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

[2021] 7 S.C.R. 65

PATRICIA MUKHIM

pyrshah

STATE OF MEGHALAYA & ORS.

(Criminal Appeal No. 141 of 2021)

LBER 25, 2021

[L. NAGESWARA RAO

AND

RAVINDRA BHAT, JJ.]

Ka Penal Code, 1860 – ki kyndon aiñ 153A bad 505(1)(c) – Ka jingshahshoh ba jur bad jingshahthombor jong ki bymdei-riewlum hapoh ka Jylla Meghalaya da ki nar rod bad da ki dieng – Ki nongthombor la kynnoh ba ki dei ki riewlum jong ka jylla Meghalaya – Ka jingpynmih jingthoh lane ka post ha Facebook ba la thoh da ka Nongmudui (Apellant), la kynnoh ba ka long kaba la mut khnang ban pynshit ïa ka jingiashun jaitbynriew hapdeng ki riewlum bad ki bymdei-riewlum hapoh ka jylla – Ia ka mokotduma Prima facie (ka nongrim ba hakhmat lane kaba shu peit na sla) la pynlong hapoh ka kyndon aiñ. 153A bad 505(1)(c) ne em – La rai: Ka jingkhmih bñiah ïa katei ka jingthoh ha Facebook ïa kaba la thoh da ka nongmudui ka kdew ïa ka jingsngewsih jong ka kaba long pyrshah ïa ka jingleh bymsuidñiew jong u Myntri Rangbah ka jylla Meghalaya, u DGP bad ka Dorbar Shnong jong katei ka jaka ha kaba kim shym la leh ei ei pyrshah ïa ki nongthombor kiba la thombor ïa kitei ki bymdei-riewlum – Ka jingthoh ha ka Facebook haba la pule baroh kawei ka paw ba, ka kyrpad ïa ka jingïaryngkat dor jong ki bymdei-riewlum hapoh ka Jylla Meghalaya – Kam shym don kano kano ka jingthmu na ka liang ka nongmudui ban pynphriang ïa kano kano ka jingia-isih kynhun/jaitbynriew – Namar ba ym don kano kano ka jingpyrshang da ka nongmudui ban kynshoit ïa ki briew jong kawei ka jaitbynriew ban ïa donkti ha ka jingïashoh ïadat, ïa ki mat tynrai jong ki jingleh palat (offences) kiba hap ha ki kyndon aiñ 153A bad 505(1)(c) ym shym la pynskhem – Ka jingkyrpad jur kaba la pynpaw da ka nongmudui ban ïada ïa ki bymdei-riewlum kiba shong ba sah ha ka Jylla Meghalaya bad ïa ka jingïaryngkat dor ïa ki ym lah da kano kano ka ka jingmutdur ban kheiñ ba ka dei ka jingkren pyniashun.– Ka long ka jingpyrta ban ïoh ïa ka hok – ban leh katkum ka aiñ, ha kaba iwei pa iwei i nongshongshnong i don ka

hok ban khmih lynti bad ban kren – Ka jingbymsngewhun ïa ka jingbym leh ei ei ka sorkar, ym lah ban kynnoh ba ka dei ka jingpyrshang ban pynia-isih hapdeng ki jaitbynriew bapher – Ia ka jingkren laitluid jong ki nongshongshnong ym lah ban khñoit noh da kaba pynngat ia ki ha ki mukotduma kam bymman,lait noh tang lada kum kita ki jait jingkren kidon ïa ka bor ban pynthut ïa ka imlang sahlang – Ym don daw pyrshah ïa ka nongmudui na ka bynta ki jingleh be-aiñ kiba hap ha ki kyndon aiñ 153A bad 505(1)(c).

Penal Code, 1860 – s.153A – ka jingleh be-aiñ da ka jingkren – Ki kyndon pyrshah ïa ka jinglaitluid ban kren bad ban pyni – La Rai: Ka jinglaitluid ban kren bad ban pyni ïa kaba la ai bor da ka Artticle 19(1)(a) jong ka Riti Synshar ka Ri India ka long ka hok tynrai kaba kordor – Hynrei, kata ka hok kam long kaba khlem don jingteh – Lah ban teh kyndon da kaba shong ñia ïa kata ka hok ban kren bad pyni khnang ban sumar ïa ka iktiar bad ïa ka jingiatylli hapoh ka Ri India, ïa ka jingshongshngain hapoh ka Ri, ïa ka jingiadei lok bad kiwei pat ki Ri, ka jingshongsuk ha ka imlang sahlang, ïa ka burom ka akor lane ha kaba iadei bad ka jingleh pyrshah ia ka Ïingbishar (contempt of Court), ha kaba iadei bad ka jingpynbudnam lane ka jingpynshit ïa ki kam be-aiñ – Ia ka jingkren be-aiñ lah ban pynshitom hapoh ka kyndon aiñ 153A – Riti Synshar jong ka Ri India, 1950 – Art.19(1)(a) – Jingkren pynïashun (Hate speech).

Ka aiñ Penal Code, 1860 – kyndon aiñ 153A – Hapoh ka jingkdup jong – La batai – La Rai: Ka jingdon jingthmu ban pynkulmar lane pynshit ïa ki briew ban ïashoh ïadat ka long kaba donkam eh (sine qua non) ban pynhap hapoh ka jingleh be-aiñ katkum ka kyndon aiñ 153A bad ki nongtian bishar (prosecutor) ki dei ban pyni sabut ïa ka jingdon ka jingmut sniew (mens rea) khnang ba kin jop – Ia ka jingdon jingthmu lah ban bishar nyngkong eh na ki kyntien jong ka jingthoh bad na ki jingjia ha kaba la thoh pynmih ïa katei ka jingthoh – Hynrei, ïa kaei kaei kaba la mudui hapoh ka kyndon aiñ s. 153A dei ban pule lut baroh kawei kumba ka long.

Ka Penal Code, 1860 – ss. 153A & 505 – Ki mat jong ka kyndon aiñ 153A ha kaba ïanujor bad ka kyndon aiñ s.505(2) – Ki jingiasryiem bad jingïapher hapdeng ki artylli ki jingleh be-ain – La Rai: Ka jingmut sniew (mens rea) ka long ka bynta kaba donkam ban pyni ha ki kam be-aiñ kiba hap hapoh ka kyndon aiñ. 153A bad 505(2) – Ka mat kiba iahap lang baroh artylli ki kyndon aiñ ka long ka jingpynshit ïa ka jingsngew-ïashun, ka jingïa-isih lane ka jingkwah pynsniew hapdeng ki kynhun niam lane jaitbynriew lane jingïapher ha ka ktien ka thylliej lane kynhun niam lane ïapher jait ne kynhun jaitbynriew, ka long kaba donkam ba kumno kumno kadei ban don ka jingïadonkti jong baroh artylli kum kita ki kynhun– Ka jingpynshit ïa ka jingsngew jong kawei ka kynhun khlem da kdew ïa kawei pat ka jaitbynriew ne kynhun kam lah ban hap hapoh kano kano na kitei ki kyndon aiñ – Hynrei, ka jingpynmih jingthoh ïa ki kyntien lane ki jingpyni ka dei ka ba donkam eh (sine qua non) hapoh ka kyndon aiñ s.505 – Ka jingkren pyniashun.

Ka ehajar – ka jingpynduh noh – La rai: Namar ki jingkynnoh kiba la kdew ha ka ejahar lane ha ka jingujor, lada ban shu peit ïa ki tang na kaei kaba paw bad pdiang kyllum ia ka na ka nongrim ba hakhmat ne tang na sla ruh (prima facie), kim pynlong ïa ka kam be-aiñ ba la kynnoh pyrshah ia ka nongshahmudui, kumta, ïa ka ejahar la dei ban pynduh noh.[1]

[1] *State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp (1) SCC 335.*

Kaba shah ïa ka jingkyrpad (*appeal),* ka Ïingbishar

LA RAI: 1.1 Ia ka jinglaitluid ban kren bad pyni ïa kaba la ai bor hapoh jong ka *Article 19(1)(a)* jong ka Riti Synshar ka Ri India ka long ka hok tynrai kaba kordor. Hynrei, kata ka hok kam long kaba khlem don jingteh. Lah ban teh kyndon da kaba shongnia ïa ka hok ban kren bad pyni khnang ban sumar ïa ka iktiar bad ïa ka jingiatylli hapoh ka Ri India, ïa ka jingshongshñgaiñ hapoh ka Ri, ïa ka jingiadei lok bad kiwei pat ki Ri, ka jingshongsuk ha ka imlang sahlang, ïa ka burom ka akor lane ha kaba iadei bad ka jinglehpyrshah ia ka Ïingbishar (*contempt of Court*), ha kaba iadei bad ka jingpynbudnam lane ka jingpynshit ïa ki kam be-aiñ. Ia ka jingkren be-aiñ lah ban pynshitom hapoh ka kyndon aiñ 153A IPC. [Lyngkhot *Para* 8][72-C-D]

1.2.Hynrei ka jingdon jingthmu ban pynkulmar lane pynshit ïa ki briew ban ïashoh ïadat ka dei kaba donkam bha (sine qua non) ban lah ban pynhap hapoh ka jingleh be-aiñ katkum ka kyndon aiñ 153A bad ki nongtian bishar (prosecution) ki dei ban pyni sabut ïa ka jingmut sniew (mens rea) khnang ba kin jop. Ia ka jingsngewthuh kyllum ïa ka jingpynkheiñ aiñ hapoh ka kyndon aiñ 153A IPC ka long, ka jingdon jingthmu ban pynmih ka jingsngew shun, jingïa-isih hapdeng ki kynhun bynriew bapher bapher. Ïa ka jingdon jingthmu lah ban bishar nyngkong eh na ki kyntien jong ka jingthoh bad na ki jingjia ha kiba la thoh bad pynmih jingthoh. Ïa katei ka jingthoh ba la ujor hapoh ka kyndon aiñ 153A dei ban pule lut baroh kawei kumba ka long. Ym lah ban pynshong nongrim ha ki kyntien kiba khor ne ki kyntien ba nangne nangtai ban pynlong sabut lymne ia ka jingkynnoh ban shu shim ïa ki kyntien nangne bad nangtai bad pynïasoh lang ïa ki da ka jingpynleit jingmut ïa ka jingmutdur (*inferential reasoning*).[2] [Para 9, 10][73-H; 74-A-C]

1.3 Ka jingmut sniew ne ka jingleh khnang (mens rea) ka long ka mat ba donkam ban pyni ha ki kam be-aiñ kiba hap hapoh ka kyndon aiñ 153A bad 505(2) IPC. Ka mat kaba iahap lang bad baroh artylli ki kyndon aiñ ka long ka jingkyntiew ia ka jingpynshit ïa ka jingsngew ïashun, jingïa-isih lane ka jingkwah pynsniew hapdeng ki kynhun niam, lane jaitbynriew lane jingiapher ha ka ktien ka thylliej lane iapher niam lane iapher jait ne iapher jaitbynriew, ka long kaba donkam ba kan don ka jingïatyngkhuh la kumno kumno hapdeng artylli kum kita ki kynhun bynriew. Tang ka jingpynshit ïa ka jingsngew jong kawei ka kynhun khlem da kdew ïa kawei pat ka kynhun kam lah ban hap ha kano kano na kitei ki kyndon aiñ. Hynrei, ka jingpynmih jingthoh ïa ki kyntien lane ki dur ka dei ka mat kaba donkam (*sine qua non*) hapoh ka kyndon aiñ 505. [Lyngkhot *Para* 11][74-D-F]

2. Ka jingkhmih bñiah ïa katei ka jingthoh ha ka Facebook ïa kaba la thoh da ka nongmudui ka kdew ba ka jingsngewsih jong ka nongmudui, ka long pyrshah ïa ka jingleh bymsuidñiew jong u Myntri Rangbah ka jylla Meghalaya, u DGP bad ka Dorbar Shnong jong ka jaka ha kaba kim shym la leh ei ei pyrshah ïa ki ba donkti ban shoh ban dat ïa kitei ki bymdei-riewlum. Ka jingthoh ha katei ka Facebook la lah ban sngewthuh ba ka long ka jingpynshai kyrpang ia ka jingbymkheiñ briew ia ki bymdei-riewlum hapoh ka Jylla Meghalaya. Ka nongmudui ka la pynpaw shai ba ki kam bymman kim

[2] *Manzar Sayeed Khan* pyrshah *State of Maharashtra, (2007) 5 SCC 1*

don jaitbynriew bad hap ban treikam kyrkieh ia ki briew kiba la donkti ha ka jingthombor ban shoh ban dat ia ki samla bym dei riewlum kiba ialehkai basketball. Ia ka jingthoh ha Facebook, lada pule lut ia ka baroh kawei ka pynpaw ia ka jingkyrpad na ka bynta ka jingiaryngkat dor jong baroh ki bymdei ki riewlum ha ka jylla Meghalaya.Ym don kano kano ka jingthmu na ka liang jong ka Nongmudui ban pynphriang ïa ka jingpynshit ïa ka jingïashun kyrdan/jaitbynriew. Namarba ba ym don ka jingpyrshang da ka nongmudui ban kynshoit ïa ki briew jong kawei ka jaitbynriew ban iashoh iadat, ïa ki mat tynrai jong ki kam be-aiñ kiba hap hapoh ki kyndon aiñ 153A bad 505(1)(c) ym shym la lah ban shem. Haba ia ki jingkynnoh hapoh ka ehajar lane ka jingujor, wat la shu shim tang na sla bad shu pdiang kumba ki long, haba pynshong nongrim tang na ki daw ba hakhmat ne haba shu peit na sla, ym don daw kaba lah ban pynlong ia ki kam beaiñ pyrshah ïa ka nongmudui, ka ehajar ka long kaba lah ban shah pynduh noh. [Lyngkhot *Para* 13][75-E-H; 76-A-B]

3. Ka jingujor jong ka Dorbar Shnong, Lawsohtun ba ki jingthoh jong ka nongmudui kan pynshit jaitbynriew bad ka lah ban lam sha ka jingiashrut ha ka Jylla baroh kawei ka long tang ka jingmutdur. Ka jingkyrpad jur da ka nongmudui ban ïada ïa ki bymdei-riewlum kiba hapoh ka Jylla Meghalaya bad ïa ka jingïaryngkat dor jong ki ym lah da kano kano ka jingmutdur ruh ban kheiñ ba ki dei ki jingkren pyniashun. Ka dei ka jingpyrta ïa ka hok – ban leh katkum ka aiñ, kaba iwei pa iwei i nongshongshnong i don ka hok ban khmih lynti bad ban kren. Ka jingbymsngewhun ïa ka jingbym leh ei ei ka sorkar, ym lah ban kynnoh ba ka dei kaba pynshit ban iashun hapdeng ki kynhun jaitbynriew. Ïa ka jinglaitluid ban kren ym lah ban khñoit noh da kaba pynngat ïa ki ha ki mukotduma kam bymman, lait noh tang lada kum kita ki jait jingkren ki don ïa ka bor ban pynthut ïa ka imlang sahlang. Ym don mukotduma kaba lah ban pynmih pyrshah ïa ka nongmudui na ka bynta ki jingleh be-aiñ hapoh ki kyndon aiñ 153 A bad 505(1)(c) IPC. [*Para* 15][76-E-H; 77-A]

Balwant Singh pyrshah *State of Punjab,* **(1995) 3 SCC 214**; *Manzar Sayeed Khan* pyrshah *State of Maharashtra,* (**2007) 5 SC 1;** *Bilal Ahmed Kaloo* pyrshah *State of A.P.* (**1997) 7 SCC 431: [1997] 3 Suppl. SCR 327** bad ruh ka *State of Haryana & Ors.* pyrshah *Bhajan Lal & Ors.,* **1992 Supp (1) SCC 335: [1990] 3 Suppl. SCR 259 – la pynshong nongrim.**

Ramesh pyrshah *Union of India* (1988) **1 SCC 668: [1988] 2 SCR 1011;** bad *Pravasi Bhalai Sangathan* pyrshah *Union of India & Ors.* (**2014) 11 SCC 477: [2014] 4 SCR 476 –** ba la kdew.

Saskatchewan (Human Rights Commission) pyrshah *Whatcott* **[2013] 1 SCR 467 (Ka jingrai jong ka Ïingkashari Ba ha khliehduh jong ka Ri Canada)** – ba la kdew.

<u>Ka jingkdew ïa ki mukotkuma (*Case Law Reference*)</u>

(1995) 3 SCC 214 la pynshongnongrim na ka *Para* 9

(2007) 5 SCC 1 la pynshongnongrim na ka *Para* 10

[1997] 3 Suppl. SCR 327 la pynshongnongrim na ka *Para* 11

[1988] 2 SCR 1011 la kdew na ka *Para* 11

[2014] 4 SCR 446 la kdew na ka *Para* 12

[1990] 3 Suppl. SCR 259 la pynshongnongrim na ka *Para* 13

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 141 of 2021

Na ka Rai bad ka Hukum tarik 10.11.2020 kaba la ai ha ka Crl. Petn. No. 9 of 2020 jong ka Ïingkashari High Court jong ka Meghalaya ha Shillong.

Ms. Vrinda Grover, Aakarsh Kamra, Soutik Banerjee, Prasanna S., ki Muktiar na ka bynta ka Nongmudui.

Avijit Mani Tripathi,Shaurya Sahay,P.S.Negi,ki Muktiar na ka bynta ki Nongshahmudui

Ia ka Rai jong ka Ïingbishar la ai da u

L. NAGESWARA RAO, J.

1. Ïa kane ka jingkyrpad *Appeal* la mudui pyrshah ïa ka jingshahkyntait noh ïa ka jingkyrpad ba la mudui da i nongmudui katkum ka kyndon aiñ (section) kaba 482 jong ka Code of Criminal Procedure, 1973 na ka bynta ban pynduh noh ïa ka ejahar (FIR) Laban PS Case No. 72(7)2020 tarik 06.07.2020 ïa kaba la pynrung (*resgistered*) hapoh ki kyndon aiñ 153A, 500 bad ruh 505(1)(c) jong ka Indian Penal Code, 1860.

2. Ia ka khubor la ai hakhmat ki lad pathai khubor da u/ka Assistant Inspector General of Police (A) ha ka 04.07.2020 ha kaba la don ka jingkdew sha ka jingjia kaba la jia ha ka sngi shuwa kata. Ka jingjia ka la ialam sha ka jingpynrung (registration) ïa ka jingleh kam be-aiñ ha Laban Police Station hapoh ki kyndon aiñ 326/307/506/34 IPC. La kdew ha ka jingpynmih kotkhubor ba ha ka por kumba 12:30 nohphaisngi, kumba 25 ngut ki khynnah shynrang bym lah ithuh ki la leit shoh leit dat ïa ki khynnah samla kiba dang ialehkai *basketball* ha ka kyntoit Block 4, Lawsohtun da ki nar rod bad ki dieng. U Arindam Deb, Subharashi Das Paspurkayastha, Saptarshi Das Purkayastha, Binak Deb, Bishal Ghosh bad u Prittish Deb ki la mynsaw. La ïalam ïa kiba mynsaw na kane ka jingjia sha hospital Woodland na ka bynta ban ai jingsumar. La kdew ha ka jingpynmih kotkhubor ba katto katne ngut ïa kiba la suba la kem noh bad ka jingtohkit ka dang iaid shakhmat. Ïa ka jingkyrpad la pynmih sha ki paidbah ban iarap ïa ka jingtohkit da kaba pynithuh ïa ki nongleh kam be-ain. La pynmih ïa ka jingmaham ba ym dei ban don kano kano ka jingpynthut ia ka jingiashongsuk shongsain.

3. Ha kajuh ka sngi, ka Nongmudui ka la pynmih ïa ka jingthoh ha Facebook kaba ong kumne harum:

Patricia Mukhim

4 Naitung ha ka por 04:07. *Facebook for Android*

> *Conrad Sangma, Myntri Rangbah Meghalaya, kaei kaba la jia mynnin ha Lawsohtun ha kaba katto katne ki samla bymdei-riewlum kiba dang ïalehkai Basketball ki la shah shoh shah dat da ki tiar pynmynsaw bad mynta ki dang don ha Hospital, ka long ka*

jingjia ka bym lah ban pdiang ba kin jia hapoh ka jylla kaba don la ka jong ka sorkar bad ki bor pulit. Ki nongshoh ki dei ki samla shynrang kiba dei ki riewlum bad kiba la tap dur khmat ialade la dei ban kem noh shisyndon. Kane ka jingthombor ïa ki bymdei-riewlum hapoh Meghalaya kiba ki kmie/kpa tymmen jong ki, ki la im hangne da ki phew snem, don kiba la wan naduh ka por Phareng ka long la kumno kumno ruh kaei kaei kaba dei ban pynrem jur. Ka jingshisha ba naduh ka snem 1979 ïa kum kine ki nongthombor ym ju shah kem bad lada kem ruh kim ju ïoh jingsaja katkum ka aiñ, ka kdew ba ka Meghalaya ka long ka jylla kabym larkam la bun bun snem.

Ngi kyrpad ïa ka sorkar jong phi bad ïa ki bor pulit jong phi kiba hapoh u DGP, R. Chandranathan, ban shim khia ïa kane ka kam. Pyni ïa ngi ki riew paidbah ba ngi don ka bor pulit kaba ngi lah ban shaniah.

Kumno pat haba phai sha ka Dorbar shnong jong kato ka jaka? Hato kim don ki khmat bad ki shkor ban iohi bad iohsngew? Hato kim don jingtip ïa ki ba leh ia ki kam pyntriem hapoh ka shnong jong ki? Hato kim dei ban ialam ïa ka jingujor bad pynithuh ïa kita ki nongleh kam pyntriem? Kane ka dei ka por ban ïeng rangbah khlem don jingsngew kynhun jingsngew pher jait bad jingngeit bad ban pyrta jam na ka bynta ka hok.

Ngi kyrmen ba kane kan ym dei da kawei pat ka kam kaba shu jah la ka jah lngaid hapoh ki kot ki sla jong ki Pulit. Ngi kwah ïa ka jingtreikam. Ki nongleh kam pynsniew pyntriem kim don jaitbynriew. La dei ban bishar ïa ki katkum ka aiñ jong ka Ri.

Balei ba ki hymmen ki para jongngi ki bymdei ki riewlum kin im syier hapoh ka jylla lajong? Kito kiba la kha bad la heh la san hangne ki don ka hok ban khot ia ka Meghalaya ka jylla jong ki kumba khot ki riewlum hi. La kut.

4. Ha ka 06.07.2020, u Rangbah Shnong bad u Secretary, Dorbar Shnong, Lawsohtun, Shillong, ki la mudui da kawei ka jingujor ha u *Superintendent of Police*, East Khasi Hills, Shillong, Meghalaya ba ka jingthoh kaba la pynmih da ka Nongmudui hapoh Facebook ka la pynshit ïa ka jingïashun jaitbynriew kaba lah ban ïalam sha ka jingïakajia hapdeng ki jaitbynriew. Ka Dorbar Shnong ka la ujor ruh halor ka jingshah pynthohbria. Da kaba shim ïa kane ka jingujor, la pynrung da ka ejahar (FIR) ha Laban Police Station bad ïa ka jingpyntip la ai sha ka Nongmudui hapoh ka Kyndon aiñ kaba 41 A Cr. PC, kaba la khot ïa ka ban leit hajir ha Kench's Trace Police Beat House kaba hapoh Laban Police Station, District East Khasi Hills Shillong, Meghalaya.

5. Ka Nongmudui ka la mudui da ka mukotduma *Criminal Petition No. 9 of 2020* hapoh ka Ïingkasahri High Court jong ka Meghalaya ha Shillong na ka bynta ban weng noh ïa ka ejahar. Ka Ïingkashari High Court lyngba ka rai jong ka kaba 10.11.2020 ka la kyntait noh ïa ka mukotduma *Criminal Petition No. 9 of 2020,* bad kum ka jingieng pyrshah ïa kane ka rai bymshong aiñ sa mih kane ka jingkyrpad (*Appeal*). Ka jingsngewthuh jong ka Ïingkashari High Court ka long ba ka jingkdew ïa ka jingshahshoh jong ki bymdei-riewlum hapoh ka jylla Meghalaya da ki riewlum ka lah ban pynsniew ïa ka jingiadei hapdeng ki artylli ki jaitbynriew. Da kaba peit thuh ba katei ka jingthoh ha Facebook ka ktik ïa ka jingiashun bad jingïa-isih hapdeng ki artylli ki jaitbynriew, ka Ïingkashari High Court ka la peit kum ka nongrim ba

hakhmat ne kaba shu peit na sla (*prima facie*) la ïohi ba ka don ka jingleh palat katkum ka kyndon aiñ kaba 153 A IPC.

6. Ngi la sngap ia ka Vrinda Grover, ka muktiar ba stad jong ka nongmudui, bad ia u Avijit Mani Tripathi, u muktiar ba stad jong ka Jylla Meghalaya. Ka jingpyni ñia jong ka nongmudui ka long ba ïa ki kyndon kiba hap hapoh ka kyndon aiñ ba 153 A IPC ym pat lah ban kdew shai bad ba ka ejahar ïa kaba la ujor pyrshah ïa ka nongmudui dei ban weng noh. La iasaid na ka liang jong ka nongmudui ba ïa katei ka jingthoh ha Facebook la dei ban pule lut kumba ka long. Ïa ka jingshahshoh jong ki bymdei-riewlum la kdew shai kum ka jingdawa ban kem ïa ki ba donkti. La iasaid na ka bynta ka nongmudui ba kam shym la don kano kano ka jingthmu ban kynshoit ïa ka jingiashun ne jingïa-isih hapdeng artylli ki jaitbynriew. La buh jingshaniah ha ka rai jong kane ka Ïingbishar ban ia tai ñia ba ki kyntien ba la thoh da ka nongmudui la dei ban bishar halor ka nongrim jong u briew uba pynshong ñia, uba khlaiñ ka jingmut jingpyrkhat bad uba shlur. Ka nongmudui ka la ban jur ïa la ka hok kaba hap hapoh ka *Article 19(1)(a)* jong ka Riti Synshar jong ka Ri India. Ka la pyni ia ka jingsngewkhia jong ka halor ka jingshah tian bishar ia ka kaba ktah jur ïa ka hok tynrai (*fundamental right*) jong ka ban kren laitluid.

7. U muktiar ba stad na ka bynta ki nonshahmudui-ka Jylla (Respondent-State) u la ïatai ñia ba ka nongmudui ka dei ka nongthohkhubor ba paw nam, bad la khmih lynti ba ka dei ban kham long adkar haba ka pynmih ïa kano kano ka jingthoh kaba ïadei bad u paidbah. U muktiar ba stad jong ka Kynhun Nonshahmudui (*State*) u la ong ba ki kyntien jong ka nongmudui ki don ka bor ban kynshoit ïa ka jingïashrut jaitbynriew. U la ong ba ka Ïingbishar High Court ka la leh ïa kaba dei ha kaba ka la kyntait noh ïa ka jingkyrpad (*application*) ïa kaba la mudui hapoh ka Kyndon aiñ *482 Cr. PC* bad u la kyrpad ïa kane ka Ïingbishar ba kan ym tuklar ei ei halor kane namar ka jingtohkit ka dang iaid shakhmat.

8. "*Ka long kaba donkam bha ban ai laitluid ïa ki jingkren baroh khnang ba ka jingshisha kan paw bad ba ngin ioh ïa ka imlang sahlang kaba shai."* – Thomas Jefferson. Ka jinglaitluid ban kren bad ban pynpaw ïa la ka jingsngew ïa kaba la ai bor hapoh ka *Article 19 (1) (a)* jong ka Riti Synshar ka long ka hok tynrai kaba kordor. Hynrei, kata ka hok kam long kaba biang lut ne khlem don jingteh – Lah ban teh kyndon ïa kata ka hok halor ka jingkren bad jingpynsngew ba laitluid khnang ban sumar ïa ka iktiar bad ïa ka jingiatylli ha Ri India, ïa ka jingshongshngaiñ hapoh ka jylla, ïa ka jingiadeilok bad kiwei pat ki Ri ka pyrthei, ka jingshongsuk ha ka imlang sahlang, ïa ka burom ka akor lane ha kaba iadei bad ka jingleh pyrshah ia ka Ïingbishar (*contempt of Court*), ka jingpynthohbria lane ka jingpynshit ïa ki kam be-aiñ – Ia ka jingkren be-aiñ lah ban pynshitom hapoh ka Kyndon aiñ. *153A IPC.* Ka jingkynshoit ïa ka jingiashun paidbah da ka jingïasngew pher niam, jaitbynriew, jaka kha, jaka shong jaka sah, ka ktien ka thylliej, bad kiwei kiwei.. bad kaba leh ïa kiei kiei kiba pynthut ïa ka jingshongsuk shongsaiñ ka long kaei kaei kaba lah ban pynshitom da kaba set phatok haduh lai snem lane da kaba shah daiñ kuna lane baroh artylli kitei kiba hap hapoh ka kyndon aiñ kaba *153 A.* Namarba ïa ngi la khot ban rai la ka mokotduma halor ka nongrim ba ha khmat (*prima facie)* ka long ne em pyrshah ïa ka nongmudui halor ki kam be-aiñ kiba ka la leh, kiba hap hapoh ka kyndon aiñ *153 A* bad *505(1)(c),* ka long kaba donkam bha ban pyni ïa ki jingaibor (*provisions*) kiba long kumne harum:

152A. Ka jingkynshoit ïa ka jingiashun hapdeng ki kynhun bapher halor ka nongrim ka jingiasngew pher niam, jaitbynriew, jaka kha, jaka sah, ka ktien ka thylliej, bad kiwei kiwei, bad kaba leh ïa kiei kiei kiba pynthut ïa ka jingshongsuk shongshngaiñ. –

(1) Mano mano kiba

(a) da ka ktien,ba shu kren ne shu thoh, lane da ki jingai dak ne jingkdew kiba lah ban ïohi lane da kumwei pat, kiba kynshoit lane kiba pyrshang ban kynshoit halor ki nongrim jong ka niam, ka jaitbynriew, ka jaka kha, ka jaka sah, ka ktien ka thylliej, ka jait ka kynja lane ka kynhun jaitbynriew lane kano kano ka nongrim, ka jingbymia-shongsuk lane, ki jingsngew ïashun, jingïa-isih, hapdeng ki kynhun niam, jaitbynriew, ka ktien ka thylliej lane ki kynhun jong ki thaiñ bapher bapher lane kiba iapher jait ne kynhun jaitbynriew, lane

(b) ki leh ïa kano kano ka kam kaba pynthut ïa ka jingshongsuk shongshngaiñ hapdeng ki kynhun niam, jaitbynriew, ka ktien ka thylliej lane kiba ïapher shnong ne jait ne kynhun jaitbynriew, bad kaba pynthut lane kaba lah ban pynthut ïa ka imlang sahlang, lane

(c) kaba pynlong ïa kano kano ka jingïalang, jingïakhih, ka jingiaid paidbah lane kino kino kiba kum kine da kaba don jingthmu ba ki nongïashim bynta kin pyndonkam ne pyntbit ban pyndonkam da ka bor be-aiñ (*criminal force*) lane da kaba thombor, lane da kaba tip ba ki nongïashim bynta kin pyndonkam ne pyntbit ban pyndonkam da ka bor be-aiñ (*criminal force*) lane da kaba thombor pyrshah lane ïashim bynta ha kum kine ki kam da kaba don jingthmu ha kum kine ki kam ne pyntbit ban pyndonkam da ka bor aiñ lane kaba thombor lane da kaba tip ba ki nongïashimbynta ha kum kine ki kam kin pyndonkam pyrshah ïa kano kano ka kynhun niam, jaitbynriew, kiba ïapher ka ktien ka thylliej ne ka jaka shong, lane ïapher jait ne kynhun jaitbynriew bad kum kita ki jingleh ki pynlong ne ki lah ban pynlong ïa ka jingtieng jingsmiej lane ka jingkyndit lane ka jingshongsyier hapdeng kum kita ki kynhun niam, jaitbynriew, kiba ïapher ktien ne thylliej, lane kiba ïapher jaka shong lane pher jait ne kynhun jaitbynriew, lah ban shah pynshitom da kaba set phatok haduh lai snem, ne da kaba shah daiñ kuna lane baroh artylli kitei.

Ki kam be-aiñ ha ki jaka mane blei, bad kiwei.— (2) Mano mano ba leh kam be-aiñ kiba don hapoh ka kyndon aiñ synrop (sub-section) (1) ha kino kino ki jaka mane blei lane kino kino ki jingïalang na ka bynta ki jingleh niam leh rukom kin shah set phatok haduh san snem bad ki lah ruh ban shah daiñ kuna.

505. Ki kyntien kiba pynthut ïa ka jingshongsuk shongsaiñ u paidbah. –

(1) Mano mano kiba kren, ba pynmih jingthoh lane kiba pynsaphriang ïa kino kino ki kyntien, ki hamsaia lane ki khubor, –

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(c) da ka jingthmu ban pynshit, lane kaba lah ban pynshit, ïa kano kano ka kynhun lane ka jaitbynriew ban leh ïa kano kano ka kam be-aiñ pyrshah ïa kano kano pat ka kynhun lane ka jaitbynriew,

lah ban shah pynshitom da kaba set phatok haduh lai snem lane shah daiñ kuna, lane baroh artylli na kitei.

9. Tang haba don ki kyntien kiba la thoh ne kiba la kren kiba lah ban pynthut ïa ka suk ka saiñ u paidbah lane ban pynthut ïa ka jingshongsuk shongshngaiñ u paidbah, ka bor aiñ ka donkam ban tuklar ban khang lad ïa kum kita ki jingjia. Ka jingthmu ban pynthut ïa ka jingshongsuk shonshngaiñ ne ban pynshit ïa ki briew ban iashoh iadat ka long ka nongrim (*sine qua non*) jong ka kam be-aiñ hapoh jong ka kyndon aiñ 153 A IPC bad ki nongtian bishar kin hap ban ai sabut ïa ka jingdon ka jingmut sniew (*mens rea*) khnang ba kan jop.[3]

10. Ka jingbatai kyllum ïa ka jingleh be-aiñ hapoh jong ka kyndon aiñ 153 A IPC ka long ka jingdon jingthmu ban kynshoit ïa ka jingiashun lane jingïa-isih hapdeng ki kynhun bynriew. Ïa ka jingthmu dei ban bishar khamtam eh da ki kyntien kiba don ha ka jingthoh bad da ki jingjia kiba la jia haei ba la thoh ban mih. Ïa kaei kaei kaba la kynthoh hapoh ka kyndon aiñ 153A dei ban pule lut baroh kawei kumba ka long. Ym lah ban pynshong nongrim ha ki kyntien kiba khor ne ki kyntien ba nangne nangtai ban pynlong sabut lane ban shu shim ïa ki kyntien nangne bad nangtai ban pyniasoh lang ïa ki da ka jingpynleit jingmut ha kiei kiei kiba rit jong ka jingmutdur (*inferential reasoning*).[4]

11. Ha ka mukotduma ***Bilal Ahmed Kaloo*** **pyrshah** ***State of A.P.,***[5] kane ka Ïingbishar ka la peit bniah ïa ki mat jong ki Kyndon aiñ 153 A bad ruh 505 (2) IPC. La pynïeng nongrim ba ka kyndon aiñ 153 A ka kynthup ïa ka mukotduma ha kaba u/ka briew da ki "kyntien, kiba la kren ne thoh, lane da ki jingai dak ne ki jingkdew kiba lah ban iohi", ki pynshit ne ki pyrshang ban pynshit ïa ka jingiashun, jingia-isih lane jingïa-ibeiñ. Hapoh jong ka kyndon aiñ 505 (2*)*, ka jingpynshit ïa kum kitei ki jingsngew dei ban leh da kaba pynmih jingthoh lane da kaba pynsaphriang ïa kum kitei ki kyntien lane ki khubor kiba long hamsaia lane ki khubor pynkyndit. Ka jingthmu basniew bad jingleh khnang (*mens rea*) kadei ban dei kawei na ki mat kaba donkam hapoh ka kyndon aiñ 153 A bad ruh ka kyndon aiñ 505 (2*).* Ka jingdon kyllum jong kitei ki mat ha baroh artylli kitei ki kyndon aiñ, la ka long ka jingpynshit ïa ka jingsngew ïa ka jingïashun, jingïa-isih, ne jingïa-ibeiñ hapdeng ki kynhun niam, jaitbynriew, kiba iapher ktien, niam, jait, ne kynhun jaitbynriew, ka dei ruh ban don la kumno kumno ka jingïatyngkhuh jong ki ar tylli ki kynhun bynriew. Kiba ngat lang shuh shuh la pynïeng nongrim ha ka mukotduma ***Bilal Ahmed Kaloo*** (ba haneng) ba tang ban shu pynshit ïa ka jingsngew jong kawei ka jaitbynriew ne kynhun khlem da kdew pyrshah sha kano kano pat kawei pat ka jaitbynriew ne kynhun kam lah ban khring ïa kitei ki artylli ki kyndon aiñ. Ka Ïingbishar ka la kdew shuh shuh ïa ka jingiapher hapdeng ki artylli kitei ki kam be-aiñ, da kaba ïeng skhem ba ka jingpynmih jingthoh da ki kyntien ne ki dur ka long ka kaba donkam eh (*sine qua non*) ban pynhap hapoh ka kyndon aiñ 505. Ka long ruh kaba donkam ban kdew sha ka rai jong kane ka Ïingbishar ha ka mukotduma ***Ramesh*** **pyrshah ia ka** ***Union of India***[6] ha kaba la ïeng nongrim ba ki kyntien kiba la pyndonkam ha katei ka jingkynmaw ba kren be-aiñ dei ban bishar bniah halor ka

[3] *Balwant Singh* pyrshah *State of Punjab, (1995) 3 SCC 214.*
[4] *Manzar Sayeed Khan* pyrshah *State of Maharashtra, (2007) 5 SCC 1*
[5] *(1997) 7 SCC 431*
[6] (1998) 1 SCC 668

nongrim jong u briew uba pynshong ñia, uba khlaiñ ka jingmut jingpyrkhat,uba skhem bad uba shlur, bad ym na ka nongrim jong kito kiba tlot bad kiba khih jingmut, lymne na ka nongrim jong kito kiba khmih jingsniew na kino kino kiba pyrshah man la ka jingïohi. Haba ïa pyrshah ka kyrdan jong u riew paidbah uba pynshongñia, lane kumba ki ong ha ka aiñ Phareng, "u briew uba ha tnum jong ka bos ha nongbah Clapham", dei ban pyntreikam.

12. Kane ka Ïingbishar ha ka mukotkuma ***Pravasi Bhalai Sangathan*** **pyrshah** ***Union of India & Ors.***[7] ka la kdew sha ka rai jong ka Ïingbishar ba ha khliehduh jong ka Ri Canada (Canadian Supreme Court) ha ka mukotduma ***Saskatchewan (Human Rights Commission)*** **pyrshah** ***Whatcott.***[8] Ha katei ka rai, ka Ïingbishar ba ha khliehduh jong ka Ri Canada ka la rai bad kaba la kheiñ kum ka rai kaba batai shai ïa ka "jingisih" (*hatred*) kumba la pyndonkam ïa ka ha ki kam thawaiñ ban khang ïa ki jingkren pyniashun (*hate speech*). Ka jingtynjuh kaba nyngkong ka long ïa ki Ïingbishar ban pyntreikam ïa ka jingkhanglad da ka jingthmu pyrshah ïa ki jingkren pyniashun bad, da kaba leh kumta, ban kylli la u/ka briew kiba biang ka jingmut jingpyrkhat, kiba tip ïa ki jingkren ne jingthoh kiba lamkhmat ïa ka jingkren ne jingthoh bad ki jingjia, la kin sngew ne em ba kata ka jingkren ka thad ne buh jingshun ïa kano kano ka kynhun briew ba la ïada. Ka jingtynjuh kaba ar ka long ban buh kyndon ïa ka jingbatai ïa ka jingmut ïa ka ktien aiñ "jingisih" (*hatred*) khamtam ïa kino kino ki jingpynsngew kiba palat ïa ka jingpynpaw jong ka jingkhih jingmut kiba lah ban batai ha ki kyntien "shun thlong mluh thlong sying" (*detestation*) bad "jingkren pynjahburom ne jingkren poh" (*villification*). Kane kan ïarap ban jiar noh bad ban ïada ïa ki jingkren kiba sngew jaboh bad kiba pynmong hynrei ki bym pynkhih ïa ka jingthew jong ka jingisih,pynduh ïa ka jinglong aiñ bad ka jingkyntait kaba buh jingma kaba lah ban long ka daw ka ba wanrah ia ka jingiapher ne pynmynsaw. Ka jingtynjuh kaba lai ka long ïa ki Ïingbishar ban khmih bñiah da kaba shai ïa ka jingktah jong kita ki jingthoh kiba ha kane ka kam mukotduma ba mynta, la ki long ne em kum ban pynpaw bad pynap ïa kino kino ki briew ne ki kynhun ban pyn-isih ïa ki da kiwei pat. Tang ka jingïaleh pyrshah ïa ki jingmut ba la pynpaw, kam biang pat ban ong ba ki long kiba be-aiñ bad kiba hap ban ai jingsaja.

13. Ha kane ka mukotduma kaba mynta, da kaba pyntreikam ïa ki nongrim kiba la buh da ka Ïingkashari, kumba la kdew ha neng, ka jingkylli kaba mih ïa ngi ban pyrkhat mynta ka long la katei ka jingthoh hapoh Facebook kaba myn 04.07.2020 ka long ne em kaba la don jingthmu ban pynïashun ïa ki kynhun jaitbynrew ne ka lah ne em ban pynïashrut hapdeng artylli ki jaitbynriew. Ka jingkhmih bñiah ïa katei ka jingthoh hapoh Facebook kan pyni ba ka jingsngewsih jong ka nongmudui ka long pyrshah ïa ka jingleh bym suidñiew jong u Myntri Rangbah ka Meghalaya, u Rangbah Pulit *Director General of Police* bad ka Dorbar Shnong jong kato ka jaka ha kaba kim shym la leh ei ei ïa kitei ki nongthombor pyrshah ïa ki samla bymdei-riewlum. Ka nongmudui ka la kdew sha ka jingshah thombor jong ki bymdei-riewlum ha ka snem 1979. La kumno kumno, ïa katei ka jingthoh ha Facebook lah

[7] (2014) 11 SCC 477

[8]

ban sngewthuh ba ka kdew ïa ka jingshah kheiñ pher jaitbynriew pyrshah ia ki briew ki bymdei-riewlum hapoh ka jylla Meghalaya. Hynrei, ka nongmudui ka la pynshai kdar ba ki kam bymman kim don kynhun jaitbynriew bad dei ban pynshitom mardor ïa ki briew kiba donkti ban shoh ban dat ïa ki samla bymdei-riewlum katba ki dang ialehkai *basketball*. Ka jingpule ia ka jingthoh baroh kawei ha Facebook ka paw ïa ka jingdawa ban don ka jingiaryngkat dor ïa ki bymdei-riewlum hapoh ka Jylla Meghalaya. Ha ka jingsngewthuh jong ngi, ym shym la don ka jingthmu na ka liang jong ka nongmudui ban pynshit ïa ka jing-isih jaitbynriew. Namar ba kam don ka jingpyrshang na ka liang ka nongmudui ban kynshoit ïa ki briew jong kano kano ka jaitbynriew ban donkti ha ka jingïashoh ïadat, ki kyndon ba iahap bad ka kam be-aiñ hapoh ka kyndon aiñ 153A bad ruh 505(1)(c) kim iahap ban pyntreikam. Ïa ki jingkynnoh kiba la kdew ha ka ejahar lane ha ka jingujor, wat tang ban shu peit ïa ki tang na kaei kaba paw bad pdiang kyllum ia ka na ka nongrim ba hakhmat ne tang na sla ruh (prima facie), kim pynlong ïa ka kam be-aiñ ba la kynnoh pyrshah ia ka nongmudui, kumta, ïa ka ejahar la dei ban pynduh noh.[9]

14. Ka Ri India ka dei ka ri kaba bun ki jaitbynriew bad ki riti dustur jong ka imlang sahlang bapher.Ka jingkular ban ai laitluid ïa kaba la buh ha ka Preamble jong ka Riti Synshar, ka pynpaw ialade ha ki kyndon jingaibor bapher bapher (*provisions*) kiba kdew ïa ka hok jong ki nongshong shnong; kiba kynthup ïa ka hok ban kren laitluid, ban leit jingleit laitluid bad ban shong shnong laitluid (katkum ki jingpyrkhing kiba iahap kumba la buh) ha kylleng ka jingjrong bad pyngkiang ka Ri India. Don ki por ha kaba pyndonkam ïa kum kane ka hok, ba shong aiñ ka jingiaid lynti ki briew, ka jingpoi sah bad ka jingpoi trei poi ktah ha ka jaka kaba ki sngew iahap, bad ki lah ban don ki jingsngewpher, khamtam lada kum kita ki nongshongshnong ki roi ki par, bad kane ka lam sha ka jingsngew shun bad wat ka jingïashoh iadat. Ha kum kita ki khep, haba ki nongshah lehbeiñ ki pyrta ïa la ka jong ka jingbymsngewhun bad ki kren pyrshah, khamtam lada ki bor synshar ki leh bym patiaw, lane ki leh tud, kum kata ka jingpyrta ïa ka jingbymsngewhun ka la long shisha ka jingïam na ka bynta ka jingshah ïuhroit ka hok jong ki lane ka jingpynslem.Kane ka long kaei kaei kaba I kumba ka lah jia ha kane ka mukotduma.

15. Ka jingshah shoh jong hynriew ngut ki bym dei trai jylla ïa kaba la leh da ki riewshimet kiba la deng jingsopkhmat, ym shym la len da ka sorkar jylla (*State*); ka jingmudui ïa kata ruh ym shym la len. Ka sorkar jylla (*State*) lei lei ka la pyllait khubor ruh. Ka jingtohkhit kam i poi shano shano. Ka jingujor jong ka Dorbar Shnong, Lawsohtun ba ka jingthoh jong ka nongmudui kan pynshit ïa ka jingiashun jaitbynriew bad ba ka lah ban wanrah ïa ka jingiashrut hapoh jong ka jylla baroh ka long tang ka jingmutdur. Ka jingkyrpad ba shitrhem jong ka nongmudui ïa ka jingiada ïa ki bymdei-riewlum ba shong ba sah hapoh jylla Meghalaya bad ïa ka jingiaryngkat dor ia ki, ym lah da kano kano ka jingmutdur ban kheiñ ba ka dei ka jingkren pyniashun. Ka long ka jingpyrta ban ioh ïa ka hok – ban leh ei ei kat kum ka aiñ, ia kaba uwei pa uwei u nongshong shnong u don ka hok ban khmih lynti bad

[9] *State of Haryana & Ors. v. Bhajan Lal & Ors., 1992 Supp (1) SCC 335.*

ban kren. Ka jingbymsngew hun ïa ka jingbym leh ei ei ka sorkar ym lah ban ong ba ka dei ka jingpyrshang ban pynshit ïa ka jingia-isih hapdeng ki jaitbynriew bapher bapher. Ia ka hok ban kren laitluid jong ki nongshong shnong jong kane ka Ri ym lah ban pynduh noh da kaba pynngat ïa ki ha ki kam be-aiñ, lait noh lada kita ki jingkren ki don ka jingthmu ban pynkulmar ïa ka shongsuk shongsaiñ u paidbah. Ka jingpynkut jong katei ka jingkhmih bniah ha kaba iadei bad ka jingthoh hapoh Facebook ïa kaba la thoh da ka nongmudui ka long ba ym don ka daw kaba lah ban pynlong pyrshah ïa ka nongmudui na ka bynta ki kam be-aiñ kiba hap hapoh ki kyndon aiñ 153 A bad 505(1)(c) IPC.

16. Na bynta kitei ki daw kiba ha neng, ïa ka Jingkyrpad (*Appeal*) la shah bad ïa ka rai jong ka Ïingkashari High Court la pynduh noh. Ia ka ejahar PS Case No. 72 (7) 2020 tarik 06.07.2020 ïa kaba la pynrung ha ka thanat Police Station Laban la pynduh noh.

Bibhuti Bhubshan Bose Ia ka Jingkyrpad (*Appeal*) la shah.