

[2021] 7 S.C.R. 65

PATRICIA MUKHIM

v.

STATE OF MEGHALAYA & ORS.

(Criminal Appeal No.141/2021

MARCH 25, 2021

[L. NAGESWARA RAO ARO S. RAVINDRA BHAT, JJ.]

Penal Code, 1860 – ss.153A aro 505 (1)(c) – Meghalaya A doko non-tribalrangko iron rod aro gol dikrangchi ka saninggiya doka – Matnange aganani gita dokgiparang Meghalaya-ni tribal jatoinchim – Mol molaniko dakgipani Facebook-o upload ka gipao, tribal aro non-tribalrangni gisepo gadangko mesokna aro mitchigrikatna miksonge dakaha ine matnanga – section 153A aro 505(1)(c)-ni ning o mamlako nikchongon sakkirangko man ama man ja – Chanchianirang: Mol molaniko dakgipani Facebook-o upload ka ako name niode, uni duk ong aniara Meghalaya-ni CM-ni, DGP aro biapni Dorbar Shnong-ni non-tribalrangko dokgiparangni kosako mamungkoba jako ra e kamko ka na gisiko nanggijani gimin ong a – Facebook post-ko chu gimik poraiode A dokni non-tribalrangba apsan bil man pagiparang ine chanako man na nanga ine mol molani ong a – Mol molaniko dakgipa, gadangko dingtangatna ba jatsa jatgipinko mitchigrikatna mamung miksongani dongja – Mol molaniko dakgipa darang jatni kosakoba drae dakna didiani dongjani gimin, section 153A aro 505(1)(c) dos daka ine mesokna man ja – Meghalaya A doko songdonggipa non-tribalrangna naljokaniko on china ine Mol molaniko dakgipa gisiko nange mol molchakaha aro uamangna apsan cholko on na agananiko mamung dakeba mitchie agana ine ra na man ja – lan kakketko dakchina okamani ong a – niamo gita kamko ka china, jekon songdonggipa sakantian kadongchaksona aro parakna bil donga – Sorkarini kam ka gijaniko namnikjae agananiko dingtang dingtang jatrangni gisepo mitchigrikatna jotton ka a ine aganna man ja – a songo songdonggiparangni (citizen) jakgitele aganania mande jinmako golmal ong atjaode, uamangko ka namgija dosko dakgipa (criminal case) mamlarango man chapatna man ja – section 135A aro 505(1)(c)-ni ning o Mol molaniko dakgipani kosako mamung mamlako dakangna man jaha.

Penal Code, 1860 – s.153A – Agane dosi dakani - Jakgitele agananiko aro parakaniko champenganirang –Chanchianiko on'a: India-ni Niam bidikni Article 19(1)(a) – o jakgitele aganna bil on'anirangara gamchatgipa fundamental right ong'a –Indake ong'oba, jekoba aganna man'aigipa ba bilde ong'ja – India-ni jakgitele aro nangrime donganina, A dokni naljokanina, gipin A songrang baksa meli-nangrime donganina, jinmani name donggnina, krae aro nama cholon bewalo donganina, ba kachariko mande ra'gija dakjachina, sakoba ong'gija matnanganiko champengna ba dos dakna didiako champengna jakgitele agananiko aro parakaniko champengna man'a – Agananio dos dakanirangna section 153A-o sasti man'na ama – India-ni Niam bidik, 1950 – Art.19(1)(a) – Mitchie Aganani.

Penal Code, 1860 –section 153A – Maidake ong'a - talata – Indake ortoko ba chanchiako agana: Manderangko bilding bildang ong'atna ba an'chi-pari nikatna u'imanchaen didiode (sine qua non) section 153A-o gita dosi dakani ong'a aro u'ien aro miksongmanchaen dakdila ine dos galna mamlako jako ra'enggipa (prosecution) sakkirangko mesokna man'na nanga – Seo maidakgipa ku'siko jakkala aro mai obostao seaha aro gatataha, uano pangchake mongsongbate segipani miksongako nianiko dakna nanga – Indake ong'oba, section 153A-ni ning'o matnange agananirangko chu'gimik apsan nina nanga.

Penal Code, 1860- section 153A aro 505 – section 153A-ko section 505 (2) baksa tosusao maidake ong'a – Minggni dos dakanirangni apsangrikani aro dingtanggrikani – Indake ortoko pe'aha: section 153A aro 505(2) –o dos ine chanako man'na, dos dakna miksonga aro u'iani dongna nanga – la section gegnini apsan apsan dakaniara bobil dakaniko ong'atani, dingtang dingtang torom ba jat ba ku'sik ba toromni dolrang ba jatrangni gisepo mitchigrikatani ba nidikgrikataniko ong'atani ong'a, iana komibeoba dolgnini gisepo bak nangbakani dongna nanga – Jatsa mangmangko ba dolsa mangmangko ong'gija chanchina didia ine dolgipin ba jat gipinko janapja ong'ode ia section gegnio ga'akjawa – Indake ong'oba, kattarangko chapa ka'anichi ba seachi mesokataniara section 505-o ga'akna nangchongmotgipa (sine qua non) ong'a - Mitchie aganani ong'a.

FIR – Jegalani – Chanchianiko on'ani: Jeon potaniko FIR ba Matnanganio (Complaint) ra'baaha, uarangko nimrake chu'gimik ra'chakgenchimomangba, matnangako man'gipa-ni kosako mamung dos dakaniko mamlako niarian (prima facie) nikjahani gimin, FIR-ko jegalna ga'akaha.

Mol'molaniko ra'chake, Kachari

GE'ETANIKO ON'A: 1.1. A'songni Niam bidikni (Constitution) Article 19(1)(a) –o jakgitele aganna bil on'gipa namen gamchatgipa bil ong'a.; indioba, ia bilara chu'gimik skatang jakkalna man'gipa bil ong'ja. India-ni jakgitele aro nangrime donganina, A'dokni naljokanina, gipin a'songrang baksa ripeng ong'e donganina, jinmani tom'tome donganina, nama cholon bewalko rakkianina ba Kachariko mande ra'gija dakanina, sakgipinko tol'e matnanganina ba dos dakna didianina champengna, jakgitele aganani bilko agrepile jakkalaniko komiatna man'a. Aganachi dosi dakaniko section 153A IPC-o sasti on'na man'a. [Para 8][72-C-D]

1.2. Indake ong'oba, section 153A IPC-o dos ong'a ine chanade, drae dakna ba golmal ong'atna miksonge daka ong'na nanggen aro mamlako jako ra'enggipa chu'sokatnade miksonge ba u'ie daktela ine matnangna man'na nanggen. Section 153A-ko kan'dike aganode, dingtang dingtang jatni gadangni manderangko bobil ong'atna ba mitchigrikatna miksonge dakanian ong'a. Miksonge dakaniko seanio maidakgipa kattako jakkala uko skanggipa nichengna nanggen aro mai obostao iako seaha aro gatataha ukoba nina nanggen. Section 153A-o ga'akgipa obostakode chu'gimik poraina nanggen. Matnangani sakkiko am'nade rake katta jakkalao aro seani badiaba bakko ra'e ba ong'jaoba, iako ba uko dake sentence-ko ra'e che'em che'em chanchianiko dakachi ong'na man'jawa. [Para 9, 10][73-H]; 74-A-C]

1.3. Ong'gijako dakna miksonganiko (mens rea) section 153A aro section 505 (2) IPC-o dos gnang ine chananiko man'na nangchongmotgipa dongna nanga. Ia section gegnio apsan apsan dake janapani gita manderangni gisepo bobil ong'atani, mitchigrikatani, namnikgrikgijani dingtang dingtang toromo, jato, dingtang dingtang ku'sikko agangiparango ba toromni dolrango, komibeoba indakgipa dolrang ba jatrang gegni gisepo dongna nanggen. Jatsa ba dolsako

ding·doate, dolgipinko janapja ong·ode ia section gegnio ga·akjawa. Indioba, kattako gatatachi (published) ba talate mesokachi (representation) section 505-o gita dosi ine chanako (*sine qua non*) man·gen. [Para 11] [74-D-F]

2. Mol·molaniko dakgipani Facebooko upload ka·ako namedake nigenchimode, non-tribalrangko doka-satani bidingo Meghalaya-ni CM, DGP aro Dorbar Shnongni kam ka·na gisiko nanggijanina duk ong·aniko parakani ong·a ine u·ina man·a. Facebook-o post ka·ataniko batbee poraigenoba, Meghalaya A·doko non-tribalrangni kosako ma·eke ra·aniko mesoknasan ong·a ine ma·sina man·a. Basketball kal·enggipa non-tribal chadamberangni kosako ka·saninggija doka sata dakgiparangni kosako ta·rake jako ra·e kamko ka·na nanga aro dos dakaniode mamung jat baseani dongna nangja ine Mol·molaniko dakgipa namen talataha. Facebook post-ko chu·gimik name poraiode, Meghalaya A·doko non-tribalrangba apsan bilko man·pagiparang ong·na nanga ine mol·molanisan ong·a. Jatsa jatgipinko mitchigrikatna Mol·molaniko dakgipa miksongani dongja. Jatsani manderangko drae dakna Mol·molaniko dakgipani didiani dongjani gimin Section 153A aro 505(1)(c) IPC-o dos galna man·jaha. Jeon potaniko FIR ba Matnanganio (Complaint) ra·baaha, uarangko nimrake chu·gimik ra·chakgengchimomangba, matnangako man·gipa-ni kosako mamung dos dakaniko mamlako niarian (*prima facie*) nikjahani gimin, FIR-ko jegalna ga·akaha. [Para 13] [75-E-H;76-A-B]

3. Lawsohtun-ni Dorbar Shnong-ni Mol·molaniko dakgipani kosako jatsa jatgipinni gisepe A·dok gimikon jajrengchipchipaniko aro meligrikgijaniko ong·atgen ine matnange agananiara chanchiatangko skatang banaie agananisa ong·aia. Mol·molaniko dakgipani Meghalaya A·doko donggipa non-tribalrangko naljoke rakkichina aro apsan dake jakkalaniko (equality) on·china bi·aniko, chanchianiko dake, mitchie aganani ine aganna man·jawa. A·songo songdongkamgipa sakantini bil man·na nanggipa aro parakna kragipako niam gita kakketko dakchina dabiaskan ong·aia. Sorkarini ra·chakgija kam ka·gijana namnikgija agananiko dingtang dingtang jatrangko mitchigrikatna jotton ka·a ine chana man·ja. Jinmani tom·tome dongenganiko mamung ong·atja ong·ode, ia a·songni songdonggiparangni jakgitele agananiko ka·namgija dosko dakgipa mamlarangni

gadango (criminal case) segatachi champengna man'jawa. Mol'molaniko dakgipani kosako section 153A aro 505 (1)(c) IPC-o dos ong'aniko nikjaha. [Para 15][76-E-H;77-A]

Balwant Singh v. State of Punjab, (1995) 3 SCC 214;
Manzar Sayeed Khan v. State of Maharashtra, (2007) 5
SCC 1; Bilal Ahmed Kaloo v. State of A.P. (1997) 7 SCC
431: [1997] 3 Suppl. SCR 327 aro State of Haryana &
Ors.v.Bhajan Lal & Ors., 1992 Supp (1) SCC 335: [1990]
3 Suppl. SCR 259-o pangchakaha.

Ramesh v. Union of India (1988) 1 SCC 668: [1988] 2
SCR 1011; aro Pravasi Bhalai Sangathan v. Union of India
& Ors. (2014) 11 SCC 477: [2014] 4 SCR 446 – ko
janapchapaha.

Saskatchewan (Human Rights Commission) v. Whatcott
[2013] 1 SCR 467 (Canadian Supreme Court-ni Chanchiani)
-ko janapchapaha.

Mamlana Niamrangko Janapchapanirang

(1995) 3 SCC 214	Para 9-o	pangchakaha
(2007) 5 SCC 1	Para 10-o	pangchakaha
[1997] 3 Suppl. SCR 327	Para 11-o	pangchakaha
[1988] 2 SCR 1011	Para 11-ko	janapchapaha
[2014] 4 SCR 446	Para 12-ko	janapchapaha
[1990] 3 Suppl. SCR 259	Para 13-o	pangchakaha

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 141/2021

Meghalaya-ni Chubatgipa Kachari, Shillong-o CrI.Petn. No. 9/ 2020 bilsini mamlana 10.11.2020 tariko Rai aro Ge'etaniko on'aoni ong'a.

Tra. Vrinda Grover, Aakarsh Kamra, Soutik Banerjee, Prasanna S., Mol'molaniko dakgipani Ukilrang.

Avijit Mani Tripathi, Shaurya Sahay, P.S. Negi, Warachakgipa dolrangni Ukilrang.

Kacharini Raiko on'gipa

L. NAGESWARA RAO, J.

1. Ia Mol'molaniara, Indian Penal Code, 1860-ni Section 153A, 500 aro 505(1)(c)-ni ning'o segipa FIR Laban PS Case No. 72(7)2020 tarik 06.07.2020-ko ra gale bon'atchina, Code of Criminal Procedure, 1973-ni section 482-ni ning'o pangchake mamla ka'aniko jegalanina segategipa ong'a.

2. Salsa skang ong'a obostako janape Assistant Inspector General of Police (A), 04.07.2020 tariko Songbad-o gatataniko on'aha. Ia obostani a'sel Section 326/307/506/34 IPC-ni ning'o Laban Police Station-o dos dakanina segate ka'aona sokaha. Lawsohtun Block 4-o attamchipak 12:30 bajimango u'igijagipa sak 25 mang pante bi'sarang basketball kal'enggipa chadamberangko iron rod aro goldikrangchi dokaha ine songbado kobor (press release) wataha. Arindam Deb, Subharashi Das Paspurkayastha, Saptarshi Das Purkayashta, Binak Deb, Bishal Ghosh aro Prittish Deb ia doka man'anio jokkom ong'tokaha. Mata-bu'a mang'iparangko sana-bana gita Woodland Hospitalo-ona ra'angaha. Chanchichippgipa mitam manderangko rim'aha aro sing'sandie nianiko dakenga ine songbad-o gatataha. Dos dakgipa manderangko rim'na gita sing'sandianiko dakgipa dolrangko (investigation team) dakchakchina mande jinmana mol'molaniko dakataha. Jatsa jatgipin baksa tom'tome aro melie-nangrime donganiko darangba golmal ka'jachina mikrakataniko on'aha.

3. Apsan salon, Mol'molaniko dakenggipa, ka'mao mesokatgipako Facebook-o wataha jekon indake poraina man'a:

Patricia Mukhim

July 4-ni 04:07-o. Androidni Facebook-o.

Conrad Sangma CM Meghalaya, mejalo Lawsohtun-o a'sel ong'gipa jeon Basketball kal'enggipa adita non-tribal chadamberangko silchi-darerangchi dokaha aro da'o Hospitalo dongenga, sorkari aro kam ka'enggipa Police Force donggipao ia ong'a obostara ra'chakna amgijani ong'a. Mikkang katipe dokgiparangara tribal pante bi'sarang ong'a aro uamangko ta'raken niam gita bichal ka'na nanga. Atchu ambini chasongonin Meghalaya-o dongbaenggipa non-tribalrangko, mitamde British-ni chasongonin,

uamangko doke roaniara dukni ong'a. 1979 bilsioni tal indake dokgipa aro golmal ka'ronggiparangko pangnaba rim'a dongja, aro indake rim'a man'eba sastiko on'jagenode niam gita Meghalaya-ara ru'uta bilsirangonin da'ona kingkingan chu'sokgijagipa A'dok ong'a ine agana man'gen.

Iani bidingo chinga nangni Sokariko aro DGP, R. Chandranathan-ni dilenggipa Police dolko gisiko nange ra'china mol'molaniko on'a. Chingni nidona man'gipa Police dol donga ine chingna jinmarangna mesokbo.

Biapni Dorbar Shnong-ara aro maiko dakenga? Uamangara a'achiko nionna mikron aro nachil dongjane? Uamangni dakna bil man'gipa jolo (jurisdiction)-o dos dakgiparang donga ine u'ijama? Matnangao uamang dilgipa ong'na nangjama aro mande so'otgiparangko mesoke on'na nangjama? Gimik jatni namgnina, jat aro ma' mal basegija kakketko dakna didina ian somoi ong'a.

Iara Police-ni file-o bon'chipaigipa minggipin mamla ong'jawa ine chinga bebera'a. Chinga kam ka'aniko nanga. Dos dakgiparangnade jat dongja. A'songni niam gita uamangko jako ra'na nangchongmota.

An'chingni A'doktangon non-tribalrangara maina kenchipe dongna nanggen? Iano atchigipa aro dal'atako man'giparangara, tribalrang gitan Meghalaya-ko uamangni A'dok ine mingna bil donga.

4. 06.07.2020 tariko Lawsotun, Shillong-ni Dorbar Shnong-ni Headman aro Secretary, Mol'molaniko dakgipani Facebook-o agananiko dakanira jatrangni kosako jajrengchipchipaniko ong'atchina didiani ong'a jean jatsa jatgipin baksa nanggrikanaba donga ine East Khasi Hills, Shillong-ni S.P-na matnange (complaint) segateaha. Bimung man'ata ineba Dorbar Shnong matnangaha. Matnanganio pangchake, Laban Police Station-o FIR segataha aro Laban Police Station-ni ning'o donggipa Kench's Trace Police Beat House-o mikkang pa'echina ge'ete Section 41A Cr.PC-o Mol'molaniko dakgipana u'iataniko on'aha.

5. Mol'molaniko dakgipa FIR-ko jegalchina Criminal Petition No.9/2020-ko Meghalaya-ni Chubatgipa Kachari, Shillong-o segateaha. Chubatgipa Kachari (High Court) 10.11.2020 tariko hukum on'achi Criminal Petition No.9/2020-ko ra'chakjaha, jeni niam gita dakaniko ia mol'mole

bi'anio ra'biaha. Meghalaya A'doko tribalrangni non-tribalrangko dokaniara jatgniko dingtangrikataniko ong'atna man'gen ine Chubatgipa Kacharini chanchiani ong'a. Facebook post-ara jatgnini gisepo bobil ong'atani aro mitchigrikataniko ong'atna daka ine a'bachengon nie (*prima facie*) ia dosara Section 153A IPC-o ga'aka ine ra'aha.

6. Chinga Mol'molaniko dakgipani skia man'begipa ukil Tra. Vrinda Grover aro Meghalaya A'dokni palo skia man'begipa ukil Mr. Avijit Mani Tripathi-ni aganako knaaha. Section 153A IPC-o dos ga'aka ina man'jahani gimin Mol'molaniko dakgipa uni kosako FIR ka'gipako jegalna kraa ine jera ra'aha. Facebook-o post ka'gipako name chu'gimik poraina nanga ine Mol'molaniko dakgipani palo didianiko on'aha. Non-Tribalrangni kosako ka'namgija dos dakgiparangko krae jako ra'china bi'aha. Jatgnini gisepo bobil dakatna ba mitchigrikatna miksonga dongja ine Mol'molaniko dakgipani palo janapangaha. Ia Kacharini Rai on'giminrango pangchake, mol'molaniko dakgipani agananirangko kragipa, gisik bilakgipa aro ka'donggipa mandeni chanchibewalano niatna nanga ine jera ra'aha. India-ni Niam bidikni Art.19(1)(a)-o on'gimin bilo Mol'molaniko dakgipa pangchake aganaha. Dos daka ine matnanganiko ra'baania uni jakgitele aganano champenganiko ong'ata ine jajrenge parakaha.

7. Mol'molaniko dakgipa niksengipa songbad segipa ong'a aro ua jinmana see parakatano daito ra'gipa ong'na nanga ine A'dokna-Warachakgipa skia man'begipa ukil jera ra'aha. Mol'molaniko dakgipani agananiranga jatsa jatgipin baksa meligijaniko ong'atna man'a ine A'dok-ni ukil janapaha. Ua Section 482 Cr.PC-ni ning'o mamla segategipako Chubatgipa Kacharini (High Court) jegalaniara namen ong'akon dakaha aro sing'sandienganiko dakengmiting ong'ani gimin ia Kachariko mamung champenganiko dakjachina mol'molaha.

8. *"Kakketko ong'katatna aro dingtang dingtang jatrang aro dolrangni nangrimgrike songdonganina (civil society) jakgitele agananiko rakkina nangchongmota"* – Thomas Jafferson. India-ni Niam bidikni Art.19 (1) (a)-o ku'rachake on'gimin gita jakgitele aganani aro parakatani namen gamchatbegipa bil (fundamental right) ong'a. Indiba, ia bilara chu'gimik skatang jakkalna man'gipa ong'ja. India a'songni namgnina, jakgitele aro nangrime donganina, A'songni naljokanina, gipin a'songrang baksa ripeng ong'anina, jinmani name donganina, krae ba nitoe rakkianina ba Kachari-ko mande ra'gija dakani bidingo, namgija bimungko man'atano ba dos dakchina didiano ia bilni kosako kraa gita champenganiko donna man'a. Agane dos dakaniko

Section 153A IPC-o sasti on'na man'a. Toromo, jato, atchiani biapo, dongchakramo, ku'siko ba uandakgiparango pangchake nangrimggrike donganiko nosto ong'atna dingtang dingtang dolrangko bobil ong'atanina Section 153A-ni ning'o bilsu gittamna pattoko donate ba dai gamate ba minggnikon dakate sasti on'na man'a. Mol'molaniko dakgipa Section-rangni 153A aro 505(1)(c)-o dos dakama uko nichina chingko mol'molahani gimin niamrangko mesokatna nangchongmota jerangkon ka'mao indake on'atenga:

153A. Dingtang dingtang dolrangko toromo, jato, atchigipa biapo, donggipa biapo, ku'siko ba uandakgiparango pangchake bobil ong'atani aro tom'tome nangrime donganiko namgija ong'atanina.—

- (1) Je mandean —
- (a) Kattachi, aganachi ba seachi, ba chinchi, nikna man'gipa noksa ba gipin dake, toromo, jato, atchichakram biapo, dongchakram biapo, ku'siko, jat ba jedakgipa obostao ong'chong, nangrimgija bobil dakani, dingtang dingtang toromni dolrangni gisepo, jatni gisepo, ku'sik ba jolni dolrangni ba jat-mamalrangni gisepo mitchigrikani ba namnikgijani, ba
- (b) Dingtang dingtang torom, jat, ku'sik ba jolni dolrang ba ma'malrang ba songsarni gisepo dos dakachi nangrime donganiko champenga aro jean jinmani tom'tome donganiko golmal ka'a ba golmal ka'na man'a, ba
- (c) Maiba kamko ka'dilode, jingjengatode, dake mesokode ba apsan dakgipa gipin kamrango bak ra'giparango ka namgija kamrango ba an'chi-pari nikatanirango ka'gen ine miksonge u'ie ba skiode ba bako ra'giparang indakgipa kamrango ka namgija ba an'chi-pari nikatanirango ka'gen ine u'ieba dakode ba skiode ba bako ra'e indakgipa kamrango ka namgija ba an'chi-pari nikatanirango dakna miksongmanchaode ba skiode ba bako ra'giparang indakgipa kamrangchi je toromni kosako, jatni kosako, dingtang ku'sikko agangiparangni kosako ba biapni dolrangni kosako ba ma'mal ba songsarni kosako ka namgija ba an'chi-pari nikatanirango ka'gen ine u'ieba dakode ba skiode aro indakgipa kamrang je a'seloba jeoni ong'katoba, uandakgipa torom, jat, ku'sik, ba biapni dolrang ba ma'mal ba songsarni manderangna ka'mikkenataniko ba jajrenganiko ba ka'donggijaniko ong'atode, pattoko bilsu gittamna chipatako ba dai gamate sastiko man'gen ba minggnikon ra'na nanggen.

seachi ba chin dakachi ba nikna man'gipa mesokanirangchi bobil ong'grikate, mitchigrikate ba namnikgrikigijaniko ong'atna jotton ka'a ia pilakan Section 153A-o man'gopa ine hukum on'aha. Section 505(2)-o ga'aknade je agananikoba gipatachi ba jangbingbanga kattako ba jajrengatgipa koborringko on'e chapa ka'atachi indakgipa chanchianiko ong'atna nanga. Section 153A aro Section 505(2)-o dos ga'aknade miksonge ba u'ie daktelna (Mens rea) nanga. Ia section gegnio apsan apsan dakaniara, bobil ong'grikatao, mitchigrikatao ba namnikgrikatgijao dingtang dingtang torom ba jat ba ku'sik, ba dol ba ma'mal ba songsarni gisepo komibeoba dolgni gisepo ong'na nanga. Iana agreba **Bilal Ahmed Kaloo**-o (ra'chapanio skang janapgipa) indakeba hukum on'aha je, jatsa ba dolsako ding'doatmangmange, gipin jat ba dolko janapjaode ia section gegnio ga'akja. Minggni dosrangni dingtanggrikaniko Kachari janapkuaha, indake kattarangko chapa ka'aniko ba agananiko gipate mesokaniko Section 505-o dos ga'akna man'na nanga (*Sine qua non*). Ia Kacharini **Ramesh v. Union of India**⁴-ni mamlao rai on'giminko janapchapaniko nangchongmota, jeon agananio dos daka ine potanina kattarangko aganani bewalko, namen skani gnanganiko, kimkim ong'e agananiko, ka'donggipa mandeni aganani gita niataniko dakna nanga; bilgrigipa ba chanchianiko ra'na changgijagipa ba chanchianiko jegalna kengipa gita niatna nangja. Ramram mandeni krae aganani gadangko ba uamangni English niamo aganani gita "Clapham omnibusni kosako gadogipa mande" ingipa gita niataniko dakna nanga.

12. Ia Kachari, **Pravasi Bhalai Sangathan v. Union of India & Ors**⁵ mamlao, Canadian Supreme Court-ni **Saskatchewan (Human Rights Commission) v. Whatcott**⁶-ni mamlana chanchianiko janapchapaha. Ua hukumo, Canadani Supreme Court mitchie aganako champengna niam tarigimin gita maiko "mitchiani" ine channa man'na uko rai on'aha. Kachari-ni skanggipa dakna nangara mitchie aganako champenganiko name mikkang nigija niatchengani aro uko dakengon chanchina changgipa mandera, obostako u'ie chelchakako man'gipa dolko mitchina gita parakenga ine niatgenma uko chanchina nanga. Gnigipa nichengna nanganiara, niam tarigimino "mitchiani" ingipa kattako orto pe'ako rakkiani, jeon gisiko chanchiako agrepilgipa kattaranchi paraka gita janapani jekai "sakoba agrepile mitchia" aro "sakoba ong'siatna kragija aganani ba seani". Iako aganachi nangko namen namnikgijako, ka'onangatako aro gisik saatako

⁴ (1988) 1 SCC 668

⁵ (2014) 11 SCC 477

⁶ [2013] 1 SCR 467

champenggen, indiba nidikatachi, ra'chakgijachi aro jegalachi ma'ekatani ba saknaatniko ong'atanina sokatjawa. Gittamgipao Kacharini u'ina nanganiara ong'a obostako parakaniko name nichengani, mongsongbate, indakachi namgija dakgipa manderangko parakani ong'genma ba dol gipinrangchi mitchiako man'china dakengama. Saniba kamko namnikgija gisiko dongako parakaiachide sasti on'ako man'na gita dosko ong'atna chu'ongja.

13. Ia ong'enggipa mamlao, ia Kacharini kosako on'gimin niamko ja'rike, chingni chanchianina sing'ani ong'kataniara, 04.07.2020 tariko Facebook-o post ka'ara jatsa jatgipinko mitchigrikatna miksonge dakama aro jatgnini gisepo bobil ong'grikatna chol gnangma. Facebook post ka'ako namedake niode non-tribal chadamberangko doka satao dos dakgiparangko Meghalaya-ni Chief Minister, Director General of Police aro biapni Dorbar Shnong-ni mamungkoba jako ra'e kamko ka'na gisiko nanggijanina Mol'molaniko dakgipani gisiko duk man'e parakani ine nikgen. Mol'molaniko dakgipa 1979 bilsio non-tribalrangko dokaniko janapaha. Batbee aganoba, Facebook post-ara Meghalaya A'doko donggipa non-tribalrangni kosako changale daka kamkosa mesokna daka ine ma'sina man'a, Indake ong'oba, Mol'molaniko dakgipa dos dakgiparangnade jat ba ma'mal dongja aro basketball kal'gipa non-tribal chadamberangko ka namgija dokgiparangko ta'raken jako ra'e kamko ka'na nanga ine talataha. Facebook post-ko name chu'gimik poraiode, Meghalaya A'doko songdonggipa non-tribalrangko apsan dake ra'na nanga ine mol'molanisan ong'a. Chingni ma'sianio, Mol'molaniko dakgipara jatsa jatgipinko mitchigrikatna miksongani dongja. Jatni manderangko ding'doate golmal ong'atna Mol'molaniko dakgipa mamung jotton ka'a dongjani gimin, Section 153A aro 505(1)(c)-ni ning'o on'sogiminrang gita dos daka ine ga'akna nanganiko nikjaha. Jeon potaniko FIR ba Matnanganio (Complaint) ra'baaha, uarangko nimrake chu'gimik ra'chakgenchimomangba, matnangako man'gipa-ni kosako mamung dos dakaniko mamlako niarian (*prima facie*) nikjahani gimin, FIR-ko jegalna ga'akaha⁷.

14. India-ra bang'bea bringimin jatrangni songdongram ong'a. Preamble-o janaggipa, jakgitele janggi tangna man'aniko on'ania, dingtang dingtang niamrango parakaha jean songdonggipa sakanti manderangna bilko janapaha; uarang jakgitele aganani bil, jakgitele songreani aro (tarigimin niam chongmoto mainaba champengana agre) India-ni je bakoba

⁷ State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp (1) SCC 335

songdongna man'aniko man'gopa. Basakobade, indakgipa bilko niam gita jakkalengon, saksan songreao, je biapoba songdongo ba janggi tangna cholrang nama ine kamko ka'e cha'ao, dingtangmancha indakgipa songdonggipa manderang silrooani ong'on namnikgijanirang ong'kata, ka'onanganirangona sokata ba golmalrang ong'baa. landakgipa obostarango, saknaatako man'giparang kusi ong'gijaniko ku'rang on'ode, aro parake aganode, mongsongbate a'songko chalaigiparang mikron nikja dake namrengode ba ja'ako apjite dongode, indakgipa kusi ong'gijaniko ku'rang on'aniara kakket dakako man'gijanina ba ru'utatanina ka'onange grape a'bokani ong'a. lan tiktak ia mamlao ong'aha gita nika.

15. Sakdok songdongkamgijagipa manderangko, mikkang ku'sik ka'tipgiparangni dokaniko, A'dok jechakjaha; iako see parakatakoba ong'ja ine jejaha. Kakketko aganode A'dokan songbad-o gatataha (Press Release). Sing sandianiko dakanio mamung dingtanganiko nikani dongjachim. Mol'molaniko dakgipani agananiara A'dok gimiko jatsa jatgipinrangko golmal ong'atna didiatani ong'naba donga ine Lawsohtun, Dorbar Shnong-ni matnangananiara chanchiako banaie agananisan ong'aia. Meghalaya A'doko songdonggipa non-tribalrangni naljokanina aro uamangni apsan apsan bilko man'paanina Mol'molaniko dakgipani gisiko nangbee bi'aniko mamung dakeba chanchie mitchie aganani ine chana man'jawa. lan kakketko dakchina mol'molani ong'a- niamo gita kamko ka'china, jekon songdongenggipa sakanti kadongchaksona aro parakna bil donga. Sorkarini kam ka'gijaniko namnikgija aganana dingtang dingtang jatrangko mitchigrikatna jotton ka'a ine aganna man'ja. Jinmako golmal ong'atna miksonge dakjaskal, ka'namgijagipa mamlarango (criminal case) uarangko man'chapate ia a'songni songdonggipa manderangni jakgitele agananiko champengna man'jawa. Kosako ra'chakbagimin gita, Mol'molaniko dakgipani Facebook post-o ka'ako namedake sandie nion Section 153 A aro 505 (1) (c) IPC-o dos galna gita Mol'molenggipani kosako mamung mamlakoba nikjaha.

16. Janapgimin a'selrangni gimin, Mol'molaniko ra'chakaha aro Chubatgipa Kacharini (High Court) raiko ra'gale galataha. Laban Police Station-o segatgipa FIR PS Case No.72 (7)2020 tarik 06.07.2020-ko jegalaha.

Mol'molaniko ra'chakaha

Bibhuti Bhushan Bose

