

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. 69 of 2014

State of Mizoram .....Complainant

-Versus-

1. Shri Zamkhanmunga (50)  
S/o Khansuanthanga  
R/o Tiddim, Myanmar.
2. Shri Thangdomunga (39)  
S/o Enkhanchina  
R/o Tonzang, Myanmar ..... Accused persons

APPEARANCE

For the State : Shri Joseph Lalfakawma, Addl. P.P.  
Smt. K. Lalremthangi, Asst. P.P.  
For the accused no.1 : Shri R. Thangkanglova, Advocate.  
For the accused no.2 : Shri Lalremtuanga, Advocate

Hearing : 29.6.2015  
Judgment & Order delivered on : 27.7.2015

**J U D G M E N T**

The accused persons have been tried in connection with the offence punishable U/S 302/34 of IPC.

2. The prosecution story is that a written enquiry report was received from ASI Rothangliani Ralte of Darlawn PS on 18.5.2014. On the same day at about 3:30 Pm, ASI Rothangliani Ralte received information over telephone from Shri Khawkung, President, Village Council, Sailutar that one Thawnga working under him as labour had died due to severe injuries on his person. Accordingly, ASI Rothangliani Ralte held enquiry and the enquiry report revealed that on 17.5.2014 at about 2:00-5:00 Pm the

victim Thawnglianthanga (24) s/o Thangnawla of Tinghmun was hit by the accused persons, as the victim had tried to attack them with dao near Shri Lalrammawia's jhum area at Sailutar. As a result, the victim sustained injuries on the early morning of 18.5.2014. Hence, Darlawn PS Case No. 16 of 2014 U/S 302/34 of IPC was registered and investigated by S.I. C. Zonunmawia of Darlawn Police Station.

In the course of investigation, Inquest and Postmortem Examination were held over the dead body of the victim, and the PO was visited. Blood stain found on the two stones suspected to be used by the accused persons for assaulting the victim were seized in the presence of witnesses and the same were sent to the FSL with the blood sample of the victim. The blood stain was found matching with the blood sample of the victim. The accused persons were interrogated and they admitted guilt stating that on 17.5.2014 at around 2:00-5:00 Pm they had assaulted the victim by using stones. The PME Report also confirmed that the victim died due to forceful blow on the head causing compression of the brain stem and coma leading to death of the victim. A prima facie case being found against the accused persons who are Myanmar nationals staying India without any valid visa or passport U/S 302/34 of IPC and 14 of Foreigner Act, charge sheet was submitted by SI C. Zonunmawia to the court of CJM, Aizawl.

3. Upon committal, my learned predecessor framed charge U/S 302/34 of IPC against the accused persons and the charge was read over and explained in the language known to them, to which they pleaded not guilty and claimed to be tried.

4. In the course of trial, the prosecution produced and examined as many as 8 out of 9 witnesses to prove that the accused had committed offence punishable under Section 302/34 of IPC. After closure of the prosecution evidence, the accused persons were examined under Section 313 of Cr PC.

5. I have heard the learned Addl. PP Shri Joseph Lalfakawma appearing for the State assisted by the learned APP Smt. Lalremthangi. I also heard the learned Counsel Shri R. Thangkanglova appearing for accused Zamkhanmunga and the learned Counsel Shri Lalremtlunga for accused Thangdomunga.

6. **POINTS FOR DETERMINATION:**

- a) Whether the accused persons had common intention of assaulting or caused death of the deceased?

- b) Whether the accused persons committed the murder of the deceased?
- c) Whether the deceased died as a result of the injuries inflicted upon him?

7. **Discussion, Reasons & Decision :**

8. In the present case, there is hardly any material evidence to implicate the accused persons.

9. In the enquiry report of P.W.1 ASI Rothangliani at Ext. 1, it is stated in the report by her that she came to know from the accused persons that they had hit the deceased with stones as the deceased was trying to assault them with dao on 17.5.14 at about 2:00-5:00 Pm at a place near Shri Lalremmawia's jhum field at Sailutar. But, in her evidence on record before the court, she deviated from her enquiry report by stating that accused Zamkhanmunga hit the deceased on his head as the deceased was trying stab him with a knife and accused Thangdomunga tried to stop his friends from fighting by laying hands on the deceased with fist blow. It appears to me that there is a material contradiction in the evidence of the prosecution witness. It is pertinent to mention here that the witness did not record the statements of the accused persons. Hence, the role played by the prosecution witness vitiates the entire proceeding.

10. In the course of hearing, the learned Defence Counsels submitted that the stones with suspected with blood stains of the victim allegedly used by the accused persons were not proved by the prosecution, Onperusing the records of evidence of the prosecution witnesses, when no witness deposed that the blood sample of the victim was taken for FSL examination, I surprise, how P.W.4 Lalchhanzova, Asst. Director of FSL came to depose that the dried blood sample of the victim marked as Ext. A was group O. Hence, the case of the prosecution on the matter that the stones which were allegedly used by the accused persons for hitting the victim were not proved. Even on cross-examination, P.W.4 Lalchhanzova could not say what the blood group of the victim was and also could not ascertain whether the dried sample and the stones with blood stain were the blood of the victim.

11. In his evidence, P.W.6 F. Lalngailiana did not see the accused persons inflicting injuries on the victim, but what he saw was Khuala (Langsianhuala) attending the injured victim and the accused persons sitting near the victim. It appears to me that the prosecution witness agreed with the reply of the accused persons since he took

liquor with them and also did not report about his suspicion to the police. It also appears to me that the non giving evidence by Langsiankhuala is also material to discredit the evidence of the prosecution witness.

12. The opinion of P.W.5 Dr. Sailopari needs be appreciated. In her cross-examination, she stated, a person can sustain injury if he accidentally falls from cliff. Hence, a similar case might happen to the victim.

13. From the evidence discussed above, there is no evidence whatsoever to implicate the accused persons in the present case. The points, are therefore, answered accordingly.

14. In the light of the above discussion and reasons thereof, I hold that the prosecution has failed to prove its case beyond reasonable doubt. Hence, I do not find guilty against them. Accordingly, the accused persons are acquitted of the offence under Section 302/34 of IPC and they be set at liberty forthwith.

15. Seized articles, if any, shall be destroyed.

16. The Judgment could not be delivered on 13.7.2015 since casual leave was taken by me on that day.

Judgment prepared and delivered in the open court on this 27<sup>th</sup> day of July, 2015 under my hand and seal.

**Sd/- VANLALENMAWIA**

Addl. Sessions Judge  
Aizawl Judicial District,  
Aizawl, Mizoram.

**Memo No. \_\_\_\_\_/AD&SJ(A)/2015 : Dated Aizawl, the 27<sup>th</sup> July, 2015**

**Copy to: -**

- 1) Accused Zamkhanmunga C/o R. Thangkanglova, Advocate.
- 2) Accused Thangdomunga, C/o Lalremtluanga, Advocate.
- 3) District Magistrate, Aizawl.
- 4) Sessions Judge, Aizawl Judicial District, Aizawl.
- 5) PP / Addl. PP, Aizawl.
- 6) DSP (Prosecution), District Court, Aizawl.
- 7) i/c G.R. Branch, District Court, Aizawl.
- 8) Officer-in-Charge, Darlawn Police Station.
- 9) Registration Section, District Court, Aizawl.
- 10) Guard File.
- 11) Case Record.
- 12) Calendar Judgment.

**P E S H K A R**