TALATANI

“Rai onˑaniko kuˑsiktangona peˑanira mamlako nalis kaˑgiparangna kuˑtango maˑsina mangmangsan ongˑaia aro gipin kamrangna jakkalaniko champenga. Pilak kamrangna ba officeni sea-jotanirangna Englishchi seanikosa kakket / chongmot seani ine raˑgen aro uakosa jaˑrikna aro raˑgatna jakkalna manˑgen.

[2020] 4 S.C.R.501

THE STATE OF MEGHALAYA

v.

MELVIN SOHLANGPIAW

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

FEBRUARY 11, 2020

[MOHAN M. SHANTANAGOUDAR

AND R. SUBHASH REDDY, JJ.]

India-ni Niam bidikrang (Constitution) :Dokgipa Schedule, Paragraph 4 aro 5 – Bibadi, Khasi Scheduled Tribe-oni ongʼa aro aʼselo gaʼakgipa mandeko soʼotanina bichal kaʼaniko manʼa – sianggipa mandeba Khasi Scheduled Tribe jatonin ongʼa – Bibadini kosako ss.302 aro 201 IPC - ni ningʼo Charge- sheet-ko segataha aro mamlana bichal kaʼaniko dakna Sessions Judge-ni Kachariona pakwataha – Bibadi mamlako, Khasi Hills Autonomous District Council-ni Bichal Kaʼgipani (Judge) Kachariona watatchina biʼaniko segataha – High Court biʼaniko raʼchakaha – Iani aʼsel special leave petition-ko onʼaha – Bibadini kosako kaʼnamgija dos dakani mamlana (Criminal Case) Aʼsongni Niam bidikni (Constitution) Dokgipa Schedule-ni paragraph 4 aro 5-o scheme aro katta dongimino pangchake, District Council Court-ara chuʼgimik jako raʼe bichal kaʼaniko dakna manʼgenchimma — Chanchianiko onʼani: Aʼsongni Niam bidikni (Constitution) Dokgipa Schedule-ni paragraph 4(4)-ni ningʼo bilko onʼgimin gita, United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko raʼgataha. 9-gipa Niamo Khasi Hills Autonomous District-na damsa District Council Court-ko bikotna aro uana Bichal Kaʼgiparangko seokna onʼaha – 9-gipa Niamo aro Dokgipa Schedule-ni paragraph 5(1)-ni ningʼo pangchake bilrangko jakkalanina, Uʼiatani 07.02.2017-ko chapa kaʼataha, jechin Meghalaya-ni Governor, District Council Court, Shillong-na Donchapgipa Bichal Kaʼgipako (Additional Judge) seokaha aro dos dakanirangna siatachi sasti onʼanina, janggi tanga gimikna gipin biapona wate galatanina ba bilsi bongana komigija pattoko chipatanina IPC ba gipin niam jean Khasi Hills Autonomous District Council-o jakkalna manʼachim uarangni ningʼo bilko onʼaha. Paragraph 5(1)-ni ningʼo Governor-na, District ba Regional Council, ba District Council-chi bikotgipa kacharirang, ba je officer-ba uana

Governor-chi seokako man᷾a, Cr.P.C ba C.P.C.-ni ning᷾o uandakgipa bilrangko badiaba matnange segatgipana (suits), mamlarangna aro dos dakgipa mamlarangko jako ra᷾e bichal ka᷾aniko dakna uni kranika gita bilrangko on᷾china pakwatako man᷾a – Cr.P.C-ni ning᷾o badiaba a᷾selrangna bilrangko on᷾anio 07.02.2017 tariko u᷾iataniko on᷾ani gita, District Council Court ka᷾namgija dos dakgipa mamlarangko (Criminal Case) jako ra᷾na bilko man᷾a ine rongtalbee mesokaha maina A᷾dok niam gita Matnanganiko (de jure Complainant) ra᷾bagipa ong᷾genchimoba tribal dol ine channa man᷾ja. Kakketko agangenchimode, a᷾selo ga᷾aka man᷾gipa mande aro Bibadi- pota man᷾gipa, sakgnian Khasi Scheduled Tribe-oni ong᷾a – Dokgipa Schedule-ni paragraph 4 aro 5-ko poraidimaniko dakgenchimode, iandakgipa mamlarangko jako ra᷾e knana District Council Court-ara chu᷾gimik bil gnang – High Court, Bibadini-pota man᷾gipani kosako ka᷾namgija dosko ra᷾bagipa mamlako (criminal case) Session Judge-ni Kacharioniko kraen Autonomous District Coucil-ona watataha. Watatako man᷾gipa Kachari, uan District Council Court niam gita bichal ka᷾aniko dakchina ge᷾etaniko man᷾aha – United Khasi- Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953 – 9-gipa Niam- Code of Criminal Procedure, 1973 – Penal Code, 1860 – ss.302, 201.

Special Leave Petition-ko matchotate bon᷾ataniko dakanio, Kacharini

CHANCHIANIKO ON᷾ANI: 1.1 Session Court, jeni mikkangon Bibadi mamlana bichal ka᷾aniko man᷾engachim uan Code of Criminal Procedure, 1973-o on᷾gimin niamrango pangchake bikote chalaianiko dakenggipa ong᷾a. Mongsongbate, Cr.P.C-ni ning᷾oni Section 1-ni sub-section (2)-o Code-ko tribal a᷾jarango jakkalna nangani dongja ba bil dongja ine on᷾aha. Apsan daken, A᷾dok Sorkarina Cr.P.C-ko jakkalaniko tribal a᷾jarango baridapatna bilko on᷾aha. Cr.P.C.-ni Section 1-o "Tribal a᷾jarang" ine janapaniko nikgipara, A᷾songni Niam bidikni Bongagipa aro Dokgipa Schedule-o mesokgipa a᷾jarangko miksonga. A᷾dok Sorkarini Cr.P.C.ko uandakgipa a᷾jarango man᷾chapatna u᷾iatani donggijanio, Chapter VIII, X aro XI-rangna agre Cr.P.C.-ni niamrangko Meghalaya A᷾dokni tribal a᷾jarango, Khasi Hills District-ko man᷾chape

jakkalna manʼja. Session Court-o bichal kaʼaniko dakani kamrang Cr.P.C.-ni Chapter XVIII-o gaʼaka jean singʼenggipa tribal aʼjao gaʼakeja. [para 6][508-D-E; 509-B-D]

1.2 AʼsongniNiam bidikni 6-gipa Schedule-o, Paragraph 4 aro 5-o Autonomous District-rango aro Autonomous Region-rango rai onʼani bidingo chalaianiko dakaha jerangkon 6-gipa Schedule-ni paragraph 2-o janapaha. Paragraph 4(1)-o District Council ba Regional Council-na mamlani kri, matnanganirangko jako raʼna aro mamlarang jeon dolgimikan Schedule Tribe-rang ongʼachim uarangna bichal kaʼaniko dakna Kachariko bikotna bilko onʼaha. Ian, indiomangba, 6-gipa Schedule-ni paragraph 5(1)-o pangchake matnanganiko segategipa ba mamla kaʼgiparangna nangeja, jenan Governor, District ba Regional Council, ba District Council-chi bikotako manʼgipa kacharirang, ba je officer-ba Governor-chi uana seokako manʼgipa ongʼachim, uarangna Governor, uni kranika gita Cr.P.C ba C.P.C.-ni ningʼo bilrangko pakwatgenchim. Uana agreba, paragraph 4(4) rongtale janapaha indake Kacharirang jerangan District Council-chi bikotako manʼachim uarang obostani kri District Council ba Regional Council-ni tarigimin niamrangko jaʼrike kamrangko kaʼna nanggen. Daʼo ongʼenggipa mamlao, Aʼsongni Niam bidikni 6-gipa Schedule-ni paragraph- 4(4)-ni ningʼo onʼgimin bil gita, United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko raʼgataha. 9-gipa Niam aro 6-gipa Schedule-ni paragraph 5(1)-ni ningʼo bilrangko jakkalna onʼgimin gita, 07.02.2017 tariko uʼiataniko chapa kaʼataha jechin Meghalaya-ni Governor, District Council Court, Shillong-na Donchapgipa Bichal Kaʼgipako (Additional Judge) seokaha aro dos dakana siatachi sastiko onʼna, janggi tanga gimikna gipin biapona wate galatna ba bilsi bongana komigija pattoko chipatanina, IPC ba je gipin niamrang jean Khasi Hills Autonomous District Council-o nangeachim uarangni ningʼo bilrangko onʼaha. [Paras 7-10] [509-E-H; 510- A-C]

2.1 6-gipa Schedule-ni paragraph 4-o *"matnange segategipa aro Schedule Tribe jatrangni gisepo golmal ongʼgipa mamlana bichal kaʼanina"* Aʼdokni gipin

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

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

paragraph 5-ko namedake poraigenchimode, janapanio "matnange segatgipa aro mamla kaˑao nangegipa dol gimikni gisepo Schedule Tribe jatrangna" ingipara chongˑmotan aˑselo gaˑaka chaˑgipa dolrangna (aˑselo gaˑakgipa/ matnanganiko raˑbagipa) aro pota chaˑgipa dolna miksonge ongˑa ine rongtale nikna manˑa. Ian kuˑrachakanio ongˑenga indake aˑselo gaˑaka chaˑgipa aro Bibadi-pota chaˑgipa sakgnian Khasi Schedule Tribe jatoni ongˑa. Uandake, dingtangmancha 07.02.2017 tariko onˑgimin uˑiatani gita District Council-na Cr.P.C-ni ningˑo badiaba kaˑnamgija dosko dakgipa mamlarangna jako raˑna bil onˑaniko raˑgatatna nanga. Chongmotan, 6-gipa Schedule-ni paragraph 4 aro paragraph 5-ko dondime poraianio, iandakgipa District Council Court-ara, indakgipa mamlarangko chuˑgimik knana bilko manˑa. High Court-ni niam peˑe kaˑnamgija dosko dakgipa (criminal) mamlako Sessions Judge-oniko Autonomous District Council-ona watataniara krabeani ongˑa. Je Kachariona watonatachim, uan District Council Court-na niam gita mamlarangko raˑbaani jaˑmano bichal kaˑani kamrangko dakchina geˑetaniko onˑaha. [para 9.3-9.6, 10] [511-B-H; 512-A-C]

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

Gauhati Law Reports 812 – referred to

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

High Court of Meghalaya, Shillong - ni Transfer Petition (Criminal) No. 4/ 2017-na 05.12.2017 tariko Rai Onˑani ba Geˑetaniko Onˑaoni ongˑkatgipa mamla ongˑa.

Ranjan Mukherjee, Upendra Mishra, Avijit Mani Tripathi, K.V. Kharlyngdoh, T.K. Nayak, P.S. Negi , Tra. Sruti Ram (Kochar), Chetan Joshi, Badi Kaˑgipana mikkang paˑgipa Ukilrang.

Tra. Liz Mathew, Navneet R., Tra. Sonali Jain, Bibadina mikkang paˑgipa Ukilrang.

Kacharini Raiko on·gipa

MOHAN M. SHANTANAGOUDAR, J.

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

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

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

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

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

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

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

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

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

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

(e) Ia paragraph-ni sub-paragraph (1) aro (2)-rango on·gimin niamrang gita pilak kamrangko ka·chakatanirango dakchakaniko on·anina ong·a.

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

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

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

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

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

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

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

"Section 1. Kan·dikgipa bimungko on·ani, man·chapani aro a·bachengatani.

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

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

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

(a) Nagaland A·dokna,

(b) Tribal a·jarangna,

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

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

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

Iano, gisiko donna nangbegipa ongʼa indake Cr.P.C.-ni Chapter VIII-o tomʼtome donganina aro namgipa bewalko rakkianina sea-jotani kamrangko kaʼani bidingo ongʼa, Chapter X-o mande jinmako name aro tomʼtome rakkiani kamrangko kaʼani bidingo ongʼa, aro Chapter XI –o Police-rangni champengani kamrangko kaʼani bidingo ongʼa. Chapter VIII, X aro XI-ni ningʼo onʼgipa subject-ranga gimikan ia mamlani bidingo chanchina nangegipa ongʼja ine rongtalbeen nikna manʼa. Session Court-ni mikkango bichal kaʼaniko dakaniara Cr.P.C.-ni Chapter XVIII-o gaʼaka jean singʼenggipa tribal aʼjarangko manʼeja.

7. Niam-reti-o donggipa 6-gipa Schedule-ni Paragraph 4 aro 5-o Autonomous District-rango bichal kaʼaniko chalaiani bidingo ongʼa aro Autonomous Region-ara 6-gipa Schedule-ni paragraph 2-o janapgipa ongʼa. Aʼbachengo janapani gita, paragraph 4(1) District Council aro Regional Council-na mamlani kri Kacharirangko bikotna aro Schedule tribe jatrangni gisepo mamla kaʼani bidingo matnange segataniko aro mamla kaʼanirangko biapni ningʼoniko jako raʼe kamko kaʼna chuʼgimik bilrangko onʼa. Ian, indiba, 6-gipa Schedule-ni paragraph 5 (1)-ni ningʼo matnange segatanirangko aro mamla kaʼanirangko manʼchapja, jeon Governor District, ba Regional Council, ba District Council-chi bikota manʼgipa kachari ba je officer-ba uana Governor-chi seoka manʼgipa ongʼachim, Cr.P.C ba Code of Civil Procedure (‘C.P.C’)-o pangchake Governor kranika gita bilrangko onʼna manʼa. Unbaksana, paragraph 4 (4)-o janapaniko daka indake Kacharirang jerangan District Council-chi bikotako manʼa uarang District Council ba Regional Council-ni dakgimin niamrango pangchake mamlani kri kamrangko kaʼna nanggen.

8. Ia ongʼenggipa mamlao, Aʼsongni Niam bidiko onʼgipa 6-gipa Schedule-ni paragraph 4(4)-o onʼgimin bilrangko jakkalna manʼna gita United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953-ko raʼgataha. 9-gipa Niamni ningʼo Khasi Hills Autonomous District-na damsa District Council Court-ko bikotna aro una bichal kaʼgiparangko seokna niamko onʼaha.

9-gipa Niamni ningʼo aro 6-gipa Schedule-ni paragraph 5(1)-ni ningʼo, bilrangko jakkalanina, uʼiataniko 07.02.2017 tariko chapa kaʼataniko dakaha jeon Meghalayani Governor, District Council Court, Shillong-na Donchapgipa Bichal Kaʼgipako

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

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

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

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

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

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

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

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

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

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

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

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

Devika Gujaral

SLP-ko bon·ate matchotata.