

JINGPYNSHAI

KI RAI NE KI HUKUM BA LA PYNKYLLA SHA KA KTIEN KHASI KI LONG TANG BAN SHU SNGEWTHUH KI NONGPULE HA KA KTIEN TYNRAI. YM LAH BAN SHIM NE PYNDONKAM IA KI NA KA BYNTA KANO KANO KA JINGTHMU. LADA DONKAM BAN PYNTREIKAM IA KINE KI RAI NA KA BYNTA KANO KANO KA JINGTHMU, KI RAI NE KI HUKUM BA LA THOH HA KA KTIEN PHARENG KIN IENG KUM KIBA LAH BAN SHIM NE PYNDONKAM BAN IOH IA KA JINGMUT BASHISHA.

ITEM NO.1A

COURT NO.3

SECTION II

HA KA KASHARI KHLIEHTAM KA RI INDIA

KA CRIMINAL APPEAL NO. 2056 JONG KA 2014

(KABA MIH NA KA SLP (CRL) NO 553/2011)

EDMUND S LYNGDOH

..... NONGMUDUI
(Apellant)

-Pyrshah-

STATE OF MEGHALAYA

..... NONGSHAHMUDUI
(Respondents)

Ryngkat bad

CRIMINAL APPEAL NOS. 2057-58 JONG KA 2014

Kaba la mih na ka SLP (Crl.) No(s).2203 – 2204/2011)

U DEVA PRASAD SHARMA

..... NONGMUDUI
(Apellant)

-Pyrshah-

KA CENTRAL BUREAU OF INVESTIGATION

..... NONGSHAHMUDUI
(Respondents)

Ka Bishar ai Rai

R.BANUMATHI, J.

La ai bor jingbit ban uxor appeal

2. Kine ki jingphah uxor appeal ki mih na ka SLP(Crl) Nos 2203-2204/2011 la phah kum: Ka Kynpeiñ-ujor, ia ka Bishar-ai jingrai jong ka Gauhati High Court ne ka Kashari iingbishar kaba la ai jingpynskhem ia ka jingai saja ia u nongphah appeal. Kum u nongphah appeal u shah mudui (Dev Prasad Sharma) hapoh ki kyndon aiñ ba 420 IPC,120B IPC bad ka kyndon aiñ 5(2) jong ka Prevention of Corruption Act,1947(kum ka jingbuh lyngkot(ka P.C Act); (Ka Aiñ ba ia dei bad ka Bamsap, ha ka Khasi) bad ka jingpynheh – pynkiew ia ka jingrai ai saja ba la sieh halor jong u. U shah mudui uba saw(u Edmund S Lyngdoh) u la kham jied iaka SLP(Crl) No 553/2011 u da beiñ pyrshah iaka jingpynkylla, da kaba rai pyllait saja bad da pynpaw ba ka jingai

rai saja katkum ha ka kyndon ain 420 IPC kaba la pynsnoh lang bad ka kyndon ain 120 IPC.

3. U Deba Prasad Sharma (A.I) u la khlad noh haka 19.10.2011, ha kata ka por ba dang don kata ka jingthoh uxor ha khmat kane ka ingbishar bad ki nongmihkhmat kat kum ka ain ki jong u, la wanrah da kane ka ingshari Bishar da ka jingai hukum No. kaba 14.11.2011,kum ka jingujor appeal, kaba mih naka SLP (Crl) Nos 2203-2204/2011 bad u khun jongu, U Debashish Sharma u dang iai bteng ia kane ka uxor-appeal.

4. Tang kum ban shu thoh pynlyngkot, ka case ne mukotduma naka liang ki nongai mudui, ka long ba ,u Deba Prasad Sharma (u shah mudui 1 (ba nyngkong) u la long u Chief Engineer jong ka North Eastern Hill University (NEHU),Stetnel Roy(u shah mudui 2) u la long u Accounts Officer, u W.M.R Wahlang(u shah mudui 3) u la long u Assistant Finance Officer, U Edmund S Lyngdoh u trai jong ka M.S.E.S Enterprise(A.4) bad u T.S.Bareh, u trai jong ka M/S Premiere Enterprise(A.5),N.P Garg,u Executive Engineer,Shri G.L Sharma, u Jr Engineer, Sanjay, u Senior Technical Assistant bad u Shri H. Nongkynrih, u Section Officer,Construction Division NEHU ki la ia sylla lang ha kaba pynioh iaka Damp Seal Cement na ki katto- katne ki firm bym ju don, kiba ki la shu buh hi, khlem don jingtrei kam, ha ka dor kaba la remdor palat ha ka snem 1982 shaduh ka pdeng snem 1985. Kum ka jingpyniaid kam ia kane ka jingjia sylla jongki, la ai jingkyonoh ba U A-I u la khot quotation ha ka 12.12.1982 na ki 12 (khat ar) tylli ki firms ban ai ia ka Damp Proof (D.P.C) ha ka dor T.42.75p shi kilogram wat la ka dor ha iew ha hat ka long Rs.5/- Rs.7/- shi kilogram. La katta ruh ka Purchase Committee ka la ai mynjur tang ia ki artylli ki firm ban ai supply. Ia U AI la ai kynnoh ba u la hokum ban ai ia ka mar ba u la phah ai hokum ban ai ia ka mar na kiba bun bah ki firms bad ki brieve khlem da wad thikna ia ki ka jingdon jingbuh ia une u mar, kane ka la pynmih ban buh pynsah ia u mar khlem pyndonkam. Ha jiniadei bad ka jingmudui ba la aid a U. Dr. B.D. Sharma, U Vice Chancellor ka NEHU, ha kata ka por, la register ia ka case da ka CBI. Ha ki jingtohkit jongka, ka CBI ka

la lap ba don ka sabut kaba paw pyrshah ia u shah mudui No.1 haduh u shahmudui A-3, U Edmund S, Lyndoh U trai jong M/S Enterprise (A-4, Shri T.S.Bareh jong ka IPC kaba ia hap long bad ka Section 420 IPC bad ja Section 5(2) ba iadei ruh bad ka 5(1)(d) jong ka Ain Prevention of Corruption Act, 1947. Ha ka por ba tohkit ia kiwei pat ym shim la pynngat ha ka ain. Kumta, la buh ia ka chargesheet kum ban uxor tang ia ki shah mudui A1 to A5. Ka Kashari ba bishar nyngkong eh ka la ioh ban charge-sheet tang ia ki shah mudui – A1 haduh A3 ha ki kyndon ain 120 B IPC ryngkat bad Section 420 IPC, kynthup lang bad ka kyndon ain 5 (2) ha ryngkat bad Section 420 IPC, kynthup lang bad ka kyndon ain 5 (2) ha ryngkat lang ka 5 (1)(d) jong ka P.C. Act 1947 ia kiba ki shah mudui kim pdiang ba ki la leh. Haba iadei pat bad ki shah mudui A-4 bad A-5 la thaw ia ka jingmudui hapoh ka Section 120 IPC bad 420 IPC. Kata ka ingbishar ka la ai ia ka rai da ka jingsaja ia U A-1 ha ka Section Ain 120 B bad Section 420 IPC bad ruh ha ka Section 5(2) jong ka P.C. Act da ka saja shong phatok. Katba ia ki shahmudui A2 to A5 la pyllait noh na ka jingmudui bad ki uxor leh be-ain.

5. Kum ka jingsngew bym ia hap ia biang ka jingai saja, da kaba pyllait ia ki shah mudui A2-A5, bad ruh ban pynkiew ia ka rai ai saja: na ka bynta kito ki shah-mudui, ka CBI, ka la rah sha ka jingpeit ka Ing bishar- High Court, kum ka kynpein-ujor, na liang U Shah-Mudui – A1, ba la buh pynshong da ka saja shong phatok, da ka ingbishar. Baroh ar kine kine ki kynpein-ujor la sngap lang da U Nongbishar jong ka Ing Bishar Gauhati High Court da U Nongbishar ba Marwei jong ka Gauhati high Court uba la pynkiew ia ka Rai-ai-saja ha u shah-mudui A-1, bad la kyntait ia ka jingkyrpad U Shah-Mudui – A1. Ki jingpyni ba bniah na ka bynta u shah-mudui A1 bad ki jingbthah ai saja ia ka Kashari ba shim bishar nyngkong bad ruh ia ka jingpynkiew ai saja da ka High Court ki long kumne harum :

Trial Court	High Court		
Ka bynta jong ka Ain	Ka Hukum ai saja- ka Ain bala	Ka Ain bala pynshong	Ka saja ba la ai Rai

	pynshong		
120 B. IPC	Sawbnai – S.I bad ka kuna Rs. 15,000/- lada ym shong arbnai ha phatok	120 IPC	3 (Lai) snem R.I bad ka kuna Rs. 50,000/-, lada ym shong ha phatok (R.I) – sa shi snem.
420 IPV	6 (Hynriew) bnai phatok bad ka kuna Rs. 15,000/-, lada ym shong – ha phatok S.I, sa 2 (Ar) bnai	420 IPC	5 (San) Snew R.I bad kuna Rs. 1,00,000; lada ym shong phatok R.I sa shi snem.
5(2) P.C. Act	1 (Shi) snem S.I, bad ka kuna – Rs. 25,000/- lada ym shong ha phatok S.I sa 2 (Ar) bnai.	5(2)(d) P.C. Act	5 (San) snem phatok R.I bad ka kuna Rs. 1,00,000/-, lada ym shong phatok shuh sa 1 (Shi) snem R.I

6. U shahmudui A-2 U la iap ha ka por ba dang iaid ka bishar ai kynpein-ujor, ka jing pyllait ia ki shah mudui A3 to A5 la pyn kylla bad la pynhap ai saja hapoh ki kyndon Ain 120 B, IPC bad 420 IPC, ha kaba ia dei bad ka jingbuh pynkiew saja, ka ing Bishar, High Court, ka la phah pat sha ka ing Bishar ba nyngkong, bad ka jing ai bthah ban pynmih hokum, kumba la pynshong, hadien ba la ai jingtip sha ki shah mudui A3 bad A5, kum ka jingpyntip ia ka jingpynkiew ai saja ia ki hapoh ki kyndon ain 235 (2) CPC. Kum ka jingsngew bym ia biang kata ka jingpynkiew ai saja, ki Npngphah ujur (Appellants) ki la wan sha ka Ing Bishar ba kham halor. Kum ka jingpeit pat sha ka hokum jong kane ka Ing Bishar kaba 31.01.2011, ka Kashari Bishar bas dang ia ka shim bishar kala pynmih hokum, kaba da pynshong ai saja ia U Shahmudui A4, da ka saja jong ka Ain 420 IPC bad 120 B IPC, U shah mudui A4 la pynshong da ka ai saja phatok jong ki 5 (San snem bad 3 (Lai) snem ba la kajong-kajong bad ka dain kuna da ka tyngka ruh la buh lang.

7. Ngi la sngap ruh ia ka jingpynsngew da u Nongiasaid ain jon kine ki arliang mamla bad da pynshong hi ruh ia ka jingiasaid baroh arliang, khlem da leh shiliang ia la ka jingpeit bishar biang jong ngi.

8. Ha kaba iadei pat, bad ka Criminal Appeal quo AI Shah Mudui Deva Prasad Sharma (U ba la iap la khlad) : U la long U Chief Engineer jong ka NEHU ha kata ka por bad U Shah mudui uba Nyngkong (A1), Katba ki shah mudui A-2 bad A-3 ki la long tang ki Technical dkhot ha ka Purchase Committee (ka kynhun ba dei peit ia ka thied – ka pet) jong ka NEHU, ha kata ka por. Ha 12.12.1982, U A1 u shah mudui u la pynbna khot tender na ka bynta ban ai supply ia ka Damp Proof Cement (D.P.C) khlem da pynbna ai jingtip ia ka jingbun – jingkhyndiat, ka ban donkam. La ioh ia jingphah ai jingtip ia ka dor – ka mur na ki 6 (hynriew) tylli ki firms, ia kine la ia bishar peit bniah ha ka 06.04.1983, ia kaba la shah kynnoh kum ka jingpynkhein jingleh ia ka rukom trei kam ba iadei bad kane ka liang bad ia ka dor Rs. 42.75 – Shi k.g. ba la aid a ka M/s Premiere Enterprises – (A-5) bad M/s Edmund. S. Lyngdoh (A-4) ki long ki firm kiba la ai ia ka dor kaba rit tam, bad hadien ba la pynkhreh ia ka Comparative Statements jong ki dor ba la phah U Shah mudui A1, U da ai copy kaba u da soi kyrteng bad ai tarik.

9. Ha ka 07.04.1983, A1 U la ai hokum jingthoh ba ki 4 (Saw) tylli ki firm ba ia pher – A4 – Edmund. S. Lyngdoh bad M/s Premiere – Enterprise, kaba dei jong T.S. Bareh (A5) ban ai 2 (ar) Metric ton (MT) na ki la ka jong. Ka jong ha ka dor Rs. 42.75, shi k.g. ka dor kaba ki la tyrwa. Ha ka 04.06.1983 kat kum ka dor ba la tyrwa, U Shah mudui A4 U M/s Edmund S. Lyngdoh bad M/s Premiere Enterprise ba dei jong U T.S. Bareh (A-5) ban ai supply 2 (ar) Metric ton (M.T) ba la ka jong ka jong ha ka dor 42.75 shi kg. Ha ka 04.06.1983, kat kum ka dor ba la ia kut bad ka jingpynmih hukum ban supply U Shah Mudui A-4 lyngba ki firm M/s Edmund S. Lyngdoh, M/s Enterprise bad ruh M/s T.S. Bareh ki la pynpoi ia ka ha ka dor Rs.42.75 (shi kg). Ha ka 06.07.1983, ka Purchase Committee jong ka NEHU, ha kaba U shah-mudui A2, U la long u technical Member uba la ai kubur ia ka dor Rs.42.75 shi kg ba la aid a us shah mudui (A4) M/s Premiere Enterprise ha kaba iadei bad ka Dam Proof Cement (DPC).

10. U Nongiasaid Ain jong U Shah Mudui (AI) u la sngewdei ban ban kdew ba ym don sakhi ba u A1 u la pynbor ia ka Purchase Committee ban kubur ia ka dor jong ki ar tylli ki firm – kata M/s Premiere Enterprise bad M/s Edmund S. Lyngdoh (A4) ia ka dor Rs.42.75 shi kg. Kumba ba la ai contract ban supply sha kita kiba ai dor kaba rit tam kam don jingkylli shuh ban ong ba u shah mudui A1 un pynbor ia ka Purchase Committee da ka buit thok – buit shukor pynheh dor shaba palat. Namar ka Purchase Committee kaba da ka bor jong ka ka la kubur ia ka dor – ka mur, kaba kata ka kot buh ia ki dor la buh ha khmat jong ka bad da ka bor jongka la kubur ia ka dor kaba ki nongtrei jong ka NEHU, kila buh ha khmat jongka.

11. U Nongsaid Ain na ka liang U nongshah ai Mudui (A1) u dei U nong khot tender ia ka dor, shuwa ban shong ka Purchase Committee bad kum u technical u la da pynshong ia ka dor iew bad kum U stad pynshong ha kata ka liang, ka kam ram jong U ka long ban iarap bad pynshai ia ka Purchase Committee ia ka dor mynjur lang Rs.42.75 shi kg.

12. U P.W.6, Sri. O.D. shira uba long u Assisstant Registrar NEHU, ha kata ka por – 1983, u la long u Nongkhot pynlong ia ka Purchase Committee, kaba la pynlong ha ka 06.07.1983. Kat kum ka Ext. PI (I) ym shim la don agenda shaphang ka Purchase Committee, U Shah mudui A-I ula pyrshang ban buh ia ka kum ka item, bad ia ka rai jong ka la buh kum ka jingmynjur da ka No.14/Ext.PI(5) kaba iadei bad kane ka jingiathied – Damp Seal Water Proofing Compound, na ka bynta ban pyndonkam ha ki Department jong ka Campus, kaba ha Umshing. Ka Purchase Committee ka la pdiang ia ka dor ba tad tam jong kaba Rs.42.75 shi kg ba la tyrwa da U shahmudui (A-4) bad ka M/s Premiere Enterprise, Jowai. Ia kane la pynshong ha ka jingai sakhi da U P.W. 6 bad ka Rai mynjur PI(5). Kiba ki ingbishar ba nyngkong bad ka Ing Bishar, High Court ki la buh jingthoh ba ia biang bad ia ryngkat jinglap jingshem jongki, kaba la wanrah ia ka rai jong ka Purchase Committee ha kaba mynjur ia ka dor thied. Kane ka long ka dor ba la ai da ka M/s Premiere Enterprise ha

ka dor Rs.42.75 – shi kg kumba la ia kren sngewthuh bad jingshemsngewthuh da ka Purchase Committee.

13. Ha jingai sakhi jong ka P.W.9 – Smti. M.R. Mawlong kaba la long Registrar ha kata ka por naduh u February 1980 haduh U March 1984, ka la ong ba U A1 u dei U Chief Engineer uba long u technical jong ka NEHU bad iarap ia ka Purchase Committee bad kane ka Committee ka shaniah ha ki jingabuit jong U ha kaba pdiang ia ka dor – ka mur. Ka jingthmu ban buh ia U technical ha ka Committee ka long ban ai jingiarap ia ki dkhot ka Committee kum ban pynsngewthuh ia kiwei pat ki para dkhot bym pat don jongnang jingtbit kaba iadei bad ka shna – ka thaw iing dewbilat kaba iadei bad kine ki jingshna iing ha ka dor – ka mur bad ka jingdonkam ba iadei bad kane ka liang. Ka bynta jong U Technical ka long ba U Deba Prasad Sharma bad ki shah mudui AI bad ki shah mudui A.3, A.2, ki ialam bakla ia ka Purchase committee ha ka ba ia thied ia ki tiar – ki tar shna iing ha ka dor iew – dor hat jong kata ka por. Ngim shim la lap la shem sabut ka ban pynngat ia kine : A2 bad A3 kum ki shah mudui bad kim shim la ialam bakla ia ka Purchase committee. Dei hi ruh ka Purchase Committee kaba la ai hi la ka rai, da ka hi ha kaba thied ia ka D.P.C.

14. Don shibun ki sakhi – satar bad ki jingwanjia kiba kren shaphang ka jing ai rai jong ki Kashari Bishar ba Nyngkong, bad ka Kashari Bishar, Ka High Court ha ka tian bishar jongki ban ond ba ka Purchase Committee kala shah ialam bakla da U Shah mudui A4 U M/s Edmund S. Lyngdoh bad M/s Premier Enterprise ba ia dei bad ka dor thied Rs.42.75 shi kg bad ban kyrshan ia kane ngin kdew shaphang ki katto – katne ki jingshisha bad ki jingwan jia, kum ban kyrshan ia kaba ki la lap la shem.

(i) Shwa ka mynjur ia ka dor da ka Purchase Committee, la khot san tylli ki jingpynbna ban ai supply da u shah mudui A-I, da U hi.

(ii) Kat kum ka Ext. PI(1) ym don agenda ha kam ia thied ia ka Dpc ha ka Purchase Committee kaba ha ka 6.7 1983 bad ia kane la ai rai ha ka No :

Resolution No. 14, kum Ext.PI(5), ba ia kane ka thied DPC bad U Shahmudui, A1 ba dei U Technical dkhot, ka Committee u la pyniaid ban ioh rung kum ka Resolution, khlem ka Agenda.

(iii) U Shahmudui (A1) um shim la shim kabu ban wad dor iew da kano-kano ka rukon shaphang ka dor.

(iv) Ka Purchase Committee ka shaniah ia u, kum U Technical lem bad kiwei ki dkhot ha kaba pdiang ia ka dor.

(v) U Shahmudui (A1) um shim la kylli pyrthew ei-ei ia ka jingdon ka D.P.C ne ka jingdonkam ba thikna jong ka D.P.C, kaba ia dei bad ka NEHU

(vi) A-1 la khot quotation na ki (12) ki firm, na kiba tang artylli la mynjur da ka purchase Committee.

15. U Nongiasaid ia u A.1 ula pynpaw ba tang na ki skhi ka Nong mudui kam biang lut ban shim sabut ba ka dor jong ka DPC ha iew ha hat ka long Rs. 5/- ne Rs. 6/- shi kg ha kata ka por, ha ka jing bym biang jong ki kot – ki sla iadie ia thied ne ka List jong ki dor ha iew, ha hat ha kata ka por kumba la leh da ka mamla-ai mudui. Da kumta ki Kashari Bishar ba nyngkong kila bakla shibun da kaba rai pynshitom ia u A.1 tang ha ka sakhi jingong. La pynrap kynthoh shuh shuh ba ka Kashari bishar High Court, kala bakla da kaba pynshong sakhi tang ha ki jubab ba la ai da U Shahmudui (A1) ba la thoh kat kum ka aiñ pyniaid tohkit jong ka 313 Cr. P.C tang kum kawei ka sakhi ka ban pyniasoh ha ki jingwan urlong urjia ha kata ka por pyrshah ia u Shahmudui (A.1).

16. Ha ka banpynshisha ba ka dor jong ka D.PC ha Shillong ha kata ka por ka long Rs.5/- to Rs. 6/- shi kg ; ka Nongmudui kala ai sakhi kaba biang. La iöhi ba u PW5 Satinder Bawa jong 'Ka BAWA Paints Pvt LTD kaba pynmih ia ki rong bad ki water – proof compound. Na kaba kiwei pat ki firms khaïi ki thied ki pet kynthup ruh ia ka Premier Enterprise bad kiwei bad kaba iadie iathied ha ki. Ka liang dong Mihngi jongngi kynthup ia ka Meghalaya bad Jowai ha kito ki mar ha ka snem 1982 – 1983. U PW 5 u la ong ruh ba ha 1982 – 1984;

50kg ka Damp Proof Cement la die haduh Rs. 80/- ne Rs. 85/- shi kg ha Delhi kynthup ruh ia ki khajna bad ia ka shi kg packet la die ha ka dor Rs 2.80/- ne 3.80/- ha Delhi: u la ong hi ruh ba ha Shillong ka dor ka long Rs. 6/- - Rs, 7/- shi kg kaba kynthup ruh ia ki khajna; ki jinglut ha ka pynkit bad ka baiïohnong.

17. PW16. Sri Santosh Kumar Chachan u trai dukan ka M/s Gajanand Chachan jong ka Bara Bazar Shillong uba khaiï ia kine ki jait mar thaw ïng - shna ïng kynthup ruh ia ki mar water- proof - cement. Ki PW. Kiba la sakhi, kila ia thuh jingong kum u PW5, ula shim ia kane ka mar na katei ka firm kaba la pynskhem iathuh u PW16 ia u PW5. U PW16 u ju wanrah ia kine ki tiar na Delhi bad Kolkatta, tengkhat na Guwahati ban die ha ka dor Rs. 5/- per kg ha Shillong. Ha ka snem 1983-1984, ka dor jong kane ka mar ha shillong ka long Rs. 5/- shi kg. Ka sakhi bala shim ha ka jingbishar ha kata ka por kala iathuh ba ka dorïew- dorhat ha ka tei ka snem ka long Rs. 2.80/- ne Rs. 3.80/- shi kg ha Delhi bad Shillong ba ka dor Rs. 42.73/- a kg ka long kaba la kiew jubor ba la ai da u Shahmudui A-4 bad la pdiang da u A-1, ki long kiba la leh da kiwei pat ki jingthmu.

18. Kum shi bynta ban pynshong ia ka dor ïew ha kata ka por, la bishar tynjuh ia ki PW5 bad 16, ka mamla ai mudui kala bishar tynjuh ruh ia u PW-13 U Sri N.P. Garg uba la trei ha NEHU kum u Executive Engineer; uba la tip ia ka jingpyndonkam ia ka Dam-Seal Cement ha ki kam shna ing. Lyngba u PW 13 - Ext P5, ka work file kaba iadei bad ka jingshna ia kawei ka Intake water tank ha wah Jaraiñ ha ka por 06.09.1983, kat kum ka item 7(17)- Rs. 10/- per kg la siew ia ka water proofing Compound (DPC) ryngkat bad kiwei pat ki tiar, kaba la trei da u contractor Hansraj Jain, bad ia ka jinglut la siew ha u. Haba phai sha ka sakhi u PW 13 bad ka Ext P5, Bill, ha kaba Rs. 10/- per kg la siew kum DPC kum ka DPC water proofing compound, bad ba ka Ext.P5 kan long kum ka jingsakhi pynskhem, kaba ia dei bad ka dor jongka . Ka DPC ha ka Rs. 10/- kg ha ka snem 1983. Na ka jingai sakhi jong u PW5 bad PW16 , kiba die DPC, bad ka kam pyntrei ba mynshuwa (Ext P5) kum ba batai u PW 13, ka mamla ai

mudui da kaba shaikdar, kala pynpaw ba ka dor iew jong ka DPC, ka la long Rs. 5/- haduh Rs. 10/- shi kg.

19. Shuwa ban buh ia ka jingthied ia ka DPC sha ka Purchase Committee ha ka 06-07-1983, kumba la bishar da ka Kashari ba nyngkong, ka ingbishar kam shim la wad iaka dor ne shim ki lad da kumwei pat ban lap ia ka dor iew bad u A1 ruh ula ong ba um poi pyrkhath shaphang kata. Haba la kylli jingkylli ia u, kat kum ka kyndon aiñ – 301 Cr.P.C ia u . Ha kaba ia dei bad kane ruh ka Kashari High Court, kala shim ia ka jubab tang kum ka kiar ai jubab, katba la pynshong pat ia kane ka juh kum ka sakhi pyrshah ia u Shahmudui (A1) tang kum ban shu leh tang dep.

20. Ha kaba iadei bad ka jingathuh u Shahmudui (A-1) ba la thoh hapoh ka aiñ 313 Cr.P.C. ka aiñ kam shah ban ban buh pynngat kynnoh ne ban shim ia ka, kum ka jing pynknoh leh be- aiñ ban ia ka sakhi pynshai ia thuh na ki brieve ba ai sakhi. La shisha, ka kashari High Court kala shim ia ka, tang kum ka jingpyniaid bishar jongka, khamtam haba la swar tokit ia u shahmudui ha ka aiñ pyniaid jingbishar 313 Cr.P.C. bad da ai kynthoh kumne harum:

“U shahmudui A1 umshim la pynmih tang shi kyntien ruh ban ong ba ka dor iew jong ka DPC, ha Shillong ha kata ka por ka long Rs 5/- - Rs. 10/- kaei baroh kaba u ong, ma u hi um shim la tip ia ka dor iew jong ka DPC ha kata ka por, Lymne, ba Rs. 42.75, kadei ka dor ba la mynjur da ka D.P.C (Department Purchase Committee). Kine ki jingkiar ai jubap bala shim pyniahap pyniadei lang bad jingai sakhi jong u PW.6 bad Pw.13 bad ka item No 7 (17) jong ka, kala pynbiang – pynjanai bad pyniasoh ia ki jingwan long – wanjia pyrshah ia u Shahmudui A1”

Hadien ba la iohi kumtei, ka Kashari High Court kala khein – la bat ba kito ki jingkiar ai jubap ha ka 313 CrPC bala pyniasoh lang bad ka jingwan ai sakhi kala biang ban pyniasoh bad ki jingwan long wan jia pyrshah ia u Shahmudui A1.

21. Haba u Shahmudui u kiar jubab ha ka swar kylli ha ka aiñ 313 CrPC lah tang ban kdew ia ka tang kum ban ring jingmut, kaba lah ban leh da kumwei pat ia u. Hynrei kane kan ym lah satia ban bujli ia ka jingai sakhi ha ka tianbisharkaba ka liang ai mudui ka dei tang ban pynkynmaw ia u shahmudui da kaba thoh ia ka jingong u shahmudui ha ka 313 CrPC, kam dei ban long ka jingai sakhi. Ha ka jingshim sakhi jong ka case: Bishnu Prasad Saha – pyrshah ia ka Sorkar Assam (2007) 11.SCC.467, ka kashari bishar kala rai ba ka jingai saja ia u Shahmudui, kamlah pynshong ai rai tang ka jingong ne iathuh jong u Shahmudui wat la thoh ia ka ha ka aiñ 313 CrPC bad ym lah ban shim kum ka sakhi sabut. Ka long tang kum ka jingbatai ia kito ki sakhi jingthoh pyrshah ia u. Katba, kito ki jingthoh ba shim na u Shahmudui, kum ban pyllait bad iada ia u hi ha 310 CrPC lah ban shim tang kum ban iarap, ha kaba ka jing ai sakhi pynshisha jong ka mamla bala ai mudui. Kito ki jingthoh kiba u Shahmudui u jubap kat kum ka 313 CrPC ym lah ban pyniakhlad, hynrei ki dei ban don ka jingiadei iasoh bad kito kiba ki jingthoh sakhi bala swar daka Bishar Kashari, kaba ka mamla ai mudui Ka don ban ai.

22. Ha kane ka case kaba mynta, kam longshisha kumta ba ka High Court kala poi ha kaba kut bad pynshong ai saja tang na ka jingiathuh u Shahmudui jong u Shahmudui (A1) kat kum 313 CrPC; kumba ka paw na ka jingong kaba la thoh ha shuwa ia ka statement jong u Shahmudui (A1) la shim lang bad ka jingwan ai sakhi jong u PW6 bad PW13 bad ka item 7(17) of Ext. P.5 kum ka jingpyniadei-iasoh ha ki jingwanlong wanjia pyrshah ia u Shahmudui A1. Ki jubab ba u Shahmudui A1 La shim la ñiew ryngkat bad ki jingiathuh jong kito ki sakhi bala thoh ha ingbishar High Court, ban ong ba ka leh bakla da kaba shim jingthoh ia ka jingiathuh u Shahmudui (A1) ha ka aiñ pyniaid bishar 313 CrPC kum ka jingpyniadei iasoh bad ki jingwan ai sakhi da kiwei pat ka jingshim sabut.

23. Kumta,da kaba pynshong nongrim ha ki sakhi-satar bad ki kot jingthoh kiba iadei bad kane ka mokotduma, la lap bad shem ba ka ingbishar ba nyngkongeh bad ka Kashari High Court sha kaba lah phah iaka, kala buh

jingthoh jinglap jingshem ba ia dei langjong ki jingshisha. Ba ka Purchase Committee ka don tang ki dkhot bymtip iaka rukom shna ing ba u Shahmudui (A1) ulong u stad bala tbit ha ka shna ingdewbilat u don ka bynta kaba khraw ha ka pynbor ban pdiang ia ka dor thied D.P.C. kaba heh Rs. 42.75 shi kg, ha kato ka por ba ka dor iew kala long tang Rs. 5/- sha Rs. 10/- shi kg bad ba ngi la iohi ba ym don jingbakla da kito ki iingbishar.

24. Ka jingshem ha kaba ia dei bad ka jingia biang jong ka Sanction Ext. 19, kaba la ai jingbit ban ai mokotduma ia u Shahmudui A1 la phah da u Chief Secretary Meghalaya – PW 18, Sri Kharkongngor uba la wan ai sakhi bad la buh ruh ia ka Ext P.9 kum ka dular sabut.

25. U Nongsaid aiñ jong u shah mudui A1, u la kdew ba u Chief Secretary um biang bor, ban weng kam ia u shah mudui dei tang u Governor jong ka State katkum ka shithi thungkam. U Chief Secretary u lah ban phah jingthoh sha u Lat (Governor), ha kaba iadei bad kane.

26. Ka C.B.I ka la pan jingbit na u Chief Secretary (PW18) bad ma u ruh u la phah sha ka C.B.I. Kat kum ka kot na ka file; bad ba ka shithi ai jingbit kam don daw, kum ka jingwit.

27. Ha kaba iadei bad kane ka Sanction for Prosecution, la wanrah ka jingiatohkit bad la peit iaka Article 166 jong ka Constitution ka Ri India bad ka ingbishar ka la pynkut ba ym don daw ban ym biang ka Sanction.

28. la don ruh ka jingpynpaw ba la ia ka case ha ka por ba la slem por bha jin haduh 2(ar) snem hadien jong ka 1982, ha ka ba u Vice Chancellor B.D Sharma u la phah uxor ha ka 03/07/1985 ia kane ym shim la ñiew namar ia u ym shim la wanrah kum u sakhi. La pynshai ia kane ba ia ka DPC (Dam seal) la ai naduh 1982-1985.

29. Kat kum ka Contract ka jingai iaka Dam seal ka la long naduh 1982 haduh 1985 bad ka jingai mudui da u Vice- Chancellor kam ktah satia ia ka Mukotduma.

30. Ka jinglong ka ba don bad kane ka uxor kam iadei- iahap bad kum kiwei pat ki uxor ai mukotduma, kumta ka Bishar hehduh ka la kyntait ia kane ka jingpynsngew.

31. Ka ingbishar khliehduh da kaba bishar pynshong ia ki kot ki sla bad ki sakhi satar ba la wan na ka High Court bad ka ingbishar ba kham hapoh ka la lap bad shem ba ki ingbishar ba hapoh ki la rai hap biang ha jinglap jingshem jong ki. Nangta, ki la lap la shem ruh ba u shah mudui A-1 u la pynpoi pynioh ia ka jingduh nong ia ka NEHU kaba la kot shaduh ka 49 Lak. La kyntait ia ka kynpeiñ -ujor.

Ba u shah- mudui A-1 u la dei hok ban ioh ia ka jingai saja hapoh ka kyndon aiñ 120B,IPC bad 420IPC bad ruh ha ka kyndon aiñ 5(2) (d) jong ka Prevention of Corruption Act.

Ba ka Gauhati High Court ka la leh iaka badei da ka ba pynkiew iaka jingai saja ha ka phatok bad shah dain kuna. Ki da ong hi ruh ba kum ka kashari ba halor tam kim kwah ban pynkylla hukum da kumwei.

32. Ka kynjoin uxor jong u Shah mudui ba saw (A4)- Edmund S Lyngdoh kum u trai jong ka M/s Edmund S Lyngdoh, ha ka ba um iathuh ia ka dor iew hynrei u la buh iaka dor ka ba la kiew palat- Rs 42-75 shi kg khnang ban pynioh nong sha lade bad pynduh nong ia ka NEHU.

33. Tang kum ban shu pyn kynmaw ia ka jingia sylla jong ki ha kane ka kam ban ai sam Dam seal, la don ka jing ia syllok-be-aiñ hapdeng jongki khnang ban iohnong sha lade bad pynduhnong ia ka NEHU. Ka jingmut jong ka ktien jing-ia-sylla ka long ban da don ka jing sngew pynbeit para maki ban ia long kawei wat lada ka dei ka ba pyrshah ia ka aiñ kat kum ka aiñ 120BIPC.

34. La kynnoh ruh ba u shah mudui A1, u la ia sylla bad u shah mudui uba saw (A4) ha ka ba supply, Dam seal da ka ba pynduh nong haduh 6(hynriew) lak tyngka ia ka NEHU ha ka supply haduh 6 (hynriew) Metric ton ka Dam seal. U la shah mudui uba saw u la ai supply ruh ha ka dor Rs 42.75 shi kg

bad ka High Court ka la leh ia ka ba dei da kaba ai saja bad daiñ kuna bad la wanrah ruh ha ka aiñ 120B.IPC

35. La pynshitom ruh ia u Shah mudui kat kum ka aiñ 420 IPC, kaba bad ka jingthok- jingshukor, kaba ki jingpynshong ia ka ki long ha ki ar tylli jjingleh-kum ban leh thok ia kiwei pat, da kaba klop bad pynduh jingmyntoi ia uba shah thok da ka jingleh buhrieh ban ioh ia la jong ka jingmyntoi shalade. Kumta da kaba ia sylla bad u shah mudui A1 u la ai supply Dam seal sha NEHU ha ka dor Rs 42.75/- shi kg kum ka jingpynbor ia ka NEHU. Ka Gauhati High Court ha ka hukum ka jong ka ka la leh ia ba dei eh ban pynsaja ha ka aiñ 420 IPC ba la tian bisharkat kum ka Section 120 IPC.

36. Ka High Court ka la phah biang sha ka iingbishar ba hapoh ban pynsngew ha u shahmudui ia ka rai bad ban da pynmih hukum bad u shahmudui A4.ula phah ka kynjoin uxor (appeal) bad da phah application.Da ka hukum kane ka kashari -kaba 31.01.2011 ba ka kashari ba hapoh kan pyniaid beit ia ka hukum ai saja bad ban da pynmih hukum ruh kumta.

37. Da ka hukum ka ba 14.06.2011 ka kashari shim bishar ka la rai ai saja ia u shah mudui A4 ban shong patok 5(san) snem da ka R.I bad ka kuna shi lak,katkum ka Section 420 IPC, bad 120B IPC. U shah mudui A4 u la shah pynshitom ruh ban shong phatok 3(lai) snem- R.I bad shah daiñ kuna Rs 50,000/- bad ka default clause bad baroh ar kine ki jingai saja kin ia ia id ryngkat. U A.4 u la shong phatok naduh ka 14.06.2011 haduh 16.02.2012 total 248 sngi. Da ka hukum jong kane ka ingbishar kaba 16.02.2012.Ka saja ba la buh ia u A4 la dei ban weng lada u leit siew ia ka kuna:3,50,000/- ka ba pynpaw 50% na kata ka Amount ka ba la kynnoh iohnong be-aiñ na ka dor ka Dam seal ba la ai. U shah mudui A4 la iathuh ba u la don 70(hynniew phew snem) rta bad shah sumar DiabetesType II. Kane ka kam ka la neh slem la kumba lai decade.

38. Haba la pyrkhata ka jingslem jong kane ka kam bad ka rta jong u shah mudui A-4, bad ba u la siew ia ka kuna, katkum ka Hukum jong kane ka ingbishar, katkum ka jingsngew jongngi kum ka kum ka ingbishar ia une u shah mudui A4 ba la ai saja. Katkum ka Aiñ 420 IPC bad 120B IPC, la dei ban pynkylla sha kata ka por kaba u la lah shong phatok lypa bad da kaba pynkiew daiñ kuna. Sha ka Rs 2,50,000/- ha ryngkat bad ka kuna ba buh da ka ing bishar ba nyngkong kaba la siew katkum ka hukum jong kane ka ingbishar bad lada ym siew ia ka kuna Rs 2,50,000/- u shah mudui A4 un hap ha ka phatok sa shi snem.

39. Ka kynpeiñ-ujor (Appeal) ba la phah da u shahmudui A-I kaba la buddien da u longbteng jong u la weng kyndat noh; ka kynpeiñ-ujor ba la phah da u Shah mudui A4(Edmund S Lyngdoh) la ai jingbit jingshah kumba la kdew ha shuwa.

.....J

(T.S. Thakur)

.....J

(R. Banumalhi)

New Delhi:
September 16th 2014

HA KA KASHARI KHLIEHTAM KA RI INDIA
RECORD OF PROCEEDINGS

CrI Appeal No. 2057 – 58/2014 tarik 16/09/2014

Kaba la mih na ka SLP(CrI.)No(s).553/2011

EDMUND S LYNGDOH

..... NONGMUDUI
(Apellant)

-Pyrshah-

STATE OF MEGHALAYA

..... NONGSHAHMUDUI
(Respondents)

CrI.Appeal No.2057 – 58 of 2014

Kaba la mih na ka SLP (CrI.) No(s).2203 – 2204/2011)

Mynta ka sngi 16/09/2014 yn pynsngew ia ka rai bakhatduh halor kine ki mukotduma.

Nongiasaid na ka bynta u Nongmudui – Mr.Rishi Malhotra,Adv.

Mr.Anupam Lal Das.,Adv

Nongiasaid na ka bynta ki Nongshahmudui – Mr.B.V.Balaram Das.,Adv.

Mr.Arvind Kumar Sharma.,Adv

U Justice R. Banumathi badonburom u la pynsngew ia ka rai bakhatduh ha ka Bench kaba kynthup da u Justice T.S. Thakur badonburom bad u Justice R. Banumathi badonburom.

La ai jingbit ban pynsngew ia kitei ki mukotduma.

1. Ha kaba iadei bad ka rai (Judgment) ba la dep soi jong ka mokotduma

CrIa No. 2056 of 2014, katto katne ki rai la pynksan da ka iingbishar,

kumba la pyni ha katei ka rai(Judgment), katba ia ka mokotduma CrI A Nos 2057-58/2014 la kyntait da ka iingbishar.

2. Hadien ba ka iingbishar ka la pyrkhath ia ka por bajlan jong kane ka mokotduma bad Ia ka rta jong u nongshahmudui(accused) uba saw (Respondent No 4), bad namarba ma u, ula dep siew bad thep ia ka kuna(fine), katkum ka hukum ba la ai da kane ka iingbishar, ki nongbishar ki la sngewdei ban pynkylla khyndiat ia kapor ban set along ia u katkum ka section 420 IPC bad ka section 120 B IPC, da kaba khein lang ia ki por kiba u la don lypa ha along bad da kaba phah ia u ban siew shuhshuh ia ka kuna kaba kot sha kaRs. 2,50,000/- (Arlak, sanphewhajar) tyngka kynthup iaka kuna kaba u la dep siew lypa katkum ka rai jong ka **trial court** (Ka iingbishar kaba kham hapoh kaba shim sakhi ban lap iaka jingshisha), bad ruh da kaba khein lang ia ka pisa kaba ula dep thep ha shuwa ban pynmih iakane ka hukum jong ka iingbishar.

Lada ma u um lah ban siew ia katei ka kuna kaba kot shaka Rs, 2,50,000/-(arlaksanphewhajar) tyngka, u nongshahmudui uba saw (respondent No.4) un hap ban shah set sa shisnem ha along.

La kyntait noh ia ka mokotduma ba la ai da u nongshahmudui uba nyngkong ia kaba la iasaid da u nongiasaid na ka bynta jong u. Katba, la pynksan khyndiat ia ka mokotduma ba la ai da u nongshahmudui uba saw katkum kitei ki rai ba la kdew haneng.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

