

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. 30 of 2015

Crl Tr. No.432 of 2015

State of MizoramComplainant

-Versus-

1. Shri Hrangliana (52)
S/o Karhranga (L),
R/o Ramhlun Vengthar, Aizawl.
2. Shri Lalnunpuia (40)
S/o Darngchinglova (L),
R/o Ramhlun South, Aizawl.
P/a Zemabawk, Aizawl Accused persons.

APPEARANCE

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

For the accused persons : Shri J.N.Bualteng, Advocate.

Hearing : 8.9.2015

Judgment delivered on : 8.9.2015

J U D G M E N T

The accused persons have been tried in connection with the offence punishable under Section 376 'D'/341 of IPC.

2. The prosecution story is that on 19.11.2014, one prosecutrix of Kawrtethawveng P/a Sihhmui, Sairang submitted a written FIR to the Officer-in-Charge, Sairang Police Station to the effect that on the same day she had gone to one garden at Lengte to collect her friend's debt from the accused persons, but she was told by the accused persons that they had already paid their debt. The prosecutrix was secretly followed by the accused persons. Thereafter, the accused persons pulled the prosecutrix to isolated place and raped her. Hence, SRG-PS Case No. 40 of 2014 dated 19.11.2014 under Section 376D/341 of IPC was registered by the Officer-in-charge, Sairang Police Station. The case was endorsed to S.I. Lallawmpuii for investigation.

In the course of investigation, a prima facie case being found against the accused u/S 376D/341 of IPC, charge sheet was submitted to the court of CJM, Aizawl.

3. Upon committal, charges 376D/341 of IPC u/S against the accused persons were framed, 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 one (1) out of 6 witnesses to prove that the accused had committed the offences punishable under Sections 376D/341 of IPC. After closure of the prosecution evidence, the accused persons were examined under Section 313 of Cr PC.

5. I heard the learned Shri Joseph Lalfakawma appearing for the State assisted by the learned A.P.P. Smt. Lalremthangi. I also heard the learned Counsel Shri J.N.Bualteng.

6. **Points For Determination :**

- a) Whether the prosecution proves that the accused persons wrongfully restrained the prosecutrix on the day of 19.11.2014 at Lengte ISPAT Industry peng?

- b) Whether the prosecution proves that the accused persons committed Gang rape upon the prosecutrix on the day of 19.11.2014 at Lengte ISPAT Industry peng?

7. Discussion, Reasons and Decision :

(a) In the course of hearing, the prosecution prays to pass conviction against the accused persons inasmuch as the evidence of the Case I.O. is convincing and the same cannot be rebutted by the learned Defence Counsel in cross-examination.

(b) Per Contra, the learned Defence Counsel Shri J.N.Bualteng appearing for the accused contends that the sole evidence of the Case I.O. is not sufficient for passing conviction against the accused.

(c) In the present case, the alleged victim who had also lodged First Information Report to the Sairang Police Station did not appear to give evidence despite summons served upon her address shown in the police report. It was also reported before this Court that she could not be brought before the Court to give evidence. Hence, the contents of the FIR that she was wrongfully restrained and gang raped by the accused persons were not proved by the alleged victim.

(d) In the course of hearing, the learned P.P. Shri Joseph Lalfakawma brought notice to the Court that the judicial statement of the victim had been recorded by the learned Chief Judicial Magistrate, Aizawl. However, in view of the provision of Section 164 (5A) (b) of Cr PC, the judicial statement of the alleged victim cannot be treated as evidence. Hence, the judicial statement of the alleged victim recorded by the learned Chief Judicial Magistrate, Aizawl has no value in the absence of her evidence.

(e) It is true that the deposition given by the Case I.O. in the instant case is very convincing. But, it is clearly shown in the deposition of the Case I.O. on record that there is no incriminating material in the medical record. However, the sole deposition of the Case I.O. is not sufficient for recording conviction of the accused persons.

(f) There suggestions put before the accused persons were all denied by them.

8. In the light of the above discussion and reasons thereof, I conclude that the prosecution fails to prove the charges framed against accused Hrangliana and Lalnunpuia under Sections 376D/341 of I.P.C. Hence, I do not find guilty against them. Accordingly, the accused persons are acquitted under the said sections of law.

9. The accused persons shall be set at liberty forthwith.

10. Seized material, if any, shall be destroyed in due course of law.

Judgment prepared and delivered in open court on this 8th day of September, 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 8th September, 2015.

Copy to :-

1. Shri Hrangliana, Central Jail, Aizawl through Shri J.N. Bualteng, Advocate.
2. Shri Lalnunpuia, Central Jail, Aizawl through Shri J.N. Bualteng, Advocate.
3. Sessions Judge, Aizawl Judicial District, Aizawl.
4. District Magistrate, Aizawl.
5. Addl. PP/APP, Aizawl District, Aizawl.
6. Special Superintendent Central Jail, Aizawl.
7. DSP (Prosecution), District Court, Aizawl.
8. O/C, Sairang Police Station, Sairang, Aizawl District.
9. In-Charge, G.R. Branch.
10. Registration Section.
11. Guard File.
12. Case Record.
13. Calendar Judgment.

P E S H K A R