

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS
Additional Sessions Judge,
Aizawl Judicial District, Aizawl.

Sessions Case No. 61 of 2012

State of MizoramComplainant

-Versus-

Shri Henry L. Muana
S/o C. Lala,
R/o Tuirial Airfield, Aizawl District. Accused person

APPEARANCE

For the State : Shri Joseph Lalfakawma, Addl. P.P.
Ms K. Lalremthangi, Asst. P.P.

For the accused : Shri R. Thangkanglova, Advocate.

Hearing : 9.4.2015

Judgment delivered on : 9.4.2015

Sentence Order delivered on : 17.4.2015

J U D G M E N T

The accused has been prosecuted for committing gang rape punishable under Section 376 (2) (g) of I.P.C. The co-accused Lalkrosmawia and Hrangchawna were convicted on 24.7.2014 by my predecessor. Co-accused Lalremruata cannot be prosecuted since he absconded during trial.

2. The prosecution story of the case in brief is that on 16.5.2011 the victim of Tuirial Airfield lodged a written FIR at Bawngkawn Police Station to the effect that on 12.5.2011(Thursday) at around 4:30 to 5:00 pm she had gone to the stream at Tuirial Airfield to take bath. Near the stream the accused Henry L. Muana and other three co-accused persons were consuming liquor and they pulled her up while sitting on the edge of the stream. They removed the victim's clothes and forcibly subjected her to sexual intercourse.

On the basis of the said information, Bawngkawn P.S Case No.149/2011 dt.16.5.2011 u/s 376(2)(g) IPC was registered and investigated into. Upon completion of investigation, having found prima facie case against the accused persons, namely, Lalkrosmawia, Hrangchhawna, Henry L Muana and Lalremruata for the offence punishable u/s 376(2)(g) IPC Charge sheet was laid against them and committed for trial

3. The accused person was produced before the learned Chief Judicial Magistrate, Aizawl. The case was committed to the learned Sessions Judge being the offence triable exclusively by Court of Session. Thereafter, the case was transferred to my predecessor for trial and disposal. Hence, the case came to me.

4. It is pertinent to mention that the accused Henry L. Muana was released on bail on 17.8.2011.

5. Charge sheet and its relevant documents were supplied to the accused. Initially, learned Counsel Shri Lalramhluna was appointed to defend the case of the accused at the expense of the State.

6. On 12.6.2012, after hearing the rival parties and on finding a prima facie case against the accused persons namely, Lalkrosmawia, Hrangchhawna and Henry L. Muana, charges were framed against them under Section 376 (2) (g) of I.P.C. The charges were read over and explained in the language known to them, and to which they pleaded not guilty and claimed to be tried. Charge was not framed against accused Lalremruata since he absconded.

7. In order to bring home the charge, the prosecution produced and examined as many as 6 witnesses to prove that the accused had committed offence punishable under Section 376 (2) (g) of I.P.C. After closure of the prosecution evidence, when the accused was recorded under Section 313 of Cr PC, he denied the incriminating evidence appeared against him and pleaded that he was innocent.

8. I heard the learned Addl. Public Prosecutor Shri Joseph Lalfakawma appearing for the State assisted by the learned A.P.P. Smt. K. Lalremthangi. I also heard the learned Counsel Shri R. Thangkanglova.

Points for Consideration:

9. a) Whether the accused persons or one or more of the accused persons sexually assaulted X in furtherance of their common intention?

10. **Discussion, Decision and Reasons Thereof:**

The evidence adduced by the prosecution may be briefly highlighted:

PW No.1/X is the prosecutrix and the complainant. She stated that accused Henry is a close friend of her husband and he often visited them. She stated that sometime in the month of May 2011 she had gone to the stream in the afternoon to take bath. The stream is located in an isolated place and there were no houses nearby. When she reached the stream the four accused persons were already there. On that day she had consumed liquor but she was not senseless. Maybe because she was smelling of liquor the accused persons started playing around with her. Before she took bath they caught hold of her and they treated her the way they wished and removed her clothes. Since Henry was a close friend of her husband she did not have any suspicion when she reached the stream but to her utter surprise Henry also played around with her body. On that day she wore a pant and the accuseds made her naked. She struggled against them and also shouted. The accused Lalremruata was the first one to have sexual intercourse with her, then Lalkrossmawia and thereafter Henry Muana and lastly Hrangchhawna. While one was having sexual intercourse with her the others remained nearby and watched them. They also put their male organ inside her mouth while the other had forceful intercourse with her. She further stated that she sustained injuries on her face and there were dark patches above her eye. She did not see any injury in the genital organ. When Lianmawia reached the stream she asked him to help her, he went down to the accuseds and scolded them and told them to make her wear clothes. So the accused persons made her wear clothes. She was taken home by C.Liana and Lianmawia. After consulting her families they lodged the FIR about 2 days later. She exhibited the FIR as Ext.P-1 and her signature as Ext.P-1(a). In her cross examination she stated that before going to the stream she consumed liquor and at the stream she took another glass of liquor from the accused. She admitted that she fell into the stream and dirtied the water and accused Lalremruata picked her up. She stated that she did not make any statement to the Police that she was not subjected to assault or threat by the accused persons and since she was drunk she does not know whether the bruises on her face were caused by the accused. She denied the suggestion that she did not shout when the offence was committed. She denied the suggestion that if she had really shouted the two children who saw them having sexual intercourse and on whose information C.Liana and Lianmawia came to the stream would have heard her shout. On the date of the incident her husband had

gone to Aizawl. She was not asked by the accused persons to go to the stream on the day of the incident. The Doctor who examined her did not find any injuries in her genital organ and other parts of her body except dark patches above her eye. Her clothes were not torn on the day of the incident. She admitted that as she was drunk she does not know the time spent in the stream. She admitted that after the offence was committed the accused persons washed her up by bathing her. She admitted that she was subjected to assault by her husband. However, she denied the suggestion that as her husband assaulted her she had sexual intercourse with the accused persons as an act of revenge. She denied that the sexual intercourse was consensual. She admitted that before coming to the court she consumed liquor, however, she denied the suggestion that her statement is totally unreliable as she appeared before the court after consuming liquor. She clarified by stating that her consumption of liquor does not prevent her from doing her daily work.

PW No.2/Lallianmawia stated in the year 2011 one afternoon he and C.Liana saw from a distance that at a stream one man was lying on top of a woman while the other two men stood at a distance of about 1 feet from the stream(tuikhur ko). He and C.Liana proceeded to the stream and saw 4 male persons and a woman. The woman was naked from waist down, they rebuked the men and told them to wash the woman who was soiled. Then they told the boys/men to make the woman wear her clothes. They were all drunk and the woman was fully intoxicated and she was unable to walk. They told them to take the woman back. He alongwith the accused persons reached the woman upto her house. There was no one in her house. In his cross examination he stated that he has no knowledge whether there were any other persons at the stream but he heard that some children saw them, C.Liana was informed by some children who saw them and he in turn passed on the information to him, the woman did not make any resistance when they told the boys to make her wear her underpant and pant, he admitted the suggestion that when they reached the spot the woman did not say anything to them against the accused, when they reached the spot the prosecutrix did not say that she was forced by the accuseds to consume liquor, as he did not have a close look on X he did not notice any injury on her body, when they reached the spot he did not find anything from the appearance of the prosecutrix to suggest her displeasure, the prosecutrix did not make any resistance when the accuseds washed her, he presumed that if the woman had shouted she would have been heard by the children who saw them.

PW No.3/C.Liana stated that while he was on his way back from the jhum he saw some children looking towards the stream. When he looked towards

the stream he saw one naked woman and the four accused persons. He alongwith his friends watched for a while and then proceeded to the stream as they felt that it was obscene especially for children to see. When they reached the stream he knew that the woman was X and they told the accused persons to dress her up. As she was also dirty, they also told the accused persons to wash her up and carry her home. Accordingly the accused persons took her upto her house. The attempt for compromise failed and later FIR was lodged. In re-examination, the witness stated that when they saw the prosecutrix in the stream she was drunk but she did not loose her senses/consciousness. In his cross examination, he stated that his statement which was recorded by the Police about 2 days after the arrest of the accused persons is correct, when he saw the woman with the accused persons one of them was lying on top of her while the others stood nearby. He admitted the suggestion that the prosecutrix is in the habit of consuming liquor, he also admitted that even on that day she consumed liquor willingly, the prosecutrix did not make any complained when the accuseds washed her, the prosecutrix did not resist when she was carried home by the accused and she was very drunk. He also stated that when they reached the stream the prosecutrix did not make any complaint to them.

PW No.4/Dr. Catherine Ngurbiakveli examined X at Civil Hospital Aizawl on 16.5.2011 and found her physically and mentally sound and she was not smelling of alcohol. No obvious seminal stain was found, there was bruise mark around the right side of her lip and around her eye. Hymen was absent and as per information she was married with one child. No bruising or laceration was found on the external genitalia. She exhibited the Medical Examination Report of X as Ext.P-2 and her signature as Ext.P-2(a). In her cross examination, she admitted the suggestion that as four days lapsed from the time of the incident to the time of examination there is possibility of other persons causing bruise on the lips and eye of X, the witness also admitted the suggestion that who, when and how the bruises were caused. From the examination the witness stated that she did not find traces of recent sexual intercourse.

PW No.5/ASI Rothangliani stated that FIR was lodged by X on 16.5.2011 at Bawngkawn PS and since it involved an offence against women the O/C of Bawngkawn PS endorsed the case to her for investigation as she was posted in the CAW Cell. During investigation she visited the place of occurrence which is a stream at the outskirt of Tuirial Airfield, forwarded the victim for medical examination and arrested 3 of the four accused persons as one of them absconded and recorded their statement She also recorded the statements of two witnesses. No seizure was

made. From her investigation she found that X was looked down by the accused persons due to her family background and they took advantage of her. As she was incompetent to lay charge sheet she submitted her investigation Report to the O/C of CAW Cell. She exhibited the arrest memo of Lalkrosmawia as Ext.P-3 and her signature as Ext.p-3(a), arrest memo of Henry L.Muana as Ext.P-4 and her signature as Ext.P-4(a) and arrest memo of Hrangchhuana as Ext.P-5 and her signature as Ext.P-5(a). In her cross examination she stated that she arrested the three accused persons on 16.5.2011 @ 7:00pm, she does not know whether the prosecutrix was drunk at the time of the incident. She admitted the statement of the prosecutrix in her cross examination that she was not subjected to assault or threat by the accused and that since she was drunk she could not say whether the bruise on her face were caused by the accused. The prosecutrix made similar statement u/s 161 Cr.PC wherein she stated that she could not move as she was drunk. She admitted the suggestion that there is no explanation for the delay in lodging the FIR either in the FIR or in the charge sheet u/s 173 Cr.P.C. The victim did not state to her that her clothes were torn due to the incident. She admitted the suggestion that the accused persons were already at the stream and thereafter the prosecutrix went there. During investigation she found that some adult persons who saw them asked the accused persons to bathe and clothe the prosecutrix, the victim did not make any statement that she was forced by the accused persons to consume liquor.

PW No.6/SI Lalmachhuani Sailo is the investigating officer. She stated that ASI Rothangliani was endorsed to investigate the case and that the case was handed over to her for submission of charge sheet as Rothangliani was incompetent in her capacity as ASI to submit charge sheet. The entire investigation was done by ASI/Rothangliani and being satisfied with the investigation so conducted and finding no need for further investigation she laid the charge sheet. She exhibited the charge sheet as Ext.P-6 and her signature as Ext.P-6(a). In her cross examination, she admitted the suggestion that the accused persons were already in the stream when the prosecutrix went there by herself, she knew that the prosecutrix consumed liquor with the accused persons. She did not conduct further investigation after it was handed over to her by ASI/Rothangliani.

11. **Points No. a, b & c.**

S. 375 of Indian Penal Code. Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

(First) — Against her will.

(Secondly) —Without her consent.

(Thirdly) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

(Fourthly) —With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

(Fifthly) — With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(Sixthly) — With or without her consent, when she is under sixteen years of age.
Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

(Exception) —Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

S. 376 of IPC. Punishment for rape.

(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both: Provided that the court may, for adequate and

special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

- (2) Whoever,—
- (a) being a police officer commits rape—
- (i) within the limits of the police station to which he is appointed; or
- (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
- (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
- (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
- (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or
- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
- (e) commits rape on a woman knowing her to be pregnant; or
- (f) commits rape on a woman when she is under twelve years of age; or
- (g) commits gang rape, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine: Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.—Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.—“Women’s or children’s institution” means an institution, whether called an orphanage or a home for neglected woman or children or a widows’ home or by any other name, which is established and maintained for the reception and care of woman or children.

Explanation 3.—“Hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

Let us first see what the Apex Court has observed regarding the duty of the Court while trying a case of rape.

In the case of **Kundula Bala vs. State : 1993 Cri. L.J. 1635 : (1993) 2 SCC 684**, the Apex Court has observed thus:

“The role of courts under the circumstances assumes greater importance and it is expected that the courts would deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural technicalities or insignificant lacunas in evidence as otherwise the criminals would receive encouragement and the victims of crimes would be totally discouraged by the crimes going unpunished. The courts are expected to be sensitive in the cases involving crimes against woman.”

In the case of **Bodhisattwa Goutam vs. Subhra Chakraborty** reported in **AIR 1996 SC 922**, the Apex Court has observed thus:

“Rape is not only a crime against the person of a woman (victim). It is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. It is only by her sheer will power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her in derision and contempt. Rape is, therefore, a most hated crime. It is a crime against basic human rights and is violative of the victim’s most

cherished of the Fundamental Rights, namely, the right to life contained in Article 21."

In the case of **Bharwada Bhoginbhai Hirjebhai vs. State of Gujarat**, reported in **AIR 1983 SC 753**, the Apex Court has observed thus:

"A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had even occurred. She would be conscious of the danger being looked down by the society including by her own family members, relatives, friends and neighbours. She would face the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered. If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family. In view of these and similar factors the victims and their relatives are not too keen to bring the culprit to book. And when in the face of these factors the crime is brought to light there is a built-in assurance that the charge is genuine rather than fabricated."

In the case of **State of Punjab vs. Gurmit Singh : AIR 1996 SC 1393**, the Apex Court observed thus:

"Of late, crime against women in general and rape in particular is on the increase. It is an irony that while we are celebrating Women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault it is often destructive of the whole personality of the victim. A murdered destroys the

physical body of the victim, a rapist degrades the very soul of the helpless female. The courts, therefore, shoulder a great responsibility while trying an accd. on charges of rape. They must deal with such cases with utmost sensitivity. The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature to throw out an otherwise reliable prosecution case. **If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars.** If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case and the trial court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestation.”

In the case of **State of Andhra Pradesh vs. Gangula S. Murthy**, reported in **AIR 1997 SC 1588**, the Apex Court has observed thus:

“Charge of Rape—Duty of court—Court must while trying accd. on charge of rape show great sensitivity—They should examine broader probabilities and not get swayed by minor contradictions or insignificant discrepancies in statement of witnesses which are not of a fatal nature to throw out allegation of rape—This is all the more important as of late there is rise in crime against women in general and rape in particular.”

In the case of **State of Punjab vs. Gurmit Singh and others (1996) 2 SCC 396**, the Apex Court has observed thus:

‘8.The testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate

looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of a victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury. Why should the evidence of a girl or a woman who complains of rape or sexual molestation, be viewed with doubt, disbelief or suspicion? The Court while appreciating the evidence of a prosecutrix may look for some assurance of her statement to satisfy its judicial conscience, since she is a witness who is interested in the outcome of the charge leveled by her, but there is no requirement of law to insist upon corroboration of her statement to base conviction of an accused. The evidence of a victim of sexual assault stands almost at par with the evidence of an injured witness and to an extent is even more reliable. Just as a witness who has sustained some injury in the occurrence which is not found to be self inflicted, is considered to be a good witness in the sense that he is least likely to shield the real culprit, the evidence of a victim of a sexual offence is entitled to great weight, absence of corroboration notwithstanding. Corroborative evidence is not an imperative component of judicial credence in every case of rape. Corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. It must not be over-looked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice. Inferences have to be drawn from a given set of facts and circumstances with realistic diversity and not dead uniformity lest that type of rigidity in the shape of rule of law is introduced through a new form of testimonial tyranny making justice a casualty.

Courts cannot cling to a fossil formula and insist upon corroboration even if, taken as a whole, the case spoken of by the victim of sex crime strikes the judicial mind as probable.'

Keeping in mind the above observations made by the Hon'ble Apex Court and the observations made by this Court in catena of decisions, let us discuss the statement of the victim before the Court.

As already stated, the victim was examined as P.W.2. Let us see into the deposition of the victim;

Let us see whether the statement of the victim that the accused had sexual intercourse with her from the time she was ten years is reliable. The victim in her statement before the court is that the accused is her step father and the wife of the accused is her mother. The victim stated in her deposition that while attaining the age of 10 years, sometime in the month of April, her maternal grandfather had sent her to buy betel nuts, on her way back to home she was told to follow him and the victim innocently followed the accused, but accidentally she got sexually assault at a place near Muthi Tlang High School which the victim did not forget.

The learned Counsel Shri S.Pradhan submits there was no eye witness to the witness in the present case. It is true that there is no eye witness. But, I cannot expect court to conclude while deciding in a rape case that there should be eye witness.

In the evidence of the Medical Officer, there is material corroboration. I find that there is old hymen tear on the victim's private part on the medical examination report of the victim and from which I come to conclude that the victim had intercourse with male person. The victim also told the medical officer that she was subjected to sexual intercourse by her step father since long time. Since there is no implication of any person from the statements of the prosecution witnesses and the defence witnesses that the victim could have sex except with the accused, it is very clear that the accused had sexual intercourse with the victim.

The statement of D.W. 2 Lalbiakmawii who is the victim's mother that they had already pardoned the accused even if he committed sexual offence upon her daughter also makes my mind doubtful.

The statement of the victim that she was frequently sexually assaulted by the accused is also reliable. It may be possible for a small girl of her age to give all the specific dates of the incidents.

The statement of P.W. 1 James Lalthangmawia also corroborates the statement of the victim. However, there is minor contradiction or insignificant discrepancies and omission in the statements of the witnesses. But, I do not find any reason to discard their evidence.

In the circumstances, the prosecution proves that the accused had sexual intercourse with the accused.

The victim stated that she was born on 14.2.1996 and her birth certificate at Ext. P-2 also reflects that she was born on 14.2.1996. There is no doubt of the victim's certificate. Hence, the prosecution proves that the victim was less than sixteen years of age and cannot give consent. Since the victim was 10 years old when the accused first sexually assaulted upon her, the accused can be convicted under Section 376 (2) (f) of IPC.

12. Points. No. d & e.

While considering the charge against the accused under Section 312 of IPC, I do not find any medical evidence of the medical officer to support that the victim got pregnant and miscarriage child. Even the victim cannot confirm that she was pregnant and miscarriage child. The prosecution has not proved beyond reasonable doubt. Hence, the accused is liable to be acquitted under Section 312 of IPC.

13. In the light of the above discussion and reasons thereof, I conclude that the prosecution successfully proves the charge against the accused Hmingdailova under Section 376 (2) (f) of I.P.C beyond reasonable doubt. Hence, I find guilty against him. Accordingly, the accused is convicted under the said section of law. But, the prosecution fails to prove the charge against the accused Hmingdailova under Section 312 of IPC. Hence, he is acquitted under Section 312 of IPC.

14. The convict Hmingdailova surrenders himself before the court. Hence, he is remanded into judicial custody.

15. The bail bond stands cancelled and the surety is discharged.

16. Fixed 1.4.2015 for Sentence Hearing.

Judgment prepared and delivered in the open court on this 30th day of March, 2015 under my hand and seal.

Sd/-(VANLALENMAWIA)
Addl. Sessions Judge
Aizawl Judicial District,
Aizawl, Mizoram.

ORDER

Dt. 01.04.2015 - The convict Hmingdailova is produced from judicial custody. Learned Addl. Public Prosecutor assisted by the Learned Assistant Public Prosecutor is present. Learned Defence Counsel is also present.

I have heard the learned Public Prosecutor, Shri Joseph Lalfakawma and the learned Defence Counsel, Shri S. Pradhan. Convict Hmingdailova is also heard.

The submission the Ld. Addl. Public Prosecutor is that the commission of rape by the convict upon his minor step-daughter is heinous and as such, the convict deserves life sentence and a fine of Rs. 20,000/-.

Per contra, the Ld. Defence Counsel appearing for the convict submits that the convict deserves to be dealt with leniency since he is the sole bread earner of his family and he has no past criminal record.

The convict submits that he has two minor daughters. He has repented for his past act.

The submission of the rival parties is considered.

On considering the factual circumstances submitted by the learned Defence Counsel and the convict Hmingdailova, I find that a lenient punishment shall be given to him. Hence, the **convict Hmingdailova** is sentenced to undergo **Rigorous Imprisonment for 10 (ten) years** and to pay a **fine of Rs. 5,000/- (Rupees five thousand)** only in default of fine, Simple Imprisonment for another 2 (two) months.

The detention period in judicial custody undergone by the convict shall be set off.

This sentence order shall form a part of the Judgment passed on 30.03.2015 and is to be attached accordingly.

Sd/- VANLALENMAWIA
Addl. Sessions Judge,
Aizawl Judicial District,
Mizoram : Aizawl.

Memo No. / AD & SJ (A) /2015 :

Dated Aizawl, the 1st April, 2015.

Copy to :-

1. Shri Hmingdailova, Central Jail, Aizawl.
2. District Magistrate, Aizawl.
3. Sessions Judge, Aizawl Judicial District, Aizawl.
4. Addl. PP/APP, Aizawl District, Aizawl.
5. Special Superintendent, Central Jail, Aizawl District, Aizawl.
6. Investigating Officer through O/C, C.A.W. Cell, Aizawl.
7. In-Charge, G.R. Branch.
8. Registration Section.
9. Guard File.
10. Case Record.
11. Calendar Judgment.

P E S H K A R