

[2020] 4 S.C.R.501

THE STATE OF MEGHALAYA

v.

MELVIN SOHLANGPIAW

(Special Leave To Appeal (Crl.) No. 1218 of 2018)

FEBRUARY 11, 2020

[MOHAN M. SHANTANAGUDAR

AND R. SUBHASH REDDY, JJ.]

India-ni Niam bidikrang (Constitution) :Dokgipa Schedule, Paragraph 4 aro 5 – Bibadi, Khasi Scheduled Tribe-oni ong'a aro a selo ga'akgipa mandeko so'otanina bichal ka'aniko man'a – sianggipa mandeba Khasi Scheduled Tribe jatonin ong'a – Bibadini kosako ss.302 aro 201 IPC - ni ning'o Charge-sheet-ko segataha aro mamlana bichal ka'aniko dakna Sessions Judge-ni Kachariona pakwataha – Bibadi mamlako, Khasi Hills Autonomous District Council-ni Bichal Ka'gipani (Judge) Kachariona watatchina bi'aniko segataha – High Court bi'aniko ra'chakaha – Iani a'sel special leave petition-ko on'aha – Bibadini kosako ka'namgija dos dakani mamlana (Criminal Case) A'songni Niam bidikni (Constitution) Dokgipa Schedule-ni paragraph 4 aro 5-o scheme aro katta dongimino pangchake, District Council Court-ara chu'gimik jako ra'e bichal ka'aniko dakna man'genchimma — Chanchianiko on'ani: A'songni Niam bidikni (Constitution) Dokgipa Schedule-ni paragraph 4(4)-ni ning'o bilko on'gimin gita, United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko ra'gataha. 9-gipa Niamo Khasi Hills Autonomous District-na dams District Council Court-ko bikotna aro uana Bichal Ka'giparangko seokna on'aha – 9-gipa Niamo aro Dokgipa Schedule-ni paragraph 5(1)-ni ning'o pangchake bilrangko jakkalanina, U'iatani 07.02.2017-ko chapa ka'ataha, jechin Meghalaya-ni Governor, District Council Court, Shillong-na Donchapgipa Bichal Ka'gipako (Additional Judge) seokaha aro dos dakanirangna siatachi sasti on'anina, janggi tanga gimikna gipin biapona wate galatanina ba bilsa bongana komigija pattoko chipatanina IPC ba gipin niam jean Khasi Hills Autonomous District Council-o jakkalna man'achim uarangni ning'o bilko on'aha. Paragraph 5(1)-ni ning'o Governor-na, District ba Regional Council, ba District Council-chi bikotgipa kacharirang, ba je officer-ba uana

Governor-chi seokako man'a, Cr.P.C ba C.P.C.-ni ning'o uandagipa bilrangko badiaba matnange segatgipana (suits), mamlangna aro dos dakgipa mamlangko jako ra'e bichal ka'aniko dakna uni kranika gita bilrangko on'china pakwatako man'a – Cr.P.C-ni ning'o badiaba a'selrangna bilrangko on'anio 07.02.2017 tariko u'iataniko on'ani gita, District Council Court ka'namgija dos dakgipa mamlangko (Criminal Case) jako ra'na bilko man'a ine rongtalbee mesokaha maina A'dok niam gita Matnanganiko (de jure Complainant) ra'bagipa ong'genchimoba tribal dol ine channa man'ja. Kakketko agangenchimode, a'selo ga'aka man'gipa mande aro Bibadi- pota man'gipa, sakgnian Khasi Scheduled Tribe-oni ong'a – Dokgipa Schedule-ni paragraph 4 aro 5-ko poraidimaniko dakgenchimode, iandagipa mamlangko jako ra'e knana District Council Court-ara chu'gimik bil gnang – High Court, Bibadini-pota man'gipani kosako ka'namgija dosko ra'bagipa mamlako (criminal case) Session Judge-ni Kacharioniko kraen Autonomous District Coucil-ona watataha. Watatako man'gipa Kachari, uan District Council Court niam gita bichal ka'aniko dakchina ge'etaniko man'aha – United Khasi- Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953 – 9-gipa Niam- Code of Criminal Procedure, 1973 – Penal Code, 1860 – ss.302, 201.

Special Leave Petition-ko matchotate bon'ataniko dakanio, Kacharini

CHANCHIANIKO ON'ANI: 1.1 Session Court, jeni mikkangon Bibadi mamlana bichal ka'aniko man'engachim uan Code of Criminal Procedure, 1973-o on'gimin niamrango pangchake bikote chalaianiko dakenggipa ong'a. Mongsongbate, Cr.P.C-ni ning'oni Section 1-ni sub-section (2)-o Code-ko tribal a'jarango jakkalna nangani dongja ba bil dongja ine on'aha. Apsan daken, A'dok Sorkarina Cr.P.C-ko jakkalaniko tribal a'jarango baridapatna bilko on'aha. Cr.P.C.-ni Section 1-o "Tribal a'jarang" ine janapaniko nkgipara, A'songni Niam bidikni Bongagipa aro Dokgipa Schedule-o mesokgipa a'jarangko miksonga. A'dok Sorkarini Cr.P.C-ko uandagipa a'jarango man'chatpatna u'iatani donggijanio, Chapter VIII, X aro XI-rangna agre Cr.P.C.-ni niamrangko Meghalaya A'dokni tribal a'jarango, Khasi Hills District-ko man'chape

jakkalna man'ja. Session Court-o bichal ka'aniko dakani kamrang Cr.P.C.-ni Chapter XVIII-o ga'aka jean sing'enggipa tribal a'jao ga'akeja. [para 6][508-D-E; 509-B-D]

1.2 A'songni Niam bidikni 6-gipa Schedule-o, Paragraph 4 aro 5-o Autonomous District-rango aro Autonomous Region-rango rai on'ani bidingo chalaianiko dakaha jerangkon 6-gipa Schedule-ni paragraph 2-o janapaha. Paragraph 4(1)-o District Council ba Regional Council-na mamlani kri, matnanganirangko jako ra'na aro mamlarang jeon dolgimikan Schedule Tribe-rang ong'achim uarangna bichal ka'aniko dakna Kachariko bikotna bilko on'aha. Ian, indiomangba, 6-gipa Schedule-ni paragraph 5(1)-o pangchake matnanganiko segategipa ba mamla ka'giparangna nangeja, jenan Governor, District ba Regional Council, ba District Council-chi bikotako man'gipa kacharirang, ba je officer-ba Governor-chi uana seokako man'gipa ong'achim, uarangna Governor, uni kranika gita Cr.P.C ba C.P.C.-ni ning'o bilrangko pakwatgenchim. Uana agreba, paragraph 4(4) rongtale janapaha indake Kacharirang jerangan District Council-chi bikotako man'achim uarang obostani kri District Council ba Regional Council-ni tarigimin niamrangko ja'rike kamrangko ka'na nanggen. Da'o ong'enggipa mamlao, A'songni Niam bidikni 6-gipa Schedule-ni paragraph- 4(4)-ni ning'o on'gimin bil gita, United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko ra'gataha. 9-gipa Niam aro 6-gipa Schedule-ni paragraph 5(1)-ni ning'o bilrangko jakkalna on'gimin gita, 07.02.2017 tariko u'iataniko chapa ka'ataha jechin Meghalaya-ni Governor, District Council Court, Shillong-na Donchapgipa Bichal Ka'gipako (Additional Judge) seokaha aro dos dakana siatachi sastiko on'na, janggi tanga gimikna gipin biaona wate galatna ba bilsa bongana komigija pattoko chipatanina, IPC ba je gipin niamrang jean Khasi Hills Autonomous District Council-o nangeachim uarangni ning'o bilrangko on'aha. [Paras 7-10] [509-E-H; 510- A-C]

2.1 6-gipa Schedule-ni paragraph 4-o *“matnange segategipa aro Schedule Tribe jatrangni gisepo golmal ong'gipa mamlana bichal ka'anina”* A'dokni gipin

kacharirangko man'chapatgija dakna nangao ga'aka. Beben, matnange segatani ba mamla ka'anini bidingo dingtangrikaniko A'songni Niam bidikni Article 366-o talatani dongjaoba, Cr.P.C., ba C.P.C., ko jakkalroroba'anio ru'uta bilsirangni ja'man namdapaha, 'suit' –kattako chu'gimik matnange segatgipa ramramari janggi tangani (civil) mamlana ainni gita sea-jotanio jakkala indiba 'case' kattara matnange segatgipa ramramari janggi tangani (civil) mamlana aro ka'namgija dosko dakgipa (criminal) mamlarangni kamrangna jakkalaniko miksongskaa. Paragraph 4-ara matnange segatgipa aro mamla ka'giparangna ong'a jenan paragraph 5(1)-o on'gimin niamrango pangchake jakkalna man'aniko janapa. [paras 9.1, 9.2] [510-E,G]

2.2 Cr.P.C-ni ning'o badiaba a'selrangna bilrangko on'anio, 07.02.2017 tariko u'iataniko on'ani gita, District Council Court ka'namgija dosko dakgipa mamlarangko (Criminal Case) jako ra'na bilko man'a ine rongtalbee mesokaha maina A'dok niam gita Matnanganiko (de jure Complainant) ra'bagipa ong'genchimoba tribal dol ine channa man'ja. Beben, ian 6-gipa Schedule-o on'gipa paragraph 4-ni ning'o 'mamla' kattako apale miksonganiko mesokna ong'a. Uandake 'mamla' kattako poraiano paragraph 5-ra Governor-ko IPC-ni ning'o dos dakanina bilsu bongana komigija sasti man'na nanggipa mamlarangna Cr.P.C.-ko jakkalna bilko on'na mangmang man'a ine sakkiko on'a. Unikoa nangarangko on'jote, Governor, paragraph 5(1)-o janapgipa je dolrangnaba Cr.P.C.-ni ning'o dos dakgipa mamlarangna jerangni sasti man'gnian bilsu bongana komiachim uana bilrangko pakwatna man'ja. Paragraph 5 aro paragraph 4-ko dondime poraiano chanchina ga'aka indake ka'namgija dosko dakgipa pilak mamlarangko A'dok Matnange segataniko (de jure Complainant) ra'bagipa ong'genchimoba, mamlao pota man'gipa aro a'selo ga'akgipa manderang dolgnian apsan Schedule Tribe jatrang ong'genchimode 6-gipa Schedule-o on'gipa paragraph 4-ni ning'o bikotgipa Kacharirangchi bichal ka'aniko dakna man'gen. Uni gimin, 'mamla' kattara ka'namgija dosko dakgipa (criminal) mamlako A'dokni mamlao dol (party) ong'ana mangmang dontongatani ong'ja. 6-gipa Schedule-ni paragraph 4 aro

paragraph 5-ko namedake poraigenchimode, janapanio “matnange segatgipa aro mamla ka’ao nangegipa dol gimikni gisepo Schedule Tribe jatrangna” ingipara chongmotan a’selo ga’aka cha’gipa dolrangna (a’selo ga’akgipa/ matnanganiko ra’bagipa) aro pota cha’gipa dolna miksonge ong’a ine rongtale nikna man’a. lan ku’rachakanio ong’enga indake a’selo ga’aka cha’gipa aro Bibadi-pota cha’gipa sakgnian Khasi Schedule Tribe jatoni ong’a. Uandake, dingtangmancha 07.02.2017 tariko on’gimin u’iatani gita District Council-na Cr.P.C-ni ning’o badiaba ka’namgija dosko dakgipa mamlangna jako ra’na bil on’aniko ra’gatatna nanga. Chongmotan, 6-gipa Schedule-ni paragraph 4 aro paragraph 5-ko dondime poraianio, iandakgipa District Council Court-ara, indakgipa mamlangko chu’gimik knana bilko man’a. High Court-ni niam pe’e ka’namgija dosko dakgipa (criminal) mamlako Sessions Judge-oniko Autonomous District Council-ona watataniara krabeani ong’a. Je Kachariona watonatachim, uan District Council Court-na niam gita mamlangko ra’baani ja’mano bichal ka’ani kamrangko dakchina ge’etaniko on’aha. [para 9.3-9.6, 10] [511-B-H; 512-A-C]

Longsan Khongngain v. State of Meghalaya, (2012) 1

Gauhati Law Reports 812 – referred to

CRIMINAL APPELLATE JURISDICTION: Special Leave Petition (Criminal) No. 1218 of 2018.

High Court of Meghalaya, Shillong - ni Transfer Petition (Criminal) No. 4/ 2017-na 05.12.2017 tariko Rai On’ani ba Ge’etaniko On’aoni ong’katgipa mamla ong’a.

Ranjan Mukherjee, Upendra Mishra, Avijit Mani Tripathi, K.V. Kharlyngdoh, T.K. Nayak, P.S. Negi , Tra. Sruti Ram (Kochar), Chetan Joshi, Badi Ka’gipana mikkang pa’gipa Ukilrang.

Tra. Liz Mathew, Navneet R., Tra. Sonali Jain, Bibadina mikkang pa’gipa Ukilrang.

Kacharini Raiko on'gipa

MOHAN M. SHANTANAGOUDAR, J.

1. Iano Bibadiara, Khasi Schedule Tribe jatoni ong'a aro Indian Penal Code ('IPC')-o on'gipa Section 302 aro 201-ni ning'o dos dakani bidingo sasti man'gnina Sessions Judge, Nongstoin, West Khasi Hills District-ni mikkango bichal Ka'ako man'gipa ong'a. Kan'dike agangenchimode, mamlako ra'baaniara (prosecution) 26.03.2017 tariko Nongdein chibima rikkamo sigimin mangko man'aoni ong'a jeoni Officer in Charge, Police Station, Nongstoin ('Matnanggipa') kobor on'eako man'e uni jakchi FIR-ko segataha. Sandirikkitaniko dakani ja'mano, sianggipa mandeko ma'sina man'aha aro uan Khasi Schedule Tribe-ni membor ong'a ine nikaha. Sianggipa mang baksa man'chapgipa SIM card-ko nie, ua nomboroni bon'chotgipa phone ka'gipara iano Bibadi (pota man'gipa) ong'enggipaonan ong'a ine rim'a man'aha. Uandake, pota man'gipako rim'aha aro ua an'tangan police-rangko badiao sianggipani mangko gope galahachim unona re'dilangaha. 31.08.2017 tariko uni kosako IPC-ni Section 302 aro 201-ni ning'o potani lekkarango (chargesheet) segataha. 08.11.2017 tariko, mamlako Sessions Judge, Nongstoin, West Khasi Hills District-ni Kachariona bichal ka'aniko dakna on'aha aro pota man'gipa uanona okamako man'e mikkang pa'na ga'akaha.

Indiomangba, ia ong'enggipa mamlao nangegipa dolranga gimikan tribalrang ong'ani gimin aro mamlako District Council Court-an chu'gimik jako ra'na man'gipa ong'ani gimin, uano pangchake pota man'gipa, Judge, Khasi Hills Autonomous District Council, Shillong-ona mamlako watatchina bi'aniko dakaha. Ra'bianiko dakenggipa 05.12.2017 tariko on'gipa raioniko niode nikgen, High Court of Meghalaya, Shillong, ia bi'anina knachake on'aha. Ong'enggipa SLP-ara, High Court-ni ge'etaniko on'ani kosako segataniko dakgipa ong'a.

2. A'bachenganiko dakengon, West Khasi Hills District, jeon potenggipa dosko dakchakahachim, uan India-ni Niam bidiko (Constitution) on'gipa 6-gipa Schedule-ni paragraph 20-ni table-o on'chapako man'e u'iatgimin autonomous district ong'a ine gisiko rakkina gita nanga, jeon Assam A'dok, Meghalaya, Mizoram, aro Tripura A'dokrangko tribal

a'jarangko chalaiani bidingo ong'a. Mongsongbate, kacharini kamrangko uandagipa biaprango A'songni Niam bidikni 6-gipa Schedule-ni paragraph 4 aro 5-o pangchake ka'mao mesoka gita ka'a:

4. **Autonomous District-rang aro autonomous region-rango kakket raiko on'na**

Chalaianirang.- (1) Autonomous region-o Regional Council-ara uandagipa biapni (region) ning'o donggipa a'jarangko miksonga aro autonomous District-o District Council-ara uandagipa district-ni ning'o donggipa a'jarangko miksonga jerangan Regional Council-ni bilni ning'o ga'akgipa a'jarangna agre ong'a, nanga ong'ode, district-ni ning'o village Council-rangko ba kacharirangko bikote Schedule Tribe dolrangni gisepo matnange segatanirangko aro mamla ka'anirangko, Schedule-ni paragraph 5-ni sub-paragraph (1)-ni ning'o pangchake matnanganirang ba mamla ka'anirangko ra'bagipana agre, A dokni je Kacharikoba galchange, knana man'a aro uandagipa village council-rangni membor ong'na ba uandagipa kacharirangni presiding officer-rang ong'na kragipa manderangko seokna man'a aro ia Schedule-ni paragraph 3-ni ning'o niamrangko chalaianina uandagipa officer-rangko nanga gita rakkina man'a....

...(4) Regional Council ba District Council, mamlani kri, Governor-chi skang ra'chakchengako man'e niamrangko chalaina tarina man'gen-

(a) Village council ba kacharirangko bikotanina aro ia paragraph-ni ning'o iarangni bilrangko jakkalanirangna;

(b) Ia paragraph-o on'gipa sub-paragraph (1)-ni ning'o village council-rang ba kacharirangni matnange segateanina aro mamla ka'anirangna ja'rikna nanggipa niamrangna;

(c) Ia paragraph-o on'gipa sub-paragraph (2)-ni ning'o Regional ba District Council ba je kachariba indagipa Council-chi bikotako man'gipani mol'molaniko dakgipa mamla ba gipin kamrango ja'rikna nangani niamrangna;

(d) Uandakgipa Council-rangni aro kacharirangni chanchianiko ba ge'etanirangko ra'gatanirangna;

(e) la paragraph-ni sub-paragraph (1) aro (2)-rango on'gimin niamrang gita pilak kamrangko ka'chakanirango dakchakaniko on'anina ong'a.

5. Regional aro District Council-rangna aro badiaba kacharirangna aro officer-rangna badiaba matnange segatanina, mamla ka'anirangna aro dos dakanirangna bichal ka'aniko dakna Code of Civil Procedure, 1908, aro Code of Criminal Procedure, 1898-ni ning'o bilrangko on'anirang.--- (1) Governor, autonomous district ba je biapoba (region), ong'enggipa niamoni matnange agananirang ba mamla ka'anirangko bichal ka'aniko dakna ba dos dakanina sianiona sasti on'na, janggi tanga gimikna gipin biapona wate galatna, ba bilsa bongana komigija pattok ning'o chipatna, Indian Penal Code ba gipin niamrangni ning'o jean indakgipa district ba biapo(region) jakkalna nangegipa ong'a, District Council ba Regional Council-na uandakgipa district-ni ba biapni (region) ba kacharirangni ba jerangkon District Councilchi bikota ba je officer-kon uana Governor-chi seoka uarangni kosako Code of Civil Procedure, 1908-ni ning'o ba mamlani kri, Code of Criminal Procedure, 1898-o nangnikani kri bilrangko on'a. Uandake janaggimin Council, kachari ba officer matnange agananirangko, mamla ka'anirangko ba dos dakanirangko on'gimin bilo pangchake kamko ka'gen.

3.la on'gimin niamrango pangchake, Badi ka'enggipani skia man'begipa Ukil mol'molaniko dakaha indake A'songni Niam bidiko donggipa 6-gipa Schedule-o paragraph 4-ni ning'o, pilak matnange segatani ba mamla ka'anina nangchapgipa dolrang uandakgipa biapni ning'o Schedule Tribe-rang ong'na nangchongmota jedakode matnange segatanirangna ba mamla ka'anirangna District Council chu'gimik bilrangko jakkalna man'gen. Ka'namgija dosko dakgipa mamlaranga pangnan A'dokchisa nalis ka'ako man'gipa ong'ani gimin, ia ong'enggipa mamlao Bibadini kosako ra'bagipako tribal jatrangni gisepo

ong'enggipa mamla ine agana man'jawa ine janapaha maina sianggimin mandea indakgipa mamlao bakko ra'e dol ong'na man'jawa. Ua mol'molaniko dakkuaha indake Matnanganiko segategipa (Complainant), Police Station-ni Officer in charge-koba mamlani dol ine channako man'na nangja maina uaba saksa officer ong'e an'tangni dakna nanga kamtango ka'asan ong'aia aro uandake A'dokni kamrangko chalaianio kamko ka'enggipa manderangoni saksa ong'paia.

4.Minggipin dake, Bibadini-pota man'gipani skia man'begipa Ukil, A'songni Niam bidiko donggipa 6-gipa Schedule-ni paragraph 4 aro 5-rangko poraidimanio dingtangmancha tribal a'jarango golmal ong'gipa mamlarangko chanchianiko dakchina a'bachengatna mesokani gnang ine sinjete aganaha. Jeon Governor paragraph 5(1)-ni ning'o bilrangko jakkale District Council-chi bikotako man'gipa Kacharirangna badiaba dosko dakanirangna bichal ka'aniko dakna pakwatna man'a aro uandakgipa Kacharirang chu'gimik bilrangko man'na ama. Iani bidingo skia man'begipa Ukil, 07.02.2017 tariko u'iataniko on'gipaona chingni gisiko salbaaha jechin Meghalaya-ni Governor, Additional District Council Court, Shillong,-ni bichal ka'gipana, niam pe'e dos dakanina siatachi sasti on'na, janggi tanga gimik gipin biapona wate galatna, ba bilsa bongana komigija pattoko chipatanina IPC ba gipin niamrang Jean Khasi Hills Autonomous District Council-na nangeachim uarangna bichal ka'na bilrangko ua somoiona on'aha. Iarango pangchake, ua Bibadini kosako mamla ka'ania chu'gimik District Council Court-ni jakon ga'aka ine janapaha. Pangchakna gitaba ua Full Bench-o, Meghalaya High Court-ni chanchianiko dakgimin mamla **Longsan Khongngain v. State of Meghalaya, (2012) 1 Gauhati Law Reports 812**-ko iani bidingo mikkango doneaha.

5.Mamlao rakkie donaniko (record) man'giminrang gita aro dingtang dingtang dolrangni jera ra'anirangko nie, mongsonggipa chingko chanchianiko naataniara, A'songni Niam bidiko donggipa 6-gipa Schedule-oni paragraph 4 aro 5-o scheme aro kattarangko chanchie, Bibadini ka'namgija dosko dakani (criminal) mamlana, District Council Court-ara chu'gimik bichal ka'aniko dakna man'genchimma uani bidingo ong'a.

6.6-gipa Schedule-o on'gimin niamrangko chobile nianiko dakna skang an'ching gisiko rakkina gita nanga, indake Session Court jeni mikkangon Bibadi bichal ka'aniko

man'engachim uan Code of Criminal Procedure, 1973 ('Cr.P.C.)-ni ning'o bikotako man'e chalaienggipa ong'achim. Mongsongde, Cr.P.C.-o on'gipa Section 1-ni sub-section (2)-ni niamo Code-ko tribal a'jarango jakkalani dongja ine on'aha. Apsan somoio, ian A'dok Sorkarina Cr.P.C.-ko tribal biaprango man'chatatna bilrangko on'aha jerangkon ka'mao mesokatenga.

“Section 1. Kan'dikgipa bimungko on'ani, man'chapani aro a'bachengatani.

(1) Ia Ainko Code of Criminal Procedure, 1973 ine minggen.

(2) Ian India-ni gimik bakrangkon man'gopa.

Ia Code-o on'gimin niamrang, uani Chapter VIII, X aro XI-rango nangchappiparangna nangejawa -

(a) Nagaland A'dokna,

(b) Tribal a'jarangna,

indiba nangegipa A'dok Sorkari, uandakgipa niamrangko ba uanoni jenaba Nagaland A'dok gimiknan ba mitam bakrangna obostani kri on'dape, a'sel ong'gakachi ba nangchongmotgipako dingtangatanichi u'iatanio janape jakkalna man'gen.

Talatanirang.— Ia Section-o, “tribal a'jarang” inaniara, A'songni Niam bidiko on'gipa Dokgipa Schedule-ni paragraph 20-o janapa gita January 21, 1972 bilsina skang Assam-ni ning'o tribal a'jarang baksa bik chanchapako man'gipa a'arangko miksonga jerangan Shillong municipalityni ning'o donggiparangna agreba ong'a.

Kosako nikani gita, Cr.P.C.-ni Section 1-o donggipa “tribal a'jarang” ine talataniara, A'songni Niam bidiko on'gipa Bongagipa aro Dokgipa Schedule-o mesokgipa a'jarangko miksonga. A'dok Sorkarini Cr.P.C.-ko uandakgipa a'jarangna man'chatatani bidingo u'iatanirang donggijanio, kosako janapgipa chapter gegittamna agre, Cr.P.C.-o on'gimin niamranga Meghalaya A'dok-ni tribal biaprango Khasi Hills District-ko man'chape jakkalna nangejawa.

Iano, gisiko donna nangbegipa ong'a indake Cr.P.C.-ni Chapter VIII-o tom'tome donganina aro namgipa bewalko rakkianina sea-jotani kamrangko ka'ani bidingo ong'a, Chapter X-o mande jinmako name aro tom'tome rakkiani kamrangko ka'ani bidingo ong'a, aro Chapter XI –o Police-rangni champengani kamrangko ka'ani bidingo ong'a. Chapter VIII, X aro XI-ni ning'o on'gipa subject-ranga gimikan ia mamlani bidingo chanchina nangegipa ong'ja ine rongtalbeen nikna man'a. Session Court-ni mikkango bichal ka'aniko dakaniara Cr.P.C.-ni Chapter XVIII-o ga'aka jean sing'enggipa tribal a'jarangko man'eja.

7. Niam-reti-o donggipa 6-gipa Schedule-ni Paragraph 4 aro 5-o Autonomous District-rango bichal ka'aniko chalaiani bidingo ong'a aro Autonomous Region-ara 6-gipa Schedule-ni paragraph 2-o janapgipa ong'a. A'bachengo janapani gita, paragraph 4(1) District Council aro Regional Council-na mamlani kri Kacharirangko bikotna aro Schedule tribe jatrangni gisepo mamla ka'ani bidingo matnange segataniko aro mamla ka'anirangko biapni ning'oniko jako ra'e kamko ka'na chu'gimik bilrangko on'a. Ian, indiba, 6-gipa Schedule-ni paragraph 5 (1)-ni ning'o matnange segatanirangko aro mamla ka'anirangko man'chapja, jeon Governor District, ba Regional Council, ba District Council-chi bikota man'gipa kachari ba je officer-ba uana Governor-chi seoka man'gipa ong'achim, Cr.P.C ba Code of Civil Procedure ('C.P.C')-o pangchake Governor kranika gita bilrangko on'na man'a. Unbaksana, paragraph 4 (4)-o janapaniko daka indake Kacharirang jerangan District Council-chi bikotako man'a uarang District Council ba Regional Council-ni dakgimin niamrango pangchake mamlani kri kamrangko ka'na nanggen.

8. Ia ong'enggipa mamla, A'songni Niam bidiko on'gipa 6-gipa Schedule-ni paragraph 4(4)-o on'gimin bilrangko jakkalna man'na gita United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko ra'gataha. 9-gipa Niamni ning'o Khasi Hills Autonomous District-na damsas District Council Court-ko bikotna aro una bichal ka'giparangko seokna niamko on'aha.

9-gipa Niamni ning'o aro 6-gipa Schedule-ni paragraph 5(1)-ni ning'o, bilrangko jakkalanina, u'iataniko 07.02.2017 tariko chapa ka'ataniko dakaha jeon Meghalayani Governor, District Council Court, Shillong-na Donchapgipa Bichal Ka'gipako

(Additional Judge) seoke una dos dakanina siatachi sasti on nanina, janggi tanga gimik gipin biapona wate galatanina ba bilsa bongana komigija pattok ning'o chipaniko dakna, IPC ba gipin niamrang jerangan Khasi Hills Autonomous District Council-na nangeachim una bilrangko on'aha.

9. Uandakgipa dingtangmancha bilrangko District Council Court, Shillong-na on'ani gita, Bibadini mamlako bichal ka'aniko daknara District Council Court-o mangmang ga'akama, iano chanchina nangenggipa kam ong'enga.

9.1 A'bachengo talatani gita, 6-gipa Schedule-ni paragraph 4-o "Schedule tribe dolrangni gisepo matnange segataniko aro mamla ka'aniko bichal ka'na" A'dokni gipin Kacharirangko galchanganiko dakna nangao ga'aka. Beben, "matnange segatani aro mamla ka'ani" bidingo A'songni Niam bidikni Article 366-o talatani dongjaoba, Cr.P.C., ba C.P.C.-ko, ainni kamrangna jakkalanio namdaporoaha, indake 'matnange segataniko' ainni kamrangko ka'anio ramramari janggi tangani (civil) mamlarangko chu'gimik mesokna jakkalaha aro 'mamla ka'ani' ingipako ramramari janggi tangani (civil) mamlarangna aro ka'namgija dosko dakgipa (criminal) mamlarangnaba mesokna jakkalaha.

9.2 Larangni bidingo nie, Badi ka'enggipani jera-ra'aniko nigenchimode 'mamla' kattara 6-gipa Schedule-ni paragraph 4-o jakkalani gita ka'namgija dosko dakgipa (criminal) mamlarangko A'dok matnange segatgipa mangmang ong'ana ra'aniko champenga; uandake uamangni ma'siani gita 6-gipa Schedule-ni paragraph 4-o District Council Court ka'namgija dosko dakgipa mamlarangko jako ra'na man'ani dongjachim. Ian, indioba, paragraph 4 aro 5-ko dingtangmancha poraidime nigenchimode, 6-gipa Schedule-o on'gimin scheme gita ong'jaha. A'bachengo janapani gita, paragraph 4 an'tangarin matnange segatgipa aro mamlarangko miksonga jenan paragraph 5(1)-ni niamrangko jakkalna man'ea. Uni gimin, paragraph 4-ni ning'o 'matnanganirang aro mamlarang' ine segiminko nichengna skang paragraph 5(1)-o segiminko nichengana nangchongmota.

9.3 Paragraph 5(1)ni ning'o, Governor-na District ba Regional Council, ba District Council-chi bikotgipa kacharirang, ba je officer-ba uana Governor-chi seoka man'achim uarangna, Cr.P.C ba C.P.C.-ni ning'o uandakgipa bilrangko badiaba matnange

segatgipana (suits), mamlarangna aro dos dakgipa mamlarangko jako ra'e bichal ka'na, uni kranika gita bilrangko on'china pakwatako man'aha. Cr.P.C.-ni ning'o badiabana bilrangko on'anio, u'iatani 07.02.2017 tariko on'ani gita, A'dok matnange segategipa aro mamlao A'dokko tribal dol ine channa man'jagenchimoba, District Council ka'namgija dosko dakgipa mamlarangko jako ra'na bilrangko man'a ine rongtalen mesokaha. Mongsongde, ian 'mamla' kattako, 6-gipa Schedule-ni paragraph 4-ni ning'o apalbate miksonganiko mesoke talatna ong'a.

9.4 'Mamla' kattara, paragraph 5-o Governor-na Cr.P.C.-ko badiaba mamlarangna bilrangko on'na ong'a ine sakkiko on'a, jeon dos dakanina sastiko man'ani IPC-ni ning'o bilsi bongana komigija ong'a. Nangarangko on'jotaniko dakani ja'man, Governor janapgipa dolrangna paragraph 5(1)-ni gita Cr.P.C.-ni ning'o dos dakanirangna jerangni sastian bilsi bongana komia uarangna bilrangko on'na man'ja. Paragraph 5-ko paragraph 4 baksa nangdimate poraiode bon'chotao nikna gita man'gen indake pilak ka'namgija dosko dakgipa mamlarangko A'dok matnange segategipa ong'genchimoba dolgni matnanga cha'gipa aro dos dakao kosto man'gipa Schedule tribe jatoni ong'genchimode 6-gipa Schedule-o on'gipa paragraph 4-ni ning'o bikotgipa Kacharirangchi bichal ka'aniko dakna man'gen.

9.5 Uni gimin, chingni chanchie niani gita, 'mamla' kattara ka'namgija dosko dakgipa (criminal) mamlako A'dok uandagipa mamlao dol ong'ana mangmang champenganiko dakna man'jawa. 6-gipa Schedule-ni paragraph 4 aro 5-ko namedake poraigenchimode rongtalen u'ina gita man'a, indake "*Schedule tribe jatrangni gisepo matnange segatani aro mamla ka'ani*" -ko janapaniara, chongmotan, duk a' selo nangegipa dolna (kosto cha'gipa/Matnanganiko ra'bagipa) aro pota man'gipana ong'a.

9.6 Ia ong'enggipa mamlao, ian ku'rachakgimin ong'a indake a' selo ga'akgipa aro Bibadi-pota man'gipa dolgnian Khasi Schedule Tribe-oni ong'a. Uni gimin, dingtangmancha u'iatani 07.02.2017 tariko District Council Court-na Cr.P.C.-ni ning'o badiaba ka'namgija dosko dakgipa (criminal) mamlarangna jako ra'china bilrangko on'gimin dongode, chinga uandagipa bilrangko on'aniko a'bachengatna nanga ine nika. Chongmotan, 6-gipa

Schedule-ni paragraph 4 aro 5-ko poraidimgenchimode, uandakgipa District Council Court-ranga indakgipa mamlarangko ra'na chu'gimik bil gnang.

10. Ong'anggimino pangchake, chinga High Court of Meghalaya-ni 05.12.2017 tariko on'gipa rai aro ge'etaniko mamung champenganiko dakna nangnikaniko nikjaha maina High Court, Bibadini-pota man'gipani kosako ka'namgija dosko dakanina (criminal) ra'bagipa mamlako, Sessions Judge, Nongstoin, West Khasi Hills District-oniko Judge, Khasi Hills Autonomous District Council, Shillong-ona kraen mamlako watataniko dakaha.

A'bachengo janapani gita, pota man'gipani kosako ra'bagipa mamlako 08.11.2017 tariko Sessions Judge, Nongstoin, West Khasi Hills District-ni Kachario bichal ka'anina on'kanganiko dakaha aro pota man'gipa uana mikkang pachina okamako man'aha. Uani bidingo apsan dake, chinga da'o mamlako watata man'gipa Kachariko, uan District Council Court-ko, pota man'enggipa mikkang pa'aniko dakkuja ong'ode, gital okamani lekkako watchina aro uni kosako pote seanirangko ra'baani ja'mano niam gita bichal ka'aniko dakangchina ge'etaniko on'enga. Iarangna agreba, ong'enggipa mamlara 2017 bilsini March jaoni ong'ani gimin, District Council Court-ko mamlana chanchianiko kakket dake nie ta'arakale matchotatchina aro ia ge'etaniko on'enggipa tarikoni bilsisani ja'manona somoiko ra'jachina ge'etaniko on'enga. Uandakgipa nianirangko dake, ong'enggipa Special Leave Petition-ko bon'ate matchotata.

Devika Gujaral

SLP-ko bon'ate matchotata.