

**IN THE COURT OF THE SESSIONS JUDGE, KHURDA
AT BHUBANESWAR.**

Present:

Dr. D.P. Choudhury,
Sessions Judge, Khurda
at Bhubaneswar.

Dated, Bhubaneswar the 20th Oct '14.

Crl. Tr. No. 205 of 2013.

(Arising out of C.T. Case No.481 of 2013, corresponding to Airfield P.S. Case No.25, dated 02.02.2013, committed by the learned S.D.J.M., Bhubaneswar.)

S T A T E

-V e r s u s-

1. Bhagaban Bhoi, aged about 26 years,
S/o. Jhulia Bhoi.
 2. Fagu Bhoi, aged about 42 years,
S/o. Alekha Bhoi.
 3. Alekha Bhoi, aged about 71 years,
S/o. Late Bauribandhu Bhoi.
 4. Jhulia Bhoi, aged about 62 years,
S/o. Late Bauribandhu Bhoi.
 5. Kalua Bhoi, aged about 42 years,
S/o. Alekha Bhoi.
 6. Rasmita Bhoi, aged about 26 years,
W/o. Bhagaban Bhoi.
 7. Sana @ Sanatan Bhoi, aged about 65 years,
S/o. Late Bauribandhu Bhoi.
- All of Vill. - Khetrapal, P.S. - Airfield, Dist. - Khurda.

... **Accused Persons.**

Counsel :

Karunakar with fists and slaps. Due to intervention of villagers, the accused persons fled away. Thereafter, FIR was lodged and the injured persons were examined by doctor. Since injured Dharani was seriously ill, he was referred to S.C.B. Medical College & Hospital, Cuttack for treatment and he succumbed to his injuries there, for which one U.D. Case bearing No.210 dated 12.02.2013 was started by Mangalabag Police Station. Inquest over the dead body was made by Mangalabag Police Station. During inquiry in U.D. Case, post mortem examination over the dead body of the deceased was held. Since the deceased and the injured informant were already examined by doctor on 02.02.2013, during investigation, requisition was made to doctor, who gave his report pursuant thereto. During the course of investigation, witnesses were examined under section 161 of the Cr. P.C., IIC, Airfield Police Station received information about the death of Dharani Behera, and the Investigating Officer received the post mortem examination report and inquest report. Accused Bhagaban while in custody of police disclosed that he had kept the weapon of offence i.e. iron rod in the back side of his house and, accordingly, he led police and gave recovery of such iron rod. The iron rod was seized by police. During investigation, police also seized the sample of blood of accused Bhagaban and one sealed packet containing nail-clippings of the said accused. Police also seized

the wearing apparels of accused Bhagaban. After seizure, police sent the weapon of offence and other seized properties to State F.S.L. for chemical examination. During investigation, police prepared spot map. After completion of investigation, charge-sheet was submitted against the accused persons. Hence, the prosecution case.

3. Plea of the accused persons is squarely denial to the charges levelled against them. As appeared from their statements recorded under section 313 of the Cr. P.C. and cross-examination made to the prosecution witnesses, the plea of the accused persons is that due to previous enmity, this case has been filed and there is a counter case against the informant's party relating to the self-same occurrence held on the same date, time and place, as alleged by the prosecution in this case, when the informant's party assaulted them.

4. The points for determination are :

(i) Whether the accused persons on 02.02.2013 at about 3 P.M. at village - Khetrapala, in furtherance of common intention, wrongfully restrained Dharani Behera & Karunakar Behera from proceeding in a direction in which they had a right to proceed ?

(ii) Whether the accused persons on the above date, time and place, in furtherance of common intention, uttered obscene words, such as, MAGIHA, etc. at Dharani Behera & Karunakar Behera in a public place causing annoyance to them and others ?

(iii) Whether the accused persons on the above date,

time and place, in furtherance of common intention, committed criminal intimidation by threatening Dharani Behera & Karunakar Behera to cause injuries to their persons ?

(iv) Whether the accused persons on the above date, time and place, in furtherance of common intention, committed murder by intentionally causing the death of Dharani Behera ?

(v) Whether the accused persons on the above date, time and place, in furtherance of common intention, voluntarily caused hurt to Karunakar Behera ?

5. Prosecution, in order to prove its case, has examined altogether twelve witnesses, out of whom P.W.1 is the informant and injured; P.Ws.2, 3, 4, 5 & 6 are arrayed as occurrence witnesses; P.Ws.7 & 8 are doctors; P.W.9 is the Investigating Officer, who conducted inquiry into U.D. Case; P.W.10 is a seizure witness; and P.Ws.11 & 12 are investigating Officers. In order to disprove the prosecution case, defence has examined two witnesses.

DISCUSSIONS :

6. In the case of *Vadivelu Thevar Vs. State of Madras (AIR 1957 SC 614)*, Their Lordships have been pleased to observe at paras-11 & 12 that :

“Hence, in our opinion, it is a sound and well-established rule of law that the Court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely :

- (1) Wholly reliable.
- (2) Wholly unreliable.

the evidence on record is to be tested on the touch-stone of the principles of appreciation of evidence, as stated above.

7. Apart from the above, in the case of *State of Rajasthan Vs. Chandgi Ram & Ors.* [2014 (6) Supreme 533], Their Lordships have been pleased to observe at para-18 that :

“Reliance can also be placed upon *Dinesh Kumar v. State of Rajasthan - 11 (2008) 8 SCC 270*, wherein in paragraph 12, the law has been succinctly laid down as under :

12. In law, testimony of an injured witness is given importance. When the eye witnesses are stated to be interested and inimically disposed towards the accused, it has to be noted that it would not be proper to conclude that they would shield the real culprit and rope in innocent persons. The truth or otherwise of the evidence has to be weighed pragmatically. The court would be required to analyse the evidence of related witnesses and those witnesses who are inimically disposed towards the accused. But if after careful analysis and scrutiny of their evidence, the version given by the witnesses appears to be clear, cogent and credible, there is no reason to discard the same. Conviction can be made on the basis of such evidence”.

With due respect to the said decision, I find that the evidence of relatives, interested or inimically disposed of towards the accused cannot be discarded but should be scrutinized with caution.

INJURIES :

8. It is revealed from the evidence of P.W.8 that on

02.02.2013, while he was on duty at casualty centre, one Dharani Behera was brought to him and he found bleeding injury on his right parietal region and after giving first aid, he referred said Dharani Behera to S.C.B. Medical College & Hospital, Cuttack. P.W.8 has further stated that he found one scalp injury on right tempero parietal region of size 10 cm x ½ cm extending upto deep scalp; the injury was grievous in nature and it might have been caused by hard and blunt weapon. He estimated that the age of injury was less than four hours. On police requisition, he sent the said report vide Ext.4. He has further stated that on 02.02.2013 at about 4.15 P.M., he examined Karunakar Behera and found one pattern abrasion on the right side back 6” x 3” linear above downwards, extending from left shoulder to below and it was simple in nature. According to him, it might have been caused by hard and blunt weapon and the age of injuries was within four hours. He has submitted report vide Ext.5. In cross-examination, he has admitted that his medical report vide Exts.4 & 5 were prepared from the entries in O.P.D. Register. In further cross-examination, he has admitted that since no Neuro Surgeon was available in the hospital on that day, he referred the case of Dharani Behera to the S.C.B. Medical College & Hospital, Cuttack. He has further admitted that Ext.4 is silent whether injury was bleeding or not as well as

about the condition of the patient. He has admitted that the injured was given certain first aid (dressing). He denied the suggestion of defence that the injuries were possible by strike against G.I. water pipe. He has further stated that the date of examination in injury report vide Ext.5 was on 02.02.2013, whereas requisition was received by him on 24.05.2013. On going through Ext.4, it appears that on 02.02.2013, Dharani Behera was examined and the requisition was sent on 18.02.2013 by the I.O. but the report was sent back on 24.05.2013 by the doctor. He has also mentioned that the report was prepared from the available O.P.D. Register of Capital Hospital. Not only this, but also Ext.5 shows that on 02.02.2013, he examined injured Karunakar Behera and report was prepared from the records available in the O.P.D. of Capital Hospital. It appears from the report vide Ext.5 that requisition was sent by the I.O. on 18.02.2013 but the report was submitted on 24.05.2013. The outdoor ticket of Karunakar Behera is also available in the case record and it has been exhibited vide 5/2. Be that as it may, the evidence of P.W.8 read with Exts.4 & 5 go to show that on 02.02.2013, injured Dharani Behera & Karunakar Behera were examined by casualty doctor at Capital Hospital, Bhubaneswar and requisition was later made to the doctor, who gave the report after re-producing the injuries from the O.P.D. Register. When

the nature and place of injuries were reproduced in Ext.4 from O.P.D. Register, it is obvious that Ext.4 would not show whether injury on the head of deceased was bleeding or not. But, the evidence of P.W.8 is clear to show that Dharani was brought to him with bleeding on his head. It is also revealed from the evidence of I.O. (P.W.12) that FIR was received at 5.15 P.M. whereas injured persons were examined at 4.15 P.M. & 4.25 P.M. on 02.02.2013 as per Exts.4 & 5 respectively. Thus, later on FIR was lodged and injury report was requisitioned. It is revealed from the evidence of P.Ws.1 to 6 that they took injured Dharani to hospital after going to Police Station. There is nothing found from the evidence of Investigating Officer that he has sent requisition after being informed by the informant. So, it is inferred that due to serious condition of the injured, his medical examination was made first and later on FIR was registered. There is no ambiguity with the evidence of prosecution witnesses and injury reports in this regard. Also, defence has not raised doubt about the genuineness of Exts.4 & 5, as nothing has been asked in cross-examination to the concerned doctor. Thus, there is consistent evidence adduced by the prosecution to prove that on 02.02.2013, deceased and injured were examined by doctor and deceased Dharani was given first aid (dressing).

9. It is revealed from the evidence of P.W.7 that on

12.02.2013, on police requisition, he conducted autopsy over the dead body of Dharani Behera and found the following external injuries :

1. Surgical stitch wound on right tempo parietal region 15 cm in length starting from a point 2 cm above the root of right ear extending upwards and obliquely passing 2 cm anterior to right parietal eminence to end at the vertex.

On dissection, P.W.7 found the following injuries :

Upper surface of scalp contused on right tempero parietal region and entire occipital region. A piece of bone of 4 cm in diametre on right tempero parietal regional was surgically removed and gelfoam pack given. Residue extradural haemorrhage on right tempero parietal region. Subdural haemorrhage on right side, subarachenoid on right parietal region intracerebral pocket haemorrhage in right parietal region, streak haemorrhage in pons.

His opinion is that the injuries described above were ante-mortem in nature. He has further stated that external injury No.1 is due to surgical intervention and the internal injuries, apart from surgical intervention, were due to hard and blunt force impact. He has also stated that death was due to coma as a result of injury to the brain, a vital organ. According to him, time since death was within 12 to 18 hours from the time of autopsy. He has also opined that the injuries are fatal to cause death in ordinary course of nature. When question was put by the Court, he answered that external

injury is likely to be caused by a single blow. He has proved the post mortem report vide Ext.3. On going through the said report, it also appears that post mortem of the deceased was conducted by the doctor and the injuries are fatal to cause death in ordinary course of nature. In cross-examination at para-3, he has admitted that against surgical intervention injury, he has not mentioned the depth and width of the injury. He has admitted to have not made any surgery for removal of bone in the scalp. It was the duty of P.W.7 to measure the depth and width of the injury sustained by the deceased. But, for his mistake, the case of prosecution should not be allowed to suffer. He has further stated that there was surgical operation of the deceased and extra dural haemorrhage was drained and a piece of bone in temporo parietal region was removed. It finds corroboration from the evidence of P.W.8 that he had made dressing of injuries on the person of deceased Dharani. At the same time, in para-5 of his cross-examination, P.W.7 has admitted that the injury could not be possible due to fall, but might be possible on being struck against a G.I. pipe. Not only this, but also, P.W.11, who is the I.O., has stated that as the deceased succumbed to his injuries while undergoing treatment at S.C.B. Medical College & Hospital, Cuttack, he registered U.D. Case No.210 dated 12.02.2013. There is no other fruitful cross-examination to

this witness. So, the evidence of P.W.7 read with P.W.11 and Ext.3 amply corroborate each other to prove that at first deceased Dharani Behera was examined by P.W.8, who referred the patient to S.C.B. Medical College & Hospital for treatment. The post mortem report also shows that autopsy of the deceased was conducted on 12.02.2013 on requisition made by Mangalabag Police Station, Cuttack. There is no departure from the evidence of P.W.7 and the post mortem report. So, there is consistent and clear evidence to prove that the death of the deceased was due to assault by iron rod on his head resulting surgical operation and he was referred to S.C.B. Medical College & Hospital, where in spite of treatment he died. So, the prosecution has proved that due to hit by hard and blunt object to the head of Dharani Behera, he succumbed to his injuries. P.W.1 has also proved inquest report vide Ext.2 which shows that on 12.02.2013 inquest was made on the dead body of deceased Dharani who sustained injury on his head. On the other hand, prosecution has proved that death of Dharani Behera was culpable homicide one.

DIRECT EVIDENCE :

10. Now, the question arises as to who is responsible for the commission of offence of culpable homicide amounting to murder. P.W.1, who is the injured-brother of the deceased, revealed that on 02.02.2013 at about 3 P.M., while deceased

Dharani was returning from betel shop, in front of the house of accused Bhagaban, all the accused persons waylaid his brother and started assaulting him mercilessly. The accused persons were holding brickbats and stones. Accused Bhagaban dealt a blow on his brother's head with an iron rod, as a result of which Dharani sustained bleeding injury on his head and collapsed to the ground. He was lying with pool of blood due to profuse bleeding on his head. While P.W.1 rushed to the spot, the accused persons also attempted to kill him and accused Fagu dealt a thenga blow on his left shoulder. It was stated by him that when the witnesses and his brothers came, they all took his injured-brother to Police Station first and then to Capital Hospital, who referred the patient to S.C.B. Medical College & Hospital, Cuttack where his brother Dharani succumbed to head injury on 11.02.2013. P.W.1 has proved the FIR vide Ext.1. About the motive, he has stated that due to previous rivalry relating to allotment of road work, the present occurrence took place. He has further stated that the accused persons have launched a false and frivolous case against him. He has been cross-examined vividly. During cross-examination, he admitted that hearing commotion, he rushed to the spot and found his brother lying with bleeding injury on his head. Thus, in cross-examination, he has made it clear that after the assault on his brother Dharani, he came to

the spot. So, he being a post-occurrence witness has amply proved that Dharani was lying with pool of blood due to profuse bleeding in his head. So, it is the consistent evidence of P.W.1 that Dharani sustained bleeding injury on his head. Further, he has stated in his cross-examination that the thenga blow struck to the back shoulder top, Fagu Bhoi gave a blow from his front and since all the accused persons were giving him assault, he could not say who assaulted whose region of his body. He sustained four swelling injuries. His evidence is well shaken to prove assault on his person. His evidence is not clear, consistent and creditworthy to show as to how he got injury on his left shoulder while the assault was made by accused Fagu from his front. Moreover, when he is not able to state as to which accused assaulted to which part of his body, it is not clear to prove that accused Fagu assaulted on his left shoulder. In further cross-examination, he revealed at para-6 that accused Bhagaban lodged a false case alleging that Dharani and P.W.1 assaulted him and manhandled his wife by entering into his house. So, it is admitted by him that there was a counter case at the instance of accused Bhagaban; but at para-12 he denied the suggestion of defence that there was push and pull amongst them when they misbehaved with Rashmita and that due to such push and pull, the deceased, who was heavily drunk, had a fall on the concrete and

sustained injury; and that Bhagaban did not assault his brother with an iron rod; and they have foisted a false case due to inimical term with the accused persons. When it is forthcoming from the cross-examination that false case has been filed by accused Bhagaban and defence was denied in further cross-examination, it cannot be said that the evidence of P.W.1 is led being interested and inimical towards the accused persons. Further, in para-10, P.W.1 has denied the suggestion of defence that his brother was a drunkard; that he had a fatal fall near the spot due to heavy drink; and the accused persons did not either assault him or his brother. As observed earlier, P.W.7, who is the doctor, denied about such injury due to fall. In para-11 of cross-examination, he has stated that accused Bhagaban was a Security Guard and used to attend work in day hours; but it was not specifically suggested whether on that day, accused Bhagaban was on duty or not. In the absence of such suggestion, the presence of accused Bhagaban on the spot cannot be ruled out.

11. With regard to the FIR, he clearly admitted in para-4 of his cross-examination that he could not name the scribe, but admitted to have given instructions to scribe the FIR. The FIR vide Ext.1 finds corroboration from his evidence. So, the evidence of P.W.1, after being scrutinized with caution, is clear, consistent and above reproach to prove that after

hearing commotion, while he rushed to the spot, he found that deceased Dharani was lying with pool of blood, accused persons were there, he took Dharani to Capital Hospital and then to S.C.B. Medical College & Hospital where his brother succumbed to his injuries. So, relying upon the decision in the case of ***Vadivelu Thevar*** Vs. ***State of Madras*** (supra), the evidence of P.W.1 is neither wholly reliable nor wholly unreliable. Thus, his evidence has proved injury to the person of deceased Dharani.

12. P.W.2 revealed that on the date of occurrence and at the relevant time, the accused persons intercepted Dharani in front of the house of Bhagaban and assaulted him. He further revealed that Tarani Behera and Dhuleswar Bhoi were present with the accused persons and they were instigating to assault the deceased. When he reached there, the deceased was receiving the assault. Thus, he is not the occurrence witness to the instigation by Tarani & Dhuleswar. He further stated that accused Bhagaban went inside the house, brought an iron rod and dealt a blow on the head of the deceased, who collapsed to the ground with profuse bleeding on his head. He further stated that on seeing this, the accused persons ran away from the spot and they took the deceased to Police Station and then to Capital Hospital. According to him, the incident was due to the dispute relating to allotment of road

work to one Ram Chandra Bhoi. He has been cross-examined vividly. In cross-examination, he stated that he placed a napkin on the bleeding injury when the deceased was taken to hospital. During cross-examination, he denied the suggestion of defence that Dharani was habituated to liquor and he being heavily drunk went to the house of accused Bhagaban Bhoi where deceased and Karunakar misbehaved with Bhagaban's wife and there was push and pull, for which the deceased fell down sustaining bleeding injury. He also admitted in cross-examination that he was elected as Ward Member on contest. He has got a grocery shop, which is at a distance of 100 ft from the spot. When he has got a grocery shop near the spot, it was quite natural for him to see the occurrence. He has further stated in para-9 of his cross-examination that accused Bhagaban used to go for work as a daily wager in the morning and return home in the evening. But, it is not brought out in cross-examination that on that day, accused Bhagaban had not gone for his livelihood. In para-9, he has stated that the incident continued about half an hour and then he took half an hour to go to Police Station. In para-4 of his cross-examination, he denied the suggestion of defence that he has stated before police that accused Fagu Bhoi and other accused persons were present at the spot whereas P.W.12, the I.O., denied such statement of P.W.2 before him about the

presence of Fagu Bhoi. So, the evidence of P.W.2 contradicts his earlier statement before police about the role of accused Fagu Bhoi. Be that as it may, the evidence of P.W.2, who is neither related to informant's party nor inimical to the accused persons, has adduced clear, cogent and consistent evidence to prove that on hearing hullah he came to the spot and found that the deceased was receiving assault and accused Bhagaban assaulted by iron rod on the head of deceased Dharani, who collapsed there having sustained profuse bleeding on his head. P.W.2 being an ocular witness has lent sufficient corroboration to the prosecution case to prove that accused Bhagaban assaulted to the head of Dharani causing bleeding injury on his person and they took him to hospital.

13. It is revealed from examination-in-chief of P.W.3 that while Dharani was coming on the village road, the accused persons intercepted and gave him push and assault and accused Bhagaban dealt a blow with an iron rod to Dharani, who collapsed to the ground. But, in para-5 of his cross-examination, P.W.3 has admitted that when he reached the spot, he found Dharani lying with profuse bleeding on his head. So, he has not seen the assault on Dharani, but has seen bleeding injury on the head of the deceased. He has further stated in examination-in-chief that when Karunakar came to the spot to protect his brother, accused Fagu gave a thenga

blow on his left shoulder. In cross-examination, denying the suggestion of defence, he has stated to have made such statement before police. But, defence has not confronted such statement of P.W.3 to the Investigating Officer on this aspect. At the same time, the statement of P.W.3 contradicts the statement of P.W.1 as to the assault by accused Fagu on his left shoulder inasmuch as P.W.1 has stated to have received the thenga blow on his back side shoulder, whereas P.W.3 has stated to have seen the assault on the left shoulder of P.W.1 by accused Fagu. Hence, the statement of P.W.3 is not wholly reliable to lend corroboration to the evidence of P.W.1 as to the assault made by accused Fagu to the left shoulder of P.W.1. On the whole, P.W.3 appears to be a post-occurrence witness, who has unequivocally proved that injured Dharani was lying on the ground with profuse bleeding on his head.

14. P.W.4, who is a co-villager, stated that on 02.02.2013 at about 3 P.M., there was a quarrel between the accused persons on one side and Dharani & Karunakar on the other. After hearing hullah, he went there and found the accused persons giving push and pull and manhandling deceased Dharani. He further stated that accused Bhagaban dealt an iron rod blow on the head of deceased Dharani, who collapsed to the ground. When Karunakar rushed to the spot from his house, Fagu dealt a thenga blow on his shoulder and

they intervened in the matter. During cross-examination, he could not say if the deceased was suffering from TB being a habitual alcoholic. In para-7 of his cross-examination, denying the suggestion of defence he stated to have made statement before police that accused Fagu dealt a thenga blow to Karunakar, whereas P.W.11, who is the Investigating Officer, denied about such statement of P.W.4 before him. So, the statement of P.W.4 contradicts as to assault by accused Fagu to Karunakar. Hence, the said omission being a major one, it has to be found that P.W.4 has contradicted his earlier statement in this respect. On the whole, after proper scrutiny of his evidence, it appears that his evidence is clear, cogent and consistent to prove that after reaching the spot, he found accused Bhagaban assaulted to the head of Dharani by an iron rod causing severe bleeding injury on the head of the deceased. On the other hand, he lends corroboration to the evidence of P.Ws.1, 2 & 3 as to the assault by accused Bhagaban by an iron rod to the head of deceased Dharani causing bleeding injury on his head.

15. P.W.5, who is none other than the mother of the deceased, revealed that after hearing commotion, she came outside and found the accused persons giving pull and push to her deceased son and accused Bhagia Behera brought an iron rod and dealt a blow on the head of her son, who collapsed to

the ground. She has stated that the witnesses present there shifted her son to Police Station, then to Unit-VI Hospital and, thereafter, to S.C.B. Medical College & Hospital, where he succumbed to his injuries after ten days. In para-4 of her cross-examination, she stated that her son was suffering from TB one year before the occurrence, but he was cured. It is only found in para-8 of cross-examination that due to old age, she has some hearing and vision problems; but it is not elicited from cross-examination how far she has got vision problem although she is aged about 70 years old. It has also been tried to elicit from her by suggesting that her son was a drunkard and being drunk, he had a fall and died, to which she refuted. Rather, it is revealed in cross-examination in para-7 that being assaulted, the deceased fell on the road and became senseless. Not only this, but also she accompanied her son to hospitals at Bhubaneswar and Cuttack. So, the evidence of P.W.5, who is none other than the mother of the deceased, has been scrutinized with caution; but her evidence is very clear, cogent and consistent to prove that in her presence accused Bhagaban assaulted by an iron rod on the head of her son Dharani, who sustained bleeding injury in the head and succumbed to his injuries after ten days in S.C.B. Medical College & Hospital.

16. P.W.6, who is an outsider, revealed that while Dharani was returning, he was intercepted by the accused

persons and manhandled by them. He further stated that accused Bhagaban gave a blow to the deceased with an iron rod on his head as a result of which the deceased had bleeding injury on the head and he collapsed to the ground. P.W.6 and others took him to hospital. He admitted that the incident was the outcome of a dispute on construction of road work. In cross-examination, he clearly stated that the houses are adjoining to the concrete road while the incident took place and, at the time of incident, he was sitting in Trinath Mandap, which is ten cubits from the assault spot. He claimed to be the first witness to the incident. He admitted that P.W.5 was also present there. He admitted that he did not intervene when the deceased was manhandled or assaulted and also he did not extend first aid to the deceased. Of course, it is individual reaction at the relevant time. So, one cannot expect that at the time of incident an outsider will intervene so as to prove him to become a reliable witness. The individual behaviour cannot be counted, as at the time of incident of assault, one may be shocked or one may be afraid of to intervene the matter. Not only this, but also in para-6 of his cross-examination, he denied his enmity with accused Fagu. In cross-examination in para-8, it is found that his house and the house of accused Bhagaban are intervened by four to five houses. He also stated that he goes for labour in the morning

and returns in the afternoon to take lunch and again returns to work. At the same time, in para-9 he denied the suggestion of defence that he stated before police that accused Dulia, Alia and others intercepted deceased Dharani while he was returning home and they manhandled the deceased, whereas P.W.11, who is the Investigating Officer, denied about such statement of P.W.6 before him. So, P.W.6 is found to have contradicted his earlier statement on this score. There is no other fruitful cross-examination to this witness to bring any infirmity in his evidence to become a witness to the occurrence. Thus, the evidence of P.W.6, after proper scrutiny, is found to be clear, cogent, consistent and above reproach to prove that it lends corroboration to the prosecution to the fact that while Dharani was returning, accused Bhagaban gave a blow to the deceased with an iron rod causing bleeding injury on his head.

17. From the above analysis, it is found that prosecution has not been able to prove by clear, cogent, consistent and direct evidence as to the complicity of all the accused persons, except accused Bagaban Bhoi. Moreover, medical evidence in respect of injured Karunakar is not consistent with his evidence, as to the number of injuries and its nature on the person of Karunakar. But, there is clear, cogent, consistent, trustworthy and direct evidence, as

discussed above, to show that accused Bhagaban has dealt blow by an iron rod on the head of Dharani causing severe bleeding injury and he collapsed there. Not only this, but also the aforesaid medical evidence amply corroborates the evidence of ocular witnesses to prove the cause of death of Dharani by means of blow from the iron rod on his head.

LEADING TO DISCOVERY :

18. It is revealed from the evidence of P.W.12 that he arrested accused Bhagaban and, on interrogation, he confessed that he has assaulted Dharani by an iron rod and concealed the said iron rod in the bari adjoining to his house. He further stated in para-3 of his examination-in-chief that he took accused Bhagaban and witnesses present at the time of statement of the said accused to the bari in question and accused Bhagaban gave discovery of the iron rod from the bari in presence of witnesses. He made seizure of the said iron rod, which is the weapon of offence, in presence of witnesses. P.W.12 produced the said iron rod vide M.O.I. He also stated to have prepared seizure list vide Ext.11. He read over and explained the contents of the same to witnesses and accused and after understanding the contents thereof, they signed. He proved his signature thereon vide Ext.11/1, signature of accused Bhagaban vide Ext.11/2 and signatures of witnesses Dharani Behera & Dhuleswar Behera vide Exts.11/3 & 11/4

respectively. On this aspect, he has been cross-examined. In cross-examination at para-10, he has admitted to have not recorded the statement of accused Bhagaban under section 27 of the Evidence Act separately. Denying the suggestion of defence, he stated that accused Bhagaban has made disclosure statement, there is leading to discovery by accused Bhagaban and there is seizure of iron rod. He denied the suggestion of defence that he has mentioned in the Case Diary that the seizure of iron rod was made in the first room of the house of accused Bhagaban. So, the evidence of P.W.12 could not be well shaken during cross-examination to discredit his testimony towards the statement of accused Bhagaban made under custody as to leading to discovery of the iron rod, which is the weapon of offence. It is a fact that he has not recorded the statement of the said accused under section 27 of the Evidence Act separately. On going through Ext.11, it appears that in the circumstances of seizure, he has mentioned that accused Bhagaban confessed that in order to kill deceased Dharani, he assaulted to the head of Dharani by an iron rod and while he was attacked by the brothers of Dharani, he fled away by throwing the iron rod in the bari of his house and he led to discover such iron rod and, accordingly, it was seized vide Ext.11. The date and hour of seizure is found to be on 02.02.2013 at 8.20 P.M. The Arrest Memo although not

that it should be credibly proved that the discovery made was a relevant and material discovery which proceeded in pursuance of the information supplied by the accused in the custody.

xxx xxx xxx”.

19. With due respect to the said decision, I find in the instant case the non-recording of the statement of accused under section 27 of the Evidence Act separately is not fatal to the case of prosecution when the evidence of P.W.12 read with Ext.11 is clear, cogent, consistent and above reproach to prove the discovery of weapon of offence by accused Bhagaban. No witnesses leading to discovery have been examined by prosecution, although their signatures have been proved by P.W.12. When prosecution has not examined the witnesses leading to discovery, can the case of prosecution in this regard be thrown out ? In my opinion, the evidence of prosecution on this score cannot be rejected, when there is credible evidence of the Investigating Officer (P.W.12) towards disclosure statement of accused Bhagaban and leading to discovery of the weapon of offence (M.O.I) at his instance. In this regard, I rely upon the decision reported in **(2006) 34 OCR-597 (State of Orissa Vs. Sukuram Munda)**, where Their Lordships have been pleased to observe at para-11 that :

“xxx xxx xxx

There is no requirement in Section 27 of the Evidence Act to

obtain signature of independent witnesses either on the statement of the accused or in the recovery memo. If the evidence is otherwise reliable, non-examination of local seizure witness will not make the fact of recovery unbelievable”.

20. With due respect to the above decision, I find that for non-examination of seizure witnesses, disclosure statement and leading to discovery of the weapon of offence (M.O.I) by accused Bhagaban, which have been otherwise proved, is a strong piece of incriminating circumstance against the said accused. In this regard, there is no explanation given by accused Bhagaban. So, the exculpatory part of disclosure statement made by accused Bhagaban and leading to discovery of M.O.I from the bari of his house by accused Bhagaban is strong piece of circumstantial evidence against the said accused, which amply lends corroboration to the above direct evidence that he has assaulted deceased Dharani vide M.O.I causing severe bleeding injury, which resulted in his death.

21. It is also found from the evidence of P.W.11 that he took over charge of investigation of the case on 12.02.2013 and on 24.05.2013, he made query from Dr. B.N. Satpathy of Capital Hospital by sending the weapon of offence i.e. iron rod for opinion vide Ext.7. He also produced the weapon of offence vide M.O.I. He stated to have sent the exhibits to the State F.S.L. vide Ext.10. There is no cross-examination to this

witness on this aspect. P.W.8, who is the doctor, also corroborates the evidence of P.W.11 by stating that he has examined the weapon of offence i.e. iron rod and gave his opinion to the effect that injuries in Ext.4 could be possible by iron rod of size 17” .10 with circumference of 1” produced before him. He proved his report vide Ext.7/1. On this aspect, there is no cross-examination to this witness by defence. So, the unrebutted evidence of P.W.8 proved that M.O.I has been used by accused Bhagaban to assault deceased Dharani to cause injuries on his head. On the whole, I find that prosecution has well proved its case through the evidence of P.Ws.8 & 11 that M.O.I is the weapon of offence used by accused Bhagaban to cause death of deceased Dharani.

22. P.W.12 stated that he has seized the nail clippings and sample of blood collected by doctor from accused Bhagaban vide Ext.12. He has also stated to have seized the wearing blue coloured shirt and half pant of accused Bhagaban vide Ext.13. There is no cross-examination on this aspect to this witness. In cross-examination, he has stated to have not seized any wearing apparels of the deceased. Now, it is revealed from the evidence of P.W.11 that M.Os.II, III, IV & V are all these seized properties. He stated to have sent all the seized properties to the State F.S.L. for opinion. Prosecution has exhibited C.E. Report vide Ext.16, which shows no definite

opinion. Even if no definite opinion is expressed from Ext.16, the case of prosecution will not be deterred on this aspect, as the Investigating Officer has not seized any blood stained cloth of the deceased for the reasons best known to him. Had there been seizure of blood stained clothes, then matching of blood group as available in the wearing apparels of deceased and accused Bhagaban would have been one of the circumstances. But, in the absence of such evidence, prosecution case cannot be rejected because of direct and circumstantial evidence, as discussed above, against accused Bhagaban.

MOTIVE :

23. It is well settled law that when there is direct evidence, motive for the commission of offence is not material to be proved; but when there is a case based on circumstantial evidence, the importance of motive is very much felt. In the instant case, there is direct evidence, as discussed above; but prosecution has also led evidence to prove the motive for which the evidence on motive is required to be analysed. It is revealed from the evidence of P.W.1 that his brother Dharani was attacked and assaulted due to rivalry out of allotment of road work to one Rama Chandra Bhoi in Palli Sabha. But, Sarpanch changed the work order and allotted to Kedar Bhoi to which his deceased brother opposed and hence his brother

was assaulted by the accused persons. In cross-examination, it is revealed that the deceased was working temporarily in a Builder's organization. Of course, in cross-examination, he denied the suggestion of defence that they filed a false case due to inimical terms with the accused persons. Thus, enmity between the parties is very much admitted even from the suggestion of defence. Moreover, dispute as to allotment of work order has not been well shaken in cross-examination. So, P.W.1 has proved that due to dispute over allotment of work order there was enmity between the parties, which resulted in such occurrence. It is further revealed from the evidence of P.W.2 that the incident was the outcome of dispute from the allotment of work order to one Rama Chandra Bhoi; but later on Kedar Bhoi was given that work order to which deceased Dharani was opposing and thereby the accused persons developed hostility with the deceased and assaulted him. This fact could not be rebutted during cross-examination to P.W.2. Similarly, P.W.3 has also revealed that the assault on deceased Dharani was the outcome of dispute on allotment of road work. P.W.4 has also revealed that there was a dispute with regard to allotment of road work in their Palli Sava and quarrel took place between accused persons on one side and Dharani & Karunakar on the other, as the order was changed and issued in favour of Kedar Behera. This fact is not well shaken during

cross-examination of this witness. P.W.5 has revealed that the assault was the outcome of a dispute between accused persons and her son for a road work. There is no cross-examination to this witness on this aspect. P.W.6 has also revealed that the incident was the outcome of a dispute on construction of road work. Thus, the aforesaid prosecution witnesses have adduced consistent, clear and trustworthy evidence to prove that the work order was changed to which deceased Dharani opposed; and due to previous enmity between the parties, the above incident took place. So, the motive behind the occurrence is previous enmity between the parties. This is another circumstance against accused Bhagaban Bhoi for whose assault deceased Dharani died.

24. From the foregoing discussions, it appears that prosecution has well proved that accused Bhagaban assaulted to the head of deceased Dharani by an iron rod causing bleeding injury, which in ordinary course caused his death. But, prosecution has not proved through direct or circumstantial evidence as to the culpability of other accused persons. Now, let us see whether defence has been able to disprove the fact of assault by accused Bhagaban to deceased Dharani resulting in his death.

PLEA OF DEFENCE :

25. It is well settled law that defence can prove its

plea either by leading evidence or eliciting answers through cross-examination of prosecution witnesses or by amalgamating both the evidence. In this case, defence has taken plea that due to previous enmity, this case has been falsely filed and the accused persons were assaulted by informant's party, for which there is a counter case, whereas neither accused Bhagaban nor any other accused persons have assaulted deceased Dharani and he sustained injuries by fall on the ground in a drunken state. Defence, in order to prove the plea, has examined two witnesses. D.Ws.1 & 2 are co-villagers of the accused persons. D.W.1 stated that deceased Dharani and injured Karunakar being intoxicated came there and assaulted accused Jhulia. Dharani fell down on the ground and, subsequently, succumbed to his injuries. In cross-examination, he admitted that he had no good relationship with Dharani & Karunakar and accused Bhagaban, who belongs to his community, calls him as brother by village courtesy. When he is inimical to the deceased and a friend of accused persons, his evidence that Dharani fell down on the ground and succumbed to his injuries is to be tested with a pinch of salt. On the other hand, his evidence does not disclose how and why Dharani fell down on the ground, for which he succumbed to his injuries. So, the evidence of D.W.1 is not clear and above reproach to prove that Dharani sustained injuries due to fall on the ground and he and his

brother had come in an intoxicated state. D.W.2 stated that deceased and P.W.1 being intoxicated forcibly entered the house of accused Bhagaban and in the same breath he stated that accused Bhagaban is not his community person. If accused Bhagaban is not his community person, it is not understood how could he witness the entry of the deceased and P.W.1 into the house of accused Bhagaban ? Apart from this, he could not say how Dharani expired. So, his evidence does not help the defence to prove that Dharani expired by fall on the ground. Thus, the defence witnesses have not proved the case of defence by preponderance of probability.

26. On going through the cross-examination made to prosecution witnesses, it appears that except P.W.1 defence has not been able to bring any clear or interestedness in the evidence of P.Ws.2, 3, 4, 5 & 6 to disprove their evidence. It has been brought out in cross-examination of P.W.1 that the deceased was involved in other criminal cases and he was suffering from TB as he was habituated to taking liquor. But, it is not found that this character of deceased Dharani could cause his death and P.W.1 also denied the suggestion of defence that when he misbehaved with Rasmita, during push and pull, the deceased fell down on the concrete and sustained injuries. There is nothing more brought out to show that the deceased was drunkard and he was not assaulted by accused

Bhagaban, but sustained injury by fall on the ground.

27. So far as cross-examination to prosecution witnesses is concerned, nothing is admitted by any of the witnesses as regards the suggestions put by defence. It is only available from the cross-examination of P.W.1 that deceased Dharani was a criminal and he was suffering from TB. But, this fact does not prove the plea of defence that deceased Dharani being drunkard fell down on the concrete and got injuries on his head. There is also no incriminating circumstances brought out from the evidence of P.W.1 to prove the plea of defence. It is only brought out from the evidence of Investigating Officer (P.W.12) that on 02.02.2013, FIR was lodged by accused Bhagaban against deceased Dharani and P.W.1 relating to the occurrence of assault; but in the entire record of the case the same has not been spelt out by the Investigating Officer. It is also available from the evidence of P.W.8 that on police requisition, he has examined accused Bhagaban and found the following injuries vide Ext.6.

- i) Multiple abrasion of size 1cm x 1cm on right deltoid region.
- ii) Bruise with haematomae of size 1cm x ½ cm over occipital region.
- iii) Abrasion of size 1 cm x ¼ cm over left wrist.

It is opined by P.W.8 that the injuries were simple in nature, might have been caused by hard and blunt object, and age of

the injuries were within four hours by the time of his examination. It is available from the evidence of prosecution witnesses that there was push and pull to deceased Dharani by the accused persons, including accused Bhagaban. But, it is not clearly forthcoming from the cross-examination of Investigating Officer that due to assault by informant's party, accused Bhagaban got injuries. Although it is found from the evidence of P.W.8 and cross-examination of Investigating Officer that accused Bhagaban got injuries, but it is clear that there was push and pull and due to such push and pull injuries must have been caused to accused Bhagaban but not at the instance of deceased Dharani, who rather received iron rod blow from accused Bhagaban. So, it is clear from the evidence of prosecution witnesses that due to assault by accused Bhagaban, deceased Dharani got grievous bleeding injury on his head resulting in his death. So, the plea of defence has not been well proved either by its evidence or by cross-examination made to prosecution witnesses. Hence, the plea of defence falls flat.

SUBMISSIONS :

28. It is submitted by learned counsel for defence that due to previous enmity the evidence of P.W.1 and other occurrence witnesses should be belied when no independent witnesses has been examined by prosecution. On a careful

scrutiny of their evidence, it appears that except P.W.1, P.Ws.2 to 6 are neither related to deceased Dharani nor interested for prosecution. They are also not found to be inimical to accused Bhagaban. In such circumstances, the submission of learned defence counsel is not tenable. Apart from this, learned defence counsel submitted that death of deceased Dharani was caused by surgical intervention, as admitted by doctor. I went through the evidence of doctor (P.W.7) and found that the death was caused due to injury to the head of deceased Dharani. So, the plea of surgical intervention, as advanced by defence, is not at all the cause of death. Apart from this, the doctor (P.W.7) has stated that there was surgical intervention for injuries on scalp caused due to hard and blunt force impact. It is revealed from the cross-examination of P.W.9 & P.W.11 that the deceased was operated being an indoor patient, but the Investigating Officer has not examined the said doctor who conducted operation, for the reasons best known to him. But, that does not brush aside the opinion of P.W.7 about that injury on the scalp caused by the overt act of accused Bhagaban. Learned defence counsel further submitted that there is a counter case against deceased Dharani and his brother, for which the case of prosecution should not be relied upon. In the foregoing paragraphs, the said plea has well been discussed and found that no right of

defence or its any other plea has been proved for which the submission of learned defence counsel is jettisoned.

29. Learned counsel for defence has also submitted that to prove the case of murder, motive plays an important role and in the absence of motive, the case of prosecution becomes doubtful. As discussed in the above paragraphs, prosecution has well proved the motive which is one of the circumstantial evidence against accused Bhagaban. Learned counsel for defence submitted that in view of decisions reported in **1992 CrL. L.J. 3508 (Orissa) (*Binder Munda Vs. State*)** and **1988 (II) OLR- 120 (*Bhaga Gouda alias Vainra Vs. State*)**, in absence of exact information recorded, the leading to discovery under section 27 of the Evidence Act has not been proved by prosecution. The cited decisions are not applicable in view of the facts and circumstances being proved in this case, as discussed above. Hence, the submission of learned defence counsel has no force. On the other hand, learned P.P. in charge submitted that prosecution has well proved the offence under section 302 of the I.P.C. against accused Bhagaban and other accused persons. As per above discussions, prosecution has only proved the offence under section 302 of the I.P.C. against accused Bhagaban, but not against any other accused persons. On going through the evidence of prosecution witnesses, it is found that prosecution

has not brought out that other accused persons have shared the intention of accused Bhagaban to inflict assault by means of iron rod on the head of deceased Dharani, as it is the evidence of prosecution witnesses that during occurrence, accused Bhagaban went inside his house, brought out an iron rod and then assaulted deceased Dharani. When the intention of causing such grievous hurt, which resulted in the death of deceased Dharani at the instance of accused Bhagaban, has not been shared by other accused persons, they cannot be held liable for the offence under section 302/34 of the I.P.C. In such circumstances, the submission advanced by prosecution is accepted so far as offence under section 302 of the I.P.C. against accused Bhagaban is concerned.

30. It is further revealed from the evidence of P.Ws.1 to 6 that while deceased Dharani was going on the village danda, near the house of accused Bhagaban, the occurrence took place; but there is no clear and consistent evidence of P.Ws.1 to 6 to show that all the accused persons obstructed deceased Dharani, abused him in obscene language and threatened him to kill. Moreover, it has already been discussed in the aforesaid paragraphs that prosecution has not led clear, cogent and consistent evidence as to the overt act of accused Fagu on the person of P.W.1, for which accused Fagu cannot be found guilty of causing hurt to P.W.1. Thus, there is no

overt act proved by prosecution against other accused persons, except accused Bhagaban, to share the intention of accused Fagu. On the whole, I find that prosecution has not proved by clear and trustworthy evidence the charges under sections 341/294/506/323/34 of the I.P.C. against the accused persons. Similarly, prosecution has miserably failed to prove rest of the charges against accused Bhagaban. Thus, prosecution has not been able to prove all the charges against the accused persons, namely, Fagu Bhoi, Alekha Bhoi, Jhulia Bhoi, Kalua Bhoi, Rasmita Bhoi & Sana @ Sanatan Bhoi.

CONCLUSION :

31. In view of the aforesaid analysis, I find that prosecution has well proved the offence under section 302 of the I.P.C. against accused Bhagaban; but has miserably failed to prove rest of the offences against the said accused. Also, prosecution has miserably failed to prove all the offences against accused Fagu Bhoi, Alekha Bhoi, Jhulia Bhoi, Kalua Bhoi, Rasmita Bhoi & Sana @ Sanatan Bhoi. Accordingly, I hold accused Bhagaban Bhoi guilty under section 302 of the I.P.C. and convict him thereunder; but I acquit him of the offences under sections 341/294/506/323/34 of the I.P.C. as per the provision of section 235(1) of the Cr. P.C. Similarly, I do not find accused Fagu Bhoi, Alekha Bhoi, Jhulia Bhoi, Kalua Bhoi, Rasmita Bhoi & Sana @ Sanatan Bhoi guilty of the offences

under sections 341/294/506/302/323/34 of the I.P.C. and acquit them of the said offences as per the provision of section 235(1) of the Cr. P.C. and they be discharged from their bail bonds.

**Sessions Judge, Khurda
at Bhubaneswar.**

20.10.2014.

Dictated, corrected by me and pronounced in the open Court this day the 20th October, 2014.

**Sessions Judge, Khurda
at Bhubaneswar.**

20.10.2014.

HEARING ON THE QUESTION OF SENTENCE.

32. Learned counsel for the convict submitted that the occurrence took place due to previous enmity between the parties and the convict had no intention to cause death of deceased Dharani which can be well inferred from the fact that the deceased died ten days after the occurrence. He further submitted that the convict is a first offender and poor man, for which a lenient view may be taken in awarding sentence. Learned P.P. in charge submitted that due to overt act of the convict on the vital part of deceased Dharani, he later succumbed to his injuries for which a deterrent punishment may be awarded to the convict. Although there are no rules formulating the sentencing policy, but various factors should be

taken into consideration to award sentence. The aggravating as well as mitigating circumstances should be balanced while awarding sentence. In the instant case, while deceased Dharani was going on the road, the occurrence took place near the house of the convict. The enmity between the parties and the overt act of the convict in causing assault by means of an iron rod after bringing the same from his house show that there are aggravated circumstances against him. Even if he is a first offender, a poor man and a single blow has been given, which are considered as mitigating circumstances, but the intention to cause murder of deceased Dharani is well proved against the convict. This case is not coming under the category of rarest of rare cases.

33. Thus, considering the circumstances of the case, age and character of the convict, the facts, as discussed above, and charge being a major one, I sentence convict Bhagaban Bhoi under section 302 of the I.P.C. to undergo imprisonment for life and to pay a fine of Rs.10,000/- (Rupees Ten Thousand), in default, to undergo Rigorous Imprisonment for a further period of one year. The period already undergone by the convict as Under Trial Prisoner, if any, be set off against the substantive period of imprisonment.

34. The seized articles vide M.Os.I & V be destroyed four months after expiry of the appeal period if no appeal is

preferred; in the event of appeal, the same be disposed of in accordance with the direction of the Appellate Court.

**Sessions Judge, Khurda
at Bhubaneswar.
20.10.2014.**

Dictated, corrected by me and pronounced in the open Court this day the 20th October, 2014.

**Sessions Judge, Khurda
at Bhubaneswar.
20.10.2014.**

List of witnesses examined for prosecution.

P.W.1	--	Karunakar Behera,
P.W.2	--	Santosh Behera,
P.W.3	--	Batakrushna Behera,
P.W.4	--	Debendra Behera,
P.W.5	--	Smt. Janaki Behera,
P.W.6	--	Anam Samal,
P.W.7	--	Dr. Brajakishore Dash,
P.W.8	--	Dr. Dwarikanath Satapathy,
P.W.9	--	Ajit Kumar Mishra,
P.W.10	--	Jagannath Sutar,
P.W.11	--	Biswaranjan Nayak, &
P.W.12	--	Balakrushna Pradhan.

List of witnesses examined for defence.

D.W.1	--	Banambar Bhoi &
D.W.2	--	Dillip Bhoi.

List of documents admitted in evidence for prosecution.

Ext.1	--	F.I.R.,
Ext.1/1	--	Signature of P.W.1 in Ext.1,
Ext.2	--	Inquest report,
Ext.2/1	--	Signature of P.W.1 in Ext.2,

Ext.3	--	P.M. Report,
Ext.3/1	--	Signature of P.W.7 in Ext.3,
Ext.4	--	Medical Report of P.W.8,
Ext.4/1	--	Signature of P.W.8 in Ext.4,
Ext.5	--	Examination report of P.W.8,
Ext.5/1	--	Signature of P.W.8 in Ext.5,
Ext.5/2	--	Prescription,
Ext.5/3	--	Signature of P.W.8 in Ext.5/2,
Ext.6	--	Report of P.W.8,
Ext.6/1	--	Signature of P.W.8 in Ext.6,
Ext.7	--	Requisition and query,
Ext.7/1	--	Report of P.W.8 in Ext.7,
Ext.7/2	--	Signature of P.W.8 in Ext.7/1,
Ext.8	--	Seizure list,
Ext.8/1	--	Signature of P.W.9 in Ext.8,
Ext.9	--	Seizure list,
Ext.9/1	--	Signature of P.W.10 in Ext.9,
Ext.9/2	--	Signature of Saroj Kumar Sahoo in Ext.9,
Ext.8/2	--	Signature of P.W.10 in Ext.8,
Ext.4/2	--	Injury requisition,
Ext.4/3	--	Signature of P.W.11 in Ext.4/2,
Ext.5/2	--	Injury requisition,
Ext.5/3	--	Signature of P.W.11 in Ext.5/2,
Ext.8/3	--	Signature of P.W.11 in Ext.8,
Ext.7/3	--	Signature of P.W.11 in Ext.7,
Ext.10	--	Forwarding letter of S.D.J.M.,
Ext.10/1	--	Signature of P.W.11 in Ext.10,
Ext.1/2	--	Endorsement with signature of IIC in Ext.1,
Ext.11	--	Seizure list,
Ext.11/1	--	Signature of P.W.12 in Ext.11,
Ext.11/2	--	Signature of accused Bhagaban in Ext.11,
Ext.11/3	--	Signature of Dharani Behera in Ext.11,
Ext.11/4	--	Signature of Dhuleswar Behera in Ext.11,
Ext.6/2	--	Injury requisition,
Ext.6/3	--	Signature of P.W.12 in Ext.6/2,

Ext.12	--	Seizure list,
Ext.13	--	Seizure list,
Ext.13/1	--	Signature of P.W.12 in Ext.13,
Ext.14	--	Report of I.I.C.,
Ext.14/1	--	Signature of P.W.12 in Ext.14,
Ext.15	--	Spot map,
Ext.15/1	--	Signature of P.W.12 in Ext.15, &
Ext.16	--	C.E. Report.

List of documents admitted in evidence for defence.

Nil.

List of M.Os. marked for prosecution.

M.O.I	--	Weapon of offence,
M.O.II	--	Napkin,
M.O.III	--	Half short pant,
M.O.IV	--	Half blue T-shirt &
M.O.V	--	Packet containing nail-clipping and blood soaked gauge cloth.

List of M.Os. marked for defence.

Nil.

**Sessions Judge, Khurda
at Bhubaneswar.**

20.10.2014.

