

District- Ramgarh
In the Court of Addl. Sessions Judge-II-cum-Fast Track Court
Ramgarh

Present: Om Prakash,
 Addl. Sessions Judge-II-cum-Fast Track Court,
 Ramgarh.

Ramgarh, dated the 16th day of March, 2018.

Sessions Trial Case No. 120/2017

(This case was committed to the court of sessions on 21.09.17 by the then learned court of Sr] D.K. Singh, C.J.M., Ramgarh in connection with Ramgarh P.S Case No.198/17 corresponding to G.R Case No. 695/17; u/s. 147, 148, 149, 427, 302, 120 (B) of the IPC)

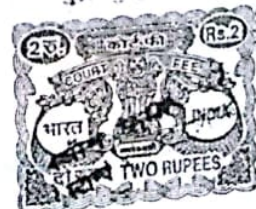
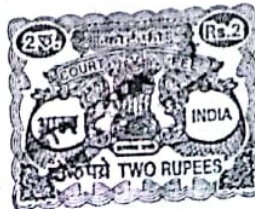
S T A T E through Mariyam Khatoon, W/o- Late Md. Alimuddin
 r/o vill- Manuwa P.O. Hesla, P.S. Giddi (A), Distt. Ramgarh

..... Informant

Vrs.

1. **Deepak Mishra, S/o- Surendra Mishra** aged about 36 yrs.
 (r/o-Mohalla- Goshala Road, Vikash Nagar, P.S.- Ramgarh, Distt.-Ramgarh)
2. **Chhotu Verma, S/o- Late Gopal Verma** aged about 37 yrs.
 (r/o-Vill- Chhotki Murram, Patratu Basti, P.S.- Ramgarh, Distt.-Ramgarh)
3. **Santosh Singh, S/o- Late Nandkishor Singh** aged about 42 yrs.
 (r/o-Mohalla- Bijuliya Goshala Road (Vikash Nagar), P.S.- Ramgarh, Distt.-Ramgarh)
4. **Uttam Ram, S/o- Late Rajkumar Ram** aged about 44 yrs.
 (r/o- Mohalla- Domtoli, Bazartand, P.S.- Ramgarh, Distt.-Ramgarh)
5. **Sikandar Ram @ Rulla, S/o- Late Tunu Ram** aged about 27 yrs.
 (r/o- Mohalla- Domtoli, Bazartand, P.S.- Ramgarh, Distt.-Ramgarh)
6. **Vikram Prasad, S/o- Sagar Prasad** aged about 25 yrs.
 (r/o-Vill- Chitarpur, P.S.- Rajrappa, Distt.-Ramgarh)
7. **Raju Kumar, S/o- Mahavir Mahto** aged about 24 yrs.
 (r/o-Vill- Chitarpur, P.S.- Rajrappa, Distt.-Ramgarh)
8. **Rohit Thakur, S/o- Late Budhan Thakur** aged about 33 yrs.

16-03-18



contd.

(r/o-Vill- Hesla, P.S.- Ramgarh, Distt.-Ramgarh)

9. **Nityanand Mahto, S/o- Late Satyalal Mahto** aged about 48 yrs

(r/o-Mohalla - Parsotiya, Koiri Tola, P.S.- Ramgarh, Distt.-Ramgarh)

10. **Kapil Thakur, S/o- Tuleshwar Thakur** aged about 27 yrs.

(r/o-Vill- Hesla, P.S.- Ramgarh, Distt.-Ramgarh)

11. **Vicky Sao, S/o- Hiralal Sao** aged about 22 yrs.

(r/o-Mohalla- Mantagarha, Bazartand, P.S.- Ramgarh, Distt.-Ramgarh)

..... Accused Persons

Charged u/s- 147, 148, 427/149, 435/149 302/149 & 120 (B) of the IPC

Ld. Counsels:

For the State: Sri Sushil Kumar Shukla, Ld. A.P.P.

For the defence: Sri B.M. Tripathi & others Ld. Counsel

J U D G M E N T

(1) The above named accused persons are facing trial for committing murder to Md. Alimuddin by assaulting in prosecution of common object of unlawful assembly armed with deadly weapons Lathi, Danda etc. and also for causing damage to Maruti van containing Beef and also for committing mischief by setting on fire to the said Maruti van belonging to Md. Alimuddin in prosecution of common object of the said unlawful assembly and the accused namely, Deepak Mishra, Chhotu Verma and Santosh Singh are also facing trial for committing murder of Md. Alimuddin by making criminal conspiracy with other accused persons punishable u/s. 147, 148, 427/149, 435/149, 302/149 & 120 (B) IPC

16.03.19



(2) The prosecution case, as alleged in the written report of the informant, in brief is that on 29-06-17 at about 8:00 AM her husband Alimuddin proceeded for Ramgarh by his Maruti van from his house. At about 10:00 AM she got information to the effect that near Hindustan Gas Agency at Bazartand Ramgarh accused 1. Deepak Mishra 2. Chhotu Verma 3. Pappu Yadav 4. Sujit Sonkar 5. Bhojan Thakur 6. Nagendra Munda 7. Biju Goyanka 8. Nityanand Mahto 9. Chhotu Rana 10.

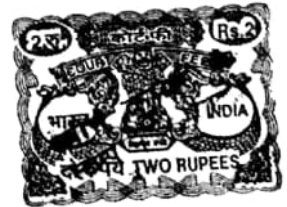
contd.



Santosh Singh 11. Bijay Kumar Singh @ Tunda 12. Alok Barelia & others of Ramgarh and others, they can be identified by photographs and videography. They all armed with deadly weapons like Lathi, Danda and many sharp cutting weapon stopped the Maruti van of her husband and brought him out from the Maruti van and set on fire to Maruti van thereafter, they all with intention to kill her husband assaulted him brutality and killed him with under conspiracy.

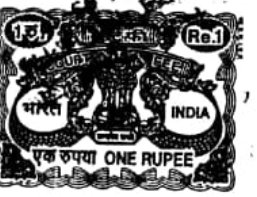
(3) On the basis of the aforesaid written report of the informant, Ramgarh P.S Case no. 198/17 dated 29.06.17 u/s. 147, 149, 302, / 34 of the IPC was registered against the aforesaid accused persons namely, 1. Deepak Mishra 2. Chhotu Verma 3. Pappu Yadav 4. Sujit Sonkar 5. Bhojan Thakur 6. Nagendra Munda 7. Biju Goyanka 8. Nityanand Mahto 9. Chhotu Rana 10. Santosh Singh 11. Bijay Kumar Singh @ Tunda 12. Alok Barelia & others and the charge of the investigation of this case was handed-over to the Investigating Officer namely, ASI Vidyawati Kumar Ohdar and after completion of investigation, the I.O. has submitted charge-sheet bearing no. 283/17, dated 17-09-17 u/s- 147, 148, 149, 427, 302, 120 (B) IPC against the accused namely, 1. Deepak Mishra 2. Santosh Singh 3. Nityanand Mahto 4. Sikandar Ram @ Rulla 5. Vicky Sao 6. Kapil Thakur 7. Rohit Thakur 8. Uttam Ram 9. Chhotu Verma 10. Chhotu Rana @ Nakul Rana 11. Raju Kumar 12. Vikram Prasad on 18-09-17 in the learned court of the C.J.M, Ramgarh keeping the supplementary investigation going on against the accused namely, 1. Pappu Yadav 2. Sujit Sonkar 3. Bhojan Thakur 4. Nagendra Munda 5. Biju Goyanka 6. Vijay Kumar Sing @ Tunda 7. Alok Bareliya 8. Deepak Paswan and 9. Sanjeev Yadav in this case and the Ld. Court of C.J.M, Ramgarh took cognizance of the offence u/s 147, 148, 149, 427, 302, 120 (B) IPC against the aforesaid named twelve accused persons vide order dated 18-09-17 directing its office to open split up record for the accused persons against whom investigation is still going on keeping the case record in its personal file for favour of commitment and after supplying of police paper to the aforesaid twelve accused persons the case was

contd.



committed to the court of sessions vide order dated 21.09.17. Subsequently, this case record has come to the file of this court for trial and disposal.

(4) After appearance of the accused persons and after hearing learned counsel for both the sides charge u/s. 147, 148, 427/149, 435/149, 302/149 IPC was framed on 22.09.17 against all the aforesaid **eleven** accused persons including accused **Chhotu Rana @ Nakul Kumar** and a specific charge u/s-120(B) IPC was also framed against the accused namely, accused **1. Deepak Mishra 2. Chhotu Verma and 3. Santosh Singh** and the contents of the charges were read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried. Hence they put on trial.



(5) After closure of the prosecution evidence, the aforesaid **eleven** accused persons along-with accused **Chhotu Rana @ Nakul Kumar** were examined and their statement were recorded u/s 313 Cr.P.C. on 20.12.17 in which they did not consent the prosecution version appearing against them in the evidence of the prosecution witnesses and further they have claimed themselves to be innocent. They have also claimed in their respective statement recorded 313 of the Cr. P.C that they were not present at the place of occurrence on the alleged date and time of the occurrence. They have further stated in their statement that they are not in the alleged viral photographs. They have falsely been identified by PW-16 namely, Vidyawati Kumari Ohdar in the alleged viral photographs and videos displayed in the open court i.e. the case of the defence as is evident from the mode of cross-examination as well as statement recorded u/s. 313 of the Cr. P.C is that of complete denial of the prosecution case as well as false implication.

16.03.18



(6) It is pertinent to mention at the very outset that after recording of the statement of the twelve accused persons u/s 313 Cr.P.C.

contd.



on 20-12-17, out of them one accused person namely, **Chhotu Rana @ Nakul Kumar** was declared juvenile in conflict with law vide order dated 19-01-18 passed in misc. case no.02/17 and as a result of which the case record of this accused was split up from this case record and was sent to the Juvenile Justice Board for further proceeding as per law.

(7) Now, the only point for determination before this court is that whether the prosecution has successfully been able to substantiate and prove the charges levelled against the accused persons beyond the shadow of all reasonable doubts or not?

FINDINGS

(8) In the instant case, the prosecution has adduced and examined altogether **nineteen (19)** witnesses in order to bring home the charges levelled against the accused persons. Out of whom-

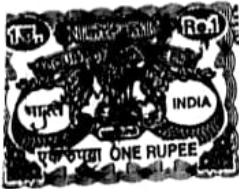
PW-1 is Mukesh Kumar, S/o- Late Ramji Sao, r/o- Bazartand Barsotiya, P.S. Ramgarh, Distt. Ramgarh. He has claimed himself to be a shopkeeper. He runs General Store at Bazartand. This witness has been **declared hostile** on behalf of the prosecution.

PW-2 is Lalan Kumar, S/o- Tukeshwar Mahto, r/o- Gola Road, P.S. Ramgarh, Distt. Ramgarh. He has claimed himself to be a shopkeeper. He runs a tea shop at Bazartand. This witness has also been **declared hostile** on behalf of the prosecution but he has proved his signature on the map of the place of occurrence which has been marked as **Ext.-1**

PW-3 is Nizam Ansari, S/o- Late Sahabuddin Ansari, r/o-vill- Barkatti, P.S. Kujju O.P. Mandu, Distt. Ramgarh. He has claimed himself to be a Hotel businessman. On the basis of his deposition photograph of Alimuddin has been marked as an **Ext.-A with objection**. He has also claimed himself to be an **eye witness** to the alleged occurrence.

PW-4 is Jitendra Ram, S/o- Late Shambhu Ram, r/o-vill- Ichak Bazar, P.S. Hazaribag, Distt. Hazaribag. At present residing at Naisarai colony. P.S. Ramgarh, Distt. Ramgarh. This witness has also been

contd.



[Handwritten signature]
16.12.18



declared hostile on behalf of the prosecution. This witness has identified his signature on his statement recorded u/s-164 Cr.P.C. which has been marked as Ext.-2. On the basis of his deposition three photographs have been marked with objection as an Ext.-A/1, A/2 & A/3

PW-5 is Md. Meraj @ Khatra, S/o- Md. Shakun Mian, r/o-mohalla Naisarai, P.S.Ramgarh, Distt. Ramgarh. He has claimed himself to be a Driver of four wheeler vehicle. This witness has also been **declared hostile** on behalf of the prosecution on the point of identification of the accused persons.

PW-6 is A.S.I. Madan Kumar, S/o- Late Jaykeshwar Sahu. He has claimed himself to be In-charge of technical branch cell of the confidential section of Superintendent of Police Ramgarh. He has proved certificate u/s-65 (B) of the Evidence Act which has been marked as Ext.-3. This witness has also proved certified copy of Call Details Report of mobiles of nineteen persons containing at serial no. 100 to 151 which has been marked as Exts.-4 to 4/50

PW-7 is Dr. Sawan Mundari, S/o- Fuljens Mundari. He has claimed himself to be the person who has participated in conduction of postmortem examination of an unknown dead body as one of the member of the medical board constituted for the same. He has proved postmortem report which has been marked as Ext.-5. This witness has also proved signature of Dr. Diwakar Kumar, Dr. Satyawrat Patra and Dr. Ambika Sharan on the postmortem report which have been marked as Exts.-5/1, 5/2 & 5/3 respectively in this case.

PW-8 is Jitram Mahli, S/o- Late Kheduwa Mahli, r/o-mauza-Budka, P.S. Bhandra, Distt. Latehar. He has claimed himself to be In charge ST/SC P.S. Ramgarh. On the basis of his deposition some photographs have been marked with as Exts.-A/4 & A/5. He has also claimed to be an **eye witness** to the occurrence.

PW-9 is Md. Jalil Ansari, S/o- Md. Seraj Ansari, r/o-vill- Manuwa, P.S. Giddi, Distt. Ramgarh. He has claimed himself to be an **eye witness to the occurrence of assaulting** with deceased Alimuddin by the accused persons.



17.03.18



contd.

PW-10 is Mariyam Khatoon, W/o- Late Alimuddin. She is **the informant of this case**. She has proved her signature on the written application which has been marked as Ext.-6 in this case. This witness has also identified the signature of scribe of written application (FIR) which has been marked as Ext.-7. She is a **hearsay witness** of the occurrence.

PW-11 is Ghanshyam Gope, S/o- Late Thakkan Gope. He has claimed himself to be the person who posted at Ramgarh P.S. as A.S.I. on the date of occurrence. He has also claimed himself to be an eye witness to the occurrence of assault with Alimuddin by the members of Bajrang Dal namely, Chhotu Verma, Chhotu Rana, Deepak Paswan, Deepak Mishra, Santosh Singh, Sikandar Ram and others unknown person. On his deposition certified copy of seizer list of Ramgarh P.S. case no. 199/17, dated 29-06-17 and self statement of the informant along-with formal FIR of Ramgarh P.S. case no. 199/17 dated 29-06-17 have been marked as Exts.- B & C respectively. On the basis of deposition of this witness some photographs have also been marked as Exts.-A/6, A/7 & A/8 respectively.

PW-12 is Santosh Kumar Gupta, S/o- Sri Lakhu Prasad Gupta, the then Officer-in-charge Barlanga P.S.. He has claimed himself to be a member of S.I.T. of Ramgarh P.S. case no. 198/17. He has proved some photographs in course of his evidence which have been marked as an Ext.-8 & 8/1 with objection. This witness has also proved arrest memo of Uttam Ram, seizer list dated 02-07-17 which have been marked as Exts.-9 & 10 respectively. This witness has also proved confessional statement of accused Sikandar Ram, arrest memo of Sikandar Ram and Uttam Ram and four seizer list which have been marked as Ext.-11, 12, 12/1 and 10/1, 10/2, 10/3 & 10/4 respectively.

PW-13 is Abhimanyu Kumar, S/o- Sri Bageshwari Prasad Sinha, A.C.J.M. Ramgarh. He has proved the statement of witness Md. Meraj @ Khatra recorded u/s-164 Cr.P.C. in course of his evidence before the court which has been marked as Ext.-2/1

PW-14 is Kamlesh Paswan, S/o- Sri Triloki Bhagat,

contd.



the then Police Inspector-cum-Officer-in-charge Patratu Circle, Ramgarh. He has also claimed himself to be an eye witness to the occurrence. He has proved formal FIR, Endorsement regarding registration of the case which has been marked as Ext- 13 & 7/1. This witness has also produced and proved Fibre Stick (Cane Stick) which has been recovered from the house of accused Chhotu Verma, Sealed clothes of Deepak Mishra, Bag of Geruwa colour, Sealed clothes which was recovered from the house of accused Chhotu Verma, Track suit of slatty colour of Chhotu Verma, Black colour half pant of accused Santosh Singh, Blue colour half pant and Kai colour T-shirt of accused Chhotu Rana, White colour paper envelope and black colour Samsung Mobile recover from accused Raju Kumar, A white colour marking cloth and cloth of the accused Sikandar @ Rulla which have been marked as material Exts- I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV & XVI respectively.

PW-15 is Presm Shankar, S/o- Sri Purushottam Prasad Choudhary, Civil Judge Senior Devision, Ramgarh. He has proved statement of witness Jitendra Ram recorded u/s-164 Cr.P.C. which has been marked as Ext.-2/1

PW-16 is Vidyawati Kumari Ohdar wife of Krishna Sahu. She is the I.O. of this case. She has proved map of the place of occurrence, Inquest report, Carbon copy of dead body challan, Copy of the order of the office of Superintendent of Police Ramgarh dated 30-06-17, Copy of memorandum number 2822/GO dated 30-06-17 of the office of Superintendent of Police Ramgarh, One photograph regarding accused Deepak Mishra, Chhotu Verma, Kapil Thakur & Santosh Singh along-with memo of arrest, One another photograph relating to Deepak Mishra, Chhotu Verma, Chhotu Rana and Nityanand Mahto along-with arrest memo of accused Nityanand Mahto, Arrest memo of accused Santosh Singh, Photograph relating to accused Sikandar Ram, Uttam Ram and Rohit Thakur, Arrest memo of accused Rohit Thakur, Phbtograph of accused Kapil Thakur along-with arrest memo of accused Kapil Thakur, Arrest memo of accused Vickey Sao, Photograph of Vicky Sao along-with

contd.



arrest memo which have been marked as Exts.-14, 15, 16, 17, 17/1, 8/2, 8/3, 12/2, 12/3, 8/4, 8/5, 8/6, 12/4, 8/7, 12/5, 12/6, 8/8 respectively. This witness has also proved Cassette regarding videography of postmortem examination which has been marked as **material Ext.- XVII**. This witness has also proved seizer list relating to accused Chhotu Verma, **Confessional statement of accused Chhotu Verma, Deepak Mishra, Chhotu Rana, Santosh Singh**, Seizer list with respect to accused Raju Kumar, Confessional statement of Raju Kumar which have been marked as an Exts.-10/5, 11/1, 11/2, 11/3, 11/4, 10/6, 11/5 respectively. This witness has also proved carbon copy of forwarding report dated 03-08-17 addressed to Director Central Law Science Laboratory Chandigarh Punjab, Carbon copy of application regarding deputation of one Executive Magistrate, Examination report of Central Law Science Laboratory Chandigarh Punjab which have been marked as an Exts.-18, 19 & 20 respectively. This witness has also produced sealed CD which was received from Central Law Science Laboratory Chandigarh after examination which has been marked as **material Ext.-XVIII**. This witness has proved sealed envelope in which one Compact Disk and one PAN Drive were kept along-with a letter of C.J.M. Ramgarh which have been marked as and **material Exts.- XIX, XX and Ext.- 26** respectively.

PW-17 is **Jitendra Kumar Singh, S/o- Late Gauri Shankar Singh, ASI, Ramgarh**. This witness has proved photocopy of application regarding constitution of Medical Board for postmortem which has been marked as an **Ext.-21 with objection**.

PW-18 is **Amrita Kumari, D/o- Late Gopal Keshri, Circle Officer Ramgarh**. She has claimed herself to be a person in whose presence Compact Disk (CD) was prepared from mobile number 9939109591 of Kamlesh Paswan in presence of I.O. Vidyawati Ohdar and Kamlesh Paswan the then Officer-in-charge Ramgarh which has been marked as an **Ext.-22**

PW-19 is **Md. Sikandar Javed, S/o- Md. Mustafa**. He is the person who has claimed himself to be the scribe of written report (FIR) of Ramgarh P.S. case no. 198/17 which has been marked as **Ext.-7**

contd.



in this case.

Apart from the above oral evidences, the prosecution has also produced and got mark exhibited the following documents as documentary evidence in support of its case:-

Ext- 1 : Signature of PW-2 Lalan Kumar on the map of the place of occurrence

Ext- 2 : Signature of PW-4 Jitendra Ram on his statement recorded u/s-164 Cr.P.C.

Ext- 2/1 : Statement of PW-5 Md. Meraj @ Khatra recorded u/s-164 Cr.P.C.

Ext- 2/2 : Statement of witness Jitendra Ram recorded u/s-164 Cr.P.C

Ext- 3 : Certificate u/s-65 (B) of the Evidence Act given by PW-6 Madan Kumar

Ext- 4 to 4/50 series : Call Details Report of mobiles/CAF/location given by PW-6 Madan Kumar

Ext-5 : Postmortem examination report, dated 29-06-17 conducted at RIMS, Ranchi at 16:30 hrs.

Ext- 5/1 : Signature of Dr. Diwakar Kumar on the postmortem report

Ext- 5/2 : Signature of Dr. Satyawrat Patra on the postmortem report

Ext- 5/3 : Signature of Dr. Ambika Sharan on the postmortem report

Ext- 6 : Signature of Mariyam Khatoon (informant) on written report i.e. (FIR)

Ext- 7 : Written report (FIR) of Ramgarh P.S. case no. 198/17

Ext- 7/1 : Endorsement regarding registration of the case

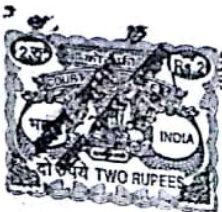
Ext- 8 (mark with objection) : Photograph of Deepak Mishra and Chhotu Verma identified by PW-12 Santosh Kumar Gupta.

Ext- 8/1 (mark with objection) : Photograph of Uttam Ram identified by PW-12 Santosh Kumar Gupta.

Ext- 8/2 (mark with objection) : One photograph regarding

contd.

16-0318



accused Deepak Mishra, Chhotu Verma, Kapil Thakur & Santosh Singh

Ext.- 8/3 (mark with objection) : Photographs of accused Deepak Mishra, Chhotu Verma, Chhotu Rana and Nityanand Mahto

Ext.- 8/4 (mark with objection) : Photographs of accused Sikandar Ram

Ext.- 8/5 (mark with objection) : Photograph of accused Uttam Ram

Ext.- 8/6 (mark with objection) : Photograph of accused Rohit Thakur,

Ext. - 8/7 (mark with objection) : Photograph of accused Kapil Thakur

Ext.- 8/8 (mark with objection) : Photograph of accused Vicky Sao

Ext.- 9 : Arrest memo of Uttam Ram

Ext.- 10 : Seizer list dated 02-07-17 prepared at 17:20 hrs. at the house of accused Sikandar Ram situated at Bazartand Domtoli as to his cloth wore at the date and time of the occurrence at the place of occurrence

Ext.- 10/1 : Seizer list dated 05-07-17 prepared at 12:00 hrs. at the house of accused Deepak Mishra situated at Goshala road as to his cloth wore at the date and time of the occurrence at the place of occurrence

Ext.- 10/2 : Seizer list dated 05-07-17 prepared at 13:00 hrs. at the house of accused Santosh Singh situated at Bijuliya Goshala road Vikash Nagar as to his cloth wore at the date and time of the occurrence at the place of occurrence

Ext.- 10/3 : Seizer list dated 05-07-17 prepared at 13:45 hrs. at the house of accused Chhotu Verma situated at Chhotki Muram Patratu Basti as to his cloth wore at the date and time of the occurrence at the place of occurrence

Ext.- 10/4 : Seizer list dated 05-07-17 prepared at 14:30 hrs. at the house of accused Chhotu Rana @ Nakul Kumar situated at Parsotiya as to his cloth wore at the date and time of the occurrence at the place of occurrence

16.03.18



contd.

Ext.- 10/5 : Seizer list dated 05-07-17 prepared at 14:45 hrs. at the house of accused Chhotu Verma situated at Chhotki Muram Patratu Basti as to recovery of fiber stick used in the commission of crime

Ext.-10/6 : Seizer list dated 05-07-17 prepared at 18:55 hrs. situated at Chittarpur Bazartand relating to accused Raju Kumar as to recovery of black Samsung mobile

Ext.- 11 : Confessional statement of accused Sikandar Ram

Ext - 11/1 : Confessional statement of accused Chhotu Verma

Ext.- 11/2 : Confessional statement of accused Deepak Mishra

Ext - 11/3 : Confessional statement of accused Chhotu Rana

Ext - 11/4 : Confessional statement of accused Santosh Singh

Ext - 11/5 : Confessional statement of Raju Kumar

Ext.- 12: Arrest memo of Sikandar Ram

Ext.- 12/1 (mark with objection) : Arrest memo of Uttam Ram

Ext.- 12/2 (mark with objection) : Arrest memo of Nityanand Mahto

Ext.- 12/3 (mark with objection) : Arrest memo of accused Santosh Singh

Ext.- 12/4 : Arrest memo of accused Rohit Thakur

Ext.- 12/5 : Arrest memo of accused Kapil Thakur

Ext.- 12/6 : Arrest memo of accused Vicky Sao

Ext.- 13 : Formal FIR of Ramgarh P.S. Case no.198/17

Ext.- 14 : Map of the place of occurrence

Ext.- 15 : Inquest report, dated 29-06-17 of Ramgarh P.S. Case no.198/17 prepared at emergency ward RIMS, Ranchi at about 13:00 hrs.

Ext.- 16 : Carbon copy of dead body challan

Ext.- 17 : Copy of the order of the office of Superintendent of Police Ramgarh dated 30-06-17 regarding Constitution of S.I.T. vide No.2819/Go

Ext.- 17/1 : Copy of memorandum number 2822/GO dated 30-06-17 of the office of Superintendent of Police Ramgarh regarding

contd.



Constitution of S.I.T.

- Ext.-18 :** Carbon copy of forwarding report dated 03-08-17 addressed to Director Central Law & Science Laboratory Chandigarh Punjab
- Ext.- 19 :** Carbon copy of application given to the learned C.J.M. Ramgarh regarding deputation of one Executive Magistrate
- Ext.- 20 :** Examination report of Central Law & Science Laboratory Chandigarh Punjab as to viral videos and photos
- Ext.- 21 (mark with objection) :** Photocopy of application written by A.S.I. Jitendra Kumar for constituting a Medical Board for conducting postmortem of the dead body of deceased
- Ext.- 22 :** Forwarding letter of sealed C.D. written by P.W.18 namely Amrita Kumari the then Circle Officer, Ramgarh to learned C.J.M., Ramgarh
- Ext.- 23 :** Certified copy of formal F.I.R. of Ramgarh P.S. Case no.224 dated 24.06.2015 lodged against the accused Deepak Mishra, Chhotu Verma along-with other persons
- Ext.- 23/1 :** Certified copy of F.I.R. of Ramgarh P.S. Case no.224 dated 24.06.2015
- Ext.- 23/2 :** Certified copy of charge-sheet bearing no.430/16 dated 31.10.2016 of Ramgarh P.S. Case no.224/15 dated 24.06.2015
- Ext.- 24 :** Certified copy of formal FIR of Ramgarh P.S. Case no.264/15 dated 27.07.2015
- Ext.- 24/1 :** Certified copy of FIR of Ramgarh P.S. Case no.264/15 dated 27.07.2015
- Ext.- 25 :** Certified copy of formal FIR of Ramgarh P.S. Case no.222/15 dated 23.06.2015 against accused Deepak Mishra, Chhotu Verma and others
- Ext.- 25/1 :** Certified copy of FIR of Ramgarh P.S. Case no.222/15 dated 23.06.2015
- Ext.- 26 :** Carbon copy of forwarding letter sent to the Director of Central Law & Science (Forensic) Laboratory, Chandigarh

contd.



regarding examination of alleged C.D. prepared by the Executive Magistrate from mobile of Kamlesh Paswan (It is mentioned that this document has already been previously marked as Ext.18)

Besides, the above oral and documentary evidences the prosecution has also produced and got mark exhibited some material articles in support of its case which are as follows:

Material Ext.- I (mark with objection) : Fiber Stick (Cane Stick) alleged to have been used in commission of the crime recovered from the house of Chhotu Verma upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 71/17 (1) is written in sealed form

Material Ext.- II (mark with objection) : A bag of marking cloth upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 71/17 (3) is written in sealed form

Material Ext.- III (mark with objection) : Saffron (geruwa) colour full shirt of accused Deepak Mishra wore by him at the date and time and committing the occurrence kept in material Ext.II

Material Ext.- IV (mark with objection) : A marking cloth in sealed form upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 71/17 (2) is written recovered from the house Chhotu Verma

Material Ext.- V (mark with objection) : Track suit of slatty colour of Chhotu Verma consisting pajama and T-shirt kept in the material Ext.IV

Material Ext.- VI (mark with objection) : A marking cloth in sealed form upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 71/17 (4) is written recovered from the house Santosh Singh

Material Ext.- VII (mark with objection) : Black colour half pant recovered from the house of accused Santosh Singh wore at the alleged date and time of occurrence at the place of occurrence in

contd.



committing the offence

Material Ext.- VIII (mark with objection) : White colour paper envelope in sealed form upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 71/17 (5) is written recovered from the house of Chhotu Rana

Material Ext.- IX (mark with objection) : Blue colour half pant recovered from the house of Chhotu Rana wore at the alleged date and time of occurrence at the place of occurrence in committing the offence

Material Ext.- X (mark with objection) : Kai colour T-shirt recovered from the house of Chhotu Rana wore at the alleged date and time of occurrence at the place of occurrence in committing the offence

Material Ext.- XI (mark with objection) : A white colour envelope in sealed for upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 69/17 (1) is written recovered from the house of Raju Kumar

Material Ext.- XII (mark with objection) : Black colour Samsung Mobile recovered from the house of Raju Kumar kept in material Ext.XI

Material Ext.- XIII (mark with objection) : A white colour marking cloth in sealed form upon which Ramgarh P.S. Case no.198/17 dated 29.06.2017 as well as M.R. 69/17 (2) is written recovered from the house of Sikandar @ Rula

Material Ext.- XIV (mark with objection) : Checkdar towel (gamchha) of accused Sikandar @ Rula recovered from his house

Material Ext.- XV (mark with objection) : Black colour full pant of accused Sikandar @ Rula recovered from his house

Material Ext.- XVI : Red colour half pile (ganji) of accused Sikandar @ Rula recovered from his house

Material Ext.- XVII : Cassette regarding videography of postmortem examination

16.03.18



contd.

Material Ext.- XVIII : C.D. (Compact Disk) in sealed form received from Central Law & Science Laboratory Chandigarh after examination

Material Ext. - XIX : One C.D. (Compact Disk) upon which PHY-652/17 is written

Material Ext. - XX : One PAN Drive upon which PHY-652/17 as ell as Ext.PD/1 is written

(9) On the other hand, the accused persons have also adduced and examined one defence witness namely, Shankar Dayal Singh s/o Kaushal Kishor Singh r/o-mohalla ITI college Patratu Basti, P.S. Ramgarh Distt. Ramgarh as DW-1 in support of his their defence. Apart from the above oral evidence the defence has also produced and got mark exhibited some documents as documentary evidence as supported their defence which are as follows:

Ext.-A : Photographs of Alimuddin (mark with objection)

Ext.-A/1 : Photograph of PW-4 Jitendra Ram

Ext.-A/2 : Photograph of PW-4 Jitendra Ram besides the driver of the vehicle.

Ext.-A/3 : Photograph of the public showing dharna at police station Ramgarh

Ext.-A/4 : Photograph of injured Alimuddin along-with ASI Ghanshyam Gope & other two constable in civil dress.

Ext.-A/5 : Photograph of outside premises of Ramgarh police station.

Ext.-A/6 : Photograph of senior police officer Sri Birendra Choudhary along- with accused Chhotu Verma and Deepak Mishra

Ext.-A/7 : Photograph of officer in-charge Ramgarh Kamlesh Paswan along- with injured at the time of sitting of injured in the police vehicle when he was sending for treatment.

Ext.-A/8 : Photograph of injured along-with Umesh Kushwaha local leader of Lok Jan Shakti Party.

contd.



Ext.-B : Certified copy of seizure list of Ramgarh P.S. case no. 199/17, dated 29-06-17

Ext.-C : Self statement of the informant along-with formal FIR of Ramgarh P.S. case no. 199/17, dated 29-06-17

Ext.-D : True certified copy of FIR of Ramgarh P.S. case no. 196/17

Ext.-E : Certified copy of arrest memo of DW-1 Shankar Dayal Singh

Ext.-F : Certified copy of bail order dated 04-07-17 of the learned court of C.J.M. Ramgarh in connection with Ramgarh P.S. case no. 196/17, corresponding to G.R. no. 693/17 with regard to Shankar Dayal Singh DW-1.

(10) I have already heard the argument advanced on behalf of the learned defence counsel as well as the argument advanced by the learned Addl. P.P for the State.

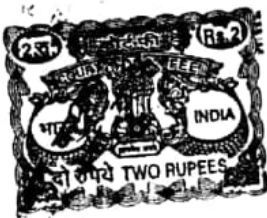
Learned counsel appearing on behalf of the accused persons has submitted in course of his argument that accused persons are innocent and they have committed no offence as levelled against them rather they have falsely been implicated in this case. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that in the instant case, charge has been framed u/s 147, 148, 427/149, 435/149 302/149, 120 (B) of the IPC and in order to bring home the charge levelled against the accused persons altogether nineteen witnesses have been adduced and examined on behalf of the prosecution in course of trial. Out of whom, P.W.1 namely, Mukesh Kumar, PW-2 Lalan Kumar, PW-4 Jitendra Ram, PW-5 Md. Meraj @ Khatra who are the independent witnesses to the occurrence have not supported the case of prosecution in their respective evidence, as result of which, they have been declared hostile on behalf of the prosecution. PW-14 namely, Kamlesh Paswan who was the then Police Inspector-cum-Officer-in-charge of Ramgarh Police Station who has projected himself as an eye witness to the occurrence and was also informant of Ramgarh P.S. case no. 199/17 and he was the first person who allegedly reached at the place of occurrence

contd.



along-with ASI Ghanshyam Gope (PW-11), SI Jitendra Ram Mahli (PW-8) is also not the eye witness to the assault of the deceased as it appears from the FIR of Ramgarh P.S. case no. 199/17 (Ext.-C). Had he been eye witness to the assault of the deceased, the name of the accused persons should have been certainly mentioned in the self-statement of Kamlesh Paswan (FIR of Ramgarh P.S. case no. 199/17, particularly in view of the fact that the deceased Alimuddin was alive at that time and was able to talk and also in view of the fact that two FIR of the same occurrence was registered. Out of them Ramgarh P.S. case no. 199/17 was on the basis of the self-statement of Kamlesh Paswan and as per evidence of PW-14 namely, Kamlesh Paswan given in para 32 of his cross-examination, he has already come to know at about 12:00 - 12:30 PM that injured Alimuddin died. In spite of the said knowledge of death of Alimuddin, he did not record his self-statement regarding the murder of Alimuddin. What prevented to record his self-statement regarding the murder of Alimuddin. While at that time he has come to know about the death of Alimuddin, has also not been explained. Actually, there should have been two FIR in the fact and circumstances of the case and he also should have been informant in this case but PW-14 namely, Kamlesh Paswan has tried to suppress the actual fact of the case which creates doubts about the prosecution case and in this view of the matter, he is also certainly not an eye witness to the occurrence and in this view of the matter, ASI Ghanshyam Gope (PW-11), SI Jitendra Ram Mahli (PW-8) are also not the eye witness to the assault of the deceased. These two witnesses also projected themselves as eye witnesses to the occurrence and they are telling the same stereo type statement as stated by PW-14 and the evidence of PW-14 fully falsified the statement of PW-11 & PW-8. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that deceased Alimuddin has not disclosed the name of any accused person then how is it possible PW-14 namely, Kamlesh Paswan disclosed the name of the accused persons in the court. In view of Ext.-C & D PW-14 namely, Kamlesh Paswan is neither the eye witness to the occurrence of Ramgarh P.S. case no. 198/17 nor the eye witness to the occurrence of

contd.



Ramgarh P.S. case no. 199/17 rather he is **hearsay witness** to the occurrence. **PW-3** namely, **Nasim Ansari** & **PW-9** namely, **Md. Jalil Ansari** are also not the eye witness to the occurrence rather they are inimical with the accused persons and there is sufficient reason not to believe the evidence of these prosecution witnesses. **PW-9 Md. Jalil Ansari** who is co-villager of the deceased and his conduct is very suspicious because of unnatural conduct. This witness is trying to safe the skin of selling illegal beef and his intention is to falsely implicate the accused persons in the case to take revenge and **PW-10 Mariyam Khatoon** who is non-else but the informant of the case and wife of the deceased is not an eye witness to the occurrence rather she is the **hearsay witness** to the occurrence. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that in view of the evidence of **PW-12** namely, **Santosh Kumar Gupta** the then Officer-in-charge Barlanga P.S. who has claimed himself to be a member of S.I.T. of Ramgarh P.S. case no. 198/17 and is a crucial witness of this case given his evidence in para 16 of his cross-examination to the effect that on 30-06-17 he was handed-over 30-40 photographs by the Officer-in-charge and on that very day neither he identified nor thqnedar the persons whose photographs were handed-over to him and that was the reason he was ordered to find out the name and address of the person of the photographs by showing them to the local people, has also fully falsified the evidence of **PW-8, PW-11 & PW-14** and also demolish the prosecution case because the person who has taken the photographs of the occurrence and did viral the same on mobile phone is not before the court as a witness and the person to whom the said photographs have been shown are also not before the court as a witness while they are the material and important witnesses of this case. So, in this view of the matter, the identification of the accused in the court is **hearsay** and as such it cannot be used in evidence u/s-06 of Evidence Act. The accused persons were identified by the people who insisted the member of the SIT in identifying the accused who are those persons, not disclosed. Had their statement recorded by the I.O. and made charge-sheet witnesses and examined before the court and in what

contd.



connection they have got identified by the people and this fact also damaged the case of the prosecution. In view of the fact that all the prosecution witnesses are hearsay and on the basis of hearsay accused persons are identified by the prosecution witnesses. None of the seized articles were sealed and in this view of the matter, this is also an infirmity on the part of the prosecution, which is fatal for the prosecution case. The learned counsel appearing on behalf of the defence has submitted in course of his argument that there is discrepancies, infirmities, omissions, improvement and contradiction in the evidence of the prosecution witnesses which are the fatal for the prosecution case. The learned defence counsel has further submitted in course of his argument that the alleged confessional statement of the accused persons i.e. Ext.-11 series have no evidentiary value in the eye of law in view of the provision 24, 25 & 26 of the Evidence Act. The learned defence counsel has further submitted in course of his argument that the inquest report dated 29-06-2017 of Ramgarh P.S. case no. 198/17 Ext.-15 and postmortem report dated 29-06-2017 Ext.-5 the name of the deceased has not been mentioned rather at the place of name of the deceased and a dead body of an unknown male aged about 45 yrs. was written. The learned defence counsel has further submitted in course of his argument that there is no iota of evidence against the accused namely, Nityanand Mahto on the record which goes to show the involvement of the accused Nityanand Mahto in the alleged commission of crime and these facts also find support from the evidence of PW-16 namely, Vidyawati Kumari Ohdar as given in para 72, 73, & 74 of her cross-examination to the effect that none of the witness has stated in his statement recorded u/s 161 Cr.P.C. that he saw the accused Nityanand Mahto committing occurrence at the place of occurrence on the alleged date and time of the occurrence. Witnesses also did not say about the knowledge from whom they got information of involvement of Nityanand Mahto in the commission of crime. Neither any incriminating article recovered from the possession of Nityanand Mahto nor anything such as foot print, finger print, personal object were found and recovered from the place of occurrence nor his mobile location was found near about the

contd.

16.03.18



place of occurrence in course of her investigation. In para 74 & 71 of her cross-examination PW-16 namely, Vidyawati Ohdar has clearly deposed that she came to learn in course of her investigation that Nityanand Mahto is the In-charge of District Media of Bhartiya Janta Party and he was standing at the place of occurrence behind the Dy. S.P. Virendra Choudhary. Other evidences have been developed by the prosecution witnesses against the accused Nityanand Mahto such as he was present at the place of occurrence. He is appearing in the photograph etc. This is very-very unnatural conduct of the accused Nityanand Mahto when he was accused then why he will stand with head of the S.I.T. namely, Dy. S.P. Virendra Choudhary and this conduct of the accused comes in the purview of section 8 of the Evidence Act. The learned defence counsel has further submitted in course of his argument that till next date of the occurrence i.e. 30-06-17 neither the member of S.I.T. nor the any police personnel of the Ramgarh police station knew the name of the accused persons. The member of the S.I.T. only come to know about the name of the accused persons on the basis of saying of people of the locality to whom viral photographs and videos of the mobiles phone were shown to them but the said mobile phones neither given to the member of the S.I.T nor produced before the court which goes to show that the prosecution has suppressed the real facts of this case. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that in the instant case no TI parade was conducted by the I.O. of this case, in this view of the matter, the prosecution itself damaged the case by not conducting TI parade. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that there is no certificate of the said expert technician who prepared the alleged CD and in whose presence the said CD prepared. So, the certificate of FSL Chandigarh will not help the prosecution. The certificate given by ASI Madan Kumar (PW-6) u/s-65 (B) (Ext.-3) of the Evidence Act regarding the call details report of mobile of nineteen persons (Ext.-4/50) will also not help the prosecution, in view of the fact that the mobile set of PW-14 namely, Kamlesh Paswan who is the source of viral photographs and

contd.



videos has not been produced before the court. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that PW-13 namely, **Abhimanyu Kumar** is only the person who has recorded the statement of witness Md. Meraj @ Khatra and u/s-164 Cr.P.C. and PW-15 namely, **Prem Shankar** who has recorded the statement of witness Jitendra Ram u/s-164 Cr.P.C. and PW-17 namely, **ASI Jitendra Kumar Singh** who happens to be the person who took the injured Alimuddin at RIMS, Ranchi and PW-18 namely, **Anita Kumari** who is the person in whose presence the alleged CD (Ext-XXII) was prepared and PW-19 **Md. Sikandar Javed**. He is the person who has claimed to be the scribe of written report FIR of Ramgarh P.S. case no. 198/17 (Ext.-7) are not the eye witness to the occurrence and PW-16 namely, **Vidyawati Ohdar** who is the I.O. of this case, has not investigated the case properly. Her investigation is not upto mark. She has submitted charge-sheet against the innocent persons without proper investigation of this case and PW-7 namely, **Sawan Mundari** who is one of the member of the Medical Board constituted for postmortem examination of the deceased has not found any external cut or bleeding injury or brain injury or internal haemorrhage. Besides, the postmortem examination report is not as per medical jurisprudence. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that there is no evidence either oral or documentary or circumstantial available on the record which goes to show that the accused Deepak Mishra, Chhotu Verma and Santosh Singh agreed to do an illegal act and in pursuance of said agreement committed murder of Md. Alimuddin along-with other co-accused of this case. The learned counsel appearing on behalf of accused persons has further submitted in course of his argument that actually, the accused persons have neither assaulted to the deceased nor involved in any manner in the commission of the alleged offence on the alleged date and time of the occurrence at the place of occurrence. The deceased Alimuddin was physically and mentally fit at the place of occurrence on the alleged date and time of occurrence. He was able to easily talk and move as it appears from (Exts.-A, A/1, A/2, A/4 & A/7) but injured

contd.



Alimuddin was brought at police station Ramgarh by the police and he was assaulted by the police in thana hazat, Ramgarh due to which he succumbed (died) and in order to save their skin, the Ramgarh police implicated the innocent person of the locality including the member of the Shanti Samiti namely, Deepak Mishra and Chhotu Verma and these facts have also been supported by DW-1 namely, Shankar Dayal Singh in his evidence before the court and the actual fact is that the police has assaulted the deceased Alimuddin at Thana hazat Ramgarh due to which he died. At last but not least it has been submitted on behalf of the defence counsel that the prosecution has miserably been failed to substantiate the allegation levelled against the accused persons beyond the shadow of all reasonable doubt with sufficient, cogent and reliable evidence and has prayed that the accused persons may kindly be acquitted from the charge levelled against them. The learned defence counsel has placed their reliance upon the judgment passed by Hon'ble Supreme Court in the case of

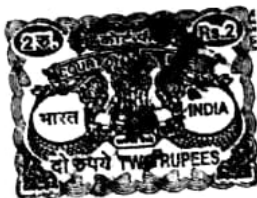
(1) Ravindra Kumar Pal @ Dara Singh Vrs. Republic of India dated 31-01-2011.

(2) Anwar P.V. Vrs. P.K. Basheer & others dated 18-09-2014

(3) Shafhi Mohammad Vrs. State of Himachal Pradesh dated 30-01-2018

(11) On the other hand, learned Addl. P.P appearing on behalf of the state has submitted in course of his argument that in the instant case charge has been framed u/s. 147, 148, 427/149, 435/149, 302/149, of the IPC against the all accused persons and charge u/s 120 (B) of IPC has been framed against the three accused persons namely, Santosh Singh, Deepak Mishra and Chhotu Verma apart from the above sections and in order to substantiate the allegation levelled against the accused persons, the prosecution has adduced and examined altogether nineteen witnesses and apart from that the prosecution has also produced and proved some documents as documentary evidence as well as some material exhibits in support of its case. The prosecution has adduced and examined altogether

contd.



nineteen witnesses in order to bring home the charges levelled against the accused persons in course of trial. Out of whom PW-3 namely, Nizam Ansari, PW-8 Jitram Mahli, PW-9 Jalil Ansari, PW-11 Ghanshyam Gope, PW-14 Kamlesh Paswan are the eye witness to the occurrence and all these prosecution witnesses have fully supported the case of the prosecution on the point of date and time of the occurrence, place of occurrence and manner of occurrence in their respective evidence before the court and PW-3 namely, Nizam Ansari identified accused Chhotu Verma by his name and face and accused Deepak Mishra by his face in the court dock. PW-8 Jitram Mahli identified the accused Chhotu Verma and Chhotu Rana by name and by face. He identified Deepak Mishra at third time. This witness has also identified the rest accused persons by face in the court and PW-9 Jalil Ansari also identified accused Deepak Mishra and Chhotu Verma by name and by face. This witness has also identified all the accused persons by face in the court and said that they all were involved in assaulting with deceased Alimuddin. PW-11 Ghanshyam Gope has also identified all the twelve accused persons by their face. He further identified accused Chhotu Rana, Deepak Mishra, Chhotu Verma, Santosh Singh and Sikandar Ram by their respective names and by their respective face and said that these persons were assaulting the deceased Alimuddin and PW-14 namely, Kamlesh Paswan has also identified the accused Deepak Mishra, Chhotu Rana, Santosh Singh, Nityanand Mahto, Chhotu Verma and Uttam Ram by name as well as by face and he further identified Rohit Thakur as Thakur. The learned Addl.P.P. appearing on behalf of the state has further submitted in course of his argument that PW-1 namely, Mukesh Kumar although turned hostile but he has admitted in his cross-examination that he heard that Alimuddin has been murdered who was the driver of the vehicle. He came to know that the vehicle was burnt. PW-2 namely, Lalan Kumar although turned hostile but this witness has also admitted that the incident was of 29-06-17 at around 10:00 to 10:30 AM. He has also proved his signature on the map of the place of occurrence which has been marked as Ext.-1 with objection. PW-4 namely, Jitendra Ram although turned hostile but in his cross-

16.03.18



contd.

examination by the prosecution, he has clearly deposed that he heard that Alimuddin has been murdered by the member of **Gau Raksha Dal**. He has further deposed that at Bazartand Alimuddin has been assaulted and also saw that Alimuddin was being taken by police. He has also admitted that he has given statement before the magistrate and he has put his signature on it and on the basis of his deposition the same has been marked as Ext.-2. PW-5 namely, **Md. Meraj @ Khatra** although declared hostile on the point of identification of the accused but he has also supported the case of the prosecution deposing inter-alia that on 25th day of Ramjan he got a call from Bappi who asked him to go for tea but he told him that he has no any vehicle. So, he can't come. On this again he got a call from Bappi who told him that he is sending a vehicle. Thereafter, he went to the tea shop of Yadav Jee. He took tea and Rajnigandha at tea shop and from there he went to Ramgarh stand on the bike with Bappi where there was Swift Desire car and in that vehicle three friends of Bappi were sitting. They started a talk about beef and asked him from where the beef comes? On that he replied to them that neither he eats nor he knew from where it comes. Bappi told him that the persons who were sitting on the vehicle were Deepak Mishra and Chhotu Verma but he did not tell the name of third person. The evidence of aforesaid hostile witnesses namely PW-1 Mukesh Kumar, PW-2 Lalan Kumar, PW-4 Jitendra Ram and PW-5 Md. Meraj @ Khatra although turned hostile but their statements before police can be taken in to consideration in view of proviso to section 162 (I) Cr.P.C. and their subsequent denial in court is not believable, because they obviously had after thoughts and wanted to save the accused persons from legal punishment. PW-6 namely, **Madan Kumar** who has claimed himself to be In-charge of Technical Cell of the Superintendent of Police, Ramgarh. He has given requisition containing mobile number of nineteen persons by the I.O. of this case and a demand was made for call details report, CAF, current location and other electronic evidence and on the basis of demand of the I.O. he has provided CDR, CAF, current location, longitude and latitude of the location of the accused persons by procuring the same from the respective service provider of the numbers. This witness

contd.



has clearly deposed in his evidence that mobile location which he procured in CDR was related to the date of occurrence. Which ever numbers he got from the I.O. of this case, the tower location of all mobile numbers were found to be near the place of occurrence. The entire electronic evidence collected by this witness have been marked as Ext.-4 to 4/50 and this witness has also given a certificate u/s-65 (B) of the Evidence Act. PW-10 namely, **Mariyam Khatoon** who is non-else but the wife of the deceased and informant of this case has also identified accused Chhotu Verma, Chhotu Rana, Deepak Mishra and Nityanand Mahto although she is not an eye witness to the occurrence but she has supported the factum of the case regarding the death of her husband by assault. The learned Addl. P.P. appearing on behalf of the state has further submitted in course of his argument that from the material and evidences available on the record, it is clear that the accused persons were identified by almost all the prosecution witnesses and their presence at the place of occurrence has also been corroborated and proved by the prosecution adducing electronic evidence like videos, photos, CDR, CAF, location of the accused persons etc. The electronic evidence procured from respective mobile service providers are supported with a certificate u/s-65 (B) of Evidence Act. The videos and photos of the commission of crime have been proved and are admissible as evidence by virtue of latest Hon'ble Supreme Court Judgement / order dated 30-01-18 passed in the case of **Shafhi Ahmad Vrs. State of Himachal Pradesh**. The authenticity of the said videos and photos have been established by forensic test report from Central Forensic Science Laboratory, Chandigarh (Ext.-20). The learned Addl.P.P. appearing on behalf of the state has further submitted in course of his argument that the statement u/s-164 of Cr.P.C. of the witnesses, CDRs etc. which have been proved by the prosecution depicted the full picture of intention, preparation, implementation and accomplishment of crime by the accused persons. The cause of death and antimortem injuries as explained by the doctor / medical board who conducted the postmortem is corroborated by the manner of occurrence and further substantiate and corroborated by the videos as well as photographs showing the

contd.



commission of crime by the accused persons. These videos and photos were proved by the prosecution and also shown in open court in presence of advocates of both the parties wherein the accused persons being a part of unlawful assembly were seen executing the common object i.e. committing the crime and these accused persons also identified the witnesses in open court. The material exhibits used in commission of crime and apparels (dress) wore by the accused persons at the time of commission of crime were also recovered on the instance of them have categorically proved by the prosecution. The learned Addl. P.P. appearing on behalf of the state has further submitted in course of his argument that the Ext.-3 i.e. certificate given by P.W.6 A.S.I. Madan Kumar u/s 65 (B) 4 of Evidence Act, Exts.-4 to 4/50 i.e. CDR, CAF & location etc, Material Ext.- XVIII,-XIX and XX (CD, pan drive, videos, photos) and Ext.-20 (Examination report of videos & photographs issued by CFSL, Chandigarh) categorically prove the complicity of the accused persons. The numbers of seizures and seizure lists have been proved by the prosecution goes to show that the various apparels (dress) recovered on the instance and from the possession of the accused persons, including the fiber stick clearly proved the complicity of the accused persons in the occurrence. The learned Addl. P.P. appearing on behalf of the state has further submitted in course of his argument that from the evidence available on the record, it is also crystal clear that all the accused persons with an intention to commit murder of the deceased and having knowledge that by their act death would be caused, caused such bodily injury which was sufficient in ordinary course of nature as deposed by PW-7 Dr. Sawan Mundari in his evidence, to cause death, have committed the murder of Alimuddin. Even the motive for commission of the offence are clear although the driver was allegedly carrying beef which is illegal but the complicity of the accused persons in this case is clear and cannot be justified from any legal angle to commit murder of the person. The Ext. numbers- 23, 23/1, 23/2, 24, 24/1, 25, 25/1 which have been proved by the prosecution also prima-facie proved the criminal background and habitual nature of some accused persons to commit crime. The learned Addl. P.P

16.03.18



contd.

appearing on behalf of the state has further submitted in course of his argument that the accused persons namely, Sikandar Ram, Chhotu Verma, Deepak Mishra, Chhotu Rana, Santosh Singh, Raju Kumar and Santosh Singh have themselves admitted that they are the members of **Bajranga Dal Gau Raksha Samiti**. The accused Deepak Mishra has admitted in his confessional statement that he is the **Ramgarh Nagar Sanyojak (Ramgarh City Sanyojak)** of **Bajranga Dal Gau Raksha Samiti** of Ramgarh district and the accused Chhotu Verma is the **District President of Ramgarh Bajranga Dal Gau Raksha Samiti** and the accused Nityanand Mahto is his associate member. The learned Addl.P.P. appearing on behalf of the state has further submitted in course of his argument that in the instant case, the defence has also adduced and examined **sole defence witness** namely, **Shankar Dayal Singh** who is an interested witness being a neighbour and friend of accused Chhotu Verma and he has also shown closeness with the accused Santosh Singh in para 19 when he referred Santosh Singh as Santosh Bhaiya. He was in custody in connection with FIR filed by his own mother and appears to be person who has no regard for his own mother. So, in this view of the matter, it can be difficult to believe that he would have the regard for the law of the land which is evident from the Ext.-D. The learned Addl.P.P. appearing on behalf of the state has further submitted in course of his argument that this DW-1 namely, **Shankar Dayal Singh** is a liar in view of the fact that he is a resident of Patratu Basti Ramgarh but in para 29 of his cross-examination he stated that he is not a neighbour of accused Chhotu Verma who is also a resident of Patratu Basti Ramgarh. Further his statement in para 21 of his cross-examination makes his credibility more doubtful and questionable when he states that he has passed Engineering Degree with 67% marks but in the same para he stated that his engineering practical is incomplete, in this view of the matter how is it possible that one could pass engineering without completing his mandatory practicals. Apart from that the statement of this witness made in para 3 is not believable as at one place he says that no person wearing blue shirt was brought by the police to police station Ramgarh but later on in same para he says that there

contd.



were no bodily injury on the body of that person. How it is possible to see the injuries on the body of that person when he was wearing the shirt. Again the lie of the sole defence witness is caught when in para 4 of his examination-in-chief he claimed that on same day i.e. on 29-06-2017 around 12:00 to 12:30 PM accused Santosh Singh came to police station and he was taken into custody by police but fact is that the accused Santosh Singh was arrested on 30-06-2017 which is substantiated by the arrest memo of Santosh Singh which has been proved by prosecution and the same has been marked as Ext.-12/3. Moreover, there is no defence as to Alimuddin was assaulted by the police in Ramgarh thana hazat in the statement of accused persons recorded u/s 313 Cr.P.C. The learned defence counsel has further submitted in course of his argument that the plea / contention of learned defence counsel to the effect that the identification of the accused persons by the witnesses in the court in absence of holding test identification parade (TIP) of the suspects of the crime itself damage the prosecution case is not acceptable in view of the fact that the FIR of this case was registered against the twelve named accused persons along-with others by the informant of this case who is non-else but the wife of the deceased and also in view of the observation of the Hon'ble Supreme Court in the case of Dastagir Sab and another Vrs. state of Karnataka decided on 22-01-2004 in which Hon'ble Apex Court has been pleased to observe that no law states that non-holding of Test Identification Parade would by itself disprove the prosecution case. To what extent and if at all the same would adversely affect the prosecution case, would depend upon the facts and circumstances of each case. In the facts of this case, holding of T.I. Parade was wholly unnecessary. The learned Addl. P.P. has further submitted in course of his argument that the plea / contention of learned defence counsel to the effect that two FIR of the same offence was registered out of them Ramgarh P.S. case no. 199/17 was on the basis of self statement of Kamlesh Paswan but in the self-statement of Kamlesh Paswan i.e. FIR of Ramgarh P.S. case no. 199/17 name of the accused persons did not disclose by the informant Kamlesh Paswan who has claimed himself to be the eye witness of the

contd.



occurrence and he has also categorically disclosed the name of the accused persons in this case at the time of his evidence before the court and in this view of the matter, he cannot be an eye witness to the occurrence is also not acceptable in view of the observation of the Hon'ble Supreme Court in the case of Superintendent of Police, CBI and others Vrs. Tapan Kumar Singh decided on 10-04-2003 in which Hon'ble Apex Court has been pleased to observe that a first information report is not an encyclopedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. The learned defence counsel has further submitted in course of his argument that the plea / contention of learned defence counsel to the effect that there is no certificate of the said expert technician to prepare the alleged CD and in whose presence the said CD prepared. So, the certificate of FSL, Chandigarh will not help the prosecution case and the certificate given by ASI Madan Kumar PW-6 u/s- 65B (4) of the Evidence Act regarding the call details report mobile of nineteen persons will also not help the prosecution case in view of the fact that the mobile set of PW-14 namely, Kamlesh Paswan upon which viral photographs and videos came has not been produced before the court which is the source of the alleged CD (Compact Disk) is also not tenable and acceptable in view of the observation of the Hon'ble Supreme Court in the case of Shafhi Mohammad Vrs. state of Himachal Pradesh decided on 30-01-2018 in which Hon'ble Apex Court has been pleased to observe that the applicability of procedural requirement u/s- 65B (4) of the Evidence Act of furnishing certificate is to be applied only when such electronic evidence is produced by a person who is in a position to produce such certificate being in control of the said device and not of the opposite party. In a case where electronic evidence is produced by a party who was not in possession of a device, applicability of section 63 and 65 of the Evidence Act could not be held to be excluded. In such case, procedure under the said section can certainly be invoked. If this was not so permitted, it will be denial of justice to the person who was in

contd.



possession of authentic evidence / witness but on account of manner of proving, such document is kept out of consideration by the court in absence of certificate u/s- 65 B (4) of the Evidence Act, which party producing could not possibly secure. Thus, requirement of certificate u/s- 65B (4) is not always mandatory. Such party could not be required to produce certificate u/s- 65B (4) of the Evidence Act. The applicability of requirement of certificate being procedural could be relaxed by the court wherever interest of justice so justifies. At last but not least Ld. Addl. P.P has submitted in course of his argument that in the instant case, the prosecution has been able to substantiate and prove the charges levelled against the accused persons by adducing sufficient, cogent and reliable evidences beyond the shadow of all reasonable doubts and has prayed that accused persons may kindly be convicted for the offence committed by them. In support of his contention, the learned Addl. P.P. has placed his reliance upon the judgment passed by Hon'ble Supreme Court in the case of ;

- (1) Superintendent of Police, CBI and others Vrs. Tapan Kumar Singh decided on 10-04-2003
- (2) Dastagir Sab and another Vrs. State of Karnataka decided on 22-01-2004
- (3) Shafhi Mohammad Vrs. State of Himachal Pradesh dated 30-01-2018
- (4) Bhagwan Dass Vrs. State (NCT of Delhi) decided on 09-05-2011
- (5) Bhajju @ Karan Singh Vrs. State of M.P. decided on 15-03-2012
- (6) Sharab s/o Beli Nayata & Anr. Vrs. The State of Madhya Pradesh decided on 02-05-1972.

16.13.18



Apart from the above oral argument a written memorandum of argument u/s-314 of Cr.P.C. has also been filed on behalf of the prosecution on 23-02-2018.

(12) Now in the light of argument advanced on behalf of both the sides and also in view of the facts and circumstances of the case and also in respect to the accusation levelled against the accused persons, I have to

contd.



consider and appreciate the evidence available on the record. In this context first of all, I would like to consider and appreciate the evidence of PW-10 Mariyam Khatoon, W/o- Late Alimuddin. She is non-else but wife of the deceased Alimuddin and the informant of this case. She has proved her signature on the written application which has been marked as Ext-6 in this case. This witness has also identified the signature of scribe of written application (FIR) which has been marked as Ext-7. She is the hearsay witness to the occurrence. Reiterating her earlier version of the written application, she has deposed in her examination-in-chief that occurrence took place on 29-06-17. On that very day, at about 8:00 AM in the morning her husband Alimuddin left house with own maruti van saying that he is going to Ramgarh. At about 10:00 - 11:00 AM in the morning she got an information to the effect that her husband is being assaulted by some people of Bajrang Dal at Sanichara Bazar Ramgarh and Md. Aslam Ansari also informed her that he knows those people who were assaulting her husband and he saw the occurrence. As per information received by her, Deepak Mishra, Chhotu Verma, Chhotu Rana, Santosh Singh and 10-15 others people assaulted her husband and they also set the vehicle on fire. This witness has further deposed in her examination-in-chief that she heard that there was beef in the vehicle. She did not know that where did her husband take away for treatment but later on, she came to learn that her husband died. This witness has further deposed in her examination-in-chief that she filed a case in the police station by filing a written application which was written by Sikandar r/o-vill Sirka. He has written application as per her dictation. This witness has also identified the accused Chhotu Verma, Chhotu Rana, Deepak Mishra, Nityanand Mahto with name and face but she could not identify the rest accused standing in the court dock. This witness has also been cross-examined at length on behalf of the defence. In her cross-examination, she has clearly deposed that she is an illiterate lady. She can only write her name. She has further deposed in her examination-in-chief that Sikandar belongs to her myke (parents village). Some unknown persons get Whats App. shown to her and on the basis of the same she

contd.



came to learn the name of assaulter/ assailants and she could also be able to identify the accused persons in the court but it is not in her memory the name of the said unknown persons who made seen the Whats App. In para 8 of her cross-examination, this witness has deposed that she told before the police that Aslam Ansari told her about the occurrence coming in the village and also told to her that he has seen the assaulter. In para 10 of her cross-examination, this witness has deposed that there were one and two criminal cases against her husband. He also went to jail and he was released on bail by the order of High Court. She has also admitted that a criminal case was also registered against her husband in connection with theft of cow. In para 15 of her cross-examination, this witness has deposed that she reached at police station (thana) in between 12:00 to 1:00 PM, at that time 10-15 persons of her village and 15-20 persons of Ramgarh were present at the police station including both hindu and muslim communities. She did not see the dead body of her husband at that time in the police station. In para 16 of her cross-examination, this witness has deposed that she has no knowledge about the fact that a criminal case was also registered against her husband for the occurrence of the same day with regards to illegal beef.

From close scrutiny of the testimony of this witness, it is evident that on all material points she has been consisted from the beginning and the testimony of this witness has not been shaken in any material particularly in her cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.



(13) PW-16 namely, Vidyawati Kumari Ohdar wife of Krishna Sahu. She is the I.O. of this case. She has proved map of the place of occurrence, inquest report, carbon copy of dead body challan, Copy of the order of the office of Superintendent of Police Ramgarh dated 30-06-17, Copy of memorandum number 2822/GO dated 30-06-17 of the office of Superintendent of Police Ramgarh, One photograph regarding accused Deepak Mishra, Chhotu Verma, Kapil Thakur & Santosh Singh along-with

contd.



memo of arrest, One another photograph relating to Deepak Mishra, Chhotu Verma, Chhotu Rana and Nityanand Mahto along-with arrest memo of accused Nityanand Mahto, Arrest memo of accused Santosh Singh, Photograph relating to accused Sikandar Ram, Uttam Ram and Rohit Thakur, Arrest memo of accused Rohit Thakur, Photograph of accused Kapil Thakur along-with arrest memo of accused Kapil Thakur, Arrest memo of accused Vickey Sao, **Photograph of Vicky Sao along-with arrest memo** which have been marked as Exts.-14, 15, 16, 17, 17/1, 8/2, 8/3, 12/2, 12/3, 8/4, 8/5, 8/6, 12/4, 8/7, 12/5, 12/6, 8/8 respectively. This witness has also proved Cassette regarding videography of postmortem examination which has been marked as **material Ext.- XVII**. This witness has also proved seizer list relating to accused Chhotu Verma, **Confessional statement of accused Chhotu Verma, Deepak Mishra, Chhotu Rana, Santosh Singh**, Seizer list with respect to accused Raju Kumar, Confessional statement of Raju Kumar which have been marked as an Exts.-10/5, 11/1, 11/2, 11/3, 11/4, 10/6, 11/5 respectively. This witness has also proved carbon copy of forwarding report dated 03-08-17 addressed to Director Central Law Science Laboratory Chandigarh Punjab, Carbon copy of application regarding deputation of one Executive Magistrate, Examination report of Central Law Science Laboratory Chandigarh Punjab which have been marked as an Exts.-18, 19 & 20 respectively. This witness has also produced **sealed CD** which was received from Central Law Science Laboratory Chandigarh after examination which has been marked as **material Ext.-XVIII**. This witness has proved sealed envelope in which one Compact Disk and one PAN Drive were kept along-with a letter of C.J.M. Ramgarh which have been marked as and **material Exts.- XIX, XX and Ext.- 26** respectively. This witness has deposed in her examination-in-chief inter alia that on 29-06-17, she was posted at Ramgarh Police Station as sub-inspector. On that very day the charge of the investigation of Ramgarh P.S. case no. 198/17 was handed over to her by Police Inspector-cum-Officer-in-charge of Ramgarh police station Kamlesh Paswan (PW-14) and after taking over the charge of the investigation of this case, she recorded re-statement of

contd.



the informant Mariyam Khatoon (PW-10). Then recorded the statement of witness Md. Jalil Ansari (PW-9) and Md. Nizam Ansari (PW-3) present in the police station. Thereafter, she proceeded to place of occurrence along-with Armed force and inspected the place of occurrence and made sketch map of the place of occurrence in presence of two witnesses namely, Lalan Kumar (PW-2) and Mukesh Kumar (PW-1) and thereafter, recorded the statement of witness namely, Meraj @ Khatra (PW-5), police inspector-cum-O/c Ramgarh Kamlesh Paswan (PW-14), S.I. Jitram Mahli (PW-8), Incharge ST/SC Ramgarh police station Ghanshyam Gope, Lalan Kumar, Mukesh Gupta, Jitendra Ram @ Pabi presented at the place of occurrence. **All the aforesaid witnesses supported the occurrence in their respective statement.** This witness has further deposed in her examination-in-chief that in course of investigation, she conducted raid at the house of FIR named accused Deepak Mishra, Santosh Singh, Chhotu Verma, Pappu Yadav, Sujit Sonkar, Piju Goyanka and Chhotu Rana. They did not find in their respective house. Thereafter, ASI Jitendra Kumar Singh came at Ramgarh police station from RIMS Ranchi and told her that injured was declared dead at emergency RIMS Ranchi and he handed over a certificate to her issued by ASO, RIMS Ramgarh along-with inquest report and carbon copy of dead body challan. This witness has further deposed in her examination-in-chief that a special investigation team (SIT) was constituted by the then superintendent of police Ramgarh vide memo no. 2819/go, dated 30-06-17 in the leadership of Sri Virendra Choudhary Dy. S.P. Ramgarh of which member were Kamlesh Paswan police inspector, ASI Lileshwar Mahto, ASI Vidyawati Kumari Ohdar herself and Santosh Kumar Singh with a direction to identify FIR named and FIR not named accused persons of Ramgarh P.S. case no. 198/17 and arrest them. Besides, an another SIT team was also constituted by the then Superintendent of Police Ramgarh vide memo no. 2822/go. dated 30-06-17 in the leadership of ASI Santosh Kumar Gupta consisting of ASI Uma Shankar Singh and Mahendra Mishra as a member who identified and verified the name of the unknown people came in the viral video and photos of the occurrence. Thereafter, SIT member Kamlesh Paswan

contd.



produced accused Santosh Singh before her with arrest memo and one photograph of place of occurrence (Ext.-8/2) consisting photo of accused Deepak Mishra, Chhotu Verma, Kapil Thakur and Santosh Singh. Thereafter, Santosh Kumar Gupta member of SIT identified twelve accused persons namely, Deepak Mishra, Chhotu Verma, Chhotu Rana, Nityanand Mahto, Santosh Singh, Vicky Sahu, Kapil Thakur, Rohit Thakur, Sikander Ram, Uttam Ram, Sanjeev Yadav and Deepak Paswan. On the basis of viral photos and videos as well as by the help of secret informer (spy). This witness has further deposed that in course of investigation, she gave an application to S.P. Ramgarh for obtaining CDR's, CAF of 19 mobiles phone vide letter no. 2519/17 at 30-06-17. Thereafter, accused Nityanand Mahto, Santosh Singh, Sikandar Ram @ Rulla, Vicky Thakur, Kapil Thakur, Rohit Thakur were produced before her along-with arrest memo and photographs by ASI Santosh Kumar Gupta and Santosh Kumar Singh. Thereafter, she got postmortem report along-with sealed cassette of videography from RIMS Ranchi. This witness has further deposed in her examination-in-chief that on 04-07-17 accused Chhotu Rana, Santosh Singh, Deepak Mishra and Chhotu Verma were taken on police remand and after interrogation, confessional statement were recorded and on the basis of confessional statement as well as at the instance of the aforesaid accused persons. Cloths which were worn by the accused persons at the time of committing occurrence and fiber stick (lathi) which were used in the commission of offence were recovered from the house of the accused which were seized by making a seizure list in presence of independent witnesses namely, Budhan Mahto and Amit Kumar and a copy of the same was also given to accused Chhotu Verma who put his signature in token of acknowledgement of such seizure. This witness has further deposed in her examination-in-chief that in course of investigation, she got statement of the witness namely, Jitendra Ram @ Pabi and Md. Meraj @ Khatra recorded u/s 164 Cr.P.C. in the court on 14-07-17 and 24-07-17 respectively and on 29-07-17 a CD relating to viral photo and video of the occurrence which came on the mobile no. 9939105491 of Inspector-cum-O/c Ramgarh P.S. Sri Kamlesh Paswan was

contd.



prepared in presence of Executive Magistrate-cum-Circle Officer Ramgarh Amrita Kumari as per order of the court and the said CD was sent to Law Science Laboratory, Chandigarh through special messenger for its examination in sealed form through the then C.J.M. Ramgarh and the exhibits examination report of the said CD was brought by ASI Ramkant Singh from Central Law and Science Laboratory, Chandigarh on 15-09-17 and the same was submitted to the court of C.J.M. Ramgarh, on the same day in sealed form (Ext.-20) and (Material Ext.-XVIII). This witness has further deposed that on 15-09-17 she received examination/description report of CDR's as well as CDR from in-charge of Technical cell of the office of S.P. Ramgarh through memo no. 37/17, dated 15-09-17 from ASI Madan Kumar. Thereafter, she submitted charge-sheet bearing no. 283/17, dated 17-09-17 u/s 147, 148, 149, 427, 302, 120(B) IPC against the accused Deepak Mishra, Chhotu Verma, Nityanand Mahto, Chhotu Rana, Santosh Singh, Sikandar Ram, Uttam Ram, Vicky Sao, Kapil Thakur, Rohit Thakur, Raju Kumar and Vikram Prasad keeping the investigation going on against the rest accused persons. This witness has also identified the accused Nityanand Mahto, Chhotu Rana, Santosh Singh, Sikandar Ram, Deepak Mishra, Uttam Ram and Chhotu Verma with name and face and only with face of rest accused persons in the court. This witness has been re-examined on behalf of the prosecution in the light of order dated 01-12-17. In her re-statement, she has proved CD (compact disk) and Pan drive which have been marked as material exhibits XIX and XX respectively. She has also proved letter of learned C.J.M. Ramgarh regarding examination of the said CD and PAN drive for examination which has been marked as Ext.-26 in this case. In course of her re-examination, she has identified accused Santosh Singh, Chhotu Verma, Nityanand Mahto, Uttam Ram, Vicky Sao, Kapil Thakur as member of unlawful assembly. The CD which was displayed in the open court in presence of the accused persons and also in presence of learned counsels from both the parties in their respective dress which were recovered and seized on the basis of their respective confessional statement. This witness has identified accused Chhotu Rana as assaulting Alimuddin with fiber

contd.



stick and accused Sikandar Ram as assaulting Alimuddin, accused Deepak Mishra as assaulting Alimuddin with leg and Sanjeev Yadav as keeping lathi in his hand with sound of "Aur Maro". She has identified the accused Uttam Ram as standing beside of injured Alimuddin who was sitting on road where beef were scattered. This witness has been subjected to lengthy and extensive cross-examination on behalf of the defence. In her cross-examination, she stated that on the day of occurrence, she was at Ramgarh police station at 12:00 PM onwards. On 29-06-17 she took over the charge of the investigation of Ramgarh P.S. case no. 198/17, dated 29-06-17 and Ramgarh P.S. case no. 199/17 at 29-06-17 and prior to this, she has come to knowledge about the occurrence of this case. She has further stated in her cross-examination that she has already recorded the re-statement of the informant Kamlesh Paswan of Ramgarh P.S. case no. 198/17 in which he has supported the contents of his self written statement. He has not disclosed name of any accused person who assaulted Alimuddin. He has also not claimed in his self written statement that he will identify the accused persons. This witness has further deposed in her cross-examination that she was not handed over dying declaration of Alimuddin by Kamlesh Paswan. She has further deposed that she has come to learn in course of investigation of this case that Kamlesh Paswan reached at place of occurrence at 10:00 AM along-with SI Jitram Mahli and ASI Ghanshyam Gope and injured was sent for better treatment from the place of occurrence with ASI Jitendra Kumar Singh, ASI Sri Nivas, ASI Bhavesh Jha along-with Armed force on police vehicle of which Wakil Thakur was the driver. She has further deposed in her cross-examination that she did not get any injury report of the injured Alimuddin in course of investigation. She did not find any such evidence in course of her investigation which shows that after primary treatment at Ramgarh, injured Alimuddin was referred to RIMS Ranchi for his better treatment. In para 72, 73 & 74 of her cross-examination, she has clearly deposed that none of the witness has stated in his statement recorded u/s 161 Cr.P.C. that he saw the accused Nityanand Mahto committing occurrence at the place of occurrence on the alleged date and time of the occurrence.

16-03-18



contd.



Witnesses also did not say about the knowledge from whom she got information of involvement of Nityanand Mahto in the commission of crime. Neither any incriminating article recovered from the possession of Nityanand Mahto nor anything such as foot print, finger print, personal object and his mobile location was recorded and found from the place of occurrence in course of investigation. This witness has further deposed in her cross-examination that she did not investigate the fact that from whose mobile phone the said viral videos and photos came on the mobile of Kamlesh Paswan. She did not seize the said mobile of Kamlesh Paswan. The said C.D. was prepared from the said mobile of Kamlesh Paswan. She did not conduct TIP parade of the accused / suspect in course of investigation. She did not find any such person in her entire investigation of this case who told her that he has taken any photo / videos of the occurrence. She did not investigate any case relating to cyber crime till now. She did not get any certificate from the technician relating to the procedure of making C.D. being the I.O. of this case. In para 112 of her cross-examination, this witness has deposed that the alleged viral photos and videos were handed over to Santosh Gupta, a member of S.I.T. by O/c Kamlesh Paswan on 30.06.2017 for identification of the accused persons and on the same day she also saw the said viral photos and videos and on the basis of the same she has identified the accused persons in the Court. This witness has further deposed in para 115 of her cross-examination that it is true that on 29.07.2017 the alleged C.D. was prepared from the mobile of Kamlesh Paswan by the then Circle Officer of Ramgarh with the help of technician through pan drive.

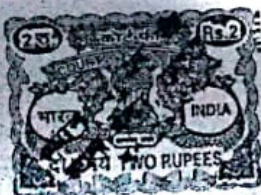


From close scrutiny of the testimony of this witness, it is evident that on all material points she has been consisted from the beginning and the testimony of this witness has not been shaken in any material particularly in her cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(14)

PW-14 namely, Kamlesh Paswan, S/o- Sri Triloki

contd.



Bhagat, the then Police Inspector-cum-Officer-in-charge Patratu Circle, Ramgarh. He has also claimed himself to be an eye witness to the occurrence. He has proved formal FIR, Endorsement regarding registration of the case which has been marked as Ext.- 13 & 7/1. This witness has also produced and proved Fibre Stick (Cane Stick) which has been recovered from the house of accused Chhotu Verma, Sealed clothes of Deepak Mishra, Bag of Geruwa colour, Sealed clothes which was recovered from the house of accused Chhotu Verma, Track suit of slatty colour of Chhotu Verma, Black colour half pant of accused Santosh Singh, Blue colour half pant and Kai colour T-shirt of accused Chhotu Rana, White colour paper envelope and black colour Samsung Mobile recover from accused Raju Kumar, A white colour marking cloth and cloth of the accused Sikandar @ Rulla which have been marked as material Exts- I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV & XVI respectively. This witness has deposed in his examination-in-chief that the occurrence took place on 29-06-17 at about 9:45 AM at Main Road in front of Hindustan Gas Agency situated at Bazartand Ramgarh. At that time he was posted at Ramgarh police station as police inspector-cum-police station in-charge. This witness has further deposed that when he was at police station, he received information on his mobile to the effect that some activist (workers) of Bajrang Dal along-with some other people stopped a Maruti Van loaded with beef at the main road, in front of Hindustan Gas Agency situated at Bazartand Ramgarh and driver of the said maruti van is being beaten by the activist (workers) of Bajrang Dal and beef of the van are scattered in the road and Activist (workers) of Bajrang Dal are trying to put the maruti van on fire. Receiving the said information and entering sanha about the same, he informed the matter to his superior officer as well as administrative officer Ramgarh and left the police station along-with ASI Ghanshyam Gope, SI Jitendra Ram Mahli along-with Armed force present at the police station with Govt. vehicle Vicra for its verification and when he reached there the he saw a crowd (mob of the people) there. Mob of the people began to scatter from there. He also saw that some Ativists (workers) armed with danda (lathi) and one

contd.



person is being beaten. Beef are scattered on the road and maruti van put on fire. The person who was being assaulted by the Activist (workers) of Bajrang Dal was lying on the road in badly injured (seriously injured) condition. He was neither able to talk nor walk. Seeing the condition of the injured person he was sent to Ranchi at once for his better treatment on police van along-with Jitendra Kumar Singh ASI and other police officers. This witness has further deposed in his examination-in-chief that he also saw the Activist (workers) of Bajrang Dal namely, Chhotu Verma, Deepak Mishra, Chhotu Rana, Santosh Singh, Sikandar @ Rulla, Uttam Ram and others there. In the meantime, many police officers came there. He began to scatter the crowd (mob of the people) and engaged himself to seize the scattered beef. In the meantime different types of video of the occurrence and photos of the people who involved in the occurrence as well as video of burning maruti van began to viral on his mobile. Later on he came to learn that besides, Chhotu Verma, Deepak Mishra, Chhotu Rana, Santosh Singh, Sikandar @ Rulla, Uttam Ram, Pappu Yadav, Sumit Sonkar, Vikram and others were also involved in the commission of the said crime/offence. This witness has identified all the accused persons standing in the court dock by face but he has identified the accused Deepak Mishra, Chhotu Rana, Santosh Singh Nityanand Mahto, Chhotu Verma, Rohit Thakur, Uttam Ram by face and name both but he has identified accused Sikandar as Uttam and accused Raju as Thakur. This witness has also extensively been cross-examined on behalf of the defence. This witness has deposed in his cross-examination that he has not seized any material nor prepared seizure list to which he identified in the court rather the same has been prepared by the I.O. of this case Vidyawati Ohdar and Santosh Kumar one of the member of SIT. In para 17 of his cross-examination, this witness admits that Ext.-C is his first self written statement of the occurrence took place on 29-06-17 and on the basis of which Ramgarh P.S. case no. 199/17 dated, 29-06-17 was registered against the accused Alimuddin who was injured person of this case who later on died. In para 18 of his cross-examination, this witness has clearly deposed that his statement contains in Ext.-C and the statement given in his examination-

16.03.18



contd.

in-chief regarding seeing the occurrence as well as accused persons who have committed the occurrence both are true. This witness has further deposed in para 20 and 24 of his cross-examination that the offence of Ramgarh P.S. case no. 199/17, dated 29-06-17 was cognizable and non-bailable in nature but he did not arrest injured Alimuddin at once on the humanitarian ground and also did not prepared any arrest memo. In para 26 of his cross-examination, this witness has deposed that Dy. S.P. Virendra Kumar Choudhary reached at P.O. after 10-15 minutes of his reaching at P.O. At that time injured had already been sent to RIMS for treatment but member of the Bajrang Dal who are the accused persons of this case were present at P.O. and they talked with him about 1/2 hours after the occurrence and thereafter, they went from there inform of (mob) Julius. In para 29, 30 and 31 of his cross-examination, this witness deposed that it is true that a written application was given by accused Deepak Mishra in police station against the persons who have been involved in dealing in illegal business of cow prior to two days of occurrence. It is also true that accused Deepak Mishra and Chhotu Verma are the member of Santi Samitee and both are being called in the meeting when any meeting organized at the police station on the occasion of any festivals. It is also true that accused Deepak Mishra informed him about the occurrence at 9:46 AM through his mobile no. 7903527087 on 29-06-17. In para 32 of his cross-examination, this witness has deposed that at about 12:00 to 12:30 PM he was informed from RIMS Ranchi that injured Alimuddin died and in para 33 of his cross-examination, this witness has deposed that due to possibility of creation problem of law and order problem in the Ramgarh city, injured was sent to RIMS Ranchi for his treatment by him and in para 34 of his cross-examination, this witness has denied the suggestion put to him on behalf of the defence to the effect that injured was brought at thana Hazat from the P.O. and he was badly (brutality) assaulted there due to which he died.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material particularly

contd.



in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(15) **PW-7 Dr. Sawan Mundari.** He has claimed himself to be the person who has participated in conduction of postmortem examination of an unknown dead body as one of the member of the medical board constituted for the same. He has proved postmortem report which has been marked as Ext.-5. This witness has also proved signature of Dr. Diwakar Kumar, Dr. Satyawrat Patra and Dr. Ambika Sharan on the postmortem report which have been marked as Exts.-5/1, 5/2 & 5/3 respectively in this case. This witness has deposed in his examination-in-chief that on 29-06-2017. He was posted as Assistant Professor, Department of FMT, RIMS, Ranchi. A medical board was constituted on the same day consisting Dr. Diwakar Kumar, Dr. Satyavart Patra, Dr. Ambika Sharan and myself Dr. Sawan Mundari. A dead body of an unknown male aged about 45 yrs. was brought and identified by ASI Bhawesh Jha and ASI Srinivas of Ramgarh P.S. and postmortem was conducted at 16:30 hrs. on 29-06-2017

On external examination he found the following

- Dead body was averagely built, rigor mortis was present all over the body, abdomen was mild distended, face was congested, eye and mouth was closed, callosity over the knee and lateral malleolus at ankle, circumcision was done /present.

External injury abrasion:

- 4 cm x 1 cm over the left side of face near the eye overlying the zygomatic.
- 2 cm x 1 cm over the right shoulder top 1 cm x ½ cm over the right side of posterior chest upper part overlying scapula over this there was multiple blow.
- 5 cm x 2 cm left side of front of upper part of abdomen.
- 2 cm x 1 cm over the front of right side upper part .
- multiple pinhead size abrasion over back of neck.

Bruises:



contd.

- There are multiple rail track bruises over the posterior aspect of trunk were mostly parallel, separating 5 to 6 cm apart directly above downward and medially, some are overlapping- (1) 20 x 12 cm (abraded bruise) over the left scapular region. (2) 17 cm x 2 ½ cm over the middle part of back of chest. (3) 12 cm x 2 ½ cm over the middle part of chest at 6 to 7 thoracic vertebral level. (4) 10 cm x 2 ½ cm over the right side of lumbar region over back of abdomen (5) 11 cm x 2 cm over the left side of posterior aspect of abdomen in lumbar region (6) 25 cm x 12 cm back of abdomen lower part adjoining gluteal and sacral region (7) 2 cm x ½ cm over the posterior aspect of mid of right thigh (8) 12 cm x 3 cm over the posterolateral aspect of middle of left thigh (9) 8 cm x 3 cm over the posterior aspect of left thigh lower part (10) Diffuse contusion over the back of leg upper part (redish in colour)

On internal examination of the dead body of the deceased he gave following findings :

- Left lung was mild adherent with chest wall. Weight of left lung was 328 grams, right lung was 309 grams, heart was empty having weight 314 grams, brain was mild congested, dura matter intact, stomach was empty, liver mild enlarged having weight 2,223 grams, spleen was weighted 253 grams, right kidney 133 grams, left kidney was weighted 148 grams.

The opinion of this witness after examination of the dead body of an unknown male are as follows :

- (1) Above noted injuries are antimortem caused by hard and blunt substance.
- (2) Cause of death is shock as a result of multiple injuries noted above.
- (3) Time since death is 06 to 18 hrs. from the time of postmortem examination.

This witness has further deposed in para 2 & 3 of his examination-in-chief that **after receiving the above injuries a person may render senseless and again regain senses and may collapse thereafter. The injuries found may be sufficient in ordinary course of nature to cause death.** This witness has also been cross-examined at length on behalf of the defence. In paras 4, 5, 6, 7, 8, 9, 10, 11 & 12 of his cross-

contd.



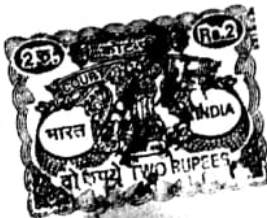
examination, this witness has deposed that I have filled up the column-I of Postmortem report as per the inquest report which was sent with the postmortem challan by the police and they were ASI namely- Bhawesh Jha and Srinivas. The inquest report was in original, which is not brought by me today before the court. Before and even after the postmortem examination of the dead body. They were not aware of his name, address, parentage, religion and nationality nor they were knowing that the dead body is related to which P.S. case of Ramgarh P.S. he has not been furnished the photographs of the dead body before examination of the postmortem. The endorsement with respect to the photography which he has mentioned in column-IV of a Postmortem report was on the basis of the writing in the inquest report which was furnished to them before postmortem examination but he does not find any such endorsement regarding the photography of the dead body in the original inquest report on the record which has been shown to him in the court. In column-24 of the postmortem report they have stated that the liver of the dead body was weighing 2,223 grams with mild enlarged. It is correct to say that the weight is a bit more than the normal. In the postmortem report they found only abrasions and bruises as external injury, no external cut or bleeding injuries, no brain injury, no internal haemorrhage. In our postmortem report while describing the injuries they have not stated whether the above injuries were caused at the same time or caused in different time intervals. In course of postmortem examination of the dead body they prepared a notes of their findings in a postmortem notes and subsequently while preparing the postmortem report, they note down the nothings from the postmortem notes. They have already destroyed the postmortem notes relating to this postmortem report. It is not a fact that they have not correctly noted down the findings of their postmortem examination from the notes to this postmortem.

16.03.18



(16) PW-1 namely, **Mukesh Kumar** S/o- Late Ramji Sao, r/o- Bazartand Barsotiya, P.S. Ramgarh, Distt. Ramgarh. He has claimed himself to be a shopkeeper. He runs General Store at Bazartand. This

contd.



witness has been declared hostile on behalf of the prosecution. This witness has deposed in his examination-in-chief that occurrence took place two and three months ago. He has a grossery shop at Bazartand. On that very day i.e. on the day of occurrence he went to open his shop at about 9:00 - 10:00 AM. Then he saw a crowd. Seeing the crowd, he did not open his shop and went to his house. Later on, he came to learn (know) from the T.V. that beef etc. was caught except this he knows nothing about the occurrence. In para 2 of his examination-in-chief this witness has deposed that police came at his shop and told him to put his signature on paper, then he put his signature on it. In para 3 of his examination-in-chief this witness has deposed that he was not interrogated by the police. In para 4 of his cross-examination, this witness has deposed that later on he heard that Md. Alimuddin who was the driver of the vehicle was killed and from the news, he came to learn that the vehicle was burnt but he has no knowledge how Alimuddin died. In para 5 of his cross-examination, this witness has denied the suggestion put to him on behalf of the prosecution to the effect that he gave statement before the police that on 29-06-17 at about 10:00 AM he was at his grossery shop situated at Bazartand P.S. Ramgarh. In the meanwhile a white colour maruti van came from Chittarpur in front of his shop which was stopped forcibly by 15-16 people already assembled there and began to check it. In the meantime, raised a noise to the effect that there is beef inside the maruti van. Thereafter, driver of the vehicle was dragged by the crowd (mob) and crowd began to assault him and the maruti van was pushed on the road and thereafter, the said vehicle was put on fire and in the meantime police came there and seeing the police, crowd began to scattered. Thereafter, injured driver was taken away by the police for treatment. Later on, he came to learn that the injured driver of the said maruti van died. This witness has also been cross-examined on behalf of the defence. in para 12 of his cross-examination, this witness has clearly deposed that his shop is situated in a dense populated area. This witness has further deposed in the same para of his cross-examination that in the said crowd police was also present and Sanichara Bazar was also organized (held) there and the police were

contd.



always present where Sanichara Bazar held.

(17) PW-2 nemely, **Lalan Kumar S/o- Tukeshwar Mahto, r/o- Gola Road, P.S. Ramgarh, Distt. Ramgarh.** He has claimed himself to be a shopkeeper. He runs a tea shop at Bazartand. This witness has also been declared hostile on behalf of the prosecution but he has proved his signature on the map of the place of occurrence which has been marked as Ext.-1. This witness has also deposed in his examination-in-chief that occurrence took place on 29-06-17 at about 10:00 to 10:30 hrs. and he came at his shop at about 3:00 to 3:30 hrs. His shop is situated at Bazartand. He came to learn in the evening that beef was caught and quarrel also took place and the driver of the vehicle was took away by the police. He also heard that scuffle also took place but he did not see anything at the place of occurrence. He also did not give any statement to the police rather he only put his signature on the map of the place of occurrence. This witness has been cross-examined on behalf of the prosecution. In para 3 of his cross-examination, this witness has clearly deposed that the driver of the vehicle was Muslim and his name was Alimuddin. In para 4 of his cross-examination, this witness admits his signature on the map of the place of occurrence and also identified his signature and on the basis of which same has been marked Ext.-1 with objection. In para 5 of his cross-examination, this witness has clearly deposed that he opens his shop 4 :00 - 4:30 in the morning and close at 7:00 - 8:00 PM in the night. In para 6 of his cross-examination, this witness has also inter-alia denied the suggestion put to him on behalf of the prosecution to the effect that he has given statement before the police to the effect that on 29-06-17 at about 10:00 hrs. he was present at his tea shop and at that time a white colour maruti van came towards Chittarpur which was stopped forcibly by 15-20 people already assembled there and began to check it. In the meantime, raised a noise to the effect that there is beef inside the maruti van. Thereafter, driver of the vehicle was dragged by the crowd (mob) and crowd began to assault him and the maruti van was pushed on the road and thereafter, the said vehicle was put on fire and

contd.



in the meantime, police came there and seeing the police, crowd began to scattered. Thereafter, injured driver was taken away by the police for treatment. This witness has also been cross-examined on behalf of the defence. In para 8 of his cross-examination, this witness has clearly deposed that **he has put his signature on a blank paper.**

(18) PW-3 namely, **Nizam Ansari S/o- Late Sahabuddin Ansari, r/o-vill- Barkatti, P.S. Kujju O.P. Mandu, Distt. Ramgarh.** He has claimed himself to be a Hotel businessman and eye witness to the alleged occurrence. On the basis of his deposition photograph of Alimuddin has been marked as an **Ext.-A with objection.** This witness has also deposed in his examination-in-chief that occurrence took place on 29-06-17 at about 10:00 hrs. At that time, he was purchasing articles at Bazartand. At the same time a maruti van came which was stopped by some persons and began to scuffle with the driver of the vehicle and he was dragged from the vehicle and meat (beef) were scattered by them on road. Thereafter, 6-7 persons began to assault driver of the vehicle and thereafter, whoever came there, they also assaulted to the driver of the vehicle (Maruti Van) by fist and leg. Thereafter, the Maruti Van was pulled down (pushed) and set the maruti van on fire. Thereafter, police came and took away Alimuddin driver of the vehicle from there. Thereafter, he came to learn that he died. This witness has identified accused Deepak Mishra, Chhotu Rana, Santosh Singh, Chhotu Verma as the person who assaulted driver Alimuddin in the court dock saying that he does not know the name of the rest accused persons standing on the court dock. This witness identified accused Chhotu Verma with name and face. Accused Deepak Mishra only with face not name. This witness could not identified accused Chhotu Rana @ Nakul, Rohit Thakur, Raju Kumar, Santosh Singh, Vikram Prasad, Nityanand Mahto, Vicky Sahu, Sikandar Ram, Uttam Ram, Kapil Thakur neither in their respective name nor with face. This witness has also been cross-examined at length on behalf of the defence. In para 3 & 5 of his cross-examination, this witness has clearly deposed that 3-4 criminal cases are going against him in Civil Court Ramgarh. He worked at

contd.



cleaner (khalasi) in the Ramgarh Bus stand from 1984 to 2014. In para 4 of his cross-examination, this witness has clearly deposed that he did not know the name of the driver of the maruti van at the time of giving his statement before the police rather he came to learn about the name of the driver of the maruti van as Alimuddin later on. In para 9 & 10 of his cross-examination, this witness has clearly deposed that he told about the occurrence to the police on the day of occurrence at about 2:00 - 2:30 hrs.. The police did not record the statement of the driver of the vehicle in his presence. In para 12 of his cross-examination, this witness has deposed that he can't say that how, in which condition and when police took away driver Alimuddin from the place of occurrence. In para 14, 15, 16 & 17 of his cross-examination, this witness has denied the suggestion put to him on behalf of the defence to the effect that he did not see the occurrence. He gave false evidence in the court and also falsely identified the accused in the court.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(19) PW-4 namely, **Jitendra Ram, S/o- Late Shambhu Ram**, r/o-vill- Ichak Bazar, P.S. Hazaribag, Distt. Hazaribag. At present residing at Naisarai colony. P.S. Ramgarh, Distt. Ramgarh. This witness has also been **declared hostile** on behalf of the prosecution. This witness has identified his signature on his statement recorded u/s-164 Cr.P.C. which has been marked as Ext.-2. On the basis of his deposition three photographs have been marked with objection as an Ext-A/1, A/2 & A/3. This witness has also deposed in his examination-in-chief that **he does not know about the occurrence**. He did not give any statement before the police. This witness has also been cross-examined at length on behalf of the prosecution. In para 2 of his cross-examination, this witness has clearly deposed that **he**

contd.



heard that Alimuddin was murdered by the member of Gau Raksha Dal (cow shelters). Alimuddin was assaulted at Bazartand but he did not hear that vehicle was set on fire by the mob but he saw a crowd there and Alimuddin was being taken away by the police. In para 4 of his cross-examination, this witness has denied the suggestion put to him on behalf of the prosecution to the effect that he gave his statement before the police that he was told by Chhotu Verma that he works for Vishwa Hindu Parishad, Gau Raksha Dal (cow shelters) and Bajrang Dal and he also introduced with Deepak Mishra, Shambhu Yadav and Deepak Paswan who works for Vishwa Hindu Parishad, Gau Raksha Dal (cow shelters) and Bajrang Dal. He also told that his tea shop is situated at the gate of Naisarai hospital. Where they were used to take a cup of tea daily and also used to tell that tell him from where and from which vehicle beef comes and goes. In para 5 of his cross-examination, this witness has clearly admits that he knows a person whose name is Khatra. This witness has also denied the suggestion put in para 6 & 7 of his cross-examination to the effect that he gave statement before the police that on 20-06-17 at about 7:00 AM Chhotu Verma, Deepak Mishra, Santosh Singh, Sanjeev Yadav and Deepak Paswan met with him and his friend Vicky Yadav left Khatra who is a driver at the hotel and Chhotu Verma, Deepak Mishra, Khatra and himself drunk wine sitting together and inquired about the fact that from where beef comes and who comes beef and on 29-06-17 at about 7:30 AM Deepak Mishra asked him on telephone that whether so and so number (falana number) of white colour maruti van left now or not ? Thereafter, he watching hither and thither and told him that a van bearing registration no. WB02K-1791 is standing at the vegetable shop of Gurang. Thereafter, Deepak Mishra told him O.K., thereafter, he came at his house and later on he heard that the said maruti van set on fire. He also participated in the julus (mob) in curiosity. In para 9 of his cross-examination, this witness has clearly admits that he gave his statement before magistrate and also put his signature on it which has been marked as Ext.-2. In para 10 of his cross-examination, this witness has clearly deposed that he gave statement before the Magistrate Sahab on

contd.



oath. Later on, this witness says that he gave his statement before the magistrate in the pressure of police. This witness has further deposed in the same para 10 of his cross-examination that he has told magistrate sahab that he is giving in his statement without any pressure. In para 13 of his cross-examination, this witness has clearly deposed that he has supported the occurrence in his statement recorded before the magistrate because he was pressurized by the police. In para 17 of his cross-examination, this witness has deposed that he was threatened by the police that if he will not give his statement as per saying of the police, he will be sent to jail. In para 18 of his cross-examination, this witness has clearly deposed that he was present at the place of occurrence because he went there for purchasing mutton. In para 20 of his cross-examination, this witness has clearly deposed that Alimuddin sat in the vehicle coming himself at that time he was not crying in pan rather he went easily and the mob also went to the police station because Alimuddin was brought at police station. In para 22 of his cross-examination, this witness has clearly deposed that there was a crowd of thousands of people at the place of occurrence at the time of occurrence and thousands of people were also in the julus which went to the police station and the said julus consist of only people of Hindu Communities. There was no member of muslim community.

(20) PW-6 namely A.S.I. Madan Kumar, S/o- Late Jaykeshwar Sahu. He has claimed himself to be In-charge of technical branch of the confidential office (cell) of Superintendent of Police Ramgarh. He has proved certificate u/s-65 (B) of the Evidence Act which has been marked as Ext-3. This witness has also proved certified copy of Call Details Report of mobiles of nineteen persons containing at serial no. 100 to 151 which has been marked as Exts.-4 to 4/50. This witness has deposed in his examination-in-chief that he was working as in-charge of Technical Branch (cell) of the office of S.P. Ramgarh since 30-06-17. He was handed over mobile no. of 19 persons by the I.O. of this case through S.P. Ramgarh for submitting its call details report (i.e. CDRs) KAF, current

contd.



objection as Exts.-A/4 & A/5. Supporting the case of the prosecution in the examination-in-chief on the point of date and time of occurrence, place of occurrence and manner of occurrence, this witness has deposed that occurrence took place on 29-06-17 at 10:00 hrs. On that very date and time, he along-with Kamlesh Paswan, Ghanshyam Gope, two constable and driver of the vehicle reached at Bazartand on receiving the information from Kamlesh Paswan O/c Ramgarh to the effect that one person who was carrying with beef was caught by the people and he is also being assaulted by the people and people are trying to set the vehicle on fire, then he saw that one person is being beaten by the people in which he identified Deepak Mishra, Chhotu Verma, Chhotu Rana and Sanjiv Yadav. This witness has further deposed that seeing the police force, they fled away. Thereafter, the said injured person was took away by ASI jitendra Singh on vehicle for treatment. This witness has further deposed in his examination-in-chief that assault had been done with lathi, danda, fist, slaps and legs. He also saw meat (beef) were scattered there and maruti vehicle was burning. Later on, he came to learn that the name of the person with whom assaulted was being done, was Alimuddin who died on the way. This witness has identified the accused Chhotu Verma, Chhotu Rana, Deepak Mishra by face and name and he has identified the rest accused persons only with face. This witness has extensively been cross-examined on behalf of the defence. In para 13, 14, 15 & 17 of his cross-examination, this witness has deposed that he had been engaged in law and order of this occurrence from 10:00 to 10:30 PM. He was present at place of occurrence along-with Kamlesh Paswan at 12:00 PM and injured person was sent for treatment just after 10 minutes of his reaching at place of occurrence. In para 20 of his cross-examination, this witness has deposed that when he reached at the place of occurrence, he saw a crowd of 200-250 people. In para 23 of his cross-examination, this witness has denied the suggestion put to him on behalf of the defence to the effect that he identified the accused persons by name as well as with face since, the accused persons are the members of cow shelter (Gau Raksha Dal). In para 25 of his cross-examination, this witness has deposed that Chhotu

16-03-18



contd.

Rana has a Chicken Shop near at the place of occurrence and Chhotu Verma and Deepak Mishra offenly used to come at police station. In para 29 of his cross-examination, this witness has also denied the suggestion put to him on behalf of the defence to the effect that injured person directly brought at police station from the place of occurrence and kept inside the lock of the police station. In para 38 of his cross-examination, this witness has deposed that he did not go in T.I. parade of the identification of the accused. In para 41 of his cross-examination, this witness has deposed that Bazartand is situated on the road which goes to Bokaro from Ramgarh market. It is a big area. The occurrence took place in the corner of the said area on the road. After taking place the occurrence, the road became jam from the people and in the said jam there were different types of people. Some were passerby, some were spectator, some were good persons and some were bad persons. In para 22 of his cross-examination, this witness has clearly deposed that he is not a pshychologist. He can't say that the accused person to whom he has identified in the court with face were present at the place of occurrence with what intention or with what compulsion.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

16/12/18



(22) PW-5 is Md. Meraj @ Khatra, S/o- Md. Shakun Mian, r/o- mohalla Naisarai, P.S. Ramgarh, Distt. Ramgarh. He has claimed himself to be a Driver of four wheeler vehicle. This witness has also been declared hostile on behalf of the prosecution on the point of identification of the accused persons. This witness has deposed in his examination-in-chief inter-alia that he was telephonically asked by Bappi on the 25th day of Ramjan 2017 where are you come at hotel of Yadav Jee to take a cup of tea and sent a motorcycle at his house. Then he went to

contd.



the tea shop of Yadav Jee where he met Bappi and after taking a cup of tea he went to Ramgarh stand along-with Bappi where he saw a Swift Desire vehicle in which three friends of Bappi were sitting. The friends of Bappi asked to him from where beef comes? Upon this he told them that neither he eats beef nor knows nothing about the same. Thereafter, he come from there. This witness has further deposed in his examination-in-chief that Bappi disclosed the name of his friends which were sitting in the vehicle as **Deepak Mishra and Chhotu Verma. He did not disclosed the name of third friend.** This witness did not identify the accused present in the court dock. In para 3 of his examination-in-chief, this witness has clearly deposed that **he gave his statement before magistrate sahab and he also put his thumb impression on it.** In his cross-examination, this witness has deposed that he will not able to tell mobile number of Bappi, registration number of the said Swift Desire vehicle as well as the registration number of motorcycle of Bappi. This witness has also further deposed that if Bappi does not disclose the name of his friends, then he does not know the name of Deepak Mishra and Chhotu Verma.

(23) PW-9 is Md. Jalil Ansari, S/o- Md. Seraj Ansari, r/o- vill- Manuwa, P.S. Giddi, Distt. Ramgarh. He has claimed himself to be an eye witness to the occurrence of assaulting with deceased Alimuddin by the accused persons. This witness has supported the case of the prosecution on the point of date and time of occurrence, manner of occurrence and place of occurrence in his examination-in-chief deposing inter-alia therein that occurrence took place on 29-06-17 at about 10:00 AM. At that time, he was coming at Civil Court Ramgarh on his motorcycle. Then he stopped seeing the crowd near at Bazartand. Thereafter, saw that Alimuddin Ansari was brutality assaulted by Chhotu Verma, Deepak Mishra, Chhotu Rana, Deepak Paswan. Accused Deepak Mishra was assaulting with fist and leg (laat Ghussa). Chhotu Rana Was assaulting with pipe. Thereafter, police came and became stampede. Thereafter, he came at court and when returned back from the court at about 2:00 PM then he got recorded his statement going to with his villager. This witness

contd.



has further deposed in his examination-in-chief that he saw a white colour vehicle having Bangal number bearing 1791. The said vehicle was totally burnt and also found scattered beef on road. This witness has also deposed in his examination-in-chief that besides the aforesaid persons, there were also 15-20 assaulter whose name does not know but he will identify the said person by face. This witness has identified the accused Deepak Mishra and Chhotu Verma by name and with face in the court and identified Kapil Thakur as Chhotu Rana. This witness has also deposed that he does not know the name of the rest accused persons but he identifies all the accused persons standing in the court dock who were involved in the marpit (assault). This witness has also been cross-examined at length on behalf of the defence. In his cross-examination, this witness admits that deceased Alimuddin was his villager and he deals in coal business. This witness has further deposed in his cross-examination that he gave his first statement regarding the occurrence before his counsel Rajendra Sao at about 11:30 AM. He came at Civil Court for doing pairvi in the case in which his villager Mobin Ansari was under custody. Mobin Ansari was caught by the police on the instigation of aforesaid accused persons prior to four days of the present occurrence and the said case was also filed by the accused Deepak Mishra against the Mobin Ansari in connection with a cow. This witness has further deposed in his cross-examination that he had been present at the place of occurrence at about 5 to 7 minutes. This witness has further deposed in his cross-examination that no T.I. parade was conducted by the police till date. In para 15 of his cross-examination, this witness has deposed that it is not a fact that he is an accused of Giddi P.S. case no. 69/16, dated 30-12-16 registered u/s- 379/411 IPC but in para 17 of his cross-examination, this witness admits that so many criminal case were running against the deceased Alimuddin in the court. Out of which one was also a murder case and in that case also he used to take pairvi on behalf of the Alimuddin. In para 22 of his cross-examination, this witness has deposed that he did not try to save Alimuddin at the place of occurrence and in para 18 & 19 of his cross-examination, this witness has denied the suggestion put to him on

contd.



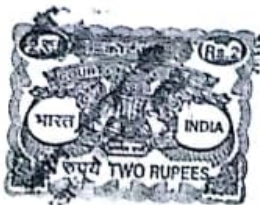
behalf of the defence to the effect that he was neither present at the place of occurrence on the date of occurrence nor has seen the occurrence of marpit and he has given his evidence before the court due to malice.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(24) PW-13 is Abhimanyu Kumar, S/o- Sri Bageshwari Prasad Sinha, A.C.J.M. Ramgarh. He is the person who has recorded the statement of witness Md. Meraj @ Khatra u/s-164 Cr.P.C. He has proved the statement of witness Md. Meraj @ Khatra recorded u/s-164 Cr.P.C. in course of his evidence before the court which has been marked as Ext-2/1. This witness has deposed in his examination-in-chief that on 17 July 2017 he was posted at Ramgarh as Addl. Chief Judicial Magistrate Ramgarh and on that very day, he recorded the statement of witness Md. Meraj @ Khatra u/s- 164 Cr.P.C. by the order of Chief Judicial Magistrate Ramgarh and the statement of the witness was read over and explained to him to which he found true and put his signature on it. This witness has further deposed in his examination-in-chief that before recording of the statement of the witness, he became satisfied that the witness is giving his statement voluntarily without any pressure, promise and elucide (pralobhan). This witness has also been cross-examined at length on behalf of the defence. In his cross-examination, he has clearly deposed that he has not mentioned the name of language such as hindi, urdu and english in his certificate but he has recorded the statement of the witness in the language in which language witness gave his statement.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material particularly in his cross-examination. So, in this view of the matter, I find nothing

contd.



incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(25) PW-15 is Presm Shankar, S/o- Sri Purushottam Prasad Choudhary, Civil Judge Senior Devision, Ramgarh. He is the person who has recorded the statement of witness namely, Jitendra Ram u/s-164 Cr.P.C. He has proved statement of witness Jitendra Ram recorded u/s-164 Cr.P.C. which has been marked as Ext.-2/1 This witness has deposed in his examination-in-chief that on 14 July 2017 he was posted at Ramgarh Civil Court as Judicial Magistrate 1st class-cum-civil judge senior devision-II Ramgarh and on that very day, he recorded the statement of witness Jitendra Ram u/s- 164 Cr.P.C. of Ramgarh P.S. case no. 198/17, corresponding to G.R. no. 695/17 and before recording the statement of the witness, he became assured by putting question to the witness that he is giving his statement voluntarily without any fear and the statement of the statement was read over and explained to him. Thereafter, witness put his signature on it. This witness has not been cross-examined on behalf of the defence rather defence declined the witness.

(26) PW-11 is Ghanshyam Gope, S/o- Late Thakkan Gope. He has claimed himself to be the person who posted at Ramgarh P.S. as A.S.I. on the date of occurrence. He has also claimed himself to be an eye witness to the occurrence of assault with Alimuddin by the members of Bajrang Dal namely, Chhotu Verma, Chhotu Rana, Deepak Paswan, Deepak Mishra, Santosh Singh, Sikandar Ram and others unknown person. On his deposition certified copy of seizer list of Ramgarh P.S. case no. 199/17, dated 29-06-17 and self statement of the informant along-with formal FIR of Ramgarh P.S. case no. 199/17 dated 29-06-17 have been marked as Exts.- B & C respectively. On the basis of deposition of this witness some photographs have also been marked as Exts.-A/6, A/7 & A/8 respectively. This witness has deposed in his examination-in-chief inter-alia therein that occurrence took place on 29-06-17. On that very date, he was posted as ASI at Ramgarh police station. On that very day i.e. on 29-

contd.



06-17 at about 10:00 AM he got information from Police Inspector-cum-Officer-in-charge Ramgarh P.S. Kamlesh Paswan (PW-14) to the effect that under the jurisdiction of Ramgarh P.S. at Sanichara Bazartand road a maruti van relating to beef has been stopped and driver of the said vehicle is being assaulted. On this information, he proceeded from police station along-with Police Inspector-cum-Officer-in-charge Kamlesh Paswan (PW-14), Jitram Mahli (PW-8) in-charge SC/ST Ramgarh police station as well as two police personnels and driver of the police vehicle Wakil Thakur to the place of occurrence. As soon as he reached near at road situated at Bazartand then he saw that workers of Bajrang Dal namely, Chhotu Verma, Chhotu Rana, Deepak Paswan, Deepak Mishra, Santosh Singh, Sikandar Ram and other unknown person were assaulting a person. They have also burnt a maruti vehicle which was burning and beef was scattered on the road in two plastics white colour bags. This witness has further deposed in his examination-in-chief that the aforesaid persons who were assaulting a person with lathi, danda and fist and leg fled away by seeing the police party. Thereafter, on the direction of Police Inspector Kamlesh Paswan the injured person was taken for treatment by ASI Jitendra Kumar Singh on a Govt. vehicle. This witness has further deposed in his examination-in-chief that there were a crowd of 200-250 people at there and road was jam and transmigration (coming and going) of the people was also stopped. Thereafter, senior officers reached at place of occurrence and controlled the law and order. This witness has identified all the twelve accused persons by their face in the court. He further identified Chhotu Rana, Deepak Mishra, Chhotu Verma, Santosh Singh and Sikandar Ram by their name as well as by their respective faces. Saying that these persons were assaulting with lathi, danda, fist and slaps. This witness has also further deposed in his examination-in-chief that it is he who had prepared the seizure list of burnt vehicle as per direction of Officer-in-charge. This witness has also extensively been cross-examined on behalf of the defence. In para 5 & 6 of his cross-examination, this witness has clearly deposed that the seizure list which was prepared by him is not related to this case rather the same is related

contd.



to Ramgarh P.S. case no. 199/17, dated 29-06-17 registered u/s-414/34 IPC and 12(2)(3) Jharkhand Bovine Act and u/s- 11(D)(E)2021 Animal Cruelty Act against the Alimuddin. In para 7 & 14 of his his cross-examination, this witness has clearly deposed that he and Kamlesh Paswan reached at the place of occurrence together and after taking the statement of Alimuddin he was sent to hospital for treatment along-with Jitendra Kumar Singh. He left place of occurrence at about 10:00 PM. Dy. S.P. Sri Birendra Choudhary reached at place of occurrence after his reaching at place of occurrence and Dy. S.P. Sri Birendra Choudary was also present at the time of recording self statement. In para 15 of his his cross-examination, this witness has clearly deposed that as per his knowledge injured was sent to hospital for his treatment along-with ASI Jitendra Kumar Singh but he does not know which hospital and doctor he was taken for treatment. He also does not know that injured was taken at RIMS Ranchi for better treatment under the direction of which doctor or police officers. In para 21 of his his cross-examination, this witness has clearly deposed that accused Nityanand Mahto was standing with police after the occurrence. He did not see accused Nityanand Mahto doing anything. He also can't say that when Nityanand Mahto reached at place of occurrence and in para 22 & 23 this witness has denied the suggestion put to him on behalf of the defence to the effect that he has wrongly identified the accused with their name as offender of the offence and he has given false evidence before the court. In para 25 of his cross-examination, this witness has clearly denied the suggestion put to him on behalf of the defence to the effect that he is trying to save the skin of his police associates from the charge of custodial death of Alimuddin.



From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.



contd.

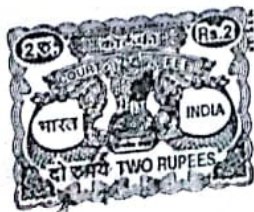
(27) PW-12 namely Santosh Kumar Gupta, S/o- Sri Lakhu Prasad Gupta, the then Officer-in-charge Barlanga P.S., has claimed himself to be a member of S.I.T. of Ramgarh P.S. case no. 198/17. He has proved some photographs in course of his evidence which has been marked as an Ext.-8 & 8/1 with objection. This witness has also proved arrest memo of Uttam Ram, seizer list dated 02-07-17 which has been marked as Exts.-9 & 10 respectively. This witness has also proved confessional statement of accused Sikandar Ram, arrest memo of Sikandar Ram and Uttam Ram and four seizer list which have been marked as Ext.-11, 12, 12/1 and 10/1, 10/2, 10/3 & 10/4 respectively. This witness has deposed in his examination-in-chief inter-alia therein that occurrence took place on 29-06-17. He was a member of Special Investigation Team (S.I.T.) constituted by Superintendent of Police Ramgarh in connection with P.S. Ramgarh case no. 198/17. In the said S.I.T., ASI Mahendra Mishra and ASI Uma Shankar Singh were also member. This witness has further deposed in his examination-in-chief that 28 photographs were handed-over to his S.I.T. team by Officer-in-charge Ramgarh P.S. which were shown by them to the local people and on the basis of the photographs they find out the names of the offender and on the basis of the said photographs he identified the accused Deepak Mishra and Chhotu Verma. This witness has further deposed in his examination-in-chief that the name and address of all the 12 accused persons were verified by the local people on 30-06-17 and thereafter, accused Sikandar Ram was arrested on 02-07-17 at about 5:00 PM by his S.I.T. at Bazartand Domtoli and recorded his confessional statement and on the basis of his confessional statement his black colour full pant, red colour T-shirt which were worn (put on) by the accused Sikandar Ram on the date and time of occurrence were recovered from the house of his maternal aunty (mausi) which was seized by making a proper seizure list (Ext.-10). Upon it he has also put his signature and a copy of the same was given to him and he was arrested by making a proper arrest memo (Ext.-12). On the same very date i.e. on 02-07-17 at about 5:30 PM accused Uttam Ram was also arrested by his S.I.T. by making a proper arrest memo (Ext.-12/1) and both

contd.



the arrested accused namely, Sikandar Ram and Uttam Ram along-with seized articles handed-over to the Investigating Officer of this case and on 05-07-17 the cloths which were worn (put on) by the accused persons on the date of occurrence were seized in presence of independent witnesses from the house of the FIR named accused namely, Deepak Mishra, Santosh Singh, Chhotu Verma and Chhotu Rana by making a proper seizer list (Ext.-10/1, 10/2, 10/3 & 10/4) and a copy of the same was being given to the member of the house of the accused persons but they refused to receive the same. This witness has also identified the accused Deepak Mishra, Chhotu Verma, Uttam Ram, Chhotu Rana, Nityanand Mahto, Santosh Singh and Sikandar Ram by name as well as by face in the court and he could not identified the rest five accused persons present in the court dock. This witness has also extensively been cross-examined on behalf of the defence. In para 13 of his his cross-examination, this witness has clearly deposed that he did not go at the place of occurrence on the date of occurrence after the incident. In para 16 of his his cross-examination, this witness has deposed that on 30-06-17 he was handed-over 30-40 photographs by the Officer-in-charge and on that very day neither he identified nor thanedar O/c the persons whose photographs were handed-over to him and that was the reason he was ordered to find out the name and address of the person of the photographs by showing them to the local people. In para 17 of his cross-examination, this witness has clearly deposed by seeing Ext.-8 & 8/1 that he does not know that these photographs were taken from mobile or camera, by whom taken, on which date taken, at what place taken, on which occasion taken and who was the person who handed-over these photographs to the thanedar but this witness has further deposed in the same paragraph that he come to learn from the people that these photographs are related to place of occurrence but he is unable to tell the name of the local people who told name and identification of the accused persons. In para 18 of his his cross-examination, this witness has deposed that the articles of which he has prepared seizure list, were not sealed by him but the same were handed-over to Investigating Officer of this case. In para 21 of his his cross-

contd.



examination, this witness has deposed that some accused were arrested on the basis of identification of the local people in course of investigation of his S.I.T. and some accused persons were arrested on the basis of identification of the local people as well as other materials came in course of investigation of this case. In para 27 of his his cross-examination, this witness has clearly deposed that it is true that no photograph of Nityanand Mahto is in Ext.-8 & 8/1.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

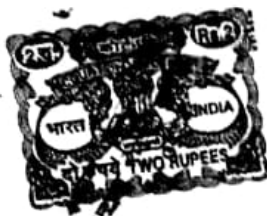
(28) PW-17 namely, **Jitendra Kumar Singh, S/o- Late Gauri Shankar Singh, ASI, Ramgarh.** This witness has proved photocopy of application regarding constitution of Medical Board for postmortem which has been marked as an **Ext.-21 with objection.** This witness has deposed in his examination-in-chief inter-alia therein that on 26-06-17 he was posted at Ramgarh police station as ASI. On that very date at about 10:00 AM he got information from Kamlesh Paswan to the effect that some incident occurred at Bazartand and asked him to come with some forces and around 10:20 AM again he got a call from Kamlesh Paswan stating that he is sending an injured person in Victa vehicle whose situation is critical, take him to RIMS, Ranchi. Thereafter, he stated that when he reached Bazartand he saw Victa vehicle is coming and inside it an injured person is sitting with the support of seat and crying with pain. He further stated that he along-with other police officials went to RIMS, Ranchi at around 12:00 - 12:30 PM they reached RIMS, Ranchi where doctor declared the injured person brought dead. Further he stated that when he gave this information to higher police officials they advise him to get the postmortem done by a Medical Board. He made the inquest report and dead body challan and sent to two police officers for postmortem. He

contd.



further stated that, he has written a letter to Director, RIMS for constituting a Medical Board. The photocopy of that letter has been proved by this witness which has been marked as marked as **Ext.-21 (with objection)**. He also identified that **inquest report and dead body challan which have been exhibited earlier as Ext.-15 and Ext.-16 respectively**. He further stated that the postmortem was done by a medical board which has been video-graphed. On 29-07-17 at around 6:45 PM he received the dead body after postmortem. Thereafter, he returned back to Ramgarh and handed the dead body to the wife of the deceased. Thereafter, he went to police station and gave the entire related documents to Investigation Officer of this case. This witness been cross-examined at length on behalf of the defence. In para 2 of his his cross-examination, this witness has clearly deposed that **his statement was not recorded by the I.O. in this case in course of investigation**. In para 5 of his his cross-examination, this witness has also clearly deposed that the driver of the Victa vehicle **Wakil Thakur told him that the injured was assaulted**. In para 6 of his his cross-examination, this witness has clearly deposed that **he had no written order that injured has to take at RIMS but he himself proceeded for RIMS seeing the critical condition of the injured**. In para 7 of his his cross-examination, this witness has deposed inter-alia that at that time injured was not in a condition to say his name and address. This witness again stated that he was told by Officer-in-charge Kamlesh Paswan that he should go directly at Ranchi to take injured. In para 8 of his his cross-examination, this witness has clearly deposed that on the way to Ranchi he was told by ASI Srinivas Singh and Bhawesh Jha who were also sitting in the said vehicle with the injured that injured became senseless. This witness has further deposed in the same para that at the time of sitting the injured in the vehicle, he was not in a condition to speak but he was in sense. Injured was taken to RIMS through shortcut way through Goriyaribag from the place of occurrence at about 10:30 AM. In para 9 of his his cross-examination, this witness has clearly deposed that **injured was taken by him in the state of moaning (crying in pain) but he became senseless on the way and he was admitted at the state of senseless in**

16/12/18



contd.

RIMS and after seeing him, he was declared dead by the doctor. In para 15 of his his cross-examination, this witness has denied the suggestion put to him on behalf of the defence to the effect that due to his careless injured died and in para 16 of his his cross-examination, this witness has also denied the suggestion put to him on behalf of the defence to the effect that injured was taken in the lock up of the Ramgarh police station and he was tortured in the lock up and when injured became in the state of dying he was taken to RIMS in order to save skin of the police from the charge of custodial death.

From close scrutiny of the testimony of this witness, it is evident that on all material points, he has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in his cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(29) PW-18 namely, Amrita Kumari D/o- Late Gopal Keshri, Circle Officer Ramgarh. She has claimed herself to be a person in whose presence Compact Disk (CD) was prepared from mobile number 9939109591 of Kamlesh Paswan in presence of I.O. Vidyawati Ohdar and Kamlesh Paswan the then Officer-in-charge Ramgarh which has been marked as an Ext.-22 This witness has deposed in his examination-in-chief inter-alia therein that on 27-06-17 she was posted at Ramgarh as Sadar Circle Officer-in-charge. She was ordered by the C.J.M. Ramgarh to prepare CD of the viral photographs and videos in Ramgarh P.S. case no. 198/17 and as per direction of the C.J.M. Ramgarh I.O. of this case gave a letter to her and as per the said letter she went to Technical Branch (cell) of Superintendent of Police Ramgarh where I.O. Vidyawati Ohdar and the then Officer-in-charge Kamlesh Paswan were present. She got the mobile set of Kamlesh Paswan having SIM number 9939105491 and got prepared CD of the viral photographs and video of the mobile and thereafter, the said CD was sealed by her and the same was sent to the court of C.J.M. Ramgarh in a sealed form with a letter Ext.-22. This

contd.



witness has also extensively been cross-examined on behalf of the defence. In her cross-examination, she has deposed that at the time of taking mobile of Kamlesh Paswan it was not in sealed form. She did not see CAF (consumer application form) of SIM number 9939109591. This witness has further admits in para 4 of her cross-examination, that she has not mentioned the name of the person who prepared the CD on 29-07-17 in Ext.-22. In para 6 &7 of her cross-examination, this witness has clearly deposed that she can't say with what technique software and hardware, the said CD was prepared and the alleged viral photographs which were in the SIM were first sharing photograph or the same reached at the mobile through sharing of different people. In para 9 of her cross-examination, this witness has clearly deposed that she has not given any certificate regarding preparation of CD and in para 10 of her cross-examination, she has clearly deposed that she has no personal knowledge about the occurrence of this case.

From close scrutiny of the testimony of this witness, it is evident that on all material points, she has been consisted from the beginning and the testimony of this witness has not been shaken in any material, particularly in her cross-examination. So, in this view of the matter, I find nothing incredible about the testimony of this witness and there is no reason to discard the testimony of this witness.

(30) **PW-19 namely, Md. Sikandar Javed, S/o- Md. Mustafa.** He is the person who has claimed himself to be the scribe of written report (FIR) of Ramgarh P.S. case no. 198/17 which has been marked as Ext-7 in this case. This witness has deposed in his examination-in-chief that written application of Ramgarh P.S. case no. 198/17 was written by him at about 2:30 PM at Ramgarh police station as per saying (dictation) of Mariyam Khatoon . He has proved his writing of the written application which has been marked as Ext-7 as stated herein before. This witness has also extensively been cross-examined on behalf of the defence. In para 2 of his cross-examination, this witness has clearly deposed that his statement was not recorded by I.O. of this case. In para 3 of his cross-examination,

contd.



this witness admits that the written application does not bear his signature as scribe or witness. He read over the contents of the application to Mariyam Khatoon and in para 4 of his cross-examination, this witness has clearly deposed that he reached at police station at about 2:30 - 2:45 PM like as other people reached at the police station. At that time at about 150 people reached at the police station and in para 5 of his cross-examination, this witness has clearly deposed that he has no relation with Mariyam Khatoon. He did not know Mariyam Khatoon since before 29-06-17. In para 6 of his cross-examination, this witness has clearly deposed that he has not personal knowledge of the occurrence.

(31) DW-1 namely, Shankar Dayal Singh s/o- Kaushal Kishor Singh r/o- ITI College Patratu Basti, P.S. Ramgarh, Distt. Ramgarh who has claimed himself to be a tutor, has deposed in his examination-in-chief that Ramdulari Choudhary is her mother. She has filed a case against him on 27-06-17 which was registered as Ramgarh P.S. case no. 196/17 and he has proved certified copy of formal FIR of the said Ramgarh P.S. case no. 196/17 which has been marked as Ext-D in this case. This witness has further deposed in his examination-in-chief that on 29-06-17 at about 8:30 in the morning police arrested him and he was put in Hazat of Ramgarh police station at about 9:00 - 9:15 AM in connection with Ramgarh P.S. case no. 196/17 and on the same date at about 4:00 - 4:30 PM he was produced before Judicial Magistrate at his residence and from where he was sent to Sadar hospital Ramgarh for treatment and again he was produced before magistrate at his residence and from there he was brought at Ramgarh Jail but on that very evening he was not kept by the Jail Authority in the jail then he was again brought at Ramgarh police station by the police and on the next day i.e. on 30-06-17 in the evening he was sent to Ramgarh Jail and he was released on bail after 3-4 days. This witness has further deposed in his examination-in-chief that on 29-06-17 at about 9:30 AM to 4:30 PM he was in Hazat of Ramgarh police station and on that very day at around 10:00 - 10:15 AM police brought a person bearing blue cloth in Ext-8/4. That person is also seen in Ext-A, A/B &

contd.

