

**TALATANI**

**“Rai on·ako ku·siktangona peanira mamlako nalis ka·giparangna kutango masina mangmangsan ong·aia,arang gipin kamrangna jakkalaniko champenga. Pilak kamrangna ba officeni sea·jotanirangna Englishchi seanikosa kakket/ chongmot seani ine ra·gen aro uakosa jarikna aro ra·gatna jakkalna man·gen”.**

## U-IATNA NANG-GIPA

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 2056 OF 2014  
(SLP (Crl.) No. 553/ 2011-oni ong·katgipa mamla)

EDMUND S LYNGDOH .....Mamla ka·e mol·molgipa  
(Appellant)

Susagipa

STATE OF MEGHALAYA .....Mamlao aganchakna nanggipa  
(Respondent )

Unbaksana

CRIMINAL APPEAL Nos. 2057- 58 OF 2014  
(SLP (Crl.) Nos. 2203-2204/2011-oni ong·katgipa mamla)

DEVA PRASAD SHARMA ..... Mamla ka·e molmolgipa  
(Appellant)

Susagipa

CENTRAL BUREAU OF INVESTIGATION ..... Mamlao aganchakna nanggipa  
(Respondent)

RAI ON·ANI

**R. BANUMATHI, J.**

Dingtangmancha gipin kacharini mamlangna chutti bi·anina on·a.

2. Ia mol·molani ba appeal-rangara SLP(Crl.) Nos. 2203-2204 / 2011-oni ong·katgipa ong·a, jekon appeal ka·gipa – Skanggipa potako man·gipa mande (Deva Prasad Sharma)-ko Gauhati High Court-ni Section 420 IPC, 120B IPC-ni ning·o aro Prevention of Corruption Act, 1947( kan·dike agangenchimode ‘P.C. Act’)-ni Section 5(2)-ni ning·o rai on·e dosi gnang ine potaniko aro patoko jringipa sastiko on·dapaniko dingtangatna ra·bie mol·molani ong·a. Brigipa potako man·gipa mande (Edmund S. Lyngdoh) an·tangko watani bewalko dingtangatna aro section 420 IPC ning·o section 120B IPC baksa ra·chape uko galone rai on·anina SLP (Crl.) No. 553/ 2011-ko nangnike mamla ka·aha.

3. Deva Prasad Sharma (pota man-gipa-1) 9.10.2011 tariko uni mamlako kachario knamiting somoio siangaha aro uni mamlako ra-rikna ia kacharion 14.11.2011 tariko SLP (Cri.) Nos. 2203-2204/11-oni ong-katgipa Cri. Appeal-na uni depantegipa Debashish Sharmako hukumko on-e segatskaaha aro uan da-ona kingkingba ia mamlako jako ra-kuenga.

4. Kan-dike agangenchimode, mamlani ong-kataniara Deva Prasad Sharma (pota man-gipa skanggipa) ua somoio North Eastern Hill University, Shillong (kan-dike 'NEHU') Chief Engineer ong-achim, Stetnel Roy (pota man-gipa 2)-ara Account Officer, W.M.R. Wahlang (pota man-gipa gittamgipa)-ara Assistant Finance Officer, Edmund S. Lyngdoh M/s E.S Enterprise-ni nokgipa (potako man-gipa-4) aro T.S. Bareh (potako man-gipa-5) M/s Premiere Enterprise-ni nokgipa, N. P. Garg, Executive Engineer, Shri G. L. Sharma, Jr. Engineer, Sanjay, Sr. Technical Assistant aro Shri. H. Nongkynrih, Section Officer, NEHU-ni Construction Division-ni jinma apsan, tol-gipa/banaigipa aro donggijagipa palgipaoniko Damp Seal Cementko 1982-oni 1985-ni bijangchigipa bilsirangona dam rake ra-na sriksrik ku-mongtokaha. Ia daksrukarangna agreba, indake matnangako man-aha je, pota man-gipa-1 dam 12 firm-rangoniko, Damp Proof Cement-ko kg. prako 42.75 ka-e ra-bae on-na nanga ine quotation-ko on-china okamaha, jeni asol damde bajaro kg-prako gong 5-oni gong 7-sanchim. Iarangni bidingo Purchase Committee (bostu breako nirokna dongipa dol) bosturangko ra-bae on-na damgni firm-rangko ra-chakgenchimoba, pota man-gipa-1 bosturangni donga donggijako aro nangnika nangnikgijako hisapgija skatang bang-a firm-rangniko biate ra-baataha jeni a-selan bosturangko jakkalgija dandame donna nangaona sokataha. Dr. B. D. Sharma, NEHU-ni giticham Vice-Chancellor-ni iarangni bidingo matnange sea-jotanio pangchake mamlako segataha aro CBI am-rikkitaniko dakangaha. CBI-ni am-rikkitani somoio potako man-gipa 1-oni pota man-gipa 3-ona, Shri. Edmund S. Lyngdoh, potako man-gipa-4 M/s E. S. Enterprise-ni nokgipa, Shri. T.S. Bareh potako man-gipa-5 M/s Premiere Enterprise-ni nokgipa aro gipin bostu ra-bae on-gipa manderangni kosako chu-onga gita a-selrang gnang (prima facie) ine nikaha aro uamangko Section 120B IPC baksa Section 420 IPC-ko man-chape aro Section 5(2) baksa 5(1) (d) ko man-chape Prevention of Corruption Act, 1947-o pangchake chargesheet file ka-aha. A-bachenge am-rikkitani somoio gipinrang mamlaoni changalako man-aha aro potako man-gipa-1 oni potako man-gipa-5-gipaonasa mangmang Chargesheet file (dosiko see mesokaniko) ka-a man-aha. Ongipa kachari, pota man-gipa-1oni pota man-gipa 3-ona Section 120B IPC baksa 420IPC-o man-chape aro Section 5 (2) baksa PC Act, 1947-ni Section (5)(1)(d)-ko

man-chape uamangko dosi gnang ine mesokaha, jenan uamang dosi dongja ine mol-molaha. Pota man-gipa-4 aro pota man-gipa 5-ni bidingo Section 120B IPC aro 420 IPC-o pangchake dos gnanganiko mesokaha. Chongipa kachari pota man-gipa-1-ko Section 120B IPC baksa Section 420 IPC- o man-chape section 5(2) PC Act-ni ning-o dosi dongako man-e pattoko donchina pakwataha. Potako man-gipa 2-gipaoni 5-gipaona pota man-aoni ra-galako man-aha.

5. CBI, potako man-gipa 2-gipaoni Pota man-gipa 5-ona dos dakaoniko watanina duk man-e aro skanggipa potako man-gipani sastiko bariatchina chongipa kachario rai on-e patoko chipataniko ra-bie High Court-o mamla ka-aha. Minggni mamlarangko damsan knaangaha aro Gauhati High Court-ni skia man-gipa Judge saksaan skanggipa pota man-gipani patoko chipataniko bakroataha aro uni mol-mole mamla ka-aniko ra-gale galaha. Pota man-gipa 1-na chongipa kacharini rai on-aniko aro High Court-o una pattoko chipaniko bakroataniko ka-mao tale mesoka:-

Ongipa Kachari (Trial Court)		Chukalgipa Kachari (High Court)	
Dos ong-ani pangchakani	Sasti	Dos ong-ani pangchakani	Sasti
Section 120B IPC	Ja 4-na ramram patoko dongna nanggen aro tangka gong 15,000/- jurimana gamna nanggen. Maibakai iako dakna man-jagenchimode jagni patoko dongdapna nanggen.	Section 120B IPC	Bilsi 3-na rakbegipa sastiko ra-e patoko dongna nanggen aro tangka gong 50,000/-ko jurimana gamna nanggen. Maibakai iako dakna man-jagenchimode bilsisa patoko dongdapna nanggen.
Section 420 IPC	Ja 6-na ramram patoko dongna nanggen aro tangka gong 15,000/- jurimana	Section 420 IPC	Bilsi 5-na rakbegipa sastiko ra-e patoko dongna nanggen aro tangka gong

	gamna nanggen. Maibakai iako dakna man-jagenchimode ja 2 patoko dongdapna nanggen.		1,00,000/- jurimana gamna nanggen. Maibakai iako dakna man-jagenchimode patoko bilsa sa dongdapna nanggen.
Section 5(2) PC Act	Bilsa 1-na ramram patoko dongna nanggen aro tangka gong 25,000/-ko jurimana gamna nanggen aro maibakai gamna man-jaode jagni patoko dongdapna nanggen.	Section 5 (2) (d) PC Act.	Bilsa 5-na rakbegipa sastiko ra-e patoko dongna nanggen aro tangka gong 1,00,000/-ko jurimana gamna nanggen. Maibakai iako dakna man-jaode bilsa sa patoko dongdapna nanggen.

6. Pota man-gipa 2-gipa High Court-o (Chugipa Kachario) appeal ka-ani mamla matchotkujaon siangaha. Pota man-gipa 3-oni 5-ona watani bewalko dingtangataha aro uamangko Section 120B IPC aro Section 420 IPC-ni ning-o pangchake dosi gngangataha. Patoko dongna nangani bidingo High Court (Chugipa Kachari) pota man-gipa 3-gipaoni 5-gipaona Section 235 (2) Cr.P.C-o pangchake uamangna knana cholko on-e kragipa hukumko on-china mamlako Ongipa Kachariona watonatpilaha. Raio watani bewalko dingtangatanina dukko mane, mol-molenggipa manderang chingni mikkangona sokbaaha. Ia Kacharini 31.1.2011 tariko hukum on-ani gita onbatgipa Kachari, brigipa pota man-gipa mandeko Section 420 IPC aro Section 120B IPC-o pangchake dosi gngangataha aro bilsa bonga aro bilsa gittam dingtang dingtang dake ra-na patoko chipataha aro jurimakoba gamataha.

7. Chinga, appellantrangni aro aganchakna nanggipa dolni skia man-begipa ukilrangni agananirangko apsannan knachakaniko dakaha.

8. Criminal Appeal skanggipa pota man-gipa Deva Prasad Sharma-ni biding (siaoni): Skanggipa pota man-gipa ua somoio NEHU-o Chief Engineer ong-engachim aro pota man-gipa skanggipa, 2-gipa aro 3-giparangara Purchase Committee-o Technical memberrang ong-achim. 12.12.1982 tariko skanggipa pota man-gipa Damp Proof Cement (DPC)-ko maidakgipa rokom aro baditako nanga mamungko janapgija sokate on-china dam 12 firm-rangko damrangko (Quotation) on-china okamaha. Okamana knachakgipa, damdok firm-rangoniko Quotation-rangko man-soaha aro 6.4.1983 tariko apsaniko nianiko dakon niam gita aro dakronga gita ong-ja ine nikaha. Potako man-gipa 5-gipani M/s Premiere Enterprises aro M/s Edmund S. Lyngdoh, pota man-gipa 4-ni dam on-gipa kg-prako 42.75-an komibatgipa ine nikaha aro nisusaaniko dake potako man-gipa-1 an-tangan tarik baksa soi ka-e don-aha.

9. 7/04/1983 tariko potako man-gipa-1 dambri firmrangniko, pota man-gipa-4 M/s Edmund S. Lyngdoh aro M/s Premiere Enterprise jean T.S.Bareh-ni (Pota Man-gipa-5) ong-a,uamangni dam mesoka gita kg.prako gong 42.75-na 2 metric tones(MT)-ko tik ka-e ra-bachina hukumko on-ataha. Uandake 04.06.1983 tariko ge-etaniko man-ani gita aro uamangni dam mesoka gita brigipa potako man-gipa Edmund S. Lyngdoh-ni firm M/s E.S.Enterprise aro M/s T.S.Bareh DPC-ko kg.prako gong 42.75 tangkana ra-bae on-aha. 6/07/1983 tariko NEHU-ni Purchase Committee (breanirangko nirokna dongipa dol) jeon skanggipa pota man-gipa Technical member ong-achim, brigipa potako man-gipa aro M/s Premiere Enterprise-ni mesokgipa dam DPC-ko brena ra-chakaha.

10. Skanggipa pota man-gipani skia man-begipa ukilni aganani gita pota man-gipa-1 Purchase Committee-ko damgni firm M/s Premiere Enterprise aro M/s Edmund.S.Lyngdoh brigipa pota man-gipani dam kg.prako gong 42.75 ka-e mesokaniko ra-chakatna draani sakki dongja maina kamko daknara komibate mesokgipana on-a aro mamung dakeba potako man-gipa-1 Purchase Committee-ko cha-boke DPC-ko dam rakprete ra-atjaha jekon Purchase Committee an-tangtangan dam mesoke galgiparangko am-susae Officerrangni tarigimino pangchakesa ra-chakaha.

11. Warachakgipa dolni ukilni janapani gita iarangni bidingo Purchase Committee-ni ia kamrangna chanchina skangan pota man-gipa skanggipa an-tangan quotationko wataha (dam mesoke galchina okamaniko dakani) aro pota man-gipa skanggipa NEHU-ni Chief Engineer ong-e bajaro ua somoio badita dam ong-engachim iani gimin ma-siengnaba gnanngchim aro Purchase Committee-ni

saksa Technical member ong-e, Technical member ong-pagijagiparang baksa bakrime ua somoio bajarni damko nie breaniko dakna dakchakna nangachim ine aganaha. Skia man-begipa ukil skanggipa pota man-gipani kosako dosko ra-baanio, ua Purchase Committee-ko kg prako gong 42.75 dam rakprete ra-na majoaha ine sakkirang chu-onga gita donga ine parakaha.

12. PW-6 (Badini sakki) Shri. O.D.Shira, ua somoio NEHU-o Administration-ni Assistant Registrar ong-a aro 1983 bilsirango Purchase Committee-ni Convener ong-e 6.7.1983 tariko Purchase Committeko meeting ka-na okamaha. Ext. P1-ara Purchase Committeeni 6.7.1983 tariko meeting ka-ani file onga. Ext.P1(1)-ni gitade DPC-ko breani gimin mamung chanchiani (agenda) dongjachim; indiomangba, skanggipa pota man-gipa iani bidingo Purchase Committee-ni tom-aona ra-bana chol man-aha aro resolution-ni No.14 [Ext. P1 (5)] Damp Seal Water Proofing Compound-ko departmentni Campus, Umshing-na jakkalna breako seanio nikna man-a. Purchase Committee, appellant/ brigipa pota man-gipa aro M/s Premiere Enterprise Jowai-ni komibate mesokgipa dam kg. prako gong 42.75-ko ra-chakaha. PW-6 ni sakki on-a gita aro P1(5) resolution-o nikani gita ongipa kachario aro High Court-ni serikanirango Purchase Committee-ni damko ra-chakna skangan pota man-gipa 1-gipa an-tangan damko on-e bostu ra-bana gita okamaniko dakaha aro potako man-gipa 1-gipa Purchase Committee-ni saksa Technical member ong-e Purchase Committee meetingo brigipa potako man-gipa aro M/s Premiere Enterprise-ni dam k.g-o gong 42.75-ko janape aro Purchase Committee-na ka-dongataniko agane ra-chakatna man-aha ine nikaha.

13. PW-9 (Badini sakki) Smt. M.R. Mawlong jean February 1980-oni March, 1984-ona NEHU-o Registrar ong-achim uni sakki on-ani gita, skanggipa pota man-gipa mande Chief Engineer ong-e Purchase Committee-ni Technical Member ong-a aro *“Purchase Committee, DPC-ni damko Technical Member jean Chief Engineer-ni gadango ong-a uni kupattianio pangchaka”* ine janapaha. Purchase Committee-o Technical Memberrangni dongpaania, technical Member ong-gijagipa memberrangko technicalni je bidingba dakchakna aro re-dilna miksonge donani ong-a, mongsongbate maikoba jakkalna nangani bidingo,ong-enggipa damni bidingo aro institution-na (lekka pora a-dam) badita bosturangko nangani bidingo ong-a. Technical Memberrangni, Purchase Committee-o bak ra-ani namen mongsonggipa aro gamchatbegipa ong-a aro Technical Memberrang mongsongbate skanggipa pota man-gipa (Deva Prasad Sharma), gnigipa aro gittamgipa pota man-gipa uamangni u-ia ma-sianiko, nama ku-pattianiko bosturangko breanio damrangni bidingo Purchase Committee

on-gilaniko man-na ka-donga. Chinga, Technical Memberrang skanggipa pota man-gipa aro PM-2 aro PM-3gipa, Purchase Committeeko dilsretaniko mamung dakeba rim-na man-ja aro Purchase Committee an-tangtangan chanchianiko dake DPC-ko breaha ingipana mamung pangchakaniko nikja.

14. Ongipa Kachari aro High Court-ni mamlao chanchie bon-atanio, Purchase Committee-ko skanggipa pota man-gipa, brigipa pota man-gipa M/s Edmund S. Lyngdoh aro M/s Premiere Enterprise-ni kg.prako gong 42.75 dam rakprete mesokaniko dilsrete ra-chakatna man-aha ine chu-onga gita sakki aro obostarang donga. Apsankon warachakna, chinga bang-gija sakki aro obostarangko ongipa kachari aro High Courtni serikanirangoniko mesokna man-a:

- (i) Purchase Committeeni damko ra-chakna skangan kingbonga quotationrang PM-1-ni DPC-ko ra-bana okamani dongsoaha.
- (ii) Ext.P1(1)-ni gita Purchase Committee 6.7.1983 tarikni meetingo chanchianio, DPC-ko breani gimin mamung agenda daksoani dongja aro ia agendani gimin Resolution No.14 Ext. P1 (50)-oniko nie PM-1 an-tangan Purchase Committee-ni Technical Member ong-e DPC-ko breaniko janape agenda mingsa ong-ataha.
- (iii) Skanggipa pota man-gipa Chief Engineer ong-eba quotation-ni gita nirokna aro bajaro ong-enggipa DPC-ni damko ma-sina cholko ra-e kam ka-anirangko nikja.
- (iv) Purchase Committee DPC-ni damrangni bidingo Technical Memberrang-skanggipa pota man-gipa aro gipinrango pangchakaha.
- (v) Skanggipa pota man-gipa DPC-ko chimonge dongipa a-damo donga donggijaniko nianiko aro DPC-ko NEHU-na badita nangchongmotachim uko sing-sandianiko dakaniko nikja.
- (vi) Skanggipa Pota man-gipa dam-12 firmrangoniko quotationrangna okamaniko dakaha aro uanoniko Purchase Committee dam gni firmrangko ra-chakaha.

15. Pota man-gipa 1-ni skia man-begipa ukil, mamlao sakkirangko ra-baani bidingo DPC-ni dam bajaro kg-o ua somoio tangka gong 5-oni gong 6 ong-achim ine mesokna mamung sakki sabut dongja aro DPC-ni damko bajaro dakgipani giminba mamlako ra-baanio mesokani dongja aro kacharirang pota man-gipa 1-ko ku-sikchi aganariosa pangchake badee ong-gija rai on-e patoko chipataha ine aganaha. Una agreba, High Court-ni Section 313 Cr.P.C.-ni ning-o pota man-gipa 1-ni aganchakaniko pangchake gualbee serikanio iaba mingsa uni kosako sakki ine obostarangko mesoke aganaha.



16. Shillong DPC-ni damara kg-o gong 5- oni gong 10-sanchim ine mesokna mamlako ra·bagiparang chu·onga gita sakkirangko janapaha. PW-5, Sri.Satinder Bawa jean Bawa Paints Pvt. Ltd.-ni Director ong·a; uni company 1965 bilsionin rong aro china nosto ong·gijagipa bosturangko tarigipa ong·a aro uamangni firmrango bikotgimin bosturangko bang·a palgiparangna palaha aro M/s Premiere Enterprises aro gipinrang aro pilak North Eastern Staterango Meghalaya aro Jowai a·jarangko man·chape bikotgimin bosturangko 1982-1983 bilsirango palaha. PW-5 uni sakki on·anio, 1982-1984 bilsirango kg 50 Damp Proof Cementko gong 80- oni gong 85-ona Delhio kajina (tax) baksa palaha aro kilogram-sani packetko gong 2.80-oni 3.80-ona Delhio pala ine aganaha. Una agreba, PW-5 Shillong ua somoio kilogram-sa DPC-ni dam kg.prako gong 6/-oni 7/-ona pilak kajina, ra·ruraani koros aro lap gimikko hisape ong·gen ine janapaha.

17. PW-16, Shri.Santosh Kumar Chachan-ara M/s Gajanand Chachan, Barabajar, Shillongni nokgipa ong·achim jean nok rikani bosturang, rongrang aro china nosto ong·gijagipa cementrangko palachim. PW-5 ni sakki on·ani gita, PW-16 M/s Gajanand Chachan-ara PW-5ni DPC aro rongrangko ra·bae on·ako palgipa damsa firm ong·a. PW-5ni sakki on·an baksa, PW-16-ba uni dokkan/firm-o china nosto ong·gijagipa (Water proofing) Cement-ko 1982-1984 bilsirango pala aro ua rong, china nosto ong·gijagipa (Water proofing) Cement-ko Delhi, Calcutta aro basakoba Gauhatiniko 1982-1984 bilsirango brebaronga aro ua somoio Shillong china nosto ong·gijagipa (Water proofing) cementni dam kg-o gong 5 sanchim ine agandapaha. PW-rang 5 aro 16-ni aganania sakki man·ani gita, DPC-ni damara ua somoirango Delhio kg-o gong 2.80-oni 3.80-rang ong·a aro Shillong kg.o gong 6/- oni gong 7/- ong·a aro kg-o gong 42.75 damara namen rakbegipa ong·a aro pota man·gipa 4-ni bostuni damko mesoke (quotation) on·eaniko skanggipa pota man·gipa-ni ra·chakania maiba sriksrik miksongani gnang ine namen ma·sina man·a.

18. Mamlako ra·bagiparang PW-5 aro 16-ko ua somoio ong·enggipa bajarni damko sing·sandianiko dakan baksana PW-13, Shri. N.P.Garg jean 1984 bilsioni NEHU-o Executive Engineer ong·e ka·achim, Damp Seal Cement-ko kam ka·atania jakkalani gimin ma·sigipa mande ong·e ukoba sing·sandiaha. Ext.P5, Work File-ni (Kam ka·aniko segate rakkiani) gita 6.9.1983 tarikona aro item 7(17)-o gita Wahjaraino Intake Water Tankko rikatanio gipin bosturang baksa rikanina Water Proofing Compound (DPC)-na kg-o gong 10 ka·e, PW-13 kam ka·atgipa contractor Hansraj Jain-na gamaha. PW-13 aro Ext.P5-ni sakkirangko janape,

ongipa Kachari aro High Court-o nikanirangoniko serikanio, warachakgipa, Ext.P 5 Bill jean DPC-na chi nango nosto ong·gija bostuna kg.prako gong 10/- gamachim aro 1983 bilsini somoirango chi nango nosto ong·gijagipa bostu (DPC)-ni damara kg.prako gong chikkung ine sakki man·achim uako mamung dakeba ra·bianiko dakjaha. DPC-ko palgiparang, PW-5 aro PW-16-oniko sakki man·ani gita aro skangni work File (kam ka·ataniko segatgipa lekka)-oniko (Ext. P5) PW-13-ni aganani gita, mamlako jako ra·enggiparang ua somoio bajaro DPC-ni damara kgprako gong 5/- oni gong 10/- san ine namen rongtalbee ma·siatna man·a.

19. Ongipa Kacharini janapani gita, 6.7.1983 tariko Purchase Committeeni meetingo DPC-ko breaniko janapna skang, skanggipa pota man·gipa DPC-ni ua somoio ong·gipa bajarni damko ma·sina sing·sandijaha aro dingtang cholrangkoba ra·gatjaha. Section 313 CrPC-o pangchake ua somoio DPC-ni damko sing·sandianiko dakon skanggipa pota man·gipa uani bidingo ma·sija ine janapaha. Apsan aganchakanirangko nie, High Court pota man·gipani aganania chalakki dake gelna aganani ong·a aro ua apsan obostarangkon nigope pota man·gipani kosako mamla ra·baanio iaba mingsa sakki ine janapaha.

20. Skanggipa pota mangipani Section 313 Cr.P.C.-ni ning·o a·selko agananiko (statement) jera ra·oniko serikarango nikanio Section 313 Cr.P.C.-ni ning·o statement on·aoniko pota man·gipa 1-ni ong·gija dakani sakki ine ra·na man·jawa ine janapaha. Beben, High Court Section 313-ni ning·o skanggipa pota man·gipako gimik sing·rikkianirangko nie indake aganaha:-

*“Skanggipa pota man·gipa, Shillongo bajaro DPC-ni damara ua somoio gong 5-oni gong 10 ong·a ine potna gita mamung ku·sakoba aganjaha. Uni agana gimikara DPC-ni damko ua somoio bazaro ong·aniko u·ija aro gong 42.75-ra namnike ra·chakgimin dam ong·a. Uni talbregija agananirangara, PW-6 aro PW-13 aro item no.7(17) Ext.P-5”o sakkirangko nigope PM 1-ni kosako dosko ra·baanio obostarangko nangrikatna chu·ongbea”.*

Indake nigope, High Court, Section 313 CrPC-ni ning·o sing·sandianiko dako talbregija gelna aganchakanirango aro sakki on·giparango pangchake PM-1-ni kosako dosko ra·baanio chu·ongen melia ine janapaha.

21. PM1-ko Section 313 Cr.P.C.-ni ning·o pangchake sing·sandianiko dakanio talbregija gelna aganchakanirangna uni kosako namgija dake mamlako bon·atna man·genchim indiba namgija galone bon·atanio, sakkini pal pangchakna man·ja jeon uni kosako mamlako ra·enggipa pota man·gipani dosko mesokna nanggen. Section 313 CrPC-ni ning·o aganchakanirangra sakki ong·ja. *Bishnu Prasad Sinha*

& *Anr. Vrs. State of Assam (2007) 11 SCC 467*'o mamlao ia kachario pota man-gipani dosiko Section 313 CrPC-ni ning-o pangchake sing-rikkianio aganchakanirangko serikanio mangmang pangchake sakki ine aganna man-jawa. Ian pota man-gipani uni kosako mamlako ra-baanio sakkirangko on-anirangna talatanirangsan ong-aia. Pota man-gipani, Section 313 CrPC-ni ning-o warachakna agananirangko mamlako ra-enggiparang sakkirang baksa pangchakna ra-nasan man-aia. Section 313 CrPC-o pangchake agananirangko dingtang dake ma-eke ra-na nangja indiba mamlako ra-baanio sakkirang baksa ra-dimesa chanchianiko dakna nanga.

22. Ia ong-enggipa mamlao, High Court Section 313 CrPC-ni ning-o skangipa pota man-gipani aganchakanirango pangchake mangmang mamlako bon-ataha indake ongja. High Court ni mamlao a-selrangko mesokaniko, kosako on-jotani gita Section 313 CrPC'ni ning-o pota man-gipani agananirangko PW-6, PW-7 aro item 7(17) Ext. P5-o sakki on-anirango pangchake dondimesa obostarangko PM-1-ni kosako dosko on-a. Skang janapgimin gita, skanggipa pota man-gipani aganchakanirangko ma-eke chanchianiko dakjaha indiba gipin ku-sikchi aganani (oral) aro serikani sakkirango pangchakesa chanchianiko dakaha. Chinga, High Court ni skang potako man-gipako Section 313 CrPC-ni ning-o pangchake statement ra-aniko dingtang dingtang obostarangko nangbakatna dakgualae ra-aha ine mamung dakeba nikja.

23. Ku-sikchi aganani aro serikani sakkirango pangchake, ongipa kachari aro High Court-ni nikaniko serikanio, Purchase Committee-o non Technical memberrang donga aro PM-1 Technical member ong-e mongsonggipa bakko ra-e Purchase Committeeko DPC-ko kg.prako gong 42.75 ka-e rakgipa damo ra-na dididilaha jeni daman bajaro ua somoio kg.prako gong 5/-oni gong10/-sanchim aro chinga kacharirangni nikaniko serikanio mamung srete dakaniko nikja.

24. Sanction ka-anini kakket ong-ani bidingo jera ra-ani : Ext.P19-ara pota man-gipa 1-ko matnange kachario nalis ka-aniko ra-bagipa tangka paisako on-ani lekka (sanction order) ong-a aro apsanon ua somoio ong-enggipa Chief Secretary, Govt. of Meghalaya soi ka-a gnanngchim. PW-18 Shri. Kharkongor, Government of Meghalaya, Political Department-ni Secretary-koba sing-sandie nianiko dakaha jeonin Sanction order Ext. P9-ko on-a.

25. PM1-ni skia man-begipa ukilni PC Act-ni Section 6-o pangchake jera ra-ani gitade "*darang kachariba sanction ka-ako man-chengjaskal dosko galna man-jawa*

.....” aro PM1-ni gimin chanchigenchimode, Chief Secretary PM1-ko ra-galna mamung bil dongja aro PM1-koara Governorsa seokaha aro Meghalayani Governorsa seokna bil gninggipa ong-a. Unigimin sanction ka-aniara Governorni namnikanio ong-na nanga aro Chief Secretary-ara sanction ka-ako u-iatimgipasan ong-aia aro nalis ka-anio mamlako ra-giparang seokna bilko man-gipa Meghalayani Governor chu-ongnikaha ine mesokna pota man-gipa 1-ko nails ka-na tangka on-aniko (sanction) ra-chakna nanggipa lekkarangko uni mikkangona ra-baa dongjachim.

26. Warachakgipa dolni skia man-begipa ukilni PW 18-ni sakkini gita mesokanio, CBI report-o pangchake, Chief Secretary tangkako sanction ka-aha aro gipin lekkarang file-ni note sheeto mesokani gita pota man-gipa 1-ni kosako mamlako ra-bana sanction ka-ani chu-ongen gning ine janapaha. PW 18-ni sakki on-aniko janape, fileni note sheet-ni gita CBI report-o pangchake, kachari ua somoio ong-gipa Chief Secretary sanction ka-aha aro ua sanction order-o mamung chu-sokgijaniko nikja ine janapaha.

27. Constitution of Indiani Article 166(2)-ni gita, Governor-ni bimungo pilak ge-etanirang aro dingtang dingtang kamna jakkalanirangna dakaniko bebe ong-a ine niamo talatani gita Governorchi dakna nanga aro order-ni kakket ong-aniko ba kamna jakkalanio mesokani gnanganiko, ia Governorni ge-etani, kam ka-atani ong-ja ine sing-sandina gita man-jawa. PW-18 Chief Secretary-na, Governorni bimungo ge-etaniko aro kam ka-atna on-anio bebe ba kakket ong-a ine see on-na mamung bil dongja ine aganskie on-ani dongja. Bichal ka-ani somoio, skanggipa pota man-gipa mamung dakeba fileko mesokchina ba sanction order-ra Governorchi ra-chakaniko man-gipa ong-ja ine mol-mole aganjaha. Constitution of Indiani Article 166-ko ra-chape, ongipa kachari State-o jerangan Governorni bimungo ge-etanirang aro gipin kamko ka-atanirango, State Governmentni badiaba Officerrang kakket/bebe ine mesokani niam dongna nanga ine janapaha. Ongipa kachari skanggipa pota man-gipani sanction ka-ani bebe ong-aniko ra-bianiko bikpilataha. Chinga sanction ka-ani kakket ong-aniko ra-bianiko skanggipa pota man-gipani kosako ra-baaniko namgniko nikjaha.

28. **FIR ka-ninggijani bidingo jera ra-ani:** Skanggipa pota man-gipa-1 gipin pota man-rimgipa manderang baksa melie quotationko (bostuni damko ra-bana mangni damrangko mesokani) 12.12.1982 tariko dam 12 firmrangniko Damp Proof Cement (DPC)-ko ra-bana okamaniko dakaha aro DPC-ko 1982-oni 1985-ni bilsijiangchio breaha. Ext.P 11-ara Dr. B.D. Sharma, NEHU, Shillong Meghalaya-ni

Vice Chancellor-nimatnange 3.7.1985 tariko seani lekka ong-a jeon pangchake FIR-ko segataha. Mamla ka-e mol-molgipa/ skanggipa pota man-gipa-ni palo indake jera-ra-aha, je FIR-ara bilsil gnirang ong-nasiosa ka-aha jean uni chongmot ong-gnina ning-tuen jajaani ghang aro unbaksana jensalo Vice Chancellor jean FIR segatachim uako sakki gita sing-sandianiko ba porikka ra-aniko dakjachim.

29. Dingtang dake, mamlako ra-bagipa skia man-begipa ukil, DPC-kora 1982-oni 1985 bilsini bijangchio breaha aro dos dakara bon-changgija dos dakani gimin FIR-ko segatna somoi ru-ute ra-a ine aganna man-jawa aro matnanggipa Vice Chancellorko sing-rokgijania mamlako ra-banio mamung gimaaniko ra-baja ine janapaha.

30. FIR ka-namangmang somoi ru-ute ra-aniara mamlako bon-chipaniona ra-bachongmota ong-ja. Mamlao aganchakna nanggipa dol (bibadi) CBI ukilni aganani gita, DPC-ko ra-bae on-aniara 1982-oni 1985 bilsini bijangchirangona bon-changgija ra-bae on-a aro uan dos dakroroani ong-a. Dos dakroroani a-selrango, matnange (complain) segateaniko dakna somoiko manchie donna man-ja. Skanggipa pota man-gipa sakgipin pota man-rimgipaskarang baksa, Purchase Committee-ko DPC-ko kg-prako gong 42.75 rakbegipa damo ra-na didiaha aro jensalo ra-na manchiani gimik parakaha unosa Vice-Chancellor matnange segateskaaha. Bil man-aniko ong-gija jakkalsretanio aro chol man-ako ra-sretanio aro ong-gija dake gimaaniko ra-banio, gipin mamlarang jekai so-otani, dakait dakani aro doka satani ba uandakgipa mamlarang gita, matnange seanio aro FIR ka-anio chanchianiko dakna man-jawa, jerangon badee agananirang aro taridape agananirang ghang. Chugipa gadangni mandeni bil man-aniko ong-gija jakkalstretanina aro ong-gija gimaanirangna, mamla ka-anio lekkao sakki aro gipin kam ka-rimskarangni ku-sikchi sakki on-aniko nanga aro mamung banaie aganania aro tol-ako bebera-atna jotton ka-anio pangchakja. Chinga, FIR-ka-na somoi ru-ute ra-anio, mamlako ra-banio kakket ong-anio jajaanirang ghang ingipao mamung namgniko nikja.

31. Section 5(1)(d) ning-o mongsong dos dakaniara indake ong-a, je sorkarini officer sorkarina dangdike on-gipa ong-eba an-tangni gadango ong-aniko chanchigija kragija dake an-tangna man-gnina aro sakgipinna maiba gamchataniko man-gnina, ong-gija dake cholko ra-ani ong-a. "Kragija jakkala" kattani miksonganide jakkalsretani ong-a jean maiba miksongsogijako an-tangni gadango ong-anichi dakani ong-a. Ku-sikchi agananirang aro lekkao man-gipa sakkirango pangchake, ongipa kachari aro High Court serikanirangko dakaha je

skanggipa pota man-gipa, Chief Engineer, Purchase Committeeni saksa Technical Member ong-e NEHU-na DPC-ko bajarni damo brena man-na gita Purchase Committee-na ua somoio ong-enggipa damko agane on-ani ong-achim. Skanggipa pota man-gipa dosko dakanio mongsonggipa ong-a aro skanggipa pota man-gipa an-tangni Chief Engineerni aro Technical Member ong-aniko chanchigija ong-gija dake an-tangni namgnina aro pota man-gipa 4 aro 5-na DPC-ko kg-o gong 42.75-na dam rakbee ra-chakataha jean bajartangon kg-o gong 5/-oni gong 10/-man-achim, indake NEHU-na tangka lakh 49 mancha kragija gimaaniko ra-baaha. Skanggipa pota man-gipako Section 120B IPC aro 420 IPC-ni ning-o aro section 5(2)(d) PC Act-ni ning-o dosko ong-en mesokaha. Uamangni dos jrimani kri aro NEHU-na bang-bea gimaaniko ra-baani kri, High Court-ba skanggipa pota man-gipani bang-a dosrangna patoko donataniko ong-niken patoko dongna nanganiko baridapataha aro chinga uako mamung dake kalakdapna a-selko nikjaha. Skanggipa pota man-gipani appeal ka-aniko (onkalgipa kacharini rai-ko ra-bianiko dakani) jekon da-o uni palo uni ukil kamko ka-engachim ua mamla chu-sokjaha aro apsan mamla-an jegalako man-aha.

32. Brigipa pota man-gipa Edmund S. Lyngdoh-ni Criminal Appeal-ni biding: Brigipa pota man-gipa Edmund S. Lyngdoh, M/s Edmund S. Lyngdohni nokgipaban, NEHU-na kg-o gong 42.75-na DPC-ko ra-bae on-aha. Edmund Lyngdoh saksa DPC-ni bidingo badinggipa ong-e, ua somoio DPC-ni kg-o gong 5/-oni 10/-rangona dam ong-aniko ma-siengnaba gnangchim. Skanggipa pota man-gipa bajarni damni bidingo aganjagenchimoba, brigipa pota man-gipa bajarni damko parakenggenchim aro DPC-ni bajar-o ong-enggipa damko 5/-oni gong 10/-ona ong-aniko mesokenggenchim, indiba brigipa pota man-gipa kg.o dam rakprete 42.75-ko an-tangan man-gnina see mesokaha aro NEHU-na kragija gimaaniko ra-baaha.

33. Namgija kamna ku-monggrikani dosko ra-bana gita, mamlao (i) pota man-gipa ong-gija dakaniko ong-atna ba kragija cholchi dakna ku-mongpana nanga, (ii)ku-monggrikanio, pota man-giparangoni saksa saoba dakbadeaha ine sakki man-na nanga. Ku-monggrikanio nangchongmotania, Section 120B IPC-o taria gita maiba mingsa ba minggipinko dakna manderangni gisepo melgrikani dongna nanga. Skanggipa pota man-gipa-ko, brigipa pota man-gipa aro gipinrang baksa DPC-ko NEHU-na kg-o gong 5/-oni gong 10/-ni pal gong 42.75 ra-bana daksruka ine potaha. Uandake manchie ja-mano, brigipa pota man-gipa DPC-ko Metric Ton-6 (Kg 6000)-ko ra-bae on-aha aro uachi NEHU-na tangka gong lakh 6-mang kragija gimaaniko ra-baaha.

34. Daksrukkiparangni ku-monggrikanio bak dongpaaniko sakkirang man-aoniko ma-sina man-a. Sakkirang aro matnanggipa obostarang ong-a ine mesokgipa chu-gimik nangrimgrikani dongna nanga jedake pota man-giparangni gisepo dakna ku-monggrikanirang donga aro uamangni dosrangko name nie ma-siatna man-a. Brigipa pota man-gipa DPC-ko NEHU-na dam rakbee kg-o gong 42.75 ra-bae on-aha aro an-tangna aro skanggipa pota man-gipani namgnina dakaha aro uachi NEHU-na kragija gimaaniko ong-ataha. Uandake sakkirango aro obostarango nigope rim-a man-arango, High Court brigipa pota man-gipako wata man-aoniko bikpilate section 120B IPC-ni ning-o pangchake patoko chipataha.

35. Uandake brigipa pota man-gipani bidingo, ua section 420 IPC-ni ning-oba dos donga ine mesokaha. Cha-boke cha-ani dosara minggni kamko ong-ata. “Mandeko togiani aro mandeko kragija ba kakketgija sakgipinna gam jinko on-china dakatani ba je mandeba je gam jinkoba rakkina mong-anina namnikpaaniko on-a”. Skanggipa pota man-gipa baksa ku-mongen brigipa pota man-gipa damko see on-aha aro DPC-ko dam rakprete kg-o gong 42.75-na ra-bae brigipa pota man-gipa NEHU-ko kragija dake DPC-ko breataha. Brigipa pota man-gipa ua somoio bajaro ong-enggipa damko ma-sigijao ga-chate pangchakaha. Bosturangko ra-bae on-gipa aro DPC-ko palgiparang ong-eba ua somoio bajarni damko masigijaniara namen ong-na amgijani onga. Warachake agananina High Court kraen jegalaha aro brigipa pota man-gipa mandeni kosako section 420IPC baksa section 120B IPC-ni ning-o pangchake dos gnang ine matnangaha.

36. High Court pota man-gipani bidingo, mamlako knaaniko dakchina aro kraa ge-etaniko on-china ongipa kachariona watonatpilaha. Unomiting somoio, brigipa pota man-gipa ia kachario appeal-ko (komibatgipa kacharirangni hukumko rabie/bi-e) segateaha aro onbatgipa kachario sasti on-ani bewalko dingtangtjachina ge-etaniko on-china application segataha. Ge-etani 31.01.2011-o, ia Kachari ongipa kachariko sasti on-anio kamko ka-angchina aro kraa hukumko on-china ge-etaniko on-aha.

37. 14.6.2011 tarikni rai-o, ongipa kachari brigipa pota man-gipako tangka lakh 1-ko jurimana gamatan baksa bilsu bongana rakbee sastiko patoko ra-china donataha aro iako chu-sokatjagenchimode Section 420 IPC-ni ning-o sasti man-gniko dakataha; maina Section 120B IPC-ni ning-o brigipa pota man-gipa bilsu gittamna rakbee patoko dongna nanggenchim aro jurimana tangka gong 50,000/-

gamna nanggenchim aro chu·sokatjaode sasti dongdapaniko aro ia minggni sastirangko radimna nanganiko hukum on·ahachim. Brigipa pota man·gipa patoko 14.6.2011-oni 16.2.2012-ona gimik 248 salrangna patoko dongaha. Ia Kachari-ni 16.2.2012 tariko hukum on·ani gita, brigipa pota man·gipana sasti on·aniko, brigipa pota man·gipa DPC-ko ra·bae on·e ong·gija dake lap man·aoniko tangka gong 3,50,000/- chandimbrake nio 50% ganggimino pangchake dontongataha. Brigipa pota man·gipa bilsa 70 ong·aha aro Type II diabetes-na sananiko dakenga ine janapaha. Ia mamla bilsa 30-rangna matchotgija indaken ru·ute dongenga.

38. Mamlani indita ru·ute matchotgija donganiko nika aro brigipa pota man·gipani bilsiko chanchie aro uni jurimana ganggiminko aro ia kachari-ni ge·etani gita tangkako gamanio pangchake, chingni nikanio, una Section 420 IPC aro Section 120B IPC-ni ning·o mamla ka·gipa/ brigipa pota man·gipa-ni patoko donggiminko chane dingtangatgen aro tangka gong 2,50,000/-ko ongipa kacharini aro ia kacharini ge·etanini gita jurimana gaman baksa gamdapna nanggen. Maibakai agangimin tangka gong 2,50,000/-ko gamna man·jagenchimode, brigipa pota man·gipa patoko bilsa sa dongna nanggen.

39. Skanggipa pota man·gipani mamla jekon da·o uni palo appealko (ongipa kacharini rai-ko ra·biani) segateachim ua mamlako ra·bianiko chanchianiko jegale bon·ataha. Brigipa pota man·gipani (Edmund S. Lyngdoh-ni) appeal (onbatgipa kacharini hukumko) segateaniko mitam bakrangna kosako janapbagiminrango pangchake kachari ra·chakaniko dakaha.

..... J  
(T.S. Thakur)

..... J  
(R. Banumathi)

New Delhi;

September 16, 2014



ITEM No.1A

COURT NO.3

BAK- II

(Rai on-na)

## S U P R E M E C O U R T O F I N D I A

## RECORD OF PROCEEDINGS

Crl. Appeal N.2056 of 2014

( SLP(Crl.) No. (s).553/2011-oni ong-katgipa mamla)

EDMUND S LYNGDOH

Mamla ka-e molmolaniko dakgipa/dakgiparang

(Appellant(s))

Susagipa

STATE OF MEGHALAYA

Mamlao aganchakna nanggipa dol/dolrang

(Respondent(s))

Crl. Appal No. 2057 -58 of 2014

(SLP (Crl.) No (s). 2203-2204/ 2011-oni ong-katgipa mamla)

Tarik : 16 / 09 / 2014 la mamlarangna rai on-na okamaniko daka.

Mamla ka-e mol-molaniko dakgipani ukilrang

Ukil, Mr. Rishi Malhotra.

(For Appellant)

Ukil, Mr. Anupam Lal Das.

Mamlao aganchakna nanggipa dolni ukilrang

Ukil, Mr. B. V. Balaram.

(For respondent)

Ukil, Mr. Arvind Kumar Sharma.

Mande ra-ako man-na kragipa bichal ka-giparang Mrs. Justice R. Banumathi, Mr. Justice T. S. Thakur aro Mrs. Justice R. Banumathi-ni Bench-o asongani rai-ko on-aniko parakataha.

Mamlana chutti bianina on-a.

Crl. A. No. 2056 of 2014-ni mamlani rai-o soi ka-gimino mesokani gita mitam bianirangna ra-chaka aro Crl.A.Nos.2057-58 of 2014 mamlao bianiko jegale gala.

“38. Mamlani matchotninggija ruute donganiko nike aro brigipa pota man-gipani bilsil re-anganiko chanchie aro uni jurimana gamgiminko nie aro uni ia kacharini ge-etani gita tangka on-giminko chanchie, chingni nikani gita, mamlao ongipa kacharini rai-ko mol-mole ra-bigipa-brigipa pota mangipani Section 420 IPC aro Section 120B IPC-ni ning-o pangchake patoko dongna nanganiko, uni patoko

dongmangiminko esape dingtangatgen aro ongipa kacharini jurima gamatan baksa aro ia kacharioni geetani gita tangka gaman baksana jurima gong 2,50,000/-gamdapna nanggen. Ia jurimana gamna nangani tangka gong 2,50,000/-ko gamna man-jagenchimode, brigipa pota man-gipa bilsa sa patoko dongna nanggen.

39. Skanggipa pota man-gipani palo mamla ka-e dao ra-bianiko dakenggipa ukilni mamlako ra-chakgija jegala. Brigipa pota mangipa (Edmund S. Lyngdoh)-ni mamla kae ra-bianiko mitamna kosako mesokgimino pangchake ra-chakaniko on-a.

(MAHABIR SINGH)

(VEENA KHERA)

COURT MASTER

COURT MASTER

(U-iatna nanggipa rai-ko soi ka-e watatna file-o dona)