

THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

Main Written Examination for direct recruitment to Grade-I of Assam Judicial Service, 2018

Date: 25-11-18

Time: 9.00 am – 12.00 pm

Total Marks: 100

Duration: 3 Hours

[Instruction: The candidate is expected to refer to the relevant decisions of the Apex Court and the High Court while writing answers]

PAPER – III

CONSTITUTIONAL LAW (40 Marks)

[Answer any 4 (four)]

(4x10 marks = 40 marks)

1. Discuss the nature, scope and utility of Directive Principles of State Policy under the Constitution of India. 10 marks
2. Explain preventive detention and what Constitutional safeguards are available to detenu against preventive detention laws? 10 marks
3. (a) Discuss the circumstances in which the legislative power of the Union extends to legislate law on a State subject? 5 marks
(b) Write notes on the following:-
 - (i) Principles of Pith and Substance; 2½ marks
 - (ii) Doctrine of Colourable Legislation. 2½ marks
4. (a) Discuss the powers of Governor to promulgate Ordinances. 5 marks
(b) What are the privileges and immunities of the Legislature and its members. 5 marks
5. Discuss the remedies provided by the Constitution of India for enforcing the Fundamental Rights mentioning the limitations to which such remedies lie. 10 marks
6. What Constitutional protections are available to Government servants against arbitrary dismissal from service? 10 marks

JURISPRUDENCE (20 MARKS)

[Answer any 2 (two)]

(2x10 marks = 20 marks)

1. Compare and contrast Constitutional and Statutory Interpretation? 10 marks
2. Write notes on the following:-
 - (a) Doctrine of Audi Alteram Partem; 5 marks
 - (b) In rem or Quasi in rem 5 marks
3. Discuss Judicial process and power along with the limitations on Judicial power. 10 marks
4. Discuss the Theory of Precedents. 10 marks

JUDGMENT WRITING

1. Write a judgment on the basis of materials available in the enclosed Paper Book. 40 marks

PAPER BOOK

CRL. APPEAL No. 23 (J)/2016

DIST.- SONITPUR.

SRI MANTU THAKUR.

Vs.

THE STATE OF ASSAM & ANOTHER.

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Seen
Sd/- Illegible
S.D.J.M. (S)
Tezpur
31/05/07

FIRST INFORMATION REPORT

(Under Section 154 Cr. P.C.)

G.R. No. 906/07

1. District-Sonitpur P.S.- RPAN. Year- 2007 FIR No.98/07, Date- 30/05/07
2. (i) Act: I.P.C. Sections: u/s 302 IPC.
(ii) Act: Sections:
(iii) Act: Sections:
(iv) Other Acts & Sections:
3. (a) General Diary Reference: Entry No. OR O.P. GDE No. 553, Dt.
30/05/07 Time-
(b) Occurrence of Offence: Day- Tuesday, Date- 29/05/07, Time- @ 6 P.M.
(c) Information received Date- 30/05/07, Time- at 7.45 P.M. G.D. No.....
at the Police Station-
4. Type of Information- Written.
5. Place of Occurrence-
(a) Direction and distance from P.S.- About 22 North.

(b) Address- On the road of 1 No. Bagijuli gaon, P.S.- Rangapara.

Beat No.

(c) In case outside limit of this Police Station than the Name of P.S.....

..... District

6. Complainant Informant-

(a) Name- Smti. Maneswar Swargiary

(b) Husband's Name- Lt. Suren Swargiary,

(c) Date & Year of Birth-

(d) Nationality-

(e) Passport No. Date of IssuePlace of Issue

(f) Occupation-

(g) Address- Vill.- 1 No. Bagijuli, P.S.- Rangapara, Dist.- Sonitpur (Assam)

7. Details of known/suspected/unknown accused with full particulars-

Sri Mantu Thakur, S/o. Lt. Bhola Thakur, Vill.- 1 No. Bagijuli gaon.

8. Reasons for delay in reporting by the complainant/informant

.....

9. Particulars of properties stolen/involved: (Attach separate sheet, if reqd.)

.....

10. Total Value of Property Stolen/involved.....

11. Inquest Report/ U.D. Case No. if any

12. F.I.R. Contents: (Attach separate sheet, if required)-

Offence of commit murdered. Hence the case. F.I.R. enclosed herewith.

13. Action taken- Since the above report reveals Commission of offence (s) u/s as mentioned at Item No. 2, registered the case and took up the investigation/ directed S.I. Paran Kr. Sarmah already taken up the investigation of the case take up the investigation/transferred to P.S. on point of jurisdiction. F.I.R. read over to the Complainant/Informant admitted to be correctly recorded and a copy given to the Complainant/Informant free of cost.

R.T.I. of Smti. Maneswar Swargiary.

Signature / Thumb impression of
the Complainant / Informant

Sd/- Illegible

Office-in-charge

Rangapara Police Station

Sonitpur (Assam)

Signature of the Officer in-Charge,
Police Station with

Name- Amulya Gogoi, S.I.

Rank- S.I. of Police

Number if any- O/C RPAN. P.S.

Sonitpur, Assam Dt. 30/05/07

Ext. 3

Seen

Sd/- Illegible

Sd/- Illegible

Additional Sessions Judge

S.D.J.M. (S)

Sonitpur, Tezpur

Tezpur

24/09/15

31/05/07

EJAHAR

G.R. No. 906/07

To

The In-Charge,

Chariduar Police Out Post.

Date: 30-05-2007

Subject: Ejahar

Sir,

Humble submission is that around 6-00 PM on 29-05-07, Sri Mantu Thakur, son of Late Bhola Thakur, a resident of No. 1 Bogijuli, caused grievous injury to my son Sri Bhoda Swargiary by dealing 3/4 dao blows on his head in course of a quarrel over a petty matter, on the road of village Bogijuli and for that reason when he was taken to Tezpur Civil Hospital for treatment he succumbed to his injury just after arrival there.

It is, therefore, prayed to arrest the accused and to take necessary action in this regard.

Sd/ Sri Hiren Koch,

VDP Secretary

Scribe

15

Yours Faithfully

Sd/- Smt Moneswar Swargiary

w/o – Late Suresh Swargiary

r/o – No. 1 Bogijuli

P.S – Rangapara.

District- Sonitpur(Assam)

Received the F.I.R from the complt. Vide Chariduar O.P. GDE NO. 553 dated 30/5/07 and forwarded to the O/C Rangapara P.S for favour of registering a case under proper section of law.

S.I P.K. Sarmah has taken up the case for investigation.

Ext 3(1)

Sd/- Illegible

Additional Sessions Judge.

Sonitpur, Tezpur

24/09/2015

Sd/-Kulendra Bharali

In-Charge

Charduar Police Out Post

Sonitpur(Assam)

Date – 30/05/07

Received and registered vide Rangapara P.S Case No. 98/07 U/S 302 I.P.C dated 30/05/2007.

Ext 3(1)

Sd/- Illegible

Additional Sessions Judge.

Sonitpur, Tezpur

24/09/2015

Sd/-Amulya Gogoi, S.I

Officer In Charge

Rangapara Police Station

Sonitpur(Assam)

Date – 30/05/07

COMMITMENT ORDER

ORDER DATE

06/07/12

Accused Mantu Thakur is present. Copy is ready and furnished to him.

Perused the C/S. Heard both sides. The offences is u/s 302 I.P.C., which is exclusively triable by the Court of Sessions. Hence, I commit the case to the Court of the Hon'ble Sessions Judge, Sonitpur, Tezpur for trial of the accused person. Inform the Ld. P.P.

Send the case record alongwith the CD and the relevant documents to the Court of the Hon'ble Sessions Judge, Sonitpur.

The accused person is directed to appear before the Court of the Hon'ble Sessions Judge, Sonitpur on the fixed date.

Fix. 04/08/12 for appearance.

Sd/- Illegible

Later on, Seen the petition filed by the accused person praying for allowing him to remain on previous bail prayer is allowed.

Sd/- Illegible

Copy received

Sri Mantu Thakur.

Assam Schedule VIII Form No. 247

High Court Criminal Process No. 32.

CHARGE WITH ONE HEAD

(No. XXVIII (1), SCHEDULE V, Act 1838)

(Sections 221, 222, 223, Code of Criminal Procedure)

SESSIONS CASE NO. 223 OF 2012

Name and Office of
Magistrate etc.

I, (1) Smt. M.R. Sharma,
Additional Sessions Judge,
Sonitpur, Tezpur.

Name of accused
Person

hereby charge you (2)

Sri Mantu Thakur

as follows :-

First – That you, on 29-05-2009, at about 6.00 p.m., evening, at No. 1 Bogijuli Gaon, under Rangapara Police Station, committed murder of Bhoda Swarglary by intentionally causing his death by means of a dao, which is a sharp cutting weapon, and thereby committed an offence punishable **U/S 302 of the Indian Penal Code** and within the cognizance of the Court of Sessions.

And I hereby direct that you be tried by the said Court on said charge.

The above charge is read over and explained to the accused person to which, he pleaded not guilty and claimed to be tried.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dated Tezpur, the 5th day October, 2012.

Assam Schedule VII Form No. 131
High Court Criminal Form No. [M] 83

FORM FOR RECORDING DEPOSITION

**THE DEPOSITION OF PW-1 IN SESSIONS CASE
NO. 223 OF 2012**

aged about ...60.... years, taken in oath of solemn affirmation under provision at the Indian Oaths Act X of 1878, before me **Smt. M.R. Sharma, additional Sessions Judge, Sonitpur, Tezpur.**

this26th..... day of..... February..... 2013.....
.....

My name is**Smt. Maneswari Swargiary**
My husband's name is **Late Suren Swargiary**
By caste **Hindu** My house is at Mouza
Police Station District
Reside at present in ... **No. 1 Bogijuli**
Police Station **Rangapara**
District**Sonitpur** Where I am .. **dependent**

On oath –

EXAMINATION-IN-CHIEF :

I know the accused, who is standing in the dock. The deceased **Bhoda Swargiary** is my eldest son.

About 5 years back at about 5 p.m., the incident occurred. At that time I was in my house and cooking rice. At that time people came and told me that my eldest son was killed by the accused **Montu Thakur**, who is the son of **Bhola Thakur**. The incident occurred on the road.

I filed the ejahar putting my thumb impression and sent the same to the police station through a person

of my village. My son was brought to Tezpur and on the way he succumbed to his injuries.

CROSS-EXAMINATION (BY DEFENCE) :

What altercation led to the incident, I do not know. I do not remember when the ejahar was sent to the police station, it may be on the same day.

Read over and admitted to be correct.

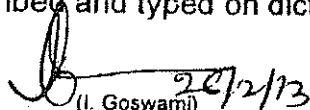
**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dictated and corrected by me.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

tx

Transcribed and typed on dictation by me


(I. Goswami)
20/2/13
Stenographer

Assam Schedule VII Form No. 131
High Court Criminal Form No. [M] 83

FORM FGR RECORDING DEPOSITION

**THE DEPOSITION OF PW-2 IN SESSIONS CASE
NO. 223 OF 2012**

aged about ...56.... years, taken in oath of solemn affirmation under provision at the Indian Oaths Act X of 1878, before me **Smt. M.R. Sharma, additional Sessions Judge, Sonitpur, Tezpur.**

this26th..... day of..... **February**..... 2013.....

My name is**Sri Hiren Koch**

My father's name is **Late Kamala Koch**

By caste **Hindu** My house is at Mouza

Police Station **District**

Reside at present in ... **No. 1 Bogijuli**

Police Station **Rangapara**

District**Sonitpur** Where I am .. **cultivator-cum-VDP Secretary**

On oath –

EXAMINATION-IN-CHIEF :

I know the accused, who is standing in the dock. His name is Montu Thakur and also I know the deceased Bhoda Swargiary.

The incident took place about 4 / 5 years back. The incident took place at 4-30 p.m. in the afternoon. I came to know about the incident at about 7-30 p.m. at about half an hour after the incident as people of the village informed me, as I was a VDP Secretary. I went to that place after I got information and I saw the dead body of Bhoda Swargiary was lying in his own compound. I saw injury on the back side of his head. There was about two injuries and there was a pool of blood. Immediately he was given first aid in the village and in a vehicle he was brought to the police station along with the accused Mantu Thakur, his brother Raju Thakur and also some other persons of the village and myself.

The persons who gathered there stated that Mantu Thakur had committed the offence and so, he was also brought by the police. At that time, accused Mantu Thakur also admitted to have committed the offence. In-charge, Chariduar Police Out Post immediately referred him to Tezpur civil Hospital. By the time he was brought to the hospital and Doctor saw him and he was declared already dead.

On the next day, I went to the Tezpur when police conducted inquest on the dead body. Ext - 1 is the Inquest Report and Ext - 1(1) is my signature.

CROSS-EXAMINATION (BY DEFENCE) :

Majority of 'Bodo' people dominated that village. At that time Mantu Thakur was the only family belonged to the 'Bihari' community. Now Mantu Thakur and his family do not reside in that village. For what the said incident occurred, I cannot say. I did not file the ejahar.

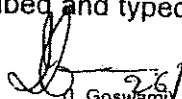
Read over and admitted to be correct.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dictated and corrected by me.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Transcribed and typed on dictation by me


I. Goswami
Stenographer
26/2/13

Assam Schedule VII Form No. 131
High Court Criminal Form No. [M] 83

FORM FOR RECORDING DEPOSITION

**THE DEPOSITION OF PW-3 IN SESSIONS CASE
NO. 223 OF 2012**

aged about ...35.... years, taken in oath of solemn affirmation under provision at the Indian Oaths Act X of 1878, before me **Smt. M.R. Sharma, additional Sessions Judge, Sonitpur, Tezpur.**

this26th..... day of..... **February**..... 2013.....

My name is**Sri Kamal Boro**

My father's name is **Sri Jarasandha Boro**

By caste **Hindu** My house is at Mouza

Police Station District

Reside at present in ... **No. 1 Bogijuli**

Police Station **Rangapara**

District**Sonitpur** Where I am .. **cultivator**

On oath –

EXAMINATION-IN-CHIEF :

I know the accused in the dock. His name is Montu Thakur. I also knew the deceased Bhoda Swargiary.

The incident took place on 29-05-2007 at about 5 p.m. At that time, I was coming from a shop and met Bhoda Swargiary on the way. At that time, elder brother of accused, Dilip Thakur also met us. There was some altercation between Dilip Thakur and deceased Bhoda. I tried to separate them. At that time Mantu Thakur came from back side with a dao and inflicted injury on the back side of the head of the deceased three times. Immediately Bhoda Swargiary fell down. Nearby people came and tied the head of the deceased with cloth and then we brought him to Chariduar Out Post. The doctor stated

that he could not be treated there and so, he was brought to the Tezpur but on the way at Haleswar, he expired.

The VDP Secretary came on being called after the incident. Mantu Thakur and his elder brother Rajesh Thakur were also brought to the police station along with the deceased.

CROSS-EXAMINATION (BY DEFENCE) :

It is not a fact that on the day of the incident, I along with the deceased had gone and torn the cloths of the sister of the accused Hiramoti Thakur and also outraged her modesty.

It is not a fact that at that time, Dilip Thakur obstructed us and we assaulted him.

It is not a fact that at that time, Bhoda Thakur took a rod and tried to assault Dilip Thakur and so, the accused took a dao and put a blow on the deceased Bhoda Swargiary.

It is not a fact that the accused had given three blows and not one blow.

At that time there were other persons like Anju Daimary and Bogiram Basumatary, along with us.

It is not a fact that I was also responsible for the incident and so, to save the accused, I have deposed falsely today.

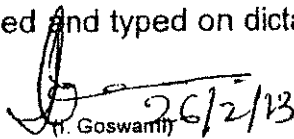
Read over and admitted to be correct.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dictated and corrected by me.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Transcribed and typed on dictation by me


J. Goswami
Stenographer
26/2/13

Assam Schedule VII Form No. 131
High Court Criminal Form No. [M] 83

FORM FOR RECORDING DEPOSITION

**THE DEPOSITION OF PW-4 IN SESSIONS CASE
NO. 223 OF 2012**

aged about ...25.... years, taken in oath of solemn affirmation under provision at the Indian Oaths Act X of 1878, before me **Smt. M.R. Sharma, Additional Sessions Judge, Sonitpur, Tezpur.**

this5th..... day of..... June..... 2013.....

My name is**Sri Arup Basusmatary**

My father's name is **Sri Bogi Ram Basusmatary**

By caste **Hindu** My house is at Mouza

Police Station District

Reside at present in ... **No. 1 Bogijuli**

Police Station **Rangapara**

District**Sonitpur** Where I am .. **businessman**

On oath –

EXAMINATION-IN-CHIEF :

I know the accused Sri Mantu Thakur. I also knew the deceased Bhoda Swargiary.

The incident took place in the year 2007, in the evening at about 5 / 5-30 p.m. At that time, I was at the place called 'Centre' and I heard that Montu Thakur had caused the death of deceased Bhoda Boro. People arrived at the place of incident told that the deceased was alive in serious condition. There was blood all over his body. Injury was on his head. I heard that the incident was occurred due to quarrel between the deceased Bhoda Boro and Dilip Thakur, elder brother of accused Montu Thakur. I heard that Montu Thakur after that

quarrel came out with the dao and assaulted Bhoda Boro. I did not see the accused but the public brought him and asked him why he had caused the incident and on being asked, the accused admitted that he had committed the offence out of anger. Public brought the vehicle and took the injured Bhoda Boro and the accused Montu Thakur to the Chariduar Police Out Post.

Later on, I heard that the injured expired on way to hospital. On the next date, we came with police to take the dead body from the Tezpur Civil Hospital.

I was the witness to the inquest. **Ext - 1** is the Inquest Report, where **Ext - 1(2)** is my signature.

CROSS-EXAMINATION (BY DEFENCE) :

I did not see the accident. I do not remember exactly from whom I have heard. I do not know why the quarrel took place between Bhoda Boro and Dilip Thakur. May be that the public had assaulted the accused Montu Thakur. I do not know if the public had assaulted the family members of Montu Thakur.

I cannot say if the deceased Bhoda Boro and one Kamal Boro had gone to the house of the accused Montu Thakur and had outraged the modesty of his sister and at that time, the accused Montu got agitated and the deceased Bhoda

SESSIONS CASE NO. 223 OF 2012

Boro tried to assault Dilip Thakur with a rod, at that time, as there was a 'dao' in the hand of Montu Thakur, in the scuffle to save Dilip, the incident took place.

It is not a fact that the accused and his family members were assaulted by the public and the house was also burnt, and that the accused and his family members got injuries and they were taken to the hospital.

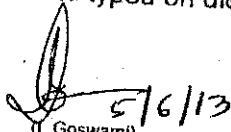
Read over and admitted to be correct.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dictated and corrected by me.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Transcribed and typed on dictation by me


(I. Goswami)
Stenographer

High Court Criminal Form No. [M] 83

FORM FOR RECORDING DEPOSITION

**THE DEPOSITION OF PW-5 IN SESSIONS CASE
NO. 223 OF 2012**

aged about ...39.... years, taken in oath of solemn affirmation under provision at the Indian Oaths Act X of 1878, before me Smt. M.R. Sharma, Additional Sessions Judge, Sonitpur, Tezpur.

this5th..... day of..... June..... 2013.....

My name isSri Anil Koch

My father's name is Late Sukan Koch

By caste Hindu My house is at Mouza

Police Station District

Reside at present in ... No. 1 Bogijuli

Police Station Rangapara

DistrictSonitpur Where I am .. cultivator

On oath –

EXAMINATION-IN-CHIEF :

I know the accused Sri Mantu Thakur. I also knew the deceased Bhoda Boro.

The incident took place 7 years back at about 4 / 5 p.m. in the evening. After sometime of the incident, I was called by the people of the village. The incident took place at the place called 'Centre'. On going there I saw Bhoda Boro was assaulted and he was lying. I saw the head of Bhoda Boro being bandaged. Later on, public sent him to hospital. The public also caught hold of Montu Thakur and sent him along with the injured Bhoda Boro to the police station. I did not see who had caused the incident. Montu Thakur was brought by

the people as he had caused the incident of assaulting Bhoda Boro.

CROSS-EXAMINATION (BY DEFENCE) :

I personally did not see the accident. I do not specifically say from whom I heard about the incident. I do not know why the accident took place. At present Montu Thakur and his family do not reside in that village.

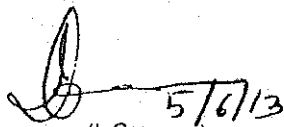
Read over and admitted to be correct.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Dictated and corrected by me.

**ADDITIONAL SESSIONS JUDGE
SONITPUR : TEZPUR**

Transcribed and typed on dictation by me


5/6/13
(I. Goswami)
Stenographer

Assam Schedule VII, Form No. 131

High Court Criminal Form No. (M) 83

Sessions Case No. 223/12

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W. 6

aged about 42 years taken in oath or solemn affirmation under provision at the Indian Oaths Act. X of 1878, before me Sri S. Das, Addl. Sessions Judge, Sonitpur.

this Day of

My name is- Dr. Ranjan Kr. Mahanta.

My Father's name is- Late Debendra Nath Mahanta.

I am

by caste-

My house is at Mauza-

Police Station-

District-

Reside at present in Mauza-

Police Station-

District-

Where I am- Sr. M. & H.O.1,

Kanaklata Civil Hospital, Tezpur.

On Oath,

On 30/05/2007 I was working as Sr. M. & H.O.1 in Kanaklata Civil Hospital. On that day I examined Bhola Boro Sargiary, aged 26 yrs, male, S/o. Late Suresh Boro Sargiwary, No. 1 Bagijuli, P.S.- Rangapara, Dist.- Sonitpur

escorted by UBC 452 Ranjan Saikia, Sri Haren Koch and Arup Basumatary on police requisition Chariduar O.P. GD entry No. 542 dtd. 29/05/2007.

I conducted post mortem on the dead body of said Bhola Boro Sargiwary and found the following-

- (1) Lacerated wound over left parietal region of scalp size 5 cm. x 3 cm. x 2 cm.
- (2) There is a fracture of left parietal bone of scalp.
- (3) Haematoma in left parietal lobe of brain was present. Other system are healthy.

All the injuries were antemortem in nature. In my opinion the cause of death was due to shock and haemorage as a result of head injury.

Ext. 2 is postmortem report. Ext. 2(1) is my signature.

xxxxx

There was only one lacerated injury.

Sd/- Ranjan Kr. Mahanta.
26/08/14

R.O. & A.C
Sd/- Illegible
Addl. Sessions Judge
Sonitpur, Tezpur
26/08/14

Assam Schedule VII, Form No. 131

High Court Criminal Form No. (M) 83

Sessions Case No. 223/12

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W. 7

aged about 35 years taken in oath or solemn affirmation under provision at the Indian Oaths Act. X of 1878, before me Sri S. Das, Addl. Sessions Judge, Sonitpur.

this Day of

My name is- Sri Maniram Basumatary.

My Father's name is- Late Khargeswar Basumatary.

I am

by caste-

My house is at Mauza-

Police Station-

District-

Reside at present in Mauza- No. 1 Bagijuli.

Police Station- Rangapara.

District- Sonitpur.

Where I am- Cultivator.

On S/A

I know the accused. His name is Mantu Thakur. His house is some 300 meters away from that of mine. I know the complainant. I also knew deceased Bholā Bodo Swargiary. Around 5-30 PM one day about 5 years back I was in my Pan shop in front of our house. I heard a commotion about 300 meters behind my shop. I then closed my shop and rushed to the P.O. The people of

Bogijuli village assembled on the road of the village. I heard from the people gathered there that accused Mantu Thakur had hacked Bhola Bodo Swargiary (@) Bhadreswar with a dao. Bhola Bodo was lying outside the house of Tankeswar Bodo smeared with blood. We, all the public, then arranged a Maruti Van and took Bhola to the P.S. and then to the Hospital. Around 10-00 pm Police came to my house and informed that Bhola Bodo had died. Public apprehended the accused and sent him to the P.S along with Bhola Bodo by the same vehicle.

xxxxx

I know that the accused has three daughters. Bhola Bodo used to consume liquor. I do not know if quarrel took place between the accused and deceased. I know Tankeswar's wife's name. I heard about the incident from her as well as from the other people gathering there. The people of the village assaulted the accused. They also asked the accused as to why he had assaulted him.

R.O. & A.C

Sd/- Illegible

Addl. Sessions Judge

Sonitpur, Tezpur

26/08/14

Sd/- Sri Mani Ram Basumatary.

FORM FOR RECORDING DEPOSITION**THE DEPOSITION of P.W. 8**

aged about 57 years taken oath or solemn affirmation under provision at the Indian Oaths Act. X of 1878, before me Sri S. Das, Addl. Sessions Judge, Sonitpur, Tezpur.

this Day of

My name is- Sri Kulendra Bharali.

My Father's name is- Late Rabiram Bharali.

I am

by caste-

My house is at Mauza-

Police Station-

District-

Reside at present in Mauza-

Police Station-

District-

Where I am- S.I. of Police attached to Tezpur P.S.

On Oath,

On 29/05/2007 I was working as I/c of Chariduar Police Out Post. On that day VDP Secretary No. [Bagijuli Sri Hiran Koch came to the P.O. with one injured person named Bhadai Boro and accused Mantu Thakur and reported that accused Mantu Thakur had assaulted Bhadai Boro with Sharp cutting weapon. Then I immediately sent the injured to Chariduar PHC for treatment and the accused who apprehended/detained in P.S. I made GD entry No. 542 dtd. 29/05/2007 and entrusted S.I. Paran Sarma to investigate the case.

Accordingly S.I. Paran Sarma visited the P.O. and recorded statement of witness and also draw sketch map. The injured was referred to Tezpur Civil Hospital where he died. Accordingly the dead body challan was prepared and inquest was held. Then post mortem was done on the dead body and report was collected.

On 30/05/2007 I received one written ejahar from one Smti. Maneswar Sargiary at the Out Post. Accordingly ejahar was forwarded to Rangapara P.S. for registration. Accordingly a case was registered at Rangapara P.S. and S.I. Paran Sarmah was already entrusted to investigate the case.

Ext. 3 ejahar 3(1) is my signature. Ext. 3(2) is the signature of Amulya Gogoi O/C of Rangapara P.S.

S.I. Paran Sarma completed investigation. Ext. 4 GD entry. Ext. 5 sketch map 5(1) signature of S.I. Paran Sarmah, which I know. Ext. 1 is inquest report 1(3) signature of Paran Sarma. Ext. 6 dead body challan 6(1) signature of Paran sarma. Ext. 7 charge sheet submitted by Paran sarmah against accused Mantu Thakur u/s 302 IPC. 7(1) his signature. From the case diary it is seen that the I.O. could not seize the weapon of offence as the same was thrown into a pond and as it was raining at that time it could not be recovered.

xxxxx

The P.O. is at distance of about 10 k.m. from P.S. I did not visit the P.O. but I know the P.O. The P.O. is inhabited by the Bodo people and to my knowledge family of the accused who is Bihari from the nonbodo community.

I did not examine the accused. I also did not examine the witnesses.

R.O. & A.C

Sd/- Illegible

Addl. Sessions Judge

Sonitpur, Tezpur

24/09/15

Sd/- S.I. Kulendra Bharali.

Assam Schedule VII Form No. 99

High Court Criminal Form No. (M) 85

FORM FOR RECORDING EXAMINATION OF ACCUSED

SESSIONS CASE NO. 223 OF 2012

(Section 313 of the Criminal Procedure Code)

The examination of accused person u/s 313 Cr. P.C. aged about 33 years, taken before Sri S. Das, Additional Sessions Judge, Sonitpur, Tezpur on the 28th day of October' 2015 in the English language, interpreted by myself.

My name is Shri Mantu Thakur.

My Father's name is Late Bhola Thakur.

I am by caste- Hindu.

and by occupation- Labour.

My home is at Mouza- No. 1 Namangi gaon.

Police Station- Rangapara.

District- Sonitpur.

I reside at-

Question 1: PW Moneswari Swargiary has deposed that around 5-00 pm one day about 5 years ago, while she was cooking at her house some people came and said that Mantu Thakur (you) had assaulted her elder son to death on the road and that she then lodged ejahar with the P.S.

What is your reply?

Answer: False deposition.

Question 2: PW Sri Hiren Koch has deposed that one day about 4/5 years back, when he was the secretary of VDP of No.1 Borjuli village, he came to know about the incident and going to Bhola Swargiary's house he saw Bhola Swargiary's dead body lying within his compound with injuries; that the dead was smeared with blood; that he was taken to Hospital and that accused Mantu Thakur, his brother Raju Thakur and other persons accompanied him.

What is your reply?

Answer: False deposition.

Question 3: This PW has further deposed that the people gathering at the P.O. said that Mantu Thakur had killed him and that you too had confessed that you had committed the incident.

What is your reply?

Answer: False deposition. I did not confess any guilt.

Question 4: PW Kamal Bodo has deposed that around 5-00 pm on 29-05-2007, while he was coming from shop he came across Bhoda Swargiary; that at that time there was an altercation between Dilip Thakur and Bhoda Swargiary; that at that moment Mantu Thakur appeared there and dealt 3 dao blows on Bhoda Swargiary's head and that Bhoda Swargiary fell down.

What is your reply?

Answer: False deposition.

Question 5: This PW has further deposed that nearby people came and took Bhoda to Chariduar Hospital wherefrom he was referred to Tezpur Civil Hospital; that he died in Tezpur Civil Hospital and that VDP secretary was informed about the incident.

What is your reply?

Answer: I do not know.

Question 6: PW Arup Basumatary has deposed that the incident took place in the year 2007; that he heard that you had killed Bhoda Bodo; that people arrived at the P.O. and found Bhoda Bodo in a moribund state; that he heard that there was a quarrel between your elder brother Dilip Thakur and Bhoda and that you appeared there and hacked Bhoda with a dao.

What is your reply?

Answer: False deposition.

Question 7: This PW has further deposed that on being asked by public, you confessed that you had assaulted him in a fit of anger.

What is your reply?

Answer: False deposition.

Question 8: PW Anil Koch has deposed that upon learning about the incident he came to the P.O. and found Bhoda Bodo lying in injured state with a bandage on the head and that public apprehended you and sent you along with Bhoda Bodo to the PS.

What is your reply?

Answer: I myself went to the P.S. along with public. I did not cause the incident.

Question 9: PW Dr. Ranjan Kr. Mahanta has deposed that on 30-5-2007, when he was working as Medical Officer in Tezpur Civil Hospital, he performed P.M. examination on the dead body of Bhoda Bodo and found fracture on the head and he opined that the person (deceased) succumbed to the injuries which he sustained in his head.

What is your reply?

Answer: I do not know.

Question 10: PW Maniram Basumatary has deposed that when he was in his Pan shop in front of the house he heard a commotion about 300 meters behind his shop; that he then closed his shop and rushed to the P.O.; that he came to know from the people gathering there that accused Mantu Thakur(you) had hacked Bhoda Bodo Swargiary with a dao; that he saw Bhola Bodo lying outside the house of Tankeswar Bodo smeared with blood and that the injured was taken to Hospital and thereafter he succumbed to his injuries.

What is your reply?

Answer: False deposition.

Question 11: PW Kulendra Bharali has deposed that on 29-5-2007, when he was working as the In-Charge of Chariduar Police O.P., a person Sri Haren Koch by name came to the O.P. taking along injured Bhoda Bodo and accused Thakur and informed that Mantu Thakur had struck Bhoda Bodo with a sharp cutting weapon.

What is your reply?

Answer: I did not hack Bhoda Bodo.

Question 12: This PW has further deposed that he sent the injured to hospital from the P.S. and making an entry in the GD he entrusted Paran Sarma, SI with the charge of investigation into the matter; that in course of investigation he examined witnesses, got the P.M examination done on the dead body and completing the investigation, he submitted charge sheet for commission of offence punishable U/S 302 IPC.

What is your reply?

Answer: The case has been instituted against me on false ground.

Question 13: Do you have anything to say?

Answer: I was not involved in the case.

Question 14: Would you adduce defence evidence?

Answer: No, I won't.

Sd/- Sri Mantu Thakur.

(Signature mark of the accused)

Sd/- Illegible

Addl. Sessions Judge

Sonitpur, Tezpur

(Signature of Addl. Sessions judge)

The above examination was taken in my presence and hearing and contains full and true account of the statement made by the accused.

R.O. & A.C.

Sd/- Illegible

Addl. Sessions Judge

Sonitpur, Tezpur

28/10/15

(Signature of Addl. Sessions judge)

Ext. 1

Case No. 223/12

Sd/- Illegible

Additional Sessions Judge

Sonitpur, Tezpur

26/02/13

INQUEST REPORT

Ref: Chariduar O.P. GDE No. 542 dated .

Name of deceased-Bhoda Boro (Swargiary), 26 years,
S/o. Lt. Suren Boro (Swargiary),
of No. 1 Bogijuli,
P.S.- Rangapara.

Date & time- On 30/05/07 at 1.00 p.m.

Now, I hold inquest on deceased in presence of undersigned witnesses. The deceased is found kept in north-south position, covered with a rug on the floor of the morgue of Tezpur Civil Hospital. On removal of the cloth, it is seen that deceased is clad in one orange coloured check shirt, one white "gamosa" and one orange coloured underwear. The buttons of the shirt remain unfastened. Hair is about 2½" long. Mouth and eyes are closed. Head is lying bent towards left. A cut mark measuring 1½" deep is present on the middle of the head. Another cut mark measuring 2½" x ½" x 1" is present on the left side of the

head. Yet another cut mark measuring 1" long is present nearby. No injury is seen on the neck, chest and abdomen. Right hand is lying on the chest and the left hand is lying beside the body. No injury is seen on the hands. Legs are lying straight and no injury is seen there. There are no injury on the back and buttock.

Though it is learnt from the witnesses present that the victim died due to haemorrhage as a result of being hacked on the head with a dao by accused Mantu Thakur in course of a quarrel near Bogijuli center yesterday, yet to ascertain the actual cause of death, the dead body is being sent to K.C. Hospital, Tezpur for P.M. examination.

Signatures of witnesses:

1. Sd/- Sri Hiren Koch,
S/o. Late Kamala Koch.

Ext. 1(1)
S/Case No. 223/12
Sd/- Illegible
Additional Sessions Judge
Sonitpur, Tezpur
26/02/13

2. Sd/- Arup Basumatary,
S/o. Late Bogiram Basumatary.

Ext. 1(2)
Sd/- Nil
Additional Sessions Judge
05/06/13

3. Sd/- Rajesh Thakur,

S/o. Late Bholu Thakur.

All are resident of No. 1 Bogijuli

P.S.- Rangapara.

Ext. 1(3)

Sd/- *mil*

Additional District Judge

Sonitpur, Tezpur

24/09/15

Sd/- Illegible

30/05/07

Ext. 2

S/Case No. 223/12

Sd/- Illegible

Additional Sessions Judge

Sonitpur, Tezpur

26/08/14

Assam Schedule XLIII (Part 1), Form No. 24

POST MORTEM REPORT

Sl. No. 41
Dtd. 15/06/07

Ref.- Chariduar O.P. GDE No. 542 dtd. 29/05/07.

Station- Kanaklata Civil Hospital.

Day of- 30th May' 2007

Name, Sex, age and caste:

Bhoda Boro Swargiary

26 yrs./ Male.

S/o. Lt. Suren Boro (Swargiary)

Whence brought Village and Thana:

No. 1 Bogijuli,

P.S.- Rangapara.

Name of constable by whom brought and names of relatives accompanying:

UBC/ 452 Ranjan Saikia.

Sri Haren Koch.

Sri Arup Basumatary.

DATE AND HOUR OF

Despatch : On 30/05/07 at 1.55 p.m.
Arrival at dead house : 30/05/07 at 2.45 p.m.
Examination : 3.00 p.m. on 30/05/07

Information furnished by Police:

As per inquest report.

By whom identified before Medical Officer:

UBC/ 452 Ranjan Saikia.

Sri Haren Koch.

Sri Arup Basumatary.

N.B. Observe the state of all the organs and when no disease injury is found write "Healthy"

I - EXTRANAL APPERANCE1. Condition of subject stout emaciated, decomposed, etc.

A male dead body of 26 years age, average build, eyes and mouth closed. Rigor mortis is present.

2. Wounds, Position, Character:

A. Lacerated wound over left parietal region of scalp size 5 cm. x 3 cm. x 2 cm.

Fracture of left parietal bone of skull is present.

Haematoma in left parietal lobe of brain is present.

3. Bruise Position size and nature:
4. Mark of ligature on neck dissection, etc.:

II - CRANUM AND SPINAL CANAL

1. Scalp, skull, vertebrae : Lacerated wound over Lt. parietal region of scalp present size 5 cm. x 3 cm. x 2 cm.
Fracture of left parietal bone.
2. Membrane : Rupture membrane in left parietal lobe of brain.
3. Brain and spinal cord : Haemotoma in left parietal lobe of brain.

Note: The spinal canal need not be examined unless any indications of disease or injury exist.

III - THORAX

1. Walis ribs and cartilages : Healthy.
2. Pleurae : Healthy.
3. Laryax and trach ere : Healthy.
4. Right lung : Healthy.
5. Left lung : Healthy.
6. Pericar (dium) : Healthy.
7. Heart : Healthy.
8. Vessels : Healthy.

IV - ABDOMEN

- | | |
|--|--------------|
| 1. <u>Walls</u> | : Healthy. |
| 2. <u>Peritonoum :</u> | : Healthy. |
| 3. <u>Mouth, pharyanx, oesophagus</u> | : Healthy. |
| 4. <u>Stomach and its contents</u> | : Congested. |
| 5. <u>Small intestine and its contents</u> | : Healthy. |
| 6. <u>Large intestine and its contents</u> | : Healthy. |
| 7. <u>Liver</u> | : Healthy. |
| 8. <u>Spleen</u> | : Healthy. |
| 9. <u>Kidneys</u> | : Healthy. |
| 10. <u>Bladder</u> | : Healthy. |
| 11. <u>Organs of generation extema and internal:</u> | Healthy. |

V - MUSCLES, BONES AND JOINTS

- | | |
|--------------------------------|--------|
| 1. <u>Injury</u> | : Nil. |
| 2. <u>Disease or deformity</u> | : Nil. |
| 3. <u>Fracture</u> | : Nil. |
| 5. <u>Dislocation</u> | : Nil. |

MORE DETAILED DESCRIPTION OF INJURY OR DISEASE

All the injuries sustained by the deceased is antemortem in nature.

ASSISTANT SURGEON
OPINION OFAS TO CAUSE OF DEATH
SUB – ASSISTANT SURGEON

In my opinion the cause of death is due to shock and haemorage as a result of head injury.

The 30th day of May' 2007

Ext. 2(1)
Case No. 223/12
Sd/- Illegible
Additional Sessions Judge
Sonitpur, Tezpur
26/08/14

Sd/- Illegible
Dr. R.K. Mahanta
Medicale & Head Officer-I
Kanaklata Civil Hospital
Tezpur

ASSISTANT SURGEON of
SUB-ASSISTANT SURGEON

REMARKS BY CIVIL SURGEON

No. 580
Dt. 13/06/07

Sd/- Illegible
Joint Director of Health Service
Sonitpur, Tezpur

Ext. 4

Sd/- Illegible

Additional Sessions Judge

Sonitpur, Tezpur

22/09/2015

Assam Schedule XL (A) (Part-I) Form No. 145

(Approved in letter 9249F. 19-10-17)

Case Dairy under Section 172 C.P.C in Case

Police Station: Rangapara.

No.

Date:

Station :

District :

M/Case Dairy No : I

Dtd. 542

Extract copy of Chariduar O.P GDE No. 542, Dtd. 29/05/2007

Ref.- Chariduar O.P. GDE No. 542, dtd. 29/05/2007

Entry regarding receipt of information, medical examination of the injured and the accused being kept in custody.

Now, Hiren Koch, the VDP secretary, arrives in the O.P. taking along injured Bhodai Bodo and informs that accused Sri Mantu Thakur, S/o. Late Bholu Thakur, a resident of No.2 Bogijuli, caused injury to him (Bhodai Bodo), co-villager of the accused by dealing cut blows. Immediately after the

production, C/371 Arkum Ali is deputed to shift Bhodai Bodo to Chariduar Hospital for treatment and to this effect this entry is made in the General Diary. It is worth mentioning that as accused Mantu Thakur too arrives in the O.P. along with the injured, he is kept here for interrogation.

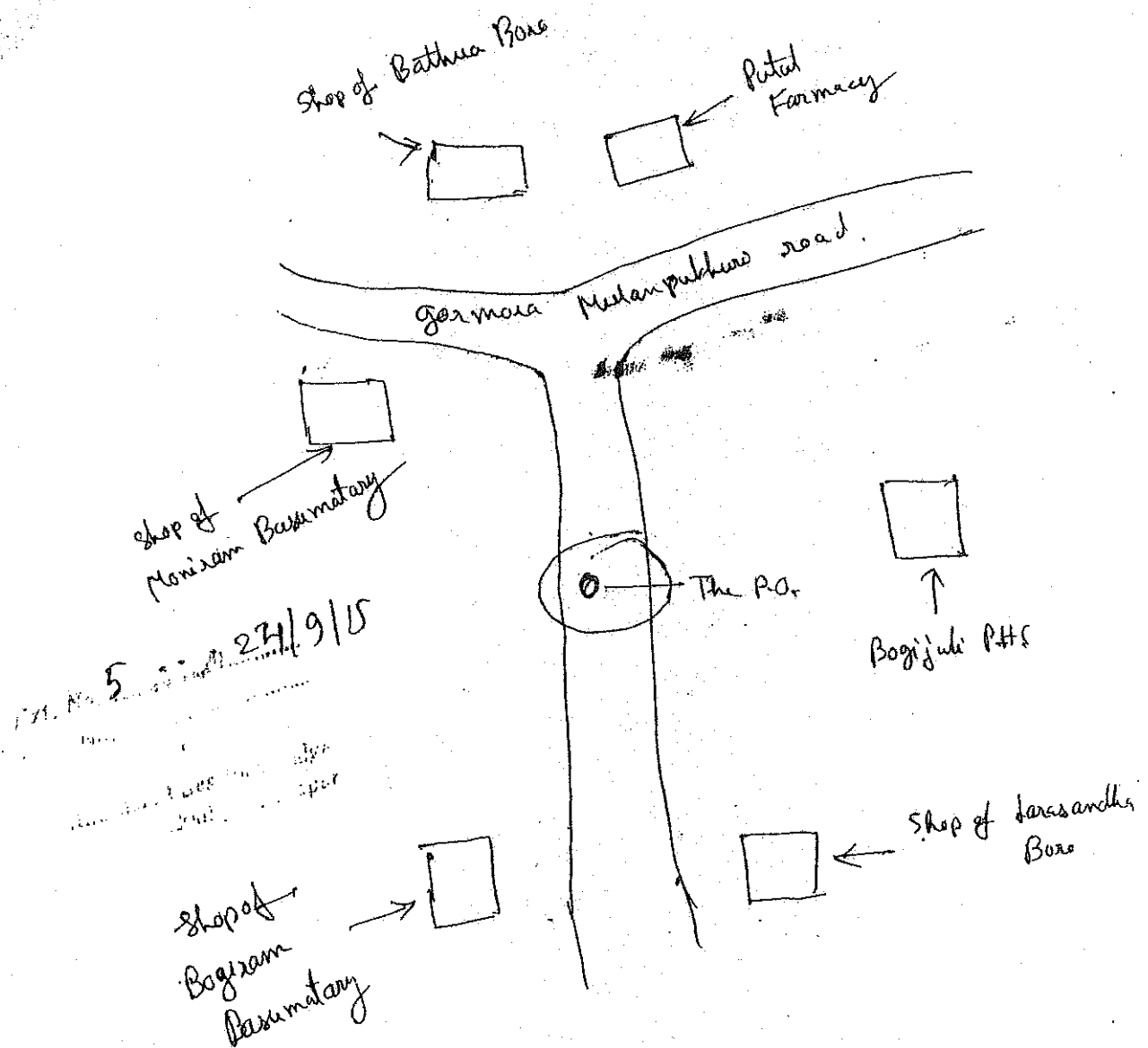
Sd/- Kulendra Bharali, S.I.

I/C, Chariduar O.P.

29/05/07

Rough sketch map of P.S.

Rf: Charidwar O.P. ADE No. 542 dt 29/8/07



Ext. No. 5 dt 24/9/15

Shop of Bogiram Basumatary

Ext. No. 5(1) dt 24/9/15 Drawn by me
29/8/07

Additional Sessions Judge
Sonapatna, B.P.

5
8
9
1
15

Ext. 6

Sd/-Illegible

Additional Sessions Judge

Sonitpur, Tezpur

24/09/15

Assam Schedule XL-A (Part-1), Form 140

**CHALAN FOR USE WHEN A DEAD BODY IS SENT FOR
EXAMINATION**

Chariduar O.P. GDE No. 542, dtd. 29/05/2007

Name and caste of deceased-

Bhoda Boro Swargiary (26 years)

S/o. Lt. Suren Boro (Swargiary)

No. 1 Bogijuli,

P.S.- Rangapara.

(Bodo)

Sex- MAle.

Residence- No. 1 Bogijuli.

Where body was found- At K.C. Hospital, Tezpur.

Date & hour of dispatch and distance from place of post mortem-

On 30/05/07 at 1.55 p.m.

Means of dispatch- Pvt. vehicle.

Name of identifying police officer and of the relations of the deceased accompanying the corps-

UBC/452 Ranjan Saikia.

Sri Hiren Koch.

Sri Arup Basumatary.

Marks on the body- As per inquest report.

Cause of death- Not known suspected cut injury.

Remarks noting what clothes and article were sent in with the body- As per inquest report.

Ext. 6(1)

Sd/-Illegible

Additional Sessions Judge

Sonitpur, Tezpur

24/09/15

Sd/- Paran Kr. Sarma, S.I.

Chariduar O.P.

PM ~~done~~ on 30/05/07 at 3.00 p.m.

Ext. 7

Sd/- Illegible

Additional Sessions Judge

Sonitpur, Tezpur

24/09/2015

Assam Schedule XL-A (Part I), Form No. 148

CHARGE SHEET

District- Sonitpur.

Charge sheet No.- 51/07

Dt. 30/05/07

Police Station- Rangapara.

In First Information No- 74/07Dt. 30/05/07

Name, address & occupation of COMPLAINANT

(1)

Smti. Moneswar Swargiary,

W/o. Lt. Suren Swargiary,

of No. 1 Bogijuli,

P.S.- Rangapara.

Names & addresses of accused persons not sent up for trial whether arrested or not arrested including absconders.

(Show absconders in red ink)

(2)

Names and addresses of accused persons sent up for trialIn custody

(3)

Sri Mantu Thakur,
S/o. Lt. Bhola Thakur,
of No. 1 Bogijuli,
P.S.- Rangapara.

On bail or recognizance

(4)

Property (including weapon) found with particulars of whether, when and by whom found and whether forwarded to magistrate.

(5)

Nil.

Name and addresses of witnesses and what point each is called to prove.

(6)

1. Sri Hiren Koch,
S/o. Lt. Kamala Koch.
2. Sri Kamal Boro,
S/o. Lt. Iarasandha Boro.
3. Sri Moniram Basumatary,
S/o. Lt. Khargeswar Basumatary.
4. Sri Anil Koch,
S/o. Lt. Sukan Koch.
5. Sri Rajesh Thakur,
S/o. Lt. Bhola Thakur.

6. Sri Arup Basumatary,
S/o. Sri Bogiram Basumatary.
7. Smti. Moneswar Swargiary,
W/o. Lt. Suren Swargiary.
All are of No. 1 Bogijuli,
P.S.- Rangapara.
8. Dr. R.K. Mahanta,
M. & H.O.,
Kanaklata Civil Hospital, Tezpur.
9. S.I. Paran Kr. Sarma,
Rangapara P.S.

Charge or information, Nature of offence and circumstances connected with if is consise detail, and under what section of the penal code charged.

(7)

The prosecution story, in brief, is that on 30-05-2007, complainant Smt Moneswar Swargiary, W/o-Late Suresh Swargiary, R/o- No. 1 Bogijuli, P.S. - Rangapara, Dist.- Sonitpur (Assam) arrived at the O.P. and by lodging an ejahar informed that around 6-00 PM on 29-05-07, a boy Sri Mantu Thakur by name of the same village caused grievous injury to her son Sri Bhoda Bodo (Swargiary) by dealing 3/4 dao blows on his head and that succumbed to the injury on the way to Tezpur Civil Hospital.

In course of investigation I visited the P.O., examined the complainant and witnesses and collected the P.M. examination report of the deceased. From

all the evidence and confessional statement of the accused I found the case well established against accused Sri Mantu Thakur, son of Late Bhola Thakur, a resident of No. 1 Bogijuli, P.S.- Rangapara of committing offence punishable U/S 302 IPC. So, I have submitted the charge sheet before this Hon'ble Court under the said section of IPC with a prayer to hold trial against the accused. One P.M. examination report is furnished herewith. The witnesses named in col. 6 will prove the case.

Ext. 7(1)
Sd/- Illegible
Additional Sessions Judge
Sonitpur, Tezpur
24/09/15

Sd/- Paran Kumar Sarma, S.I.
Rangapara P.S.

Signature of Investigating Officer

Forwarded to C.J.M. Tezpur Court through P.I. Tezpur Court. The case is returned in C.S. u/s 302 I.P.C. against the accd. noted in Column No. 3. Enclosed one copy of inquest report, one copy of dead body challan and one copy of P.M. report for favour of trial.

Sd/- Illegible
Officer Incharge
Rangapara Police Station
Sonitpur (Assam)
Date- 29/03/08

Forwarded
Sd/- Illegible
03/04/2008
Prosecuting Inspector
Tezpur Court