

**ST No. 42/2019**  
(State Vrs Chilú @ Sanjeev Kumar Prusty and four others)

**FORM-A**

<b>IN THE COURT OF ADDITIONAL DISTRICT &amp; SESSIONS JUDGE, ANANDAPUR</b>	
<b>Present:</b>	Smt. Prajyoti Rout, O.S.J.S, Addl. District & Sessions Judge, Anandapur.
Dated this the <b>5<sup>th</sup> day of March, 2024 &amp; 6<sup>th</sup> day March, 2024</b>	
<b><u>SESSIONS TRIAL CASE No. 42/2019</u></b>	
<b>(Arising out of G.R. (GN) Case No.92/2019 corresponding to Ghasipura P.S. Case No. 51 dtd. 25.03.2019 committed by learned NGN, Ghasipura u/s.120-B/302/201 IPC/ Sec. 25(a)/27(1) of Arms Act)</b>	
<b>Complainant</b>	State of Odisha
<b>Represented by</b>	Addl. Public Prosecutor, Anandapur
<b>Accused Persons</b>	A.1. Chilú @ Sanjeev Kumar Prusty, aged about 29 years, S/o- Satrughna Prusty, A.2. Nira @ Ajit Kumar Prusty, aged about 44 years, S/o- Laxman @ Laxmidhar Prusty, A.3. Aru @ Aruna Prusty, aged about 35 years, S/o- Kalandi Prusty, A.4. Alekha Prusty, aged about 41 years, S/o- Kalandi Prusty, A.5. Dola @ Purna Chandra Boitei, aged about 30 years, S/o- Rama Chandra Boitei, All are of vill- Badaekatali, P.S.- Ghasipura, Dist- Keonjhar.

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

Represented by	Sri G. Parida, Sri S.K. Mishra and Sri S.C. Biswal, Advocates, Anandapur.
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### FORM-B

Date of offence	25.03.2019
Date of FIR	25.03.2019
Date of Charge sheet	22.07.2019 and additional charge sheet on 03.04.2023
Date of Framing of Charges	15.11.2019
Date of commencement of evidence	17.12.2019
Date on which judgment is reserved/ argument	26.02.2024
Date of the Judgment	05.03.2024
Date of the Sentencing Order, if any	06.03.2024

### Accused Details

Rank of the Accused	Name of the Accused	Date of arrest	Date of Released on bail
A.1	Chilu @ Sanjeev Kumar Prusty	27.03.2019	U.T.P.
A.2	Nira @ Ajit Kumar Prusty	27.03.2019	U.T.P.
A.3	Aru @ Aruna Prusty	29.03.2019	U.T.P.
A.4	Alekha Prusty	03.04.2019	U.T.P.
A.5	Dola @ Purna Chandra Boitei	27.03.2019	U.T.P.

**ST No. 42/2019**  
(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)

<b>Offence charged with</b>	<b>Whether Acquitted or convicted</b>	<b>Sentence imposed</b>	<b>Period of Detention undergone during Trial for purpose of section 428 CrPC</b>
Sec.120-B/ 302/201 IPC/ Sec.25(a)/27 (1) of Arms Act	Convicted	<p><b>Sec.302/34 IPC read with Sec.120-B of IPC-</b> I award death sentence to them under section 302/34 of IPC read with Sec. 120-B of IPC. The convicts be hanged by the neck till they are dead. The capital punishment is to take effect subject to the confirmation of the Hon'ble High Court of</p>	--

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		<p>Orissa,Cuttack</p> <p><b>Sec. 201 of IPC.-</b></p> <p>All the convicts to undergo rigorous imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s 201 I.P.C.</p> <p><b>Sec.25(a) Arms Act-</b></p> <p>All the convicts to undergo rigorous</p>	
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**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		<p>imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s. 25(a) of Arms Act.</p> <p><b>Sec.27(1) Arms Act-</b></p> <p>All the convicts to undergo rigorous imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten</p>	
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**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

	<p>thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s. 27(1) of Arms Act.</p> <p>All the sentences for imprisonment shall run concurrently and the same shall be subject to the final order regarding commutation/ confirmation passed by the Hon'ble Court in the reference.</p>	
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## J U D G M E N T

This is a thrilling case u/ss. 120-B/302/201 of Indian Penal Code (here-in-after referred to as the “IPC”) and Sec. 25(a)/27(1) of Arms Act wherein the above named accused persons stand prosecuted for committing the horrific murder of “Ramachandra Behera” and for criminal conspiracy of such murder as well as for carrying and using the arms without any license.

**2(a).** Draped in brevity, the FIR story of the prosecution is that:-

On 25.03.2019 at about 10.30 P.M. at village Kundakote, the accused persons called the father of the informant namely, Ramachandra Behera from his home to outside. Thereafter, they assaulted him and cut off his hands and legs by knife and sword. Thereafter, the accused persons fled away from the spot. The FIR reveals about the name of the accused persons and the culprits as Nira Prusty, Alekh Prusty, Aruna Prusty, Kalia Prusty, Sanjeeb Prusty, Ranjit Prusty, Sujit Prusty, Dola Boitei, Babu Prusty, Laxman Prusty and Kamalakanta Sahoo. Soon after the

registration of this case, the deceased succumbed to his injuries.

**2(b).** Basing on the written report of the informant, the IIC of Ghasipura P.S. registered a case vide Ghasipura P.S. case No.51 dtd. 25.03.2019 U/s. 326/307/34 IPC and investigation was taken up by the I.O. During investigation, the I.O. examined the witnesses, recorded their statements u/s. 161 CrPC, visited the spot, prepared the spot map, made inquest on the dead body of the deceased, issued dead body challan, sent the dead body for autopsy to SDH, Anandapur. The statements u/s. 27 of Indian Evidence Act of the two accused persons were recorded after their apprehension. The I.O. recovered the cut hands of the deceased from the Brahmanidevi dam at the instance of the accused persons and conducted the inquest report of the said hands and then sent for post mortem. He also seized the wearing apparels as well as biological samples of the deceased and accused persons, seized the alleged weapon of offences, cut hands of the deceased, motor cycles, sample earth, certain documents etc. and sent the exhibits to SFSL, Rasulgarh. Bhubaneswar for chemical examination and



opinion. The I.O. has also obtained the query opinion and medical reports from the medical officer as well as received the report from the RTO, Keonjhar. He has also seized the mobile phones of the accused persons and sent the requisition to the service providers for providing SDR, CDR, CAF etc. and sent the mobile phones to the SFSL, Bhubaneswar and one mobile to DFS, Gujarat. He has also obtained the sanction order from the District Magistrate for initiation of proceeding under Arms Act. As there are prima facie evidence available against the accused persons namely, Nira @ Ajit Kumar Prusty, Chilú @ Sanjeev Kumar Prusty, Dola @ Purna Chandra Boitei, Aru @ Arun Prusty and Alekha Prusty as well as one CCL Pramod Kumar Das, the charge sheet was submitted u/ss. 120-B/302/201 IPC/ Sec.25(a)/27(1) of Arms Act vide charge sheet No.110 dtd. 22.07.2019 against the said five accused persons before the learned NGN, Ghasipura to face the trial and against one CCL in the court of PMJJB, Keonjhar keeping the investigation open u/s. 173(8) of CrPC. The additional evidence u/s. 173(8) of CrPC was submitted by the subsequent I.O. vide C.S. No. 100 dtd. 03.04.2023. The learned NGN, Ghasipura took cognizance against the offences u/s. 120-B/302/201

IPC/Sec.25(a)/27(1) of Arms Act for the said five accused persons and committed to this court for disposal. The charges were read over and explained to the accused persons in the language known to them to which they pleaded not guilty to the charge u/ss.120-B/302/201 IPC/ Sec.25(a)/27(1) of Arms Act and claims for trial. Hence, this case.

**3.** The defence plea is one of complete denial of alleged occurrence and that of foistation of false case by the informant.

**4.** The points for determination in this case are that :-

- i. Whether on 25.03.2019 at about 10.30 P.M. at village Kundakote, the accused persons namely, Nira @ Ajit Kumar Prusty, Chilú @ Sanjeev Kumar Prusty, Dola @ Purna Chandra Boitei, Aru @ Arun Prusty and Alekha Prusty committed murder of the deceased Ramachandra Behera intentionally and knowingly causing his death ?
- ii. Whether on the above noted date, the said

accused persons knowing or having reason to believe that the offence of murder punishable with imprisonment for life or death sentence, disappeared certain evidence connected with the said offence from the scene of crime with an intention to screen themselves from legal punishment ?

- iii. Whether prior to the above occurrence and on the date of occurrence at village Badaekatali and Kundakote, the accused persons being the part of the criminal conspiracy agreed with each other to do an illegal act i.e. to commit murder of the deceased Ramachandra Behera with deadly weapons ?
- iv. Whether on the above noted, date, time and place, the said accused persons were in possession of the arms i.e. *bhujali*, sword and *kata* without any licence and in contravention of Sec. 5 of Arm Act ?
- v. Whether on the above noted, date, time and place, the said accused persons used the arms i.e. *bhujali*, *kata* and sword

without any licence and in contravention  
of Sec. 5 of Arm Act ?

5. To bring home the charges leveled against the accused persons, the prosecution has examined as many as 53 nos. of witnesses, they being P.W.47 is the informant, P.W.4 is the wife of the deceased, P.W.39, 45 and 48 are the relatives of the deceased, P.W.1 is the scribe who also witness to the inquest report as well as seizure, P.Ws. 2, 5, 10, 11, 25, 26, 27, 29, 49 are the independent as well as post occurrence witnesses, P.Ws.7, 12, 17, 18, 19, 20, 22, 23, 24, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 50, 51 are the independent seizure witnesses, P.Ws. 3 and 6 are the inquest witnesses, P.W.8, 9, 13, 14, 21 are the official witnesses, P.Ws.15 and 16 are the medical officers, P.Ws. 52 and 53 are the I.Os of this case. The prosecution has declined the rest charge sheet witnesses. To further strengthen its stand, the prosecution produced and relied upon ninetyfour documents which have been brought into evidence being marked as exhibits at its instance vide Ext.1 to Ext.94 and relied upon thirty material objects vide M.O.-I to M.O.-XXX. The defence preferred not to

adduce any evidence, whatsoever it may be, in support of its plea of denial.

**6.** In order to ascertain the complicity of the accused persons in the commission of the alleged offences, the evidence of the witnesses are to be scrutinized properly.

**6.1.** A close and careful perusal of the evidence of the informant (P.W.47) reveals that on 25.03.2019 at about 10.30 P.M. in front of their gate, the incident took place. After taking dinner, her father was going to sleep and at that time, the accused persons namely, Ajit Prusty, Alekh Prusty and Sanjeev @ Chilu Prusty and one Ranjit Prusty came to their home and called her father for the discussion. It was decided that her father will join in BJD Party on 26.03.2019. Her father along with the accused persons discussed about the matter for about 30 to 35 minutes in their house. She has provided tea and tiffin to the accused persons as per the direction of her father. Thereafter, the accused persons called her father near to the gate to discuss about the matter with the other persons. Accordingly, her father along with all the accused persons went near the gate of their

house. All the accused persons dragged him towards right side of the gate. She was standing near the “POTIKA” of her house. Her father shouted, for which she proceeded to the spot. Thereafter, the other accused persons namely, Arun Prusty and Purnachandra Boitei and CCL Pramod Das along with others namely, Sujit Prusty @ Soso, Kalia Prusty, Babu Prusty, Laxman Prusty, and Kamalakanta Sahoo came to the spot being armed with weapons i.e. *bhujali*, *tamil kata*, sword and caught-hold him forcibly. Then they cut the left hand of her father, for which the said hand was separated from his body. Then they also cut the right hand palm including little finger, ring finger and middle finger and separated from his body. They also cut his toes (from the ankle of the two legs) which were almost separated from the body and in a hanging position. All the accused persons assaulted him mercilessly. While assaulting, she was crying loudly and shouted for help, for which her younger sister Debajani Behera and her mother Prasanti Behera came to the spot. They all were shouting and crying loudly. Thereafter, the accused persons namely, Sanjeev Prusty @ Chilú and Pramod Das left the place by their motorcycle and took the cut hand of her father along with their *bhujali*, sword with

them. The accused persons namely, Arun Prusty and Purna Chandra Boitei left the place by their motorcycle and took the cut fingers and half palm along with their tamil kata with them. The accused persons namely Ajit Prusty and Alekh Prusty left the place by their motor cycles and took their weapons with them. The accused persons namely, Sujit Prusty and Ranjit Prusty along with other accused persons left the place with their weapons. Her father has sustained severe bleeding injuries. Her brother Manoranjan Behera came to the spot and her neighbour Sujit Sahoo and Subash Khilar also came to the spot as per her request. Thereafter, she along with her sister Debajani Behera took her father to SDH, Anandapur for treatment. On the way to medical, her father stated that the accused persons assaulted him. Her sister Debajani Behera has recorded the statement of her father with her mobile phone. After preliminary treatment at SDH, Anandapur, he was referred to SCB & MCH, Cuttack as he was very serious. Then she reported the matter before Ghasipura P.S. vide Ext.1. On the way to SCB & MCH, Cuttack her father died. She has further stated that on the next day, the police came to their house and seized the mobile phone of her sister. On 10.04.2019, Dr.

Laxmidhar Naik of SDH, Anandapur has collected her blood sample as well as the blood sample of her mother in FTA Card. On 19.07.2019, she has given her statement u/s. 164 CrPC before the learned Magistrate vide Ext.52. As per P.W.47, her father was a strong and reputed leader of Congress Party and subsequently he wanted to join in BJD Party and due to such political rivalry, the incident took place.

**6.2.** In support of the statement of the informant, P.Ws. 4, 39, 45 and 48 who are the relatives of the informant as well as the deceased have stated regarding the alleged incident.

The wife of the deceased being P.W.4 deposed that the occurrence took place on 25.03.2019 at about 10.30 P.M. in the front gate of her house. At the relevant time, she along with her two daughters were in her house. At that time, four persons including accused Ajit came to her house and accused Ajit called her husband and all of them sat in her house. After discussion with her husband for 15 minutes, they called her husband outside with the plea that some others are waiting outside. Thereafter, her husband and the above persons went outside and 5 minutes thereafter, she



heard hullah from outside. Hearing the same, her daughter Minarani went outside and Debajani also followed her. She also heard cry both of her daughters and then she went outside and found her husband lying on the ground in front of the gate sustaining bleeding injuries. She found both the hands and legs of her husband were cut. She also found all the accused persons being armed with different lethal weapons were fleeing from the spot and also they were shouting that they are taking the hands of her husband. The accused persons left the spot by four motor cycles. Her daughters arranged a vehicle to shift her husband to Anandapur hospital. From the said hospital her husband was shifted to Cuttack hospital and on the way to Cuttack, her husband succumbed to the injuries.

P.W.39, being the son-in-law of the deceased has deposed that on 25.03.2019 at about 10 P.M. to 10.30 P.M. while he was in his house at village Kholapa, he got an information over phone from the informant Minarani Behera that accused persons namely, Ajit, Chilु, Alekh, Niru and others Ranjit Susha killed his father-in-law. Then he immediately came to her father-in-law's house at village Dhakotha

and there, he found a huge gathering of people and he heard from the villagers that the above named accused persons have killed his father-in-law. At the spot, there was blood and a knife was also lying there and police had reserved the said spot by barricade. At the spot, there was 02 nos. of shoes which were lying and also the temporary rooted teeth of his father-in-law was also lying. He made his mother-in-law understood and console her. By the time of his arrival at the spot, he found the dead body of his father-in-law was not there and that had already been shifted to hospital. The villagers of Dhakotha, were also saying that the accused Chilú having held a severed hand of his father-in-law was moving on a motorcycle with the accused Ajit Prusty on the village road and they were saying that “*AME RAMA BEHERA HATA KATI KI NEI ASICHHU*”, but the villagers being afraid of them, did not go near to them. On the next day morning, he came to SDH, Anandapur at Ghasipura and there he saw the dead body of his father-in-law (the deceased). Police was guarding the said dead body and was not allowing to touch the said dead body to anyone else. When police shown the dead body of his deceased father-in-law, he saw the four fingers leaving the thumb finger of the

right hand had already been severed and the left hand had also been severed. There was also severe cut injury on the toe of the two legs. There were also other injuries on the legs of the deceased. Then the S.I. M.R. Bishi made inquest over the dead body of the deceased vide Ext.2/3 and read over and explained the contents of the same to him.

The sister of the informant who is also the daughter of the deceased being P.W.45 has deposed that on 09.04.2019 at about 1 P.M., the I.O. of this case namely, Manoranjan Bishi had seized one MI mobile phone on production of Debajani Behera and prepared seizure list in her presence vide Ext.49. Due to assault by the accused persons to her father, he had sustained serious injuries, for which her sisters namely, Debajani Behera and Minarani Behera were taking him to the hospital. On the way to hospital, her sister Minarani Behera was asking questions regarding the cause of assault to her father and Debajani Behera was recording the same with the help of the said mobile. The total conversation was recorded in that mobile which has been seized by the I.O.

Another daughter of the deceased as well as the sister of the informant being P.W.48 has deposed that on 25.03.2019 at about 10.30 P.M. in front of their gate, the incident took place. On the said time, she along with her father, mother and sister Minarani Behera were present in their house and the accused persons namely, Nira Prusty @ Ajit Prusty, Sanjeev Prusty @Chilu, Alekh Prusty and another Ranjit Prusty came to their home and talked with her father. After the discussion, they called her father in front of their gate and accordingly, her father proceeded there. After 1½ minutes, they heard hullah of her father, for which her elder sister Minarani proceeded towards the spot. She along with her mother also subsequently went to the spot. She saw the accused persons namely, Nira Prusty @ Ajit Prusty, Sanjeev Prusty @Chilu, Dola Boitei, Alekh Prusty and Arun Prusty, CCL Pramod Das and others namely, Ranjit Prusty, Sujit Prusty, Laxman Prusty, Babu Prusty, Kalia Prusty and Kamalakanta Sahoo being armed with *bhujali*, *tamil kata*, sword and other lethal weapons were assaulting her father. They all shouted for help. The accused persons cut the left hand of her father , for which the said hand was separated from his body. They also cut the right hand

palm including the little finger, ring finger and middle finger and separated from his body. They also cut his toes (from the ankle of the legs) which were almost separated from the body and in a hanging position. Then the accused persons namely, Chilú @ Sanjeev Prusty and CCL Pramod Das left the place by taking the said cut hand along with their *BHUUJALI* and sword by their motor cycle. The accused persons namely, Arun Prusty and Purna Chandra Boitei left the place by their motorcycle with the cut palm along with *TAMIL KATA*. The other accused persons left the place with the weapons. They all shouted for help. Her father was lying on the ground and sustained severe bleeding injuries. Her elder brother Manoranjan Behera immediately came to the spot. Her elder sister Minarani Behera called the immediate neighbour Sujit Sahoo and Subash Khillar to the spot for help, for which they reached at the spot. Thereafter, she along with her elder sister Minarani took her father to SDH, Anandapur for treatment. Her father was serious but he was in sense. He was unable to talk for which her sister asked her father that “*whether the accused Chilú assaulted him and done this.*” and in affirmation symbolically he gave the gesture by raising his head.

Thereafter, her sister asked “*whether the accused Nira Prusty assaulted him and done this.*” and in affirmation symbolically he gave the gesture by raising his head. Thereafter, her sister asked “*whether Ranjit Prusty assaulted him and done this.*” and in affirmation symbolically he gave the gesture by raising his head. All the things and the said conversation were recorded by her in her mobile phone. As her father was very serious, the medical officer of SDH, Anandapur referred him to SCB & MCH, Cuttack and on the way he died. She was examined by the police in connection with this case. On 09.04.2019, the police had seized her MI mobile phone and prepared the seizure list. She has further stated that her father was a strong and reputed leader of Congress Party and the accused persons were belongs to BJD Party. Prior to the incident, her father wanted to join in BJD Party and due to such political rivalry, the incident took place.

**6.3.** The post occurrence independent witnesses are P.Ws.1, 2, 5, 25 and 49.

According to P.W.1, the occurrence took place on 25.03.2019 at about 10.30 P.M. in front of the house of the deceased. All the accused persons hacked

the deceased by means of sword, knife and kata. At that time, he was in his house and after getting the information regarding assault, he came to the spot and when he arrived there, no one was present and the injured had been shifted to Ghasipura hospital. He came to the hospital and found both the legs and hands of the deceased had been cut and the injuries were being dressed in the dressing room of the hospital. The Ghasipura doctor referred the injured to Cuttack hospital. Thereafter, he along with the informant went to Ghasipura P.S. on that night. He scribed the FIR as per the instruction of the informant vide Ext.1. The injured succumbed to the injuries on the way to Cuttack hospital. On the next day of occurrence, police made inquest over the dead body of the deceased and prepared the inquest report. On 27.03.2019 at about 10.30 A.M., he had been to Brahmanidevi Dam and found the accused persons Dola and Chilú were present with the police personnel and the Fire brigade personnel searched for the cut palms in the said reservoir and brought two cut palms. Police also conducted inquest over the cut palms of the deceased and prepared the inquest report. On 28.03.2019, Juvenile Pramod confessed his guilt in his presence

and Binod Behera. The said juvenile disclosed before them that as per the instruction of accused Ajit Prusty, all the accused persons along with him convened a meeting at the back side of the temple of Lord Shiva situated at village Badaekatali and it was decided to kill Ramachandra. He has further disclosed that as per the planning, accused Ajit called Ramachandra from his house and the other accused persons reached there in four motor cycles and thereafter, all of them hacked Ramachandra in front of his house. The said juvenile also disclosed to show the sword concealed by him in the northern side of Brahmanidevi Dam and the statement was recorded by the police and he also signed the said statement. Thereafter, the said Juvenile led the police, himself and other witnesses to the place of concealment and police seized the sword in his presence vide Ext.5. M.O.-I is the sword seized vide Ext.5.

P.W.2, deposed that the occurrence took place on 25.03.2019 at about 10.30 P.M. in the front gate of the house of the deceased. At the relevant time, he was in his rented house as he had taken rent of the house of Benudhar Sahu situated near the house of the



deceased. At that time, he heard hullah from the house of the deceased and immediately came out from his house. He found the accused persons namely, Nira and Alekh were going on the road by holding their motor cycles. At that time, the informant called him by saying that her father has been hacked. Then he immediately rushed to the house of the deceased and found the informant, her younger sister Debajani and his aunt Prasanti were screaming and holding the deceased by their hands. On being asked, the informant intimated that her father was hacked by the accused persons. Thereafter, they arranged a vehicle and shifted the deceased to Ghasipura hospital and therefrom he was referred to Cuttack hospital and on the way, the deceased succumbed to the injuries. Police made the inquest over the dead body of the deceased and prepared the inquest report. The scientific team had collected a pair of sandal, a pair of slipper, blood stained earth, sample earth, a stone having blood stained weighing about 5 kgs and blood collected from the stone by cotton gauge and police had seized the above articles and prepared the seizure list vide Ext.6.

As per the evidence of P.W.5, the

occurrence took place on 25.03.2019 at about 10.30 P.M. in front of the house of the deceased. At the relevant time, he was in his house which is adjacent to that of the deceased. After hearing hullah from outside, he came out from his house and found a person going on the service road situated in front of his house. After hearing cry from the spot, he went there and found the deceased lying on the ground and his left hand has been severed and it was not available at the spot. The two daughters, wife of the deceased along with one Manoranjan were present at the spot. Seeing it, he was completely disturbed and the family members of the deceased were arranging a vehicle to shift the deceased to the hospital. He heard from the daughters and the wife of the deceased that the latter was hacked by some boys of village Badaekatali.

P.W.25 has deposed that on 25.03.2019 at about 10.30 P.M. while he was in his house, the informant Minarani Behera came to his house and knocked the door of his house from outside and called him by saying “ASA ASA MO BAPAKU MARIDELE”. Thereafter, he along with his brother Ranjit Sahoo went there and saw Ramachandra Behera was lying having

bleeding injury on his hand had been severed due to cut and he was alive and was in sense. Then he along with his brother, informant and her mother and her sister as well as one Manoranjan Behera shifted Ramachandra Behera to SDH, Anandapur and therefrom Ramachandra Behera was referred to SCB & MCH, Cuttack.

P.W.49 testified that, on 25.03.2019 at about 10.30 P.M., the informant came to his factory and called him by intimating that few persons were assaulting her father. Immediately, he proceeded to the spot and found the wife of the deceased was sitting and the deceased was sleeping on her lap. He also found two hands of the deceased were cut off and found missing. He was sustained severe bleeding injuries. The legs of the deceased were cut off but not separated from his body. Debajani Behera and Manoranjan Behera were present at the spot. Subsequently, Sujit Sahoo and Ranjit Sahoo came to the spot. Then the deceased was taken to medical by a pick-up van of Sujit Sahoo and Minarani Behera, Debajani Behera accompanied to the deceased. After two hours, they received the information regarding the death of the

deceased. On 27.03.2019, they heard that few accused persons were apprehended by the police, for which he along with some other villagers went to Ghasipura P.S. The police was interrogating the accused persons namely, Dola Boitei and Chilu. The police have also recorded the statement given by them. The accused persons confessed their guilt and stated how they killed the deceased. Then he has put his signatures on the statement given by the accused persons. Ext.53 is his signature on the statement of the accused Purna Chandra Boitei @ Dola Boitei recorded u/s. 27 of Indian Evidence Act. Ext.54 is his signature on the statement of the accused Chilu @ Sanjeev Kumar Prusty recorded u/s. 27 of Indian Evidence Act. Both the accused persons put their signatures on their statements in his presence. The accused persons in their statements had confessed regarding the place where they had kept the weapon of offence. As per their statements, the police staff proceeded to Brahmanidevi Dam. He also went to the spot. On search, the police had recovered one *kata* and one iron *bhujali*. The accused Dola Boitei produced the said *kata* and the accused Chilu @ Sanjeev Kumar Prusty produced the said iron *bhujali*. The police had seized

the same and prepared the seizure list. Ext. 55 is the said seizure list with regard to the seizure of *kata*. The accused Dola @ Purna Chandra Boitei had put his signature on the said seizure list. Ext. 56 is the said seizure list with regard to the seizure of iron *bhujali*. The accused Chilú @ Sanjeev Kumar Prusty had put his signature on the said seizure list. The police had found two cut hands of the deceased. The accused Chilú @ Sanjeev Kumar Prusty had identified the spot from where the hands were recovered. Police had conducted inquest over the hands of the deceased and prepared the inquest report. On 27.03.2019, the police had also seized one Honda LIVO vehicle and prepared seizure list in his presence vide Ext.57.

**6.4.** Apart from P.W.1, P.W.39 and P.W.49, the other inquest witnesses are P.Ws. 3 and 6. P.W.3 is also the witness to leading to discovery.

P.W.3, deposed that the occurrence took place on 25.03.2019 at about 10.30 P.M. in front gate of the house of the deceased. At the relevant time, he was in his house at village Kundakote. On the night of the occurrence, he got information regarding death of Ramachandra being assaulted by the accused persons.

On the next day morning, he came to Anandapur hospital as on the night of occurrence, the deceased was shifted to the said hospital. In his presence, police made inquest over the dead body and prepared the report. He also signed on the said report. On 28.03.2019, while he along with Deepak Behera were in their village market, they got information regarding arrest of Juvenile Pramod by the police at village Badaekatali and accordingly, they proceeded to the said village and found the police was interrogating the said juvenile in isolated place situated at some distance of the said village. In their presence, the said juvenile disclosed relating to the occurrence which was held in the morning of 25.03.2019. He disclosed that the accused persons and he himself convened a meeting at the back side of the temple of Lord Shiva situated in their village and made a plan to commit murder of the deceased. He further disclosed that in order to carry out that plan at the relevant time of occurrence, accused persons Dola and Aruna came in a Hero Ignator motor cycle, accused Alekh came in a Honda Livo motor cycle, accused Ajit came in another Hero Ignator motorcycle to the village of the deceased. He further disclosed that the accused persons and he himself

hacked the deceased and by cutting both the hands took away the same and further stated that they chopped the hands into small pieces and juvenile Pramod recorded the video by his mobile phone and sent the video in whatsapp number of accused Chilú. As per the instruction of the police, he signed the statement given by juvenile Pramod. Thereafter, the said juvenile led the police and other witnesses to Brahmanidevi Dam to its northern side to a small cave of stone. At the instance of the said juvenile, police had seized a bhujali from the said place and prepared the seizure list vide Ext.5/1. Again says, a sword was recovered and seized by the police having length of 59 cm, the handle portion is about 15 cm. and the width of the sword is about 5 cm. M.O.-I is the said sword seized in his presence.

P.W.6, deposed that the occurrence took place on 25.03.2019 at about 10.30 P.M. in front of the house of the deceased. At the relevant time, he was in his house. On the night of occurrence, Deepak Kumar Behera called him to bring his Bolero in order to shift Ramachandra Behera to the hospital as he was hacked in front of his house. He came to the spot and did not find the deceased and came to know that he had been

shifted to the hospital in another vehicle. Then he went to Ghasipura hospital. He did not find both the hands of the deceased. He also found injuries from several parts of his body. The injured was referred to Cuttack hospital. At the hospital, he came to know from the informant and some other people that the accused persons hacked the deceased.

**6.5.** The other seizure witnesses are P.Ws.7, 12, 14, 17, 18, 19, 20, 22, 23, 24, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 45, 46, 50, 51.

P.W.14 who is the scientific officer as well as seizure witness in this case has deposed that on 26.03.2019, 28.03.2019 and 07.04.2019, he was working as Asst. Scientific Officer at District Police Office, Keonjhar. On 26.03.2019 at about 9 A.M. outside of the house of Ramachandra Behera, he along with his team searched the spot, at village Dhakotha. From such search, they recovered blood stained earth, sample earth, blood stained leaves, sample leaves, one pair of slipper chappal stained with blood and another pair of sandal and they collected a saline extract of blood in gauge cloth from a stone about 5 kgs weight



and also collected the said stone. Then they sealed all the above collected materials and handed over the same to the I.O. of this case and the I.O. had seized the same under seizure list vide Ext.6. On 28.03.2019 at about 8.45 A.M., he along with his team came to the P.S. and therefrom they along with the I.O. proceeded to Brahmanidevi Dam, which situates near Badaekatali village. From the ridge of the said dam, they recovered the blood stained earth and sample earth and sealed the same and then handed over to the I.O. and the I.O. had seized the same under seizure list vide Ext.8. On 07.04.2019 at about 10 A.M., he along with his team came to the P.S. and examined 4 nos. of motor cycles, which had already been kept at the P.S. They also found two blood stained motorcycle out of the said four motor cycles. Then they extracted the blood stained by means of saline extraction in gauge cloth and sealed the saline extract and sample gauge and handed over the same to the I.O. and the I.O. had seized the same under seizure list vide Ext.9. They prepared the spot visit report vide Ext.10 and the chemical examination report at the P.S. and handed over the same to the Dispatch Section of District Office, Keonjhar. He has taken photograph of the spot,

he visited. He proved his declaration certificate vide Ext.11 and proved his chemical examination report vide Ext.12.

P.W.7 and P.W.12 have deposed that on 15.07.2019 about 11.30 A.M. at the office of SDPO, Anandapur, S.I. Manoranjan Bisi had seized two case records bearing Ghasipura P.S. case no. 27/2000 and another Ghasipura P.S. case no. 29/2000 and prepared the seizure list vide Ext.7.

As per the evidence of P.W.17, on 27.03.2019 at about 8.50 A.M., S.I. M.R. Bishi had seized one black-white colour T-Shirt, black colour jeans pant and one Oppo mobile without sim of the accused Chilu @ Sanjiv Kumar Prusty on his production and the S.I. prepared seizure list vide Ext.32. On the same date at about 9 A.M., S.I. M.R. Bishi had also seized one black colour jeans pant, one full black colour shirt, one white colour ganji and one Samsung mobile without sim card of the accused Purna Chandra Boitei on his production and the S.I. prepared seizure list vide Ext.33. On the same date at about 9.10 A.M., S.I. M.R. Bishi had seized one blue colour jeans

pant, one pink colour T-shirt and one Coffee colour half pant of the accused Ajit Kumar Prusty on his production and the S.I. prepared seizure list vide Ext.34.

P.W.19 and P.W.20 have deposed that on 10.04.2019 at about 1.50 P.M., S.I. Manoranjan Bishi came to SDH, Anandapur and in their presence, Dr. L. Naik had collected blood samples of Minarani and Prasanti Behera on a paper and sealed the same. Then Dr. L. Naik having seal and signed thereon, handed over to S.I. Manoranjan Bishi who seized the same and prepared seizure list vide Ext.20.

As per the evidence of P.W.28, on 10.04.2019 at about 11 A.M., the S.I. M.R. Bishi had seized a plastic jar containing two nos. of severed hands of the deceased Ramachandra Behera from C/296 named Kalpana Naik and prepared seizure list vide Ext.38. On 26.03.2019 at about 4.30 P.M., the said I.O. had seized 3 nos. of vials containing blood samples, nail clippings and sample hair of the deceased Ramachandra Behera from C/1049 Abhiram Singh. He has further stated that on the same day at

about 4.30 P.M., the said I.O. had seized blue colour full shirt, black colour trouser, white colour ganji, black colour chadi of the deceased Ramachandra Behera from C/1049 Abhiram Singh and prepared seizure list vide Ext.39. He has also deposed that on 27.03.2019 at about 2.15 P.M., the said I.O. had seized 6 nos. of vials containing blood samples and nail clippings of 03 nos. of accused persons from C/260 Narayan Chandra Naik Singh and prepared seizure list vide Ext.40.

P.W.29 has stated that on 26.03.2019 at about 10 A.M., the Scientific Team collected one blood stained piece of stone, two pairs of chappal, sample earth, blood stained earth, plain leaf and blood stained leaf, from place in front of the house of the deceased Ramachandra Behera and gave the same to S.I. M.R. Bishi and S.I. M.R. Bishi had seized the same under seizure list vide Ext.6.

P.W.30 has deposed that on 28.03.2019, police came to Dhakotha High School and by that time, he was in the said school due to absence of peon. Soumendra Pattnaik was the in-charge Headmaster in

the said school. At the instance of the in-charge Headmaster Soumendra Pattnaik, he gave the Admission Register to him and police had seized the same on production by the in-charge Headmaster.

As per the evidence of P.W.31, on 28.03.2019 at about 10 P.M., S.I. M.R. Bishi had seized one blue colour full shirt, black colour jeans pant and one Samsung mobile phone from the accused Arun Prusty and prepared seizure list vide Ext.41. She has further stated that on 29.03.2019 at about 12.30 P.M., one of the constables named Ranjan Kumar Behera produced 02 nos. of vials one containing blood samples and another containing nail clippings of accused Arun Kumar Prusty before the said I.O. who seized the same and prepared seizure list vide Ext.42.

P.W.32 testified that on 29.03.2019 at about 12.15 P.M., S.I. M.R. Bishi had seized 02 nos. of vials one containing blood samples and another containing nail clippings of the accused Arun Kumar Prusty on production by the constable "Ranjan Kumar Behera" and prepared seizure list vide Ext.42. On that day at about 12.30 P.M., the said I.O. had seized 02

nos. of vials one containing blood samples and another containing nail clippings of the accused Pramod Kumar Das on production by Havildar “Khageswar Khamar” and prepared seizure list vide Ext.43. She has further stated that on 03.04.2019 at about 4 P.M., the said I.O. had seized 02 nos. of vials one containing blood samples and another containing nail clippings of the accused Alekh Prusty on production by constable “Ranjan Kumar Behera” and prepared seizure list vide Ext.44. On 10.04.2019 at about 4 P.M. on the strength of command certificate issued to him by S.I. M.R. Bishi, she had gone to SDH, Anandapur and received the bones of palm of the deceased “Ramachandra Behera”, contained in a jar from Dr. Laxmidhar Naik and she handed over the same to S.I. M.R. Bishi, who had seized the same under seizure list vide Ext.38.

P.W.33 has deposed that on 03.04.2019 at about 10.15 A.M., S.I. M.R. Bishi had seized the wearing apparels i.e. pink colour full shirt, blue colour full pant and one VOX mobile phone without sim card of the accused Alekh Prusty on his production at the P.S. and prepared seizure list vide Ext.45.

P.W.34 has stated that on 26.03.2019 at about 7 A.M., he along with S.I. M.R. Bishi had accompanied the dead body of Ramachandra Behera to SDH, Anandapur for Post mortem on the strength of command certificate as well as dead body challan. Ext.21 is the autopsy requisition and Ext.21/2 is the dead body challan. On that day, S.I. M.R. Bishi had seized 3 nos. of vials containing nail clippings, hair and blood samples and the wearing apparels i.e. blue colour tore full shirt being blood stained, one black colour tore track trouser stained with blood, one white colour ganji being blood stained and one black colour chadi of the deceased Ramachandra Behera at Ghasipura P.S., produced by him in presence of constable Narayan Naik and Constable C.M. Verma, which he had brought from Dr. Laxmidhar Nayak of SDH, Anandapur and the S.I. M.R. Bishi prepared seizure list vide Ext.39.

P.W.35 has stated that on 28.03.2019 at about 4 P.M., while he was at Ghasipura P.S. S.I. M.R. Bishi had seized one pant, shirt and mobile phone having no SIM of Arun Prusty produced by Arun Prusty and the S.I. M.R. Bishi prepared seizure list vide Ext.41. On 29.03.2019 at about 12.30 P.M., the

said I.O. had seized 2 nos. of vials containing nail clippings and blood samples of Arun Prusty, produced by him, which he had brought from doctor of SDH, Anandapur and S.I. M.R. Bishi prepared seizure list Ext.42. He has further stated that on the same day at about 4 P.M., the said I.O. had seized 2 nos. of vials containing nail clippings and blood samples of Alekh Prusty produced by him, which he had brought from doctor of SDH, Anandapur and S.I. M.R. Bishi prepared seizure list vide Ext.44.

As per the evidence of P.W.37, on 27.03.2019 on the strength of command certificate issued by IIC, Ghasipura P.S., he had accompanied the accused persons namely Purna Boitai, Ajit Prusty & Sanjib Kumar Prusty to SDH, Anandpaur at Ghasipura for collection of their biological sample and the doctor collected the biological sample i.e. nail clippings and sample bloods of the above named accused persons and handed over the same contained in six nos. of vials to him. Then, he produced the same along with his command certificate before the I.O of this case, who had seized the same under seizure list vide Ext.40. He has further stated that on 03.04.2019 at about 10.15



A.M., while he was at Ghasipura PS., the I.O, M.R. Bisi had seized one pant and one shirt along with a mobile set of accused Alekha Prusty, produced by him and prepared seizure list vide Ext. 45. He has further deposed that on 18.03.2019 at about 10.15 A.M., the said I.O. had seized one pant and one shirt along with a mobile set produced by accused Pramod Das and prepared seizure list vide Ext.47. Further, stated that on 26.03.2019 at about 4.30 P.M., the said I.O. had seized biological samples namely sample hair and nail clippings and blood samples of the deceased, contained three nos. of vials, worn shirt, trouser chadi and ganji of the deceased along with command certificate of Abhiram Singh, Constable prepared seizure list vide Ext.39.

P.W.38 has deposed that on 27.03.2019 while he was on his duty at Ghasipura P.S., constable Narayan Chandra Naik had accompanied the accused persons namely, Purna Chandra Boiti, Ajit Prusty and Chilu Prusty and produced blood samples and nail clippings of the accused persons namely, Purna Chandra Boiti, Ajit Prusty and Chilu Prusty, before the In-charge IIC of Ghasipura P.S. namely, M.R. Bishi

who seized the same and prepared seizure list vide Ext.40. He has further deposed that on 29.03.2019 at about 12.15 P.M., while he was on his duty at Ghasipura P.S., the said I.O. had seized blood samples and nail clippings of accused Pramod Prusty produced by Constable Khageswar Kamar who prepared seizure list vide Ext.43. He has also stated that on 03.04.2019 at about 4 P.M., while he was on his duty at Ghasipura P.S., the said I.O. had seized blood samples and nail clippings of accused Alekh Prusty produced by Constable Ranjan Kumar Behera who prepared seizure list vide Ext.44.

P.W.40 has deposed that around three years back one day at about 9.15 A.M., police had seized blood stained earth along with plain earth near Brahmanidevi Dam (Hudi), where he was present and seizure list was prepared there.

According to P.W.41, on 07.04.2019, he was working as Section Officer at Ghasipura Tahasil. On that day at about 11 A.M. as per letter to Tahasildar and the direction of Tahasildar and as per call of the IIC of the Ghasipura P.S., he arrived at the said P.S.

Inside the premises of Ghasipura P.S., the District Scientific Officer, Keonjhar collected blood samples from one Honda motorcycle and one Yamaha motorcycle by cotton gauze in his presence along with one Gyanaranjan Barik of their office and the Scientific Officer submitted the said cotton gauze to the IIC of Ghasipura P.S., who seized the same under seizure list vide Ext.9.

P.W.42 has stated that on 07.04.2019, he was working as Jr. Revenue Assistant at Ghasipura Tahasil and on that day at about 11 A.M. as per letter to Tahasildar and the direction of Tahasildar, he arrived at Ghasipura P.S. as per call of the IIC of the said P.S. Inside the premises of Ghasipura P.S., the District Scientific Officer, Keonjhar had collected blood samples from one Honda motorcycle and one Yamaha motorcycle by cotton gauze in his presence along with one Gyanaranjan Barik of their office and the Scientific Officer submitted the said cotton gauze to the IIC of Ghasipura P.S., who seized the same under seizure list vide Ext.9.

P.W.43 has stated that on 28.03.2019, he

was working as Havildar at Ghasipura P.S. On that day at about 6.35 P.M. at Badaekatali, S.I. M.R. Bishi had seized blue-white colour full T-shirt, black colour full pant, Samsung mobile having no sim from Pramod Kumar Das and prepared seizure list vide Ext.47. On 29.03.2019 at about 12.15 P.M., the said I.O. had seized blood samples and nail clippings of Pramod Kumar Das (CCL) kept in 02 nos. of separate vials along with his command certificate (Ext.48) and prepared seizure list vide Ext.43. On 10.04.2019 at about 11 A.M. at Ghasipura P.S., the said I.O. had seized one severed hand of the deceased “Ramachandra Behera” contained in plastic jar and prepared seizure list vide Ext.38.

As per P.W.44, on 13.07.2019, he was working as Attendant at SDH, Anandapur. On that day at about 1 P.M., in his presence, the S.I. of police namely, M.R. Bishi had seized bed head ticket, outdoor ticket and blood requisition form in respect of the deceased “Ramachandra Behera” from the Pharmacist Krushna Chandra Sahoo and prepared seizure list vide Ext.35/1.

P.W.45 has stated that on 09.04.2019 at about 1 P.M., the I.O. of this case namely, Manoranjan Bishi had seized one MI mobile phone on production of Debajani Behera and prepared seizure list in her presence vide Ext.49. He has also stated that due to assault by the accused persons to her father, he had sustained serious injuries, for which her sisters namely, Debajani Behera and Minarani Behera have taken him to the hospital. On the way to hospital, her sister Minarani Behera was asking questions regarding the cause of assault to her father and Debajani Behera was recording the same with the help of the said mobile. The total conversation was recorded in that mobile which has been seized by the I.O.

P.W.46 has stated that on 27.03.2019 at about 7.10 A.M., the I.O. Sri M.R. Bishi had seized one blue colour Yamaha R15 without having any registration number from the accused Chilú @ Sanjib Prusty near Badaekatali forest area in his presence vide Ext.50. He has further stated that on the same day at about 7.20 A.M. the said I.O. had seized one black colour blood stained Honda Ignate motorcycle bearing Regn. No. OD-34-A-0670 from the accused Nira @

Ajit Kumar Prusty near Badaekatali forest area and prepared the seizure list in his presence vide Ext.51.

P.W.50 has stated that on 27.03.2019 at about 7.10 A.M., the I.O. Sri M.R. Bishi had seized one blood stained blue colour Yamaha R15 without having any registration number from the accused Chilú @ Sanjib Prusty near Badaekatali forest area in his presence vide Ext.50. On the same day at about 7.20 A.M., the said I.O. had seized one black colour blood stained Honda Ignate motorcycle bearing Regn. No. OD-34-A-0670 from the accused Nira @ Ajit Kumar Prusty near Badaekatali forest area in his presence vide Ext.51. He has further stated that on 28.03.2019 at about 9.15 A.M., the said I.O. had seized one envelope containing sample earth and one envelope containing blood stained earth from the then S.O. Sunil Kumar Sahoo, DFSL, Keonjhar and prepared the seizure list in his presence vide Ext.8.

P.W.51 has stated that on 27.03.2019 at about 8.50 A.M., S.I. M.R. Bishi had seized one black-white colour T- Shirt, black colour jeans pant and one Oppo mobile phone without sim of the accused Chilú

@ Sanjiv Kumar Prusty on his production and prepared seizure list vide Ext.32. He has further stated that on the same date at about 9 A.M., the said I.O. had seized one black colour jeans pant, one full black colour shirt, one white colour ganji and one Samsung mobile without sim card of the accused Purna Chandra Boitei on his production and prepared seizure list vide Ext.33. On the same date at about 9.10 A.M., the said I.O. had seized one blue colour jeans pant, one pink colour T-shirt and one Coffee colour half pant of the accused Ajit Kumar Prusty on his production and prepared seizure list vide Ext.34.

P.W.18, P.W.22, P.W.23, P.W.24 and P.W.36 have not stated anything about the seizure as well as the occurrence. P.W.36 has further stated that he has taken his two wheeler vehicle named and style as Yamaha motorcycle from Ghasipura P.S. on execution of zimanamas vide Ext.45 and Ext.46. The learned Addl. P.P. declared the said witnesses as hostile and cross-examined them.

**6.6.** During the course of investigation, the I.O. has examined other official witnesses i.e. P.Ws.8, 9, 13

who are the firemen and who recovered the cut hands of the deceased from Brahmanidevi dam.

P.W.8, deposed that on 27.03.2019, while he was working as Fireman at Ghasipura Fire Station, as per the direction of the fire officer, he along with Ashrumochan Das, Jaga Das, went to the Dam near village Ekatali and searched and found two human cut hands from the said dam and then they handed over the same to the IIC of Ghasiura P.S.

P.W.9, deposed that on 27.03.2019, while he was working as Fireman at Ghasipura Fire Station, on the strength of command certificate of their fire officer, he along with Jagannath Sahoo and Rabi Kisan went to the Dam near the village Badaekatali and in presence of Ghasipura P.S. staffs, they searched the said dam at the instance of the police who said that there are human hands in the said Dam and on search he found two human cut hands from the said dam and he could identify the said two cut hands which could identify from the palm, fingers and vein and then they handed over the same to the S.I. of Ghasiura P.S. named Manoranjan Bisi. Then they returned.



P.W.13 has deposed that, on 27.03.2019, he was working as fireman at Ghasipura fire station. As per the request of the IIC, Ghasipura P.S., he along with the fire men namely, Ashrumochan Das and Rabi Kishan had gone to a pond near a Dam of village Ektali. The IIC told them that there are two cut hands of a human in the said pond. From the said pond, Ashrumochan Das got the said hands from search in the said pond and handed over the same to the police.

**6.7.** P.W.10, P.W.11, P.W.26 and P.W.27 are the independent witnesses examined by the prosecution, but no one has stated about the cause of the death of Ramachandra Behera as well as other relevant statement about this case.

**6.8.** P.Ws.15 and 16 are the medical officers and P.W.21 is the medical attendant.

P.W.15 has stated that on 25.03.2019 at about 11 P.M., while he was working on his casualty duty at SDH, Anandapur, he examined one Ramachandra Behera and found multiple injuries like amputation of left hand incised wound under right

hand and the patient was in state of shock and he was not able speak anything (absolutely in critical state), for which he admitted him as an indoor patient and immediately referred to SCB & MCH, Cuttack for further treatment. Ext.16 is the outdoor ticket and Ext.17 is the bed head ticket. The blood requisition issued by him in favour of Ramachandra Behera is Ext.18.

The medical officer (P.W.16) has deposed that on 10.04.2019, he was working as Medical Officer at S.D.H. Anandapur and on that day on police requisition vide Ext.19, he has collected blood sample of Prasant Behera, W/o: Rama Chandra Behera and Minarani Behera, D/o: Rama Chandra Behera on two separate FTA Card provided by police and on same day at about 1.50 pm police seized the FTA Card under seizure list vide Ext.20.

Further, he has stated that on 26.03.2019, police made requisition vide Ext.21 to Superintendent SDH, Anandapur to conduct autopsy over the dead body of Rama Chandra Behera and on the said requisition of police as well as direction of Superintendent SDH, Anandapur, he conducted PM

examination over the dead body of Rama Chandra Behera and found external injuries:-

- i. Chop wound with size 12cm x 10 cm with complete transection of the forearm and hand with exposed cut fracture of proximal radius and ulna through it, separation in missing distal forearm.
- ii. Chop wound involving the right hand of length 14 cm with complete transection through mid palm with missing of the forefingers and exposed cut fracture 2, 3, 4 and 5 meta carpal bone.
- iii. Chop wound horizontally present along the medial side of left leg of size 17 cm x 3 cm. X 4 c.m. with underline cut fracture of distal end of tibia.
- iv. Chop wound more or less horizontally present on posterior aspect of the right leg just above the ankle of size 10 cm x 3 cm x 3 cm.
- v. Chop wound more or less horizontally present of size 11 cm x 3 cm x 4 cm on left arm.
- vi. Abrasion 2cm x 2 cm on left of the party

of the belly.

He has further stated that on dissection, he found:- Scalp and skull – intact., Brain - intact and pale, larynx and trachea - intact and pale, Heart - all chambers of the heart are empty, lungs – pale, Stomach – empty. Liver, spleen, kidneys and intestines – pale.

The medical officer opined that the external injuries describe in above para are anti mortum in nature and type deep and external injuries No. 1, 2, 3, 4 & 5 are caused by heavy sharp cutting weapon and No. 6 injuries is caused by heard blunt, trauma and external injuries No. 1,2,3 & 4 are fatal in ordinary course of nature. The death is due to hemorrhage and shock and the time since death, at the time of P.M. examination the age of the injuries is 6 to 12 hours. He has collected the N.B. Blood sample, hair and nail clipping of the deceased and handed over to escort police, Constable No. 1049 namely A.K.Singh of Ghasipura P.S. He has submitted the P.M. examination report vide Ext. 22. He has further stated that on the next day i.e. 27.03.2019, on police requisition as well as direction Superintendent of SDH Ananadapur he conducted P.M. examination over the 2 nos. of cut

hands suspected to be of Ramachandra Behera and the body parts are contains produced in two polythene bag brought by C/623 namely, Ranjan Kumar Behera and on opening the bag, fragments of the body parts identifies palm, fingers, dorsum of hand with chopped bones of the hand found. The second bag contains the human body parts identifiable as chopped fragments of the Ulna, the skin and muscles of the forearm.

He opined that:-

- (1) The body parts examined by human origin.
- (2) The distribution of body hair and the size of the part are suggestive of male body part.
- (3) The injuries on the body part are postmortem in nature, caused by heavy sharp cutting weapon.
- (4) Samples are preserved for D.N.A. analysis to find out whether the fragments belong to single individual or multiple individual.
- (5) The I.O is instructed to make the D.N.A. sample of the deceased Ramachandra Behera with the D.N.A. of the preserved body parts.”

Ext. 23 is the post mortem report of the two cut hands. He has further stated that, on 09.04.2019, he received the police query requisition vide Ext.24 along

with 3 nos of weapons namely one is sword, one *bhujali* and one *talwar* from police of Ghasipura P.S. to examine the said weapon of offence and for opinion. He has submitted the query report vide Ext.25 and opined that-

- 1) Yes, that the injuries on the dead body of Ramachandra Behera can be possible by the weapons which were examined.
- 2) Yes, that the injuries inflicted on the deceased Sl. 1, 2 & 3 on the P.M. report if not attained in time would lead to death.
- 3) Yes, that the produced weapon of offence can cause death of human being and Ext. 25 is his opinion.

He has also stated that, on 29.03.2019, on police requisition, he examined the accused Arun Prusty, who was brought and identified by C/623 R.K. Behera and from his examination, he finds no external injury on portion. Ext. 26 is the said opinion. On 27.03.2019, on police requisition vide Ext.27, he examined the accused Purna Chandra Boitei and found contusion on left arm of size 0.4 cm x 0.3 cm simple in nature might be caused by blunt object. Ext. 27/1 is

the said report. On the same day, on police requisition vide Ext.28, he also examined Chilu @ Sanjeev Prusty and found no external injury on portion. Ext. 28/1 is the said medical report. On the same day, he also examined the accused Nira @ Ajit Prusty and found one injury contusion of size left little finger size 0.3 cm x 0.2 cm. which is simple in nature and might have caused by blow or fall as of injury 1 to 3 days. Ext.29 is the said report. All the three persons came to hospital at 11.50 am on 27.03.2019 with escort C/260 namely N.C. Nayak. On 29.03.2019, police prayed through his requisition for examination of the accused Arun Prusty vide Ext.30 and collection of his biological sample and accordingly he examined him and found no external injury, but he collected the necessary sample likely blood, nail clipping and nail scarping and handed over the escort police. Ext. 30/1 is the said report. On 28.03.2019, police brought to Nira @ Ajit Kumar Prusty, Chilu @ Sanjeeb Prusty, Dola @ Purna Chandra Boitei to hospital for collection biological sample and he collected the biological sample blood, nail clipping and nail scraping handed over the same in containers to the escort party and also collected biological sample of Dola @ Purna Chandra Boitei in

containers and handover the same to the escort party. On the same day, he also collected the biological sample i.e. blood, nail clipping and nail scraping of Chilú @ Sanjeev Prusty in containers and handed over the escort party. The police requisition is marked as Ext.31 and his report is marked as Ext.31/1.

P.W. 21 being the medical attendant has deposed that since hands and legs of Ramachandra Behera had been cut, as per the direction of Dr. Sapan Kumar Das, Surgeon Specialist of SDH, Anandapur, he had dressed the injuries on the legs and hands of Ramachandra Behera, as he was working as Medical Attendant on the alleged date at SDH, Anandapur.

**6.9.** The present case has been investigated by two I.Os. i.e. P.W.52 and P.W.53.

P.W.52 being the first I.O. of this case has deposed that On 25.03.2019 at about 11.40 P.M. on the written report of the informant Minarani Behera, the then IIC of Ghasipura P.S. namely, Biranchi Bag registered Ghasipura PS. Case no.51 dtd.25.03.2019 u/s.326/307/34 IPC and directed him to take up



investigation vide Ext.1/2. Ext.1/3 is the Formal FIR and Ext.1/4 is my signature thereon. In the course of investigation, he examined the informant, recorded her statement. On 26.03.2019, he examined the scribe of the FIR and he visited the spot where he found blood stained mark on the spot and then the spot was guarded by one Havildar. During that time, he has received information with regard to the death of the deceased. He has issued requisition to the S.P., Keonjhar for deputation of the scientific team. He went to the SDH, Anandapur and conducted inquest over the dead body of the deceased on 26.03.2019 and prepared inquest vide Ext.2/3. Thereafter, he has sent the dead body of the deceased for post mortem and issued dead body challan vide Ext.21. On 26.03.2019, he visited the spot with the scientific team and prepared Crime Detail Form vide Ext.58. On the same date at about 10 A.M., he seized the blood stained earth, sample earth, blood stained blue colour one pair slipper, blood stained leaves, sample leaves, one black colour one pair sandal, saline extract of blood in gauge from blood stained stone on production of Scientific Officer, DFSL, Keonjhar and prepared the seizure list vide Ext.6. On the same date at about 4.30 P.M., he seized

one sealed vial containing blood samples, nail clippings, hair, one blue colour full shirt, black colour trouser, black colour chadi and one white colour ganji of the deceased and some cotton bandage and command certificate of Abhiram Sethy and prepared the seizure list vide Ext.39. On the same day, he intimated to the learned NGN, Ghasipura with regard to the turn of the case to Sec. 302/34 of IPC.

He has further stated that, on 27.03.2019 at about 5.30 A.M., he apprehended the accused persons namely, Chilú @ Sanjiv Kumar Prusty, Dola @ Purna Chandra Boitei, Nira @ Ajit Kumar Prusty near the jungle of Badaekatali and he examined them and recorded their confessional statements of the accused persons namely, Sanjeev Kumar Prusty and Dola @ Purna Chandra Boitei vide Ext.54/1 and Ext.53/1 respectively u/s. 27 of Indian Evidence Act. At 7.10 A.M., he seized one blue colour Yamaha R 15 motorcycle without registration number, but having chassis no. ME1RG5251K0011573 from accused Chilú @ Sanjiv Kumar Prusty and prepared the seizure list vide Ext.50. On the same day at about 7.20 A.M., he seized one black colour Hero Ignitor motorcycle bearing Regn. No. OD-34-A-0670 from accused Nira

@ Ajit Kumar Prusty vide Ext.51. On the same day at about 8.50 P.M., he seized the wearing apparels of the accused Chilu @ Sanjib Kumar Prusty i.e. one black-white colour half T-shirt and one black colour jeans pant along with one Oppo mobile phone without having sim and prepared the seizure list vide Ext.32. On the same day at about 9 A.M., he seized the wearing apparels of the accused Dola @ Purna Chandra Boitei i.e. one black colour jeans pant, one black colour full shirt, one white colour ganji along with one Samsung mobile phone without having sim and prepared the seizure list vide Ext.33. On the same day at about 9.10 A.M., he seized the wearing apparels of the accused Ajit Kumar Prusty i.e. one blue colour jeans pant, one pink colour half T-shirt, one coffee colour half pant and prepared the seizure list vide Ext.34.

He has further stated, on the same day, he sent requisition to the fire station vide letter no. 571 dtd. 27.03.2019 for assist in this case and left the P.S. along with the accused persons towards Brahmanidevi Dam as per the statements of the accused persons for leading to discovery. The accused Chilu @ Sanjiv

Kumar Prusty has shown him the place where he thrown the cut hand of the deceased and he directed the fire staff for search for the said hand of the deceased. On the same day at about 10.15 A.M., as per the statement of the accused Chilu @ Sanjiv Kumar Prusty u/s. 27 of Indian Evidence Act, he discovered the *bhujali* and seized the same. He has concealed the same after the commission of the offence. He has prepared the seizure list vide Ext.56. Accused Dola @ Purna Chandra Boitei lead him to the place of concealment and he discovered one *Talwar (Kata)* from the said place and seized the same and prepared the seizure list vide Ext.55. In presence of the witnesses, the cut hands of the deceased were recovered from the dam. On the same day at about 10.45 A.M., he conducted inquest over the said cut off hand of the deceased in presence of the witnesses and prepared inquest report vide Ext.3/2. At about 11 A.M., he sent the said cut hands for P.M. examination vide Ext. 59. At about 11.05 A.M., he prepared another spot map vide Ext.60. At about 11.10 A.M., he seized one maroon colour motorcycle from the spot i.e. near Brahmanidevi dam which was identified by the accused persons namely Sanjib Kumar Prusty and

Pruna Chandra Boitei and prepared the seizure list vide Ext.61. The said motorcycle was used by the accused Alekh Kumar Prusty at the time of commission of crime. He sent the accused persons for their medical examination vide Ext.31. On the same day at about 2.15 P.M., he seized the biological samples i.e. blood samples, nail clippings of the accused persons namely, Ajit Kumar Prusty, Sanjib Kumar Prusty, Purna Chandra Boitei along with the command certificate of C/260 Narayan Chandra Nayak and prepared the seizure list vide Ext.40.

He has further stated that, he sent requisition to the S.P., Keonjhar for deputation of scientific officer for the visit of second spot i.e. Brahmanidevi dam. On 28.03.2019, he visited the second spot with the scientific team. At about 9.15 A.M., he seized blood stained earth and sample earth from the spot which was collected by the scientific officer and prepared the seizure list vide Ext.8. On the same day at about 10.30 A.M., he seized the school admission register of Dhakotha High School to ascertain the age of the accused Pramod Das and prepared seizure list and left the same in zima by executing proper zimanama vide Ext.62. On the same

day, he apprehended the accused Aru @ Arun Prusty and recorded his statement. At about 4.20 P.M., he seized one Hero Ignitor motorcycle bearing Regn. No. OD-09-B-7376 from accused Aru @ Arun Prusty and prepared the seizure list vide Ext.36/1. At about 6 P.M., he apprehended the CCL Pramod Kumar Das and recorded his confessional statement u/s. 27 of Indian Evidence Act vide Ext.4/2. At about 6.30 P.M, he seized the wearing apparels of the CCL Pramod Kumar Das i.e. one blue-white colour full T-shirt, one black colour full pant and one Samsung mobile phone without having sim and prepared the seizure list vide Ext.47. He left for the spot with the CCL Pramod Kumar Das and at about 8 P.M., he discovered one sword and seized the same from the place of concealment and prepared the seizure list vide Ext.5/1. On the same day at about 10 PM., he seized the wearing apparels of the accused Arun Prusty i.e. blue colour full shirt, black colour full jeans pant, one Samsung mobile phone from the accused Arun Prusty and prepared the seizure list vide Ext.41.

Further, stated that on 29.03.2019, he sent requisition for the medical examination of the accused Arun Prusty vide Ext.30. He received the medical

report. At about 12.15 P.M., he seized the biological samples i.e. blood samples, nail clippings of the CCL Pramod Kumar Das and command certificate of Havildar K.S. Kamara and prepared the seizure list vide Ext.43. At about 12.30 P.M., he seized the biological samples i.e. nail clippings, blood samples of the accused Arun Prusty and command certificate of C/623 R.K. Behera and prepared the seizure list vide Ext.42. On 03.04.2019, he apprehended the accused Alekh Prusty and recorded his statement. At about 10.15 A.M., he seized his wearing apparels i.e. one pink colour full shirt, one blue colour full pant and one VOX mobile phone without having sim card and prepared the seizure list vide Ext.45. He issued injury requisition and sent him for his medical examination and obtained the medical examination report vide Ext.63. On 05.04.2019, he received the P.M. report of the deceased Ramachandra Behera vide Ext.22. He also received the P.M. report of the cut hand of the deceased vide Ext.23. On 06.04.2019, he sent VHF message to the S.P., Keonjhar vide No. 633 dtd. 06.04.2019 for deputation of the scientific team and on the same day, he sent requisition to Tahasildar, Ghasipura vide Letter No. 630 dtd. 06.04.2019 to

provide two official staff. On 07.04.2019 at about 10.30 A.M., scientific team arrived at the P.S. and examined the four seized vehicle. At about 11.30 A.M., he seized one sealed envelope containing saline extract of blood in a gauge from the black colour Honda Ignitor bearing Regn. no. OD-34-A-0670, one sealed envelope containing saline blood of cloth in a gauge in a blue colour Yamaha R15 without registration number, one sealed envelope containing sample gauge on production by the Scientific Officer and prepared the seizure list vide Ext.9. On 09.04.2019, he sent the requisition to SFSL, Rasulgarh for issuing FTA Card. On the same day at about 10 P.M., he produced the weapon of offence before the P.M. conducting medical officer with the query requisition vide Ext.24. On the same day, he obtained the query report from the medical officer vide Ext.25. At about 1 P.M., he seized one black colour MI mobile phone without having sim from the sister of the informant and prepared the seizure list vide Ext.49. On the same day, he sent a requisition to the S.P., Keonjhar vide D.R. no. 444 for CDR of the accused persons. On the same day, he received 02 nos. of FTA Cards. On 10.04.2019 at about 11 A.M., he seized one sealed plastic jar containing



body part of the preserved of the cut hands of the deceased and prepared the seizure list vide Ext.38. He sent the requisition to the medical officer of SDH, Anadnapur for collection of blood sample of Prasanti Behera and Minarani Behera in FTA Card vide Ext.19. At about 1.50 P.M., he seized the sample blood of Prasanti Behera and Minarani Behera in FTA cards in a sealed envelope vide Ext.20. On 12.04.2019, he made prayer to the learned NGN, Ghasipura for sending exhibits to SFSL, Bhubaneswar vide Ext.64. He sent the exhibits with regard to the sample earth, leaves, sandal, wearing apparels, weapon of offence, biological samples etc. of the accused persons to the SFSL, Bhubaneswar on 12.04.2019 vide Ext.65. He has also sent the exhibits with regard to the Samsung mobile phone (Purna Chandra Boitei) and Oppo mobile phone to the SFSL, Bhubaneswar on 17.07.2019 vide Ext.66. He also sent the exhibits with regard to the Samsung mobile phone of CCL Pramod Kumar Das to the SFSL, Bhubaneswar on 17.07.2019 vide Ext.67. He sent the exhibits with regard to the MI mobile phone to the SFSL, Bhubaneswar on 19.07.2019 vide Ext. 68.

Further, stated that on 13.04.2019, he sent requisition to the RTO, Keonjhar vide D.R. No. 670

dtd. 13.04.2019 to establish the ownership of the 4 nos. of the seized vehicles vide Ext.69. On 03.05.2019, he received the letter from the RTO, Keonjhar vide Letter no. 1360 dtd. 02.05.2019 with regard to the ownership of the said vehicles vide Ext.70. On 24.05.2019, he received the chemical examination report along with the DNA report from the SFSL, Bhubaneswar vide report no. 548-BG-2019 vide Ext.71. Ext.72 is the letter no. 343 dtd. 18.05.2019 of the office of the Director of SFSL, Bhubaneswar. Ext.73 is the report no. 49 DNA 2019 issued by the SFSL, Bhubaneswar. On 29.05.2019, he received the spot visit report from DFSL, Keonjhar vide Sl. No. 25 of DFSL and Sl. No.01 of DFSL and one C.D. prepared by the scientific team during their spot visit vide Ext.10. On 05.06.2019 at about 10.30 P.M., he seized the Tax invoice of the motorcycle Yamaha R15, insurance certificate, Form No. 20, Form No.21 along with the Aadhaar Card of Sudam Charan Patra and prepared the seizure list vide Ext.37/3. He left the same in zima by executing proper zimanama vide Ext.46. On 01.07.2019, he left the zima of the Yamaha motorcycle in favour of Sudam Charan Patra and executed zimanama vide Ext.45. On 08.07.2019, he submitted the requisition to the service

provider i.e. Reliance Jio Infotech Ltd., General Manager of BSNL, Bhubaneswar, Bharati Airtel Ltd. vide letter no. 1752 dtd. 05.07.2019, letter no. 1757 dtd. 05.07.2019, Letter no. 1754 dtd. 05.07.2019 for providing SDR, CDR, CAF Cap and 65-B of Certificate u/s. 65-B of Indian Evidence Act with regard to the mobile phone of the accused persons. On 10.07.2019, he made requisition to the Superintendent of SDH, Anandapur for seizure of bed head ticket of the deceased Ramachandra Behera and also submitted requisition to Dr. Sapan Kumar Das for query opinion vide Ext.74. On 13.07.2019 at about 12.30 P.M., he seized the bed head ticket of the deceased Ramachandra Behera along with the blood requisition form and outdoor ticket and prepared the seizure list vide Ext.35/1.

He has also stated that, on 15.07.2019, he verified about the criminal antecedent of the accused persons and seized the F.I.R. copy of Ghasipura P.S. Case No. 27 dtd. 18.02.2000, charge sheet copy vide C.S. no. 39 dtd. 22.05.2000, FIR copy of Ghasipura P.S. case no. 29 dtd. 18.02.2000 and C.S. copy no. 58 dtd. 19.05.2000 and prepared the seizure list vide Ext.7. He left the same in zima by executing proper

zimanama vide Ext.75. On 17.07.2019, he made prayer to the learned NGN, Ghasipura for sending the exhibits to SFSL, Bhubaneswar with regard to two nos. of mobile phones vide Ext.76. He also made another prayer to the learned NGN, Ghasipura for sending the mobile phone to DFS, Gujarat vide Ext.77. On the same day, he made prayer to the District Magistrate, Keonjhar for sanction order. On 19.07.2019, he made prayer to the learned NGN, Ghasipura for recording the 164 CrPC statement of the informant. On the same day, he made prayer before the court for sending the exhibit i.e one mobile phone to the SFSL, Bhubaneswar vide Ext.78. On 22.07.2019, he submitted the preliminary charge sheet by keeping the investigation open. On 23.07.2019, he received the sanction order from the District Magistrate, Keonjhar with regard to the sanction of the offence u/s. 25/27 of Arms Act. On 30.07.2019, he obtained the CDR u/s. 65-B of Indian Evidence Act from Bharati Airtel Ltd vide Ext.79. On the same day, he obtained the CDR u/s. 65-B of Indian Evidence Act from the BSNL vide Ext.80. On 09.08.2019, he received the query report with regard to the mental condition of the deceased from Dr. Sapan Kumar Das vide Ext.81.

The I.O. has proved the examination report of Cyber Forensic Division dtd.11.03.2022 as Ext.82 and the examination report issued by the SFSL, Rasulgarh dtd. 07.03.2022 as Ext.83.

**6.10.** The seized articles were produced from the JIC Malkhana, Anandapur before this court.

(a) M.O.-I is the sword which was seized vide Ext.5/1 already marked.

(b) M.O.-II is the *Talwar (tamil kata)* which was seized vide Ext.55 (marked with objection)

(c) M.O.-III is the *bhujali* which was seized vide Ext.56 (marked with objection)

(d) M.O.-IV is the stone which was seized vide Ext.6, (marked with objection)

(e) M.O.-V is the black-white colour T-shirt of the accused Sanjib Kumar Prusty, M.O.-VI is his black colour jeans and M.O.-VII is his Oppo mobile phone which were seized vide Ext.32 (all marked with objection)

(f) M.O.-VIII is the black colour jeans of the accused Purna Chandra Boitei, M.O.-IX is his black colour full shirt, M.O.-X is his white colour ganji and

M.O.-XI is his Samsung mobile phone which were seized vide Ext.33 (all marked with objection)

(g) M.O.-XII is the blue colour jeans of the accused Ajit Kumar Prusty, M.O.-XIII is his pink colour half T-shirt, M.O.-XIV is his coffee colour half pant which were seized vide Ext.34 (all marked with objection)

(h) M.O.- XV is the blue colour full shirt of the accused Arun Prusty, M.O.-XVI is his black colour full jeans pant, M.O.-XVII is his Samsung mobile phone which were seized vide Ext.41 (all marked with objection)

(i) M.O.-XVIII is the blue-white colour full shirt of the CCL Pramod Kumar Das, M.O.-XIX is his black colour full pant and M.O.-XX is his Samsung mobile phone which were seized vide Ext.47 (all marked with objection)

(j) M.O.-XXI is the pink colour full shirt the accused Alekha Prusty, M.O.-XXII is his blue colour full pant, M.O.-XXIII is his VOX mobile phone which were seized vide Ext.45 (all marked with objection)

(k) M.O.-XXIV is the black colour MI mobile phone which was seized vide Ext.49 (marked with objection)

(l) M.O.-XXV is the blood stained slipper of the deceased which was seized vide Ext.6(marked with objection)

(m) M.O.-XXVI is the black colour sandal which was seized vide Ext.6 (marked with objection)

(n) M.O.-XXVII is the blue colour torn blood stained full shirt of the deceased, M.O.-XXVIII is his torn blood stained black colour trouser, M.O.-XXIX is his black colour chadi, M.O.-XXX is his blood stained ganji which were seized vide Ext.39 (all marked with objection)

**6.11.** The digital documents were displayed in the court and exhibited by the I.O. (P.W.52).

Ext 84 is the compact disc which was received from the SFSL, Bhubaneswar (marked with objection). It contains two folders. One folder contains five number of pictures/photographs i.e. two photographs containing of one *bhujali* along with the wearing apparels of one of the accused, one photo shows that the accused namely, Chilú @ Sanjib Kumar Prusty and CCL Pramod Das are sitting with five number of weapon of offences used in the commission of the crime, one photo shows that the CCL Pramod

Kumar Das is holding one sword and the accused Chilु @ Sanjib Kumar Prusty is holding one *bhujali* along with four number of the weapon of offences. The pictures were collected from whatsapp media. One video is also there in the said folder of the compact disc where the accused Chilु @ Sanjib kumar Prusty was cutting/chopping the cut hands of the deceased into many pieces. The said video was extracted from the mobile phone of accused Chilु @ Sanjib Kumar Prusty. The audio of the said compact disc shows that the accused persons were shouting and abusing. They were also discussing that they have taken revenge from their ancestral family members and while chopping the hands, they were talking with each other. The conversations of the accused persons in their own language are:- “MAGIHA ROLE KARIBA, DEKHABE, START HELANA, RAHABE, ETA ANDHARA DISUCHHI, AAU DEETA FLASH MARUNU, DEKHA ETHARA PURA CLEAR AEELA, MO MUHAKU AGE MAR, MU KUTAUCHHI CHILU PRUSTY, EEADE MAR, RAGIBU, RAGIBU, RAGIBU, MAGIHA, RAGIBU MAGIHA, RAGIBU, PIECE PIECE KARIDIA, PIECE PIECE KARIDIA, CHHITAKU THIBA CHHITAKU THIBA, TAMA GHARE KAHIDIA PRAMOD BHULI JAANTU, MATE KAHIDEISARILENI MAMU PHAMUKU, SANDHA MAGIHA RABANA, RABANA MAGIHA,



**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

PHOTO UTEIBA MAGIHA KUTEICHHANTI, VIDEO RECORDING KARA, GOTE RECORDING GOTE PHOTO, GOTE PIECE SINA ETA HATA, ETA TA ANGULI, AEI DEKHA KOU BHALIA UDUCHI, BHAIRE SABU RAGA SUJHIGALA, PURBA PURUSARA RAGA SUJHIGALA, SABU SUJHEIDIA, KICHHI NAHIN SABU SUJHIGALA, ENTA GEHIBI, JAIL JIBI, KAHITHILI NA BE TINIDINA PURBARU AEE PRAMOD THILA KHELA KARIDEBI, PRAMOD KAHITHILI NA, HAN, KANA KAHITHILI, MAGIHA, KOU MAGIHA, KHASI MANSA BHALIA LAGUCHI BE, KASIKI KHAIBA, DHOIKI KHAIBA, MU RAMA BEHERA THARU GUNDI DUI THARA KHAICHHI SETHIPAIN TARA BISWAS TA HEIGALA NA AU, MATE THANDA DEICHHI PEETE, NAHELE HEITHANTA NA, THANDA DEIKI GEHIBU TA MAA KU, TA MARIJAICHHI, TA JHIAKU AISWARYA RANI KU GEHIBU, YA PARE NILAM KARIBA MAGIHA KU, ETE AISWARYA RANI DEKHEI HEUCHHI, PANI KU PHINGI DIA, TU BHARI CHHODI HEIKI KAHUTHILU KHAI DEBU BOLI, KAHUTHILI KHAIBA PAIN MATIRE MISIGALANI, MO BANDA TA KHAIBU TU, MU KHAIBI ETA MISA, DHOI DHAIKI KHAIDEBA, SOMA BARE JADI DHOI DHAIKI FRIDGE RE RAKHI DEBA RAKHIDIA, RECORD BE, RECORD BE, MAGIHA RECORD, MAGIHA RAMA BEHERA HATA DUITAKU KHAIDEBA, KHAIDE MAGIHA KU, SUNA ETA SABU THULA, SABU POKHARIKU PHINGA, ERA ERA MO BANDARA, SEI THULAKU KHAIDEBA KAHUTHILA, ETA SABU DHOIKI RAKHIBA RAKHA NAHELE PHINGA PHINGA etc.”

Another folder of the said compact disc

contains another picture as well as one video which were collected from the mobile phone of the accused Dola @ Purna Chandra Boitei. The picture/ photograph shows that one person is holding the cut hand. The video shows that the accused Chilु @ Sanjib Kumar Prusty was chopping the cut hand of the deceased. The accused Chilु @ Sanjib Kumar Prusty was identifying himself as Chilु Prusty and thereafter, he was cutting the palm by a BHUJALI and thereafter, he had taken one piece of the cut hand into his mouth.

Ext.85 is the compact disc which was received from the SFSL, Bhubaneswar (marked with objection). This compact disc contains two folders. One folder contains one video as well as one picture which were recovered from the mobile phone of accused Purna Chandra Boitei. Another folder of the said disc contains five number of pictures as well as one video which were collected from the whatsapp media of the mobile phone of accused Chilु @ Sanjib Kumar Prusty. The pictures as well as the video are the same as elaborated in Ext. 84.

**6.12.** Ext.86 is the examination report of Directorate of Forensic Science, Gujarat. Ext.87 is the

certificate u/s. 65-B (4) (C) of Indian Evidence Act issued by the scientific officer, Directorate of Forensic Science, Gujarat. Ext.88 is the Annexure-A issued by the Directorate of Forensic Science, Gujarat contains about the detail information and data of the mobile phone along with the photographs. The said information as well as details were collected from the mobile phone of CCL Pramod Das. The said data/video was recorded and then it was sent to the mobile phone of accused Chilu @ Sanjib Kumar Prusty and thereafter, it was deleted from the mobile phone of Pramod Das. The original video was not extracted from the mobile phone of the CCL Pramod Das, but it was collected from the mobile phone of Chilu @ Sanjib Kumar Prusty.

Ext.89 is the DVD received from the Directorate of Forensic Science, Gujarat (marked with objection). This DVD contains the soft copy of the photographs as reflected in Annexure-A and three numbers of obscene videos which are not related to this case.

**6.13.** Ext.90 is the Compact disc received from SFSL, Bhubaneswar (marked with objection). The said

video shows the conversation between the deceased as well as Minarani Behera (voice of Minarani identified by the I.O.). The deceased was in serious condition and he was unable to speak. Minarani Behera was asking leading questions to the deceased and the deceased was answering the same by shaking his head (lifting his head up and down). The conversations are:-

- (a) Minarani asked “KAHA KIE TUMAKU HANILA ? BAPA TAMAKU KIE HANILA ? CHILU ? RANJIT PRUSTY ? NIRA PRUSTY ?

The deceased answered by shaking his head (lifting his head up and down)

- (b) Minarani asked “CHILU, NIRA PRUSTY AMA GHARAKU ASITHILANA ? AMA GHARAKU ASIKI TUMAKU DAKILA BAHARAKU,” ?

The deceased answered by shaking his head (lifting his head up and down)

- (c) Minarani asked “RANJIT PRUSTY ASITHILANA ? TUMAKU NIRA PRUSTY GHARU DAKIKI NELANA ?

The deceased answered by shaking his head (lifting his head up and down)

- (d) Minarani asked “KIE HANILA TUMAKU

CHILU ?

The deceased answered by shaking his head (lifting his head up and down).

One DVD was received from DFSL, Keonjhar vide Ext.13 which contains 23 nos. of photographs of three times spot visit of the I.O. and scientific team. The photographs show the blood stained mark on the earth of the spot, slippers, look like one part of mouth gum attached with teeth and blood stained leaf, blood stained stone, spot of occurrence, front side house of the deceased, number plate of the vehicle, motor cycles, blood patches.

**6.14.** P.W.53 being the subsequent I.O. has deposed that on 02.10.2022, he was working as S.I. of police at Ghasipura P.S. and he has received the charge of the case for investigation from OIC Bikram Kumar Bhuyan.

In the course of his investigation, he has received the examination report vide Ext.86 along with the DVD vide Ext.89 and certificate u/s. 65-B of Indian Evidence Act vide Ext.87 issued by the Scientific Officer from the Directorate of Forensic Science,

Gujarat. He has also received the detail information and data of the mobile phone along with the photographs vide Ext.88. He has submitted the compliance report to the S.P., Keonjhar for submission of charge sheet. After completion of investigation, he has submitted charge sheet bearing C.S. No. 100 dtd. 03.04.2023 u/ss. 302/120-B/201 IPC read with Sec. 25(a)/27(i) of Arms Act against the accused persons. Ext.91 is the examination report of Cyber Forensic Division relating to the mobile phones (marked with objection). Ext.92 is the Inter Divisional Examination Report physics division with regard to the images and videos (marked with objection). Ext.93 is the certificate u/s. 65-B of Indian Evidence Act with regard to the electronic record (marked with objection).

All the prosecution witnesses have been cross-examined by the defence at length. The relevant part of the cross-examination are discussed in the subsequent paragraph of this judgment.

7. In order to establish the charge under section 302/34 IPC, the prosecution must prove the ingredients u/s. 300 of IPC.

Sec. 300 of IPC envisages that-

- (1) the act by which the death is caused is done with the intention of causing death, or
- (2) it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or
- (3) it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or
- (4) if the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

On careful introspection of evidence on record, it has come to surface that on 25.03.2019 at

about 10.30 P.M., the deceased was brutally and mercilessly assaulted with deadly weapons. His hands and legs were cut up and his condition was critical. The injuries were such as to cause instantaneous death. He was shifted to SDH, Anandapur for treatment, but taking into the gravity of the injuries the medical officer referred him to SCB & MCH, Cuttack after preliminary treatment. On the way, he succumbed to his injuries. His hands, palm were chopped into pieces and recovered from Brahmanidevi dam. As per the prosecution, the accused persons have committed the heinous crime of murder by assaulting the deceased with deadly weapons i.e. sword, iron *bhujali* and *kata*. It is alleged by the prosecution that, on the said date of occurrence, the accused persons namely, Chilú @ Sanjeev Prusty, Nira @ Ajit Prusty, Alekha Prusty went to the house of the deceased and then called him outside for discussion and thereafter, the other accused persons namely, Arun Prusty and Purna Chandra Boitei came with deadly weapons and then all the five accused persons along with one CCL assaulted him and cut his hands and legs and thereafter, left the place with his cut hands. To prove the case, the prosecution not only relied upon the eye witnesses, post occurrence



witnesses and other official witnesses but also upon the digital documents. The prosecution contended that the manner in which the accused persons have killed the deceased and thereafter chopped the body part of the deceased and also tried to eat the same indicates an extreme brutal, grotesque, diabolical, revolting, outrageous and dastardly act of the accused persons.

The learned defence counsel has submitted that the crime may be heinous, it may be sensational, but those are not weighing in the justice system. The case is either to be proved by direct evidence or by circumstantial evidence forming a chain without a missing link. The learned defence counsel, at the outset, does not dispute the fact that the death of the deceased was homicidal in nature nor he disputes the facts with regard to the occurrence took place in the dead of night, the death of Rama Chandra Behera is due to shock as a result loss of blood, human palms were recovered from Brahmanidevi dam, the mobile phones of Chillu & Dola do not have SIM (PW-17) & the seizure of biological samples of the accused person. However, the defence disputed the documents of all CD & DVD, seizure list of wearing apparels, mobile phones, Hero motor cycles, *talwar and bhujali*. The

learned defence counsel argued that however strong the suspicion the case against the accused persons may be, no court shall award a moral conviction and the prosecution must lead unimpeachable evidence pointing to the guilt of the accused persons without any other probable hypothesis of innocence.

**8.** The death of the deceased is admitted fact in the case. Thus, now the questions are whether the death is homicidal in nature and if yes, who is the author of the crime.

The informant (P.W.47) and her sister (P.W.48) are the star witnesses of this case to witness the entire incident. As per the said eye witnesses the accused persons namely, Ajit Prusty, Alekh Prusty, Sanjeev Prusty along with one Ranjit Prusty came to their house and called their father to outside and then the accused persons namely, Aruna Prusty and Purna Chandra Boitei came there with deadly weapons. Thereafter, all the accused persons assaulted the deceased mercilessly by deadly weapons i.e. *bhujali*, *tamil kata* and sword and cut his hands and toes and thereafter, took away the cut hands. The informant (P.W.47) and her sister (P.W.48) have categorically

stated that the accused persons cut the left hand of their father for which it was separated from his body and then cut the right hand palm including little finger, ring finger and middle finger and separated from his body and cut his toes which were almost separated from his body and in a hanging position. The informant further deposed that they assaulted her father mercilessly and the accused persons namely, Chilu and one Pramod Das left the place by their motorcycle and took the cut hands of her father along with their *bhujali* and sword and the accused persons namely, Arun Prusty and Purna Chandra Boitei left the place by their motorcycle and took the cut fingers and half palm along with the *tamil kata* with them and the accused persons namely, Ajit Prusty and Alekh Prusty left the place and took their weapons with them. By corroborating the statement of the informant, her sister who is P.W.48 has further stated that the accused Chilu Prusty and another Pramod Das left the place by taking the cut hands along with *bhujali* and sword and the accused persons namely, Arun Prusty and Purna Chandra Boitei left the place with the cut palm along with *tamil kata* and other accused persons left the place with their weapons. The wife of the deceased (P.W.4) by confirming the

statement of her daughters stated that she went outside and found her husband was lying on the ground sustaining bleeding injuries and his both hands and legs were cut. As per her statement, she had seen all the accused persons being armed with different lethal weapons were fleeing from the spot. P.W.2, in his evidence has stated that the accused persons namely, Nira and Alekha were going on the road by holding their motorcycle. The post occurrence witnesses i.e. P.Ws. 1, 2, 5, 25, 49 have also stated that they have received information with regard to the incident and they went to the spot soon after the incident. Deposition of the informant and her sister find support from the evidence of the said post occurrence witnesses. The other witnesses i.e. P.Ws.5 and 39 have also reached at the spot. As per P.W.1, he had seen the deceased at the hospital and found his both legs and hands have cut and the injuries were being dressed. P.W.5 and P.W.25 have also stated that they went to the spot and found the deceased lying on the ground and his left hand has been severed. As per P.W.49, he proceeded to the spot and found two hands of the deceased were cut up and missing and he had sustained severe bleeding injuries and his legs were cut up but

not separated from his body. It is noted from the evidence of P.W.48 that while the deceased was taken to SDH, Anandapur by an Ambulance, her sister asked the leading questions to the deceased i.e. whether the accused Chilú Prusty, Nira Prusty assaulted him and in affirmation symbolically, the deceased has raised his head and the said conversations were recorded by her mobile phone. The medical officer (P.W.15) has stated that on the alleged date of occurrence at about 11 P.M., he examined Ramachandra Behera and found multiple injuries like amputation of left hand incised wound under right hand and the patient was in state of shock and unable to speak and he was absolutely in critical state. The outdoor ticket vide Ext.16, the bed head ticket vide Ext.17 and the blood requisition vide Ext.18 are the documents proved by the medical officer while treating the deceased. During the time of his admission at SDH, Anandapur, the injuries were dressed by P.W.21 (dresser/medical attendant). He deposed that since the hands and legs of Ramachandra Behera had been cut, as per the direction of the surgery specialist (P.W.15), he had dressed the injuries on the legs and hands. He was referred to SCB & MCH, Cuttack for treatment due to his serious condition, but on the way

for treatment he succumbed to his injuries. The I.O has conducted inquest over the dead body of the deceased vide Ext.2/3 in presence of P.Ws.1, 2 and 3 which reveals about the opinion of the witnesses as *“hands and legs of the deceased were cut up for which there was profuse bleeding and he died due to assault by the deadly weapons”*. The M.O. (P.W.16) stated regarding the conduct of autopsy as per the requisition vide Ext.21 and post mortem of the deceased on 26.03.2019 and the report vide Ext.22 reveals that *“external injury No. 1 chop wound with size 12cm x 10 cm with complete transection of the forearm and hand with exposed cut fracture of proximal radius and ulna through it, separation in missing distal forearm. No.2. Chop wound involving the right hand of length 14 cm with complete transection through mid palm with missing of the forefingers and exposed cut fracture 2, 3, 4 and 5 meta carpal bone. No. 3 chop wound horizontally present along the medial side of left leg of size 17 cm x 3 cm. X 4 c.m. with underline cut fracture of distal end of tibia. No.4 chop wound more or less horizontally present on posterior aspect of the right leg just above the ankle of size 10 cm x 3 cm x 3 cm. No. 5 chop wound more or less horizontally present of size*

*11 cm x 3 cm x 4 cm on left arm. No. 6 Abrasion 2cm x 2 cm on left of the party of the belly. The injury no. 1 to 5 are caused by heavy and sharp edged weapon and the injury no. 1 to 4 are fatal in ordinary course of nature and the cause of death was due to hemorrhage and shock”.*

It is ascertained from the evidence of the I.O. (P.W.52) that, he along with the accused persons went to Brahmanidevi dam as per the statement of the accused persons for leading to discovery and the accused Sanjeev Kumar Prusty had shown him the place where he thrown the cut hands of the deceased and accordingly, he directed the fire staff for search. The cut hands of the deceased were recovered from the said dam in presence of the witnesses and with the help of firemen i.e. P.Ws.8, 9 and 13. The inquest report of the said hand was conducted by the I.O. vide Ext.3/2 which reveals that the opinion of the witnesses as mentioned in the report that “*deceased was assaulted inhumanly and his hands were cut up*”. The medical officer has conducted the post mortem of the cut hands vide Ext.23 which reveals that “*on examination on opening the bag, fragments of the body parts identifies palm, fingers dorsum of hand with chopped bones of*

*the hand. The second bag- human body parts identifiable as chopped fragments of the ulna, the skin and muscles of the forearm. The body part is one human origin and the injuries on the said body part are post mortem in nature and caused by heavy sharp edged weapon”.*

It is further ascertained that, the accused Sanjeev Kumar Prusty led the I.O to the place of concealment and produced the iron *bhujali* inside one bush near Brahmanidevi dam which was seized by the I.O. vide Ext.56. The accused Purna Chandra Boitei led the I.O to the place of concealment and produced the *kata* under one stone near Brahmanidevi dam which was seized by the I.O. vide Ext.55. At the instance of one CCL, one sword was also recovered and seized by the I.O. vide 5/1 in presence of the seizure witnesses i.e. P.Ws. 49, 1, 3. The I.O. had also sent the said seized weapon of offence to the medical officer for query and opinion vide Ext.24. The medical officer has examined the seized weapons on 09.04.2019 and submitted the report vide Ext.25 that *“the injuries inflicted on the deceased can be possible by the seized weapon, the injuries (1, 2, 3) inflicted on the post mortem report if not attended in time would*



*lead to death, the seized weapon of offence can caused death of human being.* The seized material objects i.e. weapon of offences, stone, wearing apparels of the deceased and accused persons, mobile phones, slipper, sandal, were produced before the court for identification vide M.O.-I to M.O-XXX. The I.O had sent the wearing apparels, the biological samples, mobile phone to SFSL, Bhubaneswar vide Ext.65, 66, 67, 68, 73 for chemical examination and DNA report. The DNA report vide Ext.73 reveals that “the source of Ext. C9X (tissue sample from the cut hands of the deceased) is the biological father of Minarani Behera (informant). Further the DNA profiles of the cut portion of blood stain of the deceased, blood stain trouser of the deceased, from the chappal on gauge cloth, blood from Yamaha bike on gauge cloth, blood from *bhujali* on gauge cloth, blood from *talwar* on gauge cloth are matching with each other and also with the DNA profile of tissue sample from the cut hands of the deceased”. It further reveals that the “alleles generated in the DNA profile from the Ext.C9X are consistently available at the corresponding autosomal STR loci of the mixed DNA profile generated from the cut portion of blood stain jeans of the accused Sanjeev

Kumar Prusty. The DNA profile of the cut portion of blood stain earth T- shirt of the accused Sanjeev Kumar Prusty is matching with the DNA profile of Ext. C9X”.

It is ascertained that, the I.O. had seized the mobile phones of the accused persons vide Exts.32, 33, 41 and 47 and sent the same to SFSL, Bhubaneswar as well as DFS, Gujarat. The compact disc as well as the DVD vide Exts.84, 89, 90, 13 were received from SFSL, Bhubaneswar as well as DFS, Gujarat and produced before the court. The same were displayed and contains number of pictures as well as the audio and video. The digital document vide Ext. 90 with regard to the conversation of the deceased with the informant was produced. Further Ext.84 reveals that the accused persons were shouting and abusing as well as discussing that they have taken revenge from their ancestral family members and during that time, they were chopping the hands of the deceased. In that video the accused Sanjeev Kumar Prusty was chopping the hands of the deceased and he himself identified as Chilu Prusty and then he had taken one piece of cut hand into his mouth and also stated that it tasted like mutton etc. The said compact disc also contains the

photograph of *bhujali* along with wearing apparels of one accused and one photo shows the accused Chilu @ Sanjeev Kumar Prusty along with one CCL are sitting with five number of weapons used in the commission of crime, one photo shows the accused Sanjeev Kumar Prusty is holding one *bhujali* along with four numbers of weapon of offences. The photographs of the cut hands vide Ext.88 have also been produced before the court. Hence, there is no shadow of doubt that the deceased died a homicidal death.

In the backdrop of the aforesaid peculiar circumstances of this case and from the analysis of the evidence of the prosecution witnesses, it can safely be said that the allegation of the prosecution have got substance in it. However, before arriving at any conclusion, the other sides and issues of this case needs to be scrutinized.

**9.** It has been urged on behalf of the accused persons that, the factum of lodging the FIR is highly doubtful. The learned defence counsel argued that the informant has mentioned in the FIR that her father was called from the house and he was assaulted by *chhuri* & *talwar*, but there is no indication that the said

accused persons took the cut hands with them. The learned defence counsel further argued that from the FIR, it appears that 11 persons called the deceased from the house and assaulted him which is not the case of the prosecution and during the trial, the informant has clearly stated that while lodging FIR she was in stable mental condition, for which the FIR is doubtful and confusing.

In this regard, the learned Addl. P.P. argued that it is the settled principle of law that the FIR is not the encyclopedia and more so, the informant has specifically mentioned the name of accused persons in the FIR and categorically stated that all the accused person assaulted the deceased by means of weapons for which the submission of the learned defence counsel should not be taken into consideration.

In the present case, the incident took place on 25.03.2019 at about 10.30 P.M. and the deceased was immediately shifted to hospital for treatment. The FIR vide Ext.1 was promptly lodged by the informant on the date of occurrence at about 11.40 P.M. The informant is the daughter of the deceased and one of the eye witness who has been examined in the course of trial and narrated the entire incident. In the course of

investigation, her statement u/s. 164 of CrPC was also recorded by the learned NGN, Ghasipura vide Ext.52. It is ascertained that the FIR vide Ext.1 does not reveal about the details of incident as mentioned by the informant in her evidence. In this regard, it can be said that the FIR is not encyclopedia disclosing all facts and details relating to the offence. It is also not meant to be a detailed document containing chronicle of all intricate and minute details. Further more, law is well settled that the FIR is not even considered to be as substantive piece of evidence and can be only used to corroborate or contradict the informant's evidence to the court. None mentioning the minute details thereon does not mean the facts do not exist and its author was not aware of details. So far as the question of naming the eleven persons in the FIR, it can be said that the FIR has only to state that a cognizable offence has been committed. In this context, I relied upon the decision of the Hon'ble Apex Court in the matter of **Superintendent of Police, CBI and others Vrs. Tapan Kumar Singh** reported in **(2003) 6 SCC 175**, where it was observed that "*the information in the FIR disclosing commission of a cognizable offence only sets in motion the investigating machinery with a view to*

*collect necessary evidence and thereafter, taking action in accordance with law. Even if the information does not furnish all details, it is for the investigating officer who find out those details during the course of investigation and collect necessary evidence”.* Hence, considering the facts and circumstances of this case as well as the observation of the Hon’ble Apex Court in the above decision, the plea taken by the learned defence counsel is not tenable in the eye of law.

**10.** The next plea of the defence is that the accused persons have not been identified by any of the witnesses in this case. The defence pointed out:-

- i. that, the occurrence took place in dead of night and the witnesses i.e. P.Ws. 2, 4, 47 & 48 have not specifically stated that, they have identified the accused persons and as per the statement of the I.O. there were electric poles, but he has not verified with regard to the street light provision.
- ii. that, as per the evidence of PW-5, hearing hulla he came out of his house and saw a person going on the service road and

heard from the daughter and wife of the deceased that “*some boys*” of Badaekatali have hacked the deceased, but the said witness has not disclosed the name of the accused persons.

- iii. that, PW-6 had stated that, he heard at hospital from informant and others that the accused person hacked Ramachandra Behera, but such statement was confronted to him and the I.O., who admitted that, PW-6 has not stated so before him.
- iv. that, PW-25 has stated that Meenarani called him “*Asa Asa Mo Bapaku Maridele*” and he went to spot and shifted Ramachandra to hospital, but he has also not disclosed the name of the accused persons.
- v. that, PW-49 has stated that, the informant called him saying that “*few persons*” were assaulting her father and he came to the spot and found the injured, but not disclosed the name of the accused persons.

- vi. that, the words used by informant, “few persons” & “some boys” clearly indicate that, the informant could not identify the assailants, for which she did not disclose the names of the assailant, which is spontaneous at the earliest opportunity.
- vii. that, if the evidence of PW-2 is accepted to the extent that he found accused persons Nira & Alekha were going casually by holding their motor cycle, then it is against the human conduct as after completion of the crime the reflex action of human is to decamp immediately.

In this case, the FIR vide Ext.1 specifically reveals about the name of the present accused persons i.e. Nira Prusty, Alekha Prusty, Aruna Prusty, Sanjeev Prusty, Dola Boitei. The informant (P.W.47) and P.W.48 are the key witnesses who are the daughters of the deceased and in their evidence before this court have categorically stated that on the alleged date of occurrence, when their father was going to sleep after taking dinner, the accused persons namely,



Ajit Prusty, Alekha Prusty and Sanjeev Prusty came to their house and talked to their father and after discussion, they called her father near to the gate and then the other accused persons namely, Arun Prusty and Purna Chandra Boitei came there and then all the accused persons assaulted their father. As per their statements, they have seen the entire incident while the accused persons were assaulting the deceased with deadly weapons. It is also ascertained from their evidence that the accused persons were previously known to the witnesses. It is noted that on the date of occurrence, the accused persons first went to the house of the deceased and thereafter, called him outside for discussion where they assaulted the deceased mercilessly and brutally. Hence, it is clear that the family members of the deceased have seen the accused persons who went inside their house. More so, the evidence of wife as well as the daughter of the deceased clearly indicates that the accused persons were known to them prior to the occurrence. PW.4 (the wife of the deceased) in the cross examination has stated that prior to the incident in both elections the accused persons used to come to her house and also other functions of her family. PW-48 (daughter of the

deceased) in her cross-examination has also stated that, the accused persons are her class mate and friends. The I.O. (P.W.52) in the cross-examination has clearly stated that during his spot visit, he found three electricity poles near the spot. It is noted from the evidence of the informant that at the time of occurrence, she was standing near the *POTIKA* and when her father shouted, she proceeded to the exact spot and her cross-examination reveals that the gate of her house is about 4.5 feet and only 2 feet ground level gate was covered with iron plate. In addition to that, P.W.2 in the cross-examination has stated that the gate is closed by plates up to 2 feet from the bottom and the rest part was made up with grill and number of trees which were planted by the deceased within his campus, but since last 8 to 10 years no trees are available in the said boundary. P.W.48 in the cross-examination has stated that one iron plate is covered on the 2 feet ground level of the gate of their house and the entry gate of her house is about 15 to 20 feet distance from the main gate. In these circumstances, it can be said that the exact spot of occurrence is visible to the *POTIKA* and after hearing the hullah of her father, she immediately proceeded to the exact spot. Admittedly,

investigation reveals that at the spot of occurrence vide Ext.58, the street light was there and there was enough light at the time of occurrence. So far as the question of the provision of street light at the place of occurrence is concerned, it is not required to investigate or verify with regard to the documents as well as provision of the street light at the place of occurrence to prove the guilt of the accused persons. As the accused persons have not covered their faces to conceal their identity, it was not difficult for the eye witnesses to identify them. The light said of the street light was enough to enable the witnesses to identify the accused persons. Hence, it can be said that the accused persons were well identified by the witnesses i.e. P.Ws.47 and 48. The question of identification of dispute does not arise in the present case and the plea taken by the defence is not taken into consideration.

**11.** The learned defence counsel questioned the entire prosecution case on the ground that the witnesses to this case are interested witnesses and the occurrence witnesses are the relatives of the deceased.

On the other hand, the learned Addl.P.P.

objected the point raised by the defence and submitted that the conviction can be based on the testimony of single interested witness if found reliable, truthful and trustworthy without any fabrication, concoction or embellishment. He also relied upon the decision of the Hon'ble Apex Court in the matter of **Mahesh Vrs. State of Maharashtra**, reported in **(2008) 40 OCR SC 551**, where it was held that *“merely because the witnesses examined by the prosecution are relatives of the victim, that itself would not be sufficient to discard and discredit the evidence of such relative witnesses, if otherwise they are found to be truthful witnesses after deep and thorough scrutiny”*.

The evidence of the prosecution witnesses are carefully and closely scanned. It is ascertained from the case record that P.W.47 and P.W.48 are the eye witnesses to this case who are the daughters of the deceased. The post occurrence witnesses i.e. P.Ws.1, 2, 4, 5, 25, 49 have also elaborated in their evidence with regard to the subsequent event soon after the incident. It is found that the evidence of the informant is well corroborated with the inquest reports, post mortem reports, query report, chemical examination report, DNA report. In these circumstances, it is found that

the evidence of P.W.47 and P.W.48 are clear, cogent and supported by the other witnesses as well as documents. On this point, I relied upon the decision of the Hon'ble Apex Court in **Brahma Swaroop Vrs. State of U.P.** reported in **AIR 2011 (SC) 280**, where it was held that *“the relationship of the victim to one of the parties is not a factor that effects the credibility of a witness, more so a relation would not conceal the actual culprit and make allegations against an innocent person.”* In this regard, I also relied on the decisions of the Hon'ble Court in the matter of **Bhaskar Bariha Vrs. State of Orissa** reported in **(2020) 78 OCR 206 and** in the matter of **Kawasi Sita Vrs. State of Orissa** reported in **(2018) 71 OCR 296**, where it was observed that *“Law is well settled that related witnesses are not necessarily false unless their evidence suffers from serious infirmity or raises considerable doubt in the mind of the court. It would not be proper to discard their evidence straightway on the ground of their relationship with the deceased. Close relative of the deceased are most reluctant to spare the real assailants and falsely mentioned the names of other persons.”*

The evidence of the prosecution witnesses

i.e. P.Ws. 4, 39, 45, 47 and 48 even though related witnesses to the deceased but are consistent and corroborated the medical evidence and supported by the seizure, chemical examination report, DNA report. There is nothing to disbelieve in the version of the informant as well as her sister and mother who narrated the entire incident. Even though they were cross-examined by the defence at length, their evidence remain firmed and there is nothing to disbelieve their evidence which appears to be consistent. More so, in a criminal case, the victim or the relatives of the victim are always interested to see that the real offender of the crime should be booked and never expected to leave out the real culprits and rope in the innocent persons. They cannot be expected to adopt a course by which some innocent persons would be substituted for the person really guilty of the murder and, therefore, their evidence cannot be discarded on the mere ground of their close interest in the deceased. It is therefore, not a safe rule to reject the entire testimony of the witness merely on the ground that the informant as well as the other eye witnesses are the relatives of the deceased and interested witnesses. After proper scrutinize of the evidence as well as the documents available in the

record with care and caution, it is seen that in the present case, there is no possibility of the prosecution witnesses who can implicate the innocent persons. Hence, the evidence of these witnesses are relevant and cannot be struck of or thrown out. Considering the evidence available in the present case and in view of the observations made by the Hon'ble Courts (*supra*), the statement of P.Ws. 4, 39, 45, 47 and 48 cannot be discarded, ignored and thrown over board simply because they are relatives of the deceased.

Accordingly, I do not find any force in the submission advanced on behalf of the defence.

**12.** The learned defence counsel urged that the statement of the informant u/s. 164 of CrPC was recorded after 115 days of the occurrence which creates doubt in the prosecution case.

In this regard, the learned Addl. P.P. has submitted that the delay in recording the statement is not fatal to the prosecution case and the plea of the defence should not be taken into consideration. He also relied upon the decision of the Hon'ble High Court of Orissa in the matter of ***Guru Charan Mahanta Vrs.***

*State of Odisha reported in (2023) 89 OCR 714 where it was held that “every delay in recording the statement u/s. 164 of CrPC or making prayer to the court for record the statement is not fatal to the prosecution”.*

Admittedly, the statement of the informant (P.W.47) u/s. 164 of CrPC was recorded by the learned NGN, Ghasipura on 19.07.2019 vide Ext.52. Hence, after about four months of the occurrence, her statement was recorded. However, the statement of the informant u/s. 161 of CrPC was recorded by the I.O. immediately after the occurrence. The statement of the said witness (P.W.47) in the trial is well corroborated with the statement given by her u/s. 164 CrPC. It is settled principle of law that, it is not every delay in recording the statement may be fatal or the testimony of the witness becomes unreliable merely because there is delay in examination of a particular witness. The said witness is the daughter of the deceased who is also the eye witness to this case. Her evidence is not only supported with the other prosecution witnesses but also the documents relied upon by the prosecution. The recording of the statement of the informant u/s. 164 of CrPC is neither indicative nor suggestive of some unfair practice by the investigating agency for the



purpose of introducing a core of witness to falsely support the prosecution case. The decision of the Hon'ble High Court of Orissa as submitted by the learned Addl. P.P. is well applicable in the present case.

So the argument of the defence on this point cannot be accepted.

**13.** The learned defence counsel has questioned the entire prosecution case on the ground that evidence of all the prosecution witnesses are contradictory to each other and the evidence of the eye witnesses are contradictory to their previous statements recorded u/s. 161 CrPC. According to him, the evidence in the court by the witnesses are subsequent improvement and there is no credible evidence on record, for which the case of the prosecution should be thrown out. He further argued that *“in a criminal trial while minor discrepancies should be ignored, contradictions cannot be ignored”*.

The lacuna and contradiction statements as per the defence are:-

- i. that, PW-4 who is the wife of the deceased

has stated that, four accused persons came to her house and called her husband out on the plea that, others are waiting outside, but she had not made such statement before I.O to which the I.O. admits.

- ii. That, PW-4 in Para-2 of cross examinations has stated that she found four persons went in motorcycle in high speed and other two persons were moving with their motorcycles and the vehicles are not in running condition and all were going on the service road, but she has not disclosed their names.
- iii. that, PW-4 in Para-4 has stated that only accused Ajit came to her house and both of them went outside.
- iv. P.W.4 in Para-6 has stated that normally the gate is closed from inside at night and opened in the day time and the deceased was about to sleep as per PW-47, so the normal presumption is that, either the gate was closed leaving no opportunity for others to enter inside or the deceased before going to sleep came alone to close

the door and received assault from the unknown assailants.

- v. that, PW-47 in Para-2 had stated that accused Ajit, Alekha, Chillu @Sanjib called her father towards the gate, dragged him towards the right side of the gate and thereafter other accused persons came to spot being armed with *bhujali*, *tamil kata* and sword forcibly caught hold of her father and cut hands for which it is crystal clear that the accused Ajit, Alekha & Chilu are not the assailants.
- vi. that, in Para-29, PW-47 has stated that, she has stated before the I.O that accused Ajit, Alekha & Chilu had come to her house on dtd.25.03.2019 at about 10.30 P.M., but this statement is a contradiction and confronted to I.O, who in Para-30 admits that PW-47 had not made such statement before him.
- vii. that, PW-48 Debajani Behera in Para-2 has stated at length implicating many persons as assailants specifically stated that, eight persons were assaulting her

father with different lethal weapons for which it is not acceptable that only 6 number of injuries will be found on the dead body.

viii.that, PW-2 the nephew of the deceased has stated that, he was in a rented house of Benudhar Sahu/Behera, near the house of the deceased and hearing hulla from the house of the deceased he came out and found Nira & Alekha were going on the road by holding their motor cycle, but the I.O has stated that PW-2 has not stated before him that he was staying in a rented house of Benudhar and the spot map does not reveal the existence of the house of Benudhar.

ix. that, the photographs in Ext-P-84 a CD is said to be the photo picture of accused Chilu having long beard & mustache and within two days of the occurrence accused Chilu was arrested but as per the I.O., he does not remember whether Chillu had beard and mustache at the time of arrest for which the photo in the CD vide Ext-P-

84 is not of accused Chillu.

- x. that, PW-47 & 48 are claiming themselves as eye witnesses, but none of them have specifically stated which accused inflicted which injury by what weapon and their statements are bald statements having no description of the actual occurrence.

On the above points, the learned Addl.P.P. has submitted that the slightest contradictions are bound to occur and such minor discrepancies should not be taken into consideration where there are sufficient materials available against the accused persons. He also relied upon the decision of the Hon'ble Court in the matter of **Manoj Suryavanshi Vrs. State of Chhatisgarh** reported in **(2020) 78 OCR 824**, where it was held that "*minor discrepancies and inconsistencies in the statement of the prosecution witness and the minor lacuna in the investigation by the police cannot be reason for discarding the entire prosecution case*".

The FIR vide Ext.1 as well as the evidence of the informant, wife and daughter of the deceased

shows that on 25.03.2019 the accused persons mercilessly assaulted the deceased by deadly weapons and cut his hands and toes and due to assault and injuries, he died. The post occurrence witnesses discloses about the subsequent event. The evidence of the informant, post occurrence witnesses, independent/public witnesses, official witnesses, medical witnesses and DNA report fully supported the prosecution on material particulars. The evidence of the eye witnesses are well corroborated with the evidence of other witnesses. The statement of the witnesses are in tune with the documents available in the record. So far as the lacuna pointed out by the learned defence counsel with regard to the evidence of P.W.47 as to the involvement of the assailants in the murder is concerned, it is noted that the informant categorically stated before the court that all the accused persons assaulted her father mercilessly on the date of occurrence. Hence, the evidence of P.W.47 is clear that all the accused persons are the assailants.

The learned defence counsel urged with regard to the non-existence of the house of Benudhar (tenant of P.W.2) in the spot map. On this point, it can

be said that the spot map in a criminal case refers to the physical location of the crime scene for directions, objects, the position of exhibits, measurements etc. The spot map vide Ext. 58 reveals about the spot where the incident took place, the houses situated near to the spot, road and other details required for the trial. More so, the evidence of P.W.2 reveals that he was in a rented house of Benudhar Sahoo “*near*” the house of the deceased. Hence, the evidence of P.W.2 does not reveal that the house of Benudhar Sahoo is in close proximity area as required for the spot map. More so, the particulars of the spot map will have value as evidence, only in cases where the scene/particulars of the incident will provide some evidence. In the present case, the house of Benudhar Sahoo is not the scene of incident which provides the evidence in the present case. Even if for the sake of an argument, it is considered that the spot map should indicate the house of Benudhar Sahu, it can be said that, the prosecution case does not become suspicious due to minor flaw or deficiency in the spot map.

As per the defence, the eye witnesses have not specifically stated which accused inflicted which

injury by what weapon. In this regard, the medical reports and P.M. report of the deceased clearly reveals about the serious injuries sustained by him. The assault was murderous and brutal. Both the eye witnesses are the daughters of the deceased for which it can also be stated that they must be horrified by seeing the barbaric attack by the accused persons and it cannot be expected to keep the exact memory and details of the occurrence. In the present case, I relied upon the decision of the Hon'ble Apex Court in the matter of ***Bharwada Bhoginbhai Hirjibhai Vrs. State of Gujarat*** reported in **1983 (3) SCC 217**, where it was observed that *“the witnesses cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen. Ordinarily, a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprised. The mental faculties therefore cannot be expected to be attuned to absorb the details”*. The witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time of span. The evidence adduced by P.W.47 and P.W.48 are reliable, trustworthy and corroborated by the other



evidences on record. Hence, the plea taken by the learned defence counsel is not taken into consideration.

So far as the exaggeration statement of the daughters of the deceased is concerned, it is ascertained that P.W.47 as well as P.W.48 in their evidence have disclosed the names of few other persons, but their evidence in this particular aspect is not corroborated with the evidence of other prosecution witnesses. The investigation of the I.O. is also silent with regard to the involvement of the said named other persons in this case. In this regard, it can be said that some witnesses have the tendency to add more persons in the case. It is settled principle of law that the improvement, exaggeration, omission and contradictions are not sufficient for discarding the testimony of any witness. I relied upon the decision of the Hon'ble Apex Court in the matter of ***Subal Ghorai Vrs. State of W.B.*** reported in ***(2013) 4 SCC 607***, where it was held that *“sometimes witnesses do exaggerate and evidence of witnesses need not be discarded on account of embellishments if it is corroborated on material aspect by other evidence on record”*. The court can shift the chaff from the grain

and find out the truth from the testimony of the witnesses. The total repulsion of the evidence would be unnecessary.

So far as the discrepancies and contradictions in the statements of the witnesses are concerned, it can be said that the witnesses are deposed long after the incident in question, for which minor contradictions and omissions are bound to exist in their evidence. A witness, who is subject to fatiguing, taxing and tiring cross-examination for days together is bound to get confused and make some inconsistent statements. More so, witnesses are deposing in a pressure atmosphere. They cannot be anticipated to remember the exact details happened long back. Law is well settled that the discrepancies noticed in the evidence of a witness who is subjected to grueling cross-examination should not be blown off. But this kind of discrepancies are hardly important and this alone is not sufficient to bring the truthfulness and veracity of the witnesses to the dock. The testimonies of the prosecution witnesses are corroborating and the alleged contradiction if any are minor discrepancies which do not affect the core of the prosecution case

and therefore, cannot be made a crucial ground to reject the evidence in its entirety. Apart from these contradictions, the other evidences are unshaken. Nothing has been elicited from the mouth of the witnesses to discard and demolish their evidence. The aforementioned facts of the defence are ancillary and not the main story of this case. In the criminal trial the evidence has to be evaluated on the touchstone of consistency as consistency is the key word for upholding the conviction of the accused persons. Coming to the facts and circumstances leading to this case of such a nature, any other probability is ruled out in view of the positive, trustworthy, systematic and convincing evidence laid on behalf of the prosecution. So far as the occurrence and involvement of the accused persons is concerned, there is no such major discrepancy. It is felt that the evidence of the witnesses are not subsequent improvement rather their evidences are found to be natural and genuine.

In this prospective, the above grounds taken by the defence is not tenable and satisfactory.

**14.** The next plea of the defence is that the

I.O. has obtained the signatures of the accused persons on the seizure lists in respect to their wearing apparels, motorcycles, mobile phones as well as seizure of the weapon of offence. He argued that there is no law under the act to obtain the signature of the accused on the seizure list as it is hit u/s-25 of the Indian Evidence Act. He also relied upon the decision of the Hon'ble High Court of Orissa, Cuttack in the matter of ***State of Orissa -Vrs- Satya @ Satya Narayan Pradhan & Ors reported in (2009) 44 OCR-548***, where it was held that “*the signature of the accused found on the seizure list. It cannot be used as evidence against him as the same is hit u/s-25 of the Indian Evidence Act*”. The learned defence counsel contended that once the signature of the accused is found on the seizure list, the sanctity of the seizure list is lost and the safe conclusion is that, nothing has been seized from the possession of any of the accused.

On this point, the learned Addl. P.P. relied upon the decision of the Hon'ble Court in the matter of ***Manoj Suryavanshi Vrs. State of Chhatisgarh reported in (2020) 78 OCR 824***, where it was held that “*the minor lacuna in the investigation by the police*

*cannot be reason for discarding the entire prosecution case*". He has submitted that the seizure witnesses to this case are supported the case of the prosecution and categorically explained the detail of seizure made by the I.O. in their presence for which the decision of the Hon'ble High Court of Orissa is not applicable in this case and accordingly, the accused persons are not entitled to any benefit if any defect on the part of the investigating officer is found.

In the present case, the recovery and seizure of the weapon of offence i.e. *bhujali*, *kata* and sword, motor cycles as well as mobile phones are the most important part of the investigation. Admittedly, in this case, the I.O. has obtained the signatures of the accused persons vide Ext.50/4, Ext.51/4, Ext.32/4, Ext.56/3, Ext.55/3, Ext.54, Ext.41/4, Ext.47/3, Ext.45/4 on the seizure lists. So far as the seizure of the 'motorcycle' involved in the alleged crime is concerned, it is ascertained from the case record that on 27.03.2019 the I.O. (P.W.52) had seized the Yamaha bike from the exclusive possession of the accused Sanjeev Kumar Prusty and prepared the seizure list vide Ext.50 in presence of the independent witnesses

i.e P.Ws.46 and 50. It is also noted that on the same date, he had seized one black colour Honda Ignitor bike from the exclusive possession of the accused Ajit Kumar Prusty and prepared the seizure list vide Ext.51 in presence of the independent witnesses i.e P.Ws.46 and 50. It is ascertained from the evidence of the I.O. that he had seized the said motor cycles from the accused persons namely, Sanjeev Kumar Prusty and Ajit Kumar Prusty as well as another motorcycle from the spot used by the accused Alekha Prusty vide Ext. 50 and another motorcycle from Aruna Prusty vide Ext.36/1. He has sent the requisition to the R.T.O., Keonjhar vide Ext.69 with regard to four numbers of motor cycles for establishment of the ownership of the seized vehicles. The R.T.O., Keonjhar has submitted the report vide Ext.70 which clearly reveals that seizure of vehicle with regard to the registration number OD-09-L-3276 belongs to Alekha Prusty. The said motorcycle was found near Brahmanidevi Dam and the accused Sanjeev Kumar Prusty and Purna Chandra Boitei identified the spot of recovery. As per the prosecution, the said motorcycle was used by the accused Alekha Prusty. So far as the Ignitor motorcycle bearing Regn. no. OD-34-A-0670 is concerned, the

registered owner of the vehicle is one Sunil Kumar Das. After seizure, the said Sudam Charan Patra had received the vehicle as well as documents in zima vide Ext.45/A and Ext.46. However, the I.O. had also seized the said vehicle from the possession of the accused Ajit Kumar Prusty vide Ext.51. The Ignitor motorcycle Regn no. OD-09-B-7376 is registered in the name of Aruna Prusty. It is also noted that the vehicle in question seized from the possession of the accused Sanjeev Kumar Prusty is without having any registration number.

So far as the recovery and seizure of 'mobile phones' are concerned, on 27.03.2019, the I.O. had also seized the wearing apparels along with the Oppo mobile phone of the accused Sanjeev Kumar Prusty from his possession and prepared the seizure list vide Ext.33 in presence of P.Ws.17 and 51. On the same day, he had also seized the wearing apparels along with the Samsung mobile phone of the accused Sanjeev Kumar Prusty from his possession and prepared the seizure list vide Ext.33 in presence of P.Ws.17 and 51. On the same date, he had seized the wearing apparels as well as mobile phone of the

accused Aruna Prusty and prepared the seizure list vide Ext.41 in presence of P.Ws.31 and 35. On the same date, he had seized the wearing apparels and one mobile phone from the CCL Pramod Kumar Das and prepared seizure list vide Ext.47 in presence of P.Ws.37 and 42. On 03.04.2019, he had seized the wearing apparels as well as mobile phone from the accused Alekha Prusty and prepared the seizure list vide Ext.45 in presence of P.W.33 and P.W.37.

It is ascertained from the investigation of the I.O. that, he had sent requisition to Service provider i.e. Reliance JIO Infotech Ltd., General Manager of B.S.N.L., Bhubaneswar, Bharati Airtel Ltd. for providing SDR, CDR, CAF and certificate u/s. 65-B of Indian Evidence Act. He has also sent the mobile phones to SFSL, Bhubaneswar as well as DFS, Gujarat. The Nodal Officer, Bharati Airtel Ltd. has submitted the information along with the certificate u/s. 65-B of the Indian Evidence Act vide Ext.79 as per the requisition of the I.O. which reveals that the accused Ajit Kumar Prusty is the customer of Airtel having existing mobile no.9853686568. The Nodal Officer of BSNL has submitted the CDR and CAF of



the mobile nos. 8895791960, 9437267539, 9437500898 and 8895123888 along with the certificate u/s. 65-B of the Indian Evidence Act vide Ext.80. Further the report of the DFS, Gujarat vide Ext.86 reveals that the mobile no.9337229958 was registered as whatsapp account number and Pramod Das was registered as whatsapp account name. The Annexure vide Ext.88 which is the extraction from the Samsung mobile reveals the sending of pictures of the cut hands of the deceased to two different numbers. The SFSL, examination report vide Ext.91 reveals that the mobiles of the accused persons namely, Chilu @ Sanjeev Kumar Prusty as well as Purna Chandra Boitei have applications of whatsapp, facebook for multimedia transfer and the incriminating materials i.e. video as well as photographs are available with regard to the crime.

So far as the recovery as well as seizure of the 'weapon of offence' is concerned, on 27.03.2019, the I.O. had seized iron bhujali from the accused Sanjeev Kumar Prusty and prepared the seizure list vide Ext.56 in the presence of P.W.49. On the same date, the I.O. had seized one *talwar kata* from the

accused Purna Chandra Boitei and prepared the seizure list vide Ext.55 in presence of P.W.49. On 28.03.2019, the I.O. had seized one sword from the CCL Pramod Kumar Das and prepared the seizure list vide Ext.5/1 in presence of P.W.1 and P.W.3. It is noted that the weapon of offence were concealed by the accused persons and discovered at their instance. The accused persons namely, Chilu @ Sanjeev Kumar Prusty and Purna Chandra Boitei confessed the guilt and led the police to the spot where they have concealed the weapons in presence of the witnesses.

All the seizure witnesses have categorically stated about the seizure of the said motor cycle, wearing apparels, mobile phone, weapons of offence i.e. *bhujali*, *kata* and sword from the accused persons in their presence. However, any deficiencies or irregularities in investigation need not necessarily lead to rejection of the case of the prosecution when it is otherwise proved. It is settled principle of law that for the default of investigation by the I.O. no benefit can be given to the accused. In the case of defective investigation, the court has to circumspect in evaluating the evidence, but it would not be right in

acquitting an accused persons solely on account of the defect. Law is well settled that the investigating officer has no obligation to obtain the signatures of the accused persons, but obtaining such signatures is also not illegal. I relied upon the decision of the Hon'ble Court in ***State of Rajasthan Vrs. Teja Ram and others reported in 1999 CrLJ 2588***. The resultant position is that the investigating officer is not obliged to obtain the signature of an accused in any statement attributed to him while preparing seizure memo for the recovery of any article covered by Sec. 27 of the Indian Evidence Act. But, if any signature has been obtained by the investigating officer, there is nothing wrong or illegal about it.

In this case, the evidence of the prosecution witnesses as well as the documents relied upon by the prosecution are well founded, decisive and adequate. Hence, no benefit can be given to the accused persons in this regard, for commission of such crime and the point raised by the learned defence counsel is not accepted.

**15.** The learned defence counsel questioned the entire prosecution case on the ground that the

confessional statements of the accused persons were not recorded as per law and further submitted that the discovery of weapon at the instance of the accused persons are doubtful.

The learned defence counsel argued that in leading to discovery, PW-49 is the only independent witness who is a witness to the confessional statement of accused Chillu & Dola but in Para-11, he had stated that he was not called by police to the place of recovery and out of curiosity he went to place of recovery. It is contended by the learned defence counsel that neither the I.O. (PW-52) nor the independent witness (PW-49) has stated that, the accused led the police and the witnesses to place of concealment and gave recovery of the weapon of offences and in absence of such circumstances, the evidence with regard to leading to discovery is not backed by law.

On the other hand, the learned Addl.P.P. objected the point raised by the defence and submitted that, the law is well settled that the facts relevant u/s-27 of Indian Evidence Act 1972 are (a) the place from

where the discovery was made (b) the articles recovered in consequence of such information and (c) the knowledge of the accused person as to existence the above facts. He contended that the accused persons namely, Sanjeev Prusty and Purna Chandra Boitei while in police custody confessed the guilt and their statements were recorded by the I.O. vide Exts.-53/1, 54/1 who disclosed before police that they have thrown the cut hands of the deceased in Brahmanidevi Dam and shown the place where they concealed the weapons and the I.O. had recovered the cut hands as well as the weapon of offence at the instance of the accused persons for which it can be said that the discovery was made on the strength of information obtained from the accused persons.

The learned Addl. P.P. also relied upon the decision of the Hon'ble Apex Court in the matter of ***Praksh Chand V. State reported in AIR 1979 SC 400; 1979 Cr LJ 329; (1979)3 SCC 90***, where it was held that “*the evidence simplicities, that an accused led a Police Officer and pointed out the place where the weapons which might have been used in the commission of offence were found hidden, the*

*incriminating article is hidden, would be admissible as conduct, under section 8 of the Indian Evidence Act, irrespective of whether any statement by the accused contemporaneously with or antecedent to such conduct falls within the purview of section-27 of Indian Evidence Act.”*

After careful analysis of the evidence on record, it is noted that on 27.03.2019, the I.O. apprehended the accused persons namely, Sanjeev Kumar Prusty, Purna Chandra Boitei and Ajit Kumar Prusty near the jungle of Badaekatali. The I.O. has recorded the confessional statements of the accused persons namely, Sanjeev Kumar Prusty and Pruna Chandra Boitei u/s. 27 of Indian Evidence Act vide Ext.54/1 and 53/1 respectively. As stated by the accused Sanjeev Kumar Prusty regarding the place where he has thrown the cut hands of the deceased, the I.O. proceeded to Brahmanidevi Dam for leading to discovery. The I.O. directed the fire staff for search of the said hands from Brahmanidevi dam. In presence of the witnesses i.e. PWs.8, 9, 13, the cut hands of the deceased were recovered from the said dam. It has been specifically stated by the said witnesses that

P.W.9 has recovered the two human cut hands from the said dam and the same were handed over to the police. Further it is ascertained from the evidence of the I.O. that, as per the statement of the accused Sanjeev Kumar Prusty he discovered the *Bhujali* which was concealed by him after the commission of crime and he seized the same vide Ext.56. The seizure list vide Ext.56 reveals that the accused Chilu @ Sanjeev Kumar Prusty had concealed the said *bhujali* inside one bush near the Brahmanidevi dam and the same was recovered from that spot in presence of the witnesses. The I.O. has also stated that the accused Purna Chandra Boitei led him to the place of concealment where he discovered one *talwar (kata)* and he prepared the seizure list vide Ext.55. Ext.55 reveals that the accused Purna Chandra Boitei had concealed the said *bhujali* under one stone which is in the North side of Brahmanidevi dam and the same was recovered from that spot in presence of the witnesses. The confessional statement of the accused persons were recorded in presence of the witnesses i.e. P.W.49 who has also stated that the said accused persons confessed their guilt and disclosed how they killed the deceased. He has also admitted about his signatures on the

confessional statement vide Ext.53 and Ext.54. The independent witnesses i.e. P.Ws.1, 3, 49 have described about the recovery of the weapons and P.Ws. 8, 9, 13 and 14 are the witnesses of recovery of the cut hands from Brahmanidevi dam. The I.O. had sent the weapons to the medical officer for query and opinion vide Ext.24 and the medical officer has submitted the opinion with regard to the query vide Ext.25. The said report clearly reveals that the injuries of the deceased can be possible by weapons which were seized and the said weapon can cause the death of human being. The I.O. had also sent the seized articles to SFSL, Bhubaneswar for chemical examination and DNA report vide Exts.65, 66, 67, 68. The chemical examination report vide Exts.71, 72 and the DNA report vide Ext.73 of SFSL, Rasulgarh were received. The DNA report clearly indicates that, the DNA profile generated from the cut hands of the deceased are matching with the blood from the yamaha bike and the blood from BHUJALI and blood from talwar. Further the DNA profile of the cut portion of blood stained T-shirt of the accused Sanjib Kumar Prusty is matching with the DNA profile of the cut hands of the deceased. The accused persons cited no defence for the



availability of blood stain on the Yamaha bike, on the weapons recovered as per their disclosure as well as on the wearing apparels of the accused Sanjeev Kumar Prusty. In these circumstances by virtue of Sec. 8 of the Indian Evidence Act, the conduct of the accused persons are relevant. Accordingly, it is proved that the alleged weapon of offences were used for assaulting the deceased.

Keeping in view of the above discussion, it is ascertained that the accused persons namely, Chilu @ Sanjeev Kumar Prusty and Purna Chandra Boitei while in police custody confessed their guilt and led the police and witnesses where the weapons were concealed and the place where they have thrown the cut hands of the deceased. Hence, those were recovered at their instance. The circumstances of leading to discovery is not doubtful. It is settle principle of law that if any fact is discovered in a search made on the strength of any information obtained from the accused persons, then the portion of the information which relates distinctly or strictly to the fact thereby discovered can be proved and admissible. The information admissible must depend on the exact

nature of the fact discovered to which such information is required to relate. In the present case, the accused persons have not taken any plea that the statements were made under threat or coercion. In this circumstance, it can be said that those were made voluntarily. It is also noted that the statements does not suffer from any material discrepancies and improbabilities. The discovery of cut hands and weapon of offence at the instances of the accused persons are admissible. Hence, in the present case the recovery of the weapons as well as cut hands of the deceased are relevant fact and can be relied upon and draws presumption of the guilt against the accused persons. Accordingly, the point raised by the learned defence counsel in this regard is not accepted.

**16.** The learned defence counsel questioned the authenticity as well as genuineness of the chemical examination report and DNA report of the SFSL, Bhubaneswar. As per the defence, the forensic evidence was not proved scientifically and legally for which it cannot be used as circumstance against accused persons and the court has not examined the scientific officer as to ascertain whether techniques

were reliably applied by expertal reports regarding DNA profiling. He also relied upon the judgment of the Hon'ble Apex Court in the matter of **Rahul Vrs. State of Delhi Ministry of Home Affairs and Anr** reported in (2023) 89 OCR (SC)- 453, where it was held that “Neither Trial Court nor High Court examined underlying basis of findings in DNA reports nor they examined fact whether techniques were reliably applied by expert. In absence of said evidence, all reports regarding DNA profiling become vulnerable. Forensic evidence was neither scientifically nor legally proved and cannot be used as circumstance against accused”.

The learned Addl. P.P. argued that the chemical examination as well as DNA report were prepared by the experts for which there is no question of any doubt about genuineness of the reports and it is fully acceptable. He also relied upon the decision of the Hon'ble High Court of Orissa in the matter of **Benu Bag Vrs. State of Odisha** reported in (2020) 77 OCR-705, where it was held that “Evidence Act, 1872. Section-3 Related witnesses. Hostility of witnesses not proved. Evidence gets corroboration from recovery of

*weapon of offence MOI- Matching of blood group as per chemical examination report (Ext.15). Accused unable to explain blood stain on his wearing apparels. Held, conviction of appellant warrants no interference”.*

So far as the chemical examination report as well as the DNA report is concerned, in the course of investigation, the I.O. had seized the wearing apparels and biological samples of the deceased (Ext.39) and all the accused persons vide Exts. 40, 41, 42, 44, 45, 34, 33, 32. He has also seized the blood stain earth, blood stain stone from the first spot of occurrence, vide Ext.6, the blood stain earth and sample earth, from the first spot of occurrence vide Ext.8, black colour Hero Igniter vide Ext.51, blue colour Yamaha bike vide Ext.50, maroon colour Honda LIVO bike vide Ext.61, sample blood in gauze from black colour Hero Ignitor and blue colour yamaha bike vide Ext.9, one red colour Hero Igniter vide Ext.36/1, weapons of offence i.e. *bhujali* vide Ext.56, *talwar (kata)* vide Ext.55, sword (Ext.5/1), sealed the plastic jar containing body part of cut hands of the deceased vide Ext.38, sample blood of the wife and daughter of

the deceased in FTA cards (Ext.20). Keeping in view of the discussion made in the previous paragraphs, the prosecution has proved all the seizure lists. The Scientific Officer (P.W.14) along with his team has visited the spot and prepared the spot visit report vide Ext.10 and collected the physical evidence from the spot no.1 and spot no.2. He has also submitted the declaration certificate vide Ext.11. The detail of the spot visit i.e. 23 nos. of photographs of three times spot visit of the I.O. and scientific team have been kept in the form of C.D. vide Ext.13. The photographs show the blood stained mark on the earth of the spot, slippers, look like one part of mouth gum attached with teeth and blood stained leaf, blood stained stone, spot of occurrence, front side house of the deceased, number plate of the vehicle, motor cycles, blood patches. The I.O. had sent the blood samples in gauze from Hero Igniter bike and Yamaha bike to DFSL, Keonjhar. The DFSL, Keonjhar has submitted the chemical examination report vide Ext.12 and opined that *“the I.O. is advised to send the marked exhibits to SFSL, Bhubaneswar for further chemical examination and opinion. Further the I.O. is advised to collect the photographs of the examined vehicles from this office”*.

To ascertain whether the blood stain available in the motor cycle, clothes of the accused persons are tallied with the blood sample of the deceased and the DNA profile generated from different exhibits tallied with the blood sample of the deceased, the I.O. had sent the exhibits to the Director of SFSL, Rasulgarh, Bhubaneswar through the learned NGN, Ghasipura for examination report vide Ext.65. After examination, the SFSL, Bhubaneswar has submitted the examination report vide Ext.71 and the serology division of SFSL, Rasulgarh, Bhubaneswar vide Ext.72 which reveals that human blood were found in blood stained earth, blood stain chappal, blood stain stone, blood stain leaves, wearing apparels of the deceased, wearing apparels of the accused Sanjeev Kumar Prusty, *bhujali, talwar*, sample blood from Ignitor and Yamaha bike. The DNA examination report of the SFSL, Bhubaneswar vide Ext.73 reveals that the source of Ext.C9X (tissue sample from the cut hands of the deceased) is the biological father of Minarani Behera (informant). Further the DNA profiles of the cut portion of blood stain of the deceased, blood stain trouser of the deceased, from the *chappal* on gauge

cloth, blood from Yamaha bike on gauge cloth, blood from *bhujali* on gauge cloth, blood from *talwar* on gauge cloth are matching with each other and also with the DNA profile of tissue sample from the cut hands of the deceased. It further reveals that the alleles generated in the DNA profile from the Ext.C9X are consistently available at the corresponding autosomal STR loci of the mixed DNA profile generated from the cut portion of blood stain jeans of the accused Sanjeev Kumar Prusty. The DNA profile of the cut portion of blood stain earth T- shirt of the accused Sanjeev Kumar Prusty is matching with the DNA profile of Ext.C9X.

The report of the SFSL, Bhubaneswar reveals that the exhibit seized articles were examined by the experts. The report is found to be of full and complete. The report contains the reasoning for arriving at a particular conclusion and discloses the test of experiment performed by the chemical examiner and the factual data reveals by such test and the reasons which laid the chemical examiner to form his opinion. The report consists the details of description along with the nature and origin of the stain. Further the method of examination has been elaborated in Ext.73. The table

showing the genotypes of extracted DNA has also been prepared and submitted to the court vide Ext.73. The table of comparison of DNA profile of exhibits have also been affixed. The observation of the examiner has also been elaborated in the said report. The report of the chemical examiner shows the factual data and test and reason leading to the opinion in his report. Hence, the report is of value as a piece of evidence. Sec.45 of the Indian Evidence Act enumerates the cases in which the expert evidence to be admitted. The said section provides that when the court has to form an opinion upon a point of science, the opinion upon that point of persons specially skilled in science are relevant fact and can therefore, be received in evidence. The DNA evidence is in the nature of opinion evidence as envisaged u/s. 45 of the Indian Evidence Act and the opinion of the chemical examiner is admissible in evidence. The chemical examiner is a Govt. expert witness and can observe things, analyse the data, draw conclusions and form an opinion, which can be admitted by the court even in his absence. In forensic science laboratory, all the scientific officers have been declared as chemical examiner for which their opinion can be admitted to the court without their attending the



same u/s. 293 of CrPC. It is the settled principle of law that the forensic science laboratory report need not be proved by calling its Director as it is a public document u/s. 293 of CrPC. Hence, there is no requirement to call the Director or examiner of that laboratory who examine or tested the exhibits and submitted the report. The DNA evidence is properly documented, collected, packaged and preserved in this case. Considering the detail materials available in the DNA report, it is felt that the report submitted by the scientific officer is comprehensive without any flaws. Hence, the decision of the Hon'ble Court as submitted by the learned defence counsel is not applicable to the factual matrix of this case.

The defence cited no defence with regard to the availability of the blood stain on the wearing apparels of the accused Chilu @ Sanjeev Kumar Prusty, on the motor cycles and on the weapons of offence i.e. *bhujali* and *talwar* which are tallied with the DNA profile of the cut hands of the deceased. The prosecution has well proved by relying upon the chemical examination report that the accused persons are involved in the death of the deceased.

17. The prosecution has relied upon the digital documents i.e. DVD as well as the compact disc which are generated by some mechanical or electronic process from the mobile phones.

The learned defence counsel argued that the copies of the compact disc, DVD were not supplied to them for which the same should not be accepted. He also relied upon the decision of the Hon'ble Court in the matter of ***P.Gopal Krishna @Dileep -V- State of Kerala & Anr, reported in 2020-O.C.R-Vol-77*** and argued that law envisages rightful opportunity must be given to them to make out their rightful defence.

In this regard, the learned Addl. P.P. has submitted that, as the digital documents were received by the court from SFSL, Bhubanewar as well as DFS, Gujarat during the trial, one memo has been filed by him before the court for display the same for verification and inspection by the defence counsel for not causing any prejudice to them. But the learned defence counsel has filed a memo before the court that, the defence does not want to inspect the disc prior to

the examination of the I.O. More so, the videos were displayed before the Court much prior to the cross-examination of the witness. Further, argued that the plea taken by the defence should not be taken into consideration.

On perusal of the case record, it is noted that the charge sheet was submitted by the I.O. on 22.07.2019, but he has not submitted the disc as well as the DVD vide Ext.84, 85, 89 and 90. In the course of trial, the said digital documents were received from SFSL, Bhubaneswar and DFS, Gujarat for which the copies of the same were not provided to the defence before the commencement of trial. The learned Addl. P.P. has filed a memo by stating that as the prosecution is unable to provide the copy of the said digital evidence to the defence, suitable direction may be given to the defence to inspect the contents of the said document prior to the examination of the I.O., but the learned defence counsel has filed a memo of objection and also another memo by stating that the defence does not want to inspect the said disc prior to examination of the I.O. However, the videos in the compact disc and DVD were displayed in the court on 17.08.2023 as

well as 18.08.2023 and the same were verified and inspected by the learned defence counsel as well as learned Addl. P.P. The contents of the same were recorded in the evidence in the course of trial and the certified copies of the same were given to the defence. The digital documents were inspected by the learned defence counsel on 17.08.2023 and 18.08.2023 and he cross-examined the I.O. with regard to the said digital documents on 06.10.2023. Hence, in these circumstances, even though the copies of the DVD and the compact disc were not supplied to the defence counsel, but the same were displayed and verified by the defence counsel much prior to the cross-examination of the said witness who produced and proved the same before the court. The proviso of Sec. 207 of CrPC says *“provided further that if the Magistrate is satisfied that any document referred to in clause(v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court”*. Law is well settled that the copies of the documents must be supplied to the accused but if the document is voluminous or the copies cannot be prepared, then the accused can be permitted to take

inspection of the concerned document either personally or through his pleader in the court. In the present case, the defence has thoroughly inspected the documents much prior to the cross-examination of the said witness.

In this regard, examining the proposition from that perspective, I conclude from an analysis of the extensive cross-examination resorted at the behest of the accused persons including their responses during examination u/s. 313 of CrPC that, the accused persons were fully aware of the contents of the digital documents which were displayed and inspected by them in the Court prior to the cross-examination and had effectively defended themselves by cross-examining the witnesses and replying to the questions posed to them u/s. 313 of CrPC. Hence, the plea taken by the learned defence counsel is not taken into consideration.

**17.1.** So far as the contents of the mobile phones of the accused persons as well as the informant is concerned, the I.O. had seized the mobile phones of the accused persons namely, Sanjeev Kumar Prusty

vide Ext.32, Purna Chandra Boitei vide Ext.33, Aruna Kumar Prusty vide Ext.41, CCL Pramod Kumar Das vide Ext.47, Alekha Prusty vide Ext.45 and the mobile phone of Debajani Behera vide Ext.49. He has sent the Samsung mobile phone of CCL Pramod Kumar Das to DFS, Gujarat with a prayer to extract all the videos from 24.03.2019 to 27.03.2019 along with other details and opinion vide Ext. 67. He has sent the mobile phones of Debajani Behera and the Samsung mobile of Purna Chandra Boitei as well as the Oppo mobile phone of Sanjeev Kumar Prusty to SFSL, Rasulgarh, Bhubaneswar for examination vide Ext.68 and Ext.66 respectively.

After examination of the mobile phone of Debajani Behera, the cyber forensic division has filed the report vide Ext.82 along with the physics division, SFSL, Bhubaneswar which reveals that *“one questioned video content is found in the extract data and it is found to be in continuity and there is no sign of addition, deletion or alteration could be found in its present content”*. The video along with the corresponding software generated report is written in the folder burnt into a CDR marked as 77 CYF-19-CD.

The Compact disc vide Ext.90 is received from SFSL, Bhubaneswar and the said video shows the conversation between the deceased as well as Minarani Behera (voice of Minarani identified by the I.O.). Minarani Behera was asking leading questions to the deceased and the deceased answered the same by shaking his head (lifting his head up and down).

On verification of the video, it is seen that the deceased was very serious and unable to speak for which the informant was asking the leading questions with regard to the assault to the deceased. It is noted that the informant was suggesting the name of the accused persons i.e. Chilु @ Sanjib Kumar Prusty, Nira Prusty and asked whether they have killed the deceased and also asked i.e. whether Chilु Prusty and Nira Prusty came to their house and called him outside. The said video reveals that the deceased was answering the questions by lifting his head up and down. The learned defence counsel argued that no certificate u/s. 65-B was issued for this DVD and it is not admissible. In this regard, the learned Addl. P.P. argued that no certificate u/s. 65-B is required with regard to Ext.90, as the original phone was produced before the Court as

primary evidence.

Admittedly, no certificate u/s. 65(B) of Evidence Act has been issued by the scientific officer/ appropriate authority for Ext.90. However, the original mobile phone was produced before the court vide M.O.- XXIV which contains the video as per Ext.90. Where a video is record on a mobile phone, the production of the very mobile phone is primary evidence. To buttress the contentions, reliance is placed on the decision of the Hon'ble Apex Court in the matter of **State of Karnataka Vrs. T. Naseer @ Nasir @ Thandiantavida Naseer @ Umarhazi @ Hazi** reported in **2023 (4) Crimes 228 (SC)** , where it was held that *“Certificate under Section 65B of the Act is not required if electronic record is used as a primary evidence- Certificate under Section 65-B of the Act is unnecessary when original document (primary evidence) itself is produced”*.

In the present case, the mobile phone having the original video was produced as primary evidence. Hence, in these circumstances, the plea taken by the defence is not taken into consideration.

Now the question is whether the said



declaration/conversation of the deceased can be accepted and relevant in this case. If it is established that at the time of giving the statement, the deceased was in fixed state of mind to make such declaration and such declaration is trustworthy then the conversation of the informant as well as the deceased can be admissible in evidence. The I.O. has sent the requisition to the medical officer for query report with regard to the mental condition of the deceased and the medical officer vide Ext.81 opined that as per the video shown to him, he could not judge the mental state of mind of the said person at the time of videography. Hence, no opinion was formed by the medical officer in this regard. However, the video was displayed in the open court. The court is the expert of expert in view of the provision u/s. 73 of Indian Evidence Act. As no opinion was received, this court has formed the opinion considering the contents available in the video. The said video in Ext.90 has been analyzed, scrutinized and read it in conjunction with the other evidence on record. The Court is satisfied that at the time of recording of the conversation of the deceased with the informant, the deceased was free and right state of mind and able to understand the questions put to him.

Hence, the conversation cannot be discarded and it is acceptable.

So far as the relevancy as well as the admissibility of the said statement is concerned, it is noted that the paraphonia of dying declaration as per the provision u/s. 32(1) of the Indian Evidence Act has not been strictly complied with in this digital document. But considering the concept of the dying declaration, it can be said that the conversation of the deceased with the informant can be taken into consideration. Law is well settled that, the declaration may be in written form, verbal form, gesture and sign form. If the injured person is unable to speak, he can make declaration by signs or gestures in response to the question. The legal maxim "*nemo moriturus praesumatur mentire*" is a well known principle of law which means "*a man will not meet his maker with lie in his mouth*". It is also said that "*truth sits on the lips on a person who is about to die*". The sign language of the deceased shows in the video are prominent and clear. The questions which were put to the deceased were simple and the mode and gesture shown by the deceased is understandable. It is ascertained that he

was answering the questions by lifting his head up and down. In general sense, lifting up and down is considered to be an affirmative answer and moving the head right to left or left to right is considered to be negative/disagreement. In the present case, the movement of the head of the deceased indicates “*nodding with an agreement*”. The victim is exclusive eye witness and hence such evidence should not be excluded. More so, the entire conversation of the deceased cannot be discarded when it corroborated with the testimonies of the other prosecution witnesses as well as material available in the record. Accordingly, the conversation between the informant with the deceased by gesture which are also corroborated with other evidence in the record is relevant and admissible.

**17.2.** The learned defence counsel argued that since the mobile of accused Chillu had no SIM and since there is no proof that the seized mobile is of Chillu, the photographs derived from that mobile cannot be said to be the photo picture of accused Chillu and to put an end to the investigation the possibility of dramatized version of Ext-P-84 cannot be ruled out.

Admittedly, the mobile phone which was seized from the possession of the accused Sanjeev Kumar Prusty is having no SIM but in this regard, it can be said that the mobile phone contains the memory card of the phone itself as well as memory in the SIM card. The examination report vide Ext.91 clearly reveals that the SIM card slot and micro sd card slot were empty and the video along with the metadata were extracted by “logical (full read)” extraction method by using “XRY ver.10.1.0” and analyzed by “XRY ver.7.0.0” and burnt into CD-R. In these circumstances, the point taken by the learned defence counsel is not taken into consideration.

**17.3.** The learned defence counsel argued that the contents of the video available in Ext.84 and Ext.85 are fake and not genuine for which it should not be accepted.

In this regard, the learned Addl. P.P. has submitted that, the digital documents produced by the prosecution in this case are relevant and admissible as the certificates u/s. 65(B) of Indian Evidence Act were issued by the appropriate authority with regard to Ext.84, Ext.85 and Ext.89 for acceptance.

It is ascertained that, the S.F.S.L., Rasulgárh cyber division and physics division have submitted the examination reports vide Ext.91 and Ext.92 with regard to the mobile phones i.e. Samsung and Oppo of the accused persons Chilú @ Sanjeev Kumar Prusty and Purna Chandra Boitei as well as one CDR which reveals that *“one video content is found to be present in the extracted data of both the mobiles and the same burnt into a CDR marked as 78-CYF-19-CD. The opinion of the physics expert is that the video file in folder in both the mobiles are found to be in continuity and no sign of addition, deletion or alteration could be found in its present content”*.

The compact disc vide Ext. 84 (78-CYF-19-CD) contains two folders. One folder contains five number of pictures/ photographs i.e. two photographs containing of one *bhujali* along with the wearing apparels of one of the accused, one photo shows that Sanjeev Prusty and one CCL are sitting with five number of weapon of offence used in the commission of the crime, one photo shows that one CCL is holding one sword and the accused Chilú @ Sanjeev Kumar

Prusty is holding one *bhujali* along with four numbers of the weapon of offence and the pictures were collected from whatsapp media. One video is also there in the said folder of the compact disc which reveals that, the accused Chilú @ Sanjeev Kumar Prusty was cutting/chopping the cut hands of the deceased into many pieces and the said video was extracted from the mobile phone of the accused Chilú @ Sanjib Kumar Prusty. The video of the said compact disc shows that the accused persons were shouting and abusing and they were also discussing that they have taken revenge from their ancestral family members and while chopping the hands, they were talking with each other. The conversations of the accused persons are “*MAGIHA ROLE KARIBA, DEKHABE, START HELANA, RAHABE, ETA ANDHARA DISUCHHI, AAU DEETA FLASH MARUNU, DEKHA ETHARA PURA CLEAR AEELA, MO MUHAKU AGE MAR, MU KUTAUCHHI CHILU PRUSTY, EEADE MAR, RAGIBU, RAGIBU, RAGIBU, MAGIHA, RAGIBU MAGIHA, RAGIBU, PIECE PIECE KARIDIA, PIECE PIECE KARIDIA, CHHITAKU THIBA CHHITAKU THIBA, TAMA GHARE KAHIDIA PRAMOD BHULI JAANTU, MATE KAHIDEISARILENI MAMU PHAMUKU, SANDHA MAGIHA RABANA, RABANA MAGIHA, PHOTO UTEIBA MAGIHA KUTEICHHANTI, VIDEO RECORDING KARA, GOTE RECORDING GOTE PHOTO, GOTE PIECE SINA ETA HATA,*

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

ETA TA ANGULI, AEI DEKHA KOU BHALIA UDUCHI, BHAIRE SABU RAGA SUJHIGALA, PURBA PURUSARA RAGA SUJHIGALA, SABU SUJHEIDIA, KICHHI NAHIN SABU SUJHIGALA, ENTA GEHIBI, JAIL JIBI, KAHITHILI NA BE TINIDINA PURBARU AEE PRAMOD THILA KHELA KARIDEBI, PRAMOD KAHITHILI NA, HAN, KANA KAHITHILI, MAGIHA, KOU MAGIHA, KHASI MANSA BHALIA LAGUCHI BE, KASIKI KHAIBA, DHOIKI KHAIBA, MU RAMA BEHERA THARU GUNDI DUI THARA KHAICHHI SETHIPAIN TARA BISWAS TA HEIGALA NA AU, MATE THANDA DEICHHI PEETE, NAHELE HEITHANTA NA, THANDA DEIKI GEHIBU TA MAA KU, TA MARIJAICHHI, TA JHIAKU AISWARYA RANI KU GEHIBU, YA PARE NILAM KARIBA MAGIHA KU, ETE AISWARYA RANI DEKHEI HEUCHHI, PANI KU PHINGI DIA, TU BHARI CHHODI HEIKI KAHUTHILU KHAI DEBU BOLI, KAHUTHILI KHAIBA PAIN MATIRE MISIGALANI, MO BANDA TA KHAIBU TU, MU KHAIBI ETA MISA, DHOI DHAIKI KHAIDEBA, SOMA BARE JADI DHOI DHAIKI FRIDGE RE RAKHI DEBA RAKHIDIA, RECORD BE, RECORD BE, MAGIHA RECORD, MAGIHA RAMA BEHERA HATA DUITAKU KHAIDEBA, KHAIDE MAGIHA KU, SUNA ETA SABU THULA, SABU POKHARIKU PHINGA, ERA ERA MO BANDARA, SEI THULAKU KHAIDEBA KAHUTHILA, ETA SABU DHOIKI RAKHIBA RAKHA NAHELE PHINGA PHINGA etc.”

It is ascertained from the evidence of the I.O. as well as from Ext.88 i.e. Annexure -A issued by

the Directorate of Forensic Science, Gujarat that the detail information and data of the mobile phone along with the photographs were recorded from the mobile phone of one CCL and then it was sent to the mobile phone of the accused Chilu @ Sanjeev Kumar Prusty.

Another folder of the said compact disc contains another picture as well as one video which were collected from the mobile phone of the accused Dola @ Purna Chandra Boitei and the picture/ photograph shows that one person is holding the cut hand and the video shows that “the accused Chilu @ Sanjeev Kumar Prusty was chopping the cut hand of the deceased. The accused Chilu @ Sanjeev Kumar Prusty was identifying himself as Chilu Prusty and thereafter, he was cutting the palm by a *bhujali* and thereafter, he had taken one piece of the cut hand into his mouth”. The contents of the compact disc vide Ext.85 which was extracted from the mobile phone of Purna Chandra Boitei are the same as Ext. 84.

So far as the genuineness as well as the relevancy of the digital documents is concerned, I relied upon the decision of the Hon'ble Apex Court in



**Arjun Pandit Rao Khotkar Vrs. Kailash Kushanrao Gorantyal and others 2020 (7) TMI 740 SC** where it was held that *“electronic recordings require a certificate under Section 65B (4) of the Evidence Act (“Act”) to be accepted. The certificate acts as verification of the identity of an electronic record and contains information on any equipment used in its creation”*.

With regard to the compact disc vide Ext. 84 and 85, a certificate was issued u/s. 65-B of Indian Evidence Act by the cyber forensic division, SFSL, Bhubaneswar vide Ext.93. Further, certificate u/s. 65-B(4)(c) of Indian Evidence Act was issued by the Scientific Officer, DFS, Gujarat vide Ext.87 with respect to the DVD vide Ext.89. The certificate was given by the responsible official person in relation to the operation of the relevant device. Ext.93 reveals that the issuing authority certified that she is the authorized system administrator, identify the electronic record and the manner in which it was produced and she is aware of the device involved in the production of that electronic record which was produced by the computer. The certificate vide Ext.87 reveals that the issuing

authority had certified that “*the conditions as laid down in section 65B (2)(a) to 65B (2)(d) of the Evidence Act, 1872, regarding the admissibility of the aforesaid contents of hard copy and soft copy in respect of the retrieved data are fully satisfied. The details, as stated in the report, are true to the best of his knowledge and belief*”. The certificate required u/s. 65-B is a condition precedent to the admissibility of evidence by way of electronic record. In the present case, the contents of the DVD as well as the compact disc vide Ext. 84 and Ext.85 are admissible as the certificate accompanied the electronic record.

The offshoot of the above discussion is that the contents of the compact disc vide Exts.84 and 85 are the subsequent event after the crime which shows the involvement of the accused persons in the brutal murder of the deceased. The video as well as photograph indicates the preparation and planning of the accused persons to kill the deceased as well as reason for such drastic step. As per the prosecution case, the accused persons went to the house of the deceased and thereafter, called him to outside. One of the accused in the video has stated that, prior to the

occurrence, he took *gundi* from the deceased two times and cold drinks and accordingly, he gained his trust. Hence, the said statements indicates the process how the accused persons gained the trust of the deceased and then on the date of occurrence went to his house and called the deceased from his home to outside where the incident took place. The photographs containing *bhujali* along with five numbers of weapon of offence used for commission of crime. The contents of the digital documents further reveals about the murder of the deceased which is extreme brutal. The conduct of the accused persons clearly indicates about their purpose and planning for the commission of the crime. The accused Chilu @ Sanjeev Kumar Prusty visible in the video who voluntarily confessed about the alleged crime and the audio of the other accused persons also shows their involvement and participation. The accused persons also deliberately recorded the horrifying video to satisfy themselves and after recording, they have transferred the same to other mobile phones. It also reveals that after the incident, they have discussed to eat the cut hands of the deceased by frying the same and by keeping the same in the refrigerator. Further the video indicates about

their previous enmity.

From careful analysis of the entire digital documents available in the record as well as in view of the observation of the Hon'ble Apex Court (*supra*), this Court came to the conclusion that the video and photograph available in the compact disc vide Ext.84 and Ext.85 are genuine and admissible which clearly indicate about the planning and involvement of the accused persons in the commission of the murder of the deceased.

**18.** So far, the motive as well as the intention of the accused persons are concerned, the learned defence counsel has submitted that in the present case, there is absolutely no motive and intention on the part of the accused persons to commit such heinous crime. It is urged that since no injury was found on the vital parts of the body of the deceased and the reason of death of the deceased was hemorrhage and shock, no case of murder is made out against the accused persons. The learned defence counsel further argued that as per prosecution heavy cutting weapons were used in the crime and had there been any intention to

cause murder of the deceased, the deceased could have been beheaded by a single blow and there was no need of assaulting the deceased at various parts of the body. The learned defence counsel contended that the intention might be to allow the person to lead an invalid life and had there been any intention to kill the deceased at the spot fatal blows could have been inflicted on vital organ of the body for which it can be said that the accused persons had no intention or knowledge to cause the death of the deceased.

Per contra, the learned Addl. P.P. contended that the incident took place due to political rivalry and there is clear motive as well as intention of the accused persons to kill the deceased. He relied upon the decision of the Hon'ble Court in the matter of **Sudam Das Vrs. State of Orissa, reported in (2020) 76 OCR**, wherein it was held that *“the prosecution has proved the motive successfully as the accused persons had inimical relationship to take revenge against the deceased”*.

On careful scrutiny of the entire case record, it is evident from the statement of the daughters

of the deceased (PW-47,PW-48 ) that their father was a strong and reputed leader of congress party and the accused persons were belongs to B.J.D. party. Prior to the incident, their father wanted to join in B.J.D. Party and due to such political rivalry, the incident took place. The evidence available in the compact disc clearly reveals about their enmity with the deceased. The contents of the compact disc vide Ext.84 and 82, clearly shows that they have committed murder of the deceased due to previous enmity. More so the evidence of P.W.15 (medical officer) who preliminary examined the deceased reveals that the deceased was absolutely in critical state. The defence is also completely silent with regard to the reason for taking the cut hands of the deceased from the spot. It is seen from the evidence on record that the accused persons deliberately killed the deceased. The conduct of the accused persons in the video indicate their clear motive.

For the conviction under the section more importance has been given to '*mens rea*' or the intention that the '*actus reus*' or '*actual act*' itself. The attempt or commission should arise out of a specific intention or desire to murder the deceased. It is well

settled that the nature of weapon used, the manner in which it is used, motive for the crime, severity of blow are all taken into consideration to determine the intention. It is also held that there was intention on the part of the accused persons to cause the death of the deceased for which they mercilessly assaulted him with the deadly weapons and cut the hands and legs of the deceased. The evidence in the digital document clearly shows that the accused persons intended to kill the deceased.

Having regard to the discussion made above, it is found that the testimony of the eye witness and other prosecution witnesses are trustworthy. Their evidences is clear enough to repose confidence. The testimony of immediate post occurrence witnesses are consistent. The ocular evidence is amply corroborated by the medical evidence. The DNA profile is tallied with the blood stain available on the weapons of offence recovered from the accused persons as well as the wearing apparels of the accused Sanjeev Kumar Prusty. The digital documents extracted from the mobile phones of the accused persons clearly indicates the participation and involvement of the accused

persons with regard to the murder of the deceased. The accused persons are unable to explain the same. I relied upon the decision of the Hon'ble Apex Court in the matter of **Raj Kumar Vrs. State of M.P** reported in **2014 CrLJ 1943** where it was held that *“the accused has a duty to furnish an explanation in his statement u/s. 313 of CrPC regarding any incriminating material that has been produced against him. If the accused has been given the freedom to remain silent during the investigation as well as before the Court, then the accused may choose to maintain silence or even remain in complete denial when his statement Under Section 313 CrPC is being recorded. However, in such an event, the Court would be entitled to draw an inference, including such adverse inference against the accused as may be permissible in accordance with law”*. The defence has not taken any plea of filling the case against them. On the basis of all such chain of evidence of eye witnesses, the evidence of immediate post occurrence witnesses coupled with seizure, medical evidence, query report, inquest reports, post mortem reports, chemical examination report, DNA report and digital documents, it is found that all such chain of events lead to the only conclusion that the



accused persons have committed the murder of the deceased. Thus, it can be safely inferred that they caused death of the deceased with the intention and knowledge to cause death and they have done the act which is sufficient enough in the ordinary course of nature to cause death. More so, the video goes to amply establish the intention of the accused persons and their subsequent barbaric, cruel, heartless and inhuman conduct to satisfy their revenge. The circumstance of this case is definite nature and tendency unerringly pointing towards guilt of the accused persons and form a chain so complete in itself that there is no escape from the conclusion that within all human probability the crime was committed by the accused persons namely, Chilú @ Sanjeev Kumar Prusty, Nira @ Ajit Kumar Prusty, Dola @ Purna Chandra Boitei, Alekha Prusty and Aru @ Aruna Prusty, who committed culpable homicide amount to murder of the deceased Ramachandra Behera by mercilessly assaulting him with deadly weapons.

Hence, considering the entire gamut of evidence, it can be safely held that the prosecution satisfactorily proved the barbaric, blood thirsty and

spine chilling act of the accused persons.

**19.** The accused persons were charged with Sec. 302/120-B of IPC and not charged u/s. 34 of IPC. In this regard, law is well settled that the trial court can find the accused persons guilty for lesser offence even if charge is made for a major offence. Sec.34 of IPC does not create an offence but simply lays down a principle of criminal liability and therefore, it is not necessary to mention in the charge. All the prosecution witnesses have been cross-examined at length from all possible angles and from suggestions that were put to them to the eye witnesses. The prosecution has established by the evidence that there was plan and meeting of minds of all the accused persons to commit the offence 'murder'. In the present case, it is noted that all the accused persons were acting in concert, existence of a pre-arranged plan which is proved from their conduct and from the circumstances and also from the incriminating facts. From the conduct and participation of the accused persons, it is clear that all the accused persons are guilty of murder of the deceased Ramachandra Behera. The learned defence counsel argued that there is no evidence in the record

that the accused persons expressly agreed to do any illegal act for which no offence is made out against the accused persons u/s. 120-B of IPC. In this regard, I relied upon the decision of the Hon'ble Apex Court in the matter of **Mohd. Khalid Vrs. State (2002) 7 SCC 334**, where it was held that “*for an offence u/s. 120-B of IPC, the prosecution need not necessarily prove that the perpetrators expressly agreed to do or caused to be done an illegal act. The agreement may be proved by necessary implications. The offence of criminal conspiracy has its foundation in an agreement to commit an offence*”. The conspiracy of an illegal act can be inferred from the surrounding circumstances and conduct of the accused persons. The I.O. in the course of investigation has recorded the confessional statement of the accused persons in presence of the witnesses and the accused persons disclosed about the involvement of all the accused persons in the commission of murder. P.W.1 has categorically stated that, the CCL disclosed that as per the instruction of accused Ajit Prusty, all the accused persons convened a meeting at the backside of temple of Lord Shiva of village Badaekatali and it was decided to kill Ramachandra and as per their planning, they called

Ramachandra from his house and thereafter, hacked the deceased. P.W.3 in his evidence has also stated that in his presence, the juvenile disclosed that the accused persons convened a meeting at the back side of temple of Lord Shiva situated in their village and made a plan to commit murder of the deceased and further disclosed that they all hacked the deceased by cutting his hands and took away the same and also chopped the hands into small pieces. The photograph in the digital documents vide Ext.84 and Ext.85 indicates the previous planning to use the deadly weapons for such illegal act. The eye witnesses have specifically stated regarding the participation of all the accused persons in the crime. In a planned manner, the accused persons namely, Sanjeev Kumar prusty, Alekh Prusty and Ajit Prusty went to the house of the deceased and called him to outside of his house and thereafter, the other accused persons namely, Arun Prusty and Purna Chandra Boitei came there with the deadly weapons and then all the accused persons murderously and mercilessly assaulted the deceased with such deadly weapons to execute their agreement. There is sufficient evidence that there was an agreement to do an illegal act i.e. commission of murder. Not only there are

evidence that there was an agreement to commit murder of the deceased but also considering the oral as well as documentary evidence discussed in the previous para, the prosecution has well proved that all the accused persons participated in the commission of the murder of the deceased. All the accused persons were involved in the commission of the offence. There was a meeting of minds resulting in ultimate decision taken by the conspirators regarding the murder of the deceased. In the present case, the accused persons executed the agreement made by them. Accordingly, the prosecution has proved that the accused persons have done the illegal act by committing the murder of the deceased and prior to the occurrence, they conspired and agreed to commit the said offence of murder by illegal means.

So far as the charge u/s.302 read with Sec. 34 of IPC is concerned, I relied upon the observation and decision of the Hon'ble Apex Court in the matter of ***Gurpeet Singh Vrs. State of Punjab*** reported in (2005) **12 SCC 615**, where it was held that “*no prejudice could be claimed by the accused merely because charge was framed under Section 302 IPC simpliciter*”

*and not with the help of Section 34 IPC*". I also relied upon the observation and decision of the Hon'ble Allahabad High Court in the matter of ***Phullan and 3 Others v. State of U.P. reported in 2023: AHC- LKO- 75070***. Keeping in view of the discussion made above, the prosecution has proved the major offence u/s. 302 of IPC and it is proved by the evidence that all the accused persons acted with the common intention. In this case, the prosecution has well proved the ingredients u/s. 300/120-A IPC against all the accused persons and proved the case u/s. 302/34 read with Sec. 120-B of IPC.

**20.** So far as the offence u/s. 201 of IPC is concerned, the prosecution has to prove that the accused persons -

- (i) committed an offence;
- (ii) must have the knowledge or reason to believe that an offence has been committed;
- (iii) should have caused disappearance of evidence and;
- (iv) the act should have been done with the intention of screening the offender from

legal punishment or with that intention they should have given information respecting the offence, which they knew or believed to be false.

Keeping in view of the discussion made in the previous paragraphs, the prosecution has already proved that the accused persons have committed the murder of the deceased. After the murderous assault, they took the cut hands of the deceased and after chopping the parts of his hands in different pieces to satisfy their revenge, they have thrown the said parts into Brahmanidevi dam to disappear the evidence. From the evidence available in the record, it is ascertained that the cut part hand of the deceased were recovered from Brahmanidevi dam. The alleged weapon of offence were also concealed by the accused persons with the intention to disappear the evidence. Subsequently, three weapons i.e. sword, kata, bhujali were recovered near Brahmanidevi dam at the instance of the accused persons. More so, the accused persons have shared some photographs, video, information, data and the same were recorded and sent to the mobile phone of the accused Chilú @ Sanjeev Kumar Prusty

and the SIMs of the mobile phone of the accused persons namely, Purna Chandra Boitei, Sanjeev Kumar Prusty, Aruna Prusty, Alekha Prusty were removed by them to disappear the evidence.

Thus looking to the totality and features of the case and keeping in view of the discussion made in the above para, it is clear that the accused persons have committed the murder of the deceased by assaulting him with bhujali, sword and kata. The accused persons were aware of the crime and have reasonable grounds to suspect that it has been done. They have taken all steps to erase the evidence relating to the offence by throwing the cut hands of the deceased into Brahmanidevi dam and destroyed the SIM of the mobile phone as well as concealed the weapon of offence. It is ascertained that the accused persons have committed this with the goal of protecting themselves from legal consequences. Hence, it is well proved that the accused persons knew that the offence of murder has been committed and with the intent to screen themselves from legal punishment they have disappeared the evidence. In these circumstances, the offence u/s. 201 IPC is well made out against all the



accused persons.

**21.** So far as the offences u/s. 25(a) and 27 (1) of Arms Act are concerned, the prosecution is to establish that the accused persons were in possession of any arms i.e. *bhujali*, *kata* and sword in contravention of Sec.5 of the said act and they have used the said weapons in commission of the crime of murder.

Sec.5 of the said act says

*(1) no person shall- (a) [use, manufacture] sell, transfer, convert, repair, test or prove, or (b) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof,*

*any fire-arms or any other arms of such class or description as may be prescribed or any ammunition, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.*

From the discussion made in the previous paragraphs, the prosecution has well proved that the accused persons have used the weapons i.e. *bhujali*,

sword and *kata* for commission of the murder of the deceased. The said weapons were recovered at the instance of the accused persons namely, Sanjeev Kumar Prusty and Purna Chandra Boitei. The weapons were used for the illegal purpose i.e. commission of heinous crime of murder. The accused persons have not only used the weapons for killing the deceased but also they have used the same for chopping the hands of the deceased after the incident. The weapons were produced before the medical officer for query and the opinion vide Ext.25 which reveals that, the weapons of offence can cause death of a human being. Further the seizure lists clearly reveals regarding the detail descriptions of the weapons. Ext.56 reveals about the description of the iron bhujali i.e. length 45 cm, width 5 cm and the length of wooden handle is 12.5 cm. Ext.55 reveals about the detail description of the talwar (*kata*) i.e. length 65 cm, width 4.5 cm and the length of iron handle is 12 cm. Ext.5/1 reveals the detail description of the iron sword i.e. length 59 cm, width 5 cm and length of handle is 15 cm. The said weapons were also produced before this court for identification vide M.O.- I (sword), M.O.-II (*talwar/kata*) and P.W.- III (*bhujali*). The accused persons possessed the arms

intended to use the same for the unlawful purpose. In the present case, the accused persons have not obtained any licence in accordance with the provision of Arms Act for the possession of the Arms. The prosecution has well proved that the accused persons were in possession of arms i.e. bhujali, sword and kata which is contravention of Sec. 5 of the Arms Act and they have used the said arms for commission of the murder of the deceased Ramachandra Behera.

In view of the provision u/s. 39 of the Arms Act, previous sanction of the District Magistrate is a condition precedent for initiation of penal proceeding with regard to the charge of possession or uses of any fire arms or ammunition. The object of the provisions for sanction is that the authority giving the sanction should be able to consider for itself the evidence before it comes to a conclusion that the prosecution in the circumstances be sanctioned or forbidden. As per the evidence of the I.O. (P.W.52), he has obtained the sanction order from the District Magistrate, Keonjhar with regard to the sanction of the offence u/s. 25/27 of Arms Act vide Ext.94. The learned Addl. P.P. argued that the sanctioning authority

has considered all materials placed before him and he has satisfied himself that prosecution is called for and accordingly sanction order was issued. The said document was marked by the prosecution with objection but no rebuttal evidence has been adduced and nothing has been elicited in the cross-examination of P.W.52 for which the evidentiary value of the document can be discredited. The document vide Ext.94 is a public document issued by the appropriate authority i.e. District Magistrate as per the provision of this act. There is no defect in the sanction. In these circumstances, the sanction order issued by the District Magistrate, Keonjhar vide Ext.94 in view of the Sec.39 of Arms Act is accepted in the present case.

Having regards to the discussion made in the above para, the prosecution has well proved that the accused persons namely, Chilú @ Sanjeev Kumar Prusty, Nira @ Ajit Kumar Prusty, Dola @ Purna Chandra Boitei, Alekha Prusty and Aru @ Aruna Prusty were in possession of the arms i.e. sword, kata and bhujali and they have used the said weapons for sinister purpose. Accordingly, the charges u/s. 25(a) & 27(1) of Arms Act are proved against all the accused

persons.

22. In the ultimate analysis and assessment of the entire materials on record, regard being had to the findings made here-in-before, I am of the opinion that the prosecution successfully established the charges u/s. 302/34/120-B/201 of IPC read with Sec. 25(a)/27(1) of Arms Act against the accused persons namely, Chilu @ Sanjeev Kumar Prusty, Nira @ Ajit Kumar Prusty, Dola @ Purna Chandra Boitei, Alekha Prusty and Aru @ Aruna Prusty.

In the result, I hold the accused persons are guilty of the offences punishable u/s. 302/34/120-B/201 of IPC read with Sec. 25(a)/27(1) of Arms Act and convicted them thereunder u/s. 235(2) of CrPC.

23. The provision of Section 4 of the Probation of Offenders Act, 1958, bars the Court to release the offender on probation of good conduct if the convict is found guilty of having committed an offence punishable with death or imprisonment for life. The prescribed punishment of Sec. 302 IPC is death or

*ST No. 42/2019*  
*(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)*

imprisonment for life. Hence, the convicts in this case cannot be extended with the beneficial provisions of the Probation of Offenders Act or that of Sec. 360 Cr.P.C. Hence, they are now to be heard on the quantum of sentence to be passed against them.

Hearing on the question of sentence shall take place on **06<sup>th</sup> March, 2024.**

The Judgment is typed to my dictation, corrected by me & pronounced in the open Court in presence of convicts on this the **05<sup>th</sup> day of March, 2024**, under my hand & seal of this Court.

**Addl. District & Sessions Judge,  
Anandapur**

**HEARING ON THE QUESTION OF SENTENCE**  
**ON 06.03.2024**

All the convicts are produced in the court from the jail custody. Heard at length from the convicts, the learned defence counsels and learned Addl. P.P. The convicts submitted that, they are the only earning members of their family and considering their age and family status, lenient view may be taken for imposing sentence against them. The learned Addl.P.P submitted that the convicts have committed the murder of the deceased mercilessly for which he urged to award exemplary punishment according to law. Further the learned Addl. P.P. by relying upon the ratio decided by the Hon'ble Apex Court in ***Bachan Singh Vrs. State of Punjab, (1980) 2 SCC 684,*** submitted that considering the manner in which the convicts brutally killed the deceased, this case is coming under the rarest of rare case.

The prescribed punishment under section 302 of IPC is death or imprisonment for life and shall also be liable to fine.

Law is fairly well settled that the

punishment awarded should be directly proportionate to the nature and gravity of the case and also the magnitude of the offence. The imposition of the punishment must commensurate with the gravity, nature of the crime and the manner in which the offence is committed. However, for imposing death penalty, a balance sheet of aggravating and mitigating circumstances has to be drawn up and to see whether the convicts can be reformed and rehabilitated.

Let me examine the proposition of law as to where capital punishment should be awarded and where leniency can be resorted to.

The following propositions of the Hon'ble Apex Court in ***Bachan Singh Vrs. State of Punjab, reported in (1980) 2 SCC 684***, are-

- (i) The extreme penalty of death need not be inflicted except in gravest case of extreme culpability.
- (ii) Before opting for the death penalty the circumstance of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'.



(iii) Life imprisonment is the rule and death sentence is an exception. The death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided, the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances.

(iv) A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.

It has been held that “though death sentence cannot be declared as unconstitutional, such an extreme punishment of death sentence for the prescribed offences can be only in the rarest of rare cases and where the alternate punishment of life sentence is unquestionably foreclosed”.

A court may however in the following cases impose the penalty of death in its discretion.

(a) If the murder has been committed after previous planning and involves extreme brutality,

(b) If the murder involves exceptional depravity or

(c) If the murder is of a member of the armed forces of the Union or of a member of any police force or any public servant and was committed,

(d) If the murder is of a person who had acted in the lawful discharge of his duty under section 43 of CrPC or who had rendered assistance to a Magistrate or a police officer demanding his aid or requiring his assistance under section 37 and 129 of the Code.

The Hon'ble Apex Court, in the case of ***Machhi Singh Vrs. State of Punjab reported in (1983) AIR 957, 1983 SCR (3) 413***, strengthened the rarest of rare doctrine by laying down certain guidelines regarding the parameters that would be considered while deciding whether the case falls under the ambit of rarest of rare or not. The guidelines are -

- (1) The manner of commission of murder: when the murder is committed in an extremely heinous, repulsive, diabolic, revolting on dastardly

manner so as to arose intense and extreme indignation of community.

(2) Motive for commission of murder: when the murder is committed for a motive which evince total depravity and meanness.

(3) Antisocial or socially abhorrent nature of crime.

(4) Magnitude of crime: when the crime is enormous in proportion.

In the exercise of its discretion in the above cases, the court shall take into account the following circumstances-

(i) The offence was committed under the influence of mental or emotional disturbance.

(ii) The age of the accused is the relevant consideration but not a determinative factor by itself,

(iii) The chances of the accused of not indulging in commission of the crime again and the probability that the accused can be reformed and rehabilitated,

(v) The accused believed that he was morally justified in committing the offence,

(vi) That the accused acted under duress or domination of another person,

(vii) That the condition of the accused showed that he was mentally defective and that the said defect impaired his capacity to appreciate the criminality of his conduct.

The law relating to award of life imprisonment for the offence of murder as a rule and death penalty as an exception is specifically laid down in section 354(3) of CrPC, which provides that while awarding the sentence of death, the court must record “special reasons” justifying the sentence and state as to why the alternative punishment of imprisonment for life would not meet the ends of justice in the case.

In this case, the shocking and hateful crime has been committed by the convicts to take revenge. The convicts mercilessly assaulted the deceased and cut his hands and legs. Thereafter, they were roaming in the village by carrying the cut hands of the deceased to create havoc in the society. Thereafter, chopped the said cut hands into many pieces for their sadistic pleasure and cruel delight. Also, attempted to eat the same by putting it in the mouth of one convict which shows the character of demon. More so, they discussed to keep the cut pieces

in the refrigerator and further to eat the same by frying which indicates the soullessness nature. The series of inhuman act of the convicts involves extreme brutality and exceptional depravity. It is felt that, the crime is committed in an extremely brutal, grotesque, diabolical, revolting and dastardly manner. Law is well settled that mere gravity and heinousness of the crime cannot be the only criterion for death sentence. This court has considered both the aggravating as well as mitigating circumstances. Adequate opportunity was given to the convicts as well as prosecution to produce the material as to the chance of reformation and rehabilitation of the convicts and the detail about the mitigating circumstances for consideration. But it is only submitted by the convicts that, considering their age and status of family, sympathetic view may be taken for them. So far as the sympathy for the convicts is concerned, I relied upon the decision of the Hon'ble Apex Court in the matter of ***Sebak Perumar Vrs. State of Tamil Nadu reported in 1991 (3) SCC 471***, where it was observed that “*undue sympathy to impose inadequate sentence would do more harm to the justice delivery system to undermine the public confidence in the efficacy of law and society could not long endure*”

*under serious threats*". The court cannot allow an emotional and sentimental feeling to come into judicial pronouncement. Hence, by no stretch of imagination, the said submission can be considered as a mitigating circumstance. However, it is the bounden duty of the court to consider possibility of reformation while awarding death penalty. So far as the age of the convicts are concerned, neither they are minor nor very old. More so, the age is not a determinative factor itself. It is found that the offence was not committed under any mental or emotional disturbance and they were not acted under duress or domination of another person. There is no material that the convicts were mentally defective. The convicts have not filed any undertaking or an affidavit by stating that they are ready to be reformed and rehabilitated. There is no indication that the convicts are repenting after the crime and they are trying to purify their deformities in terms of their behaviour, habits, value, thinking addictions and insights. It is difficult to comprehend that the convicts would not commit such acts and they would be reformed or rehabilitated. Considering the series of acts committed by the convicts and discussion, it is felt that there is no chance of their

reformation in the future. On the other hand, considering the thrilling and horrific murder of the deceased by the convicts, it can be said that they would remain a menace to the society. Hence, it is found that, there are no mitigating circumstances.

It is discovered that, the crime was committed in a preordained manner. It is established that, this is a calculated and cold blooded murder. The action of the convicts are exceptionally barbaric and as such is despicable. From the digital document, it is evident about the guise and revulsion of the convicts for such brutal murder and their scenario, proposition as well as yearn for such crime. Further it demonstrates that for sadistic and ruthless pleasure, they have adopted hardboiled and monstrous strategy. The brutal dastardly act and the ruthless manner in which the convicts acted like demon is unheard of in the modern day society.

Having regard to all the aggravating and mitigating circumstances & the dicta of the Hon'ble Apex Court as discussed above, I am of the considered view that, this case deserve to fall within the ambit of

doctrine “rarest of rare case”. The convicts do not deserve any mercy. Accordingly, I award death sentence to them under section 302/34 of I.P.C. read with Sec.120-B of I.P.C. The convicts be hanged by the neck till they are dead. The capital punishment is to take effect subject to the confirmation of the Hon’ble High Court of Orissa, Cuttack.

The convicts are also guilty U/s 201 I.P.C. Hence, I sentence all the convicts to undergo rigorous imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s 201 I.P.C.

The convicts are guilty U/s 25(a) of Arms Act. Hence, I sentence all the convicts to undergo rigorous imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s. 25(a) of Arms Act.



The convicts are guilty U/s 27(1) of Arms Act. Hence, I sentence all the convicts to undergo rigorous imprisonment for a period of 07 (seven) years and to pay fine of Rs. 10,000/- (Rupees ten thousand) each and in default to undergo further R.I. for 06 (six) months each for the offence u/s. 27(1) of Arms Act.

All the sentences for imprisonment shall run concurrently and the same shall be subject to the final order regarding commutation/confirmation passed by the Hon'ble Court in the reference.

The death sentence will be given effect to after confirmation by the Hon'ble High Court of Orissa, Cuttack. Hence, steps u/s. 366 of Cr.P.C. shall be taken.

The fine amount, if realized be paid to the wife of the deceased as per the provision u/s. 357 of Cr.P.C.

As the compensation out of fine amount awarded under section 357 Cr.P.C., as aforesaid, is not adequate in my opinion, I recommend the case to the

*ST No. 42/2019*  
*(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)*

District Legal services Authority, Keonjhar to take necessary step for grant of compensation to the victim-wife of the deceased as per the provision u/s. 357(A) of CrPC and Rule-9 of the Odisha Victim Compensation Scheme.

No order with regard to the seized articles is passed, as the case relating to the CCL pertaining to the self same crime and incident is pending for adjudication before Juvenile Justice Board, Keonjhar.

The convicts are informed about their right of appeal against the conviction judgment in the Appellate Court.

**Addl. Sessions Judge,  
Anandapur**

The sentence is transcribed & pronounced in the open Court on this the **6th day of March, 2024** under my hand & seal of this Court.

**Addl. Sessions Judge,  
Anandapur**

**FORM-C**

<b>LIST OF PROSECUTION/DEFENCE/COURT WITNESSES</b>		
<b>A. Prosecution Witnesses</b>		
<b>Rank</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)</b>
P.W.1	Deepak Kumar Behera	Post occurrence witness as well as scribe of the FIR
P.W.2	Manoranjan Behera	Independent witness as well as post occurrence witness
P.W.3	Binod Bihari Behera	Inquest witness
P.W.4	Prasanti Behera	Wife of the deceased
P.W.5	Harihar Mishra	Independent witness as well as post occurrence witness
P.W.6	Banamali Khillar	Inquest witness
P.W.7	Sabita Sahoo	Independent seizure witness
P.W.8	Rabi Kisan	Fireman (official witness)
P.W.9	Ashrumochan Das	Fireman (official witness)
P.W.10	Lipi Lohar	Independent witness
P.W.11	Sumati Lohar	Independent witness

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

P.W.12	Anjan Kumar Bal	Seizure witness
P.W.13	Jagannath Sahoo	Fireman
P.W.14	Sunil Kumar Sahoo	Seizure witness
P.W.15	Dr. Sapan Kumar Das	Medical Officer
P.W.16	Dr. Laxmidhar Naik	Medical Officer
P.W.17	Anusaya Sathy	Seizure witness
P.W.18	Karunakar Mishra	Seizure witness
P.W.19	Ramesh Chandra Jena	Seizure witness
P.W.20	Akshaya Kumar Jena	Seizure witness
P.W.21	Ananda Kumar Mukhi	Medical attendant
P.W.22	Shiva Prasad Das	Seizure witness
P.W.23	Santosh Kumar Sahoo	Seizure witness
P.W.24	Jeetendra Kumar Sahoo	Seizure witness
P.W.25	Sujit Kumar Sahoo	Post occurrence witness
P.W.26	Biswanath Sahoo	Independent witness
P.W.27	Manoranjan Sahoo	Independent witness
P.W.28	Chhotray Manas Ranjan Nayak Barma	Seizure witness
P.W.29	Shridhar Khillar	Seizure witness
P.W.30	Babaji Charan Dehury	Seizure witness
P.W.31	Binita Mohanty	Seizure witness

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

P.W.32	Kalpana Nayak	Seizure witness
P.W.33	Ajay Kumar Routray	Seizure witness
P.W.34	Abhiram Singh	Seizure witness
P.W.35	Ranjan Kumar Behera	Seizure witness
P.W.36	Sudam Charan Patra	Seizure witness
P.W.37	Narayan Chandra Naik	Seizure witness
P.W.38	Narayan Chandra Rout	Seizure witness
P.W.39	Sibanarayan Barik	Son-in-law of the deceased
P.W.40	Biswanath Munda	Seizure witness
P.W.41	Satyanarayan Mohanty	Seizure witness
P.W.42	Gyanaranjan Barik	Seizure witness
P.W.43	Khageswar Khamar	Seizure witness
P.W.44	Prafulla Kumar Das	Seizure witness
P.W.45	Padmabati Behera	Seizure witness as well as daughter of the deceased
P.W.46	Manas Ranjan Panda	Seizure witness
P.W.47	Minarani Behera	Informant
P.W.48	Debjani Behera	Daughter of the deceased
P.W.49	Subash Chandra Khillar	Post occurrence witness
P.W.50	Sk. Ajharuddin	Seizure witness
P.W.51	Prasanta Kumar	Seizure witness

**ST No. 42/2019**  
(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)

	Sethy	
P.W.52	Manoranjan Bishi	Investigating Officer
P.W.53	Balia Barik	Investigating Officer
<b>B. Defence Witness, if any;</b>		
<b>Rank</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL		
<b>C. Court Witnesses, if any;</b>		
<b>Rank</b>	<b>NAME</b>	<b>NATURE OF EVIDENCE</b> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL		
<b>LIST OF PROSECUTION/ DEFENCE/COURT EXHIBITS</b>		
<b>A. Prosecution Exhibits</b>		
<b>Sl. No.</b>	<b>Exhibits Number</b>	<b>Descriptions</b>
1	Ext.1	FIR
2	Ext.1/1	Signature of P.W.47 on

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		Ext.1
3	Ext.1/2	Signature of P.W.52 on Ext.1
4	Ext.1/3	Formal FIR
5	Ext.1/4	Signature of P.W.52 on Ext.1/3
6	Ext.2	Signature of P.W.1 on inquest report
7	Ext.2/1	Signature of P.W.2 on inquest report
8	Ext.2/2	Signature of P.W.3 on inquest report
9	Ext.2/3	Inquest report
10	Ext.2/4	Signature of P.W.39 on Ext.2/3
11	Ext.2/5	Signature of P.W.52 on Ext.2/3
12	Ext.3	Signature of P.W.1 on inquest report
13	Ext.3/1	Signature of P.W.49 on inquest report
14	Ext.3/2	Inquest report
15	Ext.3/3	Signature of P.W.52 on Ext.3/2
16	Ext.4	Signature of P.W.1 on confessional statement of CCL Pramod Das
17	Ext.4/1	Signature of P.W.3 on confessional statement of CCL Pramod Kumar Das

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

18	Ext.4/2	Confessional statement of CCL of Pramod Kumar Das
19	Ext.4/3	Signature of P.W.52 on Ext.4/2
20	Ext.4/4	Signature of CCL Pramod Kumar Das on Ext.4/2
21	Ext.5	Signature of P.W.1 on seizure list
22	Ext.5/1	Seizure list
23	Ext.5/2	Signature of P.W.3 on Ext.5/1
24	Ext.5/3	Signature of P.W.52 on Ext.5/1
25	Ext.5/4	Signature of CCL Pramod Kumar Das on Ext.5/1
26	Ext.6	Seizure list
27	Ext.6/1	Signature of P.W.2 on Ext.6
28	Ext.6/2	Signature of P.W.14 on Ext.6
29	Ext.6/3	Signature of P.W.29 on Ext.6
30	Ext.6/4	Signature of P.W.52 on Ext.6
31	Ext.7	Seizure list
32	Ext.7/1	Signature of P.W.7 on Ext.7
33	Ext.7/2	Signature of P.W.12 on Ext.7



**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

34	Ext.7/3	Signature of P.W.52 on Ext.7
35	Ext.8	Seizure list
36	Ext.8/1	Signature of P.W.14 on Ext.8
37	Ext.8/2	Signature of P.W.40 on Ext.8
38	Ext.8/3	Signature of P.W.50 on Ext.8
39	Ext.8/4	Signature of P.W.52 on Ext.8
40	Ext.9	Seizure list
41	Ext.9/1	Signature of P.W.14 on Ext.9
42	Ext.9/2	Signature of P.W.41 on Ext.9
43	Ext.9/3	Signature of P.W.42 on Ext.9
44	Ext.9/4	Signature of P.W.52 on Ext.9
45	Ext.10	Spot visit report
46	Ext.10/1	Signature of P.W.14 on Ext.10
47	Ext.11	Declaration certificate
48	Ext.11/1	Signature of P.W.14 on Ext.11
49	Ext.12	Chemical examination report
50	Ext.12/1	Signature of P.W.14 on Ext.12

**ST No. 42/2019**  
**(State Vrs Chilukoti @ Sanjeev Kumar Prusty and four others)**

51	Ext.13	Compact Disc
52	Ext.14	VHF message
53	Ext.15	VHF message
54	Ext.16	Outdoor ticket of Ramachandra Behera
55	Ext.16/1	Signature of P.W.15 on Ext.16
56	Ext.17	Bed head ticket of Ramachandra Behera
57	Ext.17/1	Signature of P.W.15 on Ext.17
58	Ext.18	Blood requisition in favour of Ramachandra Behera
59	Ext.18/1	Signature of P.W.15 on Ext.18
60	Ext.19	Police requisition to draw blood sample on FTA card
61	Ext.19/1	Signature of P.W.52 on Ext.19
62	Ext.20	Seizure list
63	Ext.20/1	Signature of P.W.16 on Ext.20
64	Ext.20/2	Signature of P.W.19 on Ext.20
65	Ext.20/3	Signature of P.W.20 on Ext.20
66	Ext.20/4	Signature of P.W.52 on Ext.20
67	Ext.21	Police requisition for

**ST No. 42/2019**  
**(State Vrs Chilú @ Sanjeev Kumar Prusty and four others)**

		autopsy over the dead body of Ramachandra Behera
68	Ext.21/1	Endorsement and signature of the Superintendent of SDH, Anandapur
69	Ext.21/2	Signature of P.W.34 on Ext.21
70	Ext.21/3	Signature of P.W.52 on Ext.21
71	Ext.22	Post mortem report
72	Ext.22/1	Signature of P.W.16 on Ext.22
73	Ext.23	Post mortem report of 02 nos. of cut hands
74	Ext.23/1	Signature of P.W.16 on Ext.23
75	Ext.24	Query requisition
76	Ext.24/1	Signature of P.W.52 on Ext.24
77	Ext.25	Query report
78	Ext.25/1	Signature of P.W.16 on Ext.25
79	Ext.26	Injury report of Arun Prusty
80	Ext.26/1	Signature of P.W.16 on Ext.26
81	Ext.27	Injury requisition
82	Ext.27/1	Injury report

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

83	Ext.27/2	Signature of P.W.16 on Ext.27/1
84	Ext.28	Injury requisition
85	Ext.28/1	Injury report
86	Ext.28/2	Signature of P.W.16 on Ext.28/1
87	Ext.29	Injury report
88	Ext.29/1	Signature of P.W.16 on Ext.29
89	Ext.30	Police requisition for examination of Arun Prusty and collection of biological samples
90	Ext.30/1	Injury report
91	Ext.30/2	Signature of P.W.16 on Ext.30/1
92	Ext.30/3	Signature of P.W.52 on Ext.30
93	Ext.31	Police requisition for examination of Ajit Kumar Prusty, Purna Chandra Boitei and Sanjeev Prusty and collection of biological samples
94	Ext.31/1	Injury report
95	Ext.31/2	Signature of P.W.16 on Ext.31/1
96	Ext.31/3	Signature of P.W.52 on Ext.31

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

97	Ext.32	Seizure list
98	Ext.32/1	Signature of P.W.17 on Ext.32
99	Ext.32/2	Signature of P.W.51 on Ext.32
100	Ext.32/3	Signature of P.W.52 on Ext.32
101	Ext.32/4	Signature of accused Chilu @ Sanjeev Kumar Prusty on Ext.32
102	Ext.33	Seizure list
103	Ext.33/1	Signature of P.W.17 on Ext.33
104	Ext.33/2	Signature of P.W.51 on Ext.33
105	Ext.33/3	Signature of P.W.52 on Ext.33
106	Ext.33/4	Signature of accused Dola @ Purna Chandra Boitei on Ext.33
107	Ext.34	Seizure list
108	Ext.34/1	Signature of P.W.17 on Ext.34
109	Ext.34/2	Signature of P.W.51 on Ext.34
110	Ext.34/3	Signature of P.W.52 on Ext.34
111	Ext.34/4	Signature of accused Ajit Kumar Prusty on Ext.34
112	Ext.35	Signature of P.W.18 on

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		seizure list
113	Ext.35/1	Seizure list
114	Ext.35/2	Signature of P.W.44 on Ext.35/1
115	Ext.35/3	Signature of P.W.52 on Ext.35/1
116	Ext.36	Signature of P.W.22 on police paper
117	Ext.36/1	Seizure list
118	Ext.36/2	Signature of P.W.52 on Ext.36/1
119	Ext.37	Signature of P.W.23 on police paper
120	Ext.37/1	Signature of P.W.24 on police paper
121	Ext.37/2	Signature of P.W.36 on Ext.37
122	Ext.37/3	Seizure list
123	Ext.37/4	Signature of P.W.52 on Ext.37.
124	Ext.38	Seizure list
125	Ext.38/1	Signature of P.W.28 on Ext.38
126	Ext.38/2	Signature of P.W.32 on Ext.38
127	Ext.38/3	Signature of P.W.43 on Ext.38
128	Ext.38/4	Signature of P.W.52 on Ext.38

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

129	Ext.39	Seizure list
130	Ext.39/1	Signature of P.W.28 on Ext.39
131	Ext.39/2	Signature of P.W.34 on Ext.39
132	Ext.39/3	Signature of P.W.37 on Ext.39
133	Ext.39/4	Signature of P.W.52 on Ext.39
134	Ext.40	Seizure list
135	Ext.40/1	Signature of P.W.28 on Ext.40
136	Ext.40/2	Signature of P.W.37 of Ext.40
137	Ext.40/3	Signature of P.W.38 on Ext.40
138	Ext.40/4	Signature of P.W.52 on Ext.40
139	Ext.41	Seizure list
140	Ext.41/1	Signature of P.W.31 on Ext.41
142	Ext.41/2	Signature of P.W.35 on Ext.41
143	Ext.41/3	Signature of P.W.52 on Ext.41
144	Ext.41/4	Signature of accused Arun Kumar Prusty on Ext.41
145	Ext.42	Seizure list
146	Ext.42/1	Signature of P.W.31 on Ext.42

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

147	Ext.42/2	Signature of P.W.32 on Ext.42
148	Ext.42/3	Signature of P.W.35 on Ext.42
149	Ext.42/4	Signature of P.W.52 on Ext.42
150	Ext.43	Seizure list
151	Ext.43/1	Signature of P.W.32 on Ext.43
152	Ext.43/2	Signature of P.W.38 on Ext.43
153	Ext.43/3	Signature of P.W.43 on Ext.43
154	Ext.43/4	Signature of P.W.52 on Ext.43
155	Ext.44	Seizure list
156	Ext.44/1	Signature of P.W.32 on Ext.44
157	Ext.44/2	Signature of P.W.35 on Ext.44
158	Ext.44/3	Signature of P.W.38 on Ext.43
159	Ext.45	Seizure list
160	Ext.45/1	Signature of P.W.33 on Ext.45
161	Ext.45/2	Signature of P.W.37 on Ext.45
162	Ext.45/3	Signature of P.W.52 on Ext.45
163	Ext.45/4	Signature of accused



**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		Alekha Prusty on Ext.45
164	Ext.45(A)	Zimanama
165	Ext.45(A)/1	Signature of P.W.36 on Ext.45(A)
166	Ext.45(A)/2	Signature of P.W.52 on Ext.45(A)
167	Ext.46	Zimanama
168	Ext.46/1	Signature of P.W.36 on Ext.46
169	Ext.46/2	Signature of P.W.52 on Ext.46
170	Ext.47	Seizure list
171	Ext.47/1	Signature of P.W.37 on Ext.47
172	Ext.47/2	Signature of P.W.43 on Ext.47
173	Ext.47/3	Signature of CCL Pramod Kumar Das
174	Ext.47/4	Signature of P.W.52 on Ext.47
175	Ext.48	Command certificate
176	Ext.48/1	Signature of P.W.43 on Ext.48
177	Ext.49	Seizure list
178	Ext.49/1	Signature of P.W.45 on Ext.49
179	Ext.49/2	Signature of P.W.48 on Ext.49
180	Ext.49/3	Signature of P.W.52 on

**ST No. 42/2019**  
**(State Vrs Chilú @ Sanjeev Kumar Prusty and four others)**

		Ext.49
181	Ext.50	Seizure list
182	Ext.50/1	Signature of P.W.46 on Ext.50
183	Ext.50/2	Signature of P.W.50 on Ext.50
184	Ext.50/3	Signature of P.W.52 on Ext.50
185	Ext.50/4	Signature of accused Chilú @ Sanjeev Kumar Prusty on Ext.50
186	Ext.51	Seizure list
187	Ext.51/1	Signature of P.W.46 on Ext.51
188	Ext.51/2	Signature of P.W.50 on Ext.51
189	Ext.51/3	Signature of P.W.52 on Ext.51
190	Ext.51/4	Signature of accused Nira @ Ajit Kumar Prusty
191	Ext.52	Statement of P.W.47 u/s. 164 of CrPC
192	Ext.52/1	Signature of P.W.47 on Ext.52
193	Ext.52/2	Signature of P.W.47 on Ext.52
194	Ext.52/3	Signature of P.W.47 on Ext.52
195	Ext.53	Signature of P.W.49 on statement of the accused

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		Dola @ Purna Chandra Boitei recorded u/s. 27 of Indian Evidence Act
196	Ext.53/1	Confessional statement of accused Dola @ Purna Chandra Boitei
197	Ext.53/2	Signature of P.W.52 on Ext.53/1
198	Ext.53/3	Signature of accused Dola @ Purna Chandra Boitei on Ext.53/1
199	Ext.54	Signature of P.W.49 on statement of the accused Chilu @ Sanjeev Kumar Prusty recorded u/s. 27 of Indian Evidence Act
200	Ext.54/1	Confessional statement of accused Chilu @ Sanjeev Kumar Prusty
201	Ext.54/2	Signature of P.W.52 on Ext.54/1
202	Ext.54/3	Signature of accused Chilu @ Sanjeev Kumar Prusty on Ext.54/1
203	Ext.55	Seizure list
204	Ext.55/1	Signature of P.W.49 on Ext.55
205	Ext.55/2	Signature of P.W.52 on Ext.55
206	Ext.55/3	Signature of accused Dola @ Purna Chandra Boitei

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		on Ext.55
207	Ext.56	Seizure list
208	Ext.56/1	Signature of P.W.49 on Ext.56
209	Ext.56/2	Signature of P.W.52 on Ext.56
210	Ext.56/3	Signature of accused Chilu @ Sanjeev Kumar Prusty on Ext.56
211	Ext.57	Copy of seizure list (Ext.61)
212	Ext.57/1	Signature of P.W.49 on Ext.57
213	Ext.58	Spot map
214	Ext.58/1	Signature of P.W.52 on Ext.58
215	Ext.59	Dead body challan
216	Ext.59/1	Signature of P.W.52 on Ext.59
217	Ext.60	Spot map
218	Ext.60/1	Signature of P.W.52 on Ext.60
219	Ext.61	Seizure list
220	Ext.61/1	Signature of P.W.52 on Ext.61
221	Ext.62	Zimanama
222	Ext.62/1	Signature of P.W.52 on Ext.62
223	Ext.63	Injury requisition

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

224	Ext.63/1	Signature of P.W.52 on Ext.63
225	Ext.64	Prayer for sending of exhibits to SFSL, Bhubaneswar
227	Ext.64/1	Signature of P.W.52 on Ext.64
228	Ext.65	Forwarding report of exhibits to SFSL, Bhubaneswar
229	Ext.65/1	Signature of P.W.52 on Ext.65
230	Ext.66	Forwarding report of exhibits to SFSL, Bhubaneswar
231	Ext.66/1	Signature of P.W.52 on Ext.66
232	Ext.67	Forwarding report of exhibits to SFSL, Bhubaneswar
233	Ext.67/1	Signature of P.W.52 on Ext.67
234	Ext.68	Forwarding report of exhibit to SFSL, Bhubaneswar
235	Ext.68/1	Signature of P.W.52 on exhibit to SFSL, Bhubaneswar
236	Ext.69	Requisition to RTO, Keonjhar
237	Ext.69/1	Signature of P.W.52 on

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

		Ext.69
238	Ext.70	Report of RTO, Keonjhar with regard to the ownership of the vehicles
239	Ext.71	Chemical examination report of SFSL, Bhubaneswar
240	Ext.72	Letter no. 343 dtd. 18.05.2019 of office of the Director of SFSL, Bhubaneswar
241	Ext.73	Report no. 49 DNA 2019 issued by the SFSL, Bhubaneswar
242	Ext.74	Requisition for query opinion
243	Ext.74/1	Signature of P.W.52 on Ext.74
244	Ext.75	Zimanama
245	Ext.75/1	Signature of P.W.52 on Ext.75
246	Ext.76	Requisition for sending of exhibit to SFSL, Bhubaneswar
247	Ext.76/1	Signature of P.W.52 on Ext.76
248	Ext.77	Prayer for sending of mobile phone to DFS, Gujarat
249	Ext.77/1	Signature of P.W.52 on Ext.77

**ST No. 42/2019**  
**(State Vrs Chilukoti @ Sanjeev Kumar Prusty and four others)**

250	Ext.78	Prayer for sending the exhibit to SFSL, Bhubaneswar
251	Ext.78/1	Signature of P.W.52 on Ext.78
252	Ext.79	CDR u/s. 65-B of Indian Evidence Act from Bharati Airtel
253	Ext.80	CDR u/s. 65-B of Indian Evidence Act from BSNL
254	Ext.81	Query report
255	Ext.82	Examination report of cyber forensic division dtd. 11.03.2022
256	Ext.83	Examination report issued by SFSL, Bhubaneswar dtd. 07.03.2022
257	Ext.84	Compact Disc received from SFSL, Bhubaneswar
258	Ext.85	Compact Disc received from SFSL, Bhubaneswar
259	Ext.86	Examination report of DFS, Gujarat
260	Ext.87	Certificate u/s. 65(4)(C) of Indian Evidence Act issued by the Scientific Officer, DFS, Gujarat
261	Ext.88	Annexure-A issued by the DFS, Gujarat
262	Ext.89	DVD received from DFS, Gujarat

**ST No. 42/2019**  
**(State Vrs Chilukoti @ Sanjeev Kumar Prusty and four others)**

263	Ext.90	Compact disc received from SFSL, Bhubaneswar
264	Ext.91	Examination report of cyber forensic division relating to the mobile phones
265	Ext.92	Inter Division Examination report of physics division with regard to the images and videos
266	Ext.93	Certificate u/s. 65-B of Indian Evidence Act with regard to the electronic record
267	Ext.94	Sanction order of District Magistrate, Keonjhar

**B. Defence Exhibits, if any;**

Sl. No.	Exhibit Number	Description
NIL		

**C. Court Exhibits, if any;**

Sl. No.	Exhibit Number	Description
NIL		

**D. Material Objects:**

Sl. No.	Exhibit Number	Description
1	M.O.-I	Sword seized vide Ext.5
2	M.O.-II	Tamil kata seized vide Ext.55
3	M.O.-III	Bhujali seized vide Ext.56
4	M.O.-IV	Stone seized vide Ext.6



**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

5	M.O.-V	Black-white colour T-shirt of the accused Sanjeev Kumar Prusty seized vide Ext.32
6	M.O.-VI	Black colour jeans of accused Sanjeev Kumar Prusty seized vide Ext.32
7	M.O.-VII	Oppo mobile phone of accused Sanjeev Kumar Prusty seized vide Ext.32
8	M.O.-VIII	Black colour jeans of accused Purna Chandra Boitei seized vide Ext.33
9	M.O.-IX	Black colour full shirt of accused Purna Chandra Boitei seized vide Ext.33
10	M.O.-X	White colour ganji of accused Purna Chandra Boitei seized vide Ext.33
11	M.O.-XI	Samsung mobile phone of accused Purna Chandra Boitei seized vide Ext.33
12	M.O.-XII	Blue colour jeans of accused Ajit Kumar Prusty seized vide Ext.34
13	M.O.-XIII	Pink colour half T-Shirt of accused Ajit Kumar Prusty seized vide Ext.34
14	M.O.-XIV	Coffee colour half pant of accused Ajit Kumar Prusty seized vide Ext.34
15	M.O.-XV	Blue colour full shirt of

**ST No. 42/2019**  
**(State Vrs Chilú @ Sanjeev Kumar Prusty and four others)**

		accused Arun Prusty seized vide Ext.41
16	M.O.-XVI	Black colour full jeans pant of accused Arun Prusty seized vide Ext.41
17	M.O.-XVII	Samsung mobile phone of accused Arun Prusty seized vide Ext.41
18	M.O.-XVIII	Blue-white colour full shirt of CCL Pramod Kumar Das seized vide Ext.47
19	M.O.-XIX	Black colour full pant of CCL Pramod Kumar Das seized vide Ext.47
20	M.O.-XX	Samsung mobile of CCL Pramod Kumar Das seized vide Ext.47
21	M.O.-XXI	Pink colour full shirt of accused Alekha Prusty seized vide Ext.45
22	M.O.-XXII	Blue colour full pant of accused Alekha Prusty seized vide Ext.45
23	M.O.-XXIII	VOX mobile phone of accused Alekha Prusty seized vide Ext.45
24	M.O.-XXIV	Black colour MI mobile phone seized vide Ext.49
25	M.O.-XXV	Blood stain slipper of the deceased seized vide Ext.6

**ST No. 42/2019**  
**(State Vrs Chilu @ Sanjeev Kumar Prusty and four others)**

26	M.O.-XXVI	Black colour sandal seized vide Ext.6
27	M.O.-XXVII	Blue colour torn blood stain full shirt of the deceased seized vide Ext.39
28	M.O.-XXVIII	Torn blood stain black colour trouser of the deceased seized vide Ext.39
29	M.O.-XXIX	Black colour chadi of the deceased seized vide Ext.39
30	M.O.-XXX	Blood stain ganji of the deceased seized vide Ext.39

**Addl. Sessions Judge,  
Anandapur**