

GAHC030000862023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRL.A(J)/3/2023

Sh. Abdul Kalam
Chargulla, Nairgram, Assam

VERSUS

State of Mizoram
Aizawl

Advocate for the Petitioner : none

Advocate for the Respondent : P.P./Addl.PP, Mizoram

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
HONOURABLE MR. JUSTICE BUDI HABUNG

JUDGEMENT & ORDER (CAV)

Date : 16-11-2023
(Budi Habung, J)

1. This Jail appeal is directed against the judgment dated 16/3/2021 passed by the learned Additional District & Sessions Judge, Aizawl, Mizoram in Sessions Case No.29 of 2019 arising out of Crl.Tr No.331/2019 convicting the appellant for offence under Section 302 of Indian Penal Code and sentencing him to undergo rigorous imprisonment for life and also to pay fine of Rs.60,000/- and

in default for another period of 6 months.

FACTS OF THE CASE:

2. This case has arisen out of the telephonic information received by the officer-in-Charge, Aizawl Police Station from one Shri Jimmy Vanlalmawipuia stating that on 10/6/2018 at about 11.00 PM his father Rokamlova (PW-2) received a phone call from one Bengali Muslim a tenant in his house that his fellow roommate was murdered by some unknown miscreants. On receipt of the said information, the Police team rushed to the residence of PW-2. On reaching the spot, they broke open the pad lock of the room in presence of informant and local leaders. On inquiry into the room, they found one dead body was lying over water basin on the floor in prone position with a pool of blood. Accordingly, the IO informed the Aizawl Police Station and requested for requisition of FSL team. Accordingly, the FSL team arrived and they immediately initiated technical investigation; took photograph of the room, dead body and other relevant marks. One chance print from one small empty distemper bucket was also lifted. After the FSL team completed their investigation, the I.O. held inquest over the dead body of the deceased identified as Hussain Ahmed of Karimganj, Assam. Thereafter, the dead body of the deceased was forwarded to the Civil Hospital Aizawl for Post Mortem examination. The I.O then reported the same to the Officer-in Charge of Aizawl P.S. who thereupon had registered a case being Aizawl P.S Case No.128/2018 under section 302 IPC.

3. During the course of investigation, the IO examined and recorded the statement of all the relevant witnesses, arrested the accused person Abdul Kalam from Assam. On interrogation the accused confessed his guilt of commission of the alleged offence. The accused also made a disclosure statement leading to the recovery and seizure of a kitchen knife used by him for

killing the deceased.

4. On completion of investigation, the IO found prima facie case against the accused and laid Charge-sheet against him for offence under section 302 IPC. On committal of the case, the learned Court of Addl. Sessions Judge, framed charge against the accused under section 302 IPC on 26/3/2019 to which the accused pleaded not guilty and claimed trial.

5. The prosecution, in order to establish its case, examined 15 witnesses and exhibited 14 documents and 5 Material Object. After completion of the evidence, the accused was examined under section 313 Cr.PC and recorded his statement where the accused had confessed his guilt stating that he murdered the deceased victim on the morning of 10/6/2018 due to discord in between them. The appellant did not produce any defense evidence.

6. On completion of trial, the learned Additional Sessions Judge, Aizawl found the accused guilty of commission of offence under section 302 IPC and accordingly, convicted him for offence under section 302 IPC on 16.3.2021. Then on 17/3/2021, after hearing both the parties on the question of sentence, the learned Addl. Session Judge passed an order and sentenced the appellant to undergo life imprisonment, and to pay a fine of Rs.60,000/- in default of payment of fine to undergo RI for six months for offence under section 302 IPC against which this criminal appeal has been filed.

7. We have heard Mr. Joseph L. Renthlei, learned Amicus Curiae for the appellant and Ms. Mary L. Khiangte, learned Addl. Public Prosecutor for the State.

SUBMISSIONS OF THE LEARNED AMICUS CURIAE FOR THE
APPELLANT:

8. Mr. Joseph L. Renthlei, learned Amicus Curiae for the appellant made the following submissions:

(i) That in the instant case, there is no any eye witness to the incident, all witnesses are hearsay evidence. That the prosecution case has arisen out of the telephonic information given by the accused himself to his land lord (PW-2) about the death of the deceased in the rent house. During the investigation and trial of the case, the accused had cooperated the investigation and admitted his guilt and also made a disclosure statement before the I.O of the case leading to the discovery and seizure of the weapon of offence. And thus, the accused had never tried to conceal any facts of the incident occurred in the intervening night of 10/6/2018 and 11/6/2018. The accused while admitting the fact that the deceased had died due to injury caused by him, also stated that he had no intention to commit murder on the deceased.

(ii) That in his examination under section 313 Cr.P.C, the accused explained the reason and stated that when he was reading Bible, the deceased disturbed him and torn his Holy Bible saying that he was free to do as he liked. Thereupon the accused got angry and flared up, and as he had no other choice, he committed the said murder.

(iii) The learned counsel contended that, the above fact and circumstances clearly shows that the deceased had mocked on the appellant for his conversion from Islamic to a Christianity; and on being provoked by the deceased, the accused

became furious and having no control over himself and at the fit of anger, the accused had committed the offence causing death of the deceased.

(iv) The learned counsel further argued that the entire case is based on the confession of the accused in his examination under section 313 Cr.P.C. and submits that the inculpatory statement under section 313 Cr.P.C. to the exclusion of the exculpatory statement of the accused should not be resorted to as sole basis for conviction of the accused. The learned counsel placed reliance on the decision of the Hon'ble Supreme court reported in **AIR 2002 SCC 3582** which read as "*The statement made in defence by the accused under section 313 Cr.P.C. can certainly be taken aid of to lend credence to the evidence led by the prosecution, but only a part of such statement under section 313 Cr.P.C. cannot be made the sole basis of his conviction. The law on the subject is almost settled that statement under section 313 Cr.P.C. of the accused can either be relied in whole or in part. It may also be possible to rely on the inculpatory part of his statement if the exculpatory part is found to be false on the basis of the evidence led by the prosecution.*" And further submitted that no any justifiable reason have also been given for conviction of the appellant basing on his statement under section 313 Cr.P.C.

(v) It is the further submission of the learned counsel that as the incident took place due to the sudden provocation made by the deceased, the instant case should fall under the exception of section 300 IPC. Hence, the accused be acquitted

from the charged offence U/S 302 IPC. However, as the deceased died due to the injury caused by the accused, the offence falls under culpable homicide not amounting to murder punishable under section 304 (Part-I) IPC. Therefore, the only prayer of the appellant is that the offence under which he has been convicted be altered and it should be brought down from the offence under section 302 IPC to U/S 304 (Part-I) IPC, and he may be convicted for offence under section 304 (Part-I) IPC and a minimum sentenced may be passed against him for the said offence.

SUBMISSION OF LEARNED ADDL. P.P. Mizoram

9. Ms. Mary L. Khiangte, learned Addl. P.P, Mizoram highlighted the incident of the case occurred on the intervening night of 10.6.2018 and 11.06.2018. She also briefly stated the evidences of the witnesses including the evidence of PW-2 to whom the accused first informed about the murder of the deceased; the evidence of the IO before whom the appellant made disclosure statement and the evidence of the doctor and the FSL expert apart from the confession of the accused has during his examination U/S 313 Cr.P.C. The learned Addl P.P while supporting the conviction of the conviction of the accused person has made the following submissions:

(i) That the learned trial court has rightly believed the evidence of the prosecution witnesses which corroborates with the disclosure statement and confession of the accused in his statement under section 313 Cr.P.C.

(ii) The learned Addl. PP submits that all the relevant incriminating questions were put by the learned Court to the

accused while he was examined under section 313 Cr.P.C and the answer given by the accused confessing his guilt of commission of the charged offence would be sufficient to hold him guilty of the charged levelled against him.

(iii) The learned Addl. PP further contended that in the instant case, a well-founded reasoning has been given by the learned trial Court for considering the case basing on the statement of the appellant under section 313 Cr.P.C. And that the confession of the accused in his examination under section 313 Cr.P.C has been fully corroborated by the evidence of the witnesses and FSL report.

(iv) The learned Addl. PP submits that the trial Court have correctly appreciated the oral and documentary evidences of the case and the Court has rightly convicted and awarded life sentence with fine of Rs.60,000/- against the appellant.

(v) And further that the exculpatory statement of the accused that he got angry at the objection raised by the deceased on his conversion from Islamic to Christianity cannot be believed in absence of any corroborative evidence in as much as the same was never divulged and made known to any of his friend or to his landlord who clearly stated that they know the accused to be a believer of Islam. And the statement of the accused that his Holy bible was also been torn by the accused cannot be believed as no any bible was ever found or recovered from the rented house of the accused.

(vi) Moreover, in the findings of the learned trial Court, it is clearly stated that there was no sudden provocation or previous enmity shown between the accused and the deceased victim as stated by PW-10, who is the close friend of both the appellant and the deceased. As such the situation as enumerated in the case cited by the learned defence counsel reported in **2019 (3) SCC 517** is not the same. In the said referred case, the conviction of the accused was altered from Ss.302 and 201 to Ss 304 Pt. I and 201 holding that there was grave and sudden provocation by deceased calling his accused wife and daughter a prostitute. But in the instant case, there is no any evidence of such sudden provocation.

(vii) The learned Addl. P.P also contended that the injuries found on the body of the deceased and the items sent to FSL for examination and its report (Exhibit P-12) suggest that it was not the case of a sudden provocation and one time hit and died case on the spot; but the injuries on the body of the deceased and the blood stain found all over the pillow cover, bedsheet, knife, chappal, vest finger scrapping they all indicates that the deceased was not only repeatedly stabbed and assaulted with knife, but he was also dragged into cement wash basin from the bed and then cut his throat to ensure his death. In fact, the accused himself has admitted the above facts and confessed before the police and the court. And once the accused himself has revealed the fact of the case, admits it and confessed the same before the trial court, it is no defence for the accused that

he had no intention to killed the deceased. The act of the accused must have done with an intention to kill the deceased and such act, as in the present case certainly completes the ingredients of section 300 of IPC.

(viii) The learned Addl. PP further submits that it was a meticulously execution of a well plan murder by the accused and thus the offence clearly attracts the provision of section 302 of IPC. Therefore, the learned Addl. PP sought to dismiss the appeal.

POINTS FOR DETERMINATION:

13. In view of the rival contentions urged by the learned counsel for the parties, the points that would rise for determination in the present appeal is:

(i) whether the learned Additional Sessions Judge is justified in convicting the accused/appellant for the offence punishable under section 302 IPC and sentencing him to undergo imprisonment for life and to pay a fine of Rs.60,000/- with default.

FINDINGS AND REASON:

14. We have given our thought and consideration to the arguments advanced by the learned counsel for the parties and perused the entire materials including the LCR. For the proper appreciation we may now briefly examined the evidence adduced by the prosecution witnesses some of which are crucial evidence of the case:

(i) PW-2 Mr. Rokamlova the owner of the rented house PO deposed that one Sunday morning during the month of June 2018, the appellant came to him and informed him that

he was leaving Aizawl for caring his sick relatives; and during his absence one of his relatives (the deceased) will remain in their rented house. And although he asked the appellant as to how he will proceed to his home place, but the accused suddenly left without replying his question. This witness further deposed that in the same night at around 11:20 PM, they received a telephonic call from the accused, who told him that the Mizo friends of the deceased Hussain came to their rented house and murdered the deceased and left the dead body in their rented house. The accused also informed him that he was also brought into Vairengte by the said miscreants but he took another vehicle from Vairengte and left for his home town. Thereafter, the PW-2 immediately informed the said telephonic information to the local YMA leaders. He also confirmed from his daughter who occupied the next part of the rented house in the same building. And on being confirmed, the PW-2 again informed the Police and the Police thereafter arrived at the PO."

During cross examination, this witness clarified that he does not know whether there was personal enmity in between the appellant and the deceased.

(ii) PW-3 Mr. Vanlalsiama and PW-4 Mr. R.L. Lalpekhluva are seizure witness in respect of material items some of them with blood stain which were seized from PO in their presence.

(iii) PW- 5 Mr. Abdul Latif deposed that on being led by the accused, they went to the PO with the Police from where a

kitchen knife (wooden butt) and one mobile phone were recovered from the rented house (PO) of the appellant in their presence. He further deposed that thereafter the accused was brought back to Aizawl Police Station where the accused also confessed that he had committed the alleged offence of murder. In his cross-examination, PW-5 further clarified and stated that the appellant took out the seized kitchen knife (wooden butt) from the wall of his rented house."

(iv) PW-6 Mr. Hifjur Rahman gave a similar deposition as PW-5 and further stated that the appellant had confess before the police that he had committed the offence as the deceased victim borrowed his money.

(v) PW- 7 Dr. Lalchawiliana took blood sample of appellant on 14.6.2018 which was seized by the Police. Similar deposition as seizure witness has been given by PW- 8 Smt. Lalzarzovi.

(vi) PW-9 Dr. LalthankimiRalte on being requisitioned had drawn a blood sample of the appellant for the purpose of DNA profiling by following codal formalities for the same.

(vii) PW-10 is Mr. Kamal Uddin is the close neighbor of the deceased Mr. Jamal Uddin with different landlord and stated that the appellant also asked him to look for a rent house for him. The appellant initially joined rented house of Mr. Jamal Uddin and later on joined their rented house just about a week before the incident as Mr. Jamal Uddin had left

Aizawl for Ramjan one week before the incident. Thereafter, the appellant also returned to their hometown, but when he asked the reason for coming home, the appellant replied him that three Mizo miscreants entered into their rented house when he went to Zarkawt for sending money, and when he returned to the rented house, he found the dead body of the deceased in the room. Then, the PW-10 advised accused to inform the matter to the landlord, and accordingly, the appellant gave information to the landlord through telephone.

In his cross-examination, this witness clarified that before he left the rented house for Ramjan just before incident, four peoples occupied the same including himself, the deceased, Hussain and the accused person. And although some Mizo people used to come their rented house, but they hardly visited them. This witness does not know whether the appellant intended to convert into Christianity or not. He also does not know whether there was any personal hatred in between the appellant and the deceased prior to the incident or not.

(viii) PW- 11 Mr. Lalchhanzova who is the FSL expert, received 17 exhibits from SDPO, Aizawl South Sub-Division for DNA examination, namely:- (1) Pillow cover with suspected blood stains marked as Ext. A. (2) Cleaver with suspected blood stains marked as Ext. B. (3) Bedsheet with suspected blood stains marked as Ext. C.(4) Rag t-shirt floor mop with suspected blood stains marked as Ext.D. (5) Suspected blood

stains swab from bed marked as Ext. E. (6) Kitchen knife with suspected blood stains marked as Ext. (7) Water containing suspected human blood marked as Ext. G. (8) Green silpauline with suspected blood stains marked as Ext. H. (9) Rubber chapal of the appellant with suspected blood stains marked as Ext. I. (10) Full sleeve shirt of the appellant with suspected Blood stains marked as Ext. J. (11) Vest of the victim with suspected blood stains marked as Ext. K. (12) Dried blood sample of the victim collected from throat marked as Ext.1 (13). Piece of vest of the victim with suspected blood stains marked as Ext. M. (14) Liquid blood sample of the victim marked as Ext.N (15) Dried blood sample of the victim marked as Ext.O. (16) Liquid blood sample of the appellant marked as Ext.P (17) Fingernails scrapings from right hand of the victim marked as Ext.Q. PW 11 further stated that a blood was detected from the stains of exhibits A, B, C, D, E, H, K and M. Exhibits D, H and N were decomposed. Traces of blood were also detected from the stains of exhibits F and Q. Blood was detected from Ext.G, but the exhibit was too diluted for DNA examination. Blood was not detected from the stains of exhibits I and J.

The observations from the DNA extracted from the exhibits A, B, C, E, K, L, M, O and P, are that: Complete male DNA profile were generated from exhibits A, B, C, E, K, L, M, O and P. The genetic profiles of exhibits A, B, C, E, K and M matched with the genetic profile generated from exhibits L and O.

He deposed that on the basis of the above observations (i) the blood stains from exhibits **A, B, C, E, K and M** were that of the victim i.e, exhibits **L and O** (ii) Exhibit P were of the appellant.

(ix) PW-12 Mr. Rosangzuala is the FSL expert who visited PO on 11.6.2018 at 1:07 AM. At PO they found that although the Police had already broken open the door lock, but they had not touched the dead body till their arrival. In his report PW-12 observed that the body was found lying on a water tub, covered with a green polyethylene sheet. Dragged mark of the body was observed on the floor from the bed to the water tub and then mopped. The pillow, blanket and bed cover on the bed were stained with blood. A bucket (an empty paint bucket) containing dark red liquid was found beside the bed adjoining the water tub where the body was lying. A square headed blade/knife was found beside this bucket. Bloodstained palm print was observed on the wooden plank of the bed near the body.

(x) PW- 13 Dr. Lalringmaia, conducted PME over the dead body of the deceased and his findings are as below:

(1) An incised wound of 3x0.5 cms present on outer aspect of right eyebrow, obliquely placed.

(2) An incised wound of 5x0.5 cms present on right temporal region of scalp.

(3) An incised wound of 1x0.5 cms present on left ear.

(4) A cut throat wound of 15 x 4 cms present on the front of the neck extending backwards on both sides of the neck. Trachea (windpipe) was completely severed, cutting off both carotid arteries and jugular veins.

(5) Fracture of third and fourth cervical vertebrae.

In his opinion, the cause of the death of the deceased was due to hemorrhagic shock as a result of cut throat injury of the neck, cutting of trachea (wind pipe), both carotid arteries and jugular vein.

(xi) PW-14 Mr. V. Lalbiaksanga is the first I.O of the case. He had visited the P O and seized articles and sent them to FSL for examination. As the accused had informed the landlord about the dead body in his rented house, he was suspected so, the accused was arrested from his hometown at Assam. During interrogation the accused admitted his guilt and confessed that firstly he hit the deceased on his head by using a knife made from saw blade due to which the deceased fell unconscious and then he brought the body into the water place where he again cut the neck of the deceased by using smaller knife. On such statement given by the accused, the IO prepared a disclosure statement of the accused. Thereafter, the accused lead the police accompanied by other witnesses and effected recovery of knife made of saw blades from PO and seized. Other material like Shirt and chappal of the appellant were also seized as it was found to be the wearing apparels of the appellant at the time of the incident, they were also sent to FSL for scientific

examination. The IO further deposed that as per the statement of the accused, the motives of the incident was some discord in between the accused and the deceased on the ground that accused was leaving the faith of Islim to Christian.

FINDINGS OF THE COURT:

14. We have gone through the oral evidence of all the relevant witnesses including the PW-1,2,5,6,10,11,12,13 and 14 and in our view, the trial Court had rightly appreciated the evidences and the involvement of the accused in this case. In the instant case, admittedly, the accused had made a disclosure statement before the police during investigation period about the knives with which he had caused injury on the deceased leading to his death. The said weapon of offence (knives) was concealed by the accused at the PO which was within his knowledge. The accused made the said disclosure statement while he was still inside the police custody. After making disclosure statement, the accused led the police to the PO and effected recovery of the knives. Section 27 is an exceptional to the section 25 and 26 of the Evidence Act. Section 27 provides that a confessional statement made to a police officer can be proved against him. The exceptional postulated under section 27 of the Evidence Act is applicable only if the confessional statement leads to the discovery of some new fact. In the instant case, immediately after receipt of information, the police as well as the FSL team visited the PO; thoroughly investigated and made a search over the PO and recovered many articles; however, they did not see the said knives as it was kept hidden by the accused after commission of the offence..

15. Learned counsel appearing for the accused has raised the question that the accused cannot be convicted solely on the basis of the statement made in the examination of the accused under section 313 Cr.P.C. The object of Section

313 CrPC is to empower the Court to examine the accused with a view to give him an opportunity to explain the circumstances that appeared against him in the evidences. In the instant case, the accused was examined under section 313 Cr.P.C by the Addl. Session Judge. The questions put to the accused and his answers explaining the situation is reproduced below:

Q.1: It is appeared in the evident that you have been staying in the State of Mizoram since long time back, and during 1990's you were engaged under Shri Rokamlova for construction of his building located at RamtharVeng, Aizawl. And in the year 2018, since your partner Jamal Uddin left Aizawl, you joined the rented house of your friend Kamal Uddin who occupied the house building of Shri Rokamlova at RamthatVeng, Aizawl on rental basis. What do you have to say?

Ans:- It is true all the contents of the above statements.

Q.2: It is also appeared in the evidence that, for observing Ramjan, your friend Kamal Uddin left you in the house and after that, in one Sunday morning (i.e 10.6.2018), you told the house owner Shri Rokamlova that you should leave Aizawl for caring your sick relatives and during your absence, deceased victim Mr. Hussain Ahmed will remain and stay in the house. What do you have to say?

Ans: The above are true and correct.

Q.3: On the same night of dt.10.6.2018 at around 11.20 PM, you talked again to Shri Rokamlova through telephone by saying that some of the Mizo friends of the deceased Victim Hussain Ahmed came to your rented house and killed Hussain Ahmed and left his

dead body inside the said rent house. After killing Hussain, those murderers also brought you into Vairengte. As such, you got another vehicle from Vairengte, you further proceed to your hometown, what do you have to say?

Ans: The above are true and correct.

Q.5: It is appeared in the evidence that, since you are the informant about the incident to the landlord of the PO, on suspect, the police arrested you at your hometown Viz, Chargyula, Karimganj district and during interrogation, you confessed your guilt for murdering deceased victim by making disclosure statements, and on the strength of your disclosure statements and on being led by you, the police seized 2 nos of your offensive knife from the PO wherein some leaders of Muslim association in Aizawl also became witnesses to the said seizure. What do you have to say?

Ans: The above are true and correct in respect of making arrest me in my hometown and confession made before police, the police also make recovery of 2 Nos of offensive knife from the PO on being led by me and on the basis of my confession. But I do not know whether leaders of the Muslim Association, Aizawl are witnessing seizure of offensive knife.

Q.7. It is also appeared in the evidence that on 14.6.2018, you were brought by the police to Civil Hospital Aizawl and in presence of witnesses, 5 ml of your blood was drawn by the female Doctor who is on duty, and the same was seized by the Police for FSL examination. What do you have to say?

Ans: It is true and correct for extracting blood sample of myself.

O.9: It is also appeared in the evidence that after well preparation for killing deceased victim on 10.6.2018 at about 3.00 AM, you committed murder of Hussain Ahmed inside your rented house by firstly hit in his head with a knife, and after he fell unconscious, you brought him into the wash basin and cut his neck by using another knife. What do you have to say?

Ans. When I was reading Holy Bible, deceased victim Hussain Ahmed disturbed me and he has also torn my Holy Bible, when I asked him the reason why he disturbed me, he replied me that it was done as per his own wishes. I was very angry and flared up and as I had no other choice, I committed murder of him. It is also true to say that I firstly hit in his head with a knife and after he fell unconscious, I brought him into the wash basin and cut his neck by using another knife.

Q.10: Do you have any other explanation on your case?

Ans. Not only torn my reading Holy Bible, deceased victim further thrown out my Holy Bible below our rented house, I was therefore flared up.

16. In the case of **Ashok Debbarma Vs. State of Tripura** reported in **(2014) 4 SCC 747** the Hon'ble Supreme Court has held that weightage can be given to the admission of the appellant made under Section 313 Cr.P.C. to prove his guilt. And after considering the law laid down in the case of **Hate Singh Bhagat Singh Vs. State of Madhya Bharat** reported in **AIR 1953 SC 468** wherein it was held that the answer given by the accused under section 313

Cr.P.C examination can be used for proving his guilt as much as the evidence given by the prosecution witnesses. And in the case of **Narain Singh Vs. State of Punjab** reported in **(1963) 3 SCR 678**) it was held that, when the accused confessed to the commission of the charged offence with which he is charged, the court may rely upon the confession and proceed to convict him, it has been further held that admission of guilt in Section 313 Cr.P.C. statement cannot be brushed aside. Further, held that the answers given by the appellant in his examination under 313 Cr.P.C can be taken into consideration and can be used for proving the guilt of the accused, if such admission of the accused appears to be consistent with the prosecution evidence pointing towards the guilt of the accused person.

17. In the present case, the answer given by the appellant in his examination under Section 313 Cr.P.C. in response to question No. 1 to 10 reveals the entire prosecution story and it is also well corroborated by the evidence of all the prosecution witnesses and the Post Mortem Examination and the FSL report. Therefore, the admission of guilt by the accused under section 313 Cr.P.C. in our opinion, would lead ample credence to the prosecution case thereby firmly establishing the charge brought against the accused/appellant. For the reasons stated hereinabove, we do not find any merit in this appeal.

Conclusion:

Accordingly, on our appreciation of the entire oral and documentary evidence relied, we answer the point raised in the present Criminal Appeal in affirmative holding that the judgment and order passed by the learned Additional Sessions Judge, Aizawl is justified and does not warrants interference by this court.

In view of the above we pass the following order in the appeal:

- (i) The criminal appeal is dismissed.
- (ii) The impugned order and judgment convicting the appellant for the offence punishable under section 302 IPC and sentencing him to undergo life imprisonment and to pay a fine of Rs.60,000/- and in default of payment of fine to undergo RI for 6 months is hereby affirmed.

Ordered accordingly.

JUDGE

JUDGE

Comparing Assistant