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.

[2021] 7 S.C.R. 65

PATRICIA MUKHIM

v.

STATE OF MEGHALAYA & ORS.

(Criminal Appeal No.141/2021

MARCH 25, 2021

[L. NAGESWARA RAO ARO S. RAVINDRA BHAT, JJ.]

Penal Code, 1860 – ss.153A aro 505 (1)(c) – Meghalaya A॰doko non-tribalrangko iron rod aro gol॰dikrangchi ka॰saninggija doka – Matnange aganani gita dokgiparang Meghalaya-ni tribal jatoninchim – Mol॰molaniko dakgipani Facebook-o upload ka॰gipao, tribal aro non-tribalrangni gisepo gadangko mesokna aro mitchigrikatna miksonge dakaha ine matnanga – section 153A aro 505(1)(c)-ni ning॰o mamlako nikchengon sakkirangko man॰ama man॰ja – Chanchianirang: Mol॰molaniko dakgipani Facebook-o upload ka॰ako name niode, uni duk ong॰aniara Meghalaya-ni CM-ni, DGP aro biapni Dorbar Shnong-ni non-tribalrangko dokgiparangni kosako mamungkoba jako ra॰e kamko ka॰na gisiko nanggijani gimin ong॰a – Facebook post-ko chu॰gimik poraiode A॰dokni non-tribalrangba apsan bil man॰pagiparang ine chanako man॰na nanga ine mol॰molani ong॰a – Mol॰molaniko dakgipa, gadangko dingtangatna ba jatsa jatgipinko mitchigrikatna mamung miksongani dongja –Mol॰molaniko dakgipa darang jatni kosakoba drae dakna didiani dongjani gimin, section 153A aro 505(1)(c) dos daka ine mesokna man॰ja – Meghalaya A॰doko songdonggipa non-tribalrangna naljokaniko on॰china ine Mol॰molaniko dakgipa gisiko nange mol॰molchakaha aro uamangna apsan cholko on॰na agananiko mamung dakeba mitchie agana ine ra॰na man॰ja – Ian kakketko dakchina okamani ong॰a – niamo gita kamko ka॰china, jekon songdonggipa sakantian kadongchaksona aro parakna bil donga – Sorkarini kam ka॰gijaniko namnikjae agananiko dingtang dingtang jatrangni gisepo mitchigrikatna jotton ka॰a ine aganna man॰ja – a॰songo songdonggiparangni (citizen) jakgitele agananio mande jinmako golmal ong॰atjaode, uamangko ka॰namgija dosko dakgipa (criminal case) mamlarango man॰chapatna man॰ja – section 135A aro 505(1)(c)-ni ning॰o Mol॰molaniko dakgipani kosako mamung mamlako dakangna man॰jaha.

Penal Code, 1860 – s.153A – Agane dosi dakani - Jakgitele agananiko aro parakaniko champenganirang –Chanchianiko on꞉a: India-ni Niam bidikni Article 19(1)(a) – o jakgitele aganna bil on꞉anirangara gamchatgipa fundamental right ong꞉a –Indake ong꞉oba, jekoba aganna man꞉aigipa ba bilde ong꞉ ja – India-ni jakgitele aro nangrime donganina, A꞉dokni naljokanina, gipin A꞉songrang baksa meli-nangrime donganina, jinmani name donggnina, krae aro nama cholon bewalo donganina, ba kachariko mande ra꞉gija dakjachina, sakoba ong꞉gija matnanganiko champengna ba dos dakna didiako champengna jakgitele agananiko aro parakaniko champengna man꞉a – Agananio dos dakanirangna section 153A-o sasti man꞉na ama – India-ni Niam bidik, 1950 – Art.19(1)(a) – Mitchie Aganani.

Penal Code, 1860 –section 153A – Maidake ong꞉a - talata – Indake ortoko ba chanchiako agana: Manderangko bilding bildang ong꞉atna ba an꞉chi-pari nikatna u꞉imanchaen didiode (sine qua non) section 153A-o gita dosi dakani ong꞉a aro u꞉ien aro miksongmanchaen dakdila ine dos galna mamlako jako ra꞉enggipa (prosecution) sakkirangko mesokna man꞉na nanga – Seao maidakgipa ku꞉siko jakkala aro mai obostao seaha aro gatataha, uano pangchake mongsongbate segipani miksongako nianiko dakna nanga – Indake ong꞉oba, section 153A-ni ning꞉o matnange agananirangko chu꞉gimik apsan nina nanga.

Penal Code, 1860- section 153A aro 505 – section 153A-ko section 505 (2) baksa tosusao maidake ong꞉a – Minggni dos dakanirangni apsangrikani aro dingtanggrikani – Indake ortoko pe꞉aha: section 153A aro 505(2) –o dos ine chanako man꞉na, dos dakna miksonga aro u꞉iani dongna nanga – Ia section gegnini apsan apsan dakaniara bobil dakaniko ong꞉atani, dingtang dingtang torom ba jat ba ku꞉sik ba toromni dolrang ba jatrangni gisepo mitchigrikatani ba nidikgrikataniko ong꞉atani ong꞉a, iana komibeoba dolgnini gisepo bak nangbakani dongna nanga – Jatsa mangmangko ba dolsa mangmangko ong꞉gija chanchina didia ine dolgipin ba jat gipinko janapja ong꞉ode ia section gegnio ga꞉akjawa – Indake ong꞉oba, kattarangko chapa ka꞉anichi ba seachi mesokataniara section 505-o ga꞉akna nangchongmotgipa (sine qua non) ong꞉a - Mitchie aganani ong꞉a.

FIR – Jegalani – Chanchianiko on·ani: Jeon potaniko FIR ba Matnanganio (Complaint) ra·baaha, uarangko nimrake chu·gimik ra·chakgenchimomangba, matnangako man·gipa-ni kosako mamung dos dakaniko mamlako niarian (prima facie) nikjahani gimin, FIR-ko jegalna ga·akaha.

Mol·molaniko ra·chake, Kachari

GE·ETANIKO ON·A: 1.1. A·songni Niam bidikni (Constitution) Article 19(1)(a) –o jakgitele aganna bil on·gipa namen gamchatgipa bil ong·a.; indioba, ia bilara chu·gimik skatang jakkalna man·gipa bil ong·ja. India-ni jakgitele aro nangrime donganina, A·dokni naljokanina, gipin a·songrang baksa ripeng ong·e donganina, jinmani tom·tome donganina, nama cholon bewalko rakkianina ba Kachariko mande ra·gija dakanina, sakgipinko tol·e matnanganina ba dos dakna didianina champengna, jakgitele aganani bilko agrepile jakkalaniko komiatna man·a. Aganachi dosi dakaniko section 153A IPC-o sasti on·na man·a. [Para 8][72-C-D]

1.2. Indake ong·oba, section 153A IPC-o dos ong·a ine chanade, drae dakna ba golmal ong·atna miksonge daka ong·na nanggen aro mamlako jako ra·enggipa chu·sokatnade miksonge ba u·ie daktela ine matnangna man·na nanggen. Section 153A-ko kan·dike aganode, dingtang dingtang jatni gadangni manderangko bobil ong·atna ba mitchigrikatna miksonge dakanian ong·a. Miksonge dakaniko seanio maidakgipa kattako jakkala uko skanggipa nichengna nanggen aro mai obostao iako seaha aro gatataha ukoba nina nanggen. Section 153A-o ga·akgipa obostakode chu·gimik poraina nanggen. Matnangani sakkiko am·nade rake katta jakkalao aro seani badiaba bakko ra·e ba ong·jaoba, iako ba uko dake sentence-ko ra·e che·em che·em chanchianiko dakachi ong·na man·jawa. [Para 9, 10][73-H]; 74-A-C]

1.3. Ong·gijako dakna miksonganiko (mens rea) section 153A aro section 505 (2) IPC-o dos gnang ine chananiko man·na nangchongmotgipa dongna nanga. Ia section gegnio apsan apsan dake janapani gita manderangni gisepo bobil ong·atani, mitchigrikatani, namnikgrikgijani dingtang dingtang toromo, jato, dingtang dingtang ku·sikko agangiparango ba toromni dolrango, komibeoba indakgipa dolrang ba jatrang gegni gisepo dongna nanggen. Jatsa ba dolsako

ding·doate, dolgipinko janapja ong·ode ia section gegnio ga·akjawa. Indioba, kattako gatatachi (published) ba talate mesokachi (representation) section 505-o gita dosi ine chanako *(sine qua non)* man·gen. [Para 11] [74-D-F]

2. Mol·molaniko dakgipani Facebooko upload ka·ako namedake nigenchimode, non-tribalrangko doka-satani bidingo Meghalaya-ni CM, DGP aro Dorbar Shnongni kam ka·na gisiko nanggijanina duk ong·aniko parakani ong·a ine u·ina man·a. Facebook-o post ka·ataniko batbee poraigenoba, Meghalaya A·doko non-tribalrangni kosako ma·eke ra·aniko mesoknasan ong·a ine ma·sina man·a. Basketball kal·enggipa non-tribal chadamberangni kosako ka·saninggija doka sata dakgiparangni kosako ta·rake jako ra·e kamko ka·na nanga aro dos dakaniode mamung jat baseani dongna nangja ine Mol·molaniko dakgipa namen talataha. Facebook post-ko chu·gimik name poraiode, Meghalaya A·doko non-tribalrangba apsan bilko man·pagiparang ong·na nanga ine mol·molanisan ong·a. Jatsa jatgipinko mitchigrikatna Mol·molaniko dakgipa miksongani dongja. Jatsani manderangko drae dakna Mol·molaniko dakgipani didiani dongjani gimin Section 153A aro 505(1)(c) IPC-o dos galna man·jaha. Jeon potaniko FIR ba Matnanganio (Complaint) ra·baaha, uarangko nimrake chu·gimik ra·chakgenchimomangba, matnangako man·gipa-ni kosako mamung dos dakaniko mamlako niarian *(prima facie)* nikjahani gimin, FIR-ko jegalna ga·akaha. [Para 13] [75-E-H;76-A-B]

3. Lawsohtun-ni Dorbar Shnong-ni Mol·molaniko dakgipani kosako jatsa jatgipinni gisepo A·dok gimikon jajrengchipchipaniko aro meligrikgijaniko ong·atgen ine matnange agananiara chanchiatangko skatang banaie agananisa ong·aia. Mol·molaniko dakgipani Meghalaya A·doko donggipa non-tribalrangko naljoke rakkichina aro apsan dake jakkalaniko (equality) on·china bi·aniko, chanchianiko dake, mitchie aganani ine aganna man·jawa. A·songo songdongkamgipa sakantini bil man·na nanggipa aro parakna kragipako niam gita kakketko dakchina dabiasan ong·aia. Sorkarini ra·chakgija kam ka·gijana namnikgija agananiko dingtang dingtang jatrangko mitchigrikatna jotton ka·a ine chana man·ja. Jinmani tom·tome dongenganiko mamung ong·atja ong·ode, ia a·songni songdonggiparangni jakgitele agananiko ka·namgija dosko dakgipa mamlarangni

gadango (criminal case) segatachi champengna man·jawa. Mol·molaniko dakgipani kosako section 153A aro 505 (1)(c) IPC-o dos ong·aniko nikjaha. [Para 15][76-E-H;77-A]

Balwant Singh v. State of Punjab, **(1995) 3 SCC 214;** Manzar Sayeed Khan v. State of Maharashtra, **(2007) 5 SCC 1**; Bilal Ahmed Kaloo v. State of A.P. **(1997) 7 SCC 431: [1997] 3 Suppl. SCR 327** aro State of Haryana & Ors.v.Bhajan Lal & Ors., **1992 Supp (1) SCC 335: [1990] 3 Suppl. SCR 259-o pangchakaha**.

Ramesh v. Union of India **(1988) 1 SCC 668: [1988] 2 SCR 1011**; aro Pravasi Bhalai Sangathan v. Union of India & Ors. **(2014) 11 SCC 477: [2014] 4 SCR 446 – ko janapchapaha.**

Saskatchewan (Human Rights Commission) v. Whatcott **[2013] 1 SCR 467 (Canadian Supreme Court-ni Chanchiani) -ko janapchapaha.**

Mamlana Niamrangko Janapchapanirang

(1995) 3 SCC 214	**Para 9-o**	**pangchakaha**
(2007) 5 SCC 1	**Para 10-o**	**pangchakaha**
[1997] 3 Suppl. SCR 327	**Para 11-o**	**pangchakaha**
[1988] 2 SCR 1011	**Para 11-ko**	**janapchapaha**
[2014] 4 SCR 446	**Para 12-ko**	**janapchapaha**
[1990] 3 Suppl. SCR 259	**Para 13-o**	**pangchakaha**