

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. 25 of 2016
Arising out of Bawngkawn PS Case No. 57 of 2016
U/s 506 of IPC

Lalnunpuia
S/o Lalrinchhana (L),
R/o Edenthlar Veng, Aizawl Petitioner

-Versus-

State of Mizoram Respondent

APPEARANCE

For the petitioner : Shri J. Lalremruata Hmar, Advocate

For the State : Smt. Lalremthangi, Addl. P.P.

Hearing : 04.08.2016

Judgment delivered on : 04.08.2016

ORDER

The revision petition has filed under Section 397 of Cr PC for setting aside the impugned order dated passed by the learned Chief Judicial Magistrate, Aizawl in Bawngkawn Police Station Case No. 57 of 2016 whereby the petitioner was booked under Section 506 of IPC.

2. I have heard the learned counsel Shri J. Lalremruata Hmar appearing for the revision petitioner as well as the learned Addl. PP Smt. Lalremthangi for the State.

3. As stated in the non-FIR, the prosecution story of the case in brief is that on 3.7.2016 the petitioner was arrested in connection with Bawngkawn PS Case No. 57 of 2016 u/S 506 of IPC, as he had threatened his family members and caused disturbance to his neighbors also.

4. The learned Counsel Shri J. Lalremruata Hmar for the petitioner mainly submits that the offence being compoundable, the complainant Shri J.C. Malsawma already compounded the offence. Hence, prayer for setting aside the order of conviction and sentence.

5. On the other hand, the learned Addl. PP Smt. Lalremthangi strongly objects that there is no reason to allow the revision petition inasmuch as there is no infirmity in the conviction and sentence passed by the learned Chief Judicial Magistrate, Aizawl.

6. The offence falls under Section 506 of IPC which is non-cognizable and compoundable. In every non-cognizable case, the permission of the Magistrate is sine qua non before commencing investigation. In the instant case, the petitioner was first arrested and thereafter he was brought before the learned Chief Judicial Magistrate, Aizawl. The procedure laid by Section 155 of Cr. PC. is not followed in the instant case.

7. In the course of hearing the revision petition, I have perused the petition and its annexure. A letter, in which the complainant compounded the petitioner in the presence of Chairman, Edenthlar Local Council, is also perused carefully. The mother of the accused and the complainant also appear in the Court.

8. Section 320 (6) of Cr. PC provides, '**A High Court or Court of Session acting in the exercise of its powers of revision under Section 401 may allow any person to compound any offence which such person is competent to compound under this section**'.

9. A plain meaning of the Sub-section makes it clear that the power can be exercised by the Court of Session during the pendency of the revision application.

10. Interference therefore calls for. The complainant is allowed to compound the offence committed by the petitioner. In the result, the judgment and order dated 18.7.2016 passed by the learned Chief Judicial Magistrate; Aizawl is hereby set aside and quashed. Hence, the petitioner is acquitted.

11. The petitioner shall be released forthwith from the judicial custody.

12. The criminal revision petition is allowed with the order indicated above.
13. Send back the learned Lower Court record.
14. The revision petition is disposed off

Order is pronounced in the open court on this 4th day of August, 2016 under my hand and seal.

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

Memo No._____/ASJ(A)/2015 :

Dated Aizawl, the 4th August, 2016

Copy to: -

- 1) Lalnunpuia C/o Sh. J. Lalremruata, Advocate.
- 2) Sessions Judge, Aizawl Judicial District, Aizawl.
- 3) Chief Judicial Magistrate, Aizawl District, Aizawl.
- 4) Special Superintendent, Central Jail, Aizawl.
- 5) Addl. PP, Aizawl.
- 6) DSP (Prosecution), District Court, Aizawl.
- 7) i/c G.R. Branch, District Court, Aizawl.
- 8) Registration Section, District Court, Aizawl.
- 9) Guard File.
- 10) Case Record.
- 11) Calendar Judgment.

P E S H K A R