

THE STATE OF MEGHALAYA

V

MELVIN SOHLANGPIAW

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

RYMPHANG 11,2020

**{U MOHAN M. SHANTANAGUDAR  
BAD U R.SUBHASH REDDY,KI NONGBISHAR BADONBUROM}**

*Ka Riti Shynshar ka ri India: ka khyrnit kaba hynriew, Paragraph 4 bad 5-Nongshahmudui, u dkhot jong ka Khasi Scheduled Tribe, u la shah bishar halor ka kam pyniap, ia ka nongshah pyniap kaba dei ruh ka dkhot jong ka Khasi Scheduled Tribe-la ai dorkhas lane Charge-sheet kum ka jingujor pyrshah ia u nongshahmudui hapoh ka ss.302 bad 201 IPC bad ia ka mukotduma la ai ban shah bishar ha ka iingbishar jong u Sessions Judge-U nongshahmudui u mudui mukotduma ban rah noh ia ka jingbishar ia kane ka kam sha ka iingkashari jong u nongbishar jong ka Khasi Hills Autonomous District Council –ka lingkashari High Court ka la pdiang ia ka jingujor-namarkata la mih kane ka special leave petition-La kane ka mukotduma kam bymman pyrshah ia u nongshahmudui la bishar beit tang da ka iingbishar District Council,katkum kaba la mang ha ki kyntien jong ka paragraph 4 bad 5 jong ka khyrnit kaba hynriew jong ka Riti Shynshar ka ri India – La rai: Da kaba pyntreikam ia ka iktiar katkum ka paragraph 4(4) jong ka khyrnit kaba hynriew jong ka Riti Shynshar ka Ri India,ka United Khasi-Jaintia Hills Autonomous District (Administration of Justice ) Rules,1953 la pyntreikam-r.9 la mang na ka bynta ban buh ia kawei ka iingbishar Khasi Hills Autonomous District Council bad na ka bynta ka jingthung ia ki nongbishar hangto –Da kaba pyndonkam ia kum kine ki iktiar ba hap ha ka r.9 bad paragraph 5(1) jong ka Khyrnit kaba Hynriew,la pynmih ia ka jingpyntip ha ka 07.Rymphang.2017,ha kaba u lat ka jylla Meghalaya u la thung ia u Additional Judge na ka bynta ka iingbishar District Court,Shillong bad la pynkupbor ia ka da ka iktiar ban shim bishar ia ki kam beain kiba lah ban shah pynshitom da ka rai pyniap,ka jingshah pynringkang par lane shah set phatok shi jingim lane shipor ym duna ia ka san snem hapoh ka IPC lane kiwei kiwei ki ain kiba iadei bad ka Khasi Hills Autonomous District Council-hapoh ka paragraph 5(1),la aibor ia u Lat ban pynkupbor ia ka District lane Regional Council,lane ki iingbishar ba la buh da ka District Council,lane uno uno u ophisar ba la thung da u lat na ka bynta kata,kum kine ki iktiar kiba hap hapoh ka Cr.P.C.lane ki C.P.C.katkum ka jingibit jong u,na ka bynta ban shim bishar ia ki katto katne ki suit,ki mukotduma bad ki kam beain- Ka jingpynkupbor hapoh ka Cr.P.C.ha ki khep ki khep,kum ba la leh da ka jingpynbna*

kaba 07.02.2017 ka la pynshai kdar ba ka lingkashari District Council ka don ia u pud ban shim ia ki mukotduma kiba iadei bad ki kam bymman, wat lada ka sorkar jylla ka dei ka nongmudui ba dei hok ha kum kine ki mukotduma bad ym lah ban shim ba kadei ka mamla riwulum-hap ban kubur ba, ka nongshah pyniap bad u nongshahmudui baroh arngut kidei dkhot jong ka Khasi Scheduled Tribe-Haba la pule kyllum lang ia ka paragraph 4 bad 5 jong ka Khyrnit kaba Hynriew, kum kita ki iingbishar jong ka District Council ki don u pud ban shim bishar ia kum kine ki jait mukotduma. Ka iingkashari High Court ka la bishar hok ha kaba ka la phah noh ia ka mukotduma kam bymman (criminal case) pyrshah ia u nongshahmudui na ka iingbishar jong u Sessions Judge sha ka iingbishar u Judge ka Autonomous District Council-Ka iingbishar kaba la iohpdiang ia kane ka mukotduma kata ka iingbishar District Council, la hukum ia ka ban ia id shakhmat ia ka jingbishar katkum ka ain-United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-r9-Code of Criminal Procedure, 1973-Penal Code, 1860-ss.302,201.

#### **Haba pynkut noh ia Special Leave Petition, Ka lingkashari**

**LA RAI: 1.1** Ka iingbishar jong u Sessions Judge kaba tian bishar ia u nongshahmudui ka dei ka iingbishar kaba la sdang bad treikam halor ki kyndon jong ka Code of Criminal Procedure, 1973. Lah ban kdew hangne, ba ka sub-section 1 jong ka Cr.P.C. ka pyni ba kane ka iingbishar kam lah ban bishar mukotduma ia ki jaka riwulum. Ha kajuha ka por, ka ai bor pat ia ka sorkar jylla ban shah ia ka jingbishar ia ki mukotduma kiba hap ha ka Cr.P.C sha ki jaka riwulum. Ka jingong "jaka riwulum" kaba la mih ha ka Section 1 jong ka Cr.P.C ka thew ia ki jaka ia kiba la kdew ha ka Khyrnit kaba 5 bad kaba 6 jong ka Riti Shynshar ka Ri India. Ha ka jingbymdon ka jingpynbna ba la pynmih da ka sorkar jylla kaba shah ne kner ia ka Cr.P.C. sha kum kine ki jaka, lait noh ki Lynnong ba VIII, X bad XI, ki kyndon jong ka Cr.P.C ym lah ban pyn treikam ha ki jaka riwulum ha ka jylla Meghalaya, kynthup ia ka Khasi Hills District. Ka jingshimbishar da ka iingbishar Sessions ka hap ha ka Lynnong ba XVIII jong ka Cr.P.C. kam lah ban treikam ha ki jaka riwulum ba la kdew hangne. [para 6][508-D-E; 509-B-D]

**1.2** Hapoh ka Khyrnit ba Hynriew jong ka Riti Shynshar ka Ri India, ki paragraph ba 4 bad 5 ki don jingiadei bad ka administration of justice ha ki Autonomous Districts and Autonomous Regions kumba la kdew ha ka paragraph 2 jong ka Khyrnit kaba 6 Paragraph 4 (1) ka pyniateh ia ka District Council lane ka Regional Council, katkum ki kam ki kam, bad ka iktiar ban buh ia ki iingbishar ban bishar tang ia ka dorkhas bad ki mukotduma ha kaba baroh ki mamla ki dei ki Scheduled Tribe kiba hap ha ki jaka ba la kdew. Hynrei kane kam don jingiadei bad kito ki dorkhas bad mukotduma kiba la kdew ha ka paragraph 5(1) jong ka Khyrnit kaba 6, ha kaba u Lat u lah ban ai bor ia ki District lane Regional Council, lane ki iingbishar ba la pynmih da ka District Council, lane uno uno u ophisar ba la thung da u Lat na ka bynta kata ka kam, bad kum kita ki iktiar kiba hap ha ka Cr.P.C lane

ka CPC katkum ka jingibit ibiang u Lat.Shuh shuh,ka paragraph 4 (4) ka kren shai ba ki iingbishar ba la buh da ka District Council kidei ban trei kam katkum ki ki kyndon ain ba la shna da ka District Council lane Regional Council, katkum ki kam ki kam. Ha kaba iadei bad kane ka mukotduma, bad da kaba pyntreikam ia ka iktiar ba la pynkup ha ka paragraph 4 (4) jong ka khyrnit kaba 6, jong ka riti shynshar ka Ri India la pdiang ban pyntreikam ia ka United Khasi – Jaintia Hills Autonomous District (Administration of Justice) Rules ,1953. Da kaba pyntreikam ia ka iktiar ba la pynkupbor ha ka Rule 9 bad ka paragraph ba 5(1) jong ka khyrnit kaba 6, la pynmih ia ka jingpynbna ha ka 07.02.2017, ha kaba u Lat ka jylla Meghalaya u la thung ia u Additional Judge ha ka iingkashari District Council, Shillong and ai ha ka da ka bor ban ban shim bishar ia ki kam beain kiba lah ban shah pynshitom da ka rai pyniap, ka jingshah pynrynkang par lane jingshah set phatok shijingim lane shipor ym duna ia ka san snem kaba hap hapoh ka IPC lane kano kano ka kyndon ain kaba iadei bad ka Khasi Hills Automous District Council. [Paras 7-10][509-E-H; 510-A-C]

2.1 Ka paragraph kaba 4 jong ka khyrnit kaba 6 ka thmu na ka bynta ka *'jingshim bishar ia ki suit bad ki mukotduma hapdeng ki mamla kiba dei ki Scheduled Tribe'* da kaba pyllait noh ia baroh ki iingbishar ha ka jylla. Wat la ka jingong *'suits ne mukotduma'* ym shim la batai ha ka Article 366 jong ka Riti Shynshar ka Ri kumba la pyndonkam bad sngewthuh na ka liang jong ka ain ha ki snem kiba lah dep, ka jingmut "suit" ka thew beit ia ki dorkhas kiba iadei tang ki civil case lait noh ki criminal ne jingleh kam bymman hynrei "case" lane "mukotduma" la pyndonkam na ka bynta baroh ki kam beain la ki dei ki civil ne criminal. Ka paragraph 4 halade hi ka kdew ia ki suit bad ki mukotduma ha kaba la thew ia kaei kaba la mang ha ka paragraph 5 (1). [Para 9.1,9.2][510- E,G].

2.2. Ka jingpynkup bor hapoh ka Cr.P.C ha ki khep ki khep, kumba la leh da ki jingpynbna ba la mih ha ka 07, Rymphang 2017 ka pyni shar kdar ba ka iingbishar District Council ka don ia u pud ban shim bishar ia ki mukotduma kam bymman ne *criminal case*, watla ka jingshisha ka long ba ka sorkar jylla kadei ka nongmudui ba dei hok ha kum kine ki mukotduma hynrei ym lah pat ban shim ia ka kum ka mamla riwulum. Ha ka jingshisha la dei ban phai noh sha ka jingthmu ban batai ia ka jingmut ba iar jong ka kyntien "mukotduma" kumba la buh hapoh ka paragraph 4 jong ka khyrnit kaba 6. Kum kine ki jingpule kiba iadei bad ka kyntien "mukotduma" la pynskhem da ka jingshisha ba ka tang ka paragraph 5 ka ai bor ia u Lat ban pynlong ia ka Cr.P.C. kum ka ain ban pyntreikam ha kito ki mukotduma, ha kaba ka jingpynshitom na ka bynta ki kambeain kin long ym duna ia ka san snem hapoh ka IPC. Na kaei kaba lah ban iohi ha shwa, ia u Lat ym shym la ai bor ban pynkhamti ha kino kino ki kynhun ba la kdew ha ka paragraph 5 (1) da ka bor kaba hapoh ka Cr.P.C. na ka bynta ki kambeain ha kaba lah ban ai



jingpynshitom duna ia ka san snem.Haba pule ia ka paragraph 5 da kaba pyniasnoh lang bad ka paragraph 4 beit beit ka ialam sha ka jingpynkut ba,kiba kum kine ki mukotduma kam bymman lah ban shim bishar da ki iingbishar kiba la mang hapoh ka paragraph 4 jong ka khyrnit kaba 6,khlem da niew ia ka jingshisha ba ka nongmudui badei hok ka dei ka sorkar jylla,hynrei katba baroh ar,u nongshahmudui bad ka nongshah pyniap ha kane ka kam beain ki dei ki dkhot jong ka kajuh,kata ka scheduled tribe.Namarkata ka kyntien “mukotduma” kam khang ia ki mukotduma kam bymman tang namar ba ka sorkar jylla kadei ka mamla ha kum kine ki jait mukotduma.Haba pule bniah ia ka paragraph ba 4 bad ba 5 jong ka khyrnit ba 6,ka paw shai ba ka jingkdew hangne ka thew ia ki “suit bad ki mukotduma hapdeng ki mamla ha kaba baroh kidei ki Scheduled Tribe” ka long ha ka jingshisha ia ki mamla ba shah ktah (nongshahpyniap/nongmudui) bad ki mamla ba dei ki nongshahmudui.Lah ban kubur hangne ba ka nongshahpyniap bad u nongshahmudui baroh ar ki dei ki Scheduled Tribe.Namarkata lah ban ong hangne ba ka la don ka jingpynbna ba la mih ha ka 07,Rymphang 2017 kaba la ai bor ia ka iingbishar District Council da ka iktiar hapoh ka Cr.P.C. ban shim bishar ia ki katto katne ki jingleh kam bymman,bad ia kum kine ki jingpynkupbor dei ban pyntreikam.Ha ka jingshisha halor ba la pule khleh lang ia ka paragraph ba 4 bad ba 5 jong ka khyrnit kaba 6 la shem ba kum kata ka iingbishar jong ka District Council ka ka lah ban shim bishar ia kiba kum kine ki mukotduma. Ka iingkashari High Court ka la bishar hok ha kaba ka la phah noh ia ka mukotduma kam bymman (criminal case) pyrshah ia u nongshahmudui na ka iingbishar jong u Sessions Judge sha ka iingbishar u Judge ka Autonomous District Council-Ka iingbishar kaba la iohpdiang ia kane ka mukotduma kata ka iingbishar District Council,la hukum ia ka ban iaid shakhmat ia ka jingbishar katkum ka ain.[Paras 9.3 – 9.6,10][511-B-H: 512 – A-C]

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

**Gauhati Law Reports 812 – La kdew hangne**

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

THE STATE OF MEGHALAYA v. MELVIN SOHLANGPIAW

Na ka Rai bad ka Hukum ba la mih ha ka 05.Nohprah.2017 jong ka lingkashari High Court jong ka Meghalaya,Shillong ha kaba iadei bad ka Transfer Petition (Criminal) No.4 of 2017.

Ranjan Mukherjee,Upendra Mishra ,Avajit Mani  
Tripathi,K.V.Kharlyngdoh,T.K.Nayak,P.S.Negi,Ms.Sruti Ram (Kochar),Cheetan Joshi Ki muktiar  
na ka bynta u nongmudui.



Ms.Liz Mathew,Navneet R.,Ms.Sonali Jain,Ki muktiar na ka bynta u nongshahmudui.

la ka rai jong kane ka lingbishar la ai mynta ka sngi da u

### **MOHAN M.SHANTANAGOUDAR, NONGBISHAR BADONBUROM**

1.U nongshahmudui hangne,u dkhot jong ka Khasi Scheduled Tribe,u la shah tian bishar na ka bynta ki kam beain kiba u la ngat shah pynshitom hapoh ki kyndon ain 302 bad 201 jong ka Indian Penal Code ('IPC') hakmat u Sessions Judge,Nongstoin,West Khasi Hills District.la ka mukotduma ba la pynbiang da ka jingujor ka ba pyni ba la lap ia ka met iap kaba la thiah lyngkdop harud ka wah Nondein ha ka 26,Lber 2017,bad kumba long ka rukom la pyntip ia u Officer Incharge jong ka Police Station,Nongstoin ('u nongujor') bad uba la pdiang ruh ia ka ehajar.Haba la wad bniah,la lah ban ithuh ia kata kaba la shah pyniap,ia kaba la shem ruh ba ka dei ka dkhot jong ka Khasi Scheduled Tribe.Da kaba pyndonkam ia ka SIM card ba la lap na ka met jongka,la shem ba ka jingiakren bakhatduh lyngba ka phone ha u number jong ka, la lah ban buddien ia u nongshahmudui hangne.Hadien kane la ioh ban kem noh ia u nongshahmudui bad da la ka mon sngewbha u la ialam ia ki pulit sha ka jaka ha kaba la u tep ia ka metiap.Ha ka 31,Nailar 2017,la pynkhreh ia ka kyrteng kiba donkti ne ka chargesheet, bad la ai ia ka pyrshah ia u, kaba hap ha ka kyndon ain 302 bad 201,IPC.Ha ka 08,Naiwieng 2017,ia ka mukotduma la aiti na ka bynta ka jingbishar sha ka iingbishar jong u Sessions Judge,Nongstoin,West Khasi Hills District bad ia u nongshahmudui la khot hajir ban wan mih hakmat ka iingbishar.

Hynrei halor ka nongrim ba baroh ar na ki mamla ha kane ka mukotduma ki dei ki riwulum,namarkata,kane ka mukotduma la hap beit ban shim bishar da ka iingbishar District Council,U nongshahmudui u la ai dorkhas na ka bynta ban pynkynriah noh ia kane ka mukotduma sha ka iingbishar jong u Judge,Khasi Hills Autonomous District Council.Lyngba ka rai kren pyrshah lane impugned judgment kaba 05,Nohprah 2017 ka iingkashari jong ka High Court jong ka Meghalaya,Shillong ka la pdiang ia kane ka dorkhas.la kane ka SLP ba mynta la mudui pyrshah ia ka hukum jong ka iingkashari High Court.

2.Ha kaba sdang,ka long kaba donkam ban peit ia ka jaka ha kaba la jia kane ka kam bymman ba la shah kynnoh.Ka West Khasi Hills District,ka dei ka jaka kaba hap ha ka autonomous district ia kaba la kynthup ha ka jingkdew (table) ba la pyndait ha ka paragraph 20 jong ka Khyrnit kaba 6 jong ka Riti Shynshar ka ri India ('ka Riti Synshar'),kaba peit ia ka jingpyniaid kam kaba iadei bad ki jaka riwulum ha ki jylla Assam,Meghalaya,Mizoram,bad Tripura.Ban kdew shai hangne na ka bynta ka bishar khaddar ha kum kine ki jaka la peit bad pyntreikam katkum ka paragraph 4 bad 5 jong ka Khyrnit kaba 6 jong ka Riti Shynshar kumne:

4.Ka jingpyniaid ia ki kam bishar ha ki autonomous district bad autonomous region-(1)Ka Regional Council kaba peit ia ki jaka kiba hap hapoh jong ka bad ka District Council kaba peit ia ki jaka kiba hap ha kata ka District, lait noh kito kiba hap ha ka Regional Council,lada don,hapoh ka District, ki lah ban thung

ia ki Village council ne iing bishar shnong na ka bynta ki suit bad ki mukotduma hapdeng ki mamla kiba dei ki Scheduled Tribe kiba hap ha kum kita ki jaka, laitnoh ha kaba iadei bad ki suit bad ki mukotduma kiba iadei kumba la mang ha ka ka sub-paragraph (1) jong ka paragraph kaba 5 jong kane ka Scheduled, ha kaba la pyllait noh ia kino kino ki iingbishar ha ka jylla, bad ki lah ruh ban thung ia ki dkhot kiba biang ban long ki dkhot jong kum kita ki village council lane ki ophisar ban shong bishar na ka bynta kita ki iingbishar, bad ki lah ruh ban thung kum ia kita ki ophisar katkum ka jingdonkam na ka jingpyniaid ia ki kam ain kumba la buh ha ka paragraph ba 3 jong kane ka Schedule.

....(4) Ka Regional Council lane ka District Council, katkum ki kam badei,ki lah da ka jingmynjur shuwa u Lat, ki lah ban thaw ia ki kyndon ban pyniaid—

(a)Ia ka riti shynshar jong ki council bad iingbishar shnong bad ia ka bor ba lah ba kin pyntreikam hapoh kane ka paragraph;

(b) Ia ki riti treikam ban hap bud da ki council lane iingbishar shnong ha kaban shim bishar ia ki suit bad mukotduma kiba hap ha ka sub-paragraph (1) jong kane ka paragraph;

(c)Ia ki riti treikam ba hap ban bud da ki Regional lane District Council lane kino kino ki iingbishar ba la pynlong da kine ki Council ha ki jingkyrpad (appeals) bad kiwei kiwei ki jingiaid shakhmat ki kam kiba hap ha ka sub-paragraph (2) jong kane ka paragraph.

(d)Ka jinpyntreikam ia ki rai bad ki hukum jong kum kine ki council ne iingbishar.

(e) Kiwei kiwei ruh ki kam ban pyntreikam ia ki mat ba la mang ha ka sub-paragraph (1) bad (2) jong kane ka paragraph.

5. Ka jingpynkupbor hapoh ka *Code of Civil Procedure*, 1908 bad ka *Code of Criminal Procedure* 1898 ha ki Regional bad District council bad ha ki katto katne ki iingbishar bad ki ophisar na ka bynta ka jingshimbishar ia ki katto katne ki suit,ki mukotduma bad ki jingleh kam beain. – (1) U Lat u lah, na ka bynta ki jingshimbishar ia ki suit lane mukotduma kiba mih na kino kino ki ain ba la pyntreikam ha kino kino ki autonomous district bad autonomous region kiba dei ki ain ba la kdew tikna ha kata ka bynta da u Lat, lane na ka bynta ka jingshim bishar ia ki kam beain kiba lah ban ai jingpynshitom da kaba pyniap, pynryngkang par lane set phatok shijingim,lane set phatok ym duna ia ka san snem hapoh ka *Indian Penal Code* lane kiwei ki ain na ka bynta shipor kiba iadei bad kum kita ki district lane region, ban pynkupbor ha ki District Council ne ki Regional Council kiba donbor halor kum kita ki district ne region lane halor ki lingbishar ba la thung da kum kine ki District Council lane ha uno uno u officer ba la thung da u Lat,kum kita ki iktiar kiba hap hapoh ka *Code of Civil Procedure* 1908,lane katkum ki kam badei, ka *Code of Criminal Procedure* 1898, katkum ka jingsngew bit jong u, bad hadien, kata ka Council, ka

iingbishar lane u ophisar u lah ban bishar ia ki suit, ki mukotduma bad ki jingleh kam beain da kaba pyntreikam ia kata ka jingpynkupbor ba la ioh.

3. Da kaba pynshongnongrim halor kine ki mat, u muktiar na ka bynta ki nongmudui u kyrpad ba hapoh ka paragraph 4 jong ka Khyrnit 6 jong ka Riti Shynshar ka Ri India, baroh ki mamla ha ka suit ne mukotduma kidei ban long beit ki Scheduled Tribe hapoh ki jaka ba la kdew, na ka bynta ka District Council ban kan ioh bor pura halor kum kita ki suit ne mukotduma. Haba kren shaphang ki mukotduma kam bymman ba la ju ngat jingpynshitom da ka sorkar jylla, u la ong ba ha kane ka mukotduma ba mynta pyrshah ia u nongshahmudui ym lah ban ong ba ka dei ka jingiakajia hapdeng ki ar mamla kiba dei ki riwulum, namar ba ka nongshahpyniap kam dei bad kam lah ruh ban long mamla ha kum kine ki mukotduma. U la ong ruh ba u nongmudui kata u Officer in Charge ha ka Police Station, ruh ym lah ban niew ba u dei u mamla ha kane ka mukotduma, namar ba u la leh ia kane kum u nongtrei sorkar bad u la long shibynta bad ka sorkar jylla.

4. Ha kawei pat ka liang, ka muktiar na ka bynta u nongshahmudui, ka la ban ba haba pule kyllum ia ka paragraph 4 bad 5 jong ka Khyrnit ba 6 jong ka Riti Shynshar ka Ri India ka pyni ia ka jingpyllait ba kyrpang na ka bynta ka jingshimbishar ia ki jingiakajia ha ki jaka riwulum, kiba la dei ban pyntreikam. Haba u Lat u la pyndonkam ia la ka iktiar hapoh ka paragraph 5(1) bad u la pynkhamti ha ki iingbishar ba la buh da ka District Council ban shim bishar ia ki katto katne ki jait kam beian, kum kita ki iingbishar kidei ban donbor pura halor kine. Ha kaba iadei bad kane ka muktiar kala kdew sha ka jingpyntip ba 07, Rymphang 2017, ha kaba u Lat jong ka jylla Meghalaya u la ai bor ia u nongbishar jong ka iingbishar Additional District Council Shillong, da ka iktiar ban shim bishar ia ki jingleh kam beian kiba lah ban ai jingpynshitom da ka jingiap, ka jingpynryngkang par, lane jingset phatok kaba ym duna ia ka san snem hapoh ka IPC lane hapoh kano kano ka ain kaba iadei bad ka Khasi Hills Autonomous District Council na ka bynta shipor. Halor kane ka bynta, ka muktiar ka la kubur ba ka jingioh bor halor ka mukotduma pyrshah ia u nongshahmudui ka shong tylli tyllan halor ka iingbishar District Council. La pynshong nongrim ia kane halor ka rai jong ka Full Bench jong ka iingkashari Meghalaya High Court ha ka mukotduma ***Longsan Khongngain v. State of Meghalaya, (2012) 1 Gauhati Law Reports 812*** ha kaba iadei bad kane ka bynta.

5. Haba khmih bad shim ia ki jingthoh ba la don lypa bad ia ki jingiasaid ba la iasaid da ki muktiar jong ki arliang mamla, ia ka mat ba hapdeng kaba la mih na ka bynta ban ngin pdiang ne em, la ka mukotduma kam bymman pyrshah ia u nongshahmudui kadei kaba dei ban shim bishar beit tang da ka iingbishar District Council, ha kaba iadei bad kaei kaba la mang ha ki kyntien jong ka paragraph 4 bad 5 jong ka Khyrnit kaba 6 jong ka Riti Shynshar ka Ri India.

6. Shuwa ban ngin ngam jylliew halor ki mat ba la mang ha ka Khyrnit kaba 6, la dei ban buh jingmut ba ka Sessions Court ha kaba u nongshahmudui u shah tian bishar kadei ka iingbishar ba la seng bad pyntreikam hapoh ka jingmang jong ka Code of Criminal Procedure, 1973 ('Cr.P.C.'). La iohi ruh ba ka sub-section (2) jong ka Section 1 jong ka Cr.P.C. ka kdew ba ka Code kam don jingidei ei ei bad ki jaka riwulum. Ha kajuh ka por, ka ai ruh ia

ka sorkar jylla ka bor ban kner ia ka jingpyntreikam ia ka Cr.P.C. sha ki jaka riwulum kumne harum:

**“Section 1.Ka kyrteng lyngkot,ka jingpyniar bad ka jingpyntreikam.**

- (1) Kane ka Ain lah ban khot ia ka da kaCode of Criminal Procedure,1973.
- (2) Ka treikam sha baroh kawei ka Ri India

la kaei kaba la mang ha kane ka Code lait noh kito kiba iadei bad ki lynnong VIII,X bad XI kin ym treikam—

- (a) ha ka jylla Nagaland,
- (b) ha ki jaka riwulum,

hynrei kano kano ka sorkar jylla, ka lah,lyngba ka jingpyntip,ban pyntreikam ia kita ki mat ba la mang lane kano kano na kita, sha baroh lane sha ki bynta jong ka jylla Nagaland, lane kum kita ki jaka riwulum,katkum ka kam badei,da kum kita ki jingpynkylla ba la pynmih shuh shuh (supplemental),kiba jia ne kiban dang jia (incidental) lane kiba mih na ki jingjia (consequential),kum ba la kdew ha kata ka Jingpyntip.

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Ka jingbatai- Ha kane ka section,“jaka riwulum” ka mut ia ki jaka kiba don ia u pud sawdong ha shuwa ka 21,Kyllalyngkot,1972,la kynthup ha ki jaka riwulum jong ka jylla Assam,kumba la kdew ha ka paragraph ba 20 jong ka Khyrnit kaba 6 jong ka Riti Shynshar ka Ri India,lait noh kito kiba hap ha ka jingpeit jong ka municipal ha Shillong.

Na kaei kaba la kdew haneng,ka jingong “jaka riwulum” kaba la mih ha ka Section 1 jong ka Cr.P.C.ka thew ia ki jaka ba la kdew ha ka Khyrnit kaba 5 bad 6 jong ka Riti Shynshar ka Ri India.Ha ka jingbymdon ka jingpyntip na ka sorkar jylla kaban pyntreikam ia ka Cr.P.C sha kum kita ki jaka,lait noh ki lai tylli ki lynnong kiba la kdew haneng,ia ki mat ba la mang ha ka Cr.P.C kim don jingiadei bad ki jaka riwulum ha ka jylla Meghalaya,kynthup ia ka Khasi Hills District.

Hangne, kan long kaba donkam ban peit ba ka Lynnong kaba VIII jong ka Cr.P.C. ka iadei bad ka jingiada ban wanrah jingsuk bad ka akor babha,ka Lynnong kaba X ka iadei bad ka jingpynneh pynsah ia ki hukum ba dei ban bud ha ki jaka paidbah khlem don jingpynthut na kano kano ka liang bad wanrah ia ka jinglong jai jai,bad ka Lynnong kaba XI ka iadei bad ki lad jingiada jong ki pulit.Na kaei kaba lah ban iohi,ym don kawei ruh na kine ki phang ba la kdew kiban hap hapoh ka Lynnong VIII,X bad XI kiban iadei na ka bynta ka jingshim rai ha kaba iadei bad kane ka kam.Ka jingshim bishar da ka iingbishar Sessions ka hap hapoh ka Lynnong XVIII jong ka Cr.P.C,ka bym hap ha ki jaka riwulum kumba la iatai hangne.

7.Hapoh ka Khyrnit kaba 6 jong ka Riti Shynshar ka Ri India,ka paragraph kaba 4 bad 5 ka iadei bad ka jingpyntrei kam ia ka hok (administration of justice )ha Autonomous District bad Autonomous Region kumba la kdew ha ka paragraph ba 2 jong ka Khyrnit kaba



6.Kumba ka kdew haneng ka paragraph 4 (1) ka pyniateh ia ka District Council lane ka Regional Council,katkum ka kam baiadei,bad ka bor ban buh ka ki iingbishar ban bishar tang ia ki suit bad mukotduma ha kaba baroh ki mamla hangta ki dei ki Scheduled Tribe kiba hap ha kum kita ki jaka.Kane, namarkata, kam treikam ha kito ki suit bad mukotduma kiba la kdew da ka paragraph 5 (1) jong ka Khyrnit kaba 6,ha kaba u Lat u lah ban ai bor ha ka District lane Regional Council,lane ki iingbishar ba la buh da ka District Council,lane ha uno uno u ophisar ba la thung da u Lat na ka bynta kata ka kam,kum kita ki iktiar hapoh ka Cr.P.C. lane Code of Civil Procedure ('C.P.C') katkum ka jingibit jong u.Shuh Shuh,ka paragraph 4 (4) ka kren tikna ba ki iingbishar ba la buh da ka District Council kidei ban treikam katkum ki riti treikam ba la mih na ki kyndon ain ba la shna da ka District Council lane kumba shah ka kam.

8.Ha kane ka mukotduma kaba mynta,da kaba pyntreikam ia ka bor ba la ai hapoh ka paragraph 4(4) jong ka Khyrnit kaba 6 jong ka Riti Shynshar ka Ri India, la pyntreikam ia Ka United Khasi – Jaintia Hills Autonomous District (Administration of Justice) Rules,1953.Ka kyndon ain kaba 9 hangne la buh na ka bynta ban ban shna kawei ka lingbishar District Council na ka bynta ka Khasi Hills Autonomous District bad ban thung ia ki nongbishar hangto.

Da kaba pyntreikam ia kum kine ki iktiar hapoh ka kyndon ain kaba 9 bad ka paragraph kaba 5(1) jong ka Khyrnit kaba 6,la pynmih ia ka jingpyntip kaba la mih ha ka 07.02.2017,ha kaba u Lat jong ka jylla Meghalaya u la thung ia u Additional Judge ha ka iingbishar District Council,Shillong bad u la pynkupbor ia ka da ka iktiar ban shimbishar ia ki kam beian kiba lah ban ai jingpynshitom da ka jingiap,ka jingpynryngkangpar shijingim,lane shah set phatok ym duna ia ka san snem hapoh ka IPC lane kano kano ka ain kaba iadei ha ka Khasi Hills Autonomous District Council.

9.Halor kitei ki jingpynkupbor kiba la pynkup halor ka lingbishar District Council,Shillong, ki mat kiba dei ban khmih bniah ka long hato ka bor ban shim bishar ia kane ka mukotduma pyrshah ia u nongshahmudui ka shong tylli tyllan ha ka lingbishar jong ka District Council.

9.1 Kumba la dep batai hashwa,ka paragraph ba 4 jong ka Khyrnit kaba 6 ka thmu na ka bynta" ka *jingshimbishar ia ki suit bad ki mukotduma hapdeng ki mamla kiba dei ki Schedule Tribe*" da kaba pyllait noh ia kiwei kiwei ki iingbishar ha ka jylla.Watla ka jingong "*suit bad ki mukotduma*" kam don ka jingbatai ba bniah ha ka Article 366 jong ka Riti Shynshar ka Ri India,ka Cr.P.C.,lane C.P.C., hynrei kumba la pyndonkam bad sngewthuh na ka liang jong ka ain ha ki snem ba lah dep ka jingong "suit" ka thew beit tang ia ki dorkhas kiba iadei bad ki civil case lait noh ki criminal ne jinglehkam bymman hynrei ka kyntien "mukotduma" la pyndonkam na ka bynta ki kam beain la ki dei ki civil ne criminal.

9.2 Ha kaba iadei bad kane,haba ngi peit ia kaei kaba la iasaid da ki nongmudui ka kyntien 'mukotduma'kumba la pyndonkam ha ka paragraph 4 jong ka Khyrnit kaba 6 ka pyllait noh ia ki mukotduma kam bymman ne criminal case, tang na ka daw ba ka sorkar jylla ka nongmudui ba dei hok ha kum kine ki jait mukotduma baroh,hangne ka paw ha ka jingbatai jong ki, ka ai jingmut ba, ka paragraph kaba 4 jong ka ka Khyrnit kaba 6 ka khlem

phai jingmut ei ei sha ka jingshimbishar ia ki mukotduma kam bymman ne criminal case da ki iingbishar District Council. Kane namarkata ym lah ban kyrshan da ka *scheme* jong ka Khyrnit ba 6, kaba kdew shai haba la pyntreikam ia ka jingpule kyllum ia ka paragraph kaba 4 bad 5. Kumba la dep kren hashwa, ka paragraph 4 halade hi ka thew sha ki suit bad ki mukotduma ha kaba ka jingmang jong ka paragraph 5(1) ka treikam. Namarkata ban khmih bniah ia ka phang kaba iadei bad ka jingmut "suit bad mukotduma" hapoh ka paragraph ba 4, ka long kaba donkam ban peit ia ka phang jong ka paragraph 5(1).

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9.3 Hapoh ka paragraph kaba 5 (1), ia u Lat la ai bor ban pynkupbor ia ka District lane Regional Council, lane ki iingbishar ba la buh da ka District Council, lane ha uno uno u ophisar uba la thung da u lat na ka bynta kata, kum kita ki iktiar kiba hap ha ka Cr.P.C. lane C.P.C katkum ka jingibit jong u, na ka bynta ka jingshimbishar ia ki katto katne ki suit, ki mukotduma bad ki kam beain. Ia ki jingpynkupbor hapoh ka Cr.P.C. ha ki katto katne ki khep, kum ba la leh lyngba ki jingpyntip kiba 07, Rymphang. 2017 hangne, ka kren shai ba ka iingbishar District Council ka don ia u pud ban shim bishar ia ki mukotduma kam bymman (criminal case) wat la ha ka jingshisha ka sorkar jylla ka dei ka nongmudui ba dei hok ha kum kine ki mukotduma bad ym lah ban niew ba ki dei ki mamla riwulum. Ha ka jingshisha la dei ban phai noh sha ka jingthmu ban batai ia ka jingmut ba iar jong ka kyntien "mukotduma" kumba la buh hapoh ka paragraph 4 jong ka Khyrnit kaba 6.

9.4 Kum kita ki jingpule jong ka kyntien 'mukotduma' la pynskhem ruh da ka jingshisha ba ka tang ka paragraph 5 ka ai bor ia u Lat ban pynlong ia Cr.P.C. kum ka ain ban pyntreikam ha kito ki mukotduma, ha kaba ka jingpynshitom na ka bynta ki kambeain kin long ym duna ia ka san snem hapoh ka IPC. Na kaei kaba lah ban iohi ha shwa, ia u Lat ym shym la ai bor ban pynkhamti ha kino kino ki kynhun ba la kdew ha ka paragraph 5 (1) da ka bor kaba hapoh ka Cr.P.C. na ka bynta ki kambeain ha kaba lah ban ai jingpynshitom duna ia ka san snem. Haba pule ia ka paragraph 5 da kaba pyniasnoh lang bad ka paragraph 4 beit beit ka ialam sha ka jingpynkut ba, kiba kum kine ki mukotduma kam bymman lah ban shim bishar da ki iingbishar kiba la mang hapoh ka paragraph 4 jong ka Khyrnit kaba 6, khlem da niew ia ka jingshisha ba ka nongmudui badei hok ka dei ka sorkar jylla, hynrei katba baroh ar, u nongshahmudui bad ka nongshah pyniap ha kane ka kam beain ki dei ki dkhot jong ka kajuh, kata ka Scheduled Tribe.

9.5 Namarkata ha ka rai jongngi ka kyntien "mukotduma" kam khang ia ki mukotduma kam bymman tang namar ba ka sorkar jylla kadei ka mamla ha kum kine ki jait mukotduma. Haba pule bniah ia ka paragraph ba 4 bad ba 5 jong ka Khyrnit ba 6, ka paw shai ba ka jingkdew hangne ka thew ia ki "suit bad ki mukotduma hapdeng ki mamla kiba dei ki Scheduled Tribe" ka long ha ka jingshisha ia ki mamla ba shah ktah (nongshahpyniap/nongmudui) bad ki mamla ba dei ki nongshahmudui.

9.6 Ha kane ka mukotduma, lah ban kubur ba ka nongshahpyniap bad u nongshahmudui baroh ar ki dei ki Scheduled Tribe. Namarkata lah ban ong hangne ba ka la don ka jingpyntip ba la mih ha ka 07, Rymphang 2017 kaba la ai bor ia ka iingbishar District

Council da ka iktiar hapoh ka Cr.P.C. ban shim bishar ia ki katto katne ki jingleh kam bymman,bad ia kum kine ki jingpynkupbor dei ban pyntreikam.Ha ka jingshisha halor ba la pule khleh lang ia ka paragraph ba 4 bad ba 5 jong ka khyrnit kaba 6, la shem ba kum kata ka iingbishar jong ka District Council ka lah ban shim bishar ia kiba kum kine ki jait mukotduma.

10.Ha kaba iadei bad kiei kiba la iatai,ngim lap daw ei ei ban tuklar ia ka Rai bad ka hukum kaba mih ha ka 05,Nohprah.2017 ba la pynmih da ka iingkashari High Court jong ka Meghalaya ia kaba ka iingkashari High Court ka la bishar hok ha kaba ka la phah noh ia ka mukotduma kam bymman (criminal case) pyrshah ia u nongshahmudui na ka iingbishar jong u Sessions Judge,Nongstoin West Khasi Hills District sha ka iingbishar u Judge ka Autonomous District Council,Shillong.

Kumba la dep batai hashuwa,ha ka 08,Naiwieng.2017,Ka mukotduma pyrshah ia u nongshahmudui la aiti ban shim bishar da ka iingbishar jong u Sessions Judge,Nongstoin,West Khasi Hills District bad u la shah khot hajir hakhmat ka iingbishar.Ha kaba iadei bad kane,mynta ngi ai hukum ia ka iingbishar ha kaba la aiti pat ban shim ia ka jingbishar,kata ka iingbishar jong ka District Council ban khot hajir thymmai ia u nongshahmudui,lada u khlem pat wan mih hakhmat jong ka, ,bad ka iingbishar ka dei ban iaaid shakhmat ia ka jingbishar hadien ba la dep shna ia ki mat jingmudui (framing of charges) katkum ka ain.Shuh shuh,namar ba ka jingjia ka la jia u bnai Lber,2017,la hukum ia ka iingbishar District Council ban pyndep kloik katba lah ia ka jingshim bishar halor kane ka mukotduma katkum ka hok,hynrei ym dei ban pynslem palat ia ka shisnem naduh ka tarik ba la ioh pdiang ia kane ka hukum.Halor kaei kaba la dep khmih,la pynkut noh ia kane ka Special Leave Petition.

