

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

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

Criminal Revision No. 50 of 2015

Smt. Ngurnunsangi
D/o Lalzuimawia,
R/o Chanmari Veng, Serchhip, Mizoram.Petitioner

-Versus-

The State of Mizoram.Respondent

APPEARANCE

For the petitioner	:	Shri R. Lalawmpuia, Advocate.
For the O.P.	:	Shri Joseph Lalfakawma, Addl. P.P.
Hearing	:	14.9.2014
Order delivered on	:	14.9.2015

ORDER (Oral)

The revision petition is filed for setting aside the impugned Judgment & Order dated 26.8.2014 passed by the learned Chief Judicial Magistrate, Aizawl in CrI. Tr. Case No. 118 of 2015. In the Order, the petitioner was convicted under Section 43 (1) of the MLPC Act, 2014 and sentenced to undergo S.I. for a period of three months and to pay a fine of Rs. 5,000/- i/d S.I. for ten days.

2. The prosecution case is that ASI Vanlaldiki Hnamte seized 10 litres of country made liquor from the residence of the petitioner by breaking the lock and key (in the absence of the accused/owner) on 22.5.2015 at about 1:40 Pm in the presence of the alleged seizure witnesses. However, the petitioner was arrested on the same day, one hour and five minutes after the seizure. The Officer-in-Charge, Excise & Narcotics, Serchhip registered the case as Excise Case No. SES-73 of 2015

dt, 23.5.2015 u/s 43 (1) of MLPC Act, 2014 and endorsed the case to S.I. Zothantluangi Chenhrang.

In the course of investigation, the Case IO examined Shri R. Lalhmunsiamma and the petitioner. The Case IO also collected seizure memo, arrest memo, report of seizure and arrest. Hence, the Case IO found a prima facie case u/s 43 (1) of MLPC Act, 2014 and submitted final report to the learned Chief Judicial Magistrate, Serchhip.

3. The learned Trial Court framed charge against the petitioner u/s 43 (1) of MLPC Act, 2014. It is shown from the record that the petitioner pleaded guilty before the learned Trial Court.

4. The learned Counsel Shri R. Lalawmpuia submitted that the sentence passed against the petitioner is illegal in as much as the minimum sentence provided u/s 43(1) of MLPC Act is 6 months and a fine of Rs. 5,000/-. He also submitted that the petitioner is a pregnant woman and she has been referred to Civil Hospital, Aizawl for many times from Central Jail. According to the Id. Counsel, the petitioner has no previous conviction and she is entitled to benefit probation of good conduct.

5. I also heard the learned Addl. PP assisted by Inspector of Excise Shri Vanlalvura.

6. I have considered both the submission of the rival parties. I have also carefully perused the records of the learned Trial Court. I find that the sentence passed against the petitioner does not vitiate the case. However, the petitioner is entitled to benefit probation of good conduct since she has no previous conviction. Hence, the sentence passed by the learned Trial Court is modified by invoking section 360 of Cr PC.

7. The petitioner shall be released forthwith.

8. The criminal revision petition is partly allowed.

9. Send back the LCR.

10. Order is pronounced in open Court on this 14th day of September, 2015 under my hand and seal of this Court.

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

Memo No._____/AD&SJ(A)/2015 : Dated Aizawl, the 14th September, 2015

Copy to: -

1. Ngurnunsangi through Counsel Sh. R. Lalawmpuia, Advocate.
2. Sessions Judge, Aizawl Judicial District, Aizawl.
3. Chief Judicial Magistrate, Aizawl District, Aizawl.
4. Special Superintendent, Central Jail, Aizawl.
5. Superintendent of Excise, Prosecution Branch.
6. PP / Addl. PP.
7. Registration Section.
8. Guard File.
9. Case Record.
10. Calendar Judgment.

P E S H K A R