

to enjoy the status of tribal areas as meant under the VI-th Schedule to the Constitution, ultimate impact of continuance of these courts becomes that these two districts and the people thereof stand provided with two types of special judicial set-up-one, under the Administration of Justice Rules, 1937 promulgated under sec. 6 of the Scheduled Districts Act, 1874 i.e. the Courts of Deputy Commissioner and his Assistants, while another, under Administration of Justice Rules, 1953, framed under the VI-th Schedule to the Constitution, i.e. the District Council Court, Aizawl and its Subordinate courts. Despite the fact that this area or even Mizoram no longer continues to remain a backward tract or an excluded area, or a tribal area, this type of double doses of special treatment for administration of justice nevertheless continues, importing more complications and conflicts in discharge of judicial powers and functions of the courts day-by-day. The people for whose benefit this type of special judicial set-ups was intended are in reality confused of the whole thing, and a trend to take advantage of the mess and the complexity in the system suiting to one's requirement rather than the law is becoming more phenomenal.

#### D. STATUS OF THESE COURTS AND THE CR. P.C. :

A Division Bench of the Hon'ble Gauhati High Court has recently held that the District Council Court or the Court on which powers may be conferred under sub-paragraph (1) of paragraph 5 for trial of offences is not a court constituted under the Code of Criminal Procedure. That is, all such courts are constituted under local law, namely, the Rules. Even is such a Court or Judicial Officer empowered under sub-paragraph (1) of paragraph 5 is a substituted of a Court of Session or Sessions Judge, as the case may be, for the trial of offence triable by a Court of Session, or of a Magistrate of the first class for offences triable by a Magistrate, the Court or the Officer shall not attain the status of a Court of Session or a Sessions Judge, as the case may be. The power of trial is one thing and an exclusive power conferred on the Court of Sessions under the Code, like that of granting an anticipatory bail, is another. - *STATE OF MEGHALAYA VS. JUDGE, DISTRICT COUNCIL COURT, SHILLONG AND OTHERS*, (1993) 2 Gauhati Law Reports 99.

#### E. VALID CUSTOMS - CHARACTERISTICS ETC. OF :

A local custom to be legally valid and to operate as a source of law must satisfy the tests of reasonableness, conformity with statute law, observance as of right, certainty, consistency and immemorial antiquity. - *BROADBENT VS. WILKES* (1742) *Willes* 360; - *HAMMERTON VS. HONEY*, (1876) 24 WR 603; *HURPURSHAD VS. SHEQ DAYAL*, (1875-76) 3 LA 259; (1877) 26 WR 55; *JOHNSON VS. CLARK* (1908) 1 ch. 303; *MST. SUBHANI VS.*