

BIKASH RANJAN ROUT
v.
STATE THROUGH THE SECRETARY (HOME) GOVERNMENT
OF NCT OF DELHI, NEW DELHI
(Criminal Appeal No. 687 of 2019)
APRIL 16, 2019
[L. NAGESWARA RAO AND M. R. SHAH, JJ.]

Code of Criminal Procedure, 1973 ki sections 173(8), 167(2), 227 amasung 228 – Magistrate amagi shakti – Crime thigatliba officer na report/challan/charge-sheet thagatlakpa matamda magistrate amana toubha yaba thabaksing – Fangliba machaksing adu yenglaga maral siriba meei adu maral leite haina thadokpa, officer aduda makha tana thijinkho amasung thijinbadugi cherol pikhatlakkho haina yathang piba – Karamba matamda yabage – Wayel asumna pikhi: Case ama cognizance lokhatlaba matungda maral sibiriba meei ama thadokkhrabadi, section 173(8) ki makhada Magistrate amana masa mathantagi wakhalna lamjinglaga makha tana thijinkho haiba natraga Section 227 na piba shakti sijinnaraga amuk hanna thijinkho haiba ngamde – Fangliba machaksing asida, thijinliba officer aduna makha tana thijinkhige haikhide amasung magistrate aduna masa maranai wakhalna makha tana thijinkho amadi thijinbadugi cherol ama pikhatlakkho haina yathang piba madugi ayaba leite - adugumba thowong adu Magistrate adugi shaktigi wangmadani – Maram asina, maral sibiriba meei ama thadokkhraba matungda Magistrate aduna makha tana thijinkho haiba yathang pibadu chatna yade amadi madu kakthatkhi – thijilliba officer aduna makha tana thijinkhige haibagi mathou taba darkash tharakpa haibadu masagi apambani amasung thijinlaba matungda cherol ama section 173(8) ki makhada pikhatlakpa yai.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 687/2019.

Delhi High Courtna Criminal Misc. Application No. 3386/2013 ta tarik 20.08.2014 da pikhiba wayel adugi mayokta tharakpa appeal.

Mrinal Kanti Mandal, Parvez Bashista, Mukesh Kumar, Debasis Misra, Advocates. --- Appellant ki ukilsing.

Ms. Vibha Datha Makhija, Sr. Adv., Ms. B. Sunitha Rao, K. Subba Rao, B. V. Balaram Das, Advocates --- Respondent ki ukilsing.

Wayel asi Justice M. R. SHAH na louthokkhibani.

1. Appeal thabagi ayaba pire.

2. Tarik 20.08.2014 da Criminal M. C. No. 3386/2013 da Delhi High Court na wakat adu kakthatlakpa amasung khang heiraba Addl. Chief Judicial Magistrate (Nongchup Delhi) na tarik 05.02.2013 ta makha tana thijinkho haina pikhiba yathang adubu chummi haina ayaba pikhiba wayel aduna mangonda nungaihandre amasung madu yaningde haiduna ahanbagi maral sibiriba meei aduna wayel adubu singnaduna tharakpa appealni.

3. Asengba maral sibiriba meei oiriba appellant asigi mathakta Indian Penal Code ki sections 420, 468 amasung 471 gi maral siraduna Janakpuri police station, Delhi da tarik 28.09.2007 da first information report No. 426/2007 pansillakhi. Thigatliba police officer aduna thijinba loiraduna mathakta pankhriba crime duga mari leinana thijinba loibagi cherol charge-sheet pikhatli. Khang heiraba Magistrate aduna pikhatlakliba cherolsing adu munna khanaraba matungda maral siriba meei adugi mathakta charge maral sibagi mahutta tarik 05.02.2013 da

piba wayel amana maral leitre haina meeo adu thadokkhi. Hanna maral sibiriba houjikna appellant oiriba meeo asigi mathakta IPC gi sections 420, 468 amasung 471 ga mari leinana ain kaiba thabak toukhi haiduna Delhigi Janakpuri Police Stationda tarik 28.09.2007 da FIR no. 426/2007 asi chankhi. Case thijinba loibaga thijinliba officer aduna mahakki mathakta siriba maralsing haibadi IPC gi section 420, 468 amasung 471 ka mari leinana charge-sheet pikhatlakkhi. Meeo asigi mathakta maralsing adu semba matam amasung pikhatlakliba maral sibaga mari leina che pumnamak khannaba matamda khang-heiraba Magistrate aduna tarik 05.02.2013 da pikhiba wayel amana mahakpu maral leitre haiduna thadokkhi. Adubu, mahakpu thadoklaba matungda khang-heiraba Magistrate aduna pikhiba wayel adumakna Additional Police Commissioner (Nongchup) Delhi bu case adugimatangda thijinkhiiba adu fajana toukhibra haibadu yengsinna amasung case ama wayel chathaba hounaba charge sheet pikhatpagi thabak touriba prosecutiongi thabak touriba masha adu yengsinna yathang pirakkhi. Khang-heiraba Magistrate aduna case adu makha tana thijinba mathou tai amasung madu fajana thijinlaba matungda cherol ama pikhatlaknaba yathang pirakkhi.

3.1 Khang-heiraba Magistrate aduna pirakliba case adu makha tanna thijinkho amasung cherol ama pikhatlakkho haiba wayel aduna mangonda nungaihandre amasung madu yanningde haiduna hanna maral sibiriba meeo oikhiba hujikki appellant asina wayel adugi mayokta Delhi High Court ta Criminal Miscellaneous Case No. 3386/2013 tharakkhi. Marakshida Magistrate aduna tarik 05.02.2013 da pirakhiba yathang adugi makha taba thabak oina District Investigating Unit, West District, Police Post MIG Flats, JBlock, Rajouri Garden, New Delhi na CrPC gi section 160 gi makhada police ta lakna pirakpa summons tharakkhi. Appellant asina hairiba summons adubusu singnakhi. Appellant asina maru oina singnariba khang-heiraba Magistrate aduna tarik 05.02.2013 da pikhiba wayel adugi sarukti case adu makha tana thijinkho amasung thijilliba officer aduna thijinbagi marol yaoba cherol ama pikhatlu haibaduni. High Courtna mahakki wakatche adu kakthatkhi amasung Magistrate aduna pikhiba yathang haibadi case adu makha tana thijinkho haibadu khut thingjinaba mathou tade hairaduna asumna wayel pirakhi madudi thijinkhibadu fajana toukhida amsung thijinba adu case adugi saruk kharakhaktada toukhibani amadi maram asina khang-heiraba Magistrate aduna makha tanna thijinduna chap chaba aroiba tanduna cherol ama pikhatlakkho haibadu chummi haina wayel pirakkhi. Ashumna High Courtna mahakki wakatche adu kakchi. Madu pendraduna hanna maral sibiriba meeo houjikna appellant oiriba asina wayelshang asida lakhibani.

4. Khang-heiraba appellant ki ukil Mr. Mrinal Kanti Mandal na leiraba case ki fivam amasung machaksing asi yenglaga khang-heiraba Magistrate aduna tarik 05.02.2013 da pikhiba makha tana thijinkho haiba wayel adubu High Court na ayaba pikhibadu chumde haina yamna kanna yetli.

4.1 Khang-heiraba appellant ki ukil asina yam kanna yetkhi madudi khang-heiraba Magistrate aduna maral siriba meeo adu maral leitre haiduna thadokkhraba matungda CrPC ki section 173(8) ki matung inna Magistrate aduna makha tana amuk thijinkho haina yathang pinabagi shakti leitre haibadu High Courtna fajana yengkhidre.

4.2 Khang heiraba ukil asina makha tana haikhi madudi Magistrate amana charge sheet amasung mari leina cheda yaoriba machaksing khannaraga maral sibiriba meeo ama thadokkhraba matungda Magistrate adugi mathou loire amasung CrPC gi section 173(8) ki makhada case adu makha tana thijinnaba yathang pinabagi shakti leitre.

4.3 Appellantki maikeida leplibaba khang-heiraba ukil asina makha tanna pukhatkkhi madudi maral sibiriba meeo ama thadokkhraba matungda khang-heiraba Magistrate aduna makha tanna thijinkho haibadu CrPC gi section 167(2) nasu athingba thammi.

4.4 Appellant ki maikeida case lepliba khang-heiraba ukil asina High Courtna pikhiba wayel adubu singnaraduna akanba maongda pukhatlakkhi madudi maral sibiriba meeo ama thadokkhraba matungda khang-heiraba Magistrate aduna makha tana thijinkho haina pikhiba yathang adubu sougatladuna wayel piba matamda wayel chathanaba warep loudringei mamang amasung wayel chathanaba warep louraba matungda sijinnagadaba Magistrate amagi shaktisinggi khetnaba adu High Courtna fajana neinabidre. Mahakna hairakkhi madudi wayel chathanabagi warep loudringei mamangda sijinnagadaba shaktising adu wayel chatthanaba warep louraba matungda sijinnaba ngamde.

4.5 Mathakta pankhriba warolsing adubu mateng pangnaba wayelshang asina pikhiba wayel kara haibadi Bhagwant Singh v. Commissioner of Police, (1985) 2 SCC 537 amasung Reeta Nag v. State of West Bengal (2009) 9 SCC 129 khang-heiraba ukil asina pukhatlakkhi. Mahakna wayelshang asina Vinay Tyagi v. Irshad Ali @ Deepak, (2013) 5 SCC 762; Vasanti Dubey v. State of Madhya Pradesh, (2012) 2 SCC 731; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 amasung Randhir Singh Rana v. State (Delhi Administration), (1997) 1 SCC 361da pikhiba wayelsing aduna mahakna pukhatlakkhi wafamsing adu mapung fana sougatli haina kanna thamlakkhi.

4.6 Pankhriba wayelshang asigi wayelsing aduda yumfam oiraga appellant ki maikeida lepliba khang-heiraba ukil aduna yamna kanna hairakkhi madudi maral sibiriba meeo ama thadokkhraba matungda acase adu makha tana thijinkho haiba yathang piba Magistrate amagi wayel amasung madubu ayaba piriba high Court ki wayel animak yamna chumde. Maram asina mahakki wakat adu ayaba pibiyu amasung khang-heiraba Magistrate aduna makha tana thijinnn ana pikhiba yathang amasung madubu ayaba pikhiba houjik singnariba High court ki wayel animak kakthapiyu amadi chatnahanbiganu haijarakkhi.

5. Respondent state ki maikeida case lepliba khang-heiraba senior ukil Ms. Vibha Datta Makhija na appeal asi akanba maongda yetkhi. Mahakna asumna thamlakkhi madudi case adu saruk kharakhak thijinba oibana khang-heiraba Magistrate amadi High Courtna case adu fajana thijinkhide amasung case adugi yumfam oigadaba sakhi oiba yaba machaksing fajana khomjinkhide haibadu asoiba leite amadi thijinba adu pendrabanina case adu makha tana thijillu haibadu khut thingjinba touroi haikhiba High Courtki wayel adu chummi haina pukhatlakkhi.

5.1 Respondent state ki maikeida case lepliba khang-heiraba senior ukil asina makha tana pukhatlakkhi madudi case ama faja thijindre amasung natraga thawai yaodana thijinba oire maduna maral sibiriba meeo dudu khudongchaba fanghanllani haina lourabadi Magistrate aduna case adu makha tana thijinkho haibagi shakti lei. Mahakna makha tana pukhatlakkhi madudi Magistrate amana makha tana thijinnaba shakti sijinnabaasi CrPC gi section 173(8)ki makada ayaba piri amadi wayelshang asigi mathakta pankhriba Bhagwant Singh amadi Reeta Nag case yaona atei atoppa case kayada pikhiba wayel kayanasu sougatli. Maram asina leiriba fivamsing amasung machaksingdu yenglaga, khang-heiraba Magistrate aduna case adu makha tana thijinkho haina yathang pikhiba adu aramba leite haina pukhatlakkhi.

5.2 Kishan Lal v. Dharmendra Bafna, (2009) 7 SCC 685 hairiba case aduda wayelshang asina pikhiba wayel adugi mateng louraga khang-heiraba respondent-state ki ukil asina asumna thamlakkhi madudi thijinliba agency amana pikhatlakpa machaksingdu yenglaga khang-heiraba Magistrate amana wayel chatthanaba warep loubu ngami. Magistrate aduna makha tana thijinkho haina yathang pibasun gammi haina pukhatlakkhi. Wayelshang asina haikhibagi matung inna Magistrate amana case ama fajana thijillibra haina yengsinbagi thoudangsu lei haina pukhatlakkhi. Magistrate amana case amagi wayel louraba matungdasu yaona case

adugi tangkak kayada makhatana thijinkho haina yathang piba ngammi haina wayelshang asina haikhibasu mahakna pukhatlakkhi.

5.3 Hemant Dhasmana v. Central Bureau of Investigation (2001) 7 SCC 536 case wayelshang asina pikhiba wayeldugi mateng louraga makha tana thamlakkhi madudi achumba wayel fanghannaba pandamda khang-heiraba Magistrate amana makha tana thijinkho haiba wayel adu High Court yengsingba ngambagi shakti sijinnaduna khut thingjinba touroidabani.

5.4 Wayelshang asina Sajjan Kumar v. Central Bureau of Investigation, (2010) 9 SCC 368 caseta pikhiba wayel adusu respondent-stateki maikaida lepliba khang-heiraba ukil asina mateng yamna loukhi. Mahakna pukhatlakkhi madudi CrPC gi section 227 amasung 228 anigi tangkak youraba yaona charge-sheet pikhatlaba matungdafaoba Magistrate aduna maral sibiriba meei adu koukhatpa amadi wayel chathabaduda yao haiba ngammi.

5.5 Mathakta pukhatlakhiba wafamsing amadi pankhriba wayelshang asina pikhiba wayelsing asida yumfam oibraga mahakna houjikki wakat asi kakpinana haijarakkhi.

6. Nakal animakki maikaida lepliba khang-heiraba ukilsingna pukhatlakhiba warolsing yam sangna tare. Ahanba maktada khanggadaba wafamdi case ama thijinba loiraduna thijilliba officer aduna charge-sheet pikhatlaktunna khanaraba matungda maral sibiriba meei adu maral leitre haiduna thadokkhraba matungda khang-heiraba Magistrate aduna makha tana thijinkho haiba yathang pirakpa wayel adubu chummy haina ayaba pikhiba High court ki wayel adu wakat asida singnaribani. Houjikki case asida masisu khangba tai madudi thijilliba officer aduna thijinba loiraba matungda khang-heiraba Magistrate aduda charge-sheet adu pikhatlakhrabani. Madugi matungda, khang-heiraba Magistrate aduna tougadaba mathoudi CrPC gi section 227 amasung 228 gi matung inna maral sembagi thabaktu paikhatkadabani. Pikhatlakhiba machaksing adu khannaraba matungda khang-heiraba Magistrate aduna maral siriba meei adu thadokkhre. Adum oinamak, maral sibiriba meei adu thadokpa matam adumaktada Magistrate adumakna makha tana thijinkho hairaduna thijilliba officer aduda makha tana thijinba loibagi cherol adu pikhatlanaba yathang pikhi. Magistrate aduna makha tana thijinkho haiba yathang adugi saruk aduni mafamsida yetnariba wafamsi. Maram asina, wayelshang asina khanagadaba atenba wahangdi Magistrate amana maral sibiriba meei amamaral leitre haiduna thadokkhraba matungda Magistrate aduna makha tana thijinkho haiba ngambra amasung thijilliba officer aduda thijinbagi cherol adu pikhatlaknaba yathang piba ngambra?

6.1 Mathakta haikhriba wahang/wafam asi khannaba matamda CrPC gi section 173(2) gi matung inna thijilliba officer aduna cherol adu pikhatlakpa matamda khang-heiraba Magistrate aduna sijinnaba ngamba shakti amadi/ natraga thijinba loiraduna cherol/challan/charge-sheet pikhatlakpa matamda Magistrate aduna karam karamba thabak toubu yabage haibaga mari leinana wayelshang asina pikhiba wayel khara neinaba amasung sijinaba mathou tai.

6.2 Mathakta pankhriba maming chatkhiba matungdasu yamna toina sijinakhiba case Bhagwant Singh da wayelshang asina pikhiba wayel aduda karigumba thijilliba officer amana cherol/challan/chargesheet ama pikhatlakpa matamda khang-heiraba Magistrate amana loukhatkadaba khongthang amasusung kari kari tougadage haibadu wayelshang asina khannakhi.maming chatlaba wayel adugi para 4 da wayelshang asina makhagi asumna laothokkhi:

“4. Section 173gi sub-section (2)(i) gi matung inna police station amagi officer-in-chargena Magistrate amana khannabinaba cherol/challan/chardesheet pikhatlakpa matamda khetnaba fivam anigi manungda ama oiba yai.adugumba cherol aduna fangliba machaksing aduda maral sibiriba meei amana natraga meeoisingna crime ama tokhre haibadu thajaningai leire hairakpa

yai amasung matamduda , Magistrate aduna paikhatpa yaba thabak ahumgi manungda amadi: (1) mahakna cheroldu ayaba pibaga laoinan awayel chathanaba warep louba amasung makha tab athabaksing paikhatpa natraga (2) cheroldu ayaba pidaba amasung makhataba thabaksing paikhattaba natraga (3) section 156 ki sub-section (3) gi matung inna police pu makha tana thijinhanba amasung loiraga cherol ama pikhatlaknaba yathang piba. Nakal amarmda, karigumba ahanbagi cherol aduna policena karigumba crime adu toukhibagi machak fangdre hairaklaba, Magistrate aduna mauksu paikatpa yab athabak ahumgi manungda amadi: (1) cherol adu ayaba piduna makhataba thabak paikhattaba natraga (2) cherol adu ayaba pidaba amasung leiriba machaksing aduda crime adu wayel chathanaba warep louba amasung makha taba thabak loukhatpa natraga (3) section 156 gi sub-section (3) gi matung inna police ta makha tana thijinkho haina yathang piba. Fivam animakta amahektada, Magistrate aduna crime adugi makha tab awayel chathanaba warep louduna makha taba thabak paikhatpada, crime adugi pao pirakkehiba meei aduda akaiba natraga sokhanba thok-hande natraga asiba yaokhiba oiragasu, mahakki naknaba mari mata amada akaiba thok-hande maramdi case adugi matangda Magistrate aduna wayel chatthanaba amasung makha taba thabaksing paikhatnaba warep loubani. Adubu karigumba Magistrate aduna crime adu wayel chathanaba warep louraba amasung maral siriba meei kharagi mathakta machak leire haiduna wayel chatharaga FIR da maming pallaba maral sibiriba meei kharabuna machak leitre haiduna wayel chathadaba tarabadi ehan hanna crime adu pangthokhre haibagi pao pirakkehiba meei aduda akaiba thok-hanlle, maramdi mahakna piruriba pao adugi pandam adu mapum oina natraga machet oina kanahandre. Madugi mathakta, crime ama thokle habagi ahanba pao piduna police na khudakta matik chaba thabak loukhatpa haibadu ahanba pao piriba mishak adugi apamba adu section 154 gi su-section (2), section 157 gi sub-section (2) amasung section 173 gi sub-section (2)(ii) na piribani, madunmakna pao pirakkehiba mishak aduna khanlibasi Magistrate adunasu crime adugi matangda wayel chatthanaba warep louduna makha taba thabaksing paikhatpa haibaduni, maramdi madu tourabadi mahakna crime thokle haina ahanba oina pao pirubadugi mathou pangthokle haina louba yare. Maram asina, section 173 ki sub-section (2)(i) matung inna police station amagi Officer-in-Charge na Magistrate ta pikhatlakpa cherol adu khannaraba matungdacase adu wayel chathanabagi machak yaode haina laoraba amasung makha taba thabak loukhatrabadi, ahanba pao pikhiba mishsk aduda khanghanduna mishak aduna Magistrate aduna mahakna pikhriba pao aduda yumfam oiraga crime adu wayel chathabinaba amasung makha taba thabak loukhatpinaba haijanabagi tanja adu pigadabani. Maram asina eikhoina loui madudi section 173 gi sub-section (2)(i) gi matung inna pikhatlakliba cherol adubu Magistrate aduna fangliba machaksing aduna wayel chatthabanabagi maram oidre louduna makha taba thabak paikhatraba natraga FIR da maming panliba meei khragi mathakta wayel chathanabagi matik chaba machak leitre lourabadi, Magistrate aduna suksoi soidana ahanba crime du thokle haibagi pao pirakkehiba mishak aduda pao khanghanduna cherol adu khannaba matamda mahaksu wafam fongdokchanabagi tanja pigadabani. Amasung makhkha taba thabak toudringeida Magistrate aduna ahanba pao piramba miduda pao soidana pigadabani. Mahak matam chana mahakki oiba warol fongdokchananabagi tanja adu pidrabadi Magistrate aduna mahakki oiba warol piraknaba matam pikhide haina louba yai.

6.3 Wayelshang asina pikhiba wayel kaya Bhagwant Singfh amasung Reeta nag yaona khanaraba matungda mathakta pankhraba Vinay Tyagi case aduda wayelshang asina para 40 da asumna wayel pirakkhi:

“40. CrPC da piriba niyamsing amasung mathakta pankhriba wayelsing adu khannaraba matungda CrPC gi section 156 (3) ga pamminnaraga section 178 (8) na piriba Magistrate amana sijinnaba yaba shaktisinggi matangda eikhoina makhada piriba niyamsing asi en-gadabani haina waroi pirabani:

40.1. Police na pirakpa cherolda paikhatpa case amada Magistrate amana case adu “amuk hanna thgatnaba” natraga “enou nouna thigatnaba” yathang pinabagi shakti leite.

40.2. Section 173(6) ki matung inna policena cherol ama pikhatlaklabadi Magistrate aduna case adu makha tana thijinkho hainabagi shakti lei.

40.3. Mathakta para 40.2. da hairibasi judge ahumna Bhagwant Singh casetuda [Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537: 1985 SCC (Cri) 267] pikhiba wayel adugi matung innani amadi masi judge masing yambana pikhiba wayel adu illibani.

40.4. Hairiba shaktisingdu Magistrate aduna sijinnabada CrPC yaoriba niyamsing natraga akaknaba saruk amatana athingba thamba leite. Section 156(30) amasung section 173(8) ta piribaduga channana Magistrate amada piririba shaktisingdu fanghandanaba section 173(2) gi wahanthok piksinna piroidabani. Asengnamak, hairiba shaktising adu section 173(8) paragasu khangba ngamgani.

40.5. Code asi thabak-thouram karamna tougadabano haiba niyamsing takpa ethoklaba cherol oibanina madu wahanthok piba matamda achumba wayel fanghannaba amadi law semlambasingduna pamkhiba pandamdu fangnaba hotnagadabani. Policena case ama thijinba loiraba matungda pikhatlakpa cherolda yumfam oiraga makhoibu amukka hanna thijinkho haibadu law shembasingna pamkhibani louroidabani, madugi mahutta case adugi machaksing adu yenglaga achumba wayel ama fangnaba wayelshangna thijinbagi thabak touriba agency aduda makha tana thijinnaba yathang pinaba shaktidu leihandrabani haina lougadabani, thijilliba kangbuduna masana adum mathou tarabadi thijinjagadabanina wayelshangduna amuk makha tana thijinkho hainabagi shakti sijinnaroidabani.

40.6. Thabaksing pangthokpa ayaba loubu haibasi tangaifadabana police na makha tana thijinjakhige haibagi ayabadu louraga ahenba charge-sheet tu pikhatkadabani. Masigi khongthang asi wayelshang asigi wayel kayanasu yakhrabani. Houjikki case asida eikhoina louriba firep asibusu maduna sougatlabani.”

6.4 Minu Kumari v. State of Bihar (2000) 4 SCC 359, caseta wayelshang asina haikhi madudi section 173(2)(i) gi matung inna police na thijinba loibagi cherol ama Magistrate ta pikhatlaklabadi mahakki mamangda fivam kayamarum thorakpa yai. Cherol aduna crime adu meei amana natraga meei kharana toukhiba oiramba yai hairaklabadi, Magistrate aduna (1) cherol adu ayaba piduna wayel chathanaba thabak paikhatpa, natraga (2) maduda ayaba pidana case adu loisinba, natraga (3) section 156(3) gi matung inna makha tana thijinkho haiba amasung thijinbadugi cherol ama pikhatlaknaba yathang piba ngammi.

7. Mathakta pankhriba wayelshang asina pikhiba wayel kaya kupna neinaraga amasung mari leinaba CrPC gi sections 167(2), 173, 227 amadi 228 neinaraba matungda thorakliba wafamdi thijinba loiraba matungda police na section 173(2)(i) gi matung inna cherol ama pikhatlakpa matamda khang-heiraba Magistrate aduna tougadabasi (1) cherol adu ayaba piba amasung wayel chathana warep louduna makha taba thabaksing houba, natraga (2) cherol adu ayaba pidaba amasung case adu loisiba, natraga (3) section 156(3) gi matung inna police pu makha tana thijinkho amadi thijinbadugi cherol ama pikhatlakho haiba ngammi. Karigumba policena pikhatlakpa cherol adu Magistrate aduna ayaba pidabaga loinana case adu loisinlabadi, mahakna suksoi soidana ahanba crime du thokle haibagi pao pirakkhiba mishak aduda pao khanghanduna cherol adu khannaba matamda mahaksu yaningdaba wafam fongdokchanabagi tanja pigadabani, amasung adugumba khudongchaba adu piraba matungda, Magistrate aduna maral sibiriba meei adugi mathakta case loukhatkadra natraga loukhatloidra haiba wareptu

loubu yai. Karigumba Magistrate aduna ahanba poa piramba mishak adugi yetlakpadu ayaba pirabadi makha taba thabak paikhatkani amasung natraga maral siriba meei adugi mathakta maram shembagi thabakfaoba paikhatpa ngammi. Mathakta pankhriba adugumna, section 173(2)(i) gi matung inna police pikhatlakhiba cherol aduda yaningdaba leirabadi tangkak aduda Magistrate aduna police ta makha tana thijinkho amasung thijinbadugi cherol ama pikhatlakho haina yathang piba yai. Adubu, matangsida ningsingadabadi mathakta pankhribasing asi wayelchatthanabagi warep loudringeigi mamangda touhougadabani. Section 173(2)(i) gi matung inna police pikhatlakpa cherol adu khannaraba matungda wayel chatthanabagi warep louraba amasung pikhatlakliba machaksing adu khannaraba matungda, section 227 na piba shakti sijinnaduna maral siriba meei adu thadokkhrabadi, Magistrate aduna masa maranai wakhalna case adu makha tana thijinnaba amasung thijinbagi cherol adu pikhatlakho haina yathang piba ngamde. Maral sibiriba meei ama maral leitre haina thadokkhibasi wayel chathanaba warep louraba matunggi khongthangni. Wayel chathanaba warep loudringeigi mamanggi tangkak aduga wayel chathanaba warep louraba matungga anigi marakta khetnaba mayek sengna lei amasung tangkak tangkaktuda makha tana thijinnabagi sijinnaba ngamba shaktisingsu khetnei. Wayel chatthanaba warep loudringeigi mamangda makha tana thijinnaba yathang pibagi shakti adu wayel chatthanabagi warep louraba matung maruoina maral sibiriba meei adu thadokkhraba matungdadi sijinnaba ngamde. Mathakta pankhriba adugumna, karigumba section 173(2)(i) gi matung inna thijinba loiraduna chero pikhatlakpa matamda police na toukhiba thijinbagi thabaktuda yaningdaba leirabadi, mathakta pankhriba wayelshang asina pikhiba wayelsing aduda haikhibagum, Magistrate aduna makha tana thinkho haibagi shakti lei amsung maral sembagi thabaktu amasung/natraga tangkak aduda cherol adugi matungda aroiba warep loubadu yeithokpa yai. Adubu, maral sibiriba meei adu maral leitre haina thadokkhraba matungdadi, Magistrate aduna masa maranai warep louduna police pu makha tana thijinnaba amasung thijinbadugi cherol ama pikhatlakho haina yathang pibadu eikhoida akiba faoe. Maral siriba meei adubu maral leitre haina thadokkhrabadi, Magistrate aduna masa mathanta maranai warep louduna thijilliba officer aduda makha tana thijinnaba amsung thijinbadugi cherol ama pikhatlaknaba yathang pinabagi shakti leitre. Asigumba tanja aduda pangthokpa yaba thowong anikhak lei madudi: (i) thadokkhibadu singnaduna mathakta leiba wayelshangda wakattuna chatnahandaba, natraga (ii) wayelshang aduna CrPC gi section 319 gi tanja adu ngaiba. Adum oinamak, matang asida section 173(8) ki matung inna thijilliba agency adunadi makha tan thijinjage amsung thijinbadugi cherol ama pikhatchage haina darkash thaba yai amasung adugumba darkash tharakpa matamda wayelshang aduna makha tana thijinnaba amadi thijinbadugi anouba cherol adu pikhatlaknaba ayaba piba yai amasung Magistrate aduna madu lawgi matung inna khannaba ngammi. Maral sibiriba meei adu maral leitre haina thadokkhraba matungdadi, Magistrate aduna masa maranai warep louduna police pu makha tana thijinnaba amasung thijinbadugi cherol ama pikhatlakho haina yathang pibadu eikhoida akiba faoe. Wayel chatthanaba warep louraba matungda, maru oina section 227 ki matung inna maral siriba meei adubu maral leitre haina thadokkhrabadi, Magistrate aduna masa mathanta maranai warep louduna section 173(8) ki matung inna thijilliba officer aduda makha tana thijinnaba natraga enou-nouna thijinnaba yathang piba ngamde. Adum oinamak, section 173(8) ki makhada police station amagi officer-in-charge amana case adu makha tana thijinba amasung wahei natraga chegi oiba sakhi oiba machaksing khomjinduna section 173 gi sub-section (2) gi matung inna thijinbagi cherol adu pikhatpa ngambagi shakti lei. Maram asina, Section 173 gi sub-section (2) gi matung inna thijinba loibagi cherol pikhatlaba amasung maral sibiriba meei adu maral leitre haina thadokkhrabasu, thijilliba officer aduna makha tana thijinba ngammi. Adum oinamak, madu thijilliba officer natraga police officer-in-charge amagi maikidagi hourakkadabani amasung maral sibiriba meei adu maral leitre haina thadokkhrabadi Magistrate aduna masa maranai warep louduna makha tana thijinkho natraga enou-nouna thijinnaba yathang pibagi shakti leitre.

7.1 Mangda leiriba case asida thijinbagi thabak touriba authority asina makha tana thijinkhige haijarakkhide amasung khang-heiraba Magistrate aduna masa maranai warep louraga makha tana thijillu amadi thijilliba officer aduba cherol ama pikhatlaknaba yathang pikhibani, adubu madu lawna ayaba pide. Asumna toubasi Magistrate amagi shaktigi wangmadani. Maram asina, maral sibiriba meei adu maral leitre haiduna thadokkhraba matungda makha tana thijinkho haina takhiba wayel adu chatnaba yaro amadi kakthatle. Makha tana, khang-heiraba Magistrate aduna pikhiba wayel aduba achumbani haina ayaba pikhiba High courtki singnarakliba wayel adu chatnararo amasung kakthatle. Loinana, CrPC gi section 173(8) ki matung innathijilliba officer aduna makha tana thijinba ngamnaba madugidamak darkas ama thagadabani amsung thjillibadugu cherol ama pikhatkadabani.

8. Mathakta pankhriba maramsing asina, houjikki appeal asi mai pakle. Tarik 20.08.2014 da pikhiba singnarakliba wayel amasung tarik 05.02.2013 da khang-heiraba Magistrate aduna pikhiba wayel adugi saruk oiriba case adu makha tana thijinnaba amasung thijinbagi cherol pikhatlakho haiba yathang adusu chatnahandre amasung kakthatle.

8.1 Adumakpu, khang-heiraba Magistrate aduna fongdorakkhiba thijinbagi thabakta asoiba awatpa leire haibadu yenglaga amasung aroiba pandam oiriba maral leiba meei adu faba amasung cheirak pinaba thijilliba officer aduna makha tanna thijinnaba amasung enou-nouna thijinba ngamnaba CrPC gi section 173(8) ki matung inna maram chaba darkas amasung thijinba loibaraga cherol ama pikhatnaba thabak paikhatpa yai amasung madu khang-heiraba Magistrate aduna lawgi matung inna amsung achumba maram yenglaga khanaba yai.

9. Mathakta pikhriba warolsing asina maram oiraga appeal asi ayaba pire amasung thijilliba officer aduna magi tofam thokpa ningtamna toujaba yahalle.