted by the prosecution that the accused had admitted to assaulting the victim by kicking him on the side of the body on the day of incident both in his Confessional statement and in his examination u/s 313 Cr.PC. That there was eye witness of the victim tumbling down the steps and the PME clearly reveals that the death was caused due to blunt force of injury on the head. In the above circumstances the case of the prosecution is proved beyond reasonable doubt and therefore liable to punishment under the relevant provisions of law. Further it was pointed out that the sole Defense witness was already examined as Prosecution witness.

16.The Defense on the other hand has submitted that the Confessional statement is doubtful as the accused has only admitted to hitting the victim on the side of the body whereas as per the PME report the cause of death is blunt force on the

head. In fact the victim was witnessed to have tumbled down the steps due to his bad leg and it is in all probability that the death was caused due to the tumbling down on the steps and not by the hitting of the victim on the side of the body.

17. The sequence of the events may be examined in light of the evidences adduced as follows: -

- A) On 26-05-2012 at about 6 pm after fetching water and doing other chores the accused went to one of their house occupied by his wife as they were residing in two houses due to business/economic reasons. The victim was present along with one Biakmawia and they had accompanied the accused and his wife out of the house to the main road and asked where they were headed. They informed that they were headed towards Vaivakawn and parted ways. Later when the accused went looking for his wife in the house where the victim was earlier, he found the victim was still in the house. When he enquired as to why he was still in the house the victim replied in a rude and arrogant manner that the accused had no business to ask him. After repeated rude answers the accused struck the victim about three times but was not successful as the victim raised his arms and defended himself. Later they resolved and went up to the main road and parted company. The accused had even offered to find Taxi for him.
- B) At about 9-10 pm PW No.1 was informed by his daughter that she had seen a person roll down the steps and on investigation found the victim at the end of the steps with injuries on his face and bloodstains. On enquiry the victim had replied that he had rolled down due to his bad leg. He was brought up to the verandah of the house and tended to his wounds. The victim must have been left to himself as he was found again only on the next morning on the verandah where he was left.
- C) PW No.2 had stated that a person with blood stains had asked for directions to the house of Nghaktea (Ramnghakmawia).
- D) PW No.3 Nghaktea (Ramnghakmawia) had found the victim on their verandah the next morning and had informed the sister of victim over telephone.

E) PW No.5 the daughter of PW No.1 had stated that she had indeed seen a person roll down the steps and that she had informed her father.

F) Thereafter the victim was taken to the house of Rina (Lalrinliana) at about 9 am and evacuated to Civil Hospital, Aizawl where the victim was declared dead at about 1 pm on 27-05-2012.

G) The distance of the house of the accused and the place where the victim was found is about 1 km.

18. The confessional statement of the accused that he had indeed struck the victim but would not have been fatal as the victim defended himself with his arms and later escorted up to the main road by the accused. Later the victim was still seen and witnessed to have rolled down the steps at about 9-10 pm. and escorted up to the verandah on the main road. He was again reported to be on the verandah on the next morning and taken to Hospital at about 9 am. The sequence of events does not implicate the accused by motive, preparation and previous or subsequent conduct to the offence. There is ample room for doubt as to the cause of death being afforded to the accused as the victim was not struck fatally due his defending himself, the victim being able to walk about 1 km and then rolling down the steps. Moreover he was supposedly left on his own the night through. The statement of the eye witness that the victim had rolled down the steps and the victim supposedly informing that he had rolled down due to his bad leg leads the Court room for doubt in the story of the prosecution as brought to light in the evidences adduced.

19. In considering the evidences adduced this Court is of the view that the prosecution have not been able to establish the case u/s 302 IPC against the accused Vanlallawma s/o Lalthanzama (L) r/o Rangvamual beyond reasonable doubt. Therefore the accused Vanlalawma is acquitted of charge u/s 302 IPC. Bail bonds if any shall stand cancelled. The case is accordingly disposed of.

Sd/-R.THANGA
DISTRICT & SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT
AIZAWL

Memo No. _____DSJ/A/ 2014 : Dated Aizawl, the 5th June, 2014.

Copy to :-

1. Vanlallawma S/o Lalthanzama (L) R/o Rangvamual.
2. Mr. H.Lalmuankima and Ms. K.Lalremruati, Ld.Public Prosecutors, Aizawl.
3. Mr. J.Lalremruata, Ld. Advocate.
4. DSP, Prosecution.
5. O/C, Vaivakawn P.S.
6. i/c Judicial Section.
7. Case record.
8. Guard file.

P E S H K A R