

GOVIND SINGH

v.

THE STATE OF CHHATTISGARH

(Criminal Appeal No. 770 of 2019)

APRIL 29, 2019

[R. BANUMATHI AND R. SUBHASH REDDY, JJ.]

Penal Code, 1860:

s. 300 Exception 4 amadi s. 304 (Part II) – Wayel kakpinaba waakatlakliba meei gi mayokta Section 302 gi makhada ain gi thongba wakatpa – Mahaaki machanupi (leikhidrabi) sihanbagidamak – Thoudok adugi mitna uhouba saakhi na _wakat adugi wari sougatkhide – Siramdaida sibagi maram piba wafam yenglaga maral siraklaba meei adubu Trial Court na section 302 gi mkhada maral leire haina rai taakhi – Punshi chuppagi oina keishumshangda thamnaba fadok taakhi – Piriba maraal amadi dandi adu High Court na su amuk ka hanna chumle haina haikhi – Wayel kakpinaba wakatlapda loukhiba warep: Thoudok adu khanghoudana amadi khudakki oina thokkhiba haana thourangdaba thoudok amani – Maram aduna maraal siraklaba meei aduna toukhiba thouwong adu section 300 da yaoroidaba kanglup 4 gi manung da changani – Maraal leire haina taba wafam adu section 304 (Part II) gi makha da oina oigadabani haina semdokhi – Dandi adu haana keishumshangda leikhraba matam aduda oina hanthakhi, haibadi chahi 11 muk.

**Wayel kakpinaba tourakpa waakat adugi saruk
khara yaraduna, Court na**

LOUKHIBA WAREP: 1. Apunba thoudok adu khanghoudana thokkhibani. Bulb adu kadaiwaida thaangani haiabgi mataangda mapaa amadi machanupi gi marak ta khatnakhi. Khanghoudana amadi khudakki oina khatnaba adu da, wayel kakpinaba waakatlakliba meei aduna machanupida chimney gi thaomei ama langlammi. Thoudok adu khudakki oina thokkhibani amadi haana

thouraangkhiba leite. Chaaktuna leiba chimney gi thaomei adu wayel kakpinaba wakatlakliba meei aduna na loukhatlaga leikhidraba meei aduda langlammi. Thoudok adu khanghoudana khatnabada thokkhibana amadi haana thourangba leikhidabana, maral siraklaba meei adugi thouwong adu section 300 da yaoroidaba kaanglup 4 gi manung changani. [pandup 7] [1084-F-G]

2. Wayel kakpinaba waakatlakpa meei-maraal siraklaba meei adu section 302 IPC gi makhada maraal leire hairiba adu Section 304 Part- II IPC gi makhada oina oigadabani haina semdokhi. Wayel kakpinaba waakatlakpa meei-maraal siraklaba meei adu keishumshangda chaorakna chahi 11 ga tha 8 muk leikhre. Wakat ashigi wafam amadi fibamshing amasung wayel kakpinaba waakatlakpa meei-maraal siraklaba meei aduna keishumshangda leikhriba matam adu yenglaga, keishumshangda leibagi dandi adu haana leikhraba matam adu oigadabani haina semdokhi. [Pandup 8] [1084-H; 1085-A-B]

CRIMINAL APPEALATE JURISDICTION; Criminal Appeal No.770 of 2019

Crl. A. No. 587 of 2008 da Bilaspur da leiba High Court of Chhattisgarh na tarikh 11.04.2013 da takhiba wayelgi warep amadi yaathang dagi

Ram Lal Roy, Mrs. Anjani Aiyagari, Wayel kakpinaba waakatlakpa meeoigidamak lepliba wakilshing.

Pranav Sachdeva, Ms. Neha Rathi, Jatin Bhardwaj, Mayok yariba meeoigidamak lepliba wakilshing.

Court ashina taba wayelgi warep adu pikhiba judge

R. BANUMATHI, J. 1. Haijarakpa yare.

2. Wayel kakpinaba tourakpa waakat ashi tarikh 11.04.2013 da Bilaspur da leiba High Court of Chhattisgarh na Criminal Appeal No. 587 of 2008 ta wayel kakpinaba waakatlakpa meei bu IPC gi Section 302 gi makahada maraal leire haiduna mahaaki mathakta punsi chuppagi keishumshangda thamnaba fadok taduna pikhiba wayel gi warep amadi yaathang adu High Court na su chummi haibadagi laakkhibani.

3. Ain gi thongda waakatlakliba meeo gi wari di tarikh 23-05-2007 gi pung 7:30 PM taba matamda leikhidrabi Lalita du mahaakki kaa da mamanabi Dev Kumari (PW-1) ga famminarammi; aduga mahaakki mama Indra Kunwar (PW-2) na yumdugi manungda chaak-esing thongduna leirammi haibani. Matam aduda, wayel kakpinaba waakatlakliba meeo-leikhidrabi adugi mapa aduna machanupi gi kaada changlaklaga bulb adu louthokaga bulb adu sumaang da oina thaanlagae haina hairammi. Leikhidrabi meeo ashina mahaakki apokpa mapa Govind Singh da bulb adu louthoktanaba hairabasu, wire adu louthoklammi. Leikhidrabi ashina amuk hanna wire adu samjinba houbada, wayel kakpinaba waakatlakliba meeo asina wire adu samjindanaba haiduna tathina cheirammi, madudagi wahei-wata kaya hainaduna khatnarammi. Saobadagi wayel kakpinaba wakatlakliba meeo-maraal siraklaba meeo ashina chaaktuna leiba chimney gi thaomei adu leikhidrabi Lalita da langsillammi amadi mahak mei na chakapadgi asokp- apan nanghalammi. Leikhidrabi adugi laoba-khongba gi khonjel tabadagi mahaakki mama (PW-2) amadi mahaakki mamanabi Dev Kumari (PW-1) mahaakki manakta khongjel yaangna chensilammi. Ram Dayal (PW-4) amadi Mannu (PW-3) na leikhidrabi aduda esing heijinduna mei adu muthatlammi. Madudagi, khudakta leikhidrabi adu Odgi da leiba Community Health Centre da purammi amadi Dr. P.K. Patel (PW-9) na layengkhi. Ahanbagi layeng khara chatharaba matungda leikhidrabi adu Ambikapur da leiba District Hospital da thaarammi. Mahaak Ambikapur da leiba District Hospital da layeng chatharingei da tarikh 30.05.2007 da asokpana maram oiraga leikhide. Ahanbada thoudok adu IPC gi Section 307 gi makha da ming challaba matungda konna IPC gi Section 302 gi makha da oina semdokkhi. Leikhidrabi aduna siramdaida fongdokpa mahaakna sibagi maram piba wafam (Ex. P-16) adu PW-21 oiriba Executive Magistrate na leikhidrabi aduna wafam adu fongdokpa matamda mahaki wakhal-gyaan gi fibam da akaiba leite haina saktakche pikhiba Dr. P.K. Patel (PW-9) gi mamangda jabaan loukhi. Mitna uhouba sakhising, Dev Kumari (PW-1), apokpi mama Indra Kunwar (PW-2), Manu Singh (PW-3) amadi Ram Dayal (PW-4) na wakatlakliba kangu gi waridubu sougatkhide amadi sakhi oibagi jabaan pibada mamai leikhi. Leikhidrabi aduna siramdaida fongdokpa mahakna sibagi maram piba wafam (Ex. P.16) aduda maru oina yenglaga, trial court na wayel kakpinaba wakatlakliba- maraal siraklaba meeo adubu IPC gi Section 302 gi makha da maraal leire haikhi amadi

mapunshi chuppa keishumshangda thamnaba fadok pikhi. Wayeli kakpinaba wakatlakliba meeo adubu IPC gi Section 302 gi makhada maraal leire hairiba amadi mapunshi chuppa gi keishumshangda thamgadabani haina fadok takhiba adu High court na yakhi. Pendaba dagi, wayel kakpinaba wakatlakliba meeo ashi eikhoi gi maangda lakpani.

4. Eikhoigi tarikh 10.08.2018 gi yaathang na supnatangi chathakhiba ain gi mityengda maral leiba thabak ki mashak-mawong amadi dandi gi chaang gi matangda khanghankhi.

5. Eikhoina wayel kakpinaba wakatlakliba meeo/maraal siraklaba meeo gi damakta lepliba amadi State of Chattisgarh gidamak ta lepliba khang heiraba wakilsing gi warol tare amadi singnaraklaba wayel gi warep amadi chejan leiba atei che-chang sing kupna amadi yamna cheksinna pare.

6. Thoudok adu pung 7:30 P.M. taba matamda thokkhibani. Leikhidrabi aduna magi mamaanabi- Dev Kumari (PW-1) ga wari sanaringei, wayel kakpinaba wakatlakliba meeo/maraal siraklaba meeo aduna sumangda thangae haiduna bulb adu louthoknaba toubadu leikhidrabi ashina yaroi haina yetkhi. Wayel kakpinaba wakatlakliba-mapa amadi mahakki machanupi-leikhidrabi anigi marakta wahei gi oiba khatna-cheinaba thokkhi. Waheigi oina khatna-cheinaba aduda wayel kakpinaba wakatlakliba meeo-maraal siraklaba meeo aduna leikhidrabi aduda chimney gi thaomei langsinduna mei chaktuna asok apan nanghankhi. Mahak mai, thabaak, puk amadi faigan gi makha thangba sarukta sokkhi. Asokpa aduna maram oiraga mahak thoudok adu thokpa matung numit 7 leiraga leikhide.

7. Thoudok mapum adu khanghoudana khudakki oiba maong amada thokkhibani. Bulb adu kadaiwaida thangani haibagi matangda mapa amadi machanupi gi marakta khatnakhi. Khanghoudana amadi khudakki oiba khatnaba aduda wayel kakpinaba wakatlakliba meeo aduna machanupi aduda chimney gi thaomei langsillammi. Thoudok adu khudakta thokkhibani amadi haana thourangba leikhide. Thanduna leiba chimney gi thaomei adu wakatlakliba meeo aduna loukhatlaga leikhidrabi aduda langsillammi. Khanghoudana thokkhiba khatnaba oibana amadi haana thourangba leikhidabana, maraal siraklaba meeo adu gi thouwong adu Section 300 da yaoroidaba kanglup 4 gi manung da changani.

8. Section 302 IPC gi makhada wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo aduda pikhiba maraal adu Section 304 Part II IPC gi makhada da oina oigadabani haina semdokkhi. Keishumshang gi praman-che gi matung inna, tarikh 26.08.2017 da wayel kakpinaba wayel kakpinaba wakatlakliba meeo/maraal siraklaba meeo adu keishumshangda chahi 10, tha 2 ga numit 25 leikhre. Houjikfaobada, wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo adu chaorakna chahi 11 ga tha 8 muk keishumshangda leikhre. Hairiba wafamsing amadi wakat ashigi fibam shing amadi wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo na hana keishumshangda leikhraba matam ashi yenglaga, keishumshangda leibagi fadok ki matam ashi haana leikhraba matam ashi oina oihallae.

9. Section 302 PC gi makhada wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo ashibu maral leire hairamba adu Section 304 Part II IPC gi makhada oina maraal piire. Wayel kakpinaba wakatlakpa meeo ashida punshi chupa keishumshangda thambagi piba dandi adu wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo aduna keishumshangda haana leikhraba matam aduda oina hanthare. Atoppa wakatki damak masa lakpa darkar tadrage, wayel kakpinaba wakatlakpa meeo/maraal siraklaba meeo ashibu khudakta thadoknaba yaathang piri.

10. Mathakta pankhriba sart shing ashida wayel kakpinaba tharakpa wakat ashi gi saruk khara yare.