

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
AIZAWL DISTRICT: AIZAWL**

Crl.Tr.No.105/2014 A/O Bawngkawn P/S C/No. 12/2014

U/s 8(1) MLTP Act '95

Lalhminghlua

S/o K.Lala

R/o Falkland

..... Petitioner/Accused

-Vrs-

State of Mizoram

..... Respondent

PRESENT

SYLVIE Z.RALTE, CHIEF JUDICIAL MAGISTRATE, AIZAWL

For the accused : Shri Lalropara Singson Advocate

For the State : Smt. Lalremthangi A.P.P
: Smt. C. Lalremruati A.P.P

ORDER

Dated 12th May, 2014

Accused on bail Lalhminghlua is present. Prosecution is represented by Ld. APPs. Ld. Counsel for the accused is also present. Today is fixed for consideration of charge.

The Ld.counsel for the accused prays for discharging the accused instead of framing of charge against him. The Ld.Counsel submitted that as per the ruling of the Gauhati High Court, Aizawl Bench in Crl.Rev.Pet No.3 of 2012, the Prosecution has to prove beyond doubt that the liquid which was seized was liquor or prohibited liquor. The label pasted on the exterior of the bottle cannot be an indicator of the substance contained inside the bottle. In the instant case there is no FSL report to certify that the bottles seized contains alcohol which clearly fails to show that the accused had violated any provision of MLTP Act '95. Hence, if the case is proceeded with also there is no chance of proving the accused guilty since he has not violated any provision of law. For the above reason the Ld.counsel therefore prays for discharging the accused at this very stage.

On the other hand, Ld. APPs submitted that the seized bottles contain alcohol, which can be seen from the label of the bottle indicating the percentage of alcohol contained. Ld APPs therefore earnestly prays the Court for framing of charge against the accused person and to proceed with the case.

Upon hearing both the parties at length and on careful perusal of materials on record, I find no sufficient ground to proceed with the case. In such a situation if the case is proceeded with there is no chance of conviction of the accused, hence it is my irresistible conclusion that there is no prima facie case against the accused person. Therefore, the accused Lalhminghlua is hereby discharged from the liability of charge under section 8(1) of MLTP Act '95 and is set free at liberty. He is on bail, his bail bond is cancelled and surety discharged.

The instant case stands disposed of.

Sd/- SYLVIE Z.RALTE
Chief Judicial Magistrate
Aizawl Judicial District, Aizawl.

Memo No.159/CJM (A)/2014 : Dated, Aizawl the 12th May, 2014.

Copy to:

1. District & Session Judge, Aizawl Judicial District, Aizawl, Mizoram.
2. Trial Magistrate, Aizawl.
3. The Superintendant of Police, Aizawl, Mizoram.
4. Deputy Superintendent of Police (Pros), District Court, Aizawl.
5. APP.
6. Officer –in-charge, Bawngkawn Police Station, Aizawl.
7. Accused Lalhminghlua through counsel Mr.Lalropara Singson, Advocate.
8. G.R.Branch (Police).
9. i/c Registration, Judicial Section, Aizawl.
10. Case record.

PESHKAR