

IN THE COURT OF SHRI SANJAY GARG:
METROPOLITAN MAGISTRATE: NEW DELHI

STATE VERSUS THANG CIN THAWN
FIR NO. 330/01
P. S. Ch. Puri
U/S 14 F. Act

JUDGEMENT

a) Sl. No. of the case	1341/2
b) Name of the complainant	State
c) Date of commission of the offence	15-9-01
d) Name of the accused	Mr. Thang Cin Thawn S/O Late Sh. Thang Kho Pan, R/O Sakoliam 408, Tiddin, Chin Stati Mayyamar
e) Offence complained off	U/S 14 Foreigner Act.
f) Plea of the accused	Pleaded not guilty
g) Final order	Convicted
h) Date of such order	3-6-2002

BRIEF STATEMENT OF REASONS OF SUCH DECISION:

1. Briefly stated allegation against the accused are that on 15-9-01 at 9.20am at Nayay Marg near visa gate US Embassy New Delhi, he was found without any visa and passport granted by Indian Govt. Accused being Burma national was required to enter India after getting visa from Indian High Commission. After investigation police filed the challan against the accused for the offences under section 14 of Foreigners Act, 1946.

2. After supplying copies of the challan, charge under section 14 of foreigners Act was given to the accused to which he pleaded not guilty and claimed trial.

3. In support of its case prosecution examined four witnesses. PW1 Ct. Om Prakash along with IO arrest accused and he proved arrest memo of the accused Ex PW1, disclosure statement of the accused Ex PW1/B and personal search memo of the accused Ex PW1/C. PW2 ASI Devi Ram was on duty outside the US Embassy when accused reached there. PW3 is Yashbeer Singh who proved his register EX p. PW4 SI Mahinder Singh, IO of the case proved rukka EX P4 DD No. 5 A Ex PW5/B.

4. On the basis of incriminating evidence against accused, statement of accused was recorded under Section 3 wherein accused admitted all the prosecution allegation. Accused stated that to avoid the atrocities being committed by the local Govt. he ran away from his country i.e Burma and came to India for protecting and approached the U. S. Embassy for financial help and there he was false implicated by the police.

5. Heard the arguments and carefully perused the case file.

6. PW2 ASI Devi Ram deposed that on 15-9-01 he was posted at visa gate in front of U. S. Embassy and accused came there and at visa gate he was walking in a suspicious circumstances. He interrogated the accused who told that he is a Burma national. He asked him to show his passport and visa. But accused failed to do so. Accused also failed to tell about his correct address. He gave written message at P. S. Ch. Puri and SI Mahinder Singh came to spot. His statement was recorded by SI Mahinder Singh. During cross PW2 he had not enquired about visa and passport of the accused from Burma Embassy.

7. PW4 SI Mahinder Singh is IO of the case that on 15-9-01 at 9. 20 a m he received DD No. 5 A an Ct. Rama Kant reached at Nayay Marg visa gate. Accused was handed over to him by ASI Devi Ram. He was told that accused was not having any visa and passport. He came to police station along with accused and there he interrogated the accused. Accused made a disclosure statement that he wants a refugee status and want to go to USA Embassy. Accused also disclosed that he had crossed over to the India without any passport or visa. He prepared the rukka got the FIR registered. Accused was arrested. I-card of the accused was taken into possession. He made the investigation regarding stay of the accused. He came to know that accused was stayed at Cama Hotel with his two friends. During PW4 stated that he had not verified from the Burma Embassy about the document of the accused.

8. Accused has been charged for the offence under S. 14 of Foreigners Act. 1946. Section 3 of the Act prescribes that anyone entering into India should enter with proper passport and visa given by Indian Government. It stands admitted by the accused during his statement recorded under section 313 Cr. P. C. that he is Burma national and had come to India after crossing the border illegally without any visa from Indian Government.

9. In the light of various facts and circumstances discussed above, I hold this opinion that prosecution has successfully proved that accused was found in India without any visa or permission from the Indian Government to visit India and thereby committed an offence punishable under section 14 of Foreigners Act 1946. I thereby hold the accused guilty and convict him accordingly.

Announced in the open court

On 3-6-2002

(Sanjay Garg)

Metropolitan Magistrate

New Delhi.