

AJAI ALIAS AJJU ETC. ETC.

v.

THE STATE OF UTTAR PRADESH

(Criminal Appeal Nos. 598-600 of 2013)

FEBRUARY 15, 2023

[B. R. GAVAI AND VIKRAM NATH, JJ.]

Panel Code, 1860 - ss. 302/149, 307 – Arms Act, 1959 – Court of Criminal Procedure, 1973 – ss. 161, 164 – Case asida maral lei haina chennariba mising asina PW-1 amasung mache/manaonupigi amasung makhoigi yum changduna imungdugi mi mari haatlamba. Hairiba mihatlabagi thouong aduda maral leire haina chennariba mising aduna PW-1 amasung mache/manaonupi dadasu asok-apan thokhallammi. maral leire haina chingnariba mising aduna PW-1 amasung mache/manaonupi dusu sire khanduna yum adu thakdoktuna chatkhi. Makhoina chatkhraba matungda PW-1 amasung mache/manaonupi yumdudagi laoduna chenthoklakkhi. Kholaodu taabada khunggangdugi missing amasung maral leire hai chennariba thunglammi. PW-1 amasung mache/manaonupi duna maral lei haina chennariba misingdu ubada paakhalammi. Maral leiriba misingduna mihat mipun touramliba misak khangbra hangba matamda PW-1 amasung mache/manaonupi duna kibagi maramna misak khanghoudre haina khumlammi. Atung tarakpada Investigating Officergi wahang paokhum mataang laakpada PW-1 maral lei haina chennariba mioisingdugi maming matha pankhibaga loinana maral lei haina chennariba mioisingdugi mathakta charge-sheet pansinkhi. Trial Court aduna khudamsing adugi maramda kupthana khangtharaduna maral leiraba missing aduda sibagi dandi pikhibakhak nattana hanthaba maralgi dandising pikhi. Trial Court ki wareptuda pendaduna maral leirabasingduna High Court ta case tu pukhatlammi. Trial Court na tarakliba warep aduda High Court nasu yaningba phongdokkhi. Adumoinamakpu appeal tourakpigi matung inna High Court na sibagi dandidubu punsichuppa keisumsangda thambagi dandida onthokkhi. Mihat-mipungi thoudok aduda PW-1 asi soktuna hinghouba sakhi. Maram aduna PW-1 na court ta serannaba sakhi pibagi wapham leite. Adugisu mathakta wahang-paokhum gi matamda mahakna pikhiba paodamsingda chingnaningai oiba natraga paokhum maanadaba amata yaokhide. Section 161 CrPC gi matung inna PW-1 na pikhiba paokhumsingda cross-examination da pikhiba paokhumsingda chaanadaba, case pu sonthahannaba natraga mahakki paodamsingbu kakthatnaba karigumba amata phangkhida. Maram aduna mahak asi thoudoktugi achumba warol puthokpa thoudok adugi asengba sakhini. Thoudoktu loisillakpa tanjada khungganggi miyamna PW-1 hangkhiba matamda PW-1 maral lei haina chennariba misinggi maming matha pankhidabadu aphaba cheksin-thourangni haikhi; maramdi maral leiraba mising adu makhoigi anakpa mari-matani aduga tanjaduda PW-1 maral lei haina chennariba misinggi maming matha pankhidabadu mapunsi kanjanabani.

Courtna appealing dismiss touba

1. PW-1 asi soktuna hinghouba sakhini. PW-1 na court ta serannaba sakhi piraga maral leiribasingbu naanthokhankhinaba phibam leite. Adugisu mathakta wahang-paokhum gi matamda mahakna pikhiba paodamsingda chingnaningai oiba natraga paokhum maanadaba amata yaokhide. Section 161 CrPC gi matung inna PW-1 na pikhiba paokhumsingda cross-examination da pikhiba paokhumsingda chaanadaba, case pu sonthahannaba natraga mahakki paodamsingbu kakthatnaba karigumba amata phangkhida. [Para 18][939-E-F]

2. Asiba 'V' gi macha nupisingna makhoigi imunggi mising haatkhiba amasung asok-apan yaohankhiba mioisingdu makhoigi mari-mata oibagi maramna hei-singna makhoina maral leiraba misingdugi mamaangda tuminna leikhibani. Investigating Officer na statement lounabagidamak hospitalda chattuna wahang-paokhum touba matamda makhoina thokkhiba thoudoksing adu arik chumna, mathang manao naina phongdokkhi. [Para 19] [939-G-H; 940-A]

3. FIR pallakpigi matung inna thijin-humjinnaba huigi squad sijjinnakhi. Squad tuna mathou chap chana paangthokkhi. Matamduda mihatpada chennariba maming-matha pankhidabagi maramna huigi squad

tuna mihatpasingbu sakkhangkhide. FIR pallakpa atamduda PW-1 hospitalda admit touduna leirammi aduga PW-1 maral lei haina chennariba misingdu kanano haibadu mapunsi kannaba maram chaana phongdoklamdri. [Para 20][940-B-C]

4. PW-1 gi mache/manaonupi amasung 'H', 'V' gi mapada wahang-paokhum toukhidabasu maram chai. Prosecution asida makhoigi paodam taadabana case asigi maral leiba adugi chap chaba khudam-praman da maru oiba mateng oide. Maramdi sakhi pibada darkar oiribadi sakhidugi achumba warolduni, sakhi piba mi masing natte. PW-1 asi phibam thina soklaba, sihoudraba, mihat-pipungi thou-ong aduda sihoudraba sakhini. Aduna section 164 CrPC gi makhada PW-1 gi mache/manaonupi amasung 'H', 'V' gi mapada wahang-paokhum toukhidabasina courtki warepta khennaba leihande. Section 164 CrPC gi makhada wahang-paokhum toubasi Investigating Officer gi mathouni. Aduda mahakki lousing sijinaduna section 164 CrPC gi makhada PW-1 nataba atoppada wahang-paokhum toukhidabadu darkargi matung inna mahakna sijinaba hakni. [Para 21, 22][940-D-E]

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 598-600, 2013.

Allahabad High Court of Judicature gi CRLA Nos. 6293, 6294 amasung 6295, 2009 gi Judgment amasung Order dated 22.02.2012, Criminal appeal nos. 337, 2014 amasung 745-748, 2015.

Appearing parties kidamak Brijender Chahar, Sr. Adv., Ms. Deep Shikha Bharati (Amicus Curiae), Sanjay Kumar Tyagi, Rameshwar Prasad Goyal, Rishi Malhotra, Sarvesh Singh Baghel, Karan Chahar, Ms. Pooja Chahar, Advs. Court ki judgement adu VIKRAM NATH, J. na pikhi.

1. Criminal Appeals No. 598-600, 2013 asi maral leire haina court na lepkhraba Ajai alias Ajju, Braj Pal amasung Ravi na thanggatlakpani. Party animakki learned counselsinggi warolgi matung inna Ajai alias Ajju leikhidre. Criminal Appeal No. 598, 2013 da aonba leikhidre. Criminal Appeal No. 337, 2014 asi maral lei haina chennaraba Mukesh na thanggatlakpani.

2. 22.02.2012 da mathakki wakatsing asi High Court ta Trial Court na Indian Panel Code1 gi section 302/149 gi amasung IPC amasung Arms Act, 1959 gi makhada pirakkhiba sibagi dandi dagi ngakpinaba amasung warep chumthokpinaba nijarakpigi matung inna punsi chuppa keisumsangda leibagi dandida onthokkhi. Atoppa warep singdadi aonba leite.

3. 2015 gi Criminal Wakat Nos. 745-748 si State of Uttar Pradesh na maral leiraba mioi 4 bu High Court na punsi chuppa keisumsangda leibagi dandida onthokkhisi sibagi cheirak pinaba yathang pirakkhhi.

4. Case asi samlapna yenglabada maral leiraba Braj Pal Singh na Muradnagar, District Ghaziabad tang 25.08.2007 gi 4.30 AM tabada wakat ama thanggatlakkhhi. Madudi, ayukki pung 3.00 rom taabada mahakki mayamba/manaonupa Vijay Pal Singh gi macha nupi Ms. Rashmi na lao-khonglakpa taakhi. Lao-khongbadu taarabada mahak amasung khunggangdugi mioi kharana yengsillubada mahakki mayamba/manaonupa Vijay Pal Singh, mahakki nupi Smt. Rajesh ground floor da leiba phamungda athouba khutlaina mangak lenthattuna siraga leirammi. Mahakna mathak thangba floor da kakhatlubada Vijay Pal Singh gi macha nupa Nishant, mayanupa Mangal Singh su mangak lenthattuna siraga leirammi. Vijay Pal Singh gi macha nupi Smt. Pinky su ground floor da thina soktuna leirammi. Mahak hospital da athubada pukhatkhi aduga asiba hakchangsingduna leirampham duda asum leihoui. Case registered touraba matungda thijin-humjin houjinkhi.

5. Siduna leiramlaba Vijay Pal Singh gi machanupising Ms Rashmi amadi Smt Pinky (PW-1) bu Investigating Officer na wahang-paokhum touduna thoudoktugi akuppa warol loukhi. Makhoigi waphamgi atung inna kiningai oiraba thouongsinggi akuppa marol phangkhi. Smt. Pinky gi waphamgi matung inna mahakki mapa Vijay Pal Singh ga machin-manao oiriba Braj Pal gi marakta yeknaba mityeng leirammi. Braj Pal gi michangda atoppa machin-manao oiriba Indra Pal gi machanupasu yaorammi. Adugisu mathakta yumlonnariba Mukesh kasu yu thakminnabagi waapham amadagi yeknaba wapham leirammi. Smt. Pinky masamak mama-mapa ga ground floor da tumlammi. Mache Ms. Rashmi, matei Mangal Singh amasung mabung/moupua Nishant mathak thangba floorda tumlammi. Ayukki pung 3.00 rom tabada minin taaduna hougatlakpada yumlonnariba Mukesh, Tungal Singh gi macha nupa, Braj Pal Singh, Ravi, Ajai alias Ajju na mama-mapabu thaang-ta sijinnaduna asok-apan thokhallammi. Mukesh na

nahakpusi thaang sijinaduna asok-apan thokhallammi. Mahak mapunsi kannaba kanna hotnarammi, sokpaga maramna leimaida taaduna leirammi. Mukesh na, “Abrar, kana amata hingna thaaba yaade, loinamak hatlamgadabani” haina haiba waaphamsu mahakna taakhi. Adugi matungda Mukesh mathakta kaakhi. Mahak aki-pakhatpaga loinana mamagi nakanda taaduna leikhi. Adugi matungda mahaksu siraboi ningduna makhoi yumdu thaadoktuna chatkhi. Makhoina Pramod kouba ming amasu pallamba Pinky na taakhi. Abrar amadi Pramod Noorpur kouba Mukesh ki nupigi mapam oiriba khunggangdagini. Abrar amadi Pramod Mukesh ki yumda toina laakpaga maramna mahakna masak khangba misingni. Mihatpasingna chatkhraba matungda Ms. Rashmi na mathaktagi kumtharabada mama-mapa, mabung/moupua amasung mapuroibagi asiba hakchang ukhi. Makhoi anina kiraduna lao-khong touduna thoklakpada Braj Pal, Mukesh amasung mioi atoppa kharana kari tourabano hanglakhi. Hanglariba makhoina yum changlaga yengluba matamda asiba hakchangsingdu urammi, aduga Smt. Pinky da kanana tourabano haina hanglammi. Akibana thalladuna kanana thouong sing asi toukhibano haibadu khangde, ude haina Ms. Rashmi amadi Smt. Pinky na khumkhi. Makha tarakpada Mukesh na Ajai alias Ajju da gari purakhallaga Ms. Rashmi amadi Smt. Pinky bu hospital da pukhi. Lambida amuk hanna Mukesh na makhoi anida kanana thouong sing asi toukhibano haina hangkhi adubu makhoina khangde haina khumkhi. Smt. Pinky na Investigating Officer na wahang-paokhum tourabada thokkhiba thoudoksing marik chumna likhi. Mache/manaonupi amasung mahakpusu hatnaba thousil sillakani haiba achetpa thajaba leikhibagi maramna Investigating Officerda mihatpasinggi matangda mahakna haikhibasingdu phongdokpidanaba haijakhi. Wari liba loisillabada Smt. Pinky waanthakhi. Ms. Rashmi nasu Smt. Pinky na piba paodamga maannaba paodam Investigating Officer da pikhi; adumoinamakpu court tadi mangonda wahang-paokhum toukhide. Thoudok adugi akuppa paodam louraba matungda Investigating Officer na toupham thokpa makha chatthagadaba thabaksing toukhibaga loinana asiba hakchangsing post-mortem gi thakhi. Adugisi mathakta mathakthongbasingda pigadaba paodamsing piraduna thoudok thokliba maphamda chatthagadaba thouramsing sinduna case siga mari leinagadaba pot-chei sing loukhatkhi.

6. Thoudok thokpa numitki ayuk pung 5.25 da Smt Pinky (PW-1) bu layengbiba Sarvodaya Hospital, Ghaziabad ta puba Dr. Rajeev Sharma (PW- 2) gi report ki matung inna Smt. Pinkygi asok-apansingdi:

(i) Yet thangba khunaobi amasung khuningthou kakthatkhre

(ii) Yet thangba khutki palmar aspect ta 8 cm. x 2 cm. gi thangpham, eena ngaanglaba lei. 2 cm palmar crease ta distal lei.

(iii) Yet thangba khutta 6 cm. x 2 cm. eena luplaba amasung khujengda 5 cm. gi thangpham.

(iv) Oi thangba khajaidagi chinbanromda 5 cm. x 3 cm. gi thangpham lei.

(v) Mathak thangba ngaksamda 5 cm. x 1 cm. gi thangpham lei.

(vi) Khudombiga khuyaigi maningthangbada 2 cm. x 1 cm. & 2 cm. x 0.5 cm. gi thangpham lei.

(vii) Oi thangba nakongda 3 cm. x 1 cm. gi gi thangpham amasung eesu taariba lei.

Ngaksam amasung yaarigi X-ray numittuda Dr.Rajeshwar Yadav, Radiologist (PW-3) na loubagi reportsu lei.

7. Numittugi nungthin da Dr K.N.Tiwari (PW-4) na leikhidrba mi 4 dugi post-mortem pangthokkhi. Post-mortem dugi reportsingdi:

Smt. Rajesh

Ante-mortem Injuries (Exhibit Ka-3)

(1) Yet thangba ngaksamgi makha oirap singli thengna 8 cm. x 4 cm. kakpa, suprasternal notch ki saru 3 cm., ngaksamgi soft tissues, eegi tong amasung trachea da thangpham lei.

(2) Oi thangba makha thangba ngaksam da 8 cm. naakonggi makhada 7 cm. x 3 cm. muscle amasung soft tissue da thangpham lei.

Post-mortem wound

Yet thangba nangganda ngaksamdagi yanglen saru hourakpham phaobada 8 cm. x 5 cm., 7 cm. x 4 cm., 3 cm. x 2 cm., 2.3 cm. gi thangpham lei.

Vijay Pal

Antemortem Injuries (Exhibit Ka-4)

(1) Mathak thangba ngaksam mamaang amasung nakchepta 10 cm. x 3 cm. kakpa, nakongda saru thengna, hyoid soft tissues amasung eegi tong sokpamakhei 8 cm. gi thangpham lei.

Post mortem wound

(1) Khut yetki dorsum da 7 cm x 3 cm. gi thangpham lei.

(2) Khut yetki dorsum da 1 cm. x 1 cm. khotpham lei aduga yet thangba chinbanda thangpham lei.

Mangal

Antemortem Injuries (Exhibit Ka-5)

(1) Yet thangba ngaksam mathakwai, makha thangba yaarida Vertebrae, Mandible, ngaksamgi muscle gi soft tissues Larix, hyoid and eegi tong yaona 25 cm. x 9 cm. gi thangpham lei.

(2) Chinbandagi houraga yet thangba naakong, muscle yaona ear lobule da 11 cm. x 1 cm. thangpham lei.

Nishant

Antemortem Injuries (Exhibit Ka-6)

(1) Yet thangba ngaksam da 9 cm. x 2 cm. gi thangpham nakong yousillakpa phaoba aduga nakonggi makha thangba muscle da 6 cm. gi thangpham lei.

(2) Mathakta piriba asokpasigi makhada 5 mm. gi thangpham; muscles, Larynx, (thyroid cartilage amadi hyoid) tong da 10 cm. x 8 cm. gi thangpham lei.

8. Vijay Pal Singh gi macha nupi ani, haibadi, Smt Pinky and Ms Rashmi dagi waarol louraba matungda Investigating Officer Sub-Inspector Ram Babu Saxena (PW-9) na leikhidraba Nishant ki no. 9336780542 sijinaba mobile phone su thiba phangdre haiba waapham isinkhi. Matung taarakpada Investigating Officerna Mukesh amadi Braj Pal Singh bu phaakhi. Mukesh na mihat-mipul aduda saruk yaakhi haibagi waapham thamlaba matungda mahakki mayumdagi ee teiraba khonggrao amasung thaang loukhattuna custody da puraga sealed toukhibaga loinana memo semkhi. Mihat-mipunda chennariba Abrargisu motorcycle su custody da purakkhi. Braj Pal Singh nasu mihat-mipul aduda saruk yaakhi haibagi waapham thamlaba matungda mahakki mayumdagi ee teiraba singjang maanba atenba khutlai phangduna custody da puraga sealed toukhibaga loinana memo semkhi. 28.08.2007 da mihat-mipulda chennaba atoppa mioi Ravi su phaakhi. Maanasu mihat-mipul aduda saruk yaakhi haibagi waapham thamlaba matungda mahakna phongdorakpagi matung inna mandomchagi yumdagagi ee teiraba phurit amasung mobile number 9336780542 haapa LG Reliance mobile phone phaagattuna custody da puraga sealed toukhibaga loinana memo semkhi. 4.11.2007 ta Ajai alias Ajju su phaakhi. Maanasu mihat-mipul aduda saruk yaakhi haibagi waapham thamlaba matungda mahakna phongdorakpagi matung inna thoudok aduda sijinakhiba thang mahakna khunggangdugi turel mapanda lottuna thamba phaagattuna custody da puraga sealed

toukhibaga loinana memo semkhi. Phaagatkhiba khutchu-khutlai amasung potlamsing adu forensic examinationgidamak Vidhi Vigyan Prayogshala, Agra da thaakhi.

9. Investigation loiraba matungda chennariba mioi 4 haibadi Braj Pal Singh, Mukesh, Ravi amasung Ajai alias Aju ki mayokta charge-sheet filed toukhi. Mukesh amasung Ajai alias Aju ki mayokta sections 4/25 of the Arms Act ki makhada cases 2 pankhi. FIRs 2 ga loinana charge-sheet thaajinduna mari leinaba waaphamsing punsinduna Trial Court ta pukhatkhi.

10. Trial Court tuda mioi 13 koukhattuna wahang-paokhum toukhi. Wahang-paokhum aduda prosecution da puthokliba waaphamduda ayetpa leikhidabaga loinana prosecutiongi matung inna darker leiba potlam amasung che-changnachingbada ayetpa amata leikhide.

11. Criminal Procedure Code2 gi section 313 gi matung inna chennariba mioi 4 dunasu makhoigi waapham thamkhi, madudi makhoibu seraannana maral sinjinbani haikhi. Adugisu mathakta phaagatkhiba potlamsingdu mihat-mipulduda sijinnakhibasing natte su haikhi. Sakhi pikhibasing adusu yekna-mityeng yengbagi maramna seraannaba sakhi pibani haiba waapham makhoi marina thamkhi. Sarvoday Hospitalda puba Dr. Islamuddin (DW-1) bu Smt. Pinky hospital duda laikannakhi haiba sakhi pinaba waahang-paokhum toukhi. Aduga Mool Chandgi nupi, Smt Berwati, Ajai alias Aju kina mama oiribi (DW-2) oina waahang-paokhum toukhi. Smt. Berwatigi waaphamgi matung inna machanupa Ajai alias Aju Mukesh amasung Braj Palga loinana phaakhraba matungda Ajai alias Aju thadorakkhi. Adubu numit 20gi matungda mahak amukka phaakhi haiba waaphamsu thamkhi.

12. Mihat-mipul adugi thoudokki paodam, phagatlaba khutchu-khutlai amasung sakhisinggi paodam kupna yengsillaba matungda tang 24.09.2009 da Trial Courtki warep pikhi. Madudi mihat-mipulduda chennariba mioi marisimakna makhoigi mari-matasu oiriba thoudok aduda leikhidraba mioi maridu hatkhibani aduga Smt. Pinky (PW-1) busu hatke toukhibani. Aduna section 302/149, IPCgi section 307 amadi IPC ga Arms Act, 1959ga mari leinaba aingi waangmagi thouongsing chattharubagi maramna sibagi dandi, punsi chuppa keisumsangda thambagi dandi aduga asisingsidagi hanthaba dandi phanggadabani haina warep loukhi.

13. Trial Court na Sibagi dandi laothokpadugi mayokta dandi phanggadouriba makhoi mari na dandi hanthanaba High Court ta wakatlakki. Wakatlakliba Braj Pal, Ajai alias Aju amadi Ravi na tongan-tonganba counsels sijinnakhi. Adubu Mukesh pudi legal aid tagi amicus curiae sijinnakhi. High Court pukhatlakliba wakat, warol amasung record ta leiriba waaphamsing, Trial Courtna warep loukhibagi maramsingda ayetpa leitabaga loinana kupthana neinaraba, khantharaba matungda law gi matung inna ngakpiheibayaba jaga yenglaga Trial Court na sibagi dandi pikhibasu punsi chuppa keisumsangda leibagi dandi oina pinaba warep loukhi.

14. Thoudoksigi maramna awa-ana taariba wakatmising Court sida leiri.

15. Party animakki learned counselsinggi waapham mapung phaana taaraba amasung learned counselsingna case asiga mari leinaraba sakhi amadi potlamsing puthokpasu kupthana Court sina neinaba khak nattana Trial Court na case asiga ahoubadagi thamba achumba waarolsing taare.

16. Wakatmisinggi mahut sinduna waapham amadi waarolsing puthoktuna makha tana Khanna neinabagi waarolsing makhatana piri.

i) Case asida mitna uba sakhi piriri Smt Pinky (PW-1) asi leikhidraba mioi marisiga yaamna naknaba marini. Adugisu mathakta mahaksi wakatlakliba mioisingsiga yeknaba waakhallan leiba mini. Aduna mahakna sakhi oina piba paodamda thajaningai leite.

ii) PW-1 gi sakhi amasung paodamsi nattana case asiga mari leinaba atoppa paodam amata leite.

iii) Smt Pinky (PW-1) na thoudok adu hek thokpa matung lao-khongba matamda khungganggi mina amasung mari-matasingna hanglaba matamda mihatpa kanano haiba waapham thamkhide. Adugisu mathakta mahakpu hospitalda admit toubu matamdasu mihatpa kanano haiba waapham thamkhide. Aduna case asida sakhigi waaphamda hongdok-hongjin lei.

iv) Thoudok thokliba numittugi ayukta huigi squad sijinaduna thidin humjin chatthakhi aduga sakhi oi hairiba Smt Pinky (PW-1) na mihatpa ukhiba amasung khangkhiba leite. Huigi squad sijinaribasi mihatpa masak khangdabagi maramnani. Aduna case asida sakhigi waaphamda hongdok-hongjin lei.

v) Mihat-mipulgi thoudok thokpa matamda thokliba yumduda leiramba Ms Rashmi amadi leikhidraba Vijay Pal Singh, Braj Pal gi mapa oiriba aduga Ravigina mapubok oiriba Horam, makhoi anibu waahang-paokhum toudabagi maram pikhiba leite.

vi) Smt Pinky (PW-1) na pikhiba paodam amasung waaphamsing section 164 CrPC gi matung inna Magistrateki mamaangda thamkhiba leitabana chingnaningai oihalli.

vii) Section 161 CrPC gi matung inna Smt Pinky (PW-1) na Investigating Officergi mamaangda mihat-mipulsi kanana thokhankhibano haiba phongdokkhiba leite haina wakatmi Ravi gi Learned counsel na phongdokkhi. Adugisu mathakta Ravigi ming asi trialda ahaanba oina puthorakkhibasi hongdok-hongjin touba waaphamni haikhi. Mahakki client pu maram chadana casesida pusinbani haina phongdokkhi.

viii) Wakatmi Mukesh ki Learned Amicusna sakhi piriba misigi waaphamda aaraanba amasung chaanadaba lei hainasu phongdok-e.

17. Nakan amadana respondentki learned counsel oiribagi matung inna State na thamkhiba warepsing asi Trial Court amadi High Court na kupthana amasung mapung phaana case asiga mari leinaba waapham amasung potlamsing thijinduna, sijinnaduna neinaraba matungda taakhiba warep loubagi maramna taakhiba waarep asida onthok-onsin natraga makha taabagi maram leite haina phongdokkhi. Learned Counsel na makha tana phongdokkhi, madudi wakatlakliba mioising asi leikhidraba misinggi anakpa mari oibagi maramna lam-tu munningbagi aduga laman khumningbagi maramna tamthiraba mihat hatpakhat nattana sakhi oiriba Smt Pinky (PW-1) busu haatnaba hotnaduna nangakta thaang-ta sijinaduna sokhanba, khutsa maton kakthatpagi thouramsing pangthokkhibani. Makhoigi tamthiraba matou asi yenglaga ngaakpinaba maram leite haina makha taakhi. High Court na sibagi dandi bu punsi chuppa keisumsangda leihanbagi dandida onthokpasu chumde aduna High Court na punsi chuppa keisumsangda leihanbagi dandi haiba waaphamsi naakanda thamduna Trial Court na pirakkhiba sibagi dandisimak warep oipham thok-e haina phongdokkhi.

18. Paodamsing asida aonba leitana makha taana neinakhi. Haibadi, PW-1 asi thoudok aduda hinghouba soktuna leiba sakhini. Mahakki asok-apangi maramda wahang-paodam atoppa leite. Aduna PW-1 na piba paodamda aaraanba, chingnaningai oiba leite. Mahakki paodamsingda kupthana yenglaba matungda prosecution na section 161 CrPC gi makhada thoudok adugi loukhatpa waaphamga chaanei. Cross-examination touba matamdasu waaphamsingsida aonba, khethnaba natraga case sonthahanba yaaba waapham leikhide. Aduna PW-1 asi thajaba yaaba sakhi oikhibakhak natana mahakki waaphamsing si tasengna thokkhiba thoudoktugi warini haina phongdokkhi.

19. Leikhidraba Vijay Pal Singhgi macha nupi anina mihat-mipul ubakhak nattana masamaksu asok-apan kaya thengnarabatungda ahanba khongphamdadi mihat-mipuldu kanana toubano haikhide. Madu masa kanjanaba mihatpasingdugi mamaangda achumba waapham phumjinkhibani. Adumoinamakpu Investigating Officer na hospitalda waahang-paokhum ahanba touba mikuptagi Smt Pinky (PW-1) na achumba waarolga loinana mihat-mipuldu kanana toukhino haibadu marik chumna phongdokpaga loinana thoudoktugi mathang manao naiba thouongsing adu likhi. Maram oiduna wakatlaklibasingda khudong chaba karigumba amata piningai leite.

20. Thoudok thokpa ayuktuda huigi squad sijinnakhibadusu maram chai maramdi mihat-mipul touriba misinggi maming matha FIR panba matamda haikhiba, pikhiba leite. Prosecution matung innasu FIR panba matamda amasung Smt Pinky (PW-1) bu hospital da pukhiba matam phaobada mihat-mipul touriba misinggi maming matha pankhide aduga pankhidabagi maramsu chai. Leikhidraba Vijay Pal Singhgi macha nupisingna mapunsi kannaba misak takkhibani, natragadi makhoisu siramlaba yai.

21. Ms Rashmi amadi Vijay Pal Singhgi mapa Horam bu waahang-paokhum toukhibasusu akaiba leite maramdi prosecutionna darkar oibagi matung inna sakhi amasung paodam masing hingatke hingatloi haiba yai. Sakhi masing hingatpana achumba sakpa yaade adubu sakhidugi achumba waarolduni darkar oiribadi. Smt Pinky (PW-

1) si masasu thoudoktuda soklabi aduga siba yaaba phibamda awa-ana nanglabi sakhini. Aduna case asigi Trial Courtna pikhiba waarepta aonba leipham thokte haiba waapham learned counselna thamkhi.

22. Section 164 CrPC gi makhada leiba paodam waaphambu yengsindabana courts ki warepta chaanadaba leite. Section 164 CrPC gi makhada paodam waapham loubadi Investigating Officer gi daita ni. Karigumba Investigating Officer duna Section 164 CrPC gi makhada paodam waapham loubada darkar leite khallabadi PW-1 ni piba paodam-waapham amasung trial duna case ka mari leinaba pot-chei puthokpasinggi kaanapham leite.

23. Ravigi learned counsel gi matung inna Smt. Pinky section 161 CrPC gi waphaam-paodam pibada Ravigi ming pankhide haibasi aaraaba waaphamni. Courtna Smt Pinky gi waaphamsing neinabada Ravigi ming thoudoktuga mari leinana anirak pankhiba yaoe.

24. Wakatmi Mukesh ki Learned Amicus sakhi amasung paodamsingda aaraaba kaya yaoe haiba waapham thamkhi. Adumoinamakpu waaphamsingdu cases gi warepta khetnaba leibagi machak oidabagi maramna hairibasingduda kupthaba darkar oide haina Courtna haikhi.

25. Mathakta phongdokkhraaba waaphamsingsina maram oiraga High Courtna piriba yaathangsida wakatmisinggi maralda waatthahanba yaaba amata leite. Aduna maram oiduna 2013 gi Criminal Appeal Nos. 598-600 amasung 2014 gi Criminal Appeal No. 337 animak dismissed toukhre. Statena cheirap hengatnaba file toubaba wakatkimatangda High Court na sibagi dandidagi punshi chuppa keisumsangda thambagi dandi da onthokpasigi achetpa maramsing marik chumna pibagi matung inna 2015 gi Criminal Appeal Nos. 745-748 su dismissed. Wakatmising adumak custody leiduna phangpham thokpa dandi phangganabi.

26. Atoppa cases gi mari leinaba wakatsing kakthatkhre.

Ankit Gyan
(Assisted by : Mahendra Yadav, LCRA)

Wakatsing kakthatkhre.