

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

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

S.C No. 116 of 2015

CrI Tr. No. 988 of 2015

State of Mizoram ..... Complainant

Versus

1. Rasmoni Ushoy(44)  
S/o Nijomohon  
R/o Tuipuibari, Forest Veng

2. Lianmawia(43)  
S/o Udoimoni  
R/o Naisingpara, Block F  
North Tripura

.....Accused Persons

APPEARANCE

For the State : Smt. Lily Parmawii, Addl. P.P.  
Miss Venus H. Zomuankimi, APP.

For the accused No.1 : Shri H. Laltanpuia, Advocate.

For the accused No.2 : Shri C. Lalrinchunga, Advocate.

Hearing : 6.2.2017

Judgment delivered on : 8.2.2017

## **J U D G M E N T & O R D E R**

The instant case is disposed off today after hearing the parties and perusing the evidence on record. In the result, the accused Rasmoni Ushoy is acquitted from the charges leveled against him under Sections 109/364(A)/34 IPC and the accused Lianmawia is also acquitted from the charges under Sections 364(A)/392/34 IPC due to lack of evidence.

**2.** The prosecution story in brief is that on 2.2.2015, Shri Ganeshan who worked as overseer in 481 RMPL C/o 115 RCC, West Phaileng lodged FIR to the Officer-in-Charge, West Phaileng Police Station to the effect that on that morning at around 8: 00 am, nine unknown miscreants wearing camouflage uniform with arms had kidnapped their staff, namely, Hukam Singh and Thangchhuaka along with other 12 labours at a place between Tuipuibari and West Phaileng while proceeding to their work side in a TATA Tipper bearing Regn. No. 06E70935. The militants took the victims towards the jungle. After about an hour, the armed militants released the 12 labours from the jungle, but the two alleged victims, namely, Hukam Singh and Thangchhuaka were not released by them. Hence, West Phaileng Police Station No. 3 of 2015 u/s 364 (A)/34 IPC R/w 25 (1A) of Arms Act was registered and initially investigated by Inspector L.T Fala and later by S.I Lalsangbera Sailo.

In the course of investigation, the complainant was examined and his statement was recorded. The place of occurrence was also visited and a sketch map of the P.O was drawn. The examination of complainant revealed that the place of occurrence was National Highway 44 A, between Damparengpui and Tuipuibari, and the TATA tipper bearing Regn. No. 06E70935 belonged to 115 RCC (GREF), West Phaileng in which the victims had boarded with other civilians. The victims with other civilians while reaching around 6 kms from Tuipuibari towards Chikka, the armed militants suddenly appeared from the roadside, pointed rifle at them by intercepting the vehicle. The armed militants told the victims and other civilians to get down from the vehicle and snatched their mobile phones. Meanwhile, one Mangala Basu Chakma of Rajiv Nagar II also arrived on the spot with his motor cycle bearing registration No. TR 02 7770 and he

was also taken along with the passengers of Tipper Vehicle. On 3.2.2015, accused Rasmoni was arrested in connection with the case. The mobile phone of the accused was seized from his possession thinking that the phone was used for giving information to the miscreants. On 7.2.2015, the accused was forwarded to the Chief Judicial Magistrate, Mamit District Court for judicial remand after remanding him into Police custody for 72 hours. On 8.2.2015, the victim Thangsuaka was released by the kidnappers. The statement of the victim was recorded. On 9.2.2015, the victim Hukam Singh was also released. The statement of the victim as also recorded. On 20.2.2015, accused Lianmawia was arrested in Tripura State by SI Zoramsanga, the OC of Kanhmun Police. After the arrest of accused Lianmawia, he was interrogated and his statement was recorded. Test Identification Parade for identification of accused Lianmawia was conducted by the Id. Chief Judicial Magistrate, Mamit District Court on 21.2.2015. In the course of investigation, the Case IO examined all the witnesses available. Hence, a prima facie case under Sections 109/364(A)/34 IPC was found against the accused Rasmoni Ushoy and prima facie case under Sections 364(A)/392/34 IPC was found against the accused Lianmawia and the Case IO submitted charge-sheet before the Id. Chief Judicial Magistrate, Mamit District Court.

3. Upon committal, the case was transferred to me for trial and disposal. The charges under Sections 109/364(A)/34 IPC were framed against the accused Rasmoni Ushoy and the charges under Sections 364(A)/392/34 IPC were also framed against the accused Lianmawia. The charges were 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 twenty out of twenty four witnesses to prove its case. After closure of the prosecution evidence, the accused persons were examined under Section 313 of Cr PC.

5. **Points for Determination:**

- a) Whether accused Rasmoni Ushoy abetted the militants of NLFT and BDFM in kidnapping Hukam Singh and Thangsuaka for ransom?
- b) Whether accused Lianmawia committed robbery of the mobile phones, which were properties of Robi Kumar Chakma, Alok Bikash Chakma, Bidu Bashan Chakma, Mangalorasu Chakma and Mangala Basu Chakma?
- c) Whether the accused persons in furtherance of common intention kidnapped Hukam Singh and Thangsuaka for ransom on 2.2.2015 at around 8:00?

6. **Evidence of the Prosecution Witnesses.**

7.a. P.W. 1 Hukam Singh stated before the Court that he was working as overseer at 481 RMEL C/o 115 (GREF) and camped at Tuipuibari. On 2.2.2015 at around 7:00–8:00 Am, they proceeded towards West Phaileng from their camp with the Tipper driven by Thangsuaka. Around 12 labours also boarded in their Tipper. On the way some other civilians also boarded in their vehicle. After running for about 5 kms from their camp, around 6 persons wearing camouflage dress and carrying rifles pointed at them and also intercepted their vehicle. The militants took them towards the jungle. Before reaching Amsuri River, he and Thangsuaka were kidnapped, but the rest were released. They spent two nights were in the jungle. On the third night, they reached a small village and spent one night thereat. On the following day, the kidnappers took them to the jungle and spent around seven nights thereat. On 7.2.2015, Thangsuaka was released by the kidnappers. On 9.2.2015, the kidnappers released him on the same day at around 5:00 Pm. He reached the BOP of BSF in Bangladesh Boarder. On cross examination, he admitted that he did not know the accused persons present in the court. He also admitted that the two accused persons present in the court were not those persons who had kidnapped them to the jungle.

7.b. P.W. 2 Thangsuaka did not know accused Rasmoni Ushoy. But, he knew accused Lianmawia, who was one of the kidnappers. At the relevant time, he was a Tipper Driver at 481 RMPL c/o 115 RCC (GREF), Tuipuibari Camp. On 2.2.2015 around 7-8 AM, he drove his Tipper towards W. Phaileng from their Camp. Hukam Singh and 14

laborers also boarded in his Tipper. On the way, they saw some civilian and they also boarded in their vehicle. After running about 2 kms and 300 meters from their Camp, around 6 persons wearing camouflage dress and carrying AK-47 rifles and one person carrying dao intercepted their vehicle. The militants told them to get down from the vehicle. They took them towards the jungle. Before reaching Amsuri River, he and JE Hukam Singh were kidnapped and the rest were released. They spent two nights in the jungle. On the third night, they reached a small village and spent two/three nights at the outskirts of the village. The kidnappers allowed him to talk his family and he talked to his wife. On the night of 6.2.2015 around 9 Pm, one of the kidnappers carrying a pistol came and told him that he would be released on the next morning and told him to talk to his family. The kidnapper gave him mobile phone and he talked to his family. On the morning of 7.2.2015 around 7 Am, two kidnappers escorted him up to the border of Bangladesh and put him in the house of one Chakma. He spent one night with the Chakmas. On the following day, one Chakma handed over him to Shanti Bahini at Chatapara village. After that, Shanti Bahini handed over him to the hands of BSF. On cross-examination, he stated that the two accused persons present before the Court were not available amongst the kidnappers at the time of kidnapping. He admitted that he had not seen accused Rasmoni Ushoy during the whole time of kidnapping. On re-examination, he clarified that accused Lianmawia joined the kidnappers in the jungle, but not Rasmoni Ushoy.

7.C. P.W.3 Robi Kumar Chakma, P.W.4 Alok Bikash Chakma, P.W.5 Shanjoysen Chakma, P.W.6 Bidu Bashan Chakma, P.W.7 Shanti Ranjan Chakma, P.W.8 Mangalorasu Chakma, P.W.9 Munsingh, P.W. 10 Robila Suren, P.W. 11 Deblal Kisku, P.W. 12 Sukur Soran, P.W. 13 Johan Singh, P.W. 14 Pianhlua, P.W. 15 Baia, P.W. 16 Lalvena, P.W. 17 A. Joshua and P.W. 19 Sujendro stated that they had boarded in a pioneer tipper from BRTF Camp, Tuipuibari to work at quarry on 2.2.2015 at around 7:00 Am. After boarding in the tipper, about 5 kms from the Camp and before reaching quarry, two persons wearing camouflage dress carrying rifle and one person wearing civil dress intercepted their vehicle. The militants told them to get down from the vehicle. After getting down from the vehicle, about five persons came out from the forest, two of them wearing civil dress and another

wearing camouflage dress was carrying rifle. Those persons took them towards the jungle. Before reaching Amsuri River, driver of the tipper and pioneer overseer were kidnapped and the rest of them were released. The kidnappers took the mobile phones of PW 3, PW 4, PW 6, PW 8 and PW 20 and did not give them back. On cross-examination, PWs 3, 4, 5, 6, 7 and 8 stated that they did not know the two accused persons present in the Court. They admitted that the accused persons were not present amongst the kidnappers when they were kidnapped from their vehicle. They also admitted that they had not seen them at the river of Amsuri. PWs 9, 10, 11, 12, 13, 14, 15, 16 and 17 also admitted that accused persons were not present amongst the kidnappers. They also stated that accused Rasmoni Ushoy is their church elder.

7.d. P.W.17 A. Joshua knew the accused. On 2.2.2015 at around 8:30 AM, he saw some militants wearing camouflage dress carrying gun and some militants wearing civil dress. Shortly, the militants released the labours. After reaching home, they informed about the incident of their Village Council President and also to the I.R. On cross-examination, he stated that he did not presume that the people whom he saw had been kidnapped.

7.e. P.W.20 Mangala Basu Chakma stated that on 2.2.2015 at around 6:00 AM while proceeding towards West Phaileng by riding a Bike, he saw around five persons wearing camouflage dress carrying AK Rifles and one SLR intercepting the vehicle of BRTF which carried laborers. The militants told the driver and the laborers to get down from the vehicle. The militants also told him to get down from his bike. They were taken towards the jungle. Before reaching Amsuri River, the driver of the Tipper and Pioneer Overseer were kidnapped and the rest of them were released. The militants took his mobile phone and did not give him back. On cross-examination, he stated that he did not know the two accused persons present in the Court. He admitted that the accused persons were not present amongst the kidnappers when they were kidnapped.

7.f. S.I. Lalsangbera Sailo identified the accused persons. On 2.2.2015, a written FIR was received from Mr. Ganeshan, Overseer, 481 RMPL C/o 115 W. Phaileng at W. Phaileng PS to the effect that on the same day i.e. 2.2.2015 at 8:00 AM, some unknown

miscreants who were with arms kidnapped their staff Hukam Singh, Overseer and Thangsuaka, Driver along with other 12 laborers in between Tuipuibari and W. Phaileng while going to work-site in Tata Tipper. In the FIR, it is stated that the miscreants were nine in numbers. The kidnappers were dressed in camouflage uniform and all of them were armed with Rifle. The armed miscreants took them towards the forest from the place of incident. After about one hour, the miscreants released the other 12 laborers from the jungle and kidnapped the said two victims. Hence, case was registered as W. Phaileng PS Case No. 3/15 dt.2.2.2015 u/s 364A/34 IPC r/w 25(1A) Arms Act and he investigated the case. During investigation, he carefully examined the complainant and recorded his statement. He visited the PO and also drew the sketch map. In his investigation, it reveals that while the victims were moving on the road in Tata Tipper vehicle towards their work site, and when they reached around 6 kms. from Tuipuibari towards Chikha, the armed miscreants suddenly appeared from the road side pointing at them with Rifle and waved them to stop. The Driver Thangsuaka stopped his vehicle and all the persons who boarded in the Tipper got down. The armed militants snatched the mobile phones. In the meantime, one Mangalabasu Chakma also arrived at the spot in his motorcycle and he was also stopped by the armed militants. The armed miscreants forcibly led all the passengers towards the forest. After about 30 minutes, before reaching Amsuri River, the armed miscreants released all the other passengers but kidnapped Hukam Singh and Thangsuaka and took them towards Bangladesh. During investigation, he believed that accused Rasmoni Ushoy had an involvement in the instant case. He then apprehended and interrogated him. During his interrogation, he admitted that he was engaged by the kidnappers the day before of kidnapping by informing them time and place, where and when 115 RCC workers would go for work. He also stated that he used to talk with one of the members of the miscreants accused Lianmawia over mobile phone about 5 times prior to the instant kidnapping and they made a plan for kidnapping of 115 RCC BRTF workers. On 3.2.2015, He then formally arrested accused Rasmoni Ushoy as he was accomplice of the kidnappers. He also seized one mobile phone along with sim card No. 8132843817 from him which he had used for giving information to the miscreants. On 8.2.2015, one of the victims Thangsuaka was released by the kidnappers and he carefully examined him and recorded his statement. He stated that during captivity, the kidnappers had told him that they were the underground

group of BDFM (Bru Democratic Front of Mizoram). When the miscreants released him, one Commander of the kidnappers told him to verbally convey the message to the In-Charge of 115 RCC that they should pay Rs. 3,50,000/- as a ransom for the release of Hukam Singh, Overseer. Besides, one handwriting letter written by the Area Commander of BDFM was carried by the victim Thangsuaka which was to be delivered to the In-Charge of 115 RCC. In this letter, it was written that they should pay Rs. 50,00,000/- for ransom of the victim Hukam Singh. The letter was seized from the possession of Thangsuaka for evidence. On 9.2.2015, victim Hukam Singh was also released by the kidnappers. He also carefully examined and recorded his statement. On 20.2.2015, the prime suspect accused Lianmawia was arrested by SI Zoramsanga, Kanhmun PS with the help of CID and they produced before him. He interrogated accused Lianmawia and recorded his statement. In his interrogation, he admitted that on 30.1.2015, he along with 8 others kidnapped BRTF workers. They took the hostages towards Bangladesh. He also stated that kidnapping was carried out by combined group of NLFT and BDFM. He further stated that ransom money of Rs. 3,00,000/- was paid to the NLFT Leader and from which Rs. 50,000/- was given to Burha @ Sektapa in the name of BDFM. On interrogation of accused Lianmawia, he learnt that his statement corroborated the statement of accused Rasmoni Ushoy. Further, he came to know that accused Lianmawia had joined the insurgent group of BDFM in August 2014. In his further investigation, Test Identification Parade was conducted by Shri F. Rohlupua, Chief Judicial Magistrate, Mamit and the victim Thangsuaka identified the accused Lianmawia that he was one of the members of kidnappers. 5 mobile phones belonging to the victims and cash Rs. 22,500/- were recovered from the hands of accused Lianmawia by SI Zoramsanga, Kanhmun PS. After completing investigation, he found prima facie case u/s 364A/392/34 of IPC against accused Lianmawia and u/s 109/364A/34 of IPC against accused Rasmoni Ushoy and submitted Charge Sheet accordingly.

Ext. P-1 is the FIR and Ext. P-1(a) is his signature.

Ext. P-2 is the Form of FIR and Ext. P-2(a) is his signature.

Ext. P-3 is the Sketch Map of the PO.

Ext. P-4 is the Arrest Memo of Rasmoni Ushoy and Ext. P-4(a) is his signature.

Ext. P-5 is the Arrest Memo of Lianmawia.



Ext. P-6 is the Seizure Memo of 5 mobile phones and cash Rs. 22,500/- (11 nos. of Rs. 1,000/- notes and 23 nos. of Rs. 500/- notes) from the possession of Lianmawia.

Ext. P-7 is the Seizure Memo of 2 Demand Letters of BDFM from the possession of Thangsuaka and Ext. P-7(a) is his signature.

Ext. P-8 is the Seizure Memo of mobile phone from the possession of Rasmoni Ushoy and Ext. P-8(a) is his signature.

Ext. P-9 is the record of TIP

Ext. P-10 is the Charge Sheet and Ext. P-10(a) is his signature.

Ext. M-1 and M-2 are the Demand Letters.

Ext. M-3 is the seized mobile phone from Rasmoni Ushoy and cash Rs. 22,500/- (11 nos. of Rs. 1,000/- notes and 23 nos. of Rs. 500/- notes) from the possession of Lianmawia.

On cross-examination by the Ld. DL for accused No.1 Rasmoni Ushoy, he stated that the mobile phone which he had recovered from the accused Rasmoni Ushoy was Lava IMEI 911378154372112 and 911378154372120. He admitted that accused Rasmoni Ushoy was not present at the time and place of incident. He also admitted that he did not find any evidence in order to prove the information given by the accused Rasmoni Ushoy to the accused Lianmawia. On cross-examination by the Ld. DL for accused No.2 Lianmawia, he denied that he did not know whether accused Lianmawia is one of the members of the insurgent group. He admitted that accused Lianmawia did not have any rank as leader in the insurgent group. He denied that accused Lianmawia had been detained by the insurgent for serving food. He further denied that the statement of witnesses recorded by him at the time of investigation is not true. He also denied that there was no mobile phone allegedly recovered from the accused Lianmawia.

#### 8. **Point No. A.**

The first point of determination is, whether Rashmoni Ushoy abetted the militants of NLFT and BDFM in kidnapping Hukam Singh and Thangsuaka. It is shown in the statement of P.W.18 S.I. Lalsangbera Sailo that the accused informed the militants the time and place where and when 115 RCC workers would go for work and talked to accused Lianmawia over mobile phone about five times before the incident of

kidnapping. It is also shown in the statement that both the accused persons made a plan to kidnap 115 RCC BRTF workers. P.W.18 S.I. Lalsangbera also arrested accused Rasmoni Ushoy and seized one mobile phone along with Sim Card No. 8132843817 from him on 3.2.2015 which he had used for giving information to the miscreants. But, there is no other evidence to corroborate the statement of S.I. Lalsangbera Sailo. On cross-examination, S.I. Lalsangbera Sailo admitted that he did not find any evidence to prove the information given by the accused Rasmoni Ushoy to the accused Lianmawia. Hence, I am of the view that the prosecution has not proved beyond reasonable doubt that accused Rashmoni Ushoy abetted the militants of NLFT and BDFM in kidnapping Hukam Singh and Thangsuaka.

**9. Point No. B.**

The second point of determination is, whether accused Lianmawia committed robbery of mobile phones which were properties of PW 3, PW 4, PW 6, PW 8 and PW 20. Upon perusing the records of evidence, the owners of mobile phones did not implicate accused Lianmawia committing robbery of their mobile phones. According to the mobile phone owners, accused Lianmawia was not present when the militants extorted their mobile phones. I am therefore of the view that the prosecution has not proved beyond reasonable doubt that accused Lianmawia committed robbery of mobile phones of which were properties of PW 3, PW 4, PW 6, PW 8 and PW 20.

**10. Point No. C**

The third point of determination is that whether the accused persons in furtherance of a common intention committed offence of kidnapping for ransom. It is shown in the evidence of Hukam Singh that he did not see accused Rashmoni Ushoy and Lianmawia while they were kidnapped by the militants. But, in the evidence of Thangsuaka, particularly in his re-examination, accused Lianmawia joined the militants in the jungle. At this, accused Lianmawia stated in his examination under Section 313 of Cr PC that he was available at Amsuri River for fishing. As there is no evidence of Thangsuaka corroborated by the statement of Hukam Singh, I am of the view that the

prosecution has not proved beyond reasonable doubt that the accused Lianmawia had involved in kidnapping of the two victims. Hence, the third point is answered.

11. I heard the learned Addl. P.P. as well as the learned Counsels appearing for the accused persons.

12. I am convinced by the submission of the learned Counsels appearing for the accused persons that the accused persons are liable to be acquitted due to lack of sufficient evidence.

13. In the result, I hold that the prosecution has failed to establish its case beyond reasonable doubt. Consequently, the accused Rasmoni Ushoy is acquitted of the offences under Sections 109/364A/34 IPC and the accused Lianmawia is also acquitted of the offences under Sections 364A/392/34 IPC and they be set at liberty forthwith.

14. Previous bail bonds shall remain in force for a further period of 6 (six) months under Section 437-A Cr PC.

15. The seized article i.e. Mobile Phone (LAVA) IMEI 1-911378154372112 & IMEI 2-911378154372120 along with Sim Card No. 8132843817 shall be returned to the rightful owner. The seized cash Rs. 22,500/- shall also be returned to the rightful owner.

16. The zimanama in respect of the other five mobile phones is made absolute.

Judgment and Order prepared and delivered in open court on this 8th day of February, 2017 under my hand and seal.

**Sd/- VANLALENMAWIA**

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

## **APPENDIX**

### **A. PROSECUTION EXHIBITS**

- Ext. P-1 FIR
  - P-1(a) Signature of PW No. 18
- Ext. P-2 Form of FIR
  - P-2(a) Signature of PW No. 18
- Ext. P-3 Sketch Map of the PO
- Ext. P-4 Arrest Memo of accused Rasmoni Ushoy
  - P-4(a) Signature of PW No. 18
- Ext. P-5 Arrest Memo of accused Lianmawia
- Ext. P-6 Seizure Memo of 5 mobile phones and case Rs. 22,500/- (11 nos. of Rs. 1,000/- notes and 23 nos. of Rs. 500/- notes) from the possession of accused Lianmawia.
- Ext. P-7 Seizure Memo of 2 Demand Letters of BDFM from the possession of Thangsuaka.
  - P-7(a) Signature of PW No. 18
- Ext. P-8 Seizure Memo of mobile phones from the possession of accused Rasmoni Ushoy.
  - P-8(a) Signature of PW No. 18.
- Ext. P-9 Record of TIP
- Ext. P-10 Charge Sheet.
  - P-10(a) Signature of PW No. 18.
- Ext. M-1 & M-2 Demand Letters.
- Ext. M-3 Mobile Phone from accused Rasmoni Ushoy and case Rs. 22,500/- (11 nos. of Rs. 1,000/- and 23 nos. of Rs. 500/- notes) from the possession of accused Lianmawia.

### **B. DEFENCE EXHIBITS-** None

### **C. EXHIBITS PRODUCED BY WITNESSES -** None

### **D. COURT EXHIBITS-** None

### **E. PROSECUTION WITNESSES:**

- P.W. No. 1 - Hukam Singh
- P.W. No. 2 - Thangsuaka
- P.W. No. 3 - Robi Kumar Chakma
- P.W. No. 4 - Alok Bikash Chakma
- P.W. No. 5 - Shanjoysen Chakma

P.W. No. 6	-	Bidu Bashan Chakma
P.W. No. 7	-	Shanti Ranjan Chakma
P.W. No. 8	-	Mangalorasu Chakma
P.W. No. 9	-	Munsingh
P.W. No. 10	-	Robila Suren
P.W. No. 11	-	Deblal Kisku
P.W. No. 12	-	Sukur Soram
P.W. No. 13	-	Johan Singh
P.W. No. 14	-	Pianhlua
P.W. No. 15	-	Baia
P.W. No. 16	-	Lalvena
P.W. No. 17	-	A. Joshua
P.W. No. 18	-	SI Lalsangbera Sailo
P.W. No. 19	-	Sujendro
P.W. No. 20	-	Mangala Basu Chakma

F. **DEFENCE WITNESSES** - : None

**Memo No. \_\_\_\_\_/ASJ-II(A)/2017**

**: Dated Aizawl, the 8<sup>th</sup> February, 2017**

**Copy to: -**

1. Accused Rasmoni Ushoy through Counsel Shri H. Laltanpuia, Advocate.
2. Accused Lianmawia through Counsel Shri C. Lalrinchhunga, Advocate.
3. Sessions Judge, Aizawl Judicial District, Aizawl.
4. Addl. PP, Aizawl.
5. District Magistrate, Mamit District, Mamit.
6. Superintendent of Police, Mamit District, Mamit.
7. DSP (Prosecution), District Court, Aizawl.
8. Officer-in-Charge, West Phaileng Police Station.
9. Registration Section.
10. Guard File.
11. Calendar Judgment.
12. Case Record.

**P E S H K A R**