

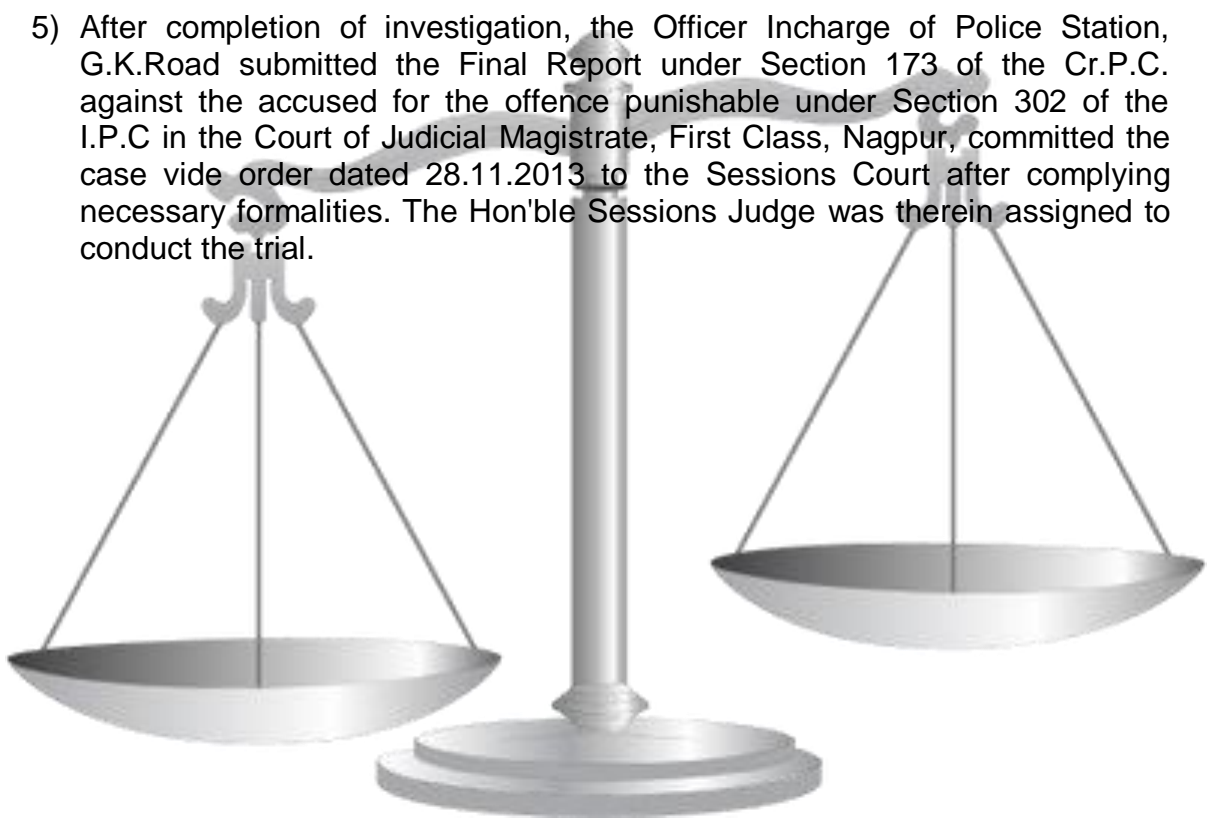
KSHAN

13th National Moot Court Competition 2018

FACTS

- 1) Charmin Golcha, Bhushan Yadav, Hitesh Kalra, Rohit Shetty, Sumit Rao, Jinty Singh Khalsi, Ratan Ambhore, Jassi Singh Grover are childhood friends of the deceased Deep Mendekar and studying in the same College in Nagpur. The deceased has a past history of getting into quarrels. On 14.7.2013 at about 7.30 p.m. when the informant (Charmin Golcha) was speaking with the deceased, the deceased asked him to accompany him to J.B. Nagar to meet the accused. It is thereafter he along with deceased went to J.B.Nagar, Nagpur by the motorcycle of deceased. There, the accused who is the friend of deceased met deceased.
- 2) The Informant accompanied the deceased knowing of the fact that there was a prior dispute between the deceased and the accused. He knew that the deceased was short tempered and could land into trouble easily. The deceased before leaving for J.B.Nagar, told the informant to bring the knife, which the informant handed over to the deceased. It is in the presence of the Informant quarrel took place between deceased and accused. The deceased started the fight, and got aggressive and ran with a knife towards the accused. Thereafter the accused used fist blows, hence, deceased fell on the road. The informant shouted and told the accused not to beat deceased, on which the accused rushed towards him, hence, he went at some distance and from where he saw that accused lifted a tile and gave a forceful blow by that tile on the head of deceased, which led to the death of the deceased. Thereafter, the informant went to Ratan Ambhore by the motorcycle of deceased and narrated the incident to him. Thereafter, the informant along with Ratan Ambhore and his friends came on the spot of incident and saw the deceased lying in the pool of blood. Thereafter, Jassi Singh Grover and Bhushan Yadav took the deceased to C.H.P.K. Hospital, Nagpur for treatment, but, the doctor declared him dead immediately on his arrival. The distance between J.B.Nagar and C.H.P.K is 7 kilometres. Thereafter, the informant went to Police Station, G.K.Road and lodged report against accused. The distance between G.K.Road and C.H.P.K is around 7 kilometers.
- 3) On the basis of report of informant, the crime came to be registered against accused vide Crime No. 601/2013 on 14.7.2013 in Police Station, G.K.Road under Section 302 of the I.P.C.

- 4) The Investigating Officer along with his personnel immediately went on the spot of incident and seized two pairs of sandals, mobile of Apple Company, five pieces of tile, swab of blood, simple soil and blood stain soil from the spot and prepared its spot-cum-seizure panchnama in presence of panchas. The Investigating Officer also arrested the accused on the same day, prepared inquest panchnama, sent the dead body for postmortem, seized clothes and blood samples of accused and deceased, recorded statements of witnesses and sent seized articles to the Laboratory for chemical analysis. He also collected the postmortem report of deceased and query report from the doctor in respect of injuries to deceased and the seized pieces of tile. The Special Judicial Magistrate also recorded statement of the informant under Section 164 of the Code of Criminal Procedure, 1973 (In short **the Cr.P.C.**).
- 5) After completion of investigation, the Officer Incharge of Police Station, G.K.Road submitted the Final Report under Section 173 of the Cr.P.C. against the accused for the offence punishable under Section 302 of the I.P.C in the Court of Judicial Magistrate, First Class, Nagpur, committed the case vide order dated 28.11.2013 to the Sessions Court after complying necessary formalities. The Hon'ble Sessions Judge was therein assigned to conduct the trial.



First Information Report

(Under Section 154 Cr. P.C.)

No. 006373

1. Dist: Nagpur P.S.: G.K.Road Year: 2013
FIR No.: 601/13 Date: 14/07/2013

2. Act: I.P.C. Section(s): 302

3. (a) Occurrence of offence:

Day: Sunday Date from: 14/07/2013 Date to: 14/07/2013

Time Period: 30 Time From: Time To: 22:00

(b) Information received at P.S.

Date: 14/07/2013 Time: 22:10

(c) General Diary Reference Entry No.(s): 61 Time: 22:15

4. Type of Information: Written/Oral: Oral

Place of Occurrence:

(a) Direction and Distance from P.S.: 7 K.M. Towards East

Katol Road

(b) Address: J.B.Nagar, Nagpur

5. Complainant/Informant:

(a) Name: Charmin Golcha

(b) Father's/ Husband's Name: Chirag Golcha

(c) Date of Birth/Year: 21 years

(d) Nationality: Indian

(e) Passport No.

Date of Issue:

Place of Issue:

(f) Occupation: B.B.A-2nd Year

(g) Address: Quarter No. 7, P.K.Heights, P.S. G.K.Road, Nagpur

6. Details of Known/suspected/unknown accused with full particulars:

Name: Jinty Singh Kalsi R/o Katol Road, Nagpur

Physical features, deformities and other details of the suspect:

(1) Sex: Male (2) Date/Year of Birth (3) Build:

(4) Height in Cms.:

(5) Complexion:

(6) Identification Mark(s):

(7) Deformities/Peculiarities:

(8) Teeth:

(9) Hair:

(10) Eye:

(11) Habit(s):

(12) Dress Habits:

(13) Language:

(14) Place Of:

Burn Mark:

Leucoderma:

Mole:

Scar:

Tattoo:

7. Reasons for delay in Reporting by the complainant/informant: No delay

8. Particulars of Properties stolen/involved:

9. Total Value of Property stolen/involved:

10. Inquest report/U.D. Case No., if any:

11. F.I.R. Contents:

On the Date, time and at the place as submitted by the Complainant, the complainant and his friend Deep Mendekar (deceased) went to meet the person named Jinty Singh Kalsi at the place where incident happened. There, the deceased and accused started fighting over some old issue and resultantly accused then lifted a tile which was beside the road and forcefully hit the tile on the head of the deceased, which led to the death of the deceased. The complaint has been filed under Section 302 of I.P.C. as per the deposition of the complainant.

12. Action Taken:

13. Signature/Thumb impression
charge,
of the complainant/informant

Signature of the office-in-
Police station.

Name: Amol Patil

Rank: P.S.I., P.S. G.K.Road

14. Date & Time of dispatch to the court: 15/07/2013

Report Copy

Name: Charmin Golcha

Age: 21 Years

Address: Quarter No. 7, P.S. G.K.Road Nagpur City

I am submitting my report in P.S. G.K. Road. I live with my family at the above mentioned address and I am studying in 2nd year of B.B.A. from A.B.Z. University, Nagpur.

Today dated 14/07/2013, deceased (Deep Mendekar) asked me to accompany him to meet the accused. I went with deceased on his bike to J.B.Nagar Nagpur. There, deceased met with a person named Jinty Singh Kalsi. At that time deceased and accused started fighting over some old issue between them. I was standing 10 feet away from them. Accused first attacked the deceased, consequently deceased fell down on the road so I shouted to the accused and warned him not to beat the deceased. But the accused did not budge and as a result of which he tried to assault me, so I went to other side of the road. From there I saw accused lifting a tile from the ground and then he hit that tile forcefully on deceased's head, who was lying on the road. After watching this I took the bike of deceased and went to Police Station and I told the happened incident to Ratan Ambhore. Then I, Ratan and his friends again went to J.B.Road and at that time deceased was lying on the road and he was surrounded with blood. Then, Jassi Singh Grover and Bhushan Yadav, who were with us, took deceased to the C.H.P.K. Hospital for the treatment. But the Doctor declared that the deceased is already dead.

So this is my complaint against the accused that today dated 14/07/2013 at around 10 P.M., he fought with deceased on some old issue and killed deceased by hitting a tile on deceased's head.

This report is written down as per my deposition and I have read this report and as per my description this report is correct.

Sd

Police Station G.K.Road
Nagpur

Crime No. 601/2013
Section 302 of I.P.C

Statement of the witness
(as per **Section 164** of Cr.P.C.)

I swear to God that I will tell the truth.

Full Name: Charmin Golcha

Age: 21 Years

Occupation: Student

Address: Qtr. No. 7, J.B.Nagar, Nagpur

Que: Are you giving your statement on your own will?

Ans: Yes

Que: What do you want to tell about the incident?

Ans: I live with my parents at the above mentioned address. The incident happened in J.B.Nagar on 14/07/2013 at 9.30 P.M. Deceased, Deep Mendekar asked me to accompany him to J.B.Nagar. I went with him on his Pulsar Bike to J.B.Nagar. Deceased met with one person Jinty Singh Kalsi and I was standing at a distance of 10 ft. from them and I was talking on the phone. At that time, suddenly deceased and accused engaged in the scuffle. At first, the deceased attacked the accused, and then the accused started beating deceased with punches. When deceased fell down, then I told the accused not to beat him. Accused ran towards me with the piece of tile, I went a bit further and stopped, so the accused was hitting on deceased's head with tile. I was distinctly looking at this act of beating. On watching such act, I took the vehicle of deceased and escaped from there. I thereafter met Ratan Ambhore, Golu Sharma, Pankaj Mahajan, Jassi Singh Grover and Arpit, all of them were standing near H.K.Town, I told them about the incident as it occurred in J.B Nagar. Then they all went to the place of incident, and then I too went there after them. Deceased was taken to the hospital by his friends Jassi, Golu and Arpit in Honda Civic. Deceased was lying on the ground and he was surrounded by blood. At that time, he was in a position to speak. I was standing at the place of incident. After that, the police came and took me to the C.H.P.K. Hospital. Deceased died during treatment.

The aforementioned incident that accused hit deceased on his head which led to his death. I saw this incident distinctly with my own eyes. If I see the accused, I can recognize him.

The aforementioned statement was written down and read over to me and I admitted that it is correct.

Recorded By me

(A.B.C.)

Special Judicial Magistrate

Nagpur

Witness's Signature



Certificate

Certified that the above statement was recorded by me personally and was read over to the witness making and admitted by him to be correct and it contains full and true accent of statement made by him.

(A.B.C.)

Special Judicial Magistrate

Nagpur

Post Mortem Report

Memorandum of post-mortem examination held at IGGMC, Nagpur on the dead body of Deep Rohit Mendekar of Village/City Nagpur, Taluka Nagpur, District Nagpur,

by 1. Dr. P.S. Ghormade
2. Dr. M.S. Gedam

I. General Particulars

- | | | |
|---|---|---------|
| 1. (a) By whom was the corpse sent: | P.S. G.K Road | |
| (b) Name of place from which sent: | Casualty, C.P.H.K, Nagpur | |
| (c) Distance of place from which sent: | | |
| 2. By whom was the corpse brought? | PSI Anmol Patil B.No. 5651,
P.S. GK Road. | |
| 3. By whom identified? | Rohit Mendekar (Father) | |
| 4. The date, hour and minute of its receipt: 1.00 PM | } 15/072013 | |
| (a) The date, hour and minute of beginning post-mortem examination: | | 1.10 PM |
| (b) The date, hour and minute of beginning post-mortem examination: | | 2.30 PM |
| 5. Substance of accompanying report from Police Officer or Magistrate, together with the date of death if known. Supposed cause of death or death –reason, for examination: | As per police inquest and requisition date death is on 14/07/2013 before 22.20 hours
Supposed cause of death- homicide | |
| 6. If not examined at Dispensary or Hospital- | } N/A | |
| (a) Name of place where examined: | | |
| (b) Distance from Dispensary or Hospital: | | |
| (c) Reason why body was not sent to Dispensary Or Hospital: | | |

II. External Examination

7. Sex, apparent age, race or caste: Male, 21 years

Description of clothes and of ornaments on the body:

1) One blue tracking full pant having label "Fenta" over front of left side of pant at upper part. Both front and back pocket of pant intact, blood stains present over it places.

2) One grey colour half T-shirt having label Duck & Cover. Blood stains and soil present at palces.

3) White shando baniyan with label of "MACROMAN" over inner side, blood stains present over baniyan at places.

4) Grey colour underwear with label of "BigBoss" over waist side.

5) Earing present in left ear.

No visible cut marks or tears present over clothes. Clothes packed, labelled and sealed and handed over to PC on duty.

8. Condition of clothes-

Whether wet with water,
Stained with blood or soiled
with vomit or focal matter:

As Above.

9. Special marks on the skin such as scars, tattoeing etc., any malformations peculiarities, or other marks of identification.

Body identified one

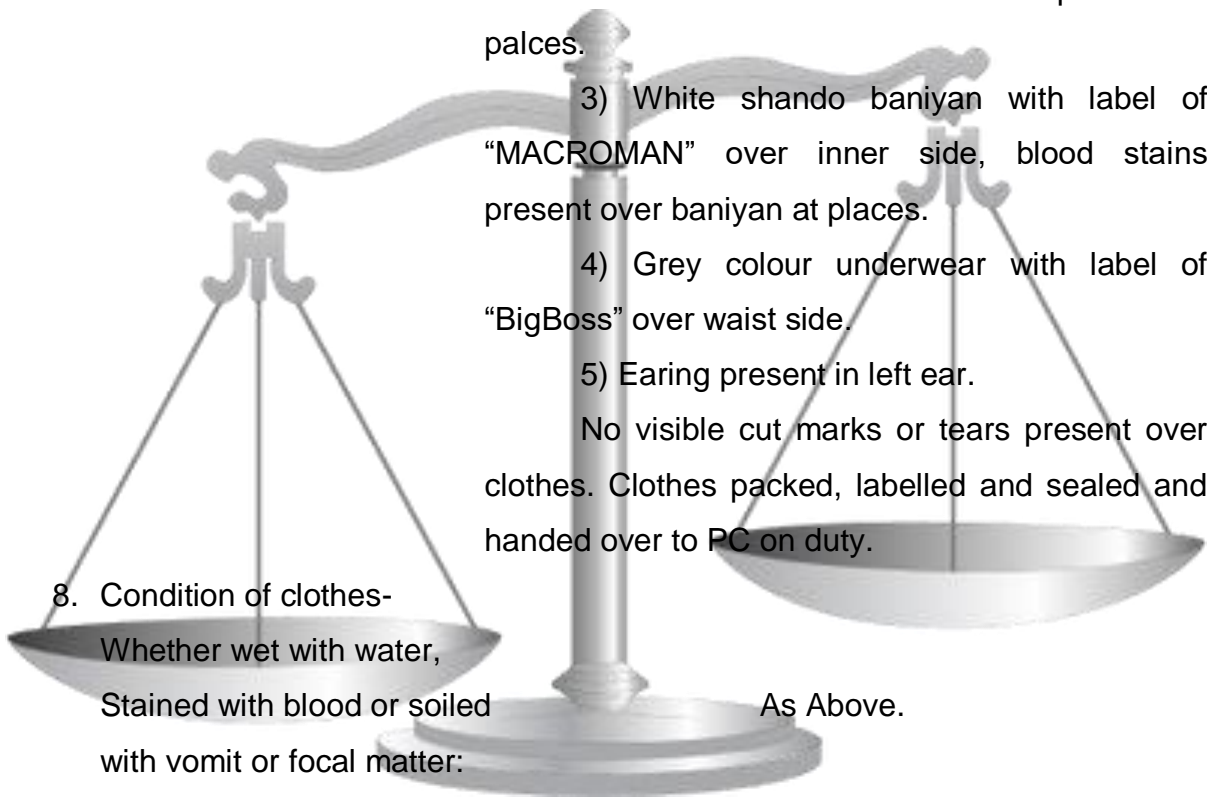
State of the Teeth.

Teeth- 16/16

10. Condition of body-

Whether well-nourished, thin or Emaciated, warm or cold.

Average built, cold



11. Rigor Mortis- Well marked,
sight or absent: whether present in
the whole body or part only:

Well marked in whole body

12. Extent and signs of decomposition,
Presence post-mortem lividity of buttocks,
loin, back or thighs or any other part.
Whether bullae present and the nature
of their contained fluid. Condition
of the cuticle:

No signs of decomposition
Post mortem lividity present
over back and buttocks except
over pressure areas, fixed.

13. Features – Whether natural or
Swollen, state of eyes, position
of tongue, nature of fluid (if any)
oozing from mouth, nostrils or eyes:

Features- Forehead, Nose, and
both eyes compressed and
flattened, antero posteriorly.
Left eye – open, left corner –
hazy
Right eye – contents of eyeball
lacerated
Mouth- Partially open, Tongue
inside mouth, dried blood
stains present in nose, no
oozing from mouth and ear.

14. Condition of Skin – marks of
blood etc. In suspected drowning the
presence or absence of cuts anseria
to be noted:

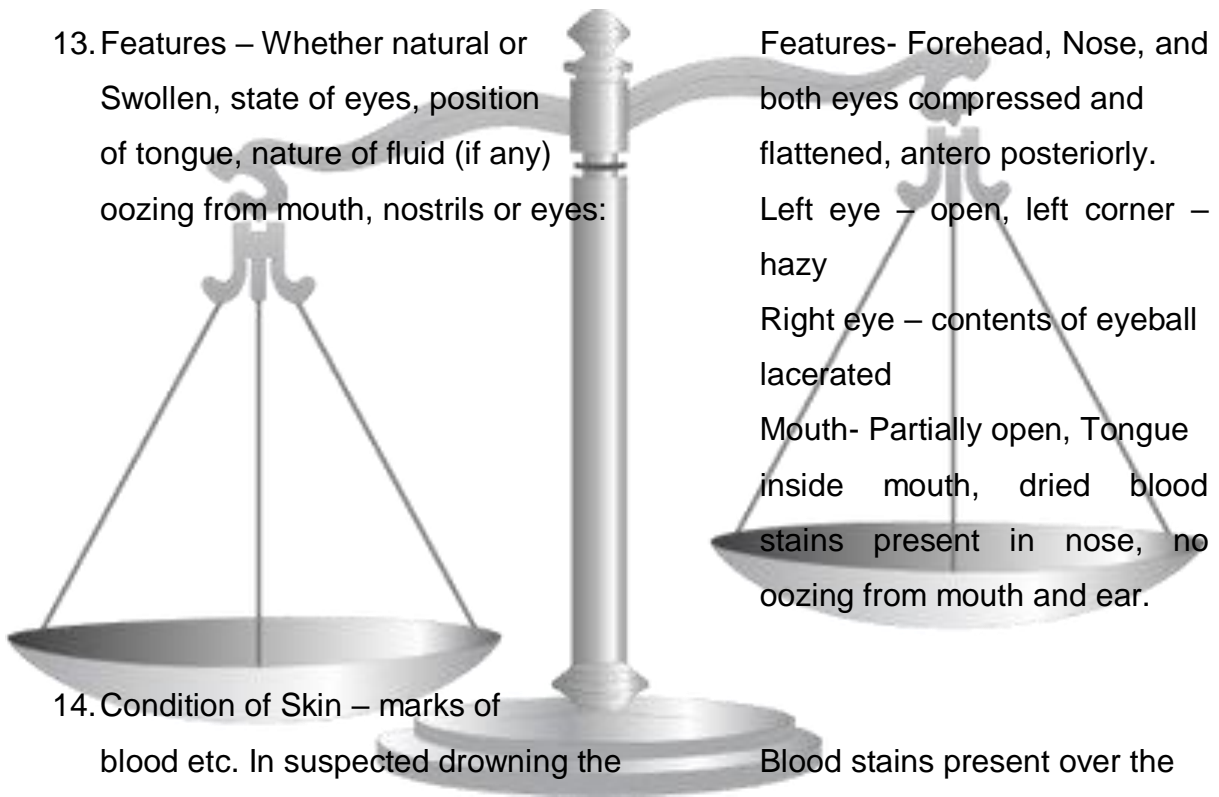
Blood stains present over the
body at places.

15. Injuries to external genitals.
Indication of purging

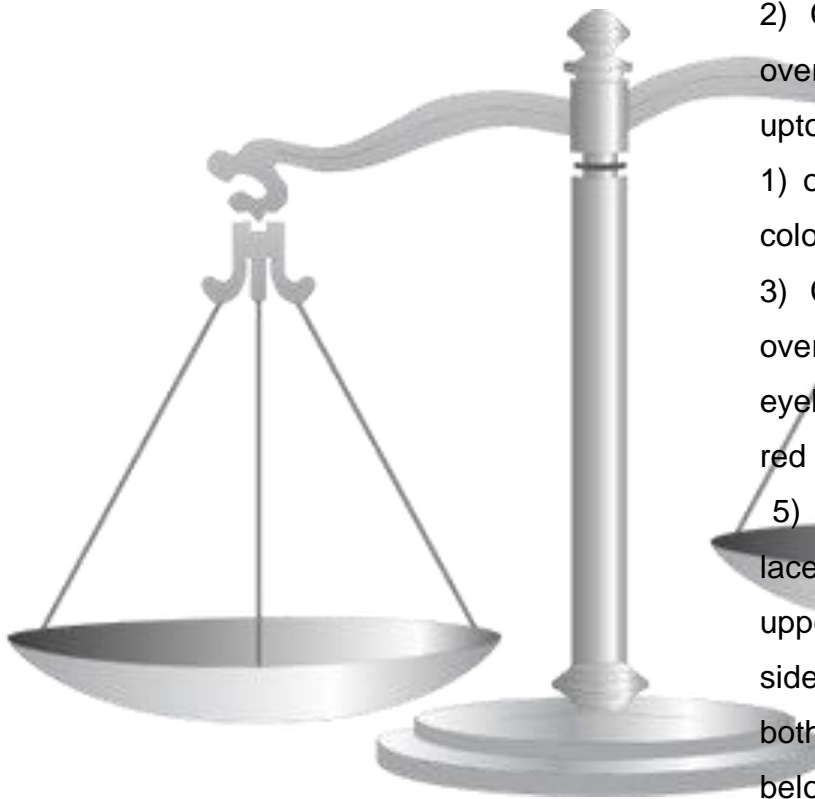
No injuries to external genitals
No purging

16. Position of limbs
Especially of arms and of fingers
In suspected drowning the presence or
Absence of sand or earth within the nails
or on the skin of hands and feet:

All limbs straight



17. Surface wounds and injuries -
Their nature position, dimensions (measured) and directions to be accurately stated-their probable age and causes to be noted.



1) Lacerated wound present over right side of forehead, obliquely placed*. extending upto right upper eyelid & midline of forehead of size 8cm x 4cm x bone deep, with communitated fracture of right frontal bone and upper part of right orbital bone present.

2) Contused-abrasion present over right forehead extending upto upper margin of injury no. 1) of size 10cm x 6cm, red in colour.

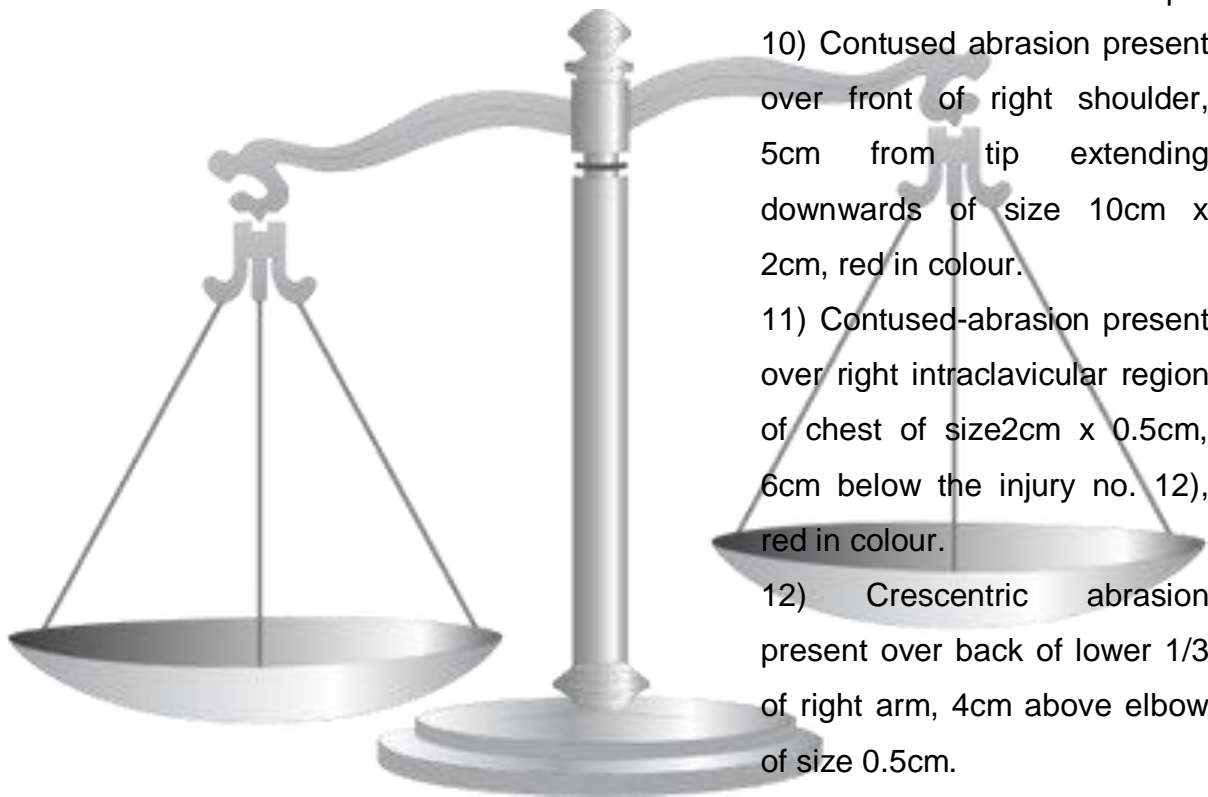
3) Contused-abrasion present over left forehead, 1cm above eyebrow of size 2cm x 2cm, red in colour.

5) Horizontally placed lacerated wound present over upper part of nose extending side upto medial canthus of both eyes situated 0.5 cm below glabella of size 4cm x 0.5cm x bone deep with underlying bones fracture.

If bruises be present what is the condition of the subcutaneous tissues?

6) Contusion present over right maxillary region of size 2cm x 1cm, red in colour.

7) Lacerated wound present over right upper lip in midline



extending on both side of size 3cm x 0.5cm x muscle deep horizontally placed.

8) Lacerated wound present over right lower lip of size 2.5cm x 0.5cm x muscle deep horizontally placed.

9) Lacerated wound present over left angle of mouth of size 0.5cm x 0.5cm x muscle deep.

10) Contused abrasion present over front of right shoulder, 5cm from tip extending downwards of size 10cm x 2cm, red in colour.

11) Contused-abrasion present over right intraclavicular region of chest of size 2cm x 0.5cm, 6cm below the injury no. 12), red in colour.

12) Crescentric abrasion present over back of lower 1/3 of right arm, 4cm above elbow of size 0.5cm.

13) 2-crescentric abrasion present over back of right forearm over an area of 4.5cm x 4cm of size 0.5cm each, red in colour.

18. Other injuries discovered by external examination or palpations as fractures etc. :

Refer to Column 17.

(a) Can you say definitely that the injuries shown against serial nos. 17 and 18 are ante mortem injuries?

Yes, ante mortem
Age of injuries – within 24 hours
Probable weapon – hard and blunt and heavy objects.

III. Internal Examination

19. Head:

i) Injuries under scalp, their nature:

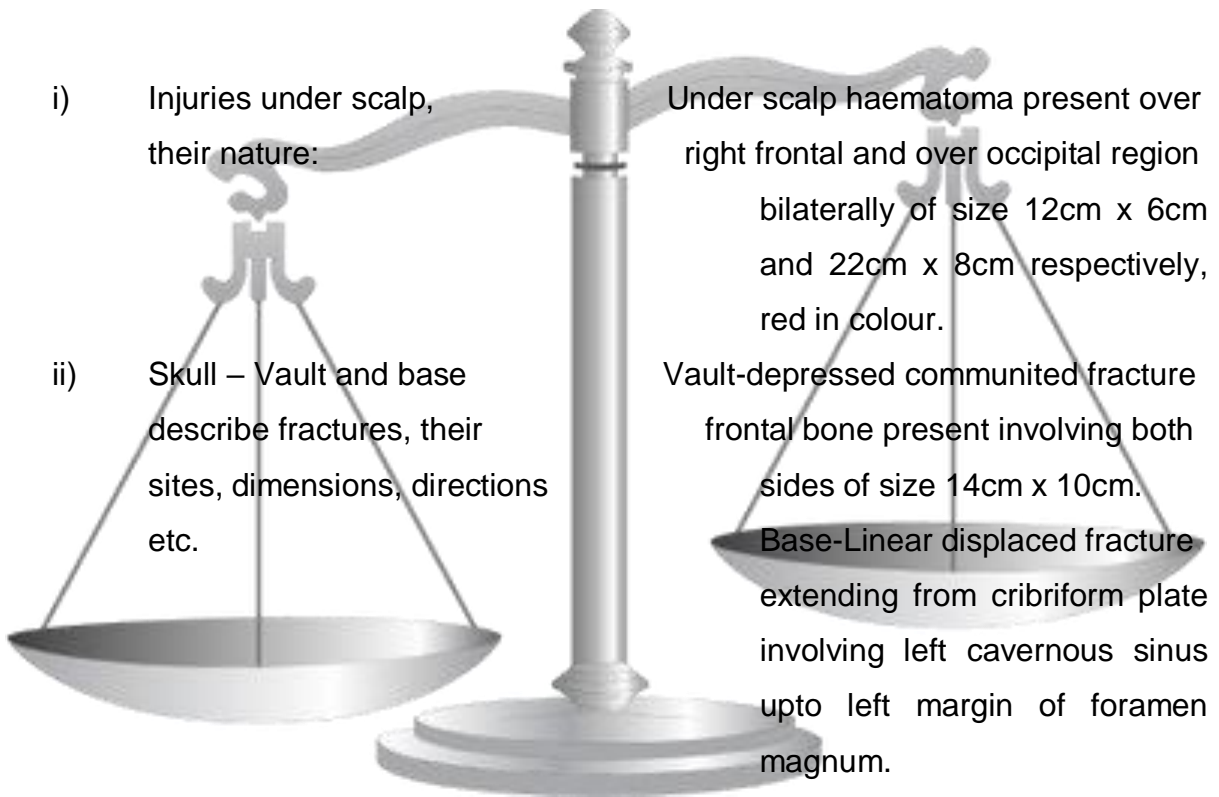
ii) Skull – Vault and base describe fractures, their sites, dimensions, directions etc.

Under scalp haematoma present over right frontal and over occipital region bilaterally of size 12cm x 6cm and 22cm x 8cm respectively, red in colour.

Vault-depressed comminuted fracture frontal bone present involving both sides of size 14cm x 10cm.
Base-Linear displaced fracture extending from cribriform plate involving left cavernous sinus upto left margin of foramen magnum.

iii) Brain – The appearance of its covering, size, weight and general condition of the organ itself and any abnormality found in its examination to be carefully noted (weight M. 3 grams F. 2.75 grams).

Meninges – Torn over right frontal region, pale.
Brain: 1. Both frontal cortex lacerated
2. Multiple contusions present over both temporal lobes, red in colour.
3. Lacerations of brain stem present.



20. Thorax:

(a) Walls, ribs, cartilages	Intact
(b) Pleura	Intact, pale
(c) Larynx, Trachea and bronchi	Intact, no foreign body,
Mucosa-Pale	
(d) Right Lung	400 gms, Intact, pale
(e) Left Lung	350 gms, Intact, pale
(f) Pericardium	Intact, pale
(g) Heart with weight	Intact, pale, Weight-300gms
(h) Large vessels	Contains blood and blood clots
(i) Additional remarks	Nil.

21. Abdomen

Walls	Intact
Peritoneum	Intact, pale
Cavity	No free fluid
Buccal cavity, teeth, tongue and Pharynx	Intact, no foreign body, mucosa-pale
Esophagus	Intact, mucosa-pale
Stomach and its contents	Intact, Contains 100ml semidigested food, no peculiar smell, mucosa-pale
Small intestines and its contents	Intact Contains gases and
faeces,	
Large intestines and its contents	mucosa-pale

Liver (with weight) and gall bladder	Intact, pale, 1400gms. Galle bladder partially filled with bile.
Pancreas and Suprarenals	Intact, Pale
Spleen with weight	Intact, pale, 140gms
Kidneys with weight	Both kidneys intact, pale Right kidney-130gms Left Kidney-120gms
Bladder	Intact, empty, mucosa-pale.
Organs of generation	Intact

Additional remarks with where

Possible medical officer's deduction from the state of the contents of stomach as to time of death and last meal

Nil

State which viscera (if any) have been retained for chemical examination and also quote the numbers on the bootles containing the same

A] Following viscera preserved for chemical analysis.

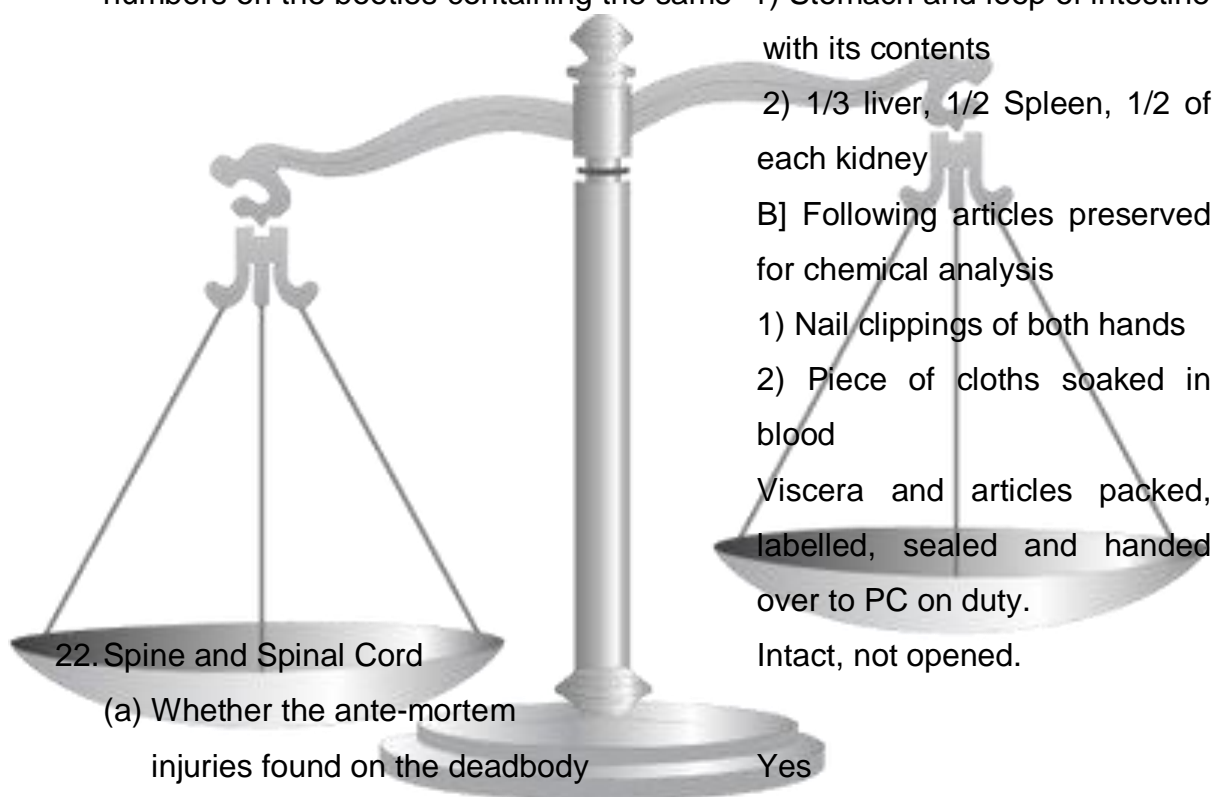
- 1) Stomach and loop of intestine with its contents
- 2) 1/3 liver, 1/2 Spleen, 1/2 of each kidney

B] Following articles preserved for chemical analysis

- 1) Nail clippings of both hands
- 2) Piece of cloths soaked in blood

Viscera and articles packed, labelled, sealed and handed over to PC on duty.

Intact, not opened.



22. Spine and Spinal Cord

(a) Whether the ante-mortem injuries found on the deadbody were sufficient in the ordinary course of nature to cause death?

Yes

(b) If yes, which of the injuries were individually sufficient in the ordinary course of nature to cause death?

Which of the injuries collectively are sufficient in the ordinary course of nature to cause death?

Injury no. 1) to 13) mentioned in column no. 17. associated with internal damages mentioned in

No. 19.

Opinion as to the cause probable cause of death

“Head Injury”

Sign

Dr. M.S. Gedam

Indira Gandhi Govt. Medical
College and C.P.H.K,

Hospital,

Nagpur

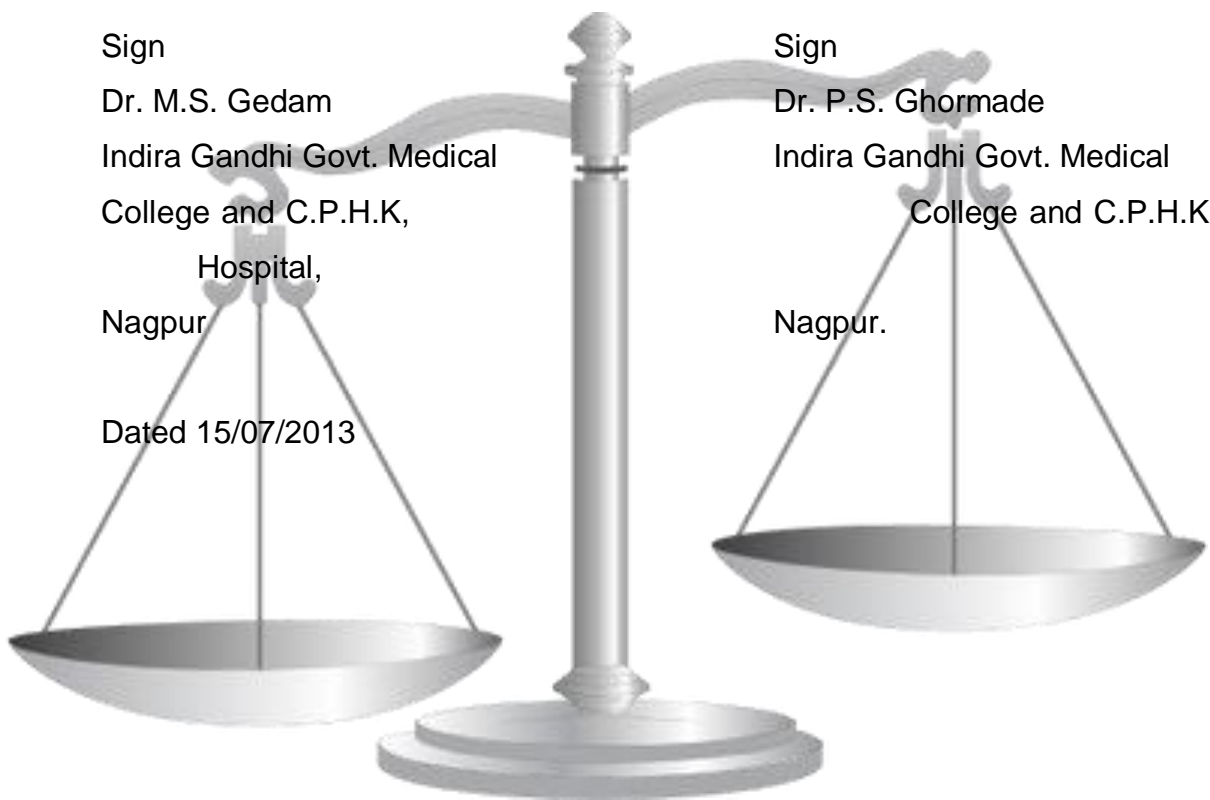
Dated 15/07/2013

Sign

Dr. P.S. Ghormade

Indira Gandhi Govt. Medical
College and C.P.H.K

Nagpur.



MLPM No. MSG/926/13
15/07/2013

Place Dispensary IGGMC, Nagpur
Civil Hospital

Forwarded to the Police Sub-inspector P.S Gittikhdan, Nagpur.

for information with reference to his No.

Cr. No. 601/13 u/s 302 of I.P.C. dated 14/07/2013

2. Viscera has been preserved. It may please be stated Immediately whether examination by chemical analyser is necessary or it is to be destroyed.

Viscera preserved for chemical analysis.

Sign
Dr. M.S. Gedam
Indira Gandhi Govt. Medical
College and C.P.H.K,
Nagpur

Sign
Dr. P.S. Ghormade
Indira Gandhi Govt. Medical
College and C.P.H.K Hospital,
Nagpur.

Copy forwarded with compliments to the Civil Surgeon,

M.M.S. officer

Seen and examined by the Civil Surgeon

Remarks of the Civil Surgeon, (if any)

Sign
Professor & Head,
Department of Forensic Medicine and Toxicology,
IGGMC, Nagpur.

Date: 14/07/2013

SPOT PANCHNAMA

We aforementioned Panchas were called and told by P.S.I. Amol Patil, G.K.Road that, today on 14/07/2013 while he was on duty as night officer, they received a call, a fight is going on in J B Nagar and due to quarrel, one person is lying in the injured condition. After getting such information, it was noted down in Station Diary, no. 70, time 22.10 and then went to JB Nagar to enquire and after reaching, a person named Charmin told us that, person named Jinty Singh Kalsi injured his friend named Deep Mendekar by hiting tile on his head and he has been taken them to the hospital for treatment by Jassi Singh Grover and his friends. On request made by the Investigating Officer, Panchas were present at the spot and they saw the place of incident and panchnama was done. Panchnama is as follows.

Present place of incident is shown by person named Charmin and that place is the Kacha road which is in front of Building no. 61, type II, J.B Nagar. On that road large amount of blood is visible, as well there are five pieces of tiles, two pairs of slippers, a knife and one mobile is also visible. In the form of evidence, the following things have been collected from the place in the presence of Panchas.

1. One pair of sandal of Brand:- Reebok.
2. One pair of Sandal of Brand:- Nike
3. One mobile phone which has a logo "Apple". There are blood stains on the mobile.
4. One Sharp Knife on which blood is visible.
5. One 23" long and 12" broad and 1.5" thick black coloured Kadappa Tile which is broken in five pieces.

Piece no. 1 is measuring 12" long and 4.25" broad

Piece no. 2 is measuring 9" long and 8" broad

Piece no. 3 is measuring 9" long and 8" broad

Piece no. 4 is measuring 9" long and 5.25" broad

Piece no. 5 is measuring 5" long and 3.5" broad

6. One cotton ball on which the blood sample is taken.
7. Sample of soil mixed with blood taken from the spot.
8. Sample of plain soil taken from the spot.

The above mentioned things are sealed and covered on it the paper labels of the panchas and the police are being pasted. The photographs of the said place of incident are taken by Government photographer, Police Constable Balli, B.No. 250.

This Spot Panchnama is written in the handwriting of P.S.I. Shri. Patil.

By observing the place of incident, there is Electric pole of no. BZC 119 Q at 24 foot from the spot in the East direction, Cement electric pole of no. Q52 at 60 foot in the West direction, Kacha road in the North direction and in south direction there is a Building (two floored) at 40 foot, on which, Block II Quarter No. 257 to 264 is written. The place of incident is clearly visible under the light of Electric pole and the Panchnama has done under this light.

This Spot Panchnama has done and written down correctly as seen and as seems from the situation.

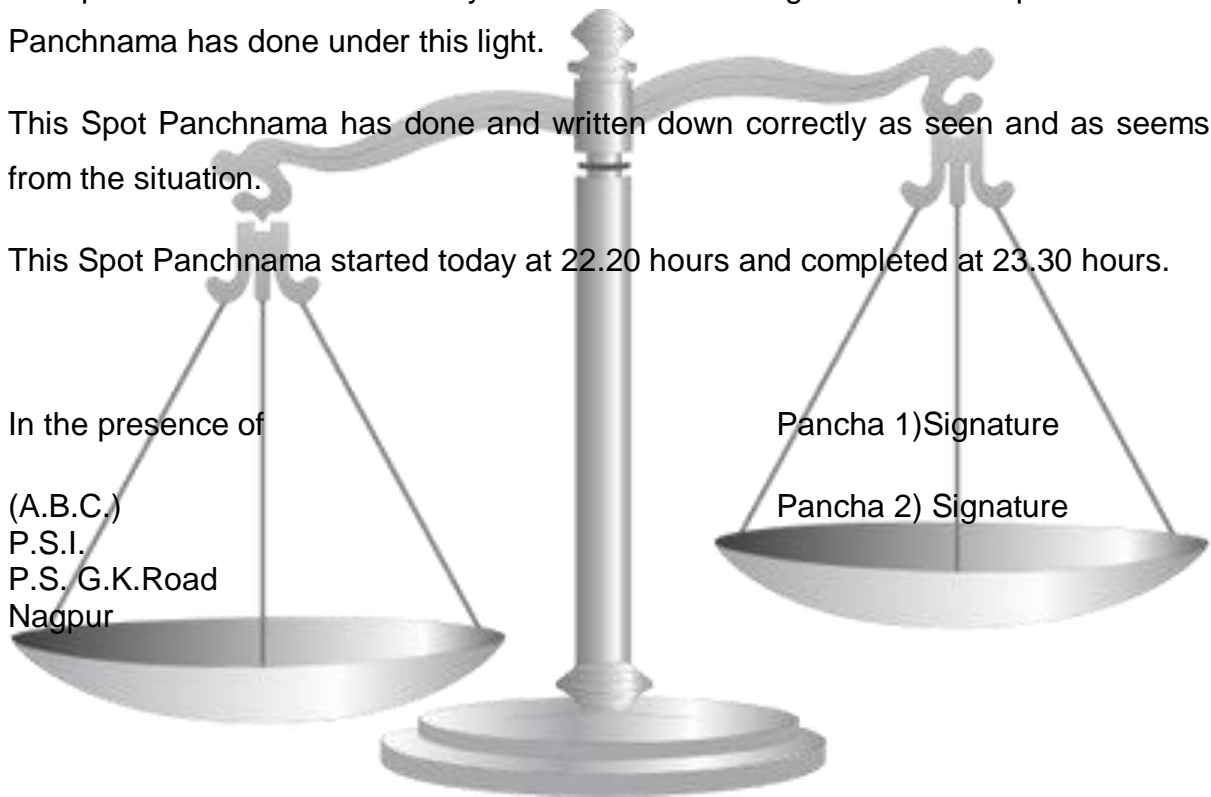
This Spot Panchnama started today at 22.20 hours and completed at 23.30 hours.

In the presence of

(A.B.C.)
P.S.I.
P.S. G.K.Road
Nagpur

Pancha 1)Signature

Pancha 2) Signature



To,

Investigating Officer

P.S. G.K.Road

Subject : Examination of weapon in connection to Cr No. 601/13 U/S 302 IPC of PS G.K.Road.

References: 1) Cr No. 601/13,IPC 302 , PS G.K.Road.

2) MLPM No. MSG/926/13 dated 15/07/13.

3) Your letter no. 2500/13 dated 30/07/13.

R/S ,

Received 5 sealed packets having Sr no. 601/13 dated 15/07/13. On opening seal,5 pieces of “ Kadappa slab” present,which can be aligned.

Description of 5 slabs as follows:

1. Weapon No. 1 :- Rectangular piece of black kadappa slab:-

1.1 Kind of weapon – Hard, blunt, and heavy having weight of approximately 1.5 kg.

1.2 Length – 31cm .

1.3 Maximum breadth – 10.5 cm.

1.4 Thickness – 3cm.

1.5 Edges – 2 edges are roughs irregular and 2 edges are plain.

1.6 Surfaces- 1 surface is smooth and other surface is rough . Cement stains and blood stains present over slab at places.

2. Weapon No. 2 :- Rectangular piece of black kadappa slab :-

2.1 Kind of weapon - Hard ,blunt, and heavy having weight of approximately 2.5 kg.

2.2 Type of weapon - Dangerous , if used as a weapon of offence.

2.3 Length- 22cm.

2.4 Maximum breadth – 20.5cm.

2.5 Thickness – 3cm .

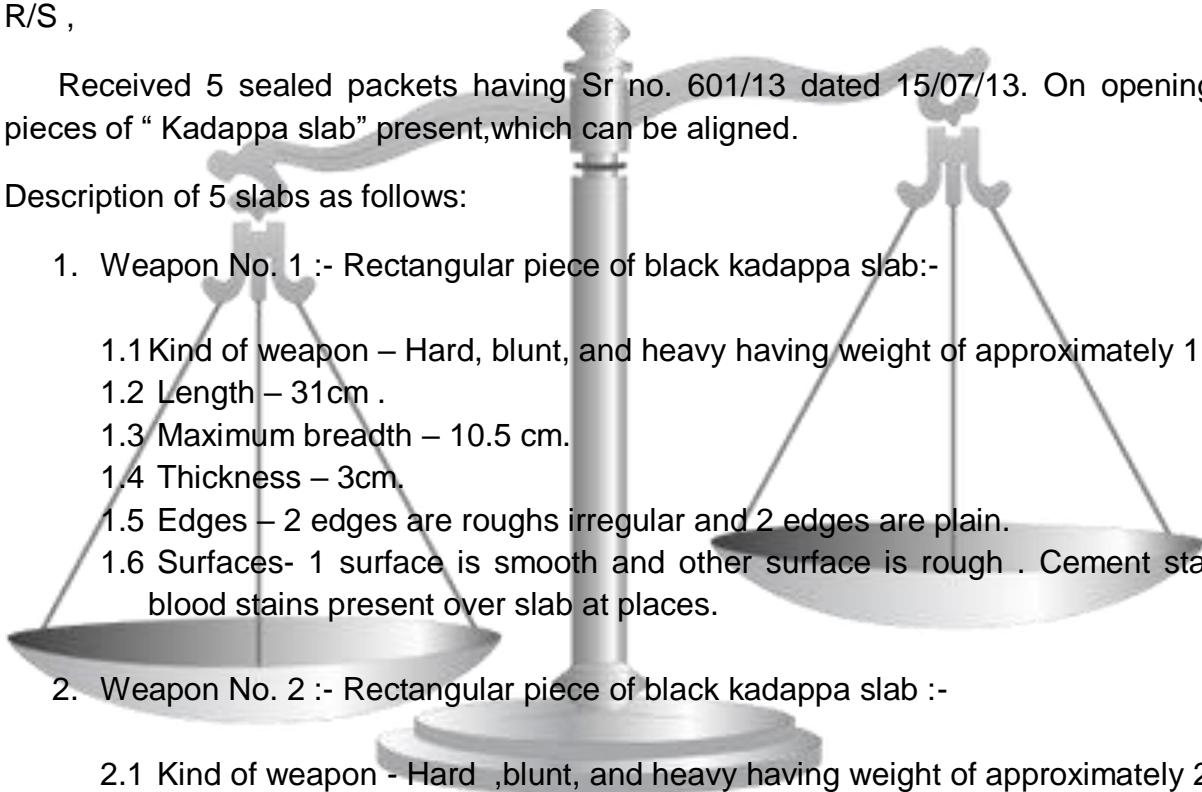
2.6 Edges – 2 edges are irregular and rough and remaining 2 edges are plain.

2.7 Surfaces – 1 surface is smooth and other surface is rough and remaining 2 edges are plain.

3. Weapon No. 3 :- Rectangular piece of black kadappa slab:-

3.1 Kind of weapon- Hard , blunt and heavy and approximately weight of 3kg.

3.2 Type of weapon – Dangerous , if used as a weapon of offence.



- 3.3 Length- 24.5cm.
- 3.4 Maximum breadth – 21cms.
- 3.5 Thickness – 3cms.
- 3.6 Edges – 2 edges are irregular and rough and 2 edges are plain.
- 3.7 Surfaces – 1 surface is smooth 2 other surface is rough. Cement stains present on one surface and blood stains present on another surface.

4. Weapon No. 4 :- Rectangular piece of black kadappa slab:-

- 4.1 Kind of weapon – Hard, blunt, and heavy approximate weight of 1.1kg.
- 4.2 Type of weapon – Dangerous , if used as a weapon of offence.
- 4.3 Length – 24cms.
- 4.4 Breadth (maximum) – 13.1cms.
- 4.5 Thickness – 3cms.
- 4.6 Edges – 2 edges are irregular rough and 2 edges are plain.
- 4.7 Surface – 1 surface is enough and other is rough. Cement stains present on rough and plain surfaces at places.

5. Weapon No. 5:- Triangular piece of black kadappa slab:-

- 5.1 Kind of weapon – Hard, blunt , heavy , approximate weight of 150gms.
- 5.2 Type of weapon – Dangerous, if used as weapon of offence.
- 5.3 Length – 13.5 cms.
- 5.4 Maximum breadth – 8.8cms.
- 5.5 Thickness – 3cms.
- 5.6 Edges – 2 edges are irregular and rough and 1 edge is plain.
- 5.7 Surfaces – 1 surface is rough and blood stains are present over rough surface , another surface is plain , having cement stains at places.

Advised – Chemical analysis of all 5 slabs.

Opinion – 1) Injuries no. 1 to 10 over forehead and face , and internal damage mentioned in column no. 19 of post mortem report can be possible with such kind of weapon (Kadappa slab) .

2) Refer to post mortem report.

Place- Dept.. of MMT, Medical College, Nagpur.

Date – 22/07/13 at 1:45pm.

All 5 weapons packed, labeled sealed and handed over to PSI Amol Patil, G.K.Road.

No. N(T) 601/13 of

M.L. Case No Bn – 24/13

REGIONAL FORENSIC SCIENCE
LABORATORY,

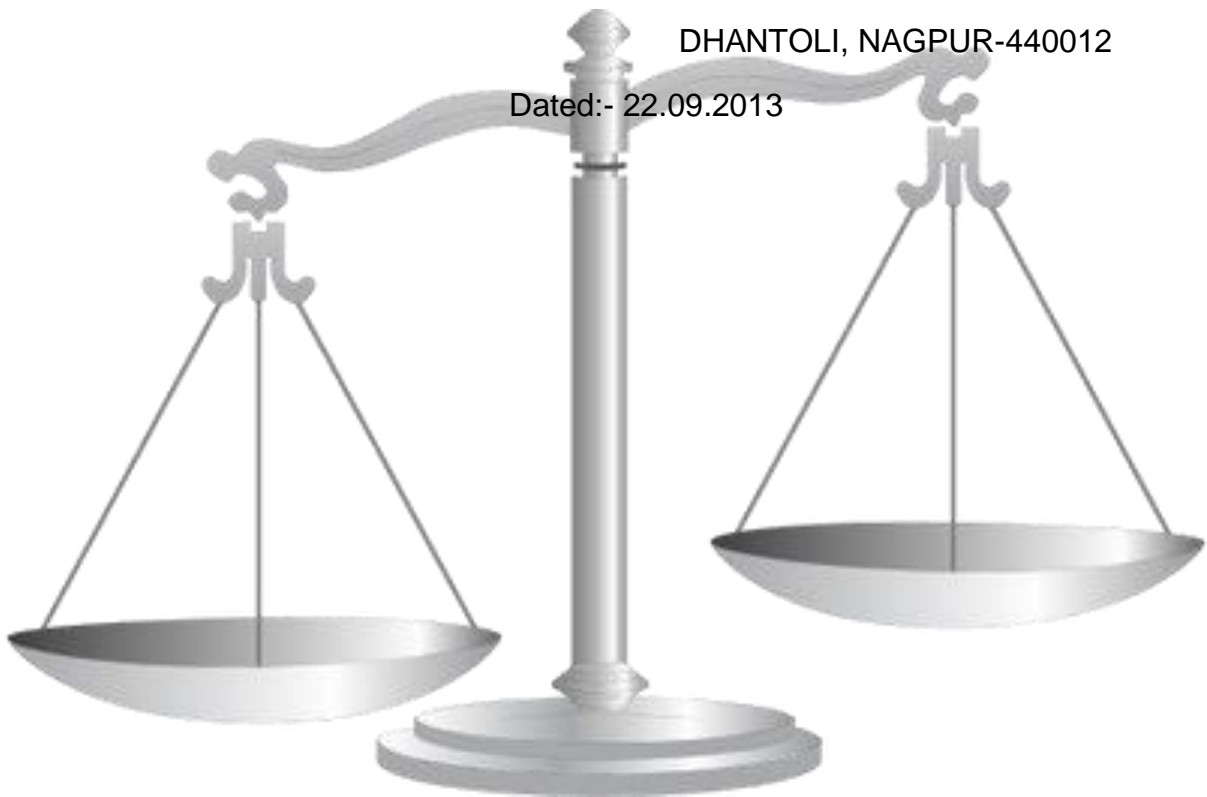
STATE OF MAHARASHTRA,

DHANTOLI, NAGPUR-440012

Dated:- 22.09.2013

DHANTOLI, NAGPUR-440012

Dated:- 22.09.2013



To,

Police Sub Inspector,

Police Station: G.K.Road

District: Nagpur City

Your letter No 236/13 dated 01/08/13
regarding

Nine Parcel/s in connection with C.R. No. 601/13 Of P.S. G.K.Road
Under Section 302 IPC

Stated by you to have been dispatched on ___ per P. C. No.
4925

was duly received in this office on 01/08/13

Description of Parcel/s

One sealed plastic gunny bag parcel, four sealed packets and four sealed parcels
seals intact and as per copy sent.

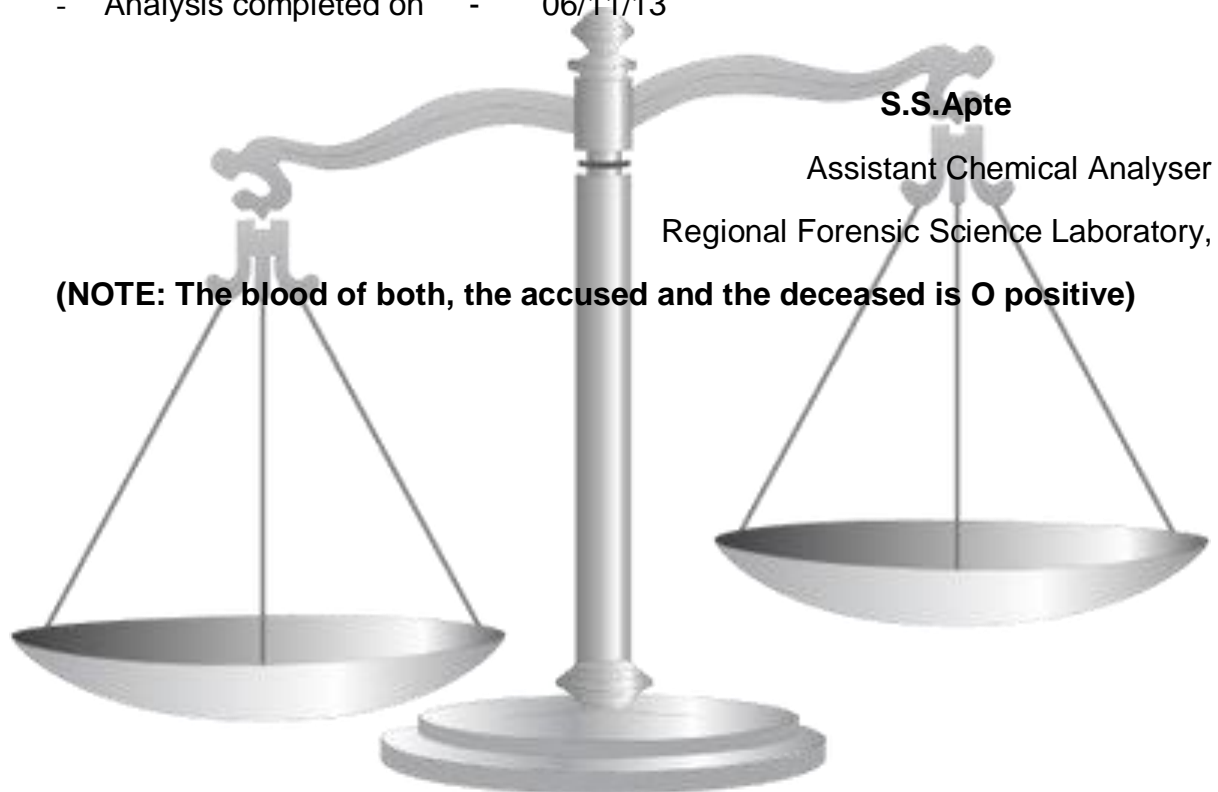
Description of articles contained in Parcel/s

1. Pair of two Sandals wrapped in paper labeled – A.
2. Sharp Knife wrapped in paper labeled – A1.
3. Mobile phone put in packet labeled – A2.
4. Stone (L -1) Wrapped in paper put in plastic gunny bag labeled – A3
5. Stone (L -1) Wrapped in paper put in plastic gunny bag labeled – A3
6. Stone (L -1) Wrapped in paper put in plastic gunny bag labeled – A3
7. Stone (L -1) Wrapped in paper put in plastic gunny bag labeled – A3
8. Stone (L -1) Wrapped in paper put in plastic gunny bag labeled – A3
9. Cotton swab wrapped in paper put in packet labeled – C.
10. Earth wrapped in paper put in packet labeled – D.
11. Earth wrapped in paper put in packet labeled – E.
12. Half T-Shirt (Torn) Wrapped in paper labeled – B1 and B2.
13. Half Pant Wrapped in paper labeled – B1 and B2.
14. Track Pant (Torn) Wrapped in paper labeled – A4.
15. Underwear Wrapped in paper labeled – A4.
16. Half T-Shirt Wrapped in paper labeled – A4.
17. Sleeveless T-shirt Wrapped in paper labeled – A4.

RESULTS OF ANALYSIS

- Exhibit 1, 2, 3, 4, 5, 6, 7, 8 and 9 are stained with blood.
- Exhibit 10 is mixed with blood.
- Exhibit 12 has considerable number of blood stains ranging from about 0.1 cm to 2 cm in diameter on front portion.
- Exhibit 13 has moderate number of blood stains ranging from about 0.1 cm to 2 cm in diameter on front portion.

- Exhibit 14 has moderate number of blood stains ranging from about 0.1 cm in diameter to big in size mostly on front portion.
- Exhibit 15 has moderate number of blood stains from about 0.1 to 2 cm in diameter spread at places.
- Exhibit 16 has considerable number of blood stains ranging from about 0.1 cm in diameter big in size spread at places.
- Exhibit 17 has considerable number of blood stains ranging from about 0.1 in diameter to big in size mostly on back portion.
- No blood is detected in exhibit 11.
- Blood detected on exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, and 17 is human.
- Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, and 17 are stained with blood of group 'A'.
- Analysis started on - 17/10/13
- Analysis completed on - 06/11/13



S.S.Apte

Assistant Chemical Analyser

Regional Forensic Science Laboratory,

(NOTE: The blood of both, the accused and the deceased is O positive)

EXAMINATION OF PROSECUTION WITNESSES

(Statements recorded under Section 161 of Code of Criminal Procedure, 1973)

PW-1

Name:- Charmin Golcha

Aged about: 21 years,

Occupation: Education

I am student of A.B.Z University, Nagpur. I know deceased since childhood, he is my friend. On 14.7.2013 he was murdered. On that day I was on my mobile near my house at about 9.00 to 9.30 p.m., at that time deceased asked me to accompany him to meet a friend. Therefore, I along with deceased went to J.B.Nagar, Nagpur by his motorcycle. We reached there at about 9.45 p.m. The deceased carried a sharp knife with himself. There we met the accused. Deceased asked me to stay at some distance, therefore, I stayed at some distance from Accused and deceased. Thereafter, on account of some prior dispute, the quarrel took place between accused and deceased. They fought with each other and beat each other. Deceased fell on the ground. At that time I was at a distance of about 10 ft. from them. I requested accused not to beat deceased. I rushed towards accused and deceased, at that time accused lifted a piece of tile to beat deceased, but as I went near them, accused came to me by holding that piece of tile. To save myself, I returned back to the place where motorcycle was standing. I sat on the motorcycle and by turning saw that accused beat deceased by that piece of tile on his head. The distance between the motorcycle and the spot where Deceased was beat was about 10 ft. Thereafter, by said motorcycle I met my friend Ratan Ambhore and told him that accused beat deceased. Thereafter, I along with Ratan Ambhore and other friends returned back to the spot of the incident. At that time, Deceased was lying in pool of blood. Thereafter, my friend Bhushan and Jassi took deceased to C.P.H.K Hospital, Nagpur. At that time, the deceased told them that the accused had smashed a tile on his head. It is immediately on reaching the Hospital, the Doctor there declared him dead.

2. Thereafter, I went to the Police Station G.K. and lodged report against Accused. It is today on 17.7.2013 my statement is recorded.

PW-2

Name : Bhushan Yadav

Aged about : 21 years,

Occupation : Service,

I am student of A.B.Z, University. I know the deceased, he is my childhood friend. One day in the month of July 2013 at about 9:00 to 9:30 p.m, I along with my friends namely Hitesh Kalra , Pankaj Mahajan, Kaushal Kale, Charmin Golcha and deceased were sitting at a Cafe. At that time deceased asked Charmin to accompany him to go somewhere by his motorcycle and thereafter , they left that place. After some time, Charmin alone came to us by the motorcycle of deceased and told that they had gone near to the house of Jinty, where a quarrel took place between Jinty and Deep. He further told us that the accused hit the deceased on his head by piece of tile in J.B.Nagar, Nagpur . He further told us that deceased is lying there and asked us to accompany him to the spot of incident. Therefore, we started to proceed towards the spot of incident, but at the same time I made phone call from my mobile to my friend who is a Police Constable and informed him about the incident and also asked him to come on the spot. I asked Pankaj Mahajan to bring his Car on the spot of incident. When we reached on the spot, we saw that deceased was lying in the pool of blood. At that time he was alive. Ratan Ambhore and Jassi Singh Grover came to the spot later. Thereafter, I and Ratan Ambhore by motorcycle took deceased to go towards the C.P.H.K Hospital but at Katol Road Square , we met Pankaj Mahajan who was came there by his Honda Civic Car, so we then took the deceased in car of Pankaj Mahajan. While going towards C.P.H.K Hospital, I asked deceased about what happened, he informed that Jinty had smashed a tile on his head. When we reached the hospital, the doctor examined and declared him dead.

Sometime in January, 2013, around 6 month prior to death of deceased, a quarrel took between deceased, Ratan Ambhore and Jassi Singh Grover. At that time Jassi Singh lodged report against Deceased. The accused is the friend of Jassi Singh. It is in May, 2013, Deceased told me settle the matter with Jassi Singh, and in that regard i tried to convince Jinty to settle the matter as he was a friend of Jassi and also because he was a witness in that matter.

My statement was recorded by police on 17.07.2013. My statement was recorded by police as per my say in Police Station G.K.Road

DEFENCE WITNESSES

(The statements are created only for the purposes of the moot problem and to train the witnesses, teams are at liberty to create their own defences in addition to the statements provided below and accordingly lead evidence to that effect.)

DW1

Name : Ratan Ambhore

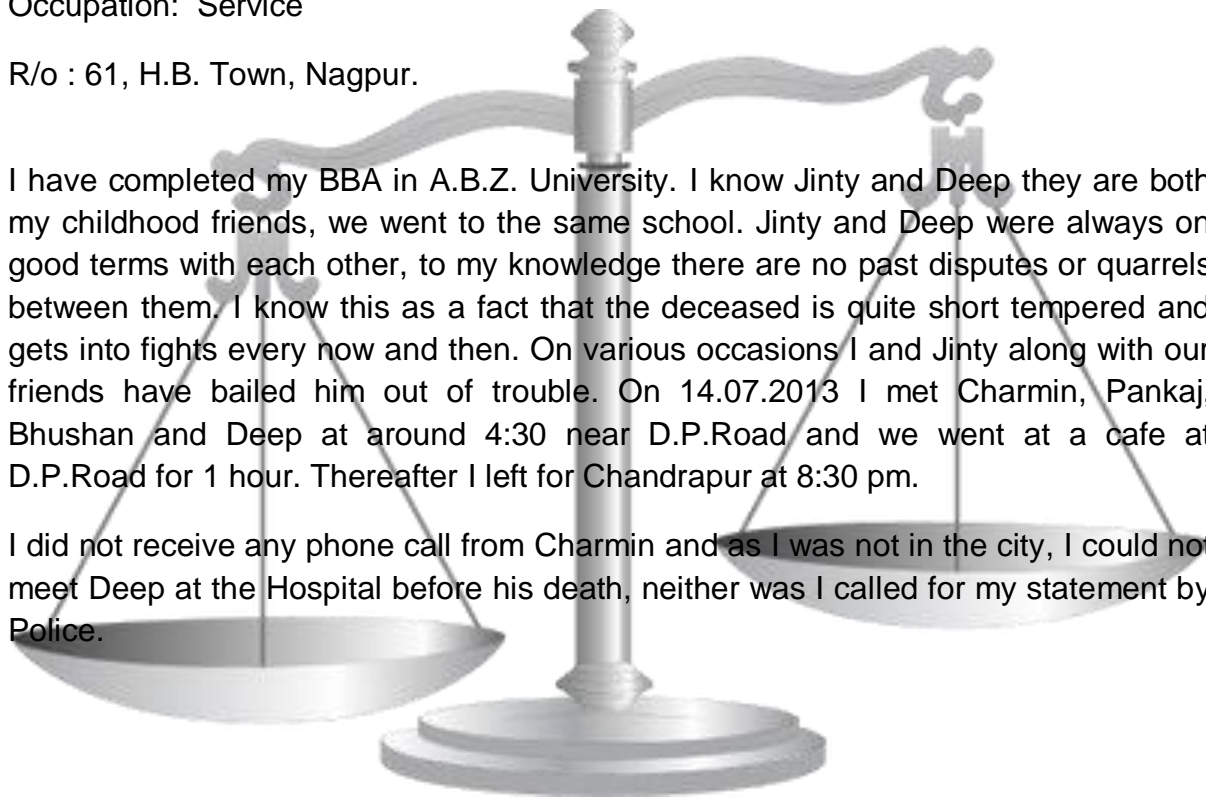
Aged about: 23 years,

Occupation: Service

R/o : 61, H.B. Town, Nagpur.

I have completed my BBA in A.B.Z. University. I know Jinty and Deep they are both my childhood friends, we went to the same school. Jinty and Deep were always on good terms with each other, to my knowledge there are no past disputes or quarrels between them. I know this as a fact that the deceased is quite short tempered and gets into fights every now and then. On various occasions I and Jinty along with our friends have bailed him out of trouble. On 14.07.2013 I met Charmin, Pankaj, Bhushan and Deep at around 4:30 near D.P.Road and we went at a cafe at D.P.Road for 1 hour. Thereafter I left for Chandrapur at 8:30 pm.

I did not receive any phone call from Charmin and as I was not in the city, I could not meet Deep at the Hospital before his death, neither was I called for my statement by Police.



DW2

Name : Jassi Singh Grover

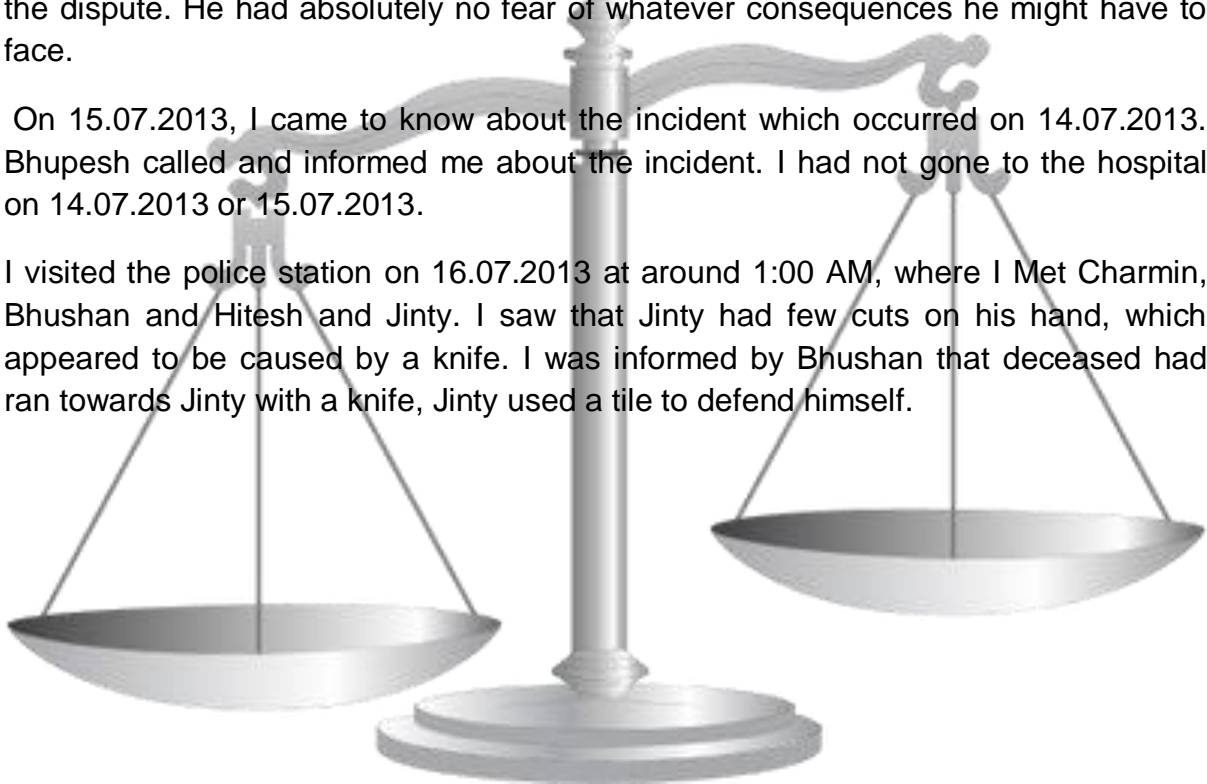
Aged about: 23 years,

Occupation: Business

I am graduated from A.B.Z University. I know Deep and Jinty since few years. I am an alumni of A.B.Z University. The deceased had taken a loan from the accused and he promised to return to the accused. But every now and then he would make excuses and not repay the amount to the accused. I have tried to resolve the dispute between them, but the deceased was always adamant and was not willing to resolve the dispute. He had absolutely no fear of whatever consequences he might have to face.

On 15.07.2013, I came to know about the incident which occurred on 14.07.2013. Bhupesh called and informed me about the incident. I had not gone to the hospital on 14.07.2013 or 15.07.2013.

I visited the police station on 16.07.2013 at around 1:00 AM, where I Met Charmin, Bhushan and Hitesh and Jinty. I saw that Jinty had few cuts on his hand, which appeared to be caused by a knife. I was informed by Bhushan that deceased had ran towards Jinty with a knife, Jinty used a tile to defend himself.



IN THE COURT OF SESSION, NAGPUR.

(Presided over by A.B.C., Addl. Sessions Judge)

Sessions Trial No. : 601/2013

The State of Maharashtra,
Through the Officer in Charge,
Police Station, G.K.Road Nagpur .

.....PROSECUTION

// V E R S U S //

Jinti Singh Kalsi

Aged about 23 years, Occu. : Business,
R/o Katol Road, Nagpur.

.....ACCUSED

CHARGE UNDER SECTION 302 OF THE INDIAN PENAL CODE, 1860

J U D G M E N T

(Delivered on this 17th day of March, 2018)

- 1] The accused is prosecuted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (In short the **I.P.C.**) for committing murder of Deep Mendekar.
- 2] On considering the merits of the rival contentions and after weighing the pros and cons of the matter, following points arise for my determination. My findings and reasons thereon are as follows :-

Sr. No.	POINTS		FINDINGS
1.	Whether the prosecution proved that the deceased died homicidal death ?	Yes.
2.	Whether the prosecution proved that on 14.7.2013 the accused committed murder of deceased and thereby committed an offence punishable under Section 302 of the I.P.C. ?	Yes.
3.	What order ?	Accused is convicted.

R E A S O N S

AS TO POINTS NO. 1 AND 2

1] In order to prove the homicidal death the prosecution mainly relied on the inquest panchnama, postmortem report and the informant (P.W.1) & (P.W.2). As per postmortem report, the deceased sustained about 13 external surface wounds/injuries which are mentioned in column No.17 of the postmortem report and all these injuries are antemortem.

2] The informant (P.W.1) is the star witness of the prosecution who disclosed that he saw the incident of beating deceased by the accused by tiles. According to him, the deceased was his friend and on 14.7.2013 at about 9.00 to 9.30 p.m., the deceased came to him and asked him to accompany him, therefore, he along with deceased went to J.B.Nagar,Nagpur by the motorcycle of deceased and reached there at about 9.45 p.m. There they met the accused who is the friend of deceased. The deceased asked him to stay at some distance, hence he stayed at some distance from deceased and accused. Thereafter, on account of some prior dispute, the quarrel took place between deceased and accused and they beat each other. The deceased fell on the ground. At that time, he was at a distance of 10 ft. from them and requested accused not to beat deceased. He rushed towards deceased and accused, at that time, the accused lifted a piece of tile to beat deceased, but, as he went near them, accused came towards him by holding that piece of tile, hence, to save himself, the informant return to the place where the motorcycle was standing. By sitting on motorcycle, he saw that accused is beating deceased on his head by that piece of tile. Thereafter, by that motorcycle, the informant met his friend Ratan Ambhore and told him that accused is beating deceased. Thereafter, he along with Ratan Ambhore and his friends came to the spot of incident, at that time they saw the deceased who was lying in a pool of blood. Thereafter, his friends Bhushan and Jassi took deceased to the C.P.H.K Nagpur where doctor declared him dead.

3] The informant (P.W.1) further disclosed that thereafter, he went to Police Station G.K.Road and lodged report against accused and police prepared the printed F.I.R. and obtained his signature.

4] The informant identified the accused and piece of tiles (Articles-P1 to P5) by which accused beat deceased and the clothes of deceased and accused which they wore at the time of incident.

5] In cross-examination, some omissions in the report and statement of informant (P.W.1) are brought on record. But, in my opinion, these omissions are not sufficient to discard the testimony of informant. These omissions do not go to the root of the case.

6] It is true that in cross-examination, the informant disclosed that he did not intimate the police about the incident by making phone call though he was having a

mobile phone and after incident, for the first time, he met police on the spot of incident prior to lodging report, but, on the spot he did not lodge report. The informant further disclosed that police took him to the C.P.H.K Hospital by their vehicle and while going towards hospital from the spot, he stated about the incident to police, but they did not reduce it into writing. When he reached C.P.H.K Hospital, the deceased was in a Casualty Department. He stayed in C.P.H.K Hospital for about half an hour, but did not lodge report there with police personnel who were present there.

7] It is true that in view of Section 154 of the Cr.P.C., as soon as the report of cognizable offence is received in Police Station, it is to be reduced into writing. In such type of serious offences, the conduct of persons differs from person to person and from situation to situation.

8] Further, considering the aforesaid admissions of the informant, it cannot be said that the report is delayed or fabricated. The incident occurred at about 10.00 p.m. As per printed F.I.R., the information reached to Police Station at about 22.10 hours and police immediately visited the spot and prepared the spot panchnama from 22.20 to 23.30 hours. The copy of printed F.I.R. was sent to the Magistrate on very next day i.e. on 15.7.2013. The report is lodged against the accused. In cross-examination, the informant disclosed that prior to the incident, he knew the accused by his name.

9] The Investigating Officer immediately visited the spot after receipt of the phone call in respect of the incident. According to him the informant was present there and on the spot itself, the informant disclosed him that the accused beat deceased and the deceased is taken to the C.P.H.K hospital. The informant also disclosed that he met police personals on the spot and did not accompany the deceased and his friends to C.P.H.K Hospital.

10] The version of informant is also corroborated by the other prosecution witnesses and medical evidence and along with the Oral Dying Declaration given to PW2.

11] The main contention of defence with regard to the testimony of (P.W.1) is that their statements are recorded after two days of the incident i.e. on 17.7.2013 and hence, they are not believable. But, in my considered opinion, only two days delay in recording statements of these witnesses by police, in the facts and circumstances of the case, is not sufficient to discard their entire testimony which is otherwise reliable.

12] It is true that, it is expected from the witness and the police machinery to record the statement of witness acquainted with the facts as early as possible. The postmortem was conducted from 1.10 p.m. to 2.30 p.m. on 15.7.2013. Thereafter, the dead body was handed over and the last rituals was performed. If they had any

intention to implicate the accused falsely, then they could easily pose themselves to be the eye witnesses of the incident.

13] It is the contention of the counsel for the accused that the clothes of PW1 and PW 2 have not been seized. I do not find much substance in such an argument as it is settled that the lacuna on the part of Investigating Officer or the Prosecutor conducting the trial is not sufficient to throw out the entire case of prosecution, if it is otherwise believable. Faulty investigation could hardly be a ground for rejection of testimony of eyewitnesses which had a ring of truth in it. The defence has come with a theory that deceased was the aggressor. But there is no evidence or any suggestion given to the witnesses to draw support and prove the case of self-defence. Hence I do not find any reason whatsoever to believe that the case of self defence is made on behalf of the accused.

14] It is the contention of the counsel of accused that no written summons were given to panch witness, hence, his testimony should not be believed. But, in my considered opinion, these grounds are not sufficient to disbelieve him whose testimony is otherwise believable. Further, issuing written summons to act as panch on the spot panchnama is not the requirement of law and therefore, merely because written summons is not issued to a panch by the Investigating Officer is not sufficient to conclude that he did not act as a panch.

15] I did not find any laxity on the part of the prosecution. The Investigating Officer immediately visited the spot and after spot panchanama, went to Hospital and from Hospital, the Investigating Officer returned to the Police Station and on the basis of report of informant registered the crime.

16] According to the Investigating Officer, on 15.7.2013, the police staff brought the accused in Police Station and he arrested him and prepared his arrest Form and took the entry of his arrest in Station Diary This fact is admitted by accused in his statement under Section 313 of the Cr.P.C.

17] It is submitted by the counsel for the accused that not seizing vehicles were material piece of evidence, but the Investigating Officer deliberately did not seize it, hence adverse inference needs to be drawn against the prosecution. But, in my considered opinion, these vehicles were not used in the commission of crime, hence, non seizure of those vehicles does not make the case of prosecution doubtful in any manner.

18] Though defence thoroughly cross-examined the prosecution and also examined their defence witness, but failed to illicit anything from them so as to create reasonable doubt in the case of prosecution. It is settled that the doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than truth and to constitute reasonable doubt, it must be free from an overemotional response. Doubts must be actual and substantial doubts as to the guilt of the accused arising from the evidence, or from the lack of it, as

opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case. The doubt to be reasonable must be such a one as an honest, sensible and fair-minded man might, with reason, entertain consistent with a conscientious desire to ascertain the truth. An honestly entertained doubt of guilt is a reasonable doubt. A vague conjecture or an inference of the possibility of the innocence of the accused is not a reasonable doubt.

19] The case of prosecution is based on cogent, convincing and reliable evidence. It is settled that where the evidence of the prosecution witnesses are found to be cogent, convincing, creditworthy and reliable, the conviction can be sustained. As per medical evidence, the deceased sustained several injuries on his head which are sufficient to come to the conclusion that the accused beat deceased with intent to commit his murder. In spite of request of informant, the accused did not leave the deceased. Hence, I have no hesitation to hold that the prosecution, beyond all reasonable doubt, proved that the death of deceased is homicidal and accused caused his death by beating him. Hence, I answered points No. 1 and 2 in affirmative.

20] The accused is liable to be punished for committing murder of deceased. The offence under Section 302 of the I.P.C. is punishable with death or imprisonment for life and fine. Therefore, the benefit of Probation of Offender's Act cannot be given to the accused, hence, I hear the accused on the question of sentence as mandated by Section 235 (2) of the Cr.P.C.

21] The accused submitted that he is not the habitual offender and there is no criminal antecedent against him. He has to maintain his old aged father, wife and three minor children, therefore, he prayed for leniency while awarding the sentence.

22] Thus, considering the submissions made on behalf of both the parties and facts and circumstances of the case, the only option left with this Court is to pass the sentence of imprisonment for life on accused with fine of Rs.10,000/- (Rs. Ten Thousand only), in default to suffer Rigorous Imprisonment of six months.

23] The seized articles, i.e. mobile be put into public auction and its sale proceed be credited to the Government and rest of the properties being worthless, be destroyed, after a period of one year, if in the meanwhile no intimation of an appeal having been filed in the Hon'ble High Court has been received. Hence, I pass following order to answer point No. 3 :

ORDER

[i] The accused Jinty Singh Kalsi, aged about 38 years, R/o Katol Road, Nagpur is convicted vide Section 235 of the Code of Criminal Procedure for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life and to pay a fine of Rs.10,000/- (Rs. Ten Thousand only), in default to undergo further Rigorous Imprisonment for 6 (Six) months.

[ii] The accused to surrender his bail bonds.

[iii] The accused was in custody since 15.7.2013 to 1.9.2014. As per Section 428 of the Cr.P.C., the period of detention undergone by accused shall be set off against the substantive sentence of imprisonment imposed upon him.

[iv] Seized articles i.e. mobile be put into public auction and its sale proceed be credited to the Government and rest of the properties being worthless, be destroyed, after a period of one year, if in the meanwhile no intimation of an appeal having been filed in the Hon'ble High Court has been received.

[v] The copy of judgment and order be given to the accused forthwith free of costs vide Section 363 of the Code of Criminal Procedure.

[vi] The copy of judgment and order be sent to the District Magistrate, Nagpur vide Section 365 of the Code of Criminal Procedure.

[vii] Dictated and pronounced in Open Court.

Nagpur.

Dated : 17.03.2018
Judge,

(A.B.C.)

Additional Sessions

Nagpur.

Clarifications:-

1. For the semi- final and finals, the statements as recorded under Section 161 of the Code of Criminal Procedure and also Defence witnesses as provided in the moot problem will be considered as evidence required before the Court during trial.

2. Accused will be compulsorily examined, and teams are to hand over the questionnaire to the presiding judges before the commencement of preliminary round.

Disclaimer:-

That, the present moot problem is created on fictitious facts, events. Any resemblance to actual persons, living or dead, or actual events is purely coincidental.

