

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

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

Criminal Appeal No. 5 of 2016

In CrI Tr. No. 254 of 2015

1. Lalramdina  
S/o Hmangaihzuale  
R/o Phunchawng Mel-7, Aizawl
2. Vanlalhriati  
D/o Vanlalvuana  
R/o Bazar Veng, Mamit .....Appellants

-Versus-

State of Mizoram ..... Respondent

APPEARANCE

For the appellants	:	Shri Johny L. Tochhawng, Advocate
For the State	:	Smt. Lalremthangi, Addl. P.P.
Hearing	:	20.7.2016
Order delivered on	:	20.7.2016

**ORDER**

The appeal petition is filed under Section 375 r/w 389 of Cr PC for setting aside and quashing the impugned order dated 23.4.2016 passed by the learned Chief Judicial Magistrate, Mamit District in CrI. Tr. No. 254 of 2015 arising out of Excise Case No. MENS-207 of 2015 U/s 43(1) & 49 of MLPC Act, 2014.

2. The prosecution case is that on 27.10.2015 at around 8:00 PM, SI T.C. Lalropuia arrested Lalramdina for possession of about 280 litres of Rakzu packed

in 28 Rambo polythene. SI T.C. Lalropuia also arrested Vanlalhriati on 28.10.2015 at around 11:00 AM in connection with the seizure of Rakzu. The case was registered and it was endorsed to ASI J. Lalhmingzauva.

3. In the course of investigation, the Case IO found a prima facie case U/s 43(1) & 49 of MLTP Act. Hence, the Case IO submitted complaint under section 1(a) of Cr PC.

4. The complaint and other relevant documents were furnished to the appellants. A prima facie case under section 43(1) & 49 of MLPC Act were found against the appellants. Hence, charges were framed against them. The charges were read over and explained to them, to which they pleaded guilty. On the basis of their plea of guilt, the appellant Lalramdina was convicted under section 43(1) of MLPC and sentenced to undergo Simple Imprisonment for a period of 6 months and to pay a fine of Rs. 5,000/- in default of payment of fine to suffer another Simple Imprisonment for a period of 50 days, and the appellant Vanlalhriati is convicted under section 49 of MLPC Act and sentenced to undergo Simple Imprisonment for a period of 3 months and to pay a fine of Rs. 2,000/- in default of payment of fine to suffer another Simple Imprisonment for a period of 20 days.

5. Aggrieved by the impugned order, the appellants preferred appeal petition against such conviction and sentences.

6. Learned Counsel Shri Johny L. Tochhawng for the appellants mainly challenges the sentence portion of order. According to him, the punishment imposed upon the appellants is severe. Hence, he prays the Court to show leniency to the appellants.

7. On the other hand, I also hear the learned Addl. PP Smt. Lalremthangi. She submits that there is no infirmity in the order of the learned Trial Court. Since the appellants had themselves pleaded guilty to the charge brought against them, learned Court below was justified in convicting the appellants and sentencing them as indicated above. She, therefore, prays for dismissal of the present appeal petition.

8. On hearing the rival parties, I find interference of this Court calls for. Justice will be met if section 360 of Cr PC is invoked in their case since no previous conviction is highlighted in the case record. Accordingly, the sentence is modified to the period undergone by the appellants in judicial custody.

9. The appellants shall be released forthwith.

10. Send back the LCR.

11. The criminal appeal petition is partly allowed.

Order is pronounced in open Court on this 20<sup>th</sup> day of July, 2016 under my hand and seal of this Court.

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

**Memo No. \_\_\_\_\_/ASJ(A)/2016 : Dated Aizawl, the 20<sup>th</sup> July, 2016**

**Copy to: -**

1. Lalramdina } through Counsel
2. Vanlalhriati } Shri Johny L. Tochhawng, Advocate.
3. The Sessions Judge, Aizawl Judicial District, Aizawl.
4. The District Magistrate, Mamit District.
5. The Chief Judicial Magistrate, Mamit District.
6. The Superintendent of Excise, Mamit District.
7. The Addl. PP, Aizawl.
8. Special Superintendent, Central Jail, Aizawl.
9. i/c G.R. Branch.
10. Registration Section.
11. Guard File.
12. Case Record.
13. Calendar Judgment.

**P E S H K A R**