

In the High Court of Judicature at Patna.

Criminal Appellate Side.
1942.



SESSIONS DIVISION OF _____
DISTRICT Koraput

Part I.

(This file must be preserved for ever.)

Appeal under Section 410 ~~417~~ of the Code of Criminal Procedure
476B

No. 27

Lakhan Naik

APPELLANTS.

Offence :— Murder, rioting

Sections:— 302, 147 I.P.C., 38(3) & 38 of S. 9. Rules

Sentence:— Death

Date of trial 13. 11. 1942

Received 30. 11. 1942

Date of decision of High Court 13. 1. 1943

To Magistrate :—No. dated	194 .	Cr.	Intimates that the hearing of the appeal and requests him to give notice thereof to the appellants	of 194 , has been fixed for the
To Sessions Judge :—No. dated	194 .	Cr. A.	Copy for information with the request that he will forward the record on or before the	194 .
To Advocate General :—No. dated	194 .	Cr. B.	Copy for information	
From Sessions Judge :— dated	194 .	"		
From Magistrate :—No. dated	194 .	"		

• Lay before the Criminal Bench.
Place first before Hon'ble Mr. Justice
in Chambers,

with D.R.
4/42

Braugh
M. J. J. J.
Assistant Registrar.

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(Civil Appellate Side.)

Part II

TITLE PAGE.

PART I.

(THIS FILE MUST BE PRESERVED FOR EVER.)

APPEAL FROM *A W* No. *1427* OF 191*6*

Siluk Alwan Mohd Appellant,

Versus

Khurduh Respondent.

DATE OF DECISION OF HIGH COURT

18-12-16

DITTO. OF PRIVY COUNCIL

In the High Court of Judicature at Patna

Criminal Jurisdiction.

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Criminal App No. 27 of 1942

Lakhan Naik

Appellant
Petitioner

versus

Emp.

Respondent
Opposite-party

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I. D. S. i.

Compared and found correct.

Signature of Officer of Court.

Date

6/5/43

194

W. D. S. i.

Record-keeper.

In the High Court of Judicature at Patna.

ORDER-SHEET.

C. Appeal No. 27 1942.

Appellant,

Lakhan Naik

versus

Emp.

Respondent.

Serial No. of Order.	Date of Order.	ORDER WITH SIGNATURE.	Office note as to action (if any) taken on Order.
1.	3 Dec 42	Admit this appeal and connect with Deata Reference <i>Adm.</i> <i>P. B. B.</i> <i>at</i>	
2	8/1/43	Heard in part by Mr. Justice Woodhouse Mr. Justice Woodhouse Hon. Mr. Justice Bingham with Mr. Deata Ref. no. 4/42	<i>Ad.</i> <i>18/1/43</i>
3	11/1/43	Hearing Continued.	<i>Ad.</i> <i>18/1/43</i>
4	12/1/43	Hearing concluded. For Judgment tomorrow	<i>Ad.</i> <i>18/1/43</i>
5	18/1/43	Heard further & then hearing concluded & judgment delivered vide or 40.4 in Deata Reference. The appeal is dismissed	<i>Ad.</i> <i>18/1/43</i>

By Registered Post

No. J.R.

From

no 2617

Jail II-52-61-1-2-39.

JAIL.

23-11-1942

SUPERINTENDENT OF JAIL,

Bihar

To

The Registrar, High Court of
Judicature at Patna.

Sir,

In forwarding herewith an appeal petition from the convict ^{condemned} ~~as~~
per margin, I have the honour to certify that the appellant has been
informed that, if he intends to appoint a Pleader, an appearance
must be put in within seven days from the date on which his petition
may reach the Appellate Court. A copy of judgment is
herewith submitted

R. no 661 - Lakhan Vaikho

I have the honour to be,

Sir,

Your most obedient servant,

31/11/42
Raisahel, 20/11/42
Superintendent. STM

Before the Hon'ble Chief Justice and Companion Judges
of the High Court of Judicature at Patna

Criminal appellate Jurisdiction.

Lakshmi Naik of Tentuligumma in Koraput district (Orissa)
Appellant.

Vs.
Rex Imperator Respondent.

Appeal against the judgment dated the 13th November 1942 of
V. Ramanatham Esquire, Additional Sessions Judge of Koraput finding
the appellant guilty of offences under section 302 I.P.C. and
147 I.P.C. under 38 (3) of the Defence of India Rules and 38 of
the D. I. Rules and sentencing him to death, respectfully sheweth
1. That it has been alleged by the prosecution that for some
time the Sub-Inspector and the Assistant Sub-Inspector of Police
of Mathili were absent from the station and the A.S.I. who first
returned to the station learnt on 17-8-42 that the appellant and
others intended to burn the Police Station and he sent requisitions
to the concerned authorities for help. That the Divisional
Inspector, two Sub-Inspectors along with some armed constables
arrived at Mathili on 20-8-42. That on the next day the appellant
and others came near the Police Station with a view to set fire
to it, but were persuaded by the Divisional Inspector to proceed
to the shandy (at a distance of about half a mile from the Police
Station) where a prejudicial speech was delivered by the appellant.
No attempt is alleged to have been made to assault the police
officers who returned undisturbed to the police station after
the speech. Then a mob from the shandy is said to have followed
the accused to the police station and after the arrival of the
Magistrate and his party, the said mob is said to have assumed
an aggressive attitude. There was a lathi and bayonet charge and
18 rounds were fired by the police as a result of which several
persons in the mob were killed. On the other side, some Government
and Joypur Estate officials were injured. One of them,
Estate forest guard, Ramayya is said to have died after receiving
two injuries. The crowd dispersed and more than a week later this
appellant and others were arrested and an identification parade
was held by the Local Fund doctor. It is alleged that this
appellant caused injury No. 2 on the deceased and is therefore
liable under section 302 I.P.C.

2. That the appellant denies all the allegations against him except that he spoke at the shandy a part of the speech attributed to him. He admits that he is a congressman but submits that his creed and practice has always been non-violence. Even after the A.I.C.C. meeting in August 1942, the instructions given to this appellant was to resist Government by all peaceful and non-violent methods. The appellant accordingly, delivered a speech on 21-8-42 in order to court arrest (as he had done during the Satyagraha movement) He was asked to go to the police station to surrender himself. Accordingly with a congress flag he followed the Divisional Inspector to the station where the police where the police started an altercation and there was a lathi and bayonet charge and firing. The appellant received two severe injuries on his face and several others received injuries and some of them succumbed to death. The crowd also got confused and persons who had got sticks or lathies (which are usually carried when hillmen from distant places come to attend Agency shandies) assaulted some government and estate officials. That during lathi charge and the counter attack the forest guard probably received some injuries at the hands of some person or persons unknown, but as this appellant was the speaker at the meeting, the story was concocted that he was the person who inflicted the fatal injury.

3. That after several days this appellant and fifty three others were arrested and charge sheeted. During the trial (which was without the aid of assessors) a lawyer was engaged by the crown to defend the accused who, as this appellant learnt after trial is the standing advocate of the Joypore Estate. 49 persons were sentenced to transportation for life together with terms of imprisonment and this appellant was sentenced to death. The appellant submits that the charges against him have been made because he came upon the evil eyes of people who have their own interest to serve, upon such occasions and that instead of having murdered the deceased, this appellant himself was bullied, assaulted and wounded to the extent of being unable to move for several days.

Against the aforesaid findings and sentence this appellant begs to submit the following among other.

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GROUND'S OF APPEAL.

1. Because the findings and sentence are contrary to law, to evidence and the probabilities of the case.

2. Because all the witnesses on whose evidence this appellant has been convicted are extremely interested persons. Except P.W.9 (Local sub-inspector) all the other witnesses on whose evidence the learned judge has relied, namely, P.W. 13 (estate peon) P.W.15 (Estate Mustajar), P.W.17 (Estate Revenue Inspector's attender) and P.W.18 (Liquor vendor who is dependent on the estate minor produce) are deeply interested in this particular case of the death of an estate forest guard, on ~~one~~ occasion ~~the~~ that is supposed to be intended to paralyse the existing Governemnt.

3. Because in free fight and tumult (which happened within a few minutes) during which several in the crowd were killed and many injured and where some of the officials were injured and one estate servant died, these interested witnesses could not have seen the assailants of a forest guard especially when there were several other persons (not called in as witnesses) in between.

4. Because the petitioner believes in and follow the creed of non-violence and he never intended to damage the police station or to assault Government officials. If there was any ~~intention~~ intention to set fire to the police station it ~~could~~ ~~have~~ could have been done during the absence of the Sub-Inspector and A.S.I. and there was no need of waiting for the arrival of the Divisional Inspector, Sub-Inspector and armed police ; the report of the speech ,even if true, does not threaten arson, and the alleged Slogan of the mob ,even if true, is said to be " We will burn the police station ,if we are not arrested." If there was any intention to assault officials, there was no need to wait for the arrival of the magistrate, Further the fact that only some in the crowd had ^{only} ordinary weapons used by hill tribes when attending shandies in distant

distant places shows that there was no unlawful intention.

5. Because P.Ws 30 and 31 (who are also interested in the Joypore estate) admitted that this appellant was carrying a congress flag and not a stick. The learned judge haltingly finds on this point "The ~~probabilities~~ probability is that they (A 1 and A 2) had lathies and used them."

6. Because even if the prosecution version is accepted to be true the alleged conduct of the crowd in retiring to the shandy (four furlongs off) at the instance of the Divisional Inspector, is not attempting any violence at the shandy, in quietly following the police to the station (for arrest) and in awaiting peacefully the arrival of the magistrate shows that the defence version is true. There is also the admission that this appellant was non-violent during the police charge. The fact is that these hill-men were resorting to their old Satyagraha methods non-violently and peacefully, when the local police aggravated matters. Whatever be the form which the recent movement assumed in other parts of the country, in Mathili (interior of the Eastern Ghats and one hundred and fifty miles from the nearest railway station) congressmen were adhering to the ideals of non-violence fully. This will also be the irresistible conclusion of the circumstances admitted by the prosecution witnesses if considered in the proper perspective.

7. That the learned judge ignored the fact that this appellant himself had been very severely wounded on the face during the police charge and could not have inflicted injury No.2 especially when he was carrying a flag. Further, if an Estate forest guard was instantaneously killed in the presence of, and very near the two sub-inspectors who were not hesitating to shoot with their revolvers, there is no reason why he was not immediately apprehended or shot at and why no attempt was made to seize the weapon used. Moreover if he had actually committed the offence, he could have easily been arrested as he was already weakened due to injuries on his own person. Further no attempt was made to arrest or charge shoot him for several days. All these go to prove that the forest guard

the forest guard was injured in the course of the lathi charge or the counter-assault - a fact which was not noticed immediately, and that some time was taken to think out as to who could be accused of the offence.

8. The court should have taken into consideration the statement of P.W. 16 that Ramayya fell down as the ground was slippery and of P.W. 17 that the deceased fell in the drain. The court ought to have found in these admissions a likely explanation for both the depression (with minor fractures) and the incised wound being treated as one injury.

9. Because the position of injury No. 2 (even if the depression and incision are treated to be one injury) the absence of evidence as to the girth and the strength of the lathi used by the assailant and as to the relative positions of the deceased and the assailant, the subsequent movements, together with the non-production or non-seizure of the stick and the absence of human blood on any of the articles seized., render the prosecution evidence untrustworthy and ~~and~~ insufficient.

10. Because the non-examinations of the excise Sub-Inspector and peon and of the persons, who are said to have been near the assault (i.e. between the deceased and P.Ws) entitled the court to draw an ~~adverse~~ inference against the prosecution.

11. Because the non-production of the requisition of the A.S.I. dated 17-8-42 which might have thrown some light on the case is unexplained by the prosecution.

12. Because the failure to arrest the accused forthwith and, for the matter of that, for a long time after the occurrence, together with the delay in preparation of the charge sheet casts a doubt on the charge against this appellant which was evidently a well-developed after-thought.

13. Because this stereotyped, parrot-like version about the particular ⁱⁿjuries inflicted by A 1 and A 2 and the discrepancies on the other points (which have been ascribed by the learned judge to a dazed condition or to confusion) points at tutoring.

14. Because the test identification parade has been given

given undue importance. If the identifying witnesses previously knew the appellant, the parade is meaningless; if they did not know him previously, any identification at the parade was impossible as the appellant was thickly bandaged all over the face due to injuries. Further the Local Fund doctor who held the parade was assisting the police all along.

15. Because the multiplicity and ^{on}for of the charges, the admission of irrelevant evidence and the exhibition ^{of} unauthentic documents without proper proof have prejudiced the appellant.

16. Because the evidence that this appellant inflicted injury No2, that the same was caused with the intention of causing death or a necessarily fatal injury, has not been satisfactorily proved. The evidence on the point is highly interested, discrepant and unreliable. The probabilities unmistakably point out that, after the incident, there was an effort to ascribe the most serious injury specially to this appellant to ensure his hanging.

17. Because there was no unlawful intention or object, and the prosecution evidence ~~is~~ is destroyed by its own inherent improbability on this point also.

18. Because, as the appellant learnt after the trial, the defence advocate engaged by the crown to defend him and the other accused in their case, is the standing retained Advocate for the Joypore Estate. In view of the well known interest of the Estate in this case (the deceased being an Estate employee) if the learned advocate (the standing retainer for the Estate) felt any delicacy in putting essential questions regarding interestedness, enmity, contradiction of case-diary statements etc. ~~it~~ ^{he} ought ^{to} have been fair to the accused and to the court and informed them of his difficulties.

19. Because if there had been assessors or jurors, they could have helped the court with their knowledge of local conditions and localmen, estate and Government officials as well as private persons - so that the court could have arrived at the truth.

PRAYER


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P R A Y E R .

In these circumstances, the humble appellant prays that your Lordships may be pleased to call for and peruse the records of Court below and grant him justice. 6

The appellant further submits that he is applying for copies of certain records, and prays that he may be permitted to submit further grounds of appeal, if any, before the hearing of the appeal.

Left thumb impression of Appellant.
of Convict No. 661 Lakhan Naiko

Attested


Rai Sahab, Capt. M.B.D.T.M.,
Superintendent of Jail
BERHAMPORE.

*1

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE KORAPUT.

Present----V. Ramnathan, Esquire., I.C.S.,
Addl. Sessions Judge, Koraput.

Sessions Case No. 18 of 1942.
S.C.T.R. 5

The 13th day of November 1942.

King Emperor (Mathili P.S. Case No. 58 of 1942)---Complainant.
Versus

Lakhan Naiko and 53 others-----Accused.

Offence charged with.....Under section 38(5) of the Defence of India Rules against accused No. 1, u/s 302 I.P.C. against accused Nos. 1 & 2, u/s 302/149 I.P.C. against accused Nos. 3 to 54 and u/ss 147 I.P.C., under rule 35/121 of the Defence of India rules against all accused persons.

Case committed by.....Sri Sornnath Misra, Treasury Deputy Magistrate, Koraput.

DESCRIPTION OF THE ACCUSED.

S.No.	Name.	Father's name	Age	Occupation	Caste	Residence.
1.	Lakhan Naiko	Podolan Naik	42	Cultivation	Bhumia	Tentuli gurni
2.	Balaran Pujari	Hari Pujari	35	-do-	"	Mathili
3.	Arjun Naiko	Sonya Naik	32	-do-	"	Tentuligumma
4.	Arjun Naiko	Chondra Naik	48	-do-	"	Rona Udayagiri
5.	Sanbaru Naik	Irma Naik	33	-do-	Bhumia	Munguda
6.	Kendu Naik	Baga Pujari	34	-do-	"	Sorigiguda
7.	Bhima Naik	Dinabandhu Naik	36	-do-	"	Kaliaguda
8.	Jagannath Naik	Kangala Naik	30	-do-	"	-do-
9.	Udai Nath Odi	Kangala Odi	28	-do-	"	Bhonsiaghat
10.	Pityananda Chasi	Balabhai Natal	32	-do-	Fatal	Kadiguda
11.	Laichan Bhumia	Guru Bhumia	36	-do-	Bhumia	Sonagumma
12.	Chaitan Pujari	Chondru Pujari	28	-do-	"	-do-
13.	Dinabandhu Pujari	Baya Pujari	45	-do-	"	-do-
14.	Chondra Pujari	Pukund Pujari	50	-do-	"	-do-
15.	Bulu Bhumia	Ladu Bhumia	29	Cooly	"	-do-
16.	Bagana Pujari	Danbaru Pujari	28	Cultivation	"	-do-
17.	Baghunath Bhumia	Bima Bhumia	38	-do-	"	-do-
18.	Arjun Bhumia	Banu Bhumia	25	-do-	"	-do-
19.	Arjun Pujari	Doru Pujari	32	-do-	"	-do-
20.	Sanbaru Bhumia	Chasi Bhumia	40	-do-	"	-do-
21.	Sonia Bhumia	Arjun Bhumia	33	-do-	"	-do-
22.	Sonu Domb	Joyram Domb	36	-do-	Domb	-do-
23.	Podolan Naik	Kangala Naik	35	-do-	Bhumia	Kaliaguda
24.	Balaran Bhumia	Sonya Bhumia	28	-do-	"	Tentuligumma
25.	Bhika Bairagi	Bhika Bairagi	33	-do- & Cooly	Hulva	Pujariguda

K. R. ADIOT

--2--

S.No.	Name	Father's Name	Age	Occupation	Caste	Residence.
26.	Dhanurjoy Pujari	Addu Pujari	37	Cultivation	Bhumia	Sakili-guda
27.	C -do- Naik	Bhaga Naik	38	"	"	Pithathurud
28.	Sambara Naik	Chandru Pujari	32	"	"	Sanguram
29.	Gopinath Pujari	Chandru Pujari	32	"	"	Tentuligurra
30.	Bansingh Bhumia	Bulundo Bhumia	36	"	"	Thutia Thinsut
31.	Guru Poria	Sonyu Poria	28	"	"	Bhumia Bhijiniguda.
32.	Narsingh Challen	Sonyu Bhumia	36	"	"	Boisaghat
33.	Kesun Pujari	Govind Pujari	35	"	"	Lomb Tentuligurra
34.	Bhalu Domb	Phagals Domb	36	Labourer	"	Bhumia Bhijiniguda
35.	Guru Goud	Nolo Goud	40	Cultivation	"	Kupliguda.
36.	Kosa Ladhani	Arjun Ladhani	40	Cooly	"	Totapalli.
37.	Hariram Motia	Arjun Motia	40	Cultivation	"	Atalguda
38.	Sonyu Bhumia	Buduru Bhumia	37	"	"	Lojareguda
39.	Vatiram Chandal	Ramogiriya Bhikari	35	Cooly	Chandal	Amoguda
40.	Pondiso Bhajhoris	Tehono Bura	25	Cooly	Bumathoria	Kenyg
41.	Sonyu Bhumia	Gaya Bhumia	35	Cultivation	Bhumia	Ud yagiri
42.	Yongala Ladhani	Ram Pujari	40	"	"	Sorigigud
43.	Rudhu Kumar	Narsingh Kumar	30	Cooly	Tamar	Uadyagiri
44.	Sourinath Bhumia	Thano Bhumia	30	"	Bhumia	-do-
45.	Krishna Chandra	Dayanidhi	35	Teacher	Paino	-do-
46.	Biscoi	Jagonsi Bhumia	30	Cultivation	Bhumia	Mortanapo
47.	Soransath Bhumia	Arjun Naik	30	"	Koty	Atalguda
48.	Sona Sorar Naik	Sakra Pujari	40	Cooly	Bhumia	Charpajhor
49.	Eori Pujari	Lochona Goudo	28	Cultivation	Bhumia	Tottapalli
50.	Yongaraj Naik	Longalo	42	"	"	Boisiaghat
51.	Bhaa Naik	Chakra Bhumia	24	"	Durva	Rongavada
52.	Belaram Bhumia	Aito Durva	33	"	Bhumia	Bandarpang
53.	Guru Naik	Bhimo	40	"	Rona	Tottanetta
54.	Palakutra Arjun	Lochona Durva	33	"	Bhumia	Tonguda.
55.	Narsingh Durva	Ganga	40	"	"	"
56.	Potiram Singh	Ladhani	"	"	"	"

DATE OF

Offence	Commitment	Apprehension of accused.	Commence-ment of trial	Close of trial.	Sentence or Explan-ation for delay
21-B-42	30-10-42	Accused Nos. 1, 2, 3 on 29-8-42 before Police.	2-11-42	9-11-42	13-11-42
		"Nos. 25, 31, 32, 33, 37, 39, 40 on 31-8-42 before Police.			
		Nos. 7, 29, 30, 34, 35, 56, 38, 41 on 4-9-42 before Police.			
		Nos. 3-6, 8-24, 26-28 and 42-54 on 8-9-42 before Police.			

Name and description of assessors:-- Aid of assessors dispensed with under C.O.No. 62 of 1941 Judicial Magistrate dated 12-2-44.

Finding of the Judge:----- Accused No. 1 is found guilty u/s 302 I.P.C. 147 I.P.C. u/r 39/5 D.I. Rules, Rule 35 D.I. Rules. Accused Nos. 2-10, 12-17, 19, 22-54 are found

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found guilty under section 302 I.P.C. read with section 149 I.P.C., 147 I.P.C. and under rule 35 D.I. Rules.

Accused Nos. 11, 18, 20 & 21 are not found guilty.

Sentence or Order:--- Accused No. 1 Lakshmi Bai is convicted under section 302 I.P.C. and sentenced to death subject to confirmation by the Hon'ble High Court. He is also convicted under section 147 I.P.C. of committing a prejudicial act under Rule 35(3) D.I. Rules and of approaching the Police station with intent to ~~commit~~ it under rule 35 Defence of India Rules and is convicted of these offences and no separate sentence is passed.

Accused Nos. 2-10, 12-17, 19, 22-54 are convicted under section 302 I.P.C. read with 149 I.P.C. and each sentenced to transportation for life. They are convicted u/s 147 I.P.C. and each sentenced to R.I. for 2(Two) years. They are also convicted u/r 35 of the Defence of India Rules and sentenced to R.I. for 7(Seven) years each. All the above sentences will run concurrently.

Accused Nos. 11, 18, 20 and 21 are found not guilty of the charges tried against them and acquitted of the same and they are directed to be set at liberty unless they are required to answer any other charges.

Rao Sahob A. Appalaswamy Naidu, Public Prosecutor, Mysore District, Mysore conducted the Prosecution and Sri R. Jagannadharao, Advocate, Mysore defended the accused persons having been engaged by the Crown.

J U D G M E N T

EMPEROR

VRS

Lakhan Naik & 53 others.

The accused 54 in number have been sent up under the following charges by the Committal Court.

CHARGES.

1. Under Section 302 I.P.C. Accused No.1 Lakhan Naik and accused No.2 Balaram Pujari for murder of G.Ramayya.
2. Under section 302 I.P.C. }
 read with 149 I.P.C. }
 Against accused 3 to 54 for being members of an unlawful assembly whose common object was to overawe by criminal force the public servants at the Police station and to commit the offence of mischief and assault and in prosecution of which the members Lakhan and Balaram committed murder of G.Ramayya.
3. Under section 147 I.P.C. For being members of aforesaid unlawful assembly and committed the offence of rioting--All accused Nos.1 to 54.
4. Under Rule 38/5 Defence of India Rules }
 Against accused No.1 Lakhan Naik for committing a prejudicial act viz., delivering speech Ex-C
5. Under Rule 35/121 Defence of India Rules. }
 Approached the Police station in circumstance which afforded reason to believe that they intended to cause damage to Police station Nathili. Against accused Nos. 1 to 54.

Other charges were framed against the accused i.e. under section 323, 332 I.P.C. etc. It was prayed that only the major sections should be proceeded with so that accused may not be embarrassed by the multiplicity of the charges. Therefore for the purpose of this case, I have allowed that the case may proceed separately for the charges under sections 302, 302/149, 147 I.P.C., Rules 38/5 and 35/121 Defence of India Rules and evidence to be given within the major charges as well. The other charges may be tried separately.

P.t.o.

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The case is concerned with certain occurrences which had happened on 21-8-42 at Nathili village in this district. The Prosecution case is as follows:-

Accused No.1 Lakhan Naik is said to be the President of the Primary Congress Committee, Nathili, and a member of the District Congress Committee. Balaram is said to be his supporter and a congress member.

In August 1942 the All India Congress Committee had passed certain resolutions marked X/II. This resolution advocated certain measures which should embarrass Government. It appears that Congress organisations were declared unlawful by Government. In this district on 9-8-42 the Moraput District Congress Committee and its subordinate bodies were declared unlawful by British Government (vide Bx-BMF). It appears that some cyclostyled pamphlets were distributed by Buda Kumar and Somanath Bhunia of Udaygiri similar to mark X/10. Balaram Fajari accused was also found with these leaflets. Lakhan accused No.1, Balaram accused No.2, congressmen were said to be moving in the village. After the distribution of leaflets reports came in that from 16-8-42 to 21-8-42 Arrack shops at Kongrabada, Kuchnipalli, Pimpapur, Sindaboda, Dharpada, Salini, Puspalli and Nathili were raided. On account of court duty the Sub Inspector and Assistant Inspector of Police, Nathili were not at Police station Nathili before 17-8-42.

On the 17th August G.C.Jerna, (F.V.11) the Assistant Sub Inspector, Nathili returned after court duty. He learnt that there was an apprehension of a raid on the Police station by a congress mob. He therefore sent an express message to the Divisional Inspector at Malkanagiri to come to Nathili with necessary police help. On the 20th of August the Divisional Inspector came to Nathili from Malkanagiri with four police constables.

constables and the Assistant Sub Inspector, Malkanagiri. On the way he met Sri K. Ramamurthy(P.W.1) the Sub Inspector, Venkatasapalam whom he directed to come to Mathili. On the 20th evening the Sub Inspector, Mathili also reached there. The Sub Magistrate, Malkanagiri arrived there next morning.

On the evening of 20th being aware of the impending attack, the Sub Inspector of Police, Mathili had requested other people to assist them for the 21st. On this, the following people came to the Police station to help. They were, the Sub Inspector of Excise(not a witness) four Excise peons(including P.Ws.25,26 & 27) the Local Fund Doctor(P.W.12), the Local Fund Compounder, Sarvarao (P.W.29), the Veterinary stock man(P.W.22), the Revenue Inspector of Jeypore Estate(P.W.14) and his peon Khadar Khan(P.W.13), and his attender B.Suryanarayana(P.W.17), the Head Forest Guard, G.Ramayya(deceased) and Forest Guard Sabasundara Patnaik(P.W.30), ~~Hiranjan Patnaik(P.W.15)~~ and among the villagers of Mathili, Abdul Peer Khan(P.W.13), Hiranjan Patnaik(P.W.15), Kirla Tharmanna (P.W.16), Sankarayya(P.W.18), Madhab Balaram(P.W.31), Hyder Beg, (P.W.7), Inaitulla Khan(P.W.6) shandy contractor, and one Coffee stall Keeper(P.W.23) of Mathili.

The Police party consisted of the Divisional Inspector, Malkanagiri(P.W.33), Sub Inspectors of Mathili(P.W.9) and Venkatasapalam(P.W.1), Assistant Sub Inspector, Mathili(P.W.14) and six constables(P.Ws.19 to 24).

All these persons assembled near the Police station. According to sketch map of Police station (H-P) the Police station is facing South-East and is in a compound surrounded by tatti fencing and 3 archances to the gate. A path way in front leads to the main road. (D) is a culvert at the junction of the main road on the path. The party of Police and others stood there.

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On the 21st in the morning a mob of persons about a thousand strong led by Lakhan Maik (accused No.1) and Balaram Pujari (accused No.2) came to the thana. They uttered slogans "The British Government is gone. Swaraj has come. The old Raja of Jeypore is dead. We would burn the police station and beat and kill all Government officers and State officials. If we are not stopped we would go and loot Malkanagiri Treasury. If elders of village do not give us food we would kill them". The Divisional Inspector and others met them and parleyed with them and asked them to desist from attacking the Police station. The mob then went to the shandy to hold a meeting and decide. The Divisional Inspector also followed them to the shandy with others. He took notes of speeches which were made there. Prominent among them present was Lakhan Maik who mentioned that the "British Raj had gone. Gandhi Raj has come. No more shandy dues to be paid. No forest dues need be paid. The Sahabs had gone away and the old Raja had died". He said also that they would burn the Police Offices, loot Malkanagiri treasury if they were not arrested". Mr.C is the record of the speech made by the Divisional Inspector of Mathili. It was signed by the Doctor (P.W.12) who was also present at the meeting and later on by the Magistrate.

The Divisional Inspector and others then returned to the Thana. All the members of the Police party assembled near the culvert. The Sub Inspector, Mathili (P.W.9) placed four constables armed with a musket and 10 rounds of ball ammunition each, and placed them at the entrance to Police station compound. The Police, Excise and Foresters were armed with lathis. The Divisional Inspector had a revolver (U.O.IR). The Magistrate, (P.W.6) had reached the Police station by then.

Shortly after the Police returned the mob also reached the Thana.

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Soon after the Divisional Inspector returned, the mob with some men from shendy, came to the thana. They had green lathis in their hands and some of them had congress flags. They were led by Lakhan (accused 1) and Balaran (accused No. 2). They shouted the same slogans as before and tried to push into the thana. The Magistrate, Divisional Inspector of Police and others obstructed them. The mob shouted "We built the Police station and it is ours. We shall burn it". The Magistrate declared the assembly unlawful and ordered it to disperse. Without heeding it the mob began to start assaulting with lathis. During the assault the Sub Inspector of Venkatapalam and constable D.C. Mohanty were injured. Thereupon the Magistrate ordered Lathi Charge. This produced further lathi assaults from the mob. During this time one Forest Guard, G. Ramayya was injured and fell down dead. The evidence is that Lakhan Naik (accused No. 1) hit him on head and Balaran (accused No. 2) on neck with lathis on which he fell down dead. Then the Magistrate ordered to open fire. The Divisional Inspector carried out the order by directing his armed police to fire. In the meantime some members of the mob had gone round and got to the thana verandah. One of them was attempting to set fire to thana when the Sub Inspector, Mathili took up his gun and shot him dead. Very shortly after the firing was made the mob began to disperse. In all 18 rounds were fired. The Sub Inspector, Mathili, had also fired four rounds. As soon as the mob dispersed order was given to cease fire. The firing was stopped. The mob left the scene. The Taluk Magistrate (P.W. 8) Divisional Inspector (P.W. 33) Sub Inspector of Police, Mathili (P.W. 9) Sub Inspector of Venkatapalam (P.W. 1) the Compounder (P.W. 29) Assistant Sub Inspector of Mathili (P.W. 11), P.C. Nos. 292, 500, 275 and 257 Excise Peon Satruguna Lampata (P.W. 25) Jibraji Singh, Revenue Peon Thadar Khen (P.W. 13) Veterinary stockman Raju Prodhani were all injured by the mob. The injured were sent to the hospital. The

The Doctor examined them and wrote out Medical certificates. Some of the members of the mob who received gun-shot wounds, were also examined by the Doctor. On the day of occurrence two of the members of the mob who were fatally injured, one by gun-shot and one by bayonet were also taken to the hospital. Their dying declaration was recorded by the Magistrate. The Doctor attested one of them. The Sub Inspector, Nathili, recorded First Information Report on his own statement (Ex-II) and proceeded investigation.

The accused were arrested in connection with other cases as well. An identification Parade was held at Nathili on 8-9-42 at the Police station by the Medical Officer, Nathili. 54 persons were identified by various Prosecution witnesses. Charge-sheet was submitted against them. The case was duly enquired into and committed by the First Class Magistrate, Koraput. The Magistrate, Koraput had charged the accused, as mentioned above, and committed them to Sessions.

The accused were examined before the Lower court. Lakhan Naik mentioned that he only stated "British Government is Gone" and went to court arrest. He denies the rest of the charge. Balaram Pujari (accused No.2) mentioned that he went there to create trouble along with other accused but he had not assaulted Ramayya and that Ramayya probably died of gun-shot. Of the other accused some mention that they never left their house and some that they had only gone to shandy. Some said that they went to court arrest. Each of their statement is discussed separately. They admitted their statement before Lower Court as correct. They did not lead any defence evidence. All the accused had pleaded not guilty.

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The Prosecution examined 33 witnesses. Of these P.W.8 is a Magistrate. P.W.33 the Divisional Inspector of Police. P.Ws. 1 and 9 Sub Inspectors of Police, P.W.11, Assistant Sub Inspector of Police, constables P.C.No.s 273, 500, 55, 39, 357 and 292 (P.Ws. 19 to 24) three Excise Peons (P.Ws. 25 to 27) Forest Guard (P.W.30), Veterinary Stock man (P.W.32) Estate Revenue Inspector (P.W.14) his attendant (P.W.17) His peon (P.W.13) an Arrack Vendor (P.W.18) Coffee hotel Keeper (P.W.26) Public of Mathili viz., P.Ws. 6, 7, 10, 15, 16 and 31, Local Fund Compounder (P.W.20). These have witnessed the occurrence. P.Ws. 2 to 5 are persons connected with investigation.

(P.W.2) Sergeant Major Proved that only 18 rounds had to be accounted for in the firing. P.W.3 is a witness to inquest on Amayya. (P.W.4) Sub Inspector, Jeypore, searched the records of the Congress office. He found leaflets (Mark X) at the office. P.W.5 is a witness to search of house of Balaram Ijari where mark X to X/10 connecting him with activities of congress were recovered. The Prosecution attempt to connect that the consequence of the resolution of the Congress Committee certain acts were done at Mathili. The evidence available show that some resolutions were passed by the All India Congress Committee on 14th endorsing the resolution of working Committee of 7th August 1942. Certain cyclo-styled letters purporting to be signed by Mahatma Gandhi were in the hands of Balarani. Some disturbances were reported round about Mathili like raiding of arrack shops. It can be stated that the All India Congress Committee passed resolutions and chronologically afterwards some disturbances were reported of which the present case was one. Congress members are said to have participated in this. Congress flags were flown by the mob. I am however concerned with the act of present accused. They are themselves responsible for their own acts and should be judged on them.

P.Ws. 1 and 6 to 33 were eye-witnesses and on them depends the evidence in this case.

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P.W.8 is a Sub Deputy Collector and P.W.33 the Divisional Inspector both of them responsible persons who are of high integrity, P.W.1 and P.W.9 are Sub Inspectors of Police and P.W.11 Assistant Sub Inspector of Police, Kethili. P.Ws. 19 to 24 are six Police constables. Nothing has been alleged against the Police to discredit their statements. P.W.14 is the Revenue Inspector of Jeypore Estate. P.W.13 his peon and P.W.17 his assistant. P.W.30 is a Forest Guard of the same Estate. No prejudice is alleged against the Estate or these persons. None of the accused complained against the Estate or these persons. Three Excise peons P.Ws.25,26,27, the Compounder of Local Fund Hospital(P.W.29) and the Doctor(P.W.12) complete the witnesses who are public servants. P.W.18 is an arrack vendor and P.W.28 a Coffee stall keeper who have seen the accused coming to their shops. Besides there is a shandy contractor(P.W.6) Private contractor(P.W.7) merchants(P.W.10 and 31) cultivators P.Ws.15 and 16. No allegation of partiality has been made against them by any of the accused. There is nothing to show that the character of the witnesses are such that they would depose a falsehood.

The occurrence happened at about 12 noon. Every-thing could be seen plainly. As far as the occurrence at the Police station is concerned it is suggested that in the confusion of the mele it is not possible that the witnesses could observe properly. This proposition has some weight. Actually the witnesses have identified only a few accused apiece. Some are able to recognise more persons. Persons who knew the accused before e.g., the Revenue Inspector, his attendant, and peons who meet them as tenants, the arrack vendor, and Coffee stall keeper who meet them as customers, identify many of them. This is natural. The Revenue Inspector who has not been injured has

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has been able to notice most of them. He, however, does not know the names of the accused but recognises them by face. He has identified "all the accused except No.31 and 34 and 46 and 47". In deciding which accused was present his evidence has been accepted only when corroborated. Others name the accused as well. Of the witnesses only Kirla Tharmanna showed want of proper observation. He was apt to imagine things. He mentioned that he recognised sticks lying on the ground while from evidence it would appear that these sticks were being used in the altercation at that time. This fact has been considered while assessing his evidence. The other witnesses state their evidence in a stright forward manner and there is nothing to discredit them. It is a bit easier to follow the true facts as evidence is available from impartial witnesses and witnesses of high integrity and responsibility like the Magistrate and Divisional Inspector.

Some facts appear undisputed. A meeting appears to have been held at the shandy where speeches were made. Soon after a mob had gone to the Police station. Some altercation took place at the Police station, owing to which the Magistrate, Police Officers and others were injured with lathis and G. Ramayya was found dead and with injuries. There was firing by Police and some of the mob were killed and some of the accused were injured. Some of the mob received lathi blows and bayonet charge.

The injuries were deposed to by the Medical Officer and these were not challenged. The other facts above were admitted by the accused themselves. The accused however deny that they assaulted and also caused injuries which caused the death of Ramayya. They deny to have attempted to attack Police station but that they only courted arrest. This will be discussed latter.

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I shall take the charge in point of time. The first is the charge under rule 38/5 Defence of India Rules against Lakhan Naik (accused 1) of making a prejudicial speech.

CHARGE UNDER RULE 38/5 DEFENCE OF INDIA RULES

This speech has been recorded as Ex-C. It means as follows:

"We are warriors. British Government is gone. Mahatma Gandhi is our king. Maharajah of Jeypore is dead. The British king is dead. The country is ours. We got independence. Rise brethren. All of you take part in this war. Mahatma Gandhi ki Jai". It was followed by a resolve to loot and burn Police station and other places.

It was a highly prejudicial speech. To say that the Government is gone and asking the people to rise, is causing grave disaffection against Government. Ex-C as recorded is by itself a prejudicial speech. The accused No. 1, Lakhan Naik admits to have said "British Government is gone" and no more. Even this is a prejudicial speech. But there seems no doubt that the rest of the prejudicial speech was made. It was recorded then and there by the Divisional Inspector which record was signed by the Doctor. The Speech is reported by the Sub Inspector, Venkatapalan as well. The recorded speeches were attested by the Magistrate soon after the occurrence. Therefore the evidence would go to show that the speech was actually made.

I consider that Lakhan Naik has made a speech which would cause alarm by saying the British Government is gone and prejudicing the public safety and interest. He made a prejudicial act vide Rule 34(g) and (p) of Defence of India Rules. He also instigated people against the police and officials of thana. No explanation is given. I find him guilty of committing

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committing a prejudicial act under rule 38(5) of the Defence of India Rules. I convict him of the same.

CHARGE UNDER SECTION 302 INDIAN PENAL CODE.

The next is the charge against Lakhan (accused 1) and Balaram Pujari (accused No.2) for murdering G. Ramayya by intentionally causing his death.

There is no dispute that Ramayya was head. His body was seen by a number of Prosecution witnesses. According to the Doctor (P.W.12) he had (1) one contused wound on the right side of the neck commencing from right ear to the medial end of the right clavicle $3\frac{1}{2}$ X $1\frac{1}{2}$ ". (2) A depressed wound on the right side of the head covering the right parietal bone and the right side of the frontal bone with an incised wound of $2\frac{1}{2}$ " X $1\frac{1}{2}$ " on the middle of right side of the frontal bone. Below this injury the right parietal bone and the right of the frontal bone was broken into eight pieces and the broken bones depressed into the substance of the brain.

[Injury No.2 caused shock and haemorrhage which caused death.

There is no doubt that death was not due to any other cause but injury No.2. It was given in cross examination that the ground was slippery and G. Ramayya fell. But nothing has been shown that the injuries or death was due to fall. The place he fell was slushy and not hard.

The Prosecution state that Lakhan was responsible for injury No.2 and Balaram for injury No.1. Eye-witnesses depose to this. The following witnesses have actually seen the assault on Ramayya which is the case under section 302 Indian Penal Code. They are the Sub Inspector, Venkatapalam (P.W.1), Sub Inspector, Nathili (P.W.9), Khadar Khan, Revenue Inspector's peon (P.W.13), Revenue Inspector (P.W.14) G.V. Naraginhani, Suryanarayana Patnaik (P.W.17) Nirajan Patnaik (P.W.15), Kirla Tharmanna (P.W.16), Abdul Peer

Peer Khan(P.W.10) , M.Sankarayya(P.W.18) and constable D.C. Mohanty(P.W.19).

P.W.1.

P.W.1 mentions that Balaram Pujari hit at the right side of the neck of Ramayya by lathi and on the head by "Karra" (a stick which he later corrects to a dudhu i.e. lathi) by No.1 Lakhan Naik. In the cross Examination he says "I got back to a distance of four feet towards firing party. Ramayya was standing behind me at a distance of four feet---I ran near the firing party for safety---I received injuries and held to the fence leaning myself on the fence. I stayed by the side of the fence which was near the firing party. I ran near the firing party for safety. By the time I reached the fence Ramayya was beaten by Balarn Pujari".

According to the Prosecution, P.W.1 Ramamurty and constable D.C.Mohanty were first assaulted and then there was the lathi charge by the Police and then Ramayya was assaulted. The injury on Ramamurty was(according to the Medical Officer) such as to cause temporary un-consciousness. He could have recovered from it a little later. If his mind was excited, recovery would be very quick, but if the mind was not excited recovery would be slow. Therefore it was suggested that this Sub Inspector could not have seen the injury on Ramayya as he was probably unconscious. There is no evidence that this witness Ramamurty was assaulted after the Lathi charge. Ramamurty must be very excited and it is possible that he might have recovered quickly enough and saw the assault on Ramayya. He was supporting himself near the fence and there is a possibility that his recovery was quick and he could see. He however does not say that he became unconscious. There was

was an interval between the assault on him and on Ramayya which allows time for recovery even if he were unconscious.

There is a great probability that he saw the offence. His statement is not improbable.

P.W.9.

The next witness who sees the assault is M.J.Dora, Sub Inspector, Nathili(P.W.9). He mentions that after the lathi charge Ramayya was beaten to death and before the lathi charge constable Mohanty and Sub Inspector, Venkatapalam were beaten. He states that Balaram Pujari gave a lathi blow on the right side of neck of Ramayya and Lakhan Naik on Ramayya's head. He denies that Ramayya was hit after the firing started. He did not notice how Ramayya moved about. He did not notice that Forest Guard Ramayya obstructed the mob. Ramayya was at his left and not behind. He noticed Ramayya while he (the Sub Inspector) was going back. It was suggested that as it was in confusion he did not notice certain other details about Ramayya and therefore he could not have seen who hit Ramayya. The argument itself answers the point raised. If he had seen "everything" about Ramayya it would be unnatural. He has seen only one part of the action of Ramayya. This is natural. This part happens to be the assault on him. Some other witnesses have not seen this assault which obviously was due to the confusion of fight. The statement of this witness therefore seems natural. It was also suggested that in the confusion blows were accidentally given which hit people. The Sub Inspector replied that the mob wanted to kill all Government officers and those obstructed them which shows it was not accidental. From the evidence of the witness it appears that Ramayya was to his left and it is quite possible that Ramayya's assault could be seen by the Inspector properly. This witness was

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was in full senses. Lakhan and Balaram were known to him. He was in a condition to see the occurrence. His evidence has to be accepted.

P.W.13.

The next witness is Khadar Khan(P.W.13). He saw the assault by Balaram Pujari and Lakhan Naik on Ramayya. Balaram Pujari hit on the neck of Ramayya and Lakhan Naik on the head. He mentions also that after the Sub Inspector, Venkatapalam, was hit, Ramayya was hit. Ramayya was hit before he(Khadar Khan) was hit. Thus he was not distracted at all. He mentions that Ramayya did not slip but fell down because of his injuries. This witness again does not appear to be unbelievable. He is a peon but nothing is alleged against him. He knows the accused No.1 and 2 and could identify them properly.

P.W.14.

The next witness P.W.14 mentions that Ramayya was beaten by accused 1 and 2. He does not mention in which part of the body Ramayya was assaulted. He also mentions that witnesses Mirra Thammanna and Sankarayya stood near Ramayya which corroborates them. He is the Revenue Inspector of Jeypore Estate and a man of some status and responsibility. I have no hesitation in accepting this part of his statement.

P.W.15.

The next witness is Niranjan Patnaik. He mentions that Ramayya was beaten and fell down and that Lakhan Naik and Balaram Pujari assaulted with lathis. Ramayya stood at a distance of 10 cubits at him and there were few men between him and Ramayya. He was thus in a position to see. A constable and Sub Inspector, Venkatapalam, stood near Ramayya. This Sub Inspector is the Sub Inspector, Venkatapalam. When Ramayya was hit, two or three persons were in front and others were

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were behind him. He mentions that Balaran Pujari hit on the neck and Lakhan Naik on the head. He ran away after Ramayya fell. He is a disinterested witness and nothing is alleged against him. He has not been injured and could therefore see without distraction.

P.W.16.

The next witness is Kirila Thammanna, who also mentions that Lakhan Naik and Balaran Pujari belaboured Forest Guard with lathis. He mentions in cross examination that Ramayya was hit after the lathi charge (Other persons were also assaulted at the same time as Ramayya). Ramayya fell down as the ground was slippery. This witness Kirila Thammanna, is apparently apt to imagine things. He observed the stick (which was seen later) near Ramayya's side, at the time of his running away. He also saw the stick which was left by the mob on the ground when he (the witness) was running away. Obviously his evidence is to be treated with caution. It should not be accepted unless corroborated.

P.W.17

The next witness Suryanarayana Patnaik(P.W.17) is an attender under the Revenue Inspector(P.W.14). He also sees Ramayya beaten with lathis by Lakhan Naik and Balaran Pujari but does not give the details of assault. He was persuaded by the mob and then he ran away. Ramayya stood behind the constable at a distance of 10 to 15 yards from him(witness). About 10 or 15 men were behind Ramayya. Ramayya fell in the drain near him. He could obviously see him. His running away after the assault on Ramayya and others is natural and I accept his statement.

P.W.18.

P.W.18 Sankarayya deposes in chief that he saw Lakhan Naik and Balaran assaulting Ramayya with lathis. In the cross examination he stated that Ramayya was assaulted on neck by Balaran and on head by Lakhan. He(P.W.18) was behind a bush. Between him and Ramayya was

was the fence chest high. He could observe what happened. There is nothing to discredit him.

P.W.19.

D.C. Mohanty states that he lost consciousness and as he regained consciousness he saw Lakhan Naik and Balaran assaulting Ramayya. In cross examination he says he saw three persons wielding lathis against deceased but only two assaulted.

It appears that this witness was dazed "At that time I did not see him fallen. A little later I found him fallen on the ground when I got better". What he saw was probably dependent on his mental condition. His evidence about assault should therefore be accepted with caution.

As will appear P.Ws. 8, 13, 15, 17 and 18 depose to the assault by Lakhan and Balaran on deceased. P.W.1 and P.W.19 might have been a bit dazed and P.W.16 Kirla Tharranna might have been confused but their evidence is supported by the evidence of above witnesses. Their evidence is that Balaran hit on neck and Lakhan Naik on the head of the deceased. The injury on head was the one which caused death. !

The accused Lakhan and Balaran deny to have hit Ramayya. According to them Ramayya died on gunshot wound. But the Medical ~~officer~~ evidence shows that the injury was one that could be caused by lathi and not gun-shot.

Lakhan's presence is deposed to by the above witnesses and practically by all the witnesses. He admits to have gone to the police station to court arrest. He has also injuries on the face probably by a sharp weapon (vide evidence of Doctor and Medical certificate Ex-B3B). He states he was injured by Bayonet. These would show his presence there. It is not possi-

possible for me to accept his statement that he did not assault Ramayya but went only to be arrested.

P.Ws. 30 and 31 state that Lakhan and Balaram had congress flags. P.W. 31 later says that they had sticks and not congress flags. Other Prosecution witnesses say they had lathis. The probability is that they had lathis and used them. This is deposed by most of the witnesses. It was also suggested that there were persons in between the accused and Prosecution witnesses and the offence could not be witnessed. The persons between were numbering 5 and 10 and there seems to be no reason why the occurrence could not be seen. The witnesses were 10 to 15 feet or more beyond and they could very well see.

The eye-witnesses are believable and they have not been impeached. I accept their evidence and conclude that Lakhan had assaulted Ramayya on head with lathi as deposed by witnesses. I consider he had caused injury on the head (injury No. 2) which caused death. His action shows that the injury ^{was} caused intentionally.

In cross examination it was suggested that the Police ordered lathi charge and the accused only retaliated. This was denied. Even so the accused were the aggressors as they wanted to force themselves in Police station in spite of obstruction and having been directed by the Magistrate to disperse. Before lathi charge constable D.C. Mohanty and P.W. 4 were injured by the mob. It was the Police party who were few in number and defending themselves and the police station.

No question of provocation or private defence can be inferred nor has this point been raised by the accused.

The act was therefore one of intentionally causing an injury which caused death. The mob led by Lakhan shouted they would beat Government officers. The assault on Ramayya (who was with the party of Government officers) was by a lathi which was green and

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and heavy. It caused death such a blow would cause death. Therefore it has to be concluded that Lakhan intentionally caused death of Ramayya. I, therefore, find him guilty of murder under section 302 I.P.C.

The part played by Balaran is that he had hit Ramayya on the neck with lathi. I have accepted this piece of evidence. His injury did not cause death. He, however, led the mob. This I get from the deposition of witnesses discussed above and from the evidence of unimpeachable witnesses, the Magistrate(P.W.8) and Divisional Inspector of Police(P.W.33). In view of the ~~fact that his injury did not cause death but that he actively~~ led the mob and committed assault for the purpose for which the mob came, I would examine his case under section 302 I.P.C. read with 149 I.P.C. rather than under section 302 I.P.C. itself. At this stage it would appear that ~~he~~ she was present, led the mob and assaulted Ramayya of the Police party.

I shall now take up the charges under section 147 I.P.C. and 302 read with 149 I.P.C. Section 147 is a minor charge. Those who do not come under 147 I.P.C. in this case certainly do not come under section 149 and 302 I.P.C. !

It is first necessary to show that there was an unlawful assembly whose common object was to overawe the public servants (P.Ws here) by show of criminal force and to commit the offence of mischief and assault. Secondly that each one of the accused charged was member thereof with that common object. Under section 147 it should be proved that force or violence was used in prosecution of the common object. Under section 302/149 I.P.C. it should be proved that one of the members committed murder in prosecution of the common object or such as the members knew to be likely to be committed in prosecution of the common object.

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The evidence of all the eye-witnesses was that there was a mob of one thousand strong armed with lathies. They shouted "Let us beat the Government servants-We shall burn the Police station". They came and took active steps to beat some of the Prosecution witnesses who were Government servants and continued to do so in spite of the order of the Magistrate directing them to disperse. This I got from the Magistrate and from the Divisional Inspector of Police and as well as from the other witnesses. I accept this evidence.

The assembly was an unlawful assembly. Their object as shown by shouts and action was as to overawe by criminal force the public servants, Magistrate, Police etc., and to cause mischief to Police station and assault persons there.

Oral evidence is available to show which of the accused were present in the mob and what part they played. The witnesses identified them here. A corroboration of the statement is not with in their identification at the identification parade which was held by the Medical Officer. In addition to this some of the accused also have admitted to have come to the Mahhili shandy. Some others admitted to have come to the Police station itself while some of the latter mention that they came to the Police station to court arrest. A further piece of evidence is available in the fact that some of these accused received injuries namely gun-shot wounds. It is evident that guns were fired by the police and the reception of gun-shot wounds would show that the recipient was present there. In the case of some of the accused the evidence comes so far as to say that they were actually assaulted by some of the police party and had lathi injuries which proves their presence. They also admit having been beaten. The fact that some of the witnesses were assaulted would make those witnesses look with a greater care on their

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their assailants. It is something by which they could remember their assailants to fix their attention and to keep it in their memory. There is no doubt that the persons who assaulted had taken an active part in the affair. Sub Inspector, Mathili(P.W.9) names accused Nos.1 to 26 and 28 in P.I.R(Ex-II) the First record but identifies here only accused 1,2,3,4,6,7,9,10,23 and 24. This will corroborate him and not others.

I, therefore, examine the position of each accused with the above pieces of evidence.

ACCUSED Nos. 1 and 2.

Lakhan Naik and Balaram Pujari have been separately dealt with and I am taking up the rest of the accused. Their presence and active part has been proved in the affair.

ACCUSED No.3. ARJUN NAIK OF TINTULICHETA AGE 32 YEARS

He has been identified by the Sub Inspector, Mathili(P.W.9) Revenue Inspector(P.W.14), Arrack Vendor(P.W.18), Police constable Chendrasekaram(P.W.23). Padmanabha Panigrahi (P.W.28) identifies here but has not identified him before the committal court or at identification parade. His(P.W.28's) identification therefore may not be acceptable. The other witnesses however have identified them at the three places. The Revenue Inspector recognizes him as his tenant of the Estate and Sankarayya as a man who comes to his shop. Police constable Chendrasakaram recognises him as his assailant. As far as these three are concerned there is something by which they could remember him. The Sub Inspector, Mathili, also identifies him as among the mob. The accused himself states that he went to the shandy but he did not go to the Police station. This, however, is not acceptable in view of the evidence of the prosecution which has not been impeached. I, therefore, conclude that he was present and also took active part by assaulting cons.

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constable Chendrasekaram(P.W.23).

ACCUSED No.4 ARJUN NAIK OF UDAYAGIRI(AGE 48 YEARS)

This accused is identified by the Sub Inspector, Iathili(P.W. 9), Revenue Inspector(P.W.14), Niranjan Patnaik(P.W.16) Sankarayya (P.W.18) Sobhasundar Patnaik(P.W.30) Madhab Balaram(P.W.31).

Revenue Inspector and Niranjan Patnaik do not know the name of the accused but identify him by his face. The Sub Inspector Forest Guard(P.W.30) and Madhab Balaram, cloth merchant recognise him by his face and name. Khadar Khan (P.W.13) knew Arjun Naik before when he camped in Forest. Madhab Balaram(P.W.31) was assaulted by Arjun Naik. Therefore there is a chance for his proper identification. This accused also mentions that he only went to the shandy but did not take part in the beating or in any unlawful act. But the Prosecution evidence no doubt show that he has been at the Police station and took active part by assaulting Madhab Balaram(P.W.31). I have to accept it.

ACCUSED No.5 SOMARU NAIK OF NUAGUDA(Age 33 Years)

He has been identified by the Revenue Inspector by face and by Padmanabha Panigrahi(P.W.28). Both of these have identified him at the identification parade in the Committal Court and here. Besides Peon Dhanurjaya Naik has identified here and states that he was assaulted by him. He also identified in the identification parade but not in the Committal Court. I do not consider this a discrepancy and that he had identified him early as such there is some necessity for remembering and that it is reported that he was assaulted by him. Padmanabha Panigrahi(P.W.28) only identifies him by his face. While Dhanurjaya Naik(P.W.26) names him as well he knew them before having gone to their villages. This accused states that he did not leave his house but this statement is not acceptable in view of the Prosecution evidence.

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ACCUSED No.6. KUNDU NAIK OF SATIACUDA AGE 34 YEARS.

He has been seen by the Sub Inspector, Mathili(P.W.9) Assistant Sub Inspector, Mathili(P.W.11) Revenue Inspector (P.W.14)Niranjan Patnaik, B.Suryanarayana, attender to the Revenue Inspector, Arrack Vendor(P.W.18) Sankarayya, and Padmanabha Panigrahi. Of these the Arrack Vendor as well as Suryanarayana have occasion to know him having met him in the course of business. He states that he was present at the shandy but did not go to Police station. But the Prosecution witnesses mention that he was among the mob who came to the Police station. He has been not reported to have assaulted any body but he has been a member of the mob.

ACCUSED No.7. BHINA NAIK OF KALIACUDA AGE 36 YEARS.

His presence is deposed to by the Sub Inspector, Mathili, (P.W.9)Abdul Peer Khan(P.W.10)Revenue Inspector(P.W.14)Niranjan Patnaik, B.Suryanarayana, constable No.500 who was assaulted by him. This accused admits he went to the Police station to be arrested. He also received injuries for which a medical certificate was granted(vide Ex-SS) approved by the Medical Officer(P.W.12). The injuries were gun-shot wounds which were caused by his being there. This accused was obviously at the police station. There is nothing to disbelieve. Police constable No.500 when he states that the accused assaulted him. Therefore he assaulted, at the same time received also injuries. He took an active part in the affair.

ACCUSED No.8. JAGANNATHA NAIK OF KALIACUDA.

He has been identified by Sub Inspector of Mathili(P.W.9) who states that he assaulted him also by Revenue Inspector (P.W.14) Thadar Khan Estate peon, Niranjan Patnaik, Arrack Vendor Sankarayya, Padmanabha Panigrahi, Coffee hotel man. The



The Coffee hotel man and Arrack Vendor have seen him in their place and residence. The Sub Inspector remembers him to have assaulted him. In his statement the accused says that he went to the shandy but did not go to the Police station. In the face of the reliable prosecution evidence I cannot accept this. He also appears to have played an active part by assaulting the Sub Inspector, Mathili(P.W.9).

ACCUSED No.9. UDAYANATH OM OF WANSIAGHAT (AGE 28 YEARS).

He has been identified by the Circle Inspector(P.W.33) , Sub Magistrate, Malkanagiri(P.W.8) Sub Inspector, Mathili(P.W.9) Assistant Sub Inspector(P.W.11) Khadar Khan(P.W.13) Revenue Inspector(P.W.14) Attender Suryanarayana(P.W.17) Arrack Vendor (P.W.18) and the Coffee hotel man(P.W.28). The Circle Inspector Malkanagiri has seen him beating a drum in the shandy. The accused himself admits to have gone to the Police station to be arrested. The fact that he was beating the drum in the shandy and went to the Police station to be arrested shows that he had intended to take an active part in the affair and he is the member of the mob. Although he has not assaulted any body I would consider him to have taken an active part.

ACCUSED No.10 NITYANANDA CHASI OF KALIACUDA.

He has been identified by the Coffee hotel Man(P.W.28) Arrack Vendor(P.W.18), Attender of the Estate(P.W.17), Estate Peon(P.W.13). These three persons have the occasion to see him before. He is also identified by the Sub Inspector, Mathili (P.W.9) Abdul Peer Khan(P.W.10) Revenue Inspector(P.W.14) and Miranjan Patnaik(P.W.15) Forest Guard(P.W.30) and Madhab Balaram (P.W.31). This accused mentions in his statement that he was present at the shandy but ran away on hearing the firing sound and that he did not go to the Police station. Reliable

Reliable witnesses have reported his presence in the Police station and in the mob. Therefore it appears that he was at the Police station with the mob. He, however, did not assault any body. 20

ACCUSED No.11 LAICHAN BIRIA OF ~~HEMPICHDA~~ SANTIAGUITA

He has been identified by face by only two witnesses namely the Revenue Inspector and the Estate Peon, Khadar Khan. He admits to have been at the shandy but that he went away home where there was golmol. Khadar Khan(P.W.13) states that he knows the village of the accused and knew him before but calls another man Laichan and does not name this accused. This accused also is not reported to have assaulted any one. I doubt his having been identified by Khadar Khan. The evidence to prove his presence is weak.

ACCUSED No.12. CHAITAN PUJARI OF SANTIAGUITA.

He has been identified only by the Revenue Inspector(P.W.14). He was identified also by Satrugno Lampata, Excise Peon(P.W.25) who did not identify him on the parade. He mentions here that he went to the shandy but did not go to the Police station. In the Lower court he says he went to court arrest(Ex-FF/12). Obviously he was present and a member of the mob.

ACCUSED No.13. DEVIABANDHU PUJARI OF SANTIAGUITA

He has been identified by the Revenue Inspector(P.W.14) and the Arrack Vendor(P.W.18). He has been named by the P.W.18. He has also not assaulted any of the Police party. He admits to have been to the shandy but denies to have come to Police station.

ACCUSED No.14. GUANDRA PUJARI OF SANTIAGUITA.

He has been identified by the Revenue Inspector, Mathili(P.W.16) Arrack Vendor(P.W.18) who names him and Excise Peon(P.W.25). The Excise peon has not identified him before the Committal Court but had identified him in the parade. He admits that he went to the

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the station but states that he was behind. In Lower court he said he went to court arrest (Ex-III/14). No doubt he was one of the mob. He however is not reported to have assaulted any one.

ACCUSED No.15. WALU KHILIA OF BAHADUR.

He has assaulted K.Apparao, P.C.No.292(P.124) who identifies him. He is also identified by the Assistant Sub Inspector, Lathili and the Revenue Inspector(P.14). The accused states that he went to the shandy but went home. There is nothing to show that P.124 has known to him. He names this accused but he did not know him before the occurrence. He appears to have taken an active part in the assault and is identified by reliable witnesses.

ACCUSED No.16. BAHU PUJARI OF BAHADUR (AGE 28 YEARS).

He has been identified by the Arrack Vendor(P.18) and the Revenue Inspector(P.14). He denies to have left his house. He does not seem to have assaulted any one.

ACCUSED No.17. RAJU KHILIA OF LULRU

He has been identified by the Revenue Inspector(P.14) and Arrack Vendor. He admits to have gone to the Khana to be arrested. Obviously he was present there and took an active part.

ACCUSED No.18. ARJU KHILIA OF LULRU.

He also was identified by only two persons. Phadar Khan(P.17) and the Revenue Inspector(P.14). He states that he was only at the shandy but not gone to the Police station. He did not assault any one. Phadar Khan calls him Rajumath and says he knows him. This is incorrect. The evidence of his identification is weak.

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ACCUSED No.19. ARJUN PUJARI OF LULERU

Dhanurjaya Naik, Excise Peon(P.W.26) identifies him as his assailant. He is also identified by the Arrack Vendor (P.W.18) who knows him and the Revenue Inspector(P.W.14). He states that he did not go to the place of golmal but the Prosecution evidence shows that he was present there and also took an active part.

ACCUSED No.20. SONARU BHUMIA OF LULERU.

He has been identified only by the Revenue Inspector and he states also that he was at his house. The Revenue Inspector (P.W.14) does not name him. I would consider the evidence weak to prove his presence at the mob.

ACCUSED No.21. SONYA BHUMIA OF LULERU

He has been identified by two persons, the Estate Peon and the Revenue Inspector(P.W.14). He deposes to have been at his house that day. He has not assaulted any one. The Estate peon calls him Leichen. Obviously the identification by Khadar Khan is defective. The evidence of his presence is weak.

ACCUSED No.22. SONU DOWB OF LULERU

The Assistant Sub Inspector, Hathili(P.W.11), identifies him as his assailant. He is also identified by Khadar Khan(P.W.18) and the Revenue Inspector(P.W.14). He states that he did not leave his house but I would accept the evidence of the Assistant Sub Inspector and Khadar Khan who know him. He also appears to have taken an active part.

ACCUSED No.23. POLALA NAIR OF KALLAGUDA.

There is no doubt that this man was present at the occurrence. The Sub Inspector of Venkatapalam(P.W.1) Assistant Sub Inspector(P.W.11) Police constable 273(P.W.19) Police constable

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constable No.292(P.W.24) and Excise Peon(P.W.27) have recognized him as their assailants. He is also identified by (P.W.9) Sub Inspector of Mathili, Revenue Inspector(P.W.14) Hiranjan Patnaik (P.W.15) B.Suryanarayana(P.W.17) Sankarayya(P.W.18) Radmanabha Manigrahi(P.W.28) Sobhasundara Patnaik(P.W.30) and Madhab Balaram (P.W.31). In his statement he mentions that he went to the Police station to court arrest. There is no doubt that he was present and was one of the active members of the mob.

ACCUSED No.24. BALARAM BHUIA OF THURAPALLI.

He has been identified by the Sub Inspector of Mathili(P.W.9) Revenue Inspector(P.W.14) Arrack Vendor(P.W.18) Coffee Stall Keeper (P.W.28), Suryanarayana(P.W.17) identify him here but not at the Parade and his identification is not accepted. The Sub Inspector of Venkatapalam(P.W.1) states that he assaulted him. This accused mentions that he went to the Police station to court arrest. He was therefore an active member and present at the mob.

ACCUSED No.25. BHIMA BAIRAGI OF PUJAPICUDA.

He is identified by the Assistant Sub Inspector, Mathili(P.W.11) Revenue Inspector(P.W.14) and Arrack Vendor(P.W.18). He also admits to have gone to court arrest. He has received the injuries(vide medical certificate Ex-TT) He was therefore present as an active member of the mob.

ACCUSED No.26. DHANURJAYO NAIK OF BAKILICUDA.

He has been identified by (P.W.14) Revenue Inspector, Arrack Vendor (P.W.18) Coffee Hotel keeper(P.W.28) and Madhab Balaram(P.W.31). Arrack Vendor (P.W.18) and P.W.28 have occasion to see him at their business. He was also identified by Suryanarayana(P.W.17) but did not identify him before. I do not accept this P.W.'s evidence. His (accused's) presence would therefore to be considered as in the mob. He did not

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not take any part in the assault. He states that he went to the shandy but did not go to the Police station. It cannot be accepted.

ACCUSED No.27. SOMARU NAIK OF PITHATHUR

He has been identified by the Revenue Inspector(P.W.14) and the Arrack Vendor(P.W.18). He states that he did not leave his house nor is he reported to have assaulted any one.

ACCUSED No.28. GOPINATH PUJARI OF SANTACUMMA

B Chendrasekaram, P.C.No.357(P.W.23) and Madhab Balaram recognise him as their assailants. He is also identified by Niranjan Patnaik and the Revenue Inspector. He states that he went to the shandy but returned from there. There is nothing to disbelieve the story of assault and I would consider that he was present and an active member.

ACCUSED No.29. BALSING BIRIA OF TENTULIGURIA

He is recognised by P.C.500, T.S.Narayana(P.W.20) as his assailant. He is also identified by the Sub Inspector, Mathili (P.W.9) and the Revenue Inspector(P.W.14). He admits to have gone to court arrest. He is also injured(vide Ex-LL medical certificate). He was an active member and was present in the mob.

ACCUSED No.30. GURU MOTIA OF THIRUPPUT.

B.Chendrasekaram, P.C.No.357(P.W.23) recognises him as the man who chased him, and Apparao, P.C.292(P.W.24) identifies him as his ~~xxxxxx~~ assailant. He is also identified by (P.W.25)Satrugno Lampata, Excise peon, Sub Magistrate, Malkanagiri(P.W.8) and the Revenue Inspector(P.W.14). He states that he was standing on the road near the shandy and got injury. He got the gun-shot wound on both the thighs. Obviously he was very near the firing as otherwise he

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he could not have got two wounds and it also shows that this assault is most probable true. He was present and an active member.

ACCUSED No.31. NARASINGH CHALAN OF BEJINICUDA.

The Sub Inspector, Nathili(P.W.9) and B.Chendrasekaram (P.W.23) identified him as their assailant. He is identified by also the Assistant Sub Inspector, Nathili(P.W.11) and the Circle Inspector(P.W.33). He admits to have gone to the Police station to court arrest. He was certainly an active member and present there.

ACCUSED No.32. KUSNO PUJARI OF BHANSIAGHAT.

T.S.Narayana, P.C.No.500(P.W.20) identifies him as his assailant. He is also identified by the Arrack Vendor(P.W.18) and the Revenue Inspector(P.W.14). He admits to have gone to court arrest. He was an active member of the mob. He was also injured(vide Ex-VV).

ACCUSED No.33. BHALU DOND OF TINTULIGUTTA.

He has received the injuries(vide Ex-VV-Medical certificate). He has been identified by only one witness(P.W.18) Arrack Vendor. He himself states that he was on the road and got gun-shot wound. In Lower court he said he went to court arrest(Ex-FFF/33). There is no evidence that he assaulted any one. It is certain that he was near the mob.

ACCUSED No.34. GURU GOND OF KUPILIGUDA.

He is identified by the Sub Inspector, Nathili(P.W.9), Revenue Inspector(P.W.14) and the Arrack Vendor(P.W.18). He admits to have gone to court arrest. He has been injured (vide Medical certificate Ex-FF) He is obviously an active member of the mob.

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ACCUSED No.35. KOSA PADKA I OF KOTAIIPALLI.

He is identified by the Revenue Inspector(P.W.14) and the attender(P.W.17). He admits to have gone to the shandy to preach non-payment of taxes. He has gone to the Police station and on the way he states he got gun-shot wound. He got injury (vide Medical certificate NN) He had two gunshot wounds. He has been near the place of occurrence and obviously an active member. In Lower court he said he went to court arrest.

ACCUSED No.36. HATIRAM KOTIA OF ATALGUDA.

He has been identified by T.S. Narayana, constable(P.W.20) and K.Apparao, P.C.No.292(P.W.24) as their assailants. He admits to have gone to the thana for being arrested. He got also an injury (Ex-PP) Obviously he was one of the active members of the mob. He is also identified by the Revenue Inspector(P.W.14).

ACCUSED No.37. SOMARU BHUMIA OF MANJURIGUDA.

He has been identified by the Revenue Inspector, and the Arrack Vendor(P.W.18). He admits to have gone to the thana to be arrested. He has also received an injury (vide Medical certificate Ex-UU). He was an active member of the mob.

ACCUSED No.38. HATIRAM CHAUDAL OF AMBAGUDA.

He has been identified by the Revenue Inspector(P.W.14) and K.Apparao, constable No.292(P.W.24) as his assailants. He mentions that he went to the shandy and on the way he was assaulted by the police constables. He had injuries(vide Medical certificate Ex-QQ all lathi injuries). He appears to have been an active member of the mob.

ACCUSED No.39. KONDISUNIA JHORIA OF KIYANG.

D.C. Mchanty, P.C.273(P.W.19) Excise Peon(P.W.25) and Sarvarao

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Compounder Sarverao(P.W.29) identifies him as their assailants. He also had injuries(vide medical certificate Ex-YY all injuries caused by lathis). He was also identified by the Sub Inspector Mathili (P.W.9) Assistant Sub Inspector, Mathili(P.W.11) Revenue Inspector(P.W.14)Niranjan Patnaik(P.W.15)Arrack Vendor(P.W.18) and the Coffee Hotel Keeper(P.W.20). He states that he went to the shandy and he was behind the accused. He went away when he heard firing. Obviously he was an active member of the mob.

ACCUSED No.40.SONYASI BUNIA OF UDAYAGIRI

Excise Peon(P.W.27) identifies him as his assailant. He was also identified by the Arrack Vendor(P.W.18) and the Revenue Inspector(P.W.14). He states that he went to the shandy to preach non-payment of taxes with congress people but were assaulted by police and were chased by the Sub Inspector. He states that he did not go near the Police station. He has been an active member in preaching non-payment of taxes, etc., and it is probable that he went to the Police station and was assaulted as deposed. He was an active member and was present in the mob.

ACCUSED No.41. MANGALAI ADWANI OF SARIGIGUDA.

He has been identified by the Arrack Vendor(P.W.18) and the Revenue Inspector(P.W.14). He had injuries(vide Ex-M caused by lathis). He states that he was only present in the shandy but never went to the Police station. But his injuries would show that he was present there. It is not reported that he assaulted any one. But the fact he received injuries shows he was in the thick of the fight.

ACCUSED No.42. BUDHURAR OF UDAYAGIRI

He has been identified by the Sub Magistrate, Malkanagiri (P.W.8) and P.C.No.273(P.W.19) as their assailants. He is also identified by the Assistant Sub Inspector, Mathili(P.W.11) Arrack Vendor(P.W.18).Coffee Hotel Keeper identifies him here but nothe

no-where-else. I am not accepting his identification. The accused states that he with the congress people went to the Police station and he left the place when the firing started. There is nothing to disbelieve the statement of the Magistrate. He appears to have been present there and an active member.

ACCUSED No.43. SOMAPATI BIRTA OF UDAYAGIRI.

He is identified by the Revenue Inspector(P.W.14) and the Arrack Vendor(P.W.18). He states that he preached non-payment of taxes and that he started to Police station. He heard firing and left. He is not reported to have assaulted any one.

ACCUSED No.44. KRISHNA CHANDRA BISNOI OF UDAYAGIRI

The Magistrate identifies him as his assailant. He is also identified by the Sub Inspector, Mathili(P.W.9) Abdul Peer Khan(P.W.10) Revenue Inspector(P.W.14) B.Suryanarayana(P.W.1) Arrack Vendor(P.W.18) and Coffee hotel Keeper (P.W.28). In the statement he denies to have gone to the Police station. But this cannot be acceptable in view of the reliable evidence. He was an active member in the mob.

ACCUSED No.45. SOMAPATI BIRTA OF PARTHAPALLI.

The Sub Inspector, Venkatapalam(P.W.1) and the Excise Peon (P.W.23) identify him as their assailants. He is also identified by the Sub Magistrate, Malkanagiri, Sub Inspector, Mathili, Revenue Inspector, Niranjan Patnaik(P.W.16) Suryanarayana Patnaik(P.W.17) Arrack Vendor(P.W.18). The Divisional Inspector(P.W.33) Solla Sundara Patnaik(P.W.30) and Madhab Balaram(P.W.31). He states that he only went to the shandy. Obviously he was an active member and present at the Police station.

ACCUSED No.46. SANTOSOMARO PAIKO OF ATALCUTA

He has been identified by the Sub Magistrate, Malkanagiri (P.W.8) Sub Inspector, Mathili(P.W.9) Kirla Tharmanna(P.W.16) and Coffee Hotel Keeper(P.W.28) Suryanarayana(P.W.17) and Niranjana Patnaik(P.W.15) also identify him both here and at the parade but not at the Committal Court. He admits to have gone to Police station to court arrest. Sarvarao(P.W.29) recognises him as his assailant. He was present and an active member of the mob.

ACCUSED No.47. HARI PUJARI OF ATALAGUDA.

He is identified by Sarvarao(P.W.29) as his assailant. Madhab Balaram(P.W.31) and the Sub Magistrate identified him ~~xxx~~ at the place. In this statement he mentions that he went to the shandy bny but left therefrom. This cannot be accepted. He appears to have been an active member of the mob.

ACCUSED No.48. MONGARAJ HAIK OF CHATPAJHORA.

He is identified by the Sub Inspector, Mathili and the Revenue Inspector(P.W.14), Assistant Sub Inspector(P.W.11) identified him here but not anywhereelse. He states that he was implicated falsely. He has not assaulted any one.

ACCUSED No.49. BHAGA HAIK OF KOTAPALLI.

He is identified by the Revenue Inspector(P.W.14) and Suryanarayana Patnaik(P.W.17). He denies to have left his house. He is also reported not to have assaulted any one.

ACCUSED No.50. BALARAM BUNIA OF BHANSIAGHAT AGE 24 YEARS.

He has been identified by the Sub Inspector, Mathili(P.W.9) Revenue Inspector(P.W.14) and the Arrack Vendor(P.W.18) and also by K.Ramamurthy. The Sub Inspector of Venkatapalam(P.W.1) recognises him as his assailant. Obviously he was present and

and an active member.

ACCUSED No.51. GUPU IAIKO OF RAINGAVADA.

He is identified by the Sub Inspector of Mathili(P.W.9) and the Assistant Sub Inspector, Mathili(P.W.11). He admits to have gone to the shandy but denies to have gone to Police station. He has not reported to have assaulted any one.

ACCUSED No.52. KALAKURA ARJUNO OF BAUDHARAPANGAI.

He is identified by the Sub Inspector, Mathili(P.W.9) and P.C.No.357(P.W.23). He denies to have gone out of his house at all. He has not assaulted any one.

ACCUSED No.53. NARASINGH DURVA OF KOTTALETTA.

He is identified by the Sub Inspector, Mathili(P.W.9) and P.C.No.292(P.W.23). He also denies to have left his house. He has not assaulted any one.

ACCUSED No.54. MOTIRASINGH MADHANI OF TENTULIGUDA.

He is identified by the Divisional Inspector(P.W.33) and B.Chendrasekaram, P.C.No.357(P.W.23). He admits that he was coming to the Police station but on the way he heard godmol and left. He has also not assaulted any one.

As the identification in this court was corroborated with the proceedings of Test identification by the Medical Officer it is necessary to see how the Test identification was held.

The Medical Officer mentions that 61 suspects (including accused) were mixed with 100 persons of similar appearance and habits similarly dressed. The accused who had injuries

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injuries covered their bandages with cloths so that they could not be identified merely because of injuries. The witnesses came one by one. The place where witnesses were kept and identification was held was separate and not visible from each other. The position of suspects was changed after each identification. There was no chance of collusion or foulplay.

The accused were identified by face. They were not named. No suggestion has been made impeaching the test identification. The chart is Ex-DDD.

In all the identification evidence mentioned against each accused, the identification has been consistent at the three places, Test Parade, Committal Court and here. It was put to Khadar Khan in cross examination that he did not identify certain persons. But he has actually identified them as appears from Ex-LDD.

The result of the identification is as follows:--

Accused Lakhan (1) Balaram(2), Arjun Naik of Tentuligurma(3) Arjun Naik of Udayagiri(4) Somaru Naik of Nuaguda(5) Bhima Naik of Kaliaguda(7) Jagannath Naik (8) Udainath Odi(9) Bhalu Bhumia(15) Arjun Pujari of Luleru(19) Sonu Domb (22) Podolan Naik(23) Balaram Bhumia(24) Copinath Pujari(28) Bansing Bhumia(29) Guru Kotia(30) of Timpsput, Narasinga Challan(31) Kasno Pujari(32) Hatiram Kotia of Atalguda(36) Hatiram Chandal(38) Kondisonna Jhoria(39) Sonyasi Bhumia(40) Budhu Kumar of Udayagiri(42) Krishan Chandra Bissoi(44) Sonanath Bhumia of Kartanapalli(45) Sanosomaro Naik of Atalguda(46) Hari Pujari(47) Balaram Bhumia of Bansiaghat(50) were present at the mob who attacked at the police station. Udainath Odi was drummer at shandy. The others assaulted the Prosecution witnesses in spite of their having been asked to disperse. By their actions

actions they show that they had the same common object viz., to overawe the public servants and commit mischief and assault. Of some of them had injuries from gunshot and some stated they went to court arrest. Actually no one courted arrest but took steps in consequence of which certain events happened at the meeting. These persons actively supported Lakhan and intended to support him. I am satisfied that there had definitely taken part and formed the unlawful assembly.

Besides them the following also had received gunshot~~xxxx~~ injuries. Accused 25 Bhika Bairagi, (Ex-TT- Medical certificate) Bhalu Domb 53 (vide Ex-WU) Guru Goud (No. 34) (vide Ex-RR) Kosamadakami No. 35 (vide Ex-NH) No. 37 Somaru Bhumia (vide Ex-No. VV) One Mangala Madakami No. 41 had lathi injuries (vide Ex-III) which he says were given by the police. These corroborate the evidence of eyewitnesses who saw them there. Of these Accused No. 25, No. 34, No. 37 stated that they went to thana to court arrest. No. 33 stated that he got injury on the road while in Lower court he said he went to court arrest, and No. 41 said he only went to shandy. These 6 persons were identified and their injuries show they were present there. They must have been in the thick of the fight. I consider them also to have been active members of the mob.

Besides these Accused No. 17 Raghunath Bhumia of Luleru stated he went to court arrest. He was not injured nor did he himself assault. But he has been a supporter of Lakhan. He was present at the mob at the thana. As a supporter of Lakhan his object was the same as that of the mob.

Accused No. 14 Chandro Pujari pleads not guilty. He admits to have gone to the Police station but he was behind. In the Lower Court he says he went to court arrest. He must have been

KORAPUT.

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been a member of the unlawful assembly. He was identified by Arrack Vendor(P.W.18) and Excise Peon(P.W.25) whose evidence is not impeached. The Revenue Inspector also saw him. His presence at mob at police station may be considered as proved.

Accused No.6,10,11,12,13,18,26,43,51 stated that they only went to the shandy but did not go to the Police station at all. No.54 stated he was coming to the Mathili but went away on hearing golmal. In Lower court No.12 Chaitan Pujari admits to have gone to court arrest.

Accused No.6 Kendu Naik, No.10 Nityananda Gahsi have been seen at the mob at Police station by a number of persons. Accused No.6 by seven of the Prosecution witnesses and No.10 by ten of the witnesses. There could be no chance of a mistake. They were obviously present there. No.51 Guru Naiko is seen by the Sub Inspector and Assistant Sub Inspector at Police station in the mob. No.54 is seen by the Divisional Inspector in the mob. These four have therefore been in the mob.

Accused No.26 Dhanurjayo Naiko has been identified by the Coffee Hotel Keeper and Madhab Badaram as well as the Arrack Vendor. I consider his presence in the mob proved.

Accused No.11,13,18 and 43 are identified by two persons each while accused No.12 Chaitan Pujari of Luleru is identified by only Revenue Inspector. Accused No.18 is identified by Revenue Inspector as well as P.W.13 Khadar Khan but Khadar Khan calls him Raghunath Bhunia which he is not. Khadar Khan claims to know him. Khadar Khan also does not name accused No.11 Laichan Bhunia but calls accused 21 as Laichan which is obviously accused No.11. Hence his identification of these two accused is not proper. As only one witness has identified accused, 18, and accused 11, and even

P.t.o.

even that witness, the Revenue Inspector has recognised them only by face among so many, I do not accept that they were present there. It is unsafe to depend upon the solitary memory of one witness especially when he recognises only by face. Accused No.12 admits in Lower court to have gone to court arrest. Hence I consider he was present in the mob.

Accused No.13 Deenabandhu Pujari and No.43 Somanath Bhumia of Udayagiri are identified by Revenue Inspector and Sankarayya, Arrack Vendor the latter naming them. I consider the identification is proper specially as it is corroborated by the Test Identification. I consider Deenabandhu and No. 43 Somanath of Udayagiri as present not only at shandy as they said but at the mob at police station with lathis as mentioned by the witnesses.

The remaining accused No.16,20,21,27,48,49,52 and 53 deny to have left their homes.

Accused No.20 Sombaru Bhumia of Luleru is identified only by the Revenue Inspector. Accused No.21 Sonya Bhumia is pointed out by Khadar Khan who calls him Laichan belonging to Sonya Bhumia's village. He is himself Sonya Bhumia. Khadar Khan obviously does not know him. His identification would be improper. Only the Revenue Inspector has recognised him by face. I consider it unsafe to accept his solitary testimony and I do not accept those accused to have been present.

Accused No.16 Bagna Pujari and No.27 Sombaru Naik of Pithathumb have been identified here and at the parade by Revenue Inspector and Sankarayya(P.W.18). There is nothing to show that the identification is improper. They were obviously in the mob.

P.t.c.

AGENCY SESSIONS JUDGE.

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Accused No.48 Mangaraj Naik is identified by the Sub-Inspector, Nathili, as well as Revenue Inspector both here and at the parade. This again can be accepted. Accused No.49 Bhaga Naik is identified by Revenue Inspector and Suryanarayana his attender both at test and here. This again is not impeached and I accept it.

Accused No.52 Kalakura Arjun and No.53 Narasing Dhurva have been identified by the Sub Inspector, Mathili and constable Chendrasekaram(P.W.23) both here and at the test. There is no reason to reject their statement. I accept that they were also present.

I consider that Accused No.16,27,48,49,52 and 53 were present. They were with lathies among the mob at Police station as deposed by witnesses. I find that accused No.11,18,20, and 21 were not proved satisfactorily, to have been present.

Summing up accused No.1,2,3,4,5,7,8,9,15,17,19,22,23,24,25,28,29,30,31,32,33,34,35,36,37,38,39,40,41,44,45,46,47 and 50 were present and themselves assaulted or received injuries or did active part by drumming (accused No.9).

I find also that the following were present in the mob. They were not injured nor are they reported to have assaulted accused No.6,10,12,13,14,16,26,27,43,48,49,51,52,53 and 54. Not less than two witnesses have seen them at the mob. No.12 admits to have been there. All of them were armed with heavy lathies according to the Prosecution. Their presence was an encouragement to the whole of the mob. Being present with them during the occurrence would show that they were also having the same common object. They were all an unlawful assembly. Both these groups (50 men) were of the unlawful assembly.

P.t.o.

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It is in evidence that violence and criminal force was used in prosecution of the common object viz., to overawe the public servants and to commit mischief and assault. I, therefore, consider that violence having been used, every member of the unlawful assembly ~~was~~ guilty of rioting. The above fifty accused would therefore be guilty under section 147 Indian Penal Code.

The next question is as to whether they would be guilty under section 302 read with 149 I.P.C. They all had lathis. They all continued to be in the mob. Some of them actually assaulted. When they came to use force against the police party who also had lathies they should know that a fight would ensue and death would be likely to be caused. Such death would be murder. Every one of the party who had lathies must have known that murder would be likely to be committed in prosecution of their common object viz., to overawe the public and to commit mischief and assault.

The accused some of them stated that they went there to court arrest. But the actual action of the mob appears to have been to assault the officers. None of the accused offered themselves to be arrested on 21-8-42 and in fact none were arrested. Hence this plea cannot be accepted. Some of the other accused mentioned they were not at the place at all, nor that they were present and had any other common object. Such being the case I consider that every one of those fifty present who according to the Prosecution had lathies had the common object aforesaid and knew that murder was likely to be committed. It was also stated by witness No.10 that the mob said they would kill

Government servants. P.W.33 said that the mob said 'Pujo' (Kill)

Although it cannot be said that the common object was to kill it can be said that the common object was to beat and from the kind of lathies used it could be said that they knew that murder

AGENCY DEPARTMENT

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murder was likely to happen in prosecution of that common object. I, therefore, consider, of all the fifty members of the unlawful assembly present with lathies except Lakhan accused No.1 the remaining forty nine persons including Balaran Pujari Accused No.2 are guilty of section 302 (Murder) read with section 149 Indian Penal Code.

CHARGE UNDER RULE 35/121 DEFENCE OF INDIA RULES

The next charge is under rule 35 read with 121 of Defence of India Rules. The offender would be guilty under Rule 35 if he had approached or was in the neighbourhood of building used for the purpose of Government with intent to cause damage to it.

In this case the intention of the mob is proved by the speech of Accused No.1, who said that the Police station shall be burnt. The cries of the mob at Police station was that they will burn the Police station. On being obstructed by the officers they said "the building was constructed by us. We will burn it". In addition one of the mob tried to set fire to Police station to burn it but was shot dead by Sub Inspector, Mathili (vide his deposition).

Evidence was also given of the dying declaration of 2 of the mob Orjuan Kohi and Narasing Domb. It is Ex-D and E. Both mention "On Friday we held a meeting at shandy and proceeded to loot and set fire to Police station---I beat Government officials I received gunshot wound in my abdomen". It was argued that this was not admissible under section 32 Evidence Act as the cause of death of deponent was not at issue. The death of these persons are relevant facts in the case. Besides if they had been alive this statement would have been used as confession against them. As they do not directly implicate co-accused the value against the others is very little.

P.W.14 Revenue Inspector also mentions that he saw a man setting fire and Sub Inspector shot him dead. P.W.23 Chendrasekaram said several of the mob had entered compound. The evidence shows that a definite act was done by the mob to get the Police station to damage it. Therefore it could not be said that this offence has not passed the preparation stage. It had passed further beyond. If it has not completed it was not the fault of the accused. They were stopped by factors beyond their control. The mob persisted in pushing that they left but when they were driven away by firing. I, therefore, consider that they had approached the Police station with intent to damage it. The Police station was Government property. All the mob were therefore liable under this section. The accused who have been identified would therefore be guilty under this rule, of approaching the Police station, a Government property, with intent to damage it.

The result of the trial is that I find Lakkan Naik accused No.1 guilty of murder by intentionally causing the death of G. Ramayya under section 302 Indian Penal Code and convict him of the same; considering the circumstances of the case I consider that the extreme penalty should be awarded. I sentence him to be hanged by the neck till he be dead. This sentence is subject to confirmation by the Hon'ble High Court.

He is also found guilty under section 147 I.P.C. for rioting and under Rule 38/5 of Defence of India Rules for delivering prejudicial speech(Ex-C) and for approaching the Police station with intent to damage it under rule 35 of the Defence of India Rules. I convict him of the above offences (147 I.P.C. Rule 38/5 and 35 Defence of India Rules) but no separate sentence is passed

P.t.o.

I find that the following forty-nine accused were members of the un-lawful assembly with Lakhan. They are accused No.2 Balaram Pujari, No.3. Arjuno Naiko of Tentuligurra, No.4.Arjuno Naik of Udayagiri, No.5.Sombaru Naik of Nuaguda, No.6.Xendu Naik, No.7Bhima Naiko, No.8.Jagannath Naik, No.9, Udainath Odi No.10.Nityananda Ghasi, No.12.Chaitan Pujari, 13.Deenabandhu Pujari 14.Chandra Pujari, 15, Bula Bhumia, 16,Barna Pujari 17.Raghunath Bhumia,19Arjuno Pujari of Luleru 22.Sonu Domb of Luleru, 23.Padalam Naik 24.Balaram Bhumia of Temurapalli 25.Bhika Bairagi 26. Dhanurjaya Naiko, 27.Sombaru Naiko of Pithathumb, 28.Gopianth Pujari of Sonnagurra, 29 Bansingh Bhumia of Tentuligurra,30.Guru Kotia of Timpstut, 31.Narasing challan of Bhajiniguda, 32 ^{Krishna} Krishna Pujari,33,Bhalu Domb of Tentuligurra,34.Guru Goudo of Kupiliguda 35.Kosa Madkami,36.Hatiram Kotia of Atalguda, 37.Somaru Bhumia of Monjuruguda, 38.Hatiram Chandal of Amboguda, 39.Kondisunna Johoria, 40.Sonyasi Bhumia of Udayagiri, 41 Mongala Madakami 42. 44.Krishnachandra Bissoi,45.Somanatha Bhumia Budhu Umar 43. Somanath Bhumia of Kertenapalli,46. Sannasomar Naik 47 Hori Pujari 48, Mongaraja Naik 49.Bhaga Naik of Kotapalli, 50 Balaram Bhumia of Mansiaghat 51.Guru Naiko of Rangavada, 52.Kalakora Arjuna, 53.Narasing Dhurva of Kottametta, 54. Motiram Singh Madkami.

These forty-nine persons are found by me guilty of rioting under section 147 I.P.C. and of murder under section 302 I.P.C. read with section 149 ~~Ind~~ Indian Penal Code. I find them also guilty under Rule 35 of the Defence of India Rules for approaching the Police station with intent to damage it.

I convict them under section 302 I.P.C. of murder read with section 149 I.P.C. As they appear to have been ignorant persons mislead by Lakhan Naik accused No.1, I do not award the extreme penalty but award them each transportation for life.

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I convict them under section 147 Indian Penal Code for rioting and sentence them to 2(Two) years Rigorous Imprisonment each.

I convict them under Rule 35 of the Defence of India Rules and sentence them to Rigorous imprisonment for seven years(7)

All the sentences will run concurrently.

I find Accused No.11 Laichan Bhumia, No.18 Arjuno Bhumia of Luleru No.20 Sombaru Bhumia of Luleru and No.21 Sonya Bhumia of Luleru have not been satisfactorily proved to have been present at the mob at the Police station. I, therefore, consider that these four persons had not committed any of the above offences. They are acquitted and directed to be set at liberty, unless they are required for any other charge.

Dictated by me and pronounced in the open court this 13th day of November 1942.

Sd.V.Ramanathan
13-11-42.
Additional Sessions Judge, Koraput.

Certified that this judgment has been typed to my dictation and has been corrected by me.

Sd.V.Ramanathan,
13-11-42.
Additional Sessions Judge,
Koraput.

/ True copy/

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AVS/13-11. 13 x1

V. Ramanathan
ADDITIONAL SESSIONS JUDGE
KORAPUT.

S.G. 18/42
S.C.T.R. 5/42

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LIST OF WITNESSES EXAMINED FOR PROSECUTION

1. Sri K. Ramanurthy, Sub Inspector of Police, Venkatapalan P.S.
2. Mr. J. Bingham, Surgeant Major, Reserve, Koraput.
3. R. K. Patra, Police constable No. 201 of Mathili Police station.
4. Sri Gagan Chandra Das, Sub Inspector of Police, Jeypore P.S.
5. Narasingo Pujari of Dondaguda.
6. Enayi Thola Khan of Mathili.
7. Hydar Baig, Contractor, Mathili.
8. Mr. Mahammad Mujibur Rahman, Taluk Magistrate, Malkanagiri.
9. Sri M. Jagannaikulu Dora, Sub Inspector of Police, Mathili P.S.
10. Abdul Peer Khan of Mathili.
11. Sri G. C. Jenna, Asst. Sub Inspector of Police, Mathili P.S.
12. Dr. P. Ramachandra Rao, Sub-Asst. Surgeon, Mathili.
13. Khadar Khan of Mathili.
14. Sri G. V. Narasimhan, Revenue Inspector, Jeypore Estate.
15. Niranjan Patnaik of Mathili.
16. Kirila Tharamanna of Mathili.
17. B. Suryanarayana Patnaik of Chedanaga now at Mathili.
18. N. Sankarayya of Mathili.
19. D. C. Mahanty, P.C. No. 273 now at Koraput.
20. T. S. Narayana, P.C. No. 500 now at Koraput.
21. Dinabandhu Dora, P.C. No. 55 of Mathili P.S.
22. Raghu Bhui, P.C. No. 138 of Malkanagiri.
23. B. Chendrasekaran P.C. No. 357 of Malkanagiri P.S.
24. K. Apparao, P.C. No. 292 now at Koraput.
25. Satrugano Lampata, Excise peon, Mathili.
26. Dhanurjoyo Maiko -do-
27. Kontharu Badai, -do-
28. Padmanabha Panigrahi, of Mathili.
29. P. Sarva Rao, Compounder, Mathili.
30. Sabha Sundar Patnaik, Forest Guard, Jeypore Estate of Mathili.
31. Madhabo Balaram of Mathili.
32. Raju Pradhani, Veterinary Stockman, Mathili.
33. Sri B. S. Manda, Circle Inspector of Police, Malkanagiri

LIST OF WITNESSES EXAMINED FOR DEFENCE

N I L

LIST OF PAPER EXHIBITS FILED FOR PROSECUTION

- Ex-A1 Signature of Narasingo Pujari (P.W. 5) on the search list for papers marked X1 to X9.
- Ex-B1 Signature of Narasingo Pujari (P.W. 5) on the search list for paper marked X-10 (marked Ex-II)
- Ex-C1 Signature of Mr. M. Mujibur Rahman, Taluk Magistrate, Malkanagiri (P.W. 8) on the notes prepared by the Divisional Inspector, Malkanagiri.
- Ex-D Dying declaration of Arjun Katya recorded by Mr. M. Mujibur Rahman, Taluk Magistrate (P.W. 8).
- Ex-E Dying declaration of Narasing Domb recorded by Mr. M. M. Rahman, Taluk Magistrate, Malkanagiri (P.W. 8).
- Ex-F Inquest report of G. Ramayya, Forest Guard.

P.t.o.

- Ex-G Inquest Report of B.C.Maik Somara.
- Ex-H Inquest ~~Report~~ Report of Linga Bhunia.
- Ex-J Inquest Report of Nokulo Madkani
- Ex-K Inquest Report of Marsingo Badama
- Ex-L Seizure list for the hat and 16 lathis(H.O.I,IV & V to XIX)
- Ex-M Seizure list for the leaflet marked X-10.
- Ex-N F.I.R. of Sub Inspector Sri M.Jagannaikulu Dora of Mathili recorded by him.
- Ex-P Plan of scene of offence
- Ex-E2 Signature of Abdul Peer Khan on the notes prepared by the Dvl.Inspector, Malkanagiri.
- Ex-L1 -do- on seizure list(Ex-L)for the hat and lathis (H.O.I,IV & V to XIX)
- Ex-Q Postmortem certificate of G.Ramyya
- Ex-R Injury certificate of Mr.Md.Mujibru Rahaman, Taluk Magistrate, Malkanagiri (P.15 S)
- Ex-S -do- -do- of Sri B.S.Nanda, Dvl.Inspector,Malkanagiri
- Ex-T -do- -do- of Sri M.Jagannaikulu Dora, S.I.Police,Mathili (P.W.9)
- Ex-U -do- -do- of Sri K.Ramanurty, S.I.Police,Venkatapalan(P.W.
- Ex-V -do- of Sri A.C.Nahanati, P.W.D.Section Officer, Govinda-palli.
- Ex-W -do- of Sri P.Sarvarao, Compounder Mathili.
- Ex-Y Injury certificate of Sri G.C.Jenna, A.S.I.Police.Mathili
- Ex-Z -do- of K.Apparao P.C.No.292 of Mathili(P.W.24).
- Ex-AA -do- of T.S.Narayana,P.C.No.500(P.W.20).
- Ex-BB -do- of D.C.Mahanti, P.C.No.273(P.W.19)
- Ex-CC -do- of B.Chendrasekaram P.C.No.357(P.W.23)
- Ex-DD -do- of Sri Raju Pradhani, Vateriaary Stockman, Mathili
- Ex-EE -do- of Satruguno Lambata, Excise Peon
- Ex-FF -do- Juboraj Singh, Excise peon.
- Ex-GG -do- of Sobhasundar Patnaik,Forest Guard.
- Ex-HH -do- of Khadar Khan, Revenue ~~Inspector~~ Peon,Jeypore Estat
- Ex-JJ -do- of Marsing Domb.
- Ex-KY -do- of Guru Kotia(accused No.30)

- Ex-LL Injury certificate of Bansing Bhunia (accused No.29)
- Ex-MM -do- of Madkani Mangala (accused No.41)
- Ex-NN -do- of Kosa Madkani (accused No.35)
- Ex-PP -do- of Hatiram Kotia (accused No.36)
- Ex-QQ -do- of Hatiram Chandal (accused No.38)
- Ex-RR -do- of Guru Goud (accused No.34)
- Ex-SS -do- of Bhimma Naik (accused No.7)
- Ex-TT -do- of Bhiko Bairagi (accused No.25)
- Ex-UU -do- of Samaru Bhunia (accused No.37)
- Ex-VV -do- of Kusun Pujari (accused No.32)
- Ex-WW -do- of Bhalu Domb (accused No.33)
- Ex-YY -do- of Kondisurna Jhoris (accused No.39)
- Ex-ZZ -do- of Sonyasi Bhunia (accused No.40)
- Ex-AAA -do- of Narasing Challa (accused No.31)
- Ex-BBB -do- of Lakhan Naik (accused No.1)
- Ex-CCC -do- of Arjun Naik of Timisput.
- Ex-D1 Signature of Dr.P.Ramachendrarao (P.W.12) on Ex-E.
- Ex-D1 -do- on Ex-D
- Ex-G1 -do- on Ex-G
- Ex-J1 -do- on Ex-J
- Ex-K1 -do- on Ex-K
- Ex-C3 -do- on the notes prepared by the Dvl.Inspector, IIC
- Ex-DDD Proceedings of the Identification Parade held by P.W.12 (Dr.P.Ramachendra Rao)
- Ex-C4 Signature of Sri G.V.Narasimham P.W.14 on the notes prepared by the D.I.Lalakangiri.
- Ex-L2 Signature of =do- on Ex-L
- Ex-C Notes prepared by Sri B.S.Nanda (P.W.33) Dvl.Inspector, Malkanagiri on 21-8-42 at the Mathili Shandy about Congress meeting.
- EX-A Search list for the papers mark d X-1 to X-9 prepared by ~~the~~ Sri B.S.Nanda, Divisional Inspector, Malkanagiri.
(P.W.33)
- EX-B Not marked.
- EX-EFE Gazette notification of Government declaring the Congress organisations illegal (Notification No.137 Res.d/9-8-42 copy kept.

Ex-FFF1 Examination of accused Lokhan Naiko in the Committal court.

Ex-FFF2 -do- of accused Balaran Pujari -do-

Ex-FFF3 -do- of -do- Arjun Naik -do-

Ex-FFF4 -do- -do- Arjun Naik -do-

Ex-FFF5 -do--do-Somaru Naik -do-

Ex-FFF6 -do- -do-Hendu Naik -do-

Ex-FFF7 -do--do-Bhimo Naiko -do-

Ex-FFF8 -do--do-Jagannath Naik -do-

Ex-FFF9 -do--do-Udainath Odi-do-

Ex-FFF10 -do--do-Nityananda Ghasi -do-

Ex-FFF11 -do--do-Laichen Bhunia -do-

Ex-FFF12 -do--do-Chaitan Pujari-do-

Ex-FFF13 -do--do-Dinabandhu Pujari-do-

Ex-FFF14 -do-d-o-Chandro Pujari-do-

Ex-FFF15 -do--do-Bulu Bhunia -do-

Ex-FFF16 -do--do-Bagana Pujari-do-

Ex-FFF17 -do--do-Raghunath Bhunia-do-

Ex-FFF18 -do--do-Arjun Bhunia -do-

Ex-FFF19 -do--do-Arjun Pujari -do-

Ex-FFF20 -do--do-Somaru Bhunia -do-

Ex-FFF21 -do--do-Sany. Bhunia-do-

Ex-FFF22 -do--do-Sonu Domb -do-

Ex-FFF23 -do-d-o-oddan Naik-do-

Ex-FFF24 -do--do-Balaran Bhunia-do-

Ex-FFF25 -do-do- Bhika Bairagi-do-

Ex-FFF26 -do-d-o-Dhanurjoyo Pujari@Dhanurjaya Naik-do-

Ex-FFF27 -do--do-Sombaru Naik-do-

Ex-FFF28 -do--do-Gopinath Pujari-do-

Ex-FFF29 -do--do-Bhosingh Bhunia-do-

Ex-FFF30 -do-do-Guru Jhuti -do-

Ex-FFF31 -do--do-Harsing Chellan-do-

Ex-FFF32 -do--do-Kusna Pujari -do-

Ex-FFF33 -do-d-o-Bhalu Domb-do-

Ex-FFF34 -do-do-Guru Goud -do-

Ex-FFF35 -do-d-o-Kasa Madkani-do-

Ex-FFF36 -do-do-Matiram Kotiya-do-

Ex-FFF37 -do-d-o-Somaru Bhunia -do-

Ex-FFF38 -do-do-Matiram Chandan-do-

Ex-FFF39 -do- Kondisunna Jheria-do-

Ex-FFF40 -do-do-Senyasi Bhunia-do-

Ex-FFF41 -do-Mongalu Madkani-do-

Ex-FFF42 -do--do-Budu Komro-do-

Ex-FFF43 -do--do-Senanath Bhunia-do-

Ex-FFF44 -do--do-Firistochandro Bissoi-do-

Ex-FFF45 -do--do-Senanath Bhunia-do-

Ex-FFF46 -do--do-Sanasomara Naik-do-

Ex-FFF47 -do-d-do-Moripujari-do-

Ex-FFF48 -do--do-Mongaraj Naik-do-

Ex-FFF49 -do--do-Bhago Naiko-do-

Ex-FFF50 -do-d-o-Balaran Bhunia -do-

Ex-FFF51 -do--do-CHHUKAHE MEJUND-do-

Ex-FFF52 -do-d-o-Palakuru Arjuno-do-

Ex-FFF53 -do--do-Narasing Durva-do-

Ex-FFF54 -do-d-o-Motiram Singh Madkani.

LIST OF PAPER EXHIBITS FILED FOR DEPOSITION.

Ex-1 Deposition of Khadar Khan(P.W.13)of the Sessions Court) in the Committal Court

ADDITIONAL SESSIONS JUDGE
KORAPUT

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LIST OF MATERIAL OBJECTS PRODUCED

264

H.O.I Bamboo Club,
H.O.II 8 empty cartridge cases.
H.O.III Empty cartridge of the rounds of fire made by the Sub-Inspector (Sri M. Jagannaikulu Dora) of Nathili P.S. (P.N.S.)
H.O.IV Damaged hat of the S.I. Nathili P.S. (Sri M. Jagannaikulu Dora) (P.N.S.)
H.O.V to XIX Lathis recovered on the spot of scene of offence.
H.O.XX Revolver.

Sd. V. Ramanathan.
Addl. Sessions Judge, Koraput.

PAPERS MARKED "X" IN S.C. 18/42
S.C. P.R. 5/42 OF THE COURT OF THE ADDL. SESSIONS
JUDGE KORAPUT.
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Paper marked X Cyclostyled pamphlet d/9-8-42 regarding order of Mahatma Gandhi (subsequently marked as X-3)

-do- X-1 Letter d/25-8-42 of Mangaraj Naik to his elder brother.

-do- X-2 -do- d/23-8-42 of Naik Arjun Kalakura to Lakshman Naik.

-do- X-3 Cyclostyled pamphlet dated 9-8-42 regarding order of Mahatma Gandhi already marked "X"

-do- X-4 A manuscript document purporting to obey the order of Mahatma Gandhi etc.

-do- X-5 Four anna receipt No. 40259 d/20-9-40 for being a congress member granted by Narasing Tara Putia to Balaram Fujari.

-do- X-6 -do- No. 13289 d/12-6-41 granted to Balaram Fujari by Krishna Chandra Santra Patna for congress membership fee for the year 1941.

-do- X-7 -do- No. 13415 d/26-1-42 granted to Balaram Fujari for congress membership for the year 1942

-do- X-8 -do- d/26-9-41 granted to Chanasym Bantwari to Balaram.

-do- X-9 Letter dated 17-7-42 of Krishnachandra to Chanasym

-do- X-10 Cyclostyled pamphlet d/ 9-8-42 regarding order of Mahatma Gandhi.

-do- X-11 Publication regarding "Gandhi to lead struggle" published in Hindu dated 7-8-42.

Sd. V. Ramanathan.
Addl. Sessions Judge, Koraput.