

IN THE COURT OF THE SPL.C.J.M(C.B.I) B H U B A N E S W A R.

Present:  
Sri P.L.Satpathy, LL.B.,  
Special C.J.M (C.B.I) Bhubaneswar.

**S.P.E CASE NO.1/2000**

(Arising out of R.C.No. 1/2000)

R e p u b l i c of India ..... Prosecution.  
.....Versus.....

Dibakar Rath,aged about 68 years, S/o.Late Laxman Rath  
Village. Atanda, P.S-Kanpur, Dist.Cuttack  
At/Pr. Sabarsahi (Rasulgarh), PS: Mancheswar, Dist:Khurda

..... Accused.

**OFFENCE U/S.120(B)/218 I.P.C**

Counsel for the prosecution : Sri K.C.Mishra, Special P.P,C.B.I,Bhubaneswar.

Counsel for the defence : Sri B.K.SahooMonoranjan Khatua, Advocate.

Date of argument: 10.4.14

Date of judgment: 30.4.14

**J U D G M E N T**

1. The accused named above stands charged for the offences punishable  
U/s.120(B),R/w.Sec.218 IPC

2. Prosecution case is that :

In pursuance of the Order of Hon'ble High Court of Orissa, dtd. 8.5.1998 passed in OJC No.9929/1999 on the petition of complainant Kanhu Charan Mishra,(PW.19), the then Editor-in chief, Mahanagari, a local News Paper in Cuttack . A preliminary inquiry on the allegation complained in the petition of the complainant was conducted by CBI bearing R-C

No.1/S/1998-Calcutta dtd. 21.5.1998 was registered and the report there on was submitted before the Hon'ble High Court of Orissa, Cuttack on 27.1.1999 stating there in that the allegations mentioned in the complaint petition of PW.19 warrants upon investigation against the accused persons namely Sri Indrajit Roy, Ex. Advocate General of Orissa, Sri Kishore Patel, the then Forest Minister of Orissa, Sri P.R.Mohanty, IPS, the then IGP and Director, State Forensic Science Laboratory, Rasulgarh, BBSR. the then Sri Dibakar Rath, Assistant-Director (Physics Division), SFSL,BBSR, Sri S.K.Biswal, Asst. Director (Biology Division), SFSL,BBSR and sought a direction to register criminal case against the accused persons named above against whom prima-facie case was made out. The aforesaid OJC NO.9929/1999 was disposed of by the Hon'ble High Court on 12.2.1999 where in CBI was instructed to take action as deemed proper in accordance with law.

As per the Notification No.CP(lit)-106/1997-41592 dtd. 23.7.1999, Govt., of Odisha and Notification No.228/71/99-AVD-II(ii) dtd. 18<sup>th</sup> October,1999 and on the direction of SP, CBI, Special Crime Branch (SCB), Kolkata Sri A.K.Sahaya, the then Dy.SP,CBI, SCB,Kolkata drawn the FIR (Ext.3) and drawn the FIR (Ext.43), and on the basis of Ext.43 PW.8 registered RC 1/S/2000 dtd.14.2.2000. The case was registered U/s.120(B) R/w.477(A),201,214,218 IPC against the above named 5 accused persons.

3. The further case of the prosecution is that on 22.7.1997 some Exhibits including the wearing apparels of the victim (PW.16) in connection with Cantonment PS Cases No.67/97 were send to SFSL on 22.7.1997 being forwarded by SDJM,Cuttack for its chemical examination and report. On 29.7.1997 a parcel containing Kurta and dupatta were received by the present accused fro, from accused S.K.Biswal, Asst. Director, Biological Division. The present accused after his examination submitted his report (Ext.8/3) in respect of Cantonment PS Case No.6797 on 31.7.97 to the Biological Division vide memo no.130/Physics Division dtd. 31.7.97(Ext.17/1) wherein he had opined that tearing was caused due to sudden application of force and that direction of the force was from the neck side towards left side and the exhibits did not indicate washing of cloth after the tearing was caused. Similarly Biological examination in respect of the exhibits in connection with Cantonment PS Case NO.6797 was conducted by accused S.K.Biswal.. Subsequently under the influence of Sri

J.B.Pattnaik, the then Chief Minister of Orissa and accused Indrajit Roy, the the Advocate General of orissa, there was a meeting of mind in between the present accused along with accused P.R.Mohanty and S.K.Biswal with intents to prepare incorrect report by changing the reports submitted by Physics Division and Biological Division to show favour to accused Indrajit Roy as well as to screen the evidence in order to help Sri Indrajit Roy , against whom Cantonment PS Case No.6797 was registered in pursuant to their said meeting of minds. The chemical examination report of Biological Division and Physics Division in connection with Cantonment PS Case No.6797 was changed.

During the course of investigation the chief IO of this case namely Sri S.K.Sahaya (PW.8) collected concerned documents relating to Cantonment PS Case NO.6797, examined the witnesses and recorded their statements, entrusted part of the investigation of this case to Sri Sadhan Das, Inspector, CBI, SCB, Kolkata (PW.17) who after his investigation submitted his supplementary case diaries and related papers before him (PW.8) after his perusal, seized relevant documents in connection with this case as per different seizure lists vide Exts.3,18,20,39,44,45,46,47,48,49 on different dates. On 17.4.2000 obtained specimen signatures and initials of accused Dibakar Rath vide Exts.10/20. On 18.3.2000 obtained specimen type impression of different type machines of the type section of SFSL, Rasulgarh, BBSR vide Exts.11,12,13,14 series, send the collected question documents, specimen writings , specimen type impressions, admitted writings and the question-airs to the Govt Examiner of Questions Document (GEQD) with forwarding report of Amit Gorg, the then SP, CBI, SCB,Kolkata with forwarding report (Ext.34) for examination and opinion, received the opinion of GEQD vide Ext.36, sought necessary Sanction Order vide Ext.29 from Govt. of Orissa for lurching prosecution against the accused persons namely Indrajit Roy, the then Advocate General of Orissa, P.R.Mohanty, Director SFSL, Orissa, BBSR, S.K.Biswal, Dy. Director , Biological Division, SFSL, Orissa, BBSR and Dibakar Rath, Asst. Director of Physics Division, SFSL, Orissa, BBSR vide Exts.30 to 33, send the accused Dibakar Rath to Chief Metropolitan Magistrate, Kolkata for recording his confessional statement U/s.164 CrPC and his confessional statement was recorded U/s.164 CrPC vide Ext.42. After his completion of investigation PW.18 submitted charge sheet

U/s.120(B) R/w. Section 218 IPC against the present accused along with three others mentioned above to stand their trial in the court of law.

As it is evident from Order No.84 dtd.27.10.08, and order No.129 dtd. 5.12.13 that in the course of trial the case against the accused Indrajit Roy, Prema Ranjan Mohanty and Surendra Ku. Biswal were abated as they died on 28.6.08, 24.7.13 and 2.8.13 respectively. Now the present case proceeds against accused Dibakar Rath only who was the Asst. Director of Physics Division, SFSL, Orissa, BBSR during the relevant period.

4. The plea of the present accused is one of completely denial to the prosecution's allegations level-led against him and false implications.
5. The points for determination in this case are as under:
  - i) Whether during the month of July,1997 the present accused along with some other high officials of SFSL,BBSR had made criminal conspiracy inside the chamber of the then Director, SFSL with intents to screen the evidence by adopting illegal means to help Sri Indrajit Roy against whom Cantonment PS Case No.6797 was registered.?
  - ii) Whether the present accused was a public servant at the relevant period ?
  - iii) Whether the accused being such a public servant charged with preparation of any report prepared incorrect report with intents to cause injury not only to the victim of the Cantonment PS Case no.6797 but also to the State only to save Indrajit Roy from criminal liabilities relating to Cantonment PS Case NO.6797.
6. To hold the charge of the case against the accused Dibakar.Rath prosecution has examined as many as 19 witnesses. PW.1 Prasant Ku. Nayak, the then Jr.Clerk in SFSL, BBSR was the dealing with Issue Receipt and Dispatch Section. PW.2 -Bipin Bihari Roy was in charge of Liaison section, SFSL, BBSR. Sri Bamanbihari Sahu, LT, Physics Division, SFSL, BBSR, Kamalprasad Kanungo, was the steno attached to the Director, SFSL during the relevant period. PW.5 Dhaneswar Nayak, Jr.Clerk attached to Type Section, SFSL,BBSR, Dr.Prasant Das, Jt.Director, SFSL,BBSR at the relevant period. Santosh Ku. Ratha, LT,SFSL. PW.8 – Dr.Apurbaananda, Prof & HOD of Forensic and State Medicine, RGKar Medical College, Kolkata. PW.9 Dr. Santosini Panigrahi, Scientific Officer attached to Serological division, SFSL, BBSR. PW.10 Ramesh Ch. Kar , IIC of Cantonment PS during the relevant period. PW.11-

Dhubeicharan Sahu, Dy. Secretary, GA Deptt., Orissa, BBSR as on 7.09.01 who had issued sanction order to prosecute accused persons. PW.12 -Ananda Sworup Gupta, Asst.Govt. Examiner of GEQD, Central Forensic Institute, 30 Gorachand Road, Kolkata who had scientifically examined the documents send by SP, CBI, SCB, Kolkata vide letter no.2303 dtd.12.9.2000 (Ext.34) and submitted the examination report vide opinion bearing no. ISC-141/2000 dtd. 13.10.2000 (Ext.34). PW.13 - Amiyabhusasn Tripathy who was the DG of Orissa then. He has examined in this case who said before the court that the accused Indrajit Roy(dead) had informed him over telephone to told the Director, SFSL to submit a report which would be favorable to him. Further he had examined to say that Sri P.R.Mohanty the then Director, SFSL (accused) informed him that chemical examination report in connection with Cantonment PS Case NO.6797 has been tampered and as such he directed P.R.Mohanty to enquiry into the matter. PW.14 Rabindra Ku. Singh Deo who was working as establishment officer in OFDC, BBSR since 1992 to 2006 who had examined to say that he was a witness to the seizure of the personal file of Sri P.R.Mohanty and Sanjeeb Marik . One CS.Parida, General Manager personal administration of OFDC in his presence vide seizure list (Ext.39). PW.15 Rajendra Ku. Sacha , IPS who was the Director of SFSL. PW.16 was the victim in respect of Cantonment PS Case No.6797. PW.17-Sadhan Ku. Das, Inspector of CBI, Special Crime Branch, SCB who as per the direction of Sri A.K.Sahaya, the chief IO of this case had obtained the specimen signature of accused S.K.Biswal in 12 sheets (Ext.35/11) at O/o SFSL, BBSR. PW.18-Ajaya Kanta Sahaya is the chief IO of this case. PW.19- Kanhu Charan Misra , Sr. Journalist, who was publishing weekly news paper namely Mahanagari. On whose petition the Hon'ble High Court of Orissa had given directions to the CBI for investigation. Besides the oral evidence prosecution has also proved documents (Ext.1 to 49). On the other hand the defence has adduced no oral evidence on its side but has also proved documentary evidence from Ext.A to C.

7. I have already heard arguments from both sides Ld. Counsels on 10.4.14 and perused the record. The Ld. Counsel appearing for the accused submitted that there is no evidence worth the name on the side of the prosecution to hold that prosecution has

established the charge against the accused.

8. On the other hand, the Ld.Sr. Public Prosecutor, CBI submitted that the defence has made lengthy cross examination to the prosecution witness but could not able to elicit from their mouth to discredit the testimony of the witness and as such the prosecution has able to bring home the charge level led against the accused to the hilt.

9. The facts which are not disputed in this case are as under:

i) Accused Dibakar Rath was working as Asst. Director, Physics Division in SFSL,BBSR during the relevant period and , as such, he was a public servant then in terms of Section 21 IPC

ii) The accused Dibakar Rath being such public servant in the capacity of Asst.Director, Physics, Division had chemically examined the exhibits sent to him from different corner and had prepared his chemical examination report.

Iii) Accused Dibakar Rath had examined some exhibits sent to him in connection with Cantonment PS Case NO.6797. Exhibits 8/3 and 8/6 were the two chemical examination report in connection with Cantonment PS Case NO.6797 whichwere prepared by accused Dibakar Rath.

10. It is the allegation of the prosecution that some exhibits in connection with cantonment PS case no.6797 were despatched to SFSL for its chemical examination and report. Subsequently out of exhibits sent only a kurta and dupatta were send to the Physics Division, SFSL, BBSR for its examination. The present accused Dibakar Rath was the Asst. Director in Physics Division who in that capacity was the Head of the division. Dibakar Rath chemically examined the exhibits sent to him and prepared report which has already marked as Ext.8/3in this case . After preparation of Ext.8/3 the same was sent by the present accused to biological division were sent. Accused S.K.Biswal (dead) was then the head of the Biological Division who place the exhibits 8/3 before the Directors and other Sr. Officers for their perusal. Accused P.R.Mohanty (dead) was then the Director, SFSL. Taking the further allegation of the prosecution that accused Indrajit Roy (dead) was the accused in Cantonment PS Case NO.6797 who had requested the Director, SFSZL to instruct his staffs to prepare favorable report in his favour. It is the further allegations of the prosecution is that

when Ext.8/3 did not support Indrajit Roy the other accused persons P.R.Mohanty, S.K.Biswal, along with present accused and others made criminal conspiracy to prepare a report by illegal means to save the accused Indrajit Roy in any manner from the criminal liabilities of the cantonment ps case no.6797. Pursuant to their aforesaid criminal conspiracy the present accused changed his first report Ext.8/3 and for the second time he prepared another report (Ext.8/6) which was nothing but was an incorrect report especially meant to save the accused.

11. The accused Dibakar Rath had denied his involvement with the commission of the alleged offence. Under such circumstances now it is to be examined as to how far the prosecution with the materials available on record had able to substantiate the charge leveled against the accused..
12. Section 120(A) IPC defines the criminal conspiracy. As per the Section 120 (A) IPC the offence of criminal conspiracy consists in a meeting of minds of 2 or more persons for agreeing to do or causing to be done an illegal act for an act by illegal means and the performance of an act in terms thereof is designated criminal conspiracy. After surgical operation of the prosecutions evidence available on record I find there is absence of meeting of two or more minds acting in some direction. Although evidence available on record reveals that the present accused along with accused persons against whom the case is abated and others had sat together for discussing on the report but that itself does not sufficient to arrive at a conclusion that they were seating together at a place had made criminal conspiracy to do some illegal act. It is true that the case against the accused Indrajit Roy , P.R.Mohanty, S.K.Biswal has been abated as they died during the course of trial and now the present accused Dibakar Rath alone remains in the picture as one having committed the offence U/s.218 CrPC by entering into the conspiracy. It is Axiomatic that there can not be conspiracy of one in view of the present scenario of the case to my opinion it is not illegal, physibile or possible to hold guilt the present accused Dibakar Rath for the offence punishable U/s.120(b)IPC as the present accused was charged or having entered into criminal conspiracy with persons other than the above named persons against whom the case has been abated. Therefore, in view of the reasons stated above I am of the view that the present

accused in view of the reasons stated above, I am of the view that the present accused can not be held guilty U/s.120(b) IPC.

13. **The Ld. Sr.P.P** CBI submitted that Exts. 8/3 and 8/6 are two chemical Examination Reports in continuation with Cantonment case no.67/97 which were prepared by the present accused Dibakar Rath who in his official capacity as Asst. Director, Physics Division, SFSL, Orissa, a Public Servant which is not undisputed facts of the case. He further submitted that if Ext.8/3 and 8/6 read together it can be rightly understood that the accused Dibakar Rath having changed his first Chemical Examination Report (Ext.8/3) has prepared his second report Ext.8/6 which was nothing but an incorrect one. Circumstances of the case well reveals that the intention of the accused Dibakar Rath changing his first report Ext.8/3 and preparing another report Ext.8/6 was only to save Indrajit Roy from criminal liability against whom Cantonment Case No.67 of 1997 was registered. It is further submitted by him that in this regard the prosecution has adduced,overwhelmed cogent, consistent, reliable evidence through its witnesses leaving no room of doubt also the implications of the accused with the commission of alleged offence punishable U/s.218 IPC. Besides that the accused himself has voluntarily given his confessional statement before the Chief Metropolitan Magistrate, Calcutta U/s.164 vide Ext.42 which has also strengthened more to the prosecution case.

14. Now the following crucial questions arise for consideration for just decision of the case are :

- i) Are the Exts.8/3 and 8/6 the Final Chemical Examination Report ?
- ii) If occasion arises, can Ext.8/3, 8/6 be modified or changed ?
- iii) Is Ext.8/6 an incorrect report ?
- iv) Had the accused Dibakar Rath prepared Ext.8/6 in incorrect manner ?
- v) Had the accused Dibakar Rath prepared Ext.8/6 with intent or with knowledge that his such act likely would there by
  - a) Cause loss or injury to public or any person;
  - b) Save a person from punishment; and
  - c) save property from future ?

Keeping in view of the aforesaid points for consideration the evidence of the prosecution witness needs close scrutiny with utmost care and caution in order to arrive at a finding as to whether the prosecution has successfully brought evidence on record so as to establish the offence punishable U/s.218 IPC against the accused beyond all reasonable doubt.

In all, prosecution has examined as many as 19 witnesses, on its side. In order to bring home the charge U/s.218 IPC against the accused the prosecution has mainly relied upon the evidence of Pws.2,3,4,6,7,8,9,13,15,18

15. Here I would prefer to reproduce the relevant portion of the evidence of the aforesaid prosecution witnesses for just decision of the case.

Bipini Bihari Roy (PW.2) the Scientific Officer, SFSL, BBSR has deposed about the maintenance of record in different Section /Division of SFSL, His evidence further shows that Exhibits sent by the courts in criminal case for examination by SFSL are firstly received by L.O, Section, SFSL after verifying the seal and signature of the exhibit parcel with the seal and signature of the forwarding letter of the court. Thereafter, the L.O Section enters the same in the Register District wise known as District Register.. He has proved the District Register Ext.7of Cuttack District. Ext.7/1 reveals the receipt of Exhibits sent by the court. Of Ld.SDJM, Cuttack in connection with Cantonment PS Case No.67/97 on 22.7.97 by L.O Section. Separate file is maintained in different divisions of SFSL. A separate file Ext.1 is maintained in Biological Division and by the relevant time accused S.K.Biswal (dead) being the Asst. Director of Biology Division was head on the said Division. Similarly a separate file is maintained in Physics Division vide Ext.8. By the relevant period accused Dibakar Ratha being the Asst. Director of Physics Division was head of the Division and was maintaining Ext.8. L.o Section also maintains separate Register for every division of SFSL. Ext.6 is the Register for Biology Division. Ext.6/1 reveals receipt of Exhibits in question by biology Division from I.O. Section. This witness in Para 14 of his cross examination had deposed that in case Biology Division feels necessary of examination by Physics Division, sends the exhibits to Physics Division along with the overises made by the I.O in the requisition. On 29.7.97 accused S.K.Biswal, ,Head of Biology Division then send the exhibits viz Kurta and dupatta in question to physics Division vide Ext.8/1 and on the basis of such reference accused Dibakar Rath had examined the exhibits in question. .

PW.2 in Para 14 of his cross examination has deposed that after examination of the exhibits in question by Physics Division the division head prepares the draft report. That draft report is then sent to Biology Division. The said draft report is known as “INTER DIVISIONAL DRAFT REPORT” . After receipt of the said draft report the Biology Division prepares their draft report. The Director of SFSL is the administrative head. The Director, Dy. Director and Jt. Director of SFSL are the supervising officers. Normally the supervising officers go through the Draft report who after going through the draft report may suggest for further modification, if they find the report is not prepared as per the overise made by the IO or there is any lacuna in the report such direction of the supervising officers are normally given orally.

Evidence of witness in Para 15 of his cross examination further reveals that if any draft report is send by the supervising officer for further inquiry and modification, then after receipt of modification report it is incorporated in the final report after due supervision. After the report finalized and typed out, it is signed by both the examining officer and supervising officer. Once a report is made final it can not be subsequently changed . Similar practice is also applicable in case of overise made by the court in any criminal case.

This witness in Para 16 of his evidence has stated that there is no codified or prescribed language for expressing the findings of the examining officer. Normally the examining officer uses his own languages by preparing the Draft Report. This witness in para 17 of his cross examination has deposed that at times it is not possible to answer all the queries. Once the final report is signed by examining officer and supervising officer and despatched from this office it became Chemical examination Report.

16. After analysis of the aforesaid evidence of PW.2 it is clear that the report which is prepared by the examining officer at the first instance after examining the exhibits is known as Draft Report/Inter Divisional Draft Report. At no stretch of imagination, the said draft report at the first instance can not be termed as Chemical Examination Report of the SFSL because of the draft report is subjected to modification before it became a final examination report. The draft report before reaches its finality is placed before the supervising officers of the SFSL for their scrutiny and opinion or suggestion, if any the

supervising officers of the SFSL are the Director, Deputy Director and Jt. Director of the SFSL. After scrutinizing the draft report of the examiner if the supervising officers feel /find that the said draft report has not been prepared as per the overises made by the IO in his requisition or the questions referred by the court or there is some flaws in the draft report in that case the supervising officers instruct/suggest orally to the examiner to modify the draft report and submit the same after modification keeping their instruction or suggestion in mind. Then the draft report returns back to the examiner for submission of his modified Draft report. Pursuant to the instruction/suggestion of the supervising officer the Examining Officer prepares the modified draft report and again places it before the supervising officers for their scrutiny. After scrutiny the modified draft report of the supervising officers find the modified draft report has been prepared correctly as per the queries referred by the IO in his requisition or the court in its forwarding letter and without any further flaws then it becomes a final examination report. Then the said final examination report is sent to the type section of the SFSL to type out the report. After the report is typed out the type out report is verified with the report sent to the type section and when it is seen that the final draft report has been correctly typed out, then both the examiners and the supervising officers put their signature on it and thereafter it is despatched from the office to the place from where the exhibits had came. Once the final report is signed by the Examiners and supervising officer and despatched the same from the office the final report becomes the CHEMICAL EXAMINATION REPORT of the SFSL. It is further clear from the evidence of PW.2 that once the draft report is made final subsequently it cannot be changed. At times it is not possible to answer all the questions referred . There is no prescribed language for expressing the findings of the Examination Normally the Examiner uses his own language while preparing the draft report.

17. PW.3 Bamana Charan Sahu was working as Laboratory Asst. in the Physics Division, SFSL, in the year 1997 while accused Dibakar Rath being the Asst. Director was the head of the Physics Division. He has prepared the case register Ext.16 maintained in the Physics Division. His evidence further reveals that on 29.7.97 the Physics Division

received a parcel containing a “Kurta” and a “dupatta” from Biology Division, SFSL, in connection with Cantonment PS Case NO.67/97 vide Ext.16/1 for its chemical examination. After receipt of the aforesaid parcel for examination of file (Ext.8) was opened in the Physics Division. Thereafter accused Dibakar Rath being the head of the Physics Division had himself chemically examined the exhibits “Kurta” and “Dupatta” which were sent in the parcel in question and prepared his examination report (Ext.8/3). Subsequently accused Dibakar Rath prepared another report (Ext.8/6) in respect of the same Cantonment Case No.67/97 both the reports (Ext.8/3 and 8/6) were sent to the Biological Division vide Physics Division letter no.130 dtd.31.7.97 under one despatch no. with the peon book (Ext.7) of the Physics Division and he had proved the relevant entry (Ext.7/1) of the peon book (Ext.7) . It is further stated by this witness that the despatch number mentioned in Ext.8/6 was not put by him but the despatch number reflected in Ext.8/3 was put by him. He had send Ext.8/3 to the Biological Division by entering the despatch number Ext.17/1 in the peon book (Ext.17) although the Ext.8/6 was sent in the same despatch number but the same had not been entered in the peon book (Ext.17). Accused Dibakar Rath had sent the exhibit 8/6 personally. It is further stated by him that accused Dibakar Rath had made an entry Ext.8/9 in Ext.8 directing him to keep Ext.8/6 in the file. On 15.3.2000 the IO of this case had seized the peon book (Ext.17) on his production under a seizure list Ext.18. PW.3 in Para 4 of his cross examination had stated that before modification of the court which was prepared earlier is termed as “ DRAFT REPORT”. In Para 5 of his cross examination he has stated that at the time of urgency or in his absence beyond office hour the Asst. Director himself sends the official letters to other divisions after making necessary entries in the despatch register. It is further stated by him that after despatching Ext.8/3 on 31.7.97 he returned the file Ext.8 to his Asst. Registrar. He can not say as to whether after despatching Ext.8/3 accused Dibakar Rath taking the file Ext.8 had been to others for discussion on the report Ext.8/3. This witness has given a vital statement in Para 5 of his cross examination that during his tenure in Physics Division, SFSL he has seen many reports prepared in their division has been modified if the circumstances or situation demands. This witness in para 7 of his cross

examination has further stated that normally a report send by Physics Division is placed before the Supervising Officers though biological Division. By the relevant period Nursingha Charan Misra, Dy. Director, SFSL was one of the supervising officer of SFSL. A supervising Officer normally puts his signature after the report is made final. In Para 11 of his cross examination PW.3 has further stated that as per the direction of the accused Dibakar Rath he had kept Ext.8/6. After it's preparation in the file Ext.8 with him and thereafter i.e after 1.8.97 Dibakar Rath had not taken the file Ext.8 from him. In the same para PW.3 has further stated that both the reports Ext.8/3 and Ext.8/6 were prepared by accused Dibakar Rath on one day. The Dy. Director, Jt. Director and Asst. Director of SFSL are technical experts and the Director of the SFSL is only the administrative head. Normally report prepared by Asst. Director is placed before the Dy. Director for his approval and after the Dy. Director approved the report. It is made final . At times some reports are also p;laced before the Jt. Director,SFSL for his opinion.

After analysis of the aforesaid evidence of this witness it is evident that Ext.8/3 was the draft report as it was prepared earlier before preparation of Ext.8/6. Ext.8/6 is the modification report of Ext.8/3. Before the draft report/modified report of the draft report is final normally placed before the Dy. Director/Jt./Director, of SFSL who are technical expert cum supervising officer for their approval. After a report got approved by the Supervising Officer the said report becomes a final report. Draft report is modified when circumstances or situation arises. According to him during his tenure in the Physics Division he has seen many reports of Physics Division has been changed. Ext.8/3 was not the only report of Physics Division which was modified for the time and circumstance /situation demands for modification of draft reports are according to PW.2 is that if the draft report has not prepared as per the queries made by the IO or the question referred by court or there is any flaws in the findings of the examiner in the draft report . After Ext.8/6 got approved by the supervising Officer PW.3 had kept it in the file Ext.8 carefully as per the direction of accused Dibakar Rath on 1.8.97 and after 1.8.97 accused Dibakar Rath had not taken the file Ext.8 from PW.2 . Hence accused Dibakar Rath had no occasion to tamper with the report Ext.8/6 or file after

1.8.97. In case of urgency or when the laboratory assistant of physics division who was in charge of despatch section in addition to his own duty is absent in the division after officer or in any circumstance during office hour. The Asst. Director in that circumstances sends the letter of division to other division by making necessary entries in the despatch register as there was no separate despatch /issue register in the Physics Division the peon Book Ext.17 of the division was used as despatch/issue register for the purpose of correspondence within the SFSL office . In such contingency if accused Dibakar Rath has sent Ext.8/6 to my opinion, he has not committed any mistake on perusal of Ext.8/3 and 8/6. it is seen that both Ext.8/3 and Ext.8/6 have sent under one despatch number. It is not disputed by the prosecution that Ext.8/3 has been sent to Biological Division vide Despatch no.130 dtd. 31.7.1997 (Ext.17/1). Now the question arises as to how the Ext.8/6 which was prepared after Ext.8/3 was sent under same despatch number, It is admitted fact that Ext.8/3 was sent having despatch number to Biological Division for placing the same before the supervising officer for their scrutiny and kind approval. After the scrutiny the supervising officer suggested Ext.8/3 needs modification as Ext.8/3 was not returned back to the Physics Division by official Procedure and the suggestion/instruction of the Supervising Officer was oral, to my opinion no blunder had been committed in sending Ext.8/6 under the same despatch number in which despatch number the earlier report Ext.8/3 was despatched .Thus the evidence of PW.3 does not help the prosecution to connect the accused Dibakar Rath with the commission of the offence punishable U/s.218 IPC.

18. PW.4 Kamal Prasad Kanungo who during the relevant period was attached as steno to Sri. P.R.Mohanty the then Director of SFSL. He had stated that he had prepared five copies of the Hand written report of the present accused vide Ext.8/11.

In Para 8 of his cross examination this witness has stated that technical discussions so also meetings takes place in the Director's room relating to the cases and a similar meeting had taken place on 31.7.97 at about 5 .30pm in the Director's room attended by P.R.Mohanty, Director, Dr.BK.Das,Jt. Director, Sri S.K.Biswal, Asst. Director, Biology Division and the present accused. It is seen from his evidence that on the direction of PR Mohanty, Director he typed out a handwritten internal examination report made by

accused Dibakar Rath in his laboratory in relation to Cantonment PS Case No.67/1997 in presence of accused Dibakar Rath and on his direction . His evidence in cross examination in para 5 shows that he being the steno to the Director had no role in despatch of different copies typed out by him to different places

18. PW.5 Dhaneswar Nayak, Jr.Clerk attached to type section of SFSL has stated that on 31.1.97 he had typed 5 copies of the Internal Examination Report from File no.53/97 of Physics Division (Ext.8) . Ext.8/6 was one out of said 5 copies of the Internal Examination Report which was typed by him. He had proved the handwritten report Ext.8/16 prepared by accused Dibakar Rath. Both Pws.4 and 5 in their evidence have not spelled out anything as regards to any illegal act committed by accused Dibakar Rath while examining the exhibits and preparing draft report.
19. PW.6., Dr.Basant Ku. Das was the Jt. Director of SFSL in the year 1997. His evidence in examination in chief (para 2)shows that on 31.7.1997 P.R.Mohanty , the then Director, SFSL called him to his chamber for a discussion. Accordingly, he went to the chamber of the Director and found accused Dibakar Rath and accused S.K.Biswal (dead) were present. PR.Mohanty , Director had showed him an internal report prepared by accused Dibakar Rath in connection with Cantonment PS Case NO.67 of 1997 and asked him to verify whether the opinion given there is correct. His attention was also drawn to the court's question in relation to the said case. The court's question was whether the Exhibits , “Kurta” and “Dupatta” were torne during the toucle while the accused was attempting to commit rape to the victim. There was no printed reply on his query. It was a technical report which clearly dealt with relevant questions such as direction of the force, magnitude of the force , age of the tear , Director told him that the report does not directly deal with the query of the court as to whether the accused at the time of attempting to commit rape on the victim had cause tearing . In reply he told him that it is not possible to give such a direct reply to the query made by the court as to whether the accused had caused the tearing . Further he told the Director that it is not possible to give a pin point reply in terms of 'Yes' or 'No' as to whether the cloth will develop any specific character, if it is torn during attempt of rape without taking into consideration the factors such as the direction of force, amount of

force, texture of the cloth, age of cloth etc. It is further stated by him in Para 4 of his evidence that P.R.Mohanty, the then Director, SFSL had shown Ext.8/6, the internal report of accused Dibakar Rath relating to cantonment PS case no.770/97.

20. After thorough analysis of the evidence of this witness it is crystal clear that Ext.8/6 is an internal divisional report as it bears no signature of the Supervising Officer. There is some linguistic difference in between both the reports , Ext.8/6 and 1/34 and that difference in technical sence is simple. In literal nature . All the Internal Divisional Draft Report is placed before the Supervising Officer for his supervision and approval. Here in the instant case Ext.8/6 has placed before the Supervising Officer-N.C.Mishra for his scrutiny and approval. The report (Ext.1/34) which was sent to the court had been checked and approved by Sri N.C.Mishra, Dy. The then Director cum Supervising Officer. The report which is placed before the Dy. Director-cum-Supervising Officer for scrutiny and approval the said report can not be termed as full fledged report in technical sense to be used for legal purposes. The draft report is initially prepared is subjected to modification in the supervising level. Therefore any modification done by accused Dibakar Rath in his draft report is not illegal as he had done so as per the suggestion and instruction of the Supervising Officer. Technically the despatch number of the internal number will always be the same even after modification if any. Hence despatching both the reports Ext. 8/3 and 8/6 under one and same despatch number is not an offence. Once a report is despatched from the O/O SFSL thereafter no alteration or addition can be made in the report. This witness as per the declaration of the Govt. of Orissa was designated as Chemical Examiner to Government. In Para 15 of his evidence in cross examination this witness has also stated that before despatch and signed by the chemical examiner a report is not final. After it is despatched from the SFSL no alteration or modification can be made to it. In Para 17 of his evidence in the cross examination this witness after perusal of both the reports (Ext.8/6 and 1/34 had stated that both the reports were technically correct. He had stated before the IO that technically it was not possible to give such overary of the court and the same opinion has been given by accused Dibakar Rath, in his report Ext.1/34 that it can not be said that the tear in question had been caused during the toucle while accused was

attempting to commit rape on the victim . In para 19 in his cross examination this witness has stated that the approval by the Supervising Officer makes the report final for all purposes and the final opinion given there to by him is binding on all other subordinate officials . In the same para this witness has stated that he had told to the IO that in both report Mr.Rath has mentioned about the 'Tear Mark' and ' Tear' was the outcome of blunt force. He had also stated before the IO that in the second report Ext.1/34 Sri Rath had added the (tear) is found to be even and straight which is generally caused by sudden application of force and further he had stated before the Io that by omitting the word (sudden force) from it's first report Ext.8/6 Sri Rath tried to maintain the originality of his report by adding the said sentence. In para 5 of his examination in chief this witness has stated that he had told to the director P.R.Mohanty that the report of the accused does not require any modification. In para 8 of his examination in chief this witness stated that there is some linguistic difference. In the first report Ext.8/6 and the second report Ext.1/34. In the report Ext.8/6 the direction of force has been mentioned to be from the neck side towards the left side of the person who had put on it. But this fact had not mentioned in Ext.1/34. Rather in Ext.1/34 it was mentioned that the tear is found to be even and straight. According to him practically there was no technical difference between the two expression except literal difference and the difference in the two reports are simple in literal in nature . It is further stated by him that in the first report Ext.8/6 no reply has been given to the overry of the court as to whether the tear has been caused during the tousle . While the accused was attempting to commit rape on the victim where as in the second report Ext.1/34 the reply given to the overry is “ It can not be said if the tear has been caused during the struggle while the accused was attempting to commit rape on the victim. Technically speaking when" No opinion can be given on a particular point . Generally the technical practice to mention ' No opinion can be formed ' but in the second report Ext.1/34 it has been mentioned. It cannot be said.." when no opinion could be possible on the court overry" In para 11 of his cross examination this witness has stated that all the divisional reports like this nature are placed before the supervising officers for supervision. At that time Sri N..C.Mishra, Dy. Director was the Supervising Officer

who had supervised the report in question. After the supervising officer checked the same by tallying it with report prepared by the Biological Division and signed on it, then the said report becomes final . In this case Ext.1/34 has been checked and approved by Sri N.C.Mishra , Supervising Officer. Since Ext.8/6 was not placed for approval by the Dy. Director, SFSL. It can not be said as full fledged report in the technical sense to be used for legal purpose. In same para this witness has stated that the draft report which is initially prepared is subject to modification in the supervising level. He had come across several instance of modification while supervising the internal draft report. In para 12 of his evidence in cross examination he has stated that tear in a piece of cloth is always caused by application of force. Application of sudden force caused even and straight tear. In Ext.1/34 it has been mentioned that the tear mark in cloth appears to be fresh where as in Ext.8/6 it has been indicated that the cloth was not washed . In cross examination of this witness in Para 13 shows that the despatch number of internal draft report will always be the same even after modification if any. Ext.1/34 is a technically correct report, according to his opinion as the same has covered the answers to all queries of the court. The witness had deposed in the court that both the reports Ext.8/6 and 1/34 were shown to him and after examining both the said report he opined that both the said reports were technically correct. In view of his opinion in Para 6 it can be said that the reports prepared by Dibakar Rath in connection with Cantonment PS case no.67/1997 was not incorrect report as well as was not tampered with. According to him accused Dibakar Rath while preparing the report Ext.8/6 and 1/34 has tried to maintain the originality in his reports to his utmost satisfaction.. Therefore, it can be safely said that the accused Dibakar Rath had no criminal intention to cause injury to the public or any person or to show favour to any person for the purpose of saving him from any criminal liability so as to cause forfeiture any property and that he had prepared no incorrect report.

21. Reading the evidence of PW.7 and PW 9 who were the the then laboratory assistant, Biology Division and Asst. Director, Serology Division shows that the approval by the Supervising Officer makes the report final and all the experts of the SFSL are bound to obey the technical instructions of the Director. The Director and supervising officer

issued instructions to the experts for giving definite reply to the overries referred to the court.

22. PW.15 was the Director of SFSL,BBSR . In para 4 of his evidence in cross examination this witness has stated that the Director of SFSL has the authority to ask the technical staff to answer all the questions which are referred for their opinion , if any question is not answered by the technical staff at the time of submission of his opinion. Director is responsible to ensure accurate compliance of the queries made from different quarters.
23. PW.18 AjayaKanta Sahaya is the Chief IO in this case. His evidence goes to show that he had sent two reports dtd. 31.7.97 of Physics Division, SFSSL, BBSR to CFSL, New Delhi through SP,CBI,SCB,Kolkata for opinion. He had received a letter Ext.C from CFSL,New Delhi. This witness in Para 23 of his evidence in cross examination has admitted that Ext.C is totally silent as to the report prepared by the accused Dibakar Rath was wrong or false.
24. After analysis of the evidences of witnesses who are the material witnesses to the instant case , it is crystal clear that none of the witnesses has whispered a single word that the report prepared by the accused Dibakar Rath, which was duly checked and approved by Sri N.C.Misra, the then Dy. Director cum Supervising Officer, SFSL was incorrect or wrong and that he had knowledge/intention that the report which was prepared by him is in incorrect manner with intention to save accused Indrajit Roy (dead) from his criminal liabilities in connection with Cantonment PS Case No.67/1997. The law being well settled that unless the prosecution proves the incorrect/wrong report is prepared intentionally by the accused and necessary criminal intention is lacking in the case, conviction U/s.218 IPC can not be made particularly when no other expert opinion has been procured to prove the contrary . Intention/men-serial is an essential ingredient to constitute an offence U/s.218 IPC but since missing in the instant case. It can be rightly concluded that no offence U/s.218 IPC has been made out.
25. During course of argument the Ld. Sr. PP, CBI strenuously contended that if the confessional statement of the accused Dibakar Rath recorded U/s.164 CrPC by Ld. 12<sup>th</sup> Chief Metropolitan Magistrate, Kolkata vide Ext.42 . A petition filed by the accused

for tendering him pardon from this case then the result of such reading would lead the court to arrive at a conclusion tht the accused Dibakar Rath has tampered with the reports Ext.8/C and 1/34 with intents to save the accused from criminal liability from Cantonment PS Case No.67/97. Besides that he has also submitted that the confessional statement of the accused recorded vide Ext.42 was purely voluntarily one suffers no infirmity and the Magistrate who had recorded the confessional statement of the accused Dibakar Rath vide Ext.42 has followed all the legal formalities while recording confessional statement of the accused. From the evidence of PW.6, Dr.Basant Ku. Das, who was , by the relevant time was the Dy. Director of SFSL. It is clear that Exhibits 8/6 and 1/34 have been tampered. Materials available on record shows that accused Dibakar Rath had prepared those two reports (Ext.8/6 and 1/34). It is further stated by him that P.R.Mohanty, the then Director, SFSL was not technically expert . It can be rightly said that the accused Dibakar Rath knowing fully have tampered both the aforesaid reports. On the other hand the Ld. Counsel for the accused Dibakar Rath submits that materials available on record clearly indicates that the alleged confessional statement of accused Dibakar Rath was not a voluntarily one and that the petition of the accused Dibakar Rath for tendering him pardon from this case can not be taken into consideration as because the same has been rejected by the court vide order no.15 dtd. 15.1.2000.. He fairly conceded that the defence has no challenge regarding the prescribed legal procedure followed by the Chief Metropolitan Magistrate, Kolkata while recording 164 statement of accused Dibakar Rath. The aforesaid rival submissions of both side Ld. Counsels needs through consideration. PW.18 is the chief IO of this case who in Para 18 of his evidence has stated that during the course of investigation he had send the accused Dibakar Rath to the court of Chief Metropolitan Magistrate, Kolkata for recording his confessional statement U/s.164 CrPC as the accused voluntarily wanted to make a confessional statement. From the prosecution side only this witness has narrated about the confessional statement of accused Dibakar Rath recorded U/s.164 CrPC. This witness in Para 21 of his cross examination has categorically admitted that frequently he used to come Bhubaneswar for the purpose of investigation of this case and accused Dibakar Rath was ordinarily

was then residing at Bhubaneswar. It is not understood to me that when PW.18 was frequently coming to Bhubaneswar for investigation of this case and accused Dibakar Rath was residing at BBSR , what prevented him not to record the statement of the accused Dibakar Rath in this court which is a cognizance court of this case and preferred to record the confessional statement of the accused Dibakar Rath at Kolkata other than Bhubaneswar. When a question was put to him by the court, To court as to why you had not taken any step for recording the statement of the accused Dibakar Rath U/s.164 CrPC before this court or in any court at BBSR ? In reply to the aforesaid question no.18 he stated that the accused Dibakar Rath voluntarily expressed his willingness to record his confessional statement at Kolkata because he was apprehending danger to his life , if he gives his any confessional statement at BBSR . In the same Para this witness has admitted that he had not mentioned this fact in his case diary, further more his evidence does not disclose as to on which date, what time and at which place and in whose presence the accused showed his willingness to make his voluntarily confession about the case. His evidence also does not disclose with whom he has send the accused Dibakar Rath to the Chief Metropolitan Magistrate, Kolkata for recording his confessional statement U/s.164 CrPC.

26. PW.18 has categorically admitted in his evidence that he had issued certificate (Ext.C) showing the presence of the accused Dibakar Rath in CBI office, Kolkata on 3.5.2000 to 6.5.2000 for the purpose of investigation. Ext.42 , the confessional statement of the accused Dibakar Rath U/s.164 CrPC which reveals that the accused produced before the Metropolitan Magistrate, Kolkata on 4.5.2000 one Sadhan Ku. Das the IO (PW.17) had produced the accused Dibakar Rath before the Chief Metropolitan magistrate, Kolkata for recording his confessional statement. It is further seen from Ext.42 that his confessional statement was recorded on 6.5.2000 on which date the IO Sadhan Ku. Das (PW.17) was the part IO. It is also seen from Ext.42 that the accused was staying within this period at Utkal Bhaban , Kolkata where as the evidence of PW.8 (Chief IO ) of this case shows that the accused was staying within this relevant period in CBI office at Kolkata.. The IO Sadhan ku. Das who had produced the accused Dibakar Rath before the Chief Metropolitan Magistrate, Kolkata for recording the confessional statement of

the accused produced and remain present on the date i.e on 6.5.2000 and the statement of the accused was recorded, as spelled out in his evidence before the court about this fact. PW.18 in Para 21 of his evidence has also stated that so far this case is concerned this court is the cognizance taking court and we had not prayed before this court to record the confessional statement of the accused U/s.164 CrPC, as well as he had not taken any steps to record the confessional statement of the accused Dibakar Rath in any court at BBSR. In view of aforesaid discussion I am of the opinion that the confessional statement of accused Dibakar Rath said to have recorded U/s.164 CrPC by Chief Metropolitan Magistrate, Kolkata on 6.5.2000 was not the voluntarily one of the accused rather on account of exercising undue influence by CBI the accused has made his confessional statement vide Ext.2 which can not be ruled out. It is true that the accused Dibakar Rath in the course of pre-trial stage of this case had filed a petition praying the court to tender him pardon from this case but his said petition stands rejected for technical grounds, since the alleged offences for which the accused was facing trial for 7 years and more. When the said petition of the accused has been turned down by the court, I do not feel the petition of the accused Dibakar Rath for tendering him pardon can not be taken into consideration.

27 For the sake of argument, if for a moment not for permanent the submission of Ld. Senior PP, CBI that the reports Ext.6 and 1/34 have been tampered with by the accused Dibakar with intents or knowledge to save accused Indrajit Roy from his criminal liabilities from cantonment ps case no.67/97 is accepted as true, still then it can not be said that prosecution has able to establish its case against the accused to the hilt because of failure by prosecution in proving that the accused Dibakar Rath had not any criminal intention or criminal knowledge behind tampering the reports alleged to have been prepared by him. From the evidence of PW.6 it is clear that whatever tampering has been made with the reports Ext.8/6 and 1/34 by accused Dibakar Rath that was not framed by the accused with any criminal mensria but he has done the same being on more pressurized by P.R.Mohanty who was the administrative head of SFSL.

28. Materials available on record reveals that Sri N.C.Misra, Dy. Director had checked the

reports prepared by Dibakar Rath and approved the same and put his signature on the final report but the CBI had not made him accused in this case. Preliminary allegations were made against Sri J.B.Pattnaik, the then Chief Minister of Orissa, Kishore Ch. Patel, the then Hon'ble Forest Minister and other high officers but CBI had not made them accused in this case leaving the persons involved with the crime casts serious doubt about the bonafideness of prosecution case and as such it can be safely said that the prosecution has not come to the court with clean hand.

29. Considering the nature of evidence adduced in the present case, in view of my discussions supra, I am of the considered view that the prosecution has not brought reliable and convincing materials on record to prove the guilt of the accused in this case and as such the prosecution has miserably failed to bring home charge leveled against accused Dibakar Rath beyond all reasonable doubt.

In the result, I hold accused Dibakar Rath is not guilty for commission of offence U/s.120(B)/218 IPC and acquit him there from U/s.248 CrPC on benefit of doubt. The accused is on currt bail and as such he be discharged from his bail bond.

Spl.C.J.M(C.B.I)

Bhubaneswar.

The judgment is dictated,corrected and pronounced by me in the open court today i.e. on 30.4.2014 under my hand and seal of this court.

Spl. C.J.M(C.B.I)

Bhubaneswar.

List of P.ws. examined for prosecution.

P.w.1	Prasant Ku. Nayak.
P.w.2	Bipin Bihari Roy
P.w.3	Baman Ch.Ssahoo
P.w.4	Kamal Prasad Kanungo.
P.w.5	Dhaneswar Nayak
P.w.6	Dr.Basanta Ku. Das

P.w.7	Santosh Ku. Rath
P.w.8	Sri Apurba Nandy
P.w.9	Dr.Santoshini Panigrahi
P.w.10	Ramesh Ch.Kar
P.w.11	Dhobei Charan Sahu
p.w.12	Ananda Swarup Gupta
p.w.13	Amiya Bhusan Tripathy
p.w.14	Rabindra Ku. Narendra Singh
p.w.15	Rajendra Ku. Sanchar
p.w.16	Anjana Padhi
p.w.17	Sri Sadhan Ku. Das
p.w.18	Sri Ajaya Kanta Sahaya
p.w.19	Kanhu Charan Mishra

List of D.Ws examined for defence.

N i l.

List of Exhibits marked for prosecution.

Ext.1	File of Director & IG.FSS,BBSR regarding Cantonment PS Case No.67/97
Ext.1 /1	Copy of forwarding letter (page no.29 in Ext.1)
Ext.1/2	Office copy of Examination report of Biology Division (page no.8 in Ext.1)
Ext.1/3	Copy of report (page no.20 in Ext.1)
Ext.1/4	Letter addressed to Director (Page No.30 in SFSL Ext.1)
Ext.2	Issue Register of SFSL, Rasulgarh from 12.6.97 to 26.8.97
Ext.2/1,2/2	Entries dtd. 19.8.97 vide S.L. No.5342 and 5343 in Ext.2
Ext.3	Seizure memo dtd. 15.3.2000
Ext.3/1	Signature of PW.1 in Ext.3
Ext.4	Register of letter received of SFSL, Rasulgarh from 19.5.93 to 4.9.97
Ext.5	Arrival and Departure Register of SFSL, BBSR
Ext.5/1	Relevant entry at page ITO in Ext.5
Ext.6	General Register of Biology division SFSL, BBSR of L.O. Section

1997

- Ext.6/1 Relevant entry at page 46 in Ext.6
- Ext.7 District Register of SFSL, BBSR of LO section 1997
- Ext.7/1 Relevant entry at page 7 of Ext.7
- Ext.1/5 Signature of S.K.Mohapatra in official seal in Ext.1 at page 2
- Ext.8 File of F.S-2 bearing no.53/97 regarding maintenance of cantonment  
PS Case No.67/97 (15 sheets)
- Ext.8/1 Letter at page no.14 of Ext.8
- Ext.8/2 Signature of S.K.Biswal in Ext.8/1
- Ext.9 Seizure list dtd. 15.3.2000
- Ext.9/1 Signature of PW.2 in Ext.9
- Ext.10 to 10/20- Specimen writings/signatures/initial of accused Dibakar Rath in  
21sheets
- Ext.10/21 to 10/41-Signature of PW.2 in Ext.10 to 10/20
- Ext.11 to 11/17 Specimen type impression of machine no. FACIT 305850 in  
18 sheets
- Ext.11/18 to 11/35 Signature of PW.2 in Ext.11 to 11/17
- Ext.11/36 to 11/53 Signature of Dhaneswar.Nayak in Ext.11 to 11/17
- Ext.12 to 12/17 Specimen type impression of Facit 704598 in 18 sheets
- Ext.12/18 to 12/35 Signature of PW.2 in Ext.12 to 12/17
- Ext.12/36 to 12/53 Signature of Dillip Kumar Mohanty in Ext. 12 to 12/17
- Ext. 13 to 13/20 Specimen type impression of Machine No.-R-581340 in 21 sheets
- Ext.13/21 to 13/41 Signature of PW.2 in Ext.13 to 13/20
- Ext.13/42 to 13/62 Signature of Fagua Mundari in Ext.13 to 13/20
- Ext.14 to 14/14 Specimen type impression of Machine No.R-452875 in  
15 sheets
- Ext.14/15 to 14/29 Signature of PW.2 in Ext.14 to 14/14
- Ext.14/30 to 14/44 Signature of kamal Prasad Kanungo in Ext.14 to 14/14
- Ext.15 Xerox copy of cone register of Physics Division of SFSL,  
Rasulgarh, BBSR for the year 1995 to 2000-2 sheets
- Ext.15/1 Signature of Pw.2 in Ext.15

2000	Ext.16	Case register of Physics Divn, SFSL, Rasulgarh from 1995 to March
	Ext.16/1	Relevant entry at page no.57 to Ext.16
	Ext.8/3	Internal examination report dtd.31.7.97 at page 11 to Ext.8
	Ext.8/4 to8/5	Signature of B.Rath in Ext.8/3
	Ext.8/6	Internal examination report dtd 31.7.97 in 2 sheets at page no.7
and		8 of Ext.8
	Ext.8/7 to 8/8	Signature of D.Rath in Ext.8/6
	Ext.17	Peon Book of Physics Divn. SFSL,Rasulgarh, BBSR for 1997 to
1998		
	Ext.17/1	Relevant entry at page 39 of Ext.17
	Ext.17/2	Signature of SK Rath in Ext.17/1
	Ext.8/9	Relevant entry at backside of Page 1 of Ext.8
	Ext.8/10	Signature of accused SK Biswal in Ext.8/9
on different	Ext.1/6 to 1/33	Relevant entries with the signature of accused SK Biswal dates in Ext.1
	Ext.18	Seizure memo dtd.15.3.20000
	Ext.18/1	Signature of PW.3 in Ext.18
	Ext.8/11	Handwritten internal examination report prepared by accused
D.Rath		
	Ext.8/12	Signature of accused D.Rath in Ext.8/11
	Ext.8/13	Copy of typed report dtd. 31.7.97 at page 4
	Ext.8/14to 8/15	Signature of accused D. Rath in Ext.13
	Ext.1/34	3 <sup>rd</sup> copy of typed report at page 24 of Ext.1
	Ext.1/35 to 1/36	Signature of accused D.Rath in Ext.1/34
	Ext.19	Entry dtd 31.7.97 in daily ty;e note register in SFSL for 1996-97
	Ext.20	Production/seizure memo dtd. 16.3.2000
	Ext.20/1	Signature of PW.5 in Ext.20
	Ext.8/16	Handwritten report prepared by accused D.Rath dtd.
31.7.97(page 9 of		Ext.8)
	Ext.8/17 to 8/18	Signature of accused D.Rath in Ext.8/16
	Ext.1/37	Relevant question no.2 with regard to the possibility of tearing

in	Ext.1/1(available at page 29 in ext.1)
Ext.1/38	Endorsement of PW.7 towards report of Exis at page 29 of Ext.1
Ext.1/39	Signature of PW.7 dtd. 22.7.97 in Ext.1/38
Ext.1/40	information sheet prepared by PW.7
Ext/1/41	Endorsement and signature of PR Mohanty in red ink at page 29
Ext.1/42	Note given by Ext.7 at Page 1 in Ext.1
Ext.1/43	Signature of PW.7 dtd. 22.7.97 in Ext.1/42
Ext./1/44	Endorsement made by accused S.D.Biswal in the forwarding
note at	page 29 of Ext.1
Ext.1/45	Worksheet dtd.29.7.97 at page 27 of Ext.1
Ext.1/46	Inter division forwarding report dtd 29.7.97 (page 26 of Ext.1)
Ext/1/47	Signature of SK Biswal in Ext.1/46
Ext.1/48	Report of Serology examination (page 23 of Ext.1)
Ext.1/49	Signature of Miss Santoshi Panigrahi in ext.1/48
Ext.1/50	Signature of N.C.Misra in ext.1/48
Ext/1/51	handwritten consolidated report dtd. 4.8.97 prepared by
S.K.Biswal	(Page 22 of Ext1)
Ext.1/52	Endorsement of N.C.Misra in ext.1/51
Ext.1/53 to 1/54	Signature of N.C.,Misra in Ext.1/51
Ext.1/55	Typed prepared report dtd. 19.8.97(2 sheets , page 20 and 21 of
Ext.1)	
Ext.1/56	Signature of S.K.Biswal in Ext.1/55 (also marked in Ext.1/28)
Ext.1/57	Forwarding memo no. 5343 dtd.19.8.97
Ext.1/58	Signature of Dy. Director N.C.Misra, dtd 19.8.97 in Ext.1/57
Ext.1/59	Note given by PW.7 at page 2 of Ext.1
Ext.1/60	Signature of PW.7 in Ext.1/59
Ext.1/61	Draft reply prepared by S.K.Biswal at page 6 in Ext.1
Ext.1/62	Note containing approval by Dr.B.K.Das (Backside of page 2 of
Ext.1)	
Ext./1/63	Signature of Dr. B.K.Das, Jt.Director dtd. 17.10.97 on Ext.1/62)
Ext.1/64	Typed reply regarding transmission of Exts. Addressed to Cbi,

Kolkata	vide letter no.6724 dtd. 17.10.97(page 5 of Ext.1)
Ext.1/65	Signature of S.K.Biswal in Ext.1/64
Ext.1/66	Note by Sri P.K.Senapati in file regarding transmission of MO to court of ACJM
Ext.6/2	Initial of PW7 in Ext.6/1
Ext.21	File no.329/97 of O/O DFSFL, BBSR regarding cantonment PS
Case	No.67 dtd. 19.9.97 (6 sheets)
Ext.22	File no.345-BG-99 of O/o DFSFL, BBSR regarding Baripada
Sadar Ps	Case No.29/99 (9 sheets)
Ext.23	File no.284 BG 99 of O/O DFSL, BBSR regarding Sarat PS
Case	no.8/99 (9 sheets)
Ext.24	File No.105/94 of O/o DFSL,BBSR regarding Kishore Nagar
PS	Case No.43/34 (6 sheets)
Ext.25	File no.108/94 of O/O DFSL,BBSR regarding Rairangpur Town
PS	Case no.53/94(12 sheets)
Ext.26	Report submitted by the Forensic & State Medicine R.G.Kar
Medical	College & Hospital , Calcutta to SP,CBI, SPE SCB, Calcutta vide no.579 dtd. 13.12.2000(4 sheets)
Ext.26/1	Signature of PW.8 in Ext.26
Ext.27	Requisition made by S.P., CBI SPE,SCB Calcutta to Dr.Apurba
Nandy	Professor Forensic & State Medicine ,Kolkata in xerox
process) (Two sheets)	
Ext.28	Xerox copy of work sheet
Ext.21/1	Requisition for examination of the Exhibits
Ext.21/2	Signature of accused S.K.Biswal in Ext.21/1
Ext.21/3	Signature of PW.9 in Ext.21/1
Ext.21/4	Urgent slip in Ext.21
Ext.21/5	Signature of accused S.K.Biswal in Ext.21/4
Ext.21/6	Signature of Dr.N.C.Mishra in Ext.21/1
Ext.21/7	Work sheet regarding origin defection in Ext.21

- Ext.21/8                      Worksheet regarding Group defection in Ext.21
- Ext.21/9,21/10      Signature of PW.9 in Ext.21    and in Ext.21/8 respectively
- Ext.1/67              Requisition forwarding the wearing apparels of victim to SFSL,Rasulgarh by the PW.10 (page 29 of Ext.1)
- Ext.1/68              Signature of PW.10 in Ext.1/67
- Ext.1/69              Signature of PW.10 in Ext.1/4
- Ext.29                  Letter no.26369 dtd. 7.9.01 issued by Dy. Secy to Govt. of Orissa, BBSR to S.P.,CBI, SCB, Kolkata
- Ext.29/1              Signature of PW.11 in Ext.29
- Ext.30                  Sanction order in respect of accused S.K.Biswal
- Ext.31                  Sanction order in respect of accused Dibakar Rath
- Ext.32                  Sanction order in respect of accused P.R.Mohanty
- Ext.33                  Sanction order in respect of accused Indrajeet Roy
- Ext.34                  Letter no. 2303 dtd. 12.9.00 issued by SP, CBI, Kolkata to GEQD,Kolkata (7 sheets)
- Ext.35to 35/11      Specimen Hand-writings of SK. Biswal, in twelve sheet of papers.
- Ext. 36                      Opinion of GEQD dtd. 13.10.00
- Ext. 36/1              Signature of p.w. 12 in Ext. 36
- Ext. 37                      Forwarding letter dated 13.10.00
- Ext.37/1              Signature of S.K.Saxsena in Ext. 37
- Ext. 38                  Reasonings ( ten sheets)
- Ext. 38/1              Signature of p.w. 12 in Ext. 38
- Ext. 39                  Seizure memo dated 18.4.00.
- Ext. 39/1              Signature of C.S.Parida.in Ext. 39
- Ext. 40                  Personal file of P.R.Mohanty maintained by O.F. D.C. Ltd.
- Ext. 40/1              Copy of notification dtd. 19.8.97 of Home Dept. Govt. of Orissa in Ext. 40
- Ext. 41                  personal file of Sannjib Manik maintained by O.F.D.C.Ltd.
- Ext.35/12 to 35/23-      Signature of p.w. 17 in Ext. 35 to 35/11 .
- Ext. 42                  Confessional statement of accused Dibakar Rath recorded u/s. 164 Cr.P.C. dtd.6.5.10(15 pages)
- Ext. 43                  FIR.

- Ext. 43/1      Signature of p.w. 18 in Ext. 43.  
 Ext.,3/2,18/2,39/2- Signature of p.w. 18 in Ext. 3 ,18,& 39 respectively.  
 Ext.44      Seizure memo dtd. 18.4.2000.  
 Ext 45      Seizure memo dt. 17.4.2000  
 Ext. 44/1,45/1      Signature of p.w.18 Ext. 44 & 45.  
 Ext. 46      File of Home Dept. Govt. of Orissa.  
 Ext,47      Confidential dispatch register of cantonment P.S for the year 1997.  
 Ext. 48      Peon book of S.F.S.L, for the year 1997.  
 Ext.49      Photostat copy of petition of Kanhu charan Mishra in P.I.L No. 242 /98(  
 11 sheets)  
 Ext. 10/42 to 10/62 -      Signature of p.w. 18 in Ext. 10 to 10/20  
 Ext., 11/54 to 11/71-      Signature of p.w. 18 in Ext. 11 series.  
 Ext. 12/54 to 12/71 -      Signature of p.w.18 in Ext. 12 series.  
 Ext. 13/63 to 13/83-      Signature of p.w. 18 in Ext. 13 series.  
 Ext. 14/45 to 14.59 -      Signature of p.w. 18 in Ext. 14 series.  
 Ext.34/1      Signature of Sri Amit Gorg,I.P.S. In Ext. 34  
List of Exhibits marked for defence.  
 Ext.A      Carbon copy of L.N.118 dtd. 23.5.98 available at page 2 of Ext.8  
 Ext.A/1      Signature of D.Rath in Ext.A  
 Ext."B"      Certificate issued by PW.18 to accused Dibakar Rath dtd.  
 6.5.2000  
 Ext.B/1      Signature of PW.18 in Ext."B"  
 Ext."C"      Photo copy of letter no.3364 dtd.23.6.2000 issued by Director,  
 C.F.S.L, New Delhi to S.P,CBI, Kolkata

Spl.C.J.M (C.B.I) Bhubaneswar.