

GAHC030001242019



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

**Case No. : CrI.A./39/2019**

H. Lalhmunsiamma  
Biate, Biak In Veng  
Champhai District

VERSUS

State of Mizoram and Anr  
R/b The Secretary Home Department  
Govt. of Mizoram  
Aizawl

**Advocate for the Petitioner** : Mr. Johny L Tochhawng (Amicus Curiae)

**Advocate for the Respondent** : Ms Linda L Fambawl (PP/Addl. PP, Mizoram) for R1

**BEFORE**  
**HONOURABLE MRS. JUSTICE MARLI VANKUNG**

**JUDGEMENT**

**Date** : 24-07-2023

Heard Mr. Johny L. Tochhawng, learned Amicus Curiae for the appellant along with Mrs. Linda L. Fambawl, learned Additional Public Prosecutor for the State respondents.

This is a jail appeal filed by the convict/appellant through the Superintendent, District Jail, Champhai praying for shortening of the term of sentence imposed upon

him by the learned Sessions Judge, Aizawl Judicial District, Champhai vide Judgment & Order dated 24.06.2014 in Session Case No. 201/2015, arising out of Criminal Trial No. 1653/2015 Ref: KZL PS Case No. 84/2014 dated 12.11.2014. The convict appellant was sentenced vide Sentence Order dated 25.06.2019 to Rigorous Imprisonment for a period of 7 (seven) years and a fine of Rs. 5,000/- i.d. S.I. for 1 (one) year on his conviction under Section 307 IPC.

Brief facts of the case is that on 12.11.2014 at around 10:00 PM, a written FIR was received to the effect that on 12.11.2014 at around 12:00 noon, the convict/appellant had assaulted the daughter of the informant aged 16 years with a knife and inflicted injury cuts on her neck and wrist inside the house of the complainant/informant. Accordingly, Khawzawl PS registered a case vide KZL PS Case No. 84/2014 under Section 307/324/448 IPC. On investigation, the case I.O examined the victim and other witnesses and on finding *prima facie* case submitted the charge sheet against the accused person under Section 307/324/448 IPC. During trial, 5 (five) prosecution witnesses were examined in the Court and on examination of the convict appellant under Section 313 Cr.P.C., the convict appellant denied having any knowledge of the incident by stating that he was intoxicated at the alleged time of the incident and therefore, does not remember anything. No defence witnesses were produced. The learned Trial Court after considering the evidence adduced in the Court convicted the accused under Section 307 IPC on 12.11.2014 and sentenced him vide Order dated 25.06.2019 to Rigorous Imprisonment for 7 (seven) years and a fine of Rs. 5,000/- i.d. S.I. for 1 (one) year.

Mr. Johny L. Tochwang, learned Amicus Curiae submits that from the evidence adduced in the Court, it appears that the convict appellant had no intention to commit the offence under Section 307 IPC and that the nature of the injury caused to the alleged victim is simple injury. He further submits that the convict appellant was

an alcoholic and during the time of the incident, he had abstain himself from consuming liquor, which in turn, had affected his mental state of mind. Thus, he was not in his full senses and was mentally disturbed when he had committed the offence. That the convict appellant was only 20 years old when he committed the said offence and was not having any previous conviction or any case against him. The learned Amicus Curiae further submits that the instant appeal filed by the convict/appellant is limited only to lessen the term of sentence imposed upon him by the learned Trial Court. It is seen from the evidence adduced that the convict/appellant and his family have also moved away from Champhai, after the unfortunate incident and will not imposed any threat upon the alleged victim and her family or any other person since the convict appellant is now free from the influence of liquor.

Mrs. Linda L. Fambawl, learned Additional Public Prosecutor, on the other hand submits that there are no grounds for reducing the terms of sentence since the offence under Section 307 IPC is of a serious nature punishable upto imprisonment for 10 years was only due to luck, that the victim has sustained simple injury. She further submits that the convict appellant had every intention to cause death to the victim, considering the nature of the act, wherein he had taken a sharp kitchen knife and assaulted the victim on her neck and wrist.

Having heard the submissions made by both the parties and considering the limited nature of prayer made by the convict appellant and the learned Amicus Curiae, which is for reduction of the terms of sentence, this Court finds that a discussion on the prosecution evidence in the Court is not required whereby, the convict/appellant was found guilty and convicted under Section 307 IPC. The fact that the convict appellant was only of 20 years at the time of commission of the offence is not denied by the learned Additional Public Prosecutor and it is not denied that there was no previous conviction against the convict appellant. It is also seen from the medical

report and the statement of the Doctor who deposed as PW-8, that the nature of injury sustained by the victim was simple injury. The weapon used by the convict/appellant was also a small kitchen knife.

For the above reasons, this Court by invoking its powers under Section 386(b) (iii) of the Code of Criminal Procedure, find it fit to interfere with the Sentence Order dated 25.06.2019 and reduce the terms of sentence from Rigorous Imprisonment of 7 (seven) years, the fine imposed and default clause shall remain unchanged.

Crl.A. No. 39/2019(J) accordingly stands allowed and disposed.

In appreciation of the services rendered by the learned Amicus Curiae, Mr. Johny L. Tochhawng, he may be given a fee of Rs. 7500/-, which shall be borne by the Mizoram State Legal Services Authority.

**JUDGE**

**Comparing Assistant**