

DISTRICT : KAMRUP (METRO)

**IN THE COURT OF THE JUDGE, SPECIAL COURT FOR TRIAL OF
SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI**

PRESENT: - Shri A. Chakravarty, M.A., LL.M., AJS

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

(Under Sections 120-B, 121, 121-A, 122, 123, 302, 324, 326, 307, 427 IPC,
r/w Sections 3 and 4 of the Explosive Substances Act, 1908 and Sections 10,
13, 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967)

State of Assam

-Versus-

1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum,
2. George Boro @ John @ B. Jwankhang,
3. Ajay Basumatary @ B. Aogi,
4. Onsai Boro @ Ajit Boro,
5. Raju Sarkar,
6. Prabhat Boro @ Tapa,
7. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar,
8. Rajendra Gayari @ Rajen @ Rifikhang,

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9. Indra Brahma,

10. Lokhra Basumatary @ Lobo,

11. Baishagi Basumatary @ B. Bithurai,

12. Jayanti Brahma @ Jugami,

13. Mathuram Brahma @ Mudai,

14. Nilim Daimari @ D. Nizwmsa and

15. Mridul Gayari ...Accused

(Learned Special Judicial Magistrate, Assam, Guwahati, committed the case)

Charges framed on: 14-08-2012 and 15.10.2010

Evidence recorded from: 22.09.2011 to 06.12.2018

Statements of the accused recorded on: 17.12.2018, 18.12.2018, 19.12.2018, 20.12.2018 and 21.12.2018

Arguments heard on: 27.12.2018, 17.01.2019, 18.01.2019, 19.01.2019, 21.01.2019 and 22.01.2019

Judgment delivered on: 28.01.2009

Advocates who appeared in this case are:-

Shri Tutumoni Deva Goswami and Shri Dibyajyoti Das, Special Public Prosecutors, CBI.

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Shri A. K. Bhattacharyya, Senior Advocate, with him Shri Manas Sarania and Shri Sarif Uddin Ahmed, Advocates and Shri Navin Dubey, Advocate, for the defence.

JUDGMENT

1. On the fateful day of 30-10-2008, in between 11.20 AM to 11.30 AM, a series of nine bomb explosions took place in four districts of Assam namely, Kamrup (Metro), Bongaigaon, Barpeta and Kokrajhar. In Kamrup (Metro) District, the bombs exploded in the Chief Judicial Magistrate, Kamrup (M), Guwahati court complex (in short "the CJM court complex"), near the Baptist Church Complex, Panbazar, Guwahati and under the Ganeshguri flyover, Dispur, Guwahati. In Bongaigaon District, the bomb exploded at the old Paglasthan bus stand. In Barpeta District, the bombs exploded at Barpeta Road wholesale vegetable market and at Choudhury Shopping Complex, Barpeta Road. In Kokrajhar District, the bombs exploded at Vegetable market, Railway crossing and Fish market of Kokrajhar town. The blasts killed eighty eight people and injured five hundred and forty people. The blasts also caused large-scale damage to movable and immovable properties.

2. After the blasts, nine first information reports (in short "FIR") viz., FIR No. 1419/08 dated 30.10.2008 of Dispur Police Station, under sections 121/121-A/122/123/302/326/307/427 of the Indian Penal Code, 1860 (in short "IPC"), r/w sections 3/4 of the Explosive Substances Act, 1908 and sections 10/13 of the Unlawful Activities (Prevention) Act, 1967; FIR Nos. 398/08 and 399/08, dated 30.10.2008 of Panbazar Police Station, under sections 121/121-A/302/326/427 IPC, r/w section 3 of the Explosive Substances Act, 1908 and sections 10/13 of the Unlawful Activities (Prevention) Act, 1967, FIR Nos. 371/08, 372/08 and 373/08 of Kokrajhar Police Station, under sections 120-B/121/121-A/302/323/324/326/307/427 IPC, r/w section 3 of the Explosive Substances Act, 1908, FIR Nos. 261/08 and 262/08 of the Barpeta Road Police Station, under sections 120-B,121-

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A/126/153(A)(2)/153-B/ 302/ 326 IPC, r/w section 3 of the Explosive Substances Act, 1908 and FIR No. 451/08 of Bongaigaon Police Station, under sections 120-B, 121,121-A, 324, 326, 307 IPC, r/w section 3 of the Explosive Substances Act, 1908 and sections 10/13 of the Unlawful Activities (Prevention) Act, 1967 were registered and the police started investigation. But, pursuant to the consent given by the Government of Assam vide Notification No. PLA 633/2008/17, dated 16.12.2008, the Government of India, Department of Personnel & Training, New Delhi, vide Notification No.228/100/2008-AVD.II, dated 18.12.08, transferred the investigation of all the nine cases to the Central Bureau of Investigation (in short, "the CBI"). Based on the aforesaid nine FIRs, the Central Bureau of Investigation, Delhi Special Police Establishment, Special Task Force, New Delhi, registered nine cases, viz., RC/DST/2008/S/S0003, RC/DST/2008/S/S0004, RC/DST/2008/S/S0005, RC/DST/2008/S/S0006, RC/DST/2008/S/S0007, RC/DST/2008/S/S0008, RC/DST/2008/S/S0009, RC/DST/2008/S/S0010 and RC/DST/2008/S/S0011, on 19.12.08 and 20.12.08 and investigated the cases.

3. During investigation, the investigating officer found the following casualties and explosives used in the bomb explosions:-

KAMRUP (METRO) DISTRICT

Place of occurrence-

- (i) Ganeshguri flyover, Dispur, Guwahati,
- (ii) CJM court complex, Panbazar, Guwahati,
- (iii) Baptist Church complex, Panbazar, Guwahati.

Total number of persons killed - 53.

Total number of persons injured - 253.

Explosives used - RDX & Ammonium Nitrate

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KOKRAJHAR DISTRICT

Place of occurrence:

- (i) Vegetable market, Kokrajhar,
- (ii) Railway crossing, Kokrajhar,
- (iii) Fish market, Kokrajhar.

Total number of persons killed - 20.

Total number of persons injured - 163.

Explosive used - TNT (Trinitrotoluene)

BARPETA DISTRICT

Place of occurrence:

- (i) Choudhury Shopping Complex, Barpeta Road,
- (ii) Vegetable market, Barpeta Road.

Total Number of persons killed - 15.

Total Number of persons injured - 113.

Explosive used - RDX

BONGAIGAON DISTRICT

Place of occurrence:

- (i) Old Paglasthan bus stand, Bongaigaon.

Total number of persons killed - Nil.

Total number of persons injured - 11.

Explosive used - TNT.

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4. The investigating officer found that the blasts caused damage to movable and immovable properties, like motor vehicles and business establishments amounting to Rs. 2,00,91,000/- (Rupees two crore ninety one thousand) only, approximately. The Government of Assam paid compensation of Rs. 2,61,00,000/- (Rupees two crore sixty one lakh) only, to the dependents of the deceased victims and Rs. 2,47,00,000/- (Rupees two crore forty seven lakh) only, to the injured victims.

5. The investigating officer also found that the nine serial bomb explosions were caused by the proscribed terrorist organization namely, the National Democratic Front of Bodoland (in short, "the NDFB"). The NDFB was formed on 03-12-1986, under the leadership of the accused Ranjan Daimari @ D.R. Nabra @ Lasdum @ Loudum. Initially, the NDFB was known as the Bodo Security Force but, on 25-11-1994, the name was changed to NDFB. The aim and objective of the NDFB was to create a sovereign Bodoland State for the Bodo people (an ethnic community of Assam) on the Northern side of the river Brahmaputra. On 10-03-1998, the NDFB adopted its constitution. The aims, objectives and ideologies of the NDFB are as follows:

- Liberate Bodoland from the Indian expansion and occupation.
- Free Bodo nation from the colonial exploitation, oppression and demonization.
- Establish a democratic socialist society to promote liberty, equality and fraternity.
- Uphold the integrity and sovereignty of Bodoland.

6. The investigating officer found that after its formation, the members of the NDFB resorted to terrorist activities to overawe and weaken the Government of India so that, it succumbs to their demands. The accused Ranjan Daimari, the self-styled president of the NDFB, who at the relevant time was staying in Bangladesh, was the mastermind behind the terrorist activities of the NDFB. But, after some years, the leadership and the representatives of the NDFB started negotiating with the Government of India for peaceful solution of their demand. Thereafter, in the month of June, 2005,

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a tripartite suspension of operation agreement was signed in New Delhi by the Special Secretary, Ministry of Home Affairs, Government of India, New Delhi, Commissioner and Secretary, Home Department, Government of Assam and Shri B. Swimkhwr @ Gobinda Basumatary, General Secretary, NDFB. The agreement was for one year but, the Government of India periodically extended the agreement. It was envisaged in the agreement that the members of the NDFB will cease terrorist activities and will remain behind designated camps. However, the accused Ranjan Daimari was not contented with the cease-fire agreement as he felt that the Government of India was not interested in fulfilling their demands. Therefore, even after signing of the tripartite cease-fire agreement, the NDFB continued its terrorist activities with intent to overawe and weaken the Government of India, disturb the social harmony amongst the people of Assam and to break the sovereignty and integrity of India. Therefore, vide Notification No. F.N. 11011/48/2006/NE.III, dated 23rd November, 2006 and No. 11011/54/2008-NE.III, dated 23rd November 2008, the Government of India declared the NDFB as an unlawful organization.

7. The investigating officer found that in order to pressurize the Government of India to succumb to his demand, the accused Ranjan Daimari hatched a conspiracy with the NDFB cadres and pursuant to the said conspiracy, caused the aforesaid nine serial bomb explosions. Earlier, pursuant to the said conspiracy to cause the nine serial bomb explosions, in the month of July, 2008, the accused Ranjan Daimari sent the accused Nilim Daimari to Assam from Bangladesh to procure explosives and the accused Nilim Daimari came to Assam and met the accused John @ George, Rahul Brahma @ Kharmswar and Rifikhang in Guwahati. Thereafter, while the accused Nilim Daimari was going back to Bangladesh, on 04-09-2008, he was arrested by the Tura Police, Meghalaya. The Tura Police recovered one letter written by the accused John @ George to the accused Ranjan Daimari and one pen drive from the possession of the accused Nilim Daimari and seized the same. The letter was written in Bodo language. The Investigating Officer got the letter translated to English language. The said letter was like

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precursor to the conspiracy to cause the nine serial bomb explosions. The accused John @ George had stated in the letter that meetings were held regarding revision of charter of demands and informed the accused Ranjan Daimari about the happenings in Assam. The accused George @ John also informed the accused Ranjan Daimari that when everything becomes ready, the work will be done. He also requested the accused Ranjan Daimari to send the accused Ajay Basumatary @ B. Aogi and Sagrid to Assam in the 3rd week of September, 2008. He has further stated that Jugami and Biswagi were staying with the NDFB cadre Ulafat. The pen drive contained information regarding preparation of improvised explosive device, military set up of the NDFB and literature on NDFB. Thereafter, on 19.10.2008, at Village-Jharaguri, District- Kokrajhar, a meeting was held in the house of Dinthilang @ Arun Borgoyary @ Kabn Borgoyary, the self-styled army chief of the NDFB. The NDFB cadres Ulafat, Rifikhang Goyari, George @ John, Rahul Brahma @ Kharmswar and Ajoy Basumatary @ Aogai attended the said meeting. In the meeting, Dinthilang @ Arun Borgoyary @ Kabn Borgoyary reviewed the preparation for carrying out the bomb explosions. In the said meeting, Ulafat was entrusted with the responsibility of causing the bomb explosions at Bongaigaon and Kokrajhar, Rifikhang was entrusted with the responsibility of causing the bomb explosions at Barpeta, Ajoy Basumatary @ Aogai and John @ George were entrusted with the responsibility of causing the bomb explosions at Ganeshguri and Rahul Brahma @ Kharamswar was entrusted with the responsibility of causing the bomb explosions in the CJM court complex and Baptist Church complex, Guwahati. The meeting also decided that all the nine bombs will be exploded on 30.10.2008, at 11.30 A.M. Thereafter, on 30.10.2008, at around 11.30 AM, the aforesaid nine serial bombs explosions were caused by the NDFB cadres. The above named accused persons were preparing for causing the explosions from the months of July/August, 2008 and for the same, they had purchased three Maruti 800 cars in the month of August, 2008 and used the said cars for causing the bomb explosions. The nine serial bombs explosions were as follows:-

(i) Ganeshguri Flyover, Dispur, Guwahati

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8. The investigating officer found that under the Ganeshguri flyover, the explosives were planted in the vehicle having engine No. 3043461. The said engine was of the Maruti 800 car bearing Registration No. AS-01-E-7747 and the registered owner of the said car was Himangshu Das of Keotkuchi, Barpeta. The Investigating officers found that in the month of September, 2007, Himangshu Das had sold the said car to one Arun Patowari. However, the registration of the car was not transferred to Arun Patowari. In the month August, 2008, Arun Patowari sold the car to Tarun Boro and Jitu Daimari, through one Raju Ali. But, the registration of the car was not transferred to Tarun Boro and Jitu Daimari.

9. The investigating officer found that Tarun Swargiary, son of Thaneswar Swargiary, resident of village- Dolagaon, P.S. Barpeta Road, District-Baksa, was a professional driver. From December, 2007 to 31-10-2008, he was driving the TATA Sumo Victa vehicle belonging to one Kishore Kumar Bothra, a garment shop owner of Barpeta Road town. Jitu Daimari, son of Baburam Daimari, resident of Village-Hotapara, P.S. Barpeta Road, District- Baksa, was also a professional driver and he used to drive the Indica car of one Anup Kr. Boro.

10. The investigating officer found that the NDFB cadre John @ George Boro, son of Jogendra Nath Boro, resident of Mission Road, Down Town, Barpeta Road, District- Barpeta, Assam had taken on rent a flat at Lakhimi Nagar, Hatigaon, Guwahati, belonging to Dr. Tarun Talukdar and he used to reside in the said flat. John used to travel by the Indica car driven by Jitu Daimari. At that time, John was using two mobile phones having SIMcard Nos. 9957067127 and 9854643645. The SIM card No. 9957067127 belonged to one Bhargav Brahma, who had procured the said SIM card at the request of the younger brother of John @ George namely, Jimi Boro. After collecting the SIM card from Bhargav Brahma, Jimi Boro gave the same to his mother who, in her turn, gave the same to John @ George. The SIM card No. 9854643645 used by John @ George belonged to Jitu Daimari.

11. The investigating officer found that on 13.10.08, the accused Ajay Basumatari @ Aogai came from Bangladesh to Guwahati. After reaching Ganeshguri, Guwahati, he called John on his mobile No. 9957067127 from the

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M/s. N. B. Magazine Centre PCO of one Nirod Barman. While he was in police custody, the accused Aogai pointed out the said PCO in presence of the Executive Magistrate. On 13-10-08, there was an outgoing call from the said PCO's phone number 0361-2611644 to John's Mobile No. 9957067127. After arriving in Guwahati on 13.10.08, the accused Ajay Basumatary @ Aogai stayed with John in his rented house. During that time, he went to the house of the accused Rifikhang, situated at village-Khagrabari, Barpeta and on 18.10.08, he went to the house of Dinthilang @ Arun Borgoyari @ Kabn Borgoyari, situated at village- Jharaguri, near Shrirampur Gate, Kokrajhar, to attend a meeting.

12. The accused Ajay Basumatary @ Aogai confessed his guilt and his confessional statement was recorded by the Judicial Magistrate. In his confessional statement, the accused Ajay Basumatary @ Aogai has stated that he had joined the NDFB in the month of August, 2005, in Karbi Anglong. From Karbi Anglong, one John took him to a camp of the NDFB situated at Khagrachari, Bangladesh. There, one Sugai gave him arms training. After completion of the training, he became a trainer and started training other members of the NDFB. He also received training in handling explosives, including operating time devices. In the afternoon of 13.10.08, he came to Guwahati from Bangladesh via Shillong. After reaching Guwahati, he met John @ George at Ganeshguri. John @ George took him to his residence situated at Hatigaon. He stayed there for three days. On 17.10.08 he went to the house of Rifikhang, who was a member of the NDFB and spent the night there. Next day, that is, on 18.10.08, he went to the house of Dinthilang, the army chief of the NDFB, situated at village-Jharaguri, Kokrajhar and spent the night there. On the next day (that is 19.10.08) a meeting was held in the house of Dinthilang. He, John @ George, Rifikhang, Rahul Brahma @ Kharamwar, Ulafat and Dinthilang attended the meeting. In the meeting, Dinthilang told them that he had received instructions from the "higher up" to explode bombs in Guwahati and other parts of Assam and they were asked to take responsibilities for the same. It was decided in the meeting that the bombs would be exploded on 30.10.08, at 11:30 AM. He and John @ George took the responsibility of causing the bomb explosion at Ganeshguri, Guwahati,

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Rahul Brahma @ Kharamswar took the responsibility of causing the bomb explosions at Panbazar and CJM Court complex, Guwahati, Rifikhang took the responsibility of causing the bomb explosions at Barpeta Road and Ulafat took the responsibility of causing the bomb explosions at Bongaigaon and Kokrajhar. On the next day, he went to Dhubri. On 24.10.2008, he returned from Dhubri to Hatigaon, Guwahati. On 27.10.08, NDFB girl member namely, B. Thorai, delivered a cylinder in the rented house of John @ George. She was taken there by the driver Jitu Daimari. The cylinder was filled with explosives. The accused Ajay Basumatary @ Aogai further stated that he found some detonators, nine volt batteries and clocks in the room of John @ George. On 28.10.08, he connected the detonator with the explosive-laden cylinder. In the morning of 30.10.08, at around 09:30 AM, he connected the time device to the explosive-laden cylinder. At 10:00 AM, John @ George brought a Maruti 800 car with the help of Jitu. He, John and Jitu put the explosive-laden cylinder in the said Maruti 800 car and went to Ganeshguri and parked the car under the Ganeshguri flyover, towards Dispur side, locked it and went to the Ganesh Mandir. At Ganesh Mandir, one Tarun was waiting for them in a TATA sumo vehicle. At around 10:10 AM, they went to Dhubri by the said TATA sumo vehicle.

13. The investigating officer found that the nexus between the above named accused persons and their presence at the place of occurrence were proved by the call detail records of their mobile phones. At that time, Tarun Boro was using the Mobile No. 98596-17201 (Airtel) and Jitu Daimari was using the Mobile No. 98598-10776 (Airtel).

14. The investigating officer found that in the pretext of taking his relative to Guwahati for urgent medical care, in the early morning of 30.10.2008, Tarun Boro took permission of his employer Kishore Kumar Bothra to take the aforesaid TATA sumo vehicle to Guwahati and the said vehicle was used by Aogai, John and Jitu Daimari to escape from Guwahati.

15. The investigating officer found that on 30.10.08, at around 11:30 AM, the bomb exploded under the Ganeshguri flyover. The blast killed thirty two people and injured many others. The blast also caused damage to vehicles parked in the nearby area and business establishments/ shops of the nearby

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vicinity. Examining the vehicle in which the bomb was planted, the Forensic expert found that RDX and Ammonium Nitrate were used in the explosion.

(ii) CJM Court Complex, Kamrup (M), Guwahati

16. The damaged engine of the Maruti car bearing Registration No. AS-01/M-0327, the engine No. being 1074626, was found at the blast site in the CJM Court complex. The Investigating officer found that the accused Dinesh Boro had purchased the said Maruti 800 car from one Kunal Bhuyan of M/s Friends Motors, Guwahati. The said car was sold by Kunal Bhuyan to Dinesh Boro on 28.08.2008. A sale deed was executed by the accused Dinesh Boro on 28.08.2008, in respect of the purchase of the said Maruti 800 car bearing Registration No. AS-01/M-0327, Chassis No. 1597517 and Engine No. 1074626. Thungri Boro signed as a witness in the sale deed and he mentioned his Mobile No. as 98648-86298. Thungri Boro, son of Sambhar Narzary, resident of Shantipur, Bhelamari, P.S. Barama, District- Baska was a follower of the *Bahai* religion. *Bahai* religion had their office and temple at Khanapara, Guwahati. The followers of the *Bahai* religion had identified the photograph of the accused Thungri Boro as Tensu Narzary.

17. The statement of one Satin Boro, son of Chandradhar Boro, resident of Shantipur Bhelamari, P.S. Barama, District- Baska was recorded by the Magistrate under Section 164 of the Code of Criminal Procedure (in short, the Cr.P.C.). In his statement, Satin Boro has stated that on 10.10.2008, he had given his SIM card No. 9707331347 to Dinesh Boro. After a week, the accused Dinesh Boro went to Guwahati and thereafter, he did not meet him. Satin Boro identified the photograph of the accused Thungri Boro. The said SIM card was used by the accused Dinesh Boro before the blast, as well as on the day of the blast.

18. The investigating officer found that Babul Boro, son of Late Bhagya Ram Boro, resident of village- Bangaon, P.S. Rangia, District- Kamrup, Assam was a professional driver. He used to drive the blue coloured Maruti Alto car bearing registration No. AS-01/AE-9726 belonging Ghana Kanta Rabha, resident of Stadium colony, Rangia. At that time, the accused Rahul Brahma was staying at Rangia and he used to hire the said car. During that period,

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Rahul Brahma was using the mobile No. 986498376. On 30.10.2008, at around 05:30 A.M., Rahul Brahma directed Babul Boro to go to Gorchuk at around 07:30 A.M. Accordingly, Babul Boro went to Gorchuk by the Alto Car bearing Registration No. AS-01/AE-9726. After reaching Garchuk, he informed the accused Rahul Brahma about his arrival. After sometime, accompanied by Prabhat Boro @ Tapa and Raju Sarkar, Rahul Brahma arrived there in a light coloured Maruti 800 car. Rahul Brahma boarded the car brought by Babul Boro and directed him to proceed towards Jalukbari. Prabhat Boro @ Tapa and Raju Sarkar followed them in the Maruti 800 car. After some time, Babul Boro saw that Thungri was waiting in a white coloured Maruti car driven by an unknown person. They also followed him. Babul Boro proceeded towards Guwahati via Jalukbari, Adabari and stopped near the Phukan Park at Bharalumukh Bus stop. For about half an hour, Rahul Brahma remained inside the car and continuously spoke to some unknown persons in Bodo language. After sometime, Thungri Boro, Prabhat Boro @ Tapa and the unknown person who was driving the vehicle of Thungri Boro, arrived there and boarded his vehicle. Rahul Brahma enquired from Thungri Boro whether the job was successfully done. Thungri Boro replied in the affirmative. The accused Rahul Brahma then directed Babul Boro to proceed towards Rangia. At around 11:30 A.M., they reached Rangia. Babul boro identified the person who was accompanying the accused Thungri Boro on 30.10.2008 as the accused Dinesh Boro. The photograph of the accused Dinesh Boro was collected from the office of the District Transport Officer (DTO), Nalbari, where from he had obtained his driving licence. Babul Boro identified the photograph of Dinesh Boro as the person who was accompanying Thungri Boro on 30.10.2008. The white coloured Maruti 800 car bearing registration No. AS-01M-0327 was driven by the accused Dinesh Boro and in the morning of 30.10.2008, the accused Thungri Boro accompanied him to the CJM Court complex, Guwahati. After parking the explosive-laden car inside the CJM Court complex, Dinesh Boro and Thungri Boro went to Rangia with Rahul Brahma in the car driven by Babul Boro.

19. The investigating officer found from the call detail records of the mobile No. 9864886298 used by Thungri Boro and mobile No.9864968376

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used by Rahul Brahma @ Kharmasar that, on 30.10.2008, at 07:39 A.M., Rahul Brahma and Thungri Boro assembled at Lokhra, Guwahati, at 8:06 A.M., they proceeded towards AEC Tetelia and from there, to Boragaon at 08:12 A.M. and to Jalukbari at 08:16 A.M. After 08:16 A.M. and till 16:19 A.M., Thungri Boro did not make any call. At 08:04 A.M., Thungri Boro made a call to Dinesh Boro. However, at 08:21 A.M., Rahul Brahma's location was changed to Kamakhya Gate, Panbazar at 8:30 A.M., Fancy Bazar at 08:33 A.M., Central Nursing Home, Panbazar at 08:34 A.M. From 08:37 A.M. to 09:06 A.M., Rahul Brahma was stationed at Phukan Park, Bharalumukh. Thereafter, Rahul Brahma started moving and reached Changsari at 09:30 A.M. and Borka at 09:33 A.M. and reached Kakerikuchi, Rangia, at 10:29 A.M. Babul Boro has stated that from 08:16 A.M. to 16:19 A.M. and up to Panbazar area, Thungri Boro was following his car. At Panbazar, Rahul Brahma took a right turn towards Sukleswar Mandir and Dinesh Boro and Thungri Boro proceeded straight in the white Maruti 800 car and parked the car inside the CJM Court complex. The bomb exploded at around 11:20 A.M. The blast killed fourteen persons and injured many others. The doctors confirmed that the deceased victims died due to the injuries sustained in the explosion. The explosion also caused damage to two-wheelers and four wheelers vehicles parked inside the CJM court complex. The exploded part of the vehicle in which the bomb was planted was examined by the Ballistics expert of the FSL, Guwahati and they opined that RDX and Ammonium Nitrate were used in the explosion.

(iii) Baptist Church Complex, Panbazar, Guwahati

20. The investigating officer found that on 30.10.2008, at around 11:25 A.M., on the H.B. Road, near the Baptist Church complex, Panbazar, Guwahati, the bomb exploded in a Maruti 800 car. The blast killed many persons and injured many others. The blast also caused damage to properties. Police recovered the damaged engine of a Maruti 800 car from the blast site. The engine was sent to the Forensic Science Laboratory, Guwahati for ascertaining the engine number. The Forensic Experts found that the Engine number of the Maruti 800 car was 303447 and RDX and Ammonium

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Nitrate were used in the blast. The Police requested the Maruti Suzuki India Limited to furnish the details of the Maruti car bearing engine No. 303447. The Maruti Suzuki India Limited informed the police that the Maruti 800 car bearing Engine No. 303447 and Chassis No. 223480 was sold to M/s Ganga Automobiles Limited, S-II, Green Park Extn., New Delhi, vide Invoice No. 502897, dated 24.05.1988. They further informed that since the above dealership had been closed down, the customer details could not be ascertained. From the Office of the Regional Transport Officer, South Zone, Sheikh Sarai, New Delhi, it was found that the Maruti car bearing Engine No. 303447 and Chassis No. 223480 was sold by M/s. Ganga Automobiles Limited to M/s. Swastik Enterprise, 215, EMCA House, 23/23B Ansari Road, Dariyaganj, New Delhi, vide Invoice dated 20.07.1988 and on the same day, the said car was registered as No. DBG/5540 in the Office of the MLO/RTO, Sheikh Sarai, New Delhi. On 30.04.1991, the registration of the said car was transferred to one Multan Chand Jain, son of Chand Mal Jain, resident of 5315/8, West Sadar Thana Road, Delhi-110006. One Om Prakash Borar, a close relative of Multan Chand Jain, brought the said Maruti car from Delhi to Assam and on 29.04.1994, he transferred the registration of the car to one Debajyoti Choudhury, son of A. Choudhury, resident of Monabari Tea Estate, District- Sonitpur, Assam, through the Office of the District Transport Officer, Nalbari, Assam. On 05-12-1996, the registration of the car was again transferred to one Syedia Safika Kaisher, wife of Sh. Mustafa Kaisher, resident of Bhangagarh, Guwahati-781005, through the office of the District Transport Officer, Kamrup, Guwahati. On 20.12.1996, Syedia Safika Kaisher changed the registration number of the car from DBG/5540 to AS-01-E-9223, through the office of the District Transport Officer, Kamrup, Guwahati. On 15.09.1997, the registration of the said car was again transferred to one Pradeep Hazarika, son of Girish Chandra Hazarika, resident of Dinesh Ojah Path, Bhangagarh, Guwahati-781005, through the office of the District Transport Officer, Kamrup, Guwahati. Thereafter, on 14.05.2001, the registration of the said car was again transferred to one Islamuddin Khan, son of Mohd. Ali Khan, resident of Ratan Diwan Path, Ulubari, Guwahati-781007, through the office of the District Transport Officer, Kamrup, Guwahati. The registration of the

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said car was again transferred to one Fanidhar Talukdar, son of Late Ratikanta Talukdar, resident of Udai Nagar, Kumarpara, Guwahati-781022 on 12.07.2002, through the office of the District Transport Officer, Kamrup, Guwahati. On 03-03-2005, Fanidhar Talukdar sold the said car to his accountant Ekhtiyaruddin Talukdar and the registration of the car was transferred to Ekhtiyaruddin Talukdar, through the office of the District Transport Officer, Kamrup, Guwahati. On 11-09-2006, the son of Ekhtiyaruddin Talukdar, namely Md. Nurul Islam, sold the said Maruti 800 car to one Bipin Ch. Rajbangshi, son of Late Chandra Dhar Rajbangshi, resident of village- Hachang No.1, P.O. Madhukuchi, P.S. Rangia, District-Kamrup, Assam and on 19.09.06, the registration of the car was transferred to Bipin Ch. Rajbangshi, through the office of the District Transport Officer, Kamrup, Guwahati. On 24.08.2008, the NDFB cadre Rahul Brahma @ Khargeswar @ Kharamswar purchased the said car from Bipin Ch. Rajbangshi in the name of his accomplice Raju Sarkar, son of Sunil Sarkar, resident of village-Murara, P.S. Rangia, District-Kamrup, Assam, in presence of Kartik Mondal and Harendra Kalita. He assured Bipin Ch. Rajbangshi that the registration of the car would be transferred to his name and for the same, Raju Sarkar signed a blank registration transfer form and handed over a Xerox copy of the same to Bipin Ch. Rajbangshi. But, he did not transfer the registration of the car to his name.

21. The investigating officer found that on 19.10.2008, Rahul Brahma @ Khargeswar @ Kharamswar went to village-Jharaguri, District- Kokrajhar, Assam in the blue coloured Maruti Alto car bearing registration No. AS-01-AE-9726 driven by Babul Boro. There, he attended a closed-door meeting of the NDFB cadres held in the house of Arun Borgoyari @ Dinthilang @ Mahadeb, the self-styled army chief of the NDFB. Arun Borgoyari @ Dinthilang, Rajen Goyari @ Rifikhang, John @ George, S. Ulafat and Ajoy Basumatary @ B. Aogai also attended the meeting. In the meeting, Rahul Brahma @ Khargeswar told others that he had procured two cars for transporting the bombs/explosives to Panbazar-Fancybazar, Guwahati. In the said meeting, the date and time of the bomb explosions were fixed on 30.10.2008, at 11:30 A.M. In the last week of October, 2008, Rahul Brahma @ Khargeswar

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requisitioned the services of Prabhat Boro @ Tapa, son of Late Gangadhar Boro, resident of village- Pachim Kharua, P.O. Kharua, P.S. Barama, District-Baska, Assam, who was a driver, for causing the explosions. At that time, Prabhat Boro @ Tapa was an unemployed person. He was dismissed from service by his employer namely, Smt. Nirmali Sharma. At that time, Rahul Brahma @ Khargeswar, Prabhat Boro @ Tapa and Raju Sarkar were using the SIM card Nos. 9864968376 of one Phoolmala Khatun, 98644-85724 of one Dibakar Bhattacharjee and 98590-57593 of one Hima Boro, respectively. They used the said SIM cards of Phoolmala Khatun (9864968376), Dibakar Bhattacharjee (98644-85724) and Hima Boro (98590-57593) so that they couldnot be connected with causing the bomb explosions.

22. The investigating officer found that pursuant to the said conspiracy, in the morning of 29.10.2008, Rahul Brahma @ Khargeswar, Prabhat Boro @ Tapa and Raju Sarkar met at Rangia and went to Guwahati in the Maruti car bearing registration No. AS-01E-9226. They also arranged a cylinder bomb. In the evening of 29.10.2008, they went to the house of Smt. Basanti Boro, wife of Ranjit Boro, resident of village- Ahomgaon, P.O. & P.S. Gorchuk, Guwahati and took dinner in her house. Rahul Brahma @ Khargeswar stayed for the night in the house of Basanti Boro and Prabhat Boro @ Tapa and Raju Sarkar stayed inside the car to guard the cylinder-bomb. On 30.10.2008, at around 04:00 AM, Rahul Brahma @ Khargeswar connected the electric circuit to the cylinder-bomb. He also fixed the time of explosion by setting the digital clock attached to the electric circuit. In the morning of 30.10.2008, Prabhat Boro @ Tapa took Rahul Brahma @ Khargeswar and Raju Sarkar to Gorchuk Chariali by the said Maruti 800 car. Babul Boro was awaiting there in the blue coloured Maruti Alto car bearing registration No. AS-01/AE-9726. At Gorchuk Chariali, Rahul Brahma @ Khargeswar boarded the Maruti Alto car brought by Babul Boro and proceeded towards the explosion site and directed Prabhat Boro @ Tapa and Raju Sarkar to follow him. Thungri Boro and Dinesh Boro also followed them in another Maruti car. On the way, Rahul Brahma @ Khargeswar made a call from his mobile No. 98649-68376 to Prabhat Boro @ Tapa in his mobile No. 98644-85724. Rahul Brahma @ Khargeswar went to Panbazar-Fancy bazaar area by the blue coloured Maruti Alto car No. AS-

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01/AE-9726, driven by Babul Boro and stopped at Phukan Park, near the Bharalumukh Bus stop. He waited there for about half an hour and remained in touch with his associates over mobile phone and inquired from them about the completion of their respective works. While Raju Sarkar and Prabhat Boro @ Tapa were proceeding from Panbazar Police Station side towards Fancy Bazar side by the Maruti 800 car bearing registration No. AS-01E-9226, they saw a police "Naka Party" (Patrolling party) near Khubchand chowk. Therefore, they did not proceed further and parked the explosive-laden car in front of the shopping complex near the Baptist Church complex, Panbazar. Thereafter, they went towards Khubchand chowk, took a right turn from there and went towards the Brahmaputra river side. After reaching the main road on the Brahmaputra river side, they boarded a Trekker vehicle and went to Phukan Park, Bharalumukh, where Rahul Brahma @ Khargeswar was waiting for them in the blue coloured Maruti Alto car No. DL-01/AE-9726. After a few minutes, Thungri Boro and Dinesh Boro also arrived there. Thereafter, except Raju Sarkar, all of them boarded the Maruti Alto car driven by Babul Boro and left the place. Raju Sarkar went to Paltan Bazar and made a call from his mobile No. 98590-57593 to Prabhat Boro @ Tapa in his mobile No. 98644-85724. Thereafter, Raju Sarkar boarded a bus and went to Jorabat to go to his native place Mazbat in Udalguri District.

23. The investigating officer found that Rahul Brahma dropped Prabhat Boro @ Tapa at Amingaon Tiniali as his services were no longer required. There, Prabhat Boro @ Tapa took a shared taxi and went to his native place. Thereafter, they went to Rangia and Babul Boro dropped Rahul Brahma, Dinesh Boro and Thungri Boro at Rangia. A few minutes before the explosion, Prabhat Boro @ Tapa had a long conversation with his uncle Raviram Boro over mobile phone. After reaching Rangia, Rahul Brahma @ Khargeswar called Prabhat Boro @ Tapa to know his location. After the blasts, Rahul Brahma @ Khargeswar, Prabhat Boro @ Tapa and Raju Sarkar made telephonic conversations with each other and thereafter, they absconded. On 22.01.2009, the CBI arrested Prabhat Boro @ Tapa. During interrogation, he confessed his guilt. On 27.01.2009, he expressed his willingness to point out the places connected with the commission of the crime and his disclosure

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statement was recorded in the presence of the Executive Magistrate, Kamrup, (Metro), Guwahati. A pointing out memo of the places connected with the commission of the crime and shown by him was also prepared. The accused Prabhat Boro @ Tapa also identified the blue coloured Maruti Alto car bearing Registration No. AS-01-AE-9726 at Panbazar Police Station as the car in which, he along with Rahul Brahma @ Khargeswar and others had fled away from Guwahati after committing the crime on 30-10-2008. Babul Boro, the driver of the blue coloured Maruti Alto car bearing registration No. AS-01/AE-9726 had identified the accused Prabhat Boro @ Tapa as the person who was driving the Maruti 800 car bearing registration No. AS-01-E-9226, on 30.10.2008.

24. On 28.02.2009, the investigating officer arrested the accused Raju Sarkar, son of Late Sunil Sarkar, resident of village- Phuluguri, P.S. Mazbat, District Udalguri. During interrogation, the accused Raju Sarkar confessed his guilt. He also offered to point out the places connected with the commission of the crime. His disclosure statement was recorded in the presence of Executive Magistrate. A pointing out memo of the places connected with the commission of the crime and pointed out by him was also prepared. The accused Raju Sarkar was produced before Babul Boro and the members of the police party who were doing Naka duty at Khubchand chowk on 30.10.2008, from 06:00 AM to 02:00 PM. Babul Boro identified the accused Raju Sarkar as the person who was sitting in the front seat of the Maruti car bearing registration No. AS-01E-9226 on 30.10.2008 and who, along with Prabhat Boro @ Tapa, reached Phukan Park, near Bharalumukh Bus Stop, by a Trekker vehicle. The members of the police party who were doing Naka duty at Khubchand chowk, also identified the accused Raju Sarkar as the one of the two persons who in the morning of 30.10.2008, went towards Brahmaputra river side after parking their Maruti 800 car on the H.B. Road, near the Baptist Church complex, Panbazar.

25. Two witnesses namely, Kandarpa Das, a sales man of M/s. Silk Queen and Hiteswar Kalita @ Bipul Kalita, driver of Mr. Pradeep Baishya, Proprietor of M/s. Pulu Silk, who, at the relevant time, were present in the blast site, have categorically stated that a Maruti car, which was proceeding from

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Panbazar Police Station side towards Fancybazar side, was parked in front of the shopping complex of the Baptist Church complex, Panbazar, in an odd manner. They have further stated that on 30.10.2008, at around 11:30 AM, a powerful bomb exploded in the said Maruti car. The blast killed seven persons and injured many others. The blast also caused damage to vehicles and business establishments. Examining the damaged parts of the Maruti car in which the bomb was planted, the Forensic expert opined that RDX and Ammonium Nitrate were used in the explosion.

(iv) Vegetable Market, Kokrajhar Town

26. The investigating officer found that in the meeting dated 19.10.2008, held in the house of Dinthilang, NDFB cadre S. Ulafat was entrusted with the responsibility of causing the bomb explosions at Kokrajhar and Bongaigaon. On 30.10.2008, at around 11:30 am, a bomb exploded at the vegetable market, Kokrajhar town. The bomb was kept in a bag on the bicycle bearing Serial No. 0297322. The blast killed ten persons and injured sixty nine persons. The blast also caused heavy damage to properties. The FSL, Guwahati opined that the explosive used in the blast was TNT. After the blast, the accused S. Ulafat absconded. The miscreant, who had caused the explosion, could not be identified.

(v) Railway Crossing, Kokrajhar Town

27. The investigating officer found that on 30.10.2008, at around 11:30 AM, a bomb exploded near the Railway crossing at Vivekananda Road, Kokrajhar town. The bomb was planted in a drain. The blast killed two persons and injured thirty five persons. The blast also caused heavy damage to properties. In the meeting dated 19.10.2008, held in the house of Dinthilang, NDFB cadre S. Ulafat was entrusted with the responsibility of causing the bomb explosion. The CFSL, CBI, New Delhi opined that the explosive used in the blast was TNT.

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(vi) Fish Market, Kokrajhar Town

28. The investigating officer found that on 30.10.2008, at around 11:30 AM, a bomb exploded at the Fish Market, Kokrajhar town. The bomb was planted in a drain. The blast killed eight persons and injured fifty nine persons. The blast also caused heavy damage to properties. In the meeting dated 19.10.2008 held in the house of Dinthilang, the responsibility for causing the said blast was assigned to NDFB cadre S. Ulafat. The CFSL, CBI, New Delhi opined that the explosive used in the blast was TNT.

(vii) Choudhury Shopping Complex, Barpeta Road

29. The investigating officer found that on 30.10.2008, at around 11:30 AM, a bomb exploded at the Choudhury Shopping Complex, Barpeta Road. The bomb was planted in a motorcycle. Some parts of the motorcycle bearing Chassis No. MD-625 AF1951479469 and Engine No. N2010030 was found at the blast site. The blast killed seven persons and injured many others. In the meeting dated 19.10.2008, held in the house of Dinthilang, the responsibility for causing the blast was assigned to the NDFB cadre Rajendra Goyari @ Rifikhang.

30. In connection with the said blast case, the investigating officer arrested one Anup Kumar Boro and he confessed his guilt. His confessional statement was recorded by the Judicial Magistrate. In his confessional statement, he has stated that the younger brother of the accused Rifikhang namely, Mridul Goyari, was his childhood friend. He met the NDFB cadres Gorge, Mudai, Bidai and others in the house of Mridul Goyari. He has further stated that in the 2nd week of October, 2008, he met Mudai, George, Rifikhang and Bidai in the house of Mridul Goyari and came to know that Mudai was given the responsibility of causing the bomb explosion at Barpeta Road and George was directed to arrange motorcycle and cycle for causing the blast. He has also stated that he saw four electronic table clocks, connected with about one foot long wire, in the room of Rifikhang. Rifikhang told him that he had brought the clocks from the designated camp of the

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NDFB, situated at Kokrajhar for using in the blasts. Anup Kumar Boro has further stated that, three/four days before 30.10.2008, he again went to the house of Mridul Goyari and met Mridul Goyari, Mudai and an unknown NDFB cadre. On that day, he came to know from Mudai that Mridul and the unknown NDFB cadre would plant bomb in a motorcycle at Choudhury Shopping Complex. He also came to know that one youth named Thungri, resident of Kokrajhar, would use a cycle for causing the blast at Barpeta Road bus stand. He also came to know that Tarun Boro and Jitu Daimari would assist George in causing the blast at Ganeshguri, Guwahati. The accused Anup Boro turned approver.

31. The investigating officer found that one Jamen Ramchiary was the original registered owner of the TVS Victor motorcycle bearing registration No. AS-15A/6007 and on 30.10.2006, the ownership of the said motorcycle was transferred to Ranjit Ramchiary, son of Jameswar Ramchiary, resident of village- Sandrabitta, District- Barpeta, Assam. Ranjit Ramchiary has stated that the NDFB cadre Bishnu Goyari @ Bidai had snatched away the said motorcycle from him and out of fear; he did not report the matter to the Police. The statement of Ranjit Ramchiary was recorded by the Magistrate under section 164 Cr.P.C. The FSL, Guwahati opined that the explosive used in the explosion was RDX.

(viii) Wholesale Vegetable Market, Barpeta Road

32. The investigating officer found that on 30.10.2008, at around 11:30 AM, a bomb exploded at the wholesale vegetable market at Barpeta Road. The bomb was planted in a ladies bicycle. The blast killed eight persons and injured many others. The blast also caused heavy damage to properties. In the meeting dated 19.10.2008 held in the house of Dinthilang, the responsibility for causing the said blast was assigned to NDFB cadre Rajendra Goyari @ Rifikhang. The FSL, Guwahati opined that the explosive used in the blast was RDX. The perpetrators of the crime could not be identified.

(ix) Old Paglasthan Bus Stand, Bongaigaon

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33. The investigating officer found that in the morning of 30.10.2008, the red coloured Bajaj Pulsar motorcycle bearing registration No. AS-25-G-7034, with an ammunition box in the tool box, was found abandoned near a shop, opposite Sagarmal Sarawgi Petrol Pump, AOC Road, Bongaigaon. After examination, the ammunition box was found connected with short circuit elements and explosive materials. To save human lives and properties, the Bongaigaon police shifted the motor cycle to the back side of the old Paglasthan Bus Stand, near the Bongaigaon Railway Station and separated the ammunition box from the tool box. Thereafter, the police covered the motorcycle with a bomb blanket and called the bomb disposal squad of the Army to defuse the bomb. Thereafter, while the police were waiting for arrival of the bomb disposal squad, at around 11:30 A.M., the ammunition box exploded. The explosion completely destroyed the bomb blanket and injured eleven persons. In the meeting dated 19.10.2008, held in the house of Dinthilang, the responsibility of causing the said bomb explosion was assigned to the NDFB cadre S. Ulafat. The red colored Pulsar motorcycle bearing registration No. AS-25-G-7034, Chassis No. DHV BMC-77839, Engine No. DHG BMC 76701, was registered in the Office of the District Transport Officer, Kamrup and its actual Registration No. was AS-01/W-2860. The registered owner of the motorcycle was Biswa Buragohain, son of Sunanda Buragohain, C/o Bipul Gogoi, Janakpur, Kahilipara, Guwahati-19. The said motorcycle was stolen from Nayanpur, Guwahati and Biswa Buragohain had lodged an FIR of the theft with the Dispur Police Station. The Dispur Police registered the FIR as No. 1380/08, dated 22.10.08. The number plate bearing registration No. AS-25-G-7034 used at the time of the blast was a fake number plate. The FSL, Guwahati opined that the explosive used in the blast was TNT. The Investigating Officer found that the last purchaser of the aforesaid stolen motorcycle was the accused Indra Brahma, son of Sailen Brahma, resident of village- Padmapur, P.S. Sidli, District- Chirang. After the blast, Indra Brahma absconded.

34. During investigation, the Assam Police arrested the following persons;

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- (1) Sobin Boro @ D. Sangra, S/o Jopen Boro, R/o village Rangagora, P.S. & district Udalguri. (arrested but released on bail)
- (2) Tenzing Zangpo, S/o Singhvi R/o village Kenomo, P.S. Tashiyaphsi, District- Tashiyaphsi, Bhutan (arrested)
- (3) Bimal Mushahary, S/o Gogen Musahary, R/o village- Gaurpara, P.S. Barbori, district- Baksa (arrested but released on bail).
- (4) Shri Rajib Sainary @ Daubilid, S/o Shri Jayandra Sainary, R/o village Batabari, P.O. Baganpara, P.S. Borobari, District- Baksa, Assam (arrested but released on bail).
- (5) Phungkha Brahma @ Thun, S/o Lt. Ratindra Brahma, R/O village Datulpara, P.S. Fatasil Ambari, Guwahati, Assam (arrested but released on bail).
- (6) Shri Mridul Basumatary @ Phuthai, S/o Shri Babul Basumatary, R/o village Habrubari near Balaji Temple, P.S. Gorchuk, Kamrup, Guwahati (arrested but released on bail).
- (7) Shri Pabitra Boro @ B. Phwthai @ Lengra, S/o Chakradhar Boro, R/o village Dangarmakha, P.S. Barbari, District- Baska, Assam (arrested).
- (8) Deepak Basumatary @ Dengkho Raja, S/o Shri Bhuvnishwar Basumatary, R/o village Borkuchijahar, P.S. Barama, District- Baska (arrested but released on bail).
- (9) Biswanath Basumatari @ Bishal Basumatari, S/o Lt. Mangasingh Basumatari, R/o village & P.O. Haltugaon, Tinali, P.O. & District- Kokrajhar , Assam (arrested).
- (10) Md. Mintul Haque , S/o Md. Motleb Ali, R/o village Barekuchi, P.S. Nalbari, District- Nalbari (arrested).
- (11) Md. Moinul Ali, S/o Md. Nur Mohammad Ali, R/o village No. 2, Kalaigaon, Rangiul Ali P.S. Kalaigaon, District – Darrang, Assam (arrested).
- (12) Md. Rohidul Ali, S/o Saifu Ali, R/o village – Bhilaguri, P.S. Boko, district – Kamrup, Assam (arrested).
- (13) Apurba Deka S/o Sh. Prafulla Deka, R/o village Mathghoria, Sankar Nagar, P.S. Noonmati, Guwahati, Assam (arrested).
- (14) Md. Nazir Khan S/o Md. Basir Khan, R/o village Minthong, Hata, P.S. & P.O. Prompt East, District- Imphal, East Manipur (arrested).

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(15) Hassan Ali, S/o Asowar Rahman, R/o village Khusbari Part-III, P.S. Abhayapuri, District- Bongaigaon (arrested).

(16) Md. Hatem Ali, S/o Asowar Rahman, R/o village Khusbari Part-III, P.S. Abhayapuri, District- Bongaigaon (arrested).

(17) Md. Kamal Ali, S/o Lt. Fazar Ali, R/o village- Bortolowa, P.S. Dhaligaon, District- Chirang, Assam (arrested).

(18) Chabu Boro @ Raja Boro. S/o Bhaben Boro. R/o village Nikhira, P.O. Khoirabari, District- Darrang, Assam (arrested).

(19) Ranjit Basumatari, S/o Sh Rajen Basumatary, R/o village- Ranipur, Part-II, P.S. Basugaon, District- Chirang, Assam (arrested).

(20) Hemraj Mujshahari, S/o Sh. Sukur Singh Mushahari, R/o village Swmdwn Nagar, near Bentol Gate, Chapaguri, District- Chirang, Assam (turned approver).

(21) Dasarath Basumatari, @ Raja, S/o Sh. Biseswar Basumatary, R/o village- Kukurmari, P.S. Dhaligaon, District- Chirang, Assam (turned approver).

(22) San Wary, S/o Kisan Wary, village- Hatipota, P.S. Dhaligaon, District- Chirang, Assam (arrested).

35. Initially, the aforesaid nine FIRs were lodged at the concerned police stations as it was not known whether the blasts were caused pursuant to any conspiracy by any extremist outfit or not. However, during the course of investigation, the investigating officer found that all the nine serial bomb explosions were caused by the members of the banned NDFB organization pursuant to one and the same conspiracy. Therefore, after conclusion of investigation and obtaining necessary sanction and consent for prosecution, the investigating officer submitted a single consolidated charge-sheet covering all the nine FIRs against the following nineteen accused persons namely, 1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, 2. Arun Borgoyary @ Dinthilang @ Kaobn Borgoyary, 3. Nilim Daimari @ D. Nizwmsa, 4. George Boro @ John @ B. Jwangkhang, 5. Miss Jayanti Brahma @ Jugami, 6. Ajoy Basumatary @ B. Aogai, 7. Jitu Daimari, 8. Tarun Swargiary, 9. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, 10. Tensu Narzary @ Thungri Boro @ Thungri Narzary @ Thulunga, 11. Dinesh Boro @ Bholaram Boro, 12.

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Prabhat Boro @ Tapa, 13. Raju Sarkar, 14. Uttam Swargiary @ S. Ulafat, 15. Rajen Goyari @ Rifikhang, 16. Miss B. Thorai @ Bwisagi 17. Bishnu Goyari @ Bidai @ Haranga, 18. Mudai and 19. Mridul Goyari for commission of offences punishable under Sections 120-B, 121, 121-A, 122, 123, 302, 324, 326, 307, 427 of the Indian Penal Code (in short "IPC"), r/w Sections 3/4 of the Explosive Substances Act, 1908 and Sections 10, 13, 16, 18 and 20 of Unlawful Activities (Prevention) Act, 1967, in the court of the learned Special Judicial Magistrate, Assam, Guwahati.

36. The accused (i) Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, (ii) Arun Borgoyary @ Dinthilang @ Kabn Borgoyari, (iii) George Boro @ Jhon @ B. Jwangkhang (iv) Jitu Daimari, (v) Tarun Sargiary, (vi) Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, (vii) Tensu narzary @ Thungri Boro @ Thungri Narzary @ Thulunga, (viii) Dinesh Boro, (ix) Uttam Sargiary @ S. Ulafat, (x) Rajen Goyari @ Rifikhang, (xi) Miss B. Thorai @ Bwisagi, (xii) Bishnu Goyari @ Bidai @ Haranga, (xiii) Mudai and (xiv) Mridul Goyari could not be arrested and hence, they were charge-sheeted as absconders.

37. Vide order dated 22.11.2008, the learned Chief Judicial Magistrate, Barpeta, made the accused Anup Kumar Boro @ Nala an approver.

38. Sanction under section 196 Cr.P.C. for prosecuting the accused persons under sections 121 and 121-A, 122 and 123 IPC has been obtained from the competent authority of the Central Government.

39. Sanction under Section 45 of the Unlawful Activities (Prevention) Act, 1967 for prosecuting the accused persons for committing offences under the said Act has been obtained from the competent authority of the State Government.

40. Consent to prosecute the accused persons for committing offences under Sections 3/4 of the Explosives Substances Act, 1908 has been obtained under Section 7 of the said Act from the respective District Magistrates.

41. During pendency of the case, the investigating officer arrested the absconding accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, George Boro @ John @ B. Jwangkhang and Mathuram Brahma @ Mudai and collected additional evidence. The accused Ranjan Daimari was arrested on

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16.05.2010. During interrogation, he disclosed that as per his direction, the aforesaid nine bomb explosions were caused by the NDFB cadres. He has further stated that logistics arrangements for causing the explosions were made under the control and command of Arun Borgoyary @ Dinthilang, the army chief of the NDFB, with the help of the other NDFB cadres. The places and timing of the blasts were decided in the meeting held in the residence of Dinthilang. He has further stated that in the months of November / December, 2008, the accused Rifikhang and John went to Bangladesh and apprised him in detail about the blasts. He has further stated that the accused Onesai Boro was involved in the Bongaigaon blast.

42. Using the password disclosed by the accused Ranjan Daimari, the Investigating Officer opened his e-mail accounts, in presence of independent witnesses. His e-mails showed that he was the president of the NDFB. In addition to that, the photographs available in some of the e-mails showed him with some armed cadres of the NDFB, wielding sophisticated weapons.

43. On 29-05-2010, the accused Rahul Brahma was arrested from Ziro, Arunachal Pradesh. During interrogation, he has stated that he had planted the bomb at Pan Bazar, Guwahati. Rahul Brahma was brought from Ziro, Arunachal Pradesh to Guwahati on transit remand and in the night of 29.05.2010, at Lakhimpur, he gave an interview to the reporter Jeetu Moni Neog of the News Live TV Channel wherein, he has admitted about his involvement in the Panbazar blast. He has stated that the blasts were caused as per the direction of the accused Ranjan Daimari. The Investigating Officer seized the CD containing the said news item from the News Live TV Channel. The accused Rahul Brahma also disclosed about his movement on 29th and 30th October, 2008 and also about his involvement in the Panbazar bomb explosion and gave minute details of the events, in presence of the Executive Magistrate. His disclosure statement was recorded on 04.06.2010 and the same was signed by him, the Executive Magistrate and the Investigating Officer. Thereafter, he showed all the places that he had visited on 29th and 30th October and also the place where the car loaded with explosive was parked, in presence of the Executive Magistrate. A pointing out memo of the places shown by him was also prepared. A rough sketch map was also

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prepared showing movement of the accused along with the explosive and the other accused persons on 29th and 30th October, which was also signed by the Executive Magistrate. Therefore, the Investigating Officer submitted a supplementary charge-sheet for offences under Sections 120-B, 121, 121-A, 122, 123, 302, 324, 326, 307, 427 of IPC, r/w Section 3/4 of the Explosive Substances Act, 1908 and Sections 10, 13, 16, 18 and 20 of Unlawful Activities (Prevention) Act, 1967 against the accused George Boro @ John @ B. Jwankhang, Mathuram Brahma @ Mudai and others.

44. During further investigation, the Investigation Officer arrested the accused Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo and Indra Brahma on 27.05.2010. In their statements recorded under section 161 Cr.P.C, San Wary, resident of Village-Hatipota and Dashrath Basumatary, resident of Village- Kukurmari, District-Chirang, had stated that the motorcycle bearing registration No. AS-25-G-7034 used in the Bongaigaon blast was purchased by the accused Lokhra Basumatary and Indra Brahma in the third / last week of October, 2008 and the accused Onsai Boro had paid an amount of Rs. 15,000/- towards the price of the motorcycle.

45. The Investigating Officer also arrested the accused Sun Wary, Hemraj Mushahary and Dasarath Basumatary and produced them before the learned Chief Judicial Magistrate, Bongaigaon on 26.11.2008. The learned Chief Judicial Magistrate remanded them to police custody for eight days. Thereafter, on 04.12.2008, the Investigating Officer produced the accused Hemraj Mushahary and Dasarath Basumatary before the learned Chief Judicial Magistrate and filed an application stating that they have stated before him that they were involved in the case and disclosed about their involvement and others in causing the explosion. They have further stated that they will adduce evidence to prove the same and hence, the Investigating Officer prayed for making them approver as per the provisions of Section 306 Cr.P.C. The learned Chief Judicial Magistrate then explained to the accused Hemraj Mushahary and Dasarath Basumatary about the role of an approver and as even thereafter, they agreed to become approver, the learned Chief Judicial Magistrate recorded their statements and made them approver.

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46. The Investigating Officer also found that the actual registration number of the said motorcycle was AS-01-W-2860. The said motor cycle belonged to Biswa Buragohain. On 22.10.08, the said motor cycle was stolen away from Nayanpur, Guwahati and Biswa Buragohain had lodged an FIR of the theft with the Dispur Police Station. Accused Indra Brahma and Lokhra Basumatary had further stated that the accused Onsai Boro had given them Rs. 15,000/- for purchasing the motorcycle. In his confessional statement recorded under section 164 Cr.P.C. by the Judicial Magistrate, the accused Onsai Boro has stated that in the month of June/July 2008, he had visited Bangladesh and met the accused Ranjan Daimari, the chairman of the NDFB. The accused Ranjan Daimari told him that the tripartite ceasefire agreement signed by the NDFB with the Government of India was a failure. The accused Ranjan Daimari also told him that he has given command to Dinthilang and directed him to follow the orders of Dinthilang.

47. The accused Indra Brahma and Lokhra Basumatary had further stated that on 30.10.2008, at around 08.00 A.M., the motorcycle No.AS-25-G-7034 with explosives was parked opposite the Assam Oil Petrol Pump, on the AOC Road, Bongaigaon. They had further stated that in the morning of 30.10.2008, at around 6.00 A.M., NDFB cadre Rangjalu picked up them from the Bengtol Office of the NDFB in a hired India car and they went to Bengtol bus stand in the said India car. Rangjalu followed them up to Kajalgaon Chariali. At Kajalgaon Chariali, Rangjalu directed the driver to stop the car and asked the accused Lokhra Basumatary to get down from the car. The accused Rangjalu gave the accused Lokhra Basumatary the red coloured pulsar motorcycle No. AS-25-G-7034 and asked him to follow the Indica car. After reaching AOC road, near Bongaigaon Railway Station, Rangjalu directed the accused Lokhra Basumatary to stop the motorcycle and directed him to park the motorcycle opposite the Assam Oil Petrol Pump. Accordingly, the accused Lokhra Basumatary parked the motor cycle and thereafter, boarded the India car and went to the Bengtol Office of the NDFB with Rangjalu and Indra Brahma. After dropping them off at the Bengtol Office, Rangjalu went away.

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48. The driver of the Indica car namely, Ranjit Roy, has stated before the investigating officers that in the morning of 30.10.2008, his car was hired by B. Rangjalu and was used by Indra Brahma, B. Rangjalu and Lokhra Basumatary. He has identified the accused Indra Brahma from his photograph as one of the persons who had travelled in his car on 30.10.2008. B. Rangjalu has since expired. Accused Indra Brahma and Lokhra Basumatary disclosed in presence of Executive Magistrate that the motorcycle No. AS-25-G-7034 was arranged by them and they had parked the said motorcycle with explosives at Bongaigaon. They were taken to Bengtol and Bongaingaon and they showed the place where they had parked the motorcycle. They have also identified the said motorcycle at the Bongaigaon Police station. A pointing out memo of the places and the motorcycle shown by them was also prepared, which was signed by the accused, the Executive Magistrate and the Investigation Officer. The owner of the M/s. Banthia Enterprises, Bongaigaon has also identified the accused Lokhra Basumatary as the person who had parked the said motorcycle opposite the Assam Oil Petrol Pump, on the AOC Road, Bongaigaon. The said motor cycle was shifted to the old Paglasthan field by the Police, where the bomb exploded and injured eleven persons, mostly Police, Army and Paramilitary personnel. The investigating officer found that the accused Indra Brahma was using the mobile number 99549-86477 in October/November, 2008 and on 30.10.2008, at around 08.09 AM, as per the call detail records, the location of the said mobile was found to be the Station Road, Bongaigaon. A number of other witnesses like, San Wari and Dashrath Basumatary, have also corroborated that in October/November, 2008, Indra Brahma was using the mobile number 99549-86477. The forensic expert opined that the explosive used in the blast was TNT.

49. The investigating officer found that all the nine explosions were caused by the NDFB extremists pursuant to one and the same conspiracy and evidentiary materials regarding commission of offences punishable under Sections 120-B, 121, 121-A, 122, 123, 302, 324, 326, 307, 427 IPC, r/w Sections 3 and 4 of the Explosives and Substance Act, 1908 and Sections 10, 13, 16, 18 & 20 of Unlawful activities (Prevention) Act, 1967 were found against the accused Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo and

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Indra Brahma. Therefore, the Investigation Officer submitted a supplementary charge-sheet for offences under Sections 120-B, 121, 121-A, 122, 123, 302, 324, 326, 307, 427 IPC, r/w Sections 3 and 4 of the Explosives and Substance Act, 1908 and Sections 10, 13, 16, 18 & 20 of Unlawful Activities (Prevention) Act, 1967 against the accused Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo and Indra Brahma.

50. Sanction under Section 196 Cr.P.C. for prosecuting all the above named accused persons for committing offences punishable under Sections 121, 121-A, 122 and 123 IPC has been obtained from the competent authority.

51. Sanction under Section 45 of the Unlawful Activities (Prevention) Act, 1967 for prosecuting all the above named accused persons for committing offences punishable under the said Act has been obtained from the competent authority.

52. Consent under Section 7 of the Explosive Substances Act, 1908 for prosecuting all the above named accused persons for committing offences punishable under Sections 3 and 4 of the said Act has been obtained from the competent authority.

53. On 28.02.2011, the learned Special Judicial Magistrate, Assam, Guwahati, committed the case for trial to the Court of the learned Sessions Judge, Kamrup, Guwahati. The accused 1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, 2. Nilim Daimari @ D. Nizwmsa, 3. George Boro @ John @ B. Jwankhang, 4. Jayanti Brahma @ Jugami, 5. Ajay Basumatary @ B. Aogi, 6. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, 7. Prabhat Boro @ Tapa, 8. Raju Sarkar, 9. Rajendra Gayari @ Rajen @ Rifikhang, 10. Mathu Ram Brahma @ Mwdwi, 11. Mridul Gayari, 12. Onsai Boro @ Ajit Boro, 13. Lokhra Basumatary @ Lobo and 14. Indra Brahma were produced before the learned court from judicial custody and the case was fixed for consideration of charge on 14.03.2011. But, on that date, the charges could not be considered and ultimately, charges under Sections 120-B/121/121-A/122/123/302/326/307/324/427 IPC, r/w Sections 3/4 of the Explosive Substances Act, 1908 and Sections 10/13/16/18/20 of the Unlawful Activities (Prevention) Act, 1967 were framed against them on 29.08.2011. When the

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contents of the charges were read over and explained to them, they pleaded not guilty and claimed to be tried.

54. During pendency of the case, the absconding accused Baishagi Basumatary @ B. Bithurai was arrested and was produced before the learned Sessions Judge, Kamrup, Guwahati. On 06-10-2015, the then learned Sessions Judge, Kamrup (M) Guwahati framed charges under Sections 120-B/121/121-A/122/123/302/326/307/324/427 IPC, r/w Sections 3/4 of the Explosive Substances Act, 1908 and Sections 10/13/16/18/20 of the Unlawful Activities (Prevention) Act, 1967 against her. When the contents of the charges were read over and explained to her, she pleaded not guilty and claimed to be tried.

55. The accused Ranjan Daimari was the chairman of the NDFB and as the Government of India had started negotiation with the NDFB and the Government of Assam had declared unilateral cease fire against the NDFB with effect from 01.08.2011, to enable the accused Ranjan Daimari to participate in the negotiation, on 11.04.2013, the then Sessions Judge, Kamrup (M), Guwahati granted him bail.

A FEW WORDS REGARDING THE TRIAL

56. During trial, of the total eight hundred seventy one charge-sheeted witnesses, from 22.09.2011 to 16.11.2017, the learned Sessions Judge, Kamrup (M), Guwahati examined only eighty five witnesses. Therefore, as all but the accused Ranjan Daimari were languishing in jail, this Special Court was established for speedy disposal of the case and the court started functioning from 04.12.2017. But, after the court started functioning, the learned Special Public Prosecutor who had been conducting the case expressed his inability to conduct the case anymore and hence, the Public Prosecutors of CBI started conducting the case. Altogether, five Public Prosecutors of CBI conducted the case. But, of the said five Public Prosecutors of CBI, only the Senior Public Prosecutor had the experience of conducting such cases and the remaining four had no experience of conducting the trial

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of any such case, not to speak conducting the trial of a case of this magnitude. Further, most of the prosecution witnesses could speak only the Assamese language but, the Public Prosecutors of CBI did not even have the working knowledge of Assamese language. Therefore, this Court directed the Director, CBI to appoint a Public Prosecutor having knowledge of Assamese language to conduct the case and also informed the Hon'ble Gauhati High Court about the same. The Hon'ble Gauhati High Court requested the Director, CBI to appoint a Public Prosecutor having knowledge of the Assamese language to conduct the case but, in vain. In the meantime, some witnesses had to be sent back as the Senior Public Prosecutor of CBI could not examine them due to language barrier. Therefore, this Court again directed the Director, CBI to appoint a Public Prosecutor having knowledge of Assamese language and informed the Hon'ble Gauhati High Court about the same. The Hon'ble Gauhati High Court again requested the Director, CBI to appoint a Public Prosecutor having knowledge of Assamese language but, again in vain. The Hon'ble Gauhati High Court also requested the Government of Assam to appoint a Public Prosecutor to assist the Public Prosecutor of CBI. But, the Government of Assam also did not pay any heed to the request of the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court wrote thrice to the Director, CBI to appoint a Public Prosecutor having knowledge of Assamese language to conduct the case and twice to the Government of Assam to appoint a Public Prosecutor to assist the Public Prosecutor of CBI in conducting the case. But, all fell on deaf ears. Therefore, by not appointing a Public Prosecutor having knowledge of Assamese language, the CBI (the Central Government) and by not appointing a Public Prosecutor to assist the Public Prosecutor of CBI, the Government of Assam have deliberately delayed the disposal of the case for reasons best known to themselves. The conduct of the CBI and the Government of Assam proved that they were not interested in speedy disposal of the case though; the right to speedy trial is a fundamental right of the accused. Under these circumstances, the trial continued and after examination of five hundred and sixty eight witnesses, the CBI appointed learned advocates Shri Tutumoni Deva Goswami and Shri Dibyajyoti Das as Special Public Prosecutors to conduct the case and from 09-

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08-2018, they conducted the case. But, surprisingly, both the learned Special Public Prosecutors have submitted before the court that they never conducted the trial of a murder case, independently. Therefore, the basis on which the CBI had appointed them as the Special Public Prosecutors to conduct the case is unfathomable. Further, the learned Special Public Prosecutors did not even properly exhibit the necessary documents and the seized articles of the case and repeated many numbers of exhibits and material exhibits. Further, they also could not produce one exhibited document (the Ext. 42) and have submitted that the said document was, perhaps, misplaced during transfer of the case from the court of the learned Sessions Judge Kamrup (M), Guwahati to this court, which does not make any sense. Further, the learned Public Prosecutors, CBI and the learned Special Public Prosecutors did not properly examine the witnesses. They even did not know that PW-488 Dasarath Basumatary was an approver and declared him hostile, whereas they should have prayed for prosecuting him for not complying with the conditions of pardon and for perjury. They also failed to bring into record some relevant evidentiary materials like, absconding of the accused and the steps taken by the investigating officer in this regard, etc. The same can happen only to the people of Assam and the other North Eastern states. Can anybody imagine this happening to the Bombay serial bomb blasts case, which was a similar case? I am stating the same here as the people have a right to know about the manner in which the CBI, that is the Central Government and the Government of Assam, conducted the case.

THE TRIAL

57. The prosecution, in order to prove its case, examined as many as six hundred and fifty witnesses. The prosecution could not examine the remaining witnesses as some of the witnesses have died and the others were untraceable. The accused did not examine any witness.

58. In their examination under section 313 Cr.P.C., the accused have denied the prosecution case and have stated that the allegations leveled

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against them are false and baseless.

59. The points for determination in this case are:-

I. Whether the accused, being the members of the banned National Democratic Front of Bodoland organization, declared as an unlawful association by the Government of India vide Notification No. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III) and No. S.O. 2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), from July-August 2008 and particularly on 19.10.2008, at village Jharaguri, Kokrajhar, in the house of the absconding accused Dinthilang @ Arun Borgoyary @ Kabn Borgoyary, arrived at a common intention by agreeing to do an illegal act, that is to wage war against the Government of India and pursuant to the said conspiracy, decided to explode bombs in Guwahati and other parts of Assam with intent to cause the death of people, injuries to people and damage to properties and pursuant to the said conspiracy, on 30-10-2008, in between 11.20 AM and 11.30 AM, caused nine serial bomb explosions, using special category explosive substances, at the following nine places namely, in the CJM court complex, Kamrup (M), Guwahati, in front of the Baptist Church Complex, Panbazar, Guwahati and under the Ganeshguri flyover, Dispur, Guwahati in Kamrup District, at old Paglasthan bus stand, Bongaigaon, in Bongaigaon District, at Barpeta Road wholesale vegetable market and at Choudhury Shopping Complex, Barpeta Road, in Barpeta District and at Vegetable market, Railway crossing and Fish market of Kokrajhar town, in Kokrajhar District, that killed eighty eight people, injured five hundred forty people and caused damages to moveable and immovable properties?

II. Whether the accused, being the members of the banned National Democratic Front of Bodoland organization, declared as an unlawful association by the Government of India vide Notification No. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III), and No. S.O. 2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), arrived

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at a common intention by agreeing to do an illegal act, that is to wage war against the Government of India and in order to commit the said illegal act, collected explosive substances, caused the death of persons, voluntarily caused grievous hurt and hurt using explosive substances, attempted to commit murder, caused mischief by explosives/ fire causing thereby largescale damage to moveable and immovable properties?

III. Whether the accused, being the members of the banned National Democratic Front of Bodoland organization, declared as an unlawful association by the Government of India vide Notification No. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III), and No. S.O. 2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), from July-August 2008 and particularly on 19.10.2008, used RDX, Ammonium Nitrate and TNT, which are special category explosive substances, in causing the aforesaid nine serial bomb explosions?

IV. Whether the accused, being the members of the banned National Democratic Front of Bodoland organization, declared as an unlawful association by the Government of India vide Notification No. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III), and No. S.O. 2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), took part in the activities of the said unlawful organization, assisted its operation, voluntarily promoted the objectives of the said unlawful organization, voluntarily aided and promoted the objectives of the said unlawful organization and were in possession of special category explosive substances of RDX, Ammonium Nitrate and TNT, capable of causing mass destruction and committed terrorist acts and caused the death of eighty eight people, injuries to five hundred forty people and damage to moveable and immovable properties?

V. Whether the accused, being the members of the banned National Democratic Front of Bodoland organization, declared as an unlawful association by the Government of India vide Notification No. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III), and No. S.O.

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2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), dated 23rd November 2008, committed terrorist acts by causing the death of eighty eight people, injuries to five hundred forty people and damages to vehicles and buildings?

If so, what punishment do they deserve?

DECISION AND REASONS THEREOF

60. I have carefully examined the evidence on record, gone through the relevant documents on record and after hearing the arguments advanced by the learned counsels for both the sides and the written argument submitted by the learned Special public Prosecutors, give my decision on the above points as follows:-

61. As all the points are co-related hence, all the points are discussed and decided jointly.

62. That on 30-10-2008, in between 11.20 AM and 11.30 AM, a series of nine bomb explosions took place at nine places in four districts of Assam, viz., Kamrup [presently, Kamrup (Metropolitan)], Bongaigaon, Barpeta and Kokrajhar District, that in Kamrup District, the bombs were exploded in the Chief Judicial Magistrate, Kamrup (M), Guwahati court campus, in front of the Baptist Church Complex, Panbazar, Guwahati and under the Ganeshguri flyover, Guwahati, in Bongaigaon District, the bomb was exploded at the old Paglasthan bus stand, in Barpeta District, the bombs were exploded at Barpeta Road wholesale vegetable market and at Choudhury Shopping Complex and in Kokrajhar District, the bombs were exploded at Vegetable market, Railway crossing and Fish market of Kokrajhar town, that the blasts killed eighty eight people and injured five hundred forty people and caused damage to movable and immovable properties, will admit of no doubt. Prosecution examined hundreds of injured victims, relatives of the deceased victims, owners of business establishments and vehicles damaged in the blasts, medical officers who had treated the injured victims and performed post-mortem examinations of the deceased victims, forensic experts, etc., etc.

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63. PW-3 Makibul Haque, a practicing lawyer has deposed that on 30.10.2008, at around 10:00 A.M., he reached the C.J.M. court and parked his motorcycle in the parking place inside the court campus. While he was sitting in the office of the Bar Association, at around 11:10 A.M., he heard a loud sound and the intensity of the sound shook the Bar Association building. The articles of his table fell down and the windows broke down. He then went out and saw that a huge fire had broken out. The fire had burned the vehicles parked in the parking area. He shifted his motor cycle to a safe place and went towards the nearby Forest Department's Office. For a few minutes, he did not hear anything and when he became normal, he enquired about his colleagues and learnt that they were safe. He saw some persons lying injured and some dead bodies lying scattered. Later on, he came to know that the blast had killed one lady advocate, namely Dipamoni Saikia, an Advocate's clerk and some other persons. Defence did not challenge him in the cross-examination that he has deposed falsely or that the blast did not kill the lady advocate Dipamoni Saikia, an Advocate's clerk and some other persons.

64. PW-5 Rijajul Hussain Ahmed, another practicing advocate has also deposed that on 30.10.2008, at around 10:00 A.M., he reached the C.J.M. Court and parking his motorcycle in the parking place, went to the Lawyers' Association office. After some time, while he was climbing the stairs to go to the first floor of the C.J.M. court building, he heard a loud sound of explosion and saw that the windows of the court building were broken. Some broken pieces of glass hit him and he sustained cut injury on the left side of his face. The people shouted that a bomb had been exploded. He then went out and saw that two-wheelers and other vehicles parked in the parking area were burning. Thereafter, along with the injured advocate Mantu Das, he went to the MMC Hospital, Panbazar and took treatment there.

65. Defence declined to cross-examine him.

66. PW-12 Shri Dipak Kr. Das has deposed that at the relevant time, he was the General Secretary of Lawyers' Association, Guwahati. On, 30.10.2008, at around 11:20 A.M., while he was present in the Lawyers' Association office,

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he heard a loud sound coming from the courtyard of the C.J.M. court complex. The blast shook the Lawyers' Association building and broke the windows. Immediately, he went to the courtyard of the C.J.M. court complex and saw black smoke in the sky. He also saw that four-wheeler and two-wheeler vehicles were burning and some dead bodies were lying on the ground and limbs of human were lying scattered. Shri Aswini Mahanta, an employee of the Lawyers' Association and several advocates had sustained injuries. He and the other Bar Association members sent the injured victims to the MMC and GMC hospitals for treatment. The blast killed three advocates namely, Dipamoni Saikia, Bipul Nath and Anup Kumar Bhuyan and Lawyers' Association employee Mahesh Saud. The blast also killed an advocate's clerk namely, Rana @ Abdul Kalam. Many litigants also sustained injuries. The blast caused damage to twenty four, four-wheelers and fifty two, two-wheelers. The blast also damaged the Lawyers' Association's building and the C.J.M. court building. One Judicial Magistrate namely, Mr. Darak Ullah, also sustained injuries. On 06.11.2008, he lodged an FIR of the incident with the Panbazar police Station.

67. In the cross-examination, he has stated that he does not remember the date on which the CBI had recorded his statement. He has stated that he lodged the information with the Panbazar Police Station regarding loss of human life, damage caused to vehicles, properties, etc.

68. Defence did not challenge him in the cross examination that on 30-10-2008, at around 11:20 A.M., inside the CJM court complex, a blast did not take place, the blast did not kill advocates Dipamoni Saikia, Bipul Nath and Anup Kumar Bhuyan, Lawyers' Association employee Mahesh Saud and advocate's clerk Rana @ Abdul Kalam and did not cause damage to vehicles and properties. In fact, by cross-examining him, the defence has confirmed the same.

69. PW- 81 Smt. Jeoti Kalita Barman has deposed that on 30.10.2008, at around 11:30/ 11:45 A.M., while she was entering into the CJM Court building after parking her Wagon R vehicle bearing registration No. As-01-B-

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9285 inside the CJM court complex, a bomb exploded outside the court building and black smoke covered the entire area. They then fled. After sometime, when she came back to the place of occurrence, she saw that her Wagon R car was completely burned. Other vehicles parked there were also damaged. The blast killed advocates Dipamoni Saikia, Anup Bhuyan and Bipul Nath. Advocate's clerk Rana and security-guard Mahesh Saud were also died in the explosion. Later on, she lodged claim with the insurer of her car and received compensation of Rs. 1,90,000/-. Defence declined to cross-examine her. Therefore, the P.W. 81 has proved that the blast killed many persons and caused damage to vehicles.

70. PW- 123 Shri Simanta Deka, another practicing advocate, has deposed that on 30-10-2008, at around 11:20 AM, while he was sitting in the Bar room, he heard a loud sound and saw that a Maruti car was blown away about 30 feet above the ground. The vibration of the fire and sound destroyed four / five nearby trees and caused damage to the court premises. The blast also caused damage to the Bar building and the office building of the Deputy Commissioner, Kamrup (M) Guwahati. The blast occurred in front of his Maruti Wagon R car bearing registration No. AS-01-AB-6138 and his said car was burned in the resultant fire. When he went near his car, he saw limbs of human beings lying scattered. The blast killed three advocates, namely Dipamoni Saikia, Bipul Nath and Anup Bhuyan. The blast also killed an advocates' clerk, namely Rana and an employee of the Bar Association, namely Mahesh Saud. The blast also killed some other persons but, their identities could not be confirmed as their bodies were burned beyond recognition. The blast also burned about ten/ twelve vehicles, partially damaged about twenty vehicles and destroyed about sixty / seventy motorcycles. As his vehicle was insured, the insurance company indemnified his loss.

71. In the cross-examination, he has stated that after about seven days of the occurrence, the police recorded his statement. Thereafter, the CBI personnel recorded his statement. He has not seen any document regarding receipt of any money from the insurance company. He has denied the

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suggestion that his vehicle was not damaged in the bomb blast, that he did not receive any amount from the insurance company and that he has deposed falsely.

72. Defence did not challenge him in the cross examination that on 30-10-2008, at around 11:20 A.M., inside the CJM court complex, a blast did not take place, the blast did not kill advocates Dipamoni Saikia, Bipul Nath and Anup Bhuyan, advocates' clerk Rana and Bar Association employee Mahesh Saud and did not destroy four / five nearby trees, the court premises, the Bar Association building, the office building of the Deputy Commissioner, Kamrup (M) Guwahati, and also did not totally burn ten/ twelve vehicles and sixty / seventy motorcycles and did not partially damage about twenty vehicles.

73. PW- 108 Pranjit Kumar Bhuyan has deposed that late Anup Kumar Bhuyan was his elder brother. Anup Kumar Bhuyan was an advocate. On 30-10-2008, at around 11:30 AM, while his elder brother Anup Kumar Bhuyan was present in the Chief Judicial Magistrate, Kamrup (M), Guwahati, court complex, a bomb exploded and he died on the spot. The State Government paid them compensation of Rs. 3,00,000/- (Rupees three lakh) only, for the death of his elder brother Anup Kumar Bhuyan. Later on, he came to know from the electronic and print media that the NDFB organization had caused the said bomb blast. He had read in the news paper that the accused Ranjan Daimari had confessed about the same.

74. In the cross-examination, he has stated that he has not seen any document regarding receipt of compensation of Rs. 3,00,000/- (Rupees Three Lakh) only, from the State Government. The accused Ranjan Daimari did not confess before him about the same. He has not seen any newspaper in the Court containing the confession made by the accused Ranjan Daimari. He has denied the suggestion that he has deposed falsely.

75. Defence did not challenge him in the cross examination that on 30-10-2008, at around 11:30 A.M., inside the CJM court complex, a blast did not take place and the blast did not kill his elder brother Anup Kumar Bhuyan.

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76. PW- 394 Shri Jayanta Das has deposed that on 30-10-2008, accompanied by his mother Smt. Labanya Das, eldest sister Smt. Padmini Kumar, youngest sister Smt. Mamoni Saloi and youngest brother Shri Tapan Das, he went to Panbazar, Guwahati for purchasing clothes for his marriage. At Panbazar, he parked his Alto car bearing registration No. AS – 01-AB-0983 near the Church and entered into a clothes' store. At around 11:30 AM, when they came out from the clothes' store, a bomb exploded in front of the shop. The blast killed his youngest sister Mamoni Saloi and seriously injured his elder sister Smt. Padmini Kumar and mother Smt. Labanya Das. He and his brother Shri Tapan Das had sustained injuries. He saw many dead bodies near the blast site. His Alto car was badly damaged. He has received compensation of Rs. 50,000/- from the State Government. the State Government in the court.

77. In the cross-examination, he has stated that he has not seen any document regarding receipt of compensation of Rs. 50,000/- from the State Government in the court. Defence did not challenge him in the cross examination that on 30-10-2008, at around 11:30 A.M., near the Panbazar Church, a bomb blast did not take place and the blast did not kill his youngest sister and did not injure him, his eldest sister, youngest brother and mother, did not cause damage to his Alto car and he did not receive compensation of Rs. 50,000/- from the State Government.

78. PW- 28 Prahlad Kundu has deposed that he had a cloths' store, under the name and style "*Hangsha Bahini*", at Ganeshguri. On 30.10.2008, a bomb exploded under the Ganeshguri flyover, near his said shop. The impact of the blast destroyed the front glasses of his shop. His employee Arup Talukdar sustained injuries in the blast and somebody shifted him to the GNRC Hospital. Next day, they found the dead body of Arup Talukdar in the GNRC Hospital. Arup Talukdar died due to the injuries sustained in the blast.

79. Defence did not challenge him in the cross- examination that Arup Talukdar did not die due to the injuries sustained in the said blast.

80. PW- 112 Dilip Medhi has deposed that he has a grocery shop at the Bee Kay Tower, Ganeshguri. About nine years ago, one day, at around 11:00

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AM, while he was present in his shop, suddenly he heard a loud sound. The impact of the sound threw away the articles of his shop. He then went out and saw that nearby shopkeeper, namely Mr. Das, was lying unconscious and another shopkeeper, namely Pabitra Deka was hit by a piece of tin. They shifted them to the GNRC Hospital, Guwahati. Many persons died in the blast. He sustained minor injuries. Many vehicles were burnt by the fire of the explosion. He has received compensation of Rs. 35,000/- for the damages caused to his shop from the State Government. In the cross-examination, he has stated that he was not interrogated by the Investigating Officer. He has denied the suggestion that the articles of his shop hit him and due to the same, he had sustained the alleged injuries. He has stated that he has not seen any document regarding receipt of compensation of Rs. 35,000/- for the damages caused to his shop in the court. He has denied the suggestion that he has deposed falsely.

81. PW- 141 Mukunda Thakuria has deposed that he had a vegetable stall at Ganeshguri. On 30-10-2008, at around 11:00 am, while he was present in his vegetable stall, a bomb exploded under the Ganeshguri flyover. The blast killed some persons and destroyed the nearby shops. The blast also caused damage to his vegetable stall. The splinter of the bomb hit the vegetable vendor Pabitra Deka and he sustained injury on the chest. They shifted him to the Gauhati Medical College and Hospital and from there, to the GNRC Hospital. But, after two days, he succumbed to the injuries.

82. By cross-examining him, the defence has failed to bring out anything based on which it can be said that he was not telling the truth.

83. PW- 32 Dr. Hiteswar Dev Sarma has deposed that late Sunanda Talukdar was his brother-in-law and late Pranita Devi Talukdar was the wife of late Sunanda Talukdar. On 30.10.2008, at around 11:00 A.M., they had been to Ganeshguri for marketing. At Ganeshguri, parking their Maruti van bearing registration No. AS-01-F-6971 under the Ganeshguri flyover, they went for marketing and when they returned to the parking place, a bomb exploded under the Ganeshguri flyover and Sunanda Talukdar died on the spot and Pranita Devi Talukdar sustained grievous injuries. Their vehicle was also

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totally damaged. Pranita Devi Talukdar was shifted to the Gauhati Medical College and Hospital, Guwahati for treatment. But, as her condition was serious, she was shifted to the GNRC Hospital, Guwahati. From there, she was shifted to the Apollo Hospital, New Delhi but, she succumbed to the injuries on 13.10.2008.

84. In the cross examination, he has denied the suggestion that he has deposed falsely.

85. PW-168 Sundar Deka has deposed that he has a hotel at Ganeshguri. On 30-10-2008, at around 11:20 am, while he was proceeding towards his hotel, a bomb exploded under the Ganeshguri flyover, in front of his hotel. The bomb was planted in a Maruti car type vehicle and the blast burned the said vehicle. The blast killed many persons and injured many others. The dead bodies and the injured persons were lying at the blast site and they sent the injured persons to the hospitals. The blast also damaged the hotel building. He has received compensation of Rs.50,000/- for the damage caused to the hotel building.

86. By cross-examining him, the defence has failed to bring out anything based on which it can be said that he was not telling the truth.

87. PW-351 Bidya Nanda Choudhury has deposed that he is a businessman. In the year 2008, he was the chairman of the Barpeta Road Municipal Corporation. He has a shopping complex under the name and style "Choudhury Shopping Complex" at Barpeta Road. In the year 2008, one day, he received a phone call and the caller asked him that if he did not pay him an amount of Rs. 10,00,000/-, he will face dire consequences. He did not pay any money to the caller. On 30.10.2008, at around 11:30 AM, a bomb was exploded in front of his said shopping complex.

88. Defence declined to cross-examine him.

89. PW- 352 Hanif Ali has deposed that he had a vegetables shop behind the *Raas Mandir* at Barpeta Road. The Choudhury Shopping Complex is situated at a distance of about 200 meters away from his said shop. On the day of the occurrence, at around 11:00 AM, while he was present in his shop,

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a bomb exploded near the Choudhury Shopping Complex. He then ran away from his shop.

90. Defence declined to cross-examine him.

91. PW- 332 Narayan Saha has deposed that he used to work at the *Angashree* Clothes Store at Choudhury Shopping Complex, Barpeta Road. On 30.10.2008, at around 11:20 AM, while he was present in the said shop, he heard a loud sound and fell down and sustained injuries on his right leg. He was shifted to the Barpeta Road Civil Hospital for treatment. From there, he was shifted to the Barpeta Civil Hospital. He has received compensation of Rs. 50,000/- from the State Government.

92. In the cross-examination, he has stated that he has not seen any document regarding receipt of compensation of Rs. 50,000/- from the State Government in the court. Defence did not challenge him in the cross-examination that on 30-10-2008, at around 11:20 am, at Choudhury Shopping Complex, a bomb blast did not take place, the blast did not cause any injury to him and he did not receive compensation of Rs. 50,000 /- from the State Government.

93. PW- 201 Islamuddin has deposed that about eight / ten years ago, his cousin brother Hussain Ali died in a bomb blast that occurred at Barpeta Road wholesale vegetable market. The dead body of Hussain Ali was taken to the Barpeta Civil Hospital for postmortem examination. He had identified the dead body before the doctor.

94. Defence declined to cross-examine him.

95. PW- 203 Gopal Saha has deposed that in the year 2008, he had a Sweets' stall at the Barpeta Road wholesale vegetable market. On 30-10-2008, at around 11:20 am, while he was proceeding to a nearby tea stall, a bomb exploded and he sustained severe injuries on the left hand and became unconscious. (The witness showed his deformed left hand with old scar mark). He was shifted to the Barpeta Road Hospital. He had received compensation of Rs. 50,000/- from the State Government.

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96. Defence did not challenge him in the cross-examination that on 30-10-2008, at around 11:20 am, at Barpeta Road wholesale vegetable, a bomb blast did not take place and in the blast, he did not sustain injuries on his left hand and did not receive compensation of Rs. 50,000/- from the State Government.

97. PW- 212 Hasmat Ali has deposed that in the year 2008, one Thursday, while his father Abdul Rahman had been to the Barpeta Road wholesale vegetable market, a bomb exploded in the market and his father died in the blast. Having learnt about the death of his father, he went to the Barpeta Road police station and found the dead body of his father there. He and his elder brother Hussain Ali identified the dead body.

98. Defence declined to cross-examine him.

99. PW- 213 Sahjahan Ali has deposed that late Saiful Islam was his younger brother. About nine / ten years ago, one day, Saiful Islam had been to Barpeta Road and while he was returning from the market, a bomb exploded at Choudhury Market, Barpeta Road and Saiful Islam died in the blast. Having learnt about the blast, he went to the Barpeta Road police station and the police told him that they had sent Saiful Islam to the Barpeta Civil Hospital. He then went to the Barpeta Civil Hospital and found the dead body of Saiful Islam there.

100. Defence declined to cross-examine him.

101. PW- 226 Hridoyjit Barman has deposed that on 30.10.2008, he was posted as the Additional Superintendent of Police (Headquarters) at Bongaigaon. On that day, at around 08:15 AM, he had received an information from S.I. Rustom Brahma that a motorcycle was lying abandoned in front of the petrol pump near the Mayapuri flyover, Bongaigaon and there was an ammunition box in the tool box of the motorcycle. Suspecting the ammunition box to be a bomb, they brought a crane and shifted the motorcycle to a field below the flyover. Thereafter, he brought a non linear junction detector from the Police Reserve and checked the ammunition box. During checking, a red light blinked at which, they learnt that there was a

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circuit. They then brought a bomb blanket from the Police Reserve and covered the ammunition box with the bomb blanket. They also dispersed the crowd gathered there. Thereafter, they informed the bomb defusal squad of the Army stationed at Panbari. But, while they were leaving that area, the bomb exploded and he and a captain of the Army present there, namely Barun Rai, were thrown away. Splinters of the bomb hit on his leg and chest wall and he and the Army captain Barun Rai were shifted to the Lower Assam Hospital, Bongaigaon.

102. Defence declined to cross-examine him.

103. PW- 421 Abdul Kuddus has deposed that he was a vegetable vendor. On 30-10-2008, he had been to the Kokrajhar Vegetable market for purchasing vegetables. At around 11:30 AM, while he was purchasing vegetables, a bomb exploded near him and splinters of the bomb hit on his right leg, as a result of which, he sustained grievous injuries. He was shifted to the Kokrajhar Civil Hospital for treatment and admitted therein. He was discharged after six/seven days. He has received compensation of Rs. 50,000/- from the State Government.

104. Defence did not challenge him in the cross-examination that on 30-10-2008, at around 11:20 am, at Kokrajhar vegetable market, a bomb blast did not take place and in the blast, P.W. 421 Abdul Kuddus did not sustain injuries and he did not receive compensation of Rs. 50,000/- from the State Government.

105. PW- 260 Smt. Arati Sarkar has deposed that she was a vegetable vendor. On the day of the occurrence, while she was selling vegetables at the Kokrajhar vegetable Market, a bomb exploded in the market and splinters of the bomb hit on her head, right hand and other parts of the body and she became unconscious. She was shifted to the Kokrajhar Civil Hospital for treatment. She has not yet fully recovered from the injuries sustained in the blast. She has received compensation of Rs. 1,50,000/- from the State Government.

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106. Defence did not challenge her in the cross-examination that she did not sustain injuries in the bomb blast that has taken place at the Kokrajhar vegetable Market and that she did not receive compensation of Rs. 1,50,000/- from the State Government.

107. PW- 266 Lawjeng Basumatary has deposed that on 30.10.2008, at around 11:30 AM, while he had been to the Barabazar, Kokrajhar, a bomb exploded in the market and splinters of the bomb hit on his right leg and left hand. He was shifted to the Kokrajhar Civil Hospital for treatment. He has received compensation of Rs. 50,000/- from the State Government.

108. Defence did not challenge him in the cross-examination that on 30.10.2008, at around 11:30 AM, at Barabazar, Kokrajhar, a bomb explosion did not take place and that he did not sustain injuries in the blast.

109. PW- 298 Vijay Kumar Pal has deposed that he had a temporary cosmetics' shop at Barabazar, Kokrajhar. On 30.10.2008, at around 11:30 AM, while he was present in his said shop, a bomb exploded near the *Kali Mandir* and splinters of the bomb hit on his forehead. He was shifted to the Kokrajhar Civil Hospital for treatment. He has received compensation of Rs. 50,000/- from the State Government.

110. Defence did not challenge him in the cross-examination that on 30.10.2008, at around 11:30 AM, near the *Kali Mandir* at Barabazar, Kokrajhar town, a bomb explosion did not take place and that he did not sustain injury in the blast.

111. PW- 296 Bakey Lal Mandal has deposed that he used to sale mat on the footpath near the Bhai Bhai Hotel, situated near the Railway Gate at Kokrajhar town. On 30.10.2008, at around 11:30 AM, while he was selling mat, a bomb exploded near the Railway Gate and splinters of the bomb hit on different parts of his body. He was shifted to the Kokrajhar Civil Hospital for treatment. He has received compensation of Rs. 50,000/- from the State Government.

112. Defence did not challenge him in the cross-examination that on 30.10.2008, at around 11:30 AM, near the Bhai Bhai Hotel, situated near the

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Railway Gate at Kokrajhar town, a bomb explosion did not take place and that the PW- 296 did not sustain injuries in the explosion.

113. PW-34 Dr. R. Chaliha, Professor & Head of the Department of Forensic Medicine, Gauhati Medical College & Hospital, Guwahati, who had conducted postmortem examinations on the dead bodies of the following blast victims, namely Yazul Haque, Nekib Ali, Hari Prasad Sarkar and Musaraf Ali, has deposed that, in his opinion, the deceased died as a result of the injuries described in the postmortem reports. All the injuries were anti-mortem in nature and were caused by blunt force impact and consistent with the blasting effect of explosive substances.

114. Defence declined to cross examine him.

115. PW- 34 Dr. R. Chaliha has also proved the postmortem examination reports issued by some other doctors of the Department of Forensic Medicine, Gauhati Medical College & Hospital and has deposed that the said doctors have also opined that the deceased died due to the injuries sustained in the aforesaid bomb blast. Therefore, PW 34 has proved that all the above named deceased died due to the injuries sustained in the aforesaid bomb blast.

116. PW- 33 Dr. Pradip Thakuria, Assistant Professor, Forensic Medicine, Gauhati Medical College and Hospital, Guwahati has deposed that on 31.10.2008, he conducted postmortem examinations on the dead bodies of, (1) Yedukondalu (2) Sujut Acharjee and (3) Rohit Das in connection with the Dispur P.S. Case No. 1825/2008. In his opinion, the deceased died due to shock and hemorrhage as a result of the injuries sustained. All the injuries were anti-mortem in nature and consistent with the bomb blast incident.

117. In the cross-examination, he has stated that his opinion about the cause of death were not presumptive. The injuries he has described in the postmortem report were consistent with bomb blast affect. Without dissecting body, he could not have recorded his findings. Dissection is the initial part of postmortem examination.

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118. Defence did not challenge him in the cross-examination that the deceased Yedukondalu, Sujut Acharjee and Rohit Das did not die due to the shock and hemorrhage as a result of the injuries sustained and the injuries were not consistent with the bomb blast. Thus, by cross examining the P.W.33, the defence has established that the deceased Yedukondalu, Sujut Acharjee and Rohit Das died due to the injuries sustained in the bomb blast.

119. PW- 89 Dr. Dipak Kumar Das, who has conducted postmortem examinations on the dead bodies of the deceased victims, namely 1. Mahesh Chandra Saud, 2.Noor Hussain, 3.Ajit Nath, 4.Pitalu T-Yeptho, 5.Dometrvst, 6.Syntem, 7.Rajesh Choudhury and 8. Swadhin Das, has deposed that in his opinion, all the deceased died due to the injuries caused by blunt force impact, which were consistent with the bomb blasts incident.

120. In the cross-examination, he has stated that he has not mentioned in the postmortem reports whether the injuries were inverted or averted. Defence did not challenge him in the cross-examination that the deceased victims did not die due to the injuries caused by blunt force impact and the injuries were not consistent with the bomb blasts incident.

121. PW-100 Dr. Anjan Jyoti Bhuyan has deposed that on 30.10.2008, he was working at the Dispur Polyclinic as a consultant ENT Surgeon. On that day, he examined one Manoj Sharma who had suffered multiple lacerated injuries over face, neck and anterior chest wall. The injuries were caused by splinters of bomb blast. The injuries were grievous in nature. Ext. 177 is the injury report prepared by his assistant doctor, namely Dr. Bhupen Basumatary. Ext. 177 (1) is the signature of Dr. Bhupen Basumatary which he can identify. He has further deposed that on the same day, he examined one Mrs. Nabalakhshmi Tahbildar, who had sustained injuries on the medial cantus of the right eye and eye-ball, multiple lacerated injuries over right and left upper arms, multiple abrasions over anterior chest wall and abdominal wall, injuries to muface, neck and anterior chest wall. The injuries were caused by splinters of bomb blast. The injuries were grievous in nature. Ext. 178 is the injury report prepared by his assistant doctor, namely Dr. Bhupen

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Basumatary. Ext. 178 (1) is the signature of Dr. Bhupen Basumatary, which he can identify.

122. Defence declined to cross examine him. Therefore, it must be held that the blast caused grievous injuries to Manoj Sharma and Mrs. Nabalakhshmi Tahbildar.

123. PW-547 Upen Bora, Deputy Director, Explosive Division, F.S.L. Assam, Guwahati has deposed that in connection with Kokrajhar P.S. Case No.371 / 2008, he had examined some broken pieces of a bicycle marked by them as Ext.-A, one torn piece of a plastic bag marked by them as Ext.-B and 4 kilograms of soil marked by them as Ext.-C. After conducting proper chemical and analytical examination of the exhibits, he had arrived at the following conclusions: 1. Ext.-A is damaged due to an explosion, using high explosives. The name of the manufacturing company of the damaged bicycle could not be ascertained; however the serial No. of the bicycle was 0297322.2. Ext.-A, Ext.-B and Ext.-C contained TNT (Tri Nitro Toluene) which is a high explosive. Ext. 490 is the report prepared by him and Ext. 490 (i) is his signature therein.

In connection with Bongaigaon P.S. Case No.451 / 08, he had examined 65 grams soil marked by them as Ext.-A, one torn piece of cloth marked by them as Ext.-B and five pieces of iron marked by them as Ext.-C. After conducting proper chemical and analytical examination of the exhibits, he arrived at the following conclusions: 1. Ext.-A, Ext.-B and Ext.-C contained TNT (Tri Nitro Toluene) which is a high explosive. 2. He could not ascertain whether the Ext.-C were parts of an exploded bomb or not. Ext. 491 is the report prepared by him and Ext. 491 (i) is his signature therein.

In connection with Barpeta Road P.S. Case No.262 / 2008, he had examined 20 grams of debris marked by them as Ext.-A and 3 broken pieces of iron marked by them as Ex- B. After conducting proper chemical and analytical examination of the exhibits, he arrived at the following conclusions: 1. Ext.-A and Ext.-B contained traces of high explosive (RDX). Ext. 492 is the report prepared by him and Ext. 492 (i) is his signature therein.

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In connection with Barpeta Road P.S. Case No.261 / 2008, he had examined 18 grams debris marked by them as Ext.- A and 3 pieces of iron marked by them as Ext.-B. After conducting proper chemical and analytical examination of the exhibits, he had arrived at the following conclusions: 1. Ext.-A and Ext.-B contained traces of RDX, which is a high explosive. 2. Nature of timing device used could not be determined from the Ext.-A and Ext.-B. Ext. 493 is the report prepared by him and Ext. 493 (i) is his signature therein.

In connection with Dispur P.S. Case No.1419 / 08, he had examined one damaged part of a engine marked by them as Ext.- A and 256 grams of debris, mixed with soil, marked by them as Ext.-B. After conducting proper chemical and analytical examination of the exhibits, he had arrived at the following conclusions: 1. Ext.-A was the damaged engine of a Maruti-800 car (Engine No. F8B IN 3043461). The engine was damaged due to an explosion taking place inside the car. 2. Ext.-B contained Ammonium Nitrate and RDX. 3. The serial No. of the front tyres attached were: (i) JK TYRE- ULTIMA XP- JK 7 B017401 DEC. 02 (Left hand side), (ii) MRF ZIGMA-VT-60005417277 (Right hand side). Ext. 494 is the report prepared by him and Ext. 494 (i) is his signature therein.

In connection with Panbazar P.S. Case No.398 / 08, he had examined one damaged part of a engine marked by them as Ex- A and 520 grams of soil marked by them as Ext.-B. After conducting proper chemical and analytical examination of the exhibits, he arrived at the following conclusions: 1. Ext.-A was the part of a damaged engine of a Maruti-800 car (Engine No. F8DN 1074626). Ext.-A was damaged due to explosion taking place inside the car. 2. Ext-B contained Ammonium Nitrate and RDX. Ext. 495 is the report prepared by him and Ext. 495 (i) is his signature therein.

In connection with Panbazar P.S. Case No.399 / 08, he had examined one part of a damaged engine marked by them as Ext.- A and 490 grams of soil marked by them as Ex-B. After conducting proper chemical and analytical examination of the exhibits, he had arrived at the following conclusions: 1. Ext.-A was a damaged part of a Maruti car (Engine No. F8B IN 303447). 2. Ammonium Nitrate and RDX had been found in Ext.-B.3. The serial No. of the

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tyre attached to the engine was : (i) MRF-ZIGMA CC- RADIAL- 70-60375376469. Ext. 496 is the report prepared by him and Ext. 496 (i) is his signature therein.

Material Ext. XI is the Engine No. F8B-IN 3043461 of the above mentioned Maruti-800 car.

Material Ext. XII is the Engine No. F8DN-1074626 of the above mentioned Maruti-800 car.

Material Ext. XIII is the Engine No. F8B-IN-303447 of the above mentioned Maruti-800 car.

124. In the cross-examination, he has denied the suggestion that he did not find any evidence of explosive substance in the aforesaid engines. Therefore, by cross-examining him, defence has failed to bring out anything based on which it can be said that he was not telling the truth.

125. PW- 649 Dr. Sudhir Kumar Shukla has deposed that from 01.07.2009 to 31.01.2013, he was working as the Director, C.F.S.L., Chandigarh. in the year 2010, his Deputy Director namely, D. K. Kaushik conducted examination of the exhibits received of the cases. He had forwarded the reports prepared by D. K. Kaushik. Ext. 658 to Ext. 666 (nine reports) are the said reports prepared D. K. Kaushik. He had forwarded the said reports to the concerned officials. Ext. 667, Ext. 668, Ext. 669, Ext. 670, Ext. 671, Ext. 672, Ext. 673, Ext. 674 and Ext. 675 are forwarding letters of the reports and Ext. 667(1), Ext. 668(1), Ext. 669(1), Ext. 670(1), Ext. 671(1), Ext. 672(1), Ext. 673(1), Ext. 674(1) and Ext. 675(1) are his signatures therein. D. K. Kaushik has expired in the year 2013. He can identify his signatures. As per the Ext. 658 to Ext. 666, the said reports were prepared by D. K. Kaushik and he found Tri Nitrotoluene (TNT), Cyclotrimethylene Tri Nitramine (RDX) and Ammonium Nitrate in the exhibits, that he had examined. These are high explosives.

126. In the cross-examination, he has stated that he had forwarded the reports prepared by Late D. K. Kaushik.

127. Defence did not challenge him in the cross-examination that D. K. Kaushik did not find Tri Nitrotoluene (TNT), Cyclotrimethylene Tri Nitramine

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(RDX) and Ammonium Nitrate in the exhibits (seized articles) examined by him. The Ext. 658 to Ext. 666 reports are relating to seized articles of the nine serial bomb blast incidents. Therefore, as the C.F.S.L., Chandigarh found Tri Nitrotoluene (TNT), Cyclotrimethylene Tri Nitramine (RDX) and Ammonium Nitrate in the seized articles, which are "special category explosive substances", all the nine serial bomb explosions were caused using special category explosive substances.

128. The investigating officer has also obtained prior sanction and consent for prosecuting the accused as per the provisions of the Cr.P.C, the Explosive Substances Act, 1908 and the Unlawful Activities (Prevention) Act, 1967.

129. PW- 222 Rajiv Kumar Bora, Commissioner and Secretary, Home and Political Departments, Government of Assam has deposed that on 25.05.2009, he granted sanction to prosecute the accused Nilim Daimari and nineteen others for commission of offenses punishable under sections 10, 13, 16, 18 and 20 of the Unlawful Activities Prevention Act. The Ext. 216 order and Ext. 216 (i) is his signature in the last page and Ext. 216 (ii) to (vi) are his initials in the first six pages of the order. He has also granted sanction to prosecute the accused Nilim Daimari and nineteen others for commission of offenses punishable under sections 121, 121A, 122 and 123 IPC. Ext. 217 is the order and Ext. 216 (i) is his signature in the last page and Ext. 217 (ii) to (vi) are his initials in the first six pages of the order.

130. PW-223 Prateek Hajela, has deposed that on 20.05.2009, he has granted sanction to prosecute the accused Nilim Daimari and nineteen others for commission of offenses punishable under sections 3 and 4 of the Explosive Substances Act, 1908. Ext. 218 is the said sanction order and Ext. 218 (i) is his signature in the last page of the sanction order.

131. PW-225 Carol Narzary, PW-226 Jishnu Barua and PW-226 Utpalananda Sarma are the other sanctioning authority and they have deposed that after perusing the documents placed before them and applying their mind, they granted sanction to prosecute the accused persons.

132. PW-646 Narayan Singh Yadav, the investigating officer, inter alia, deposed that vide Notification No. S.O.2008 (E), dated 23rd November, 2006,

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the Government of India declared the NDFB as an unlawful association. Ext. 656 (five sheets) is the copy of the said Notification. Thereafter, vide Notification No. S.O.2714 (E), dated 23rd November, 2008, the Government of India again declared the NDFB as an unlawful association. Ext. 314 (one sheet) is the copy of the said Notification.

133. Defence did not challenge him in the cross-examination that the Ext. 656 and Ext. 314 are not genuine documents. Therefore, the prosecution has proved beyond all reasonable doubt that on the day of the serial bomb explosions on 30. 10.2008, the NDFB was an unlawful association, declared unlawful by notifications issued under Section 3 of the Unlawful Activities Prevention (Act), 1967, which has become effective under sub-section (3) of that Section.

134. Prosecution examined hundreds of other injured witnesses, relatives of the deceased victims, owners of the business establishments and vehicles damaged in the blasts, medical officers who had treated the injured victims and conducted postmortem examinations on the dead bodies of the deceased victims. But, in view of the discussion made above and for the sake of brevity, I refrain from discussing the testimonies of the said witnesses as the testimonies of the witnesses discussed above have proved beyond all reasonable doubt that on 30-10-2008, in between 11.20 AM and 11.30 AM, a series of nine bomb explosions took place at nine places in four districts of Assam, viz., Kamrup (Metropolitan), Bongaigaon, Barpeta and Kokrajhar, that in Kamrup District, the bombs were exploded inside the C.J.M. court complex, near the Baptist Church Complex and under the Ganeshguri Flyover, in Bongaigaon District, the bomb was exploded at the old Paglasthan bus stand, in Barpeta District, the bombs were exploded at Barpeta Road wholesale vegetable market and at Choudhury Shopping Complex, Barpeta Road, in Kokrajhar District, the bombs were exploded at the Vegetable market, Railway crossing and Fish market of Kokrajhar town, that the explosions were caused using special category explosive substances, that the blasts killed eighty eight people and injured five hundred forty people, that the blasts caused damage to the movable and immovable properties and that the Central and the State

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governments paid compensations to the injured victims, relatives of the deceased victims and owners of the business establishments damaged in the blasts. The defence even did not deny the same.

135. Further, in their examinations under Section 313 Cr.P.C. regarding what they have to say about the serial bomb explosions that killed eighty eight people, injured five hundred and forty people and caused large-scale damage to movable and immovable properties, some of the accused have stated that they have nothing to say about the same, some of them have expressed their heartfelt condolences to the members of the bereaved families of the deceased victims and sympathy to the injured victims and the accused Mridul Goyari has stated that he strongly condemn the bomb blast incidents. In view of the above, there is no necessity to dilate on this part of the prosecution case.

136. Therefore, the questions that require to be answered in this case are whether the accused persons are members of the banned NDFB organization and at the instance of its chairman/president namely, the accused Ranjan Daimari, they hatched the conspiracy to cause serial bomb explosions and also caused the nine serial bomb explosions?

137. It is the case of the prosecution that the accused Ranjan Daimari was the mastermind behind the nine serial bomb explosions and at his instance; the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Rajendra Goyari @ Rifikhang, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and absconding accused Dinthilang and S. Ulafat and the other co-accused, hatched the conspiracy to cause the serial bomb explosions in Guwahati and other parts of Assam and pursuant to the said conspiracy, caused the nine serial bomb explosions on 30.10.2008. It is also the case of the prosecution that the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Baishagi Basumatary @ B. Bithurai and absconding the accused Tarun Boro and Jitu Daimari were involved in causing the bomb explosion under the Ganeshguri Flyover, the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and absconding accused Thungri Boro and Dinesh Boro were involved in causing the bomb explosion in the CJM Court

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complex and the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Prabhat Boro @ Tapa and Raju Sarkar were involved in causing the bomb explosion near the Baptist Church complex, Panbazar, Guwahati.

138. It is also the case of the prosecution that the miscreants who had caused the bomb explosions at the Vegetable market, Railway crossing and Fish market at Kokrajhar, at Choudhury Shopping Complex and Vegetable Market at Barpeta Road and at old Paglasthan bus stand, Bongaigaon, could not be identified. It is also the case of the prosecution that in the meeting dated 19.10.2008, the responsibility of causing the bomb explosions in Kokrajhar and Bongaigaon were entrusted to the absconding accused S. Ulafat and the responsibility of causing the bomb explosions at Barpeta was assigned to the accused Rajendra Goyari @ Rifikhang and the other accused aided and abetted the causing of the bomb explosions. Therefore, let us discuss the evidence on record to see whether the prosecution has been able to prove the same beyond all reasonable doubt?

(1) CASE OF THE ACCUSED RANJAN DAIMARI

139. The charge-sheeted absconding accused Ranjan Daimari was arrested on 16.05.2010 and was remanded to judicial custody. He had filed several bail petitions and vide order dated 11.04.2013, the learned Sessions Judge, Kamrup (M), Guwahati allowed one such bail petition. The bailorder dated 11.04.2013 shows that the accused Ranjan Daimari is the Chairman of the NDFB faction headed by him. Further, even after his arrest, he has been controlling the NDFB. The relevant portion of the bail order dated 11.04.2013 is reproduced below:-

"...The above named accused is charged with engineering the October, 2008 serial blasts in several parts of the State, including Guwahati. The C.B.I., which investigated the case, had charge sheeted 22 accused in the said case of which, 14 including accused Ranjan Daimari had been arrested and are presently detained in the judicial custody.

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It may be mentioned here that initially, accused Ranjan Daimari filed a petition praying for interim bail. In respect of the said prayer, C.B.I. had earlier set 12 conditions/ restrictions to be imposed if the Court allows the prayer of bail of the accused. Subsequently, on 03.04.2013, the accused, above named, filed another petition stating that he is willing to comply with all the reasonable restrictions and conditions as suggested by the C.B.I. that may be imposed by the Court in the bail order subject to the stipulation that he should be granted regular bail.

Accused Ranjan Daimari is the Chairman of the NDFB faction headed by him and currently discussions are going on between him and the Government of India through Sri P.C. Haldar, former Home Secretary to the Government of India, who has been appointed as the interlocutor by the Central Government with a view to amicably resolve the issues relating to Bodo people.

In the meantime, the NDFB, in view of the dialogue initiated by the Government of India and the State Government, has declared unilateral cease fire with effect from 01.08.2011 with a view to express their solidarity in respect of the talk going on between the NDFB and the Government.

It has been submitted on behalf of the accused that because the Central Government as well as the State Government has agreed to make every effort for a permanent solution of all the issues raised by the NDFB, through bi-lateral talk, the release of the accused being the Chairman of the NDFB is very much essential to enable him to take part in the aforesaid peace talk which, according to accused, cannot effectively go on, while the NDFB Chairman is detained in the jail.

It is further submitted on behalf of the accused that the ongoing trial before this Court is likely to take a considerable long period for final disposal, as there are more than 800 witnesses to be examined in the case.

In view of the above discussion, taking into account the circumstances referred to above, and also in view of the ongoing peace process between the NDFB and the Government of India, keeping in mind the

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greater interest of the country, accused Ranjan Daimari is directed to be released on his executing a bail Bond of Rs/- 3,00,000/- (Rupees three lakh) with two sureties of like amount on the following conditions..."

140. The learned senior counsel for the accused vehemently argued that the accused is not bound by his pleadings and hence, based on the grounds taken by him in the bail petition, he cannot be held to be the chairman / president of the NDFB organization. The learned senior counsel relied upon the case of **Pratap Misra vs. State of Orissa, reported in AIR 1977 3 SCC 41**, wherein the Hon'ble Supreme Court has held that, "*...The learned Sessions Judge dismissed the plea of consent on the ground that it was not pleaded by the accused completely losing sight of the fact that in a criminal case the accused was not bound by his pleading and it was open to the accused to prove his defence even from the admissions made by the prosecution witnesses or the circumstances proved in the case...*" I do not agree with this contention of the senior counsel for the accused. The above order is not pleading of the accused Ranjan Daimari. The facts and circumstances of the case referred to by the learned senior counsel for the accused is completely different from the facts and circumstances of the instant case. The accused also cannot approbate and reprobate at the same time. Hence, the contention of the learned senior counsel for the accused is liable to be rejected.

141. Further, PW-320 Manjit Basumatary has deposed that before the NDFB entered into the cease fire agreement, the accused Ranjan Daimari was the chairman, Gobinda Basumatary was the general secretary and Dhiren Boro was the vice-president of the NDFB. In the year 2009, Shri Dhiren Boro was the chairman of the NDFB. He has also deposed that Ulafat was an NDFB cadre and Ulafat has already expired. Dinthilang was the army chief of the NDFB.

142. Defence did not challenge thePW-320 in the cross-examination that he has deposed falsely. Therefore, it must be held that till 2009, the accused Ranjan Daimari was the chairman/president of the NDFB.In the case

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of **Mukesh Vs. State (NCT of delhi)**, reported in (2017) 6 SCC 1, the Hon'ble Supreme Court held that, "205. *The aforesaid submission can be singularly rejected without much discussion on the foundation that a question to that effect was not put to the doctors in their respective cross-examinations...*" This suggests that if the defence wants the court to reject the testimony of a witness, then it has to challenge the witness in the cross-examination that he was not telling the truth or has deposed falsely. Unchallenged testimony of a witness must be accepted to be true.

143. In his examination under section 313 Cr.P.C., the accused Ranjan Daimari has refused to comment on the deposition of the PW-302. The refusal, in the facts and circumstances of the case, must be held to be his admission of the fact that whatever the PW-320 Manjit Basumatary has deposed is true.

144. In the case of **DHAL SINGH DEWANGAN Vs. STATE OF CHHATTISGARH**, reported in AIR 2016SC 4745, the Hon'ble Supreme Court has held as follows :-

"24... As per Section 106 of the Evidence Act, it is the duty of the accused to explain the incriminating circumstance proved against him while making a statement under Section 313 of Cr.P.C. Keeping silent and not furnishing any explanation is an additional link in the chain of circumstances to sustain the charges against him..."

145. Again in the case of **RAMNARESH AND OTHERS Vs. STATE OF CHHATTISGARH**, reported in (2012) 4 SCC 257, the Hon'ble Supreme court has held as follows:-

"21. In terms of Section 313 Code of Criminal Procedure, the accused has the freedom to maintain silence during the investigation as well as before the Court. The accused may choose to maintain silence or complete denial even when his statement u/s 313 Code of Criminal Procedure is being recorded, of course, the Court would be entitled to draw an inference, including adverse inference, as may be permissible to it in accordance with law. Right to fair trial, presumption of innocence unless proven guilty and

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proof by the prosecution of its case beyond any reasonable doubt are the fundamentals of our criminal jurisprudence. When we speak of prejudice to an accused, it has to be shown that the accused has suffered some disability or detriment in relation to any of these protections substantially. Such prejudice should also demonstrate that it has occasioned failure of justice to the accused. One of the other cardinal principles of criminal justice administration is that the courts should make a close examination to ascertain whether there was really a failure of justice or whether it is only a camouflage, as this expression is perhaps too pliable. (Ref. Rafiq Ahmed @ Rafi Vs. State of U.P., AIR 2011 SC 3114, (2011) 8 SCC 300).

22. It is a settled principle of law that the obligation to put material evidence to the accused u/s 313 Code of Criminal Procedure is upon the Court. One of the main objects of recording of a statement under this provision of the Code of Criminal Procedure is to give an opportunity to the accused to explain the circumstances appearing against him as well as to put forward his defence, if the accused so desires. But once he does not avail this opportunity, then consequences in law must follow. Where the accused takes benefit of this opportunity, then his statement made u/s 313 Code of Criminal Procedure, in so far as it supports the case of the prosecution, can be used against him for rendering conviction. Even under the latter, he faces the consequences in law."

146. Further, in his examination under Section 313 Cr.P.C. that he was the chairman/president of the banned NDFB organization, declared as an unlawful association by the Government of India vide Notification Nos. S.O.2006 (E), dated 23rd November, 2006, (F. No. 11011/48/2006/NE.III) and S.O. 2714 (E), dated 23rd November, 2008, (F.No. 11011/54/2008-NE.III), the accused Ranjan Daimari again refused to say anything. Therefore, the refusal, in the facts and circumstances of the case, must be held to be his admission that since inception and till his arrest and even on the day of his examination, he was the chairman/president of the banned NDFB organization.

147. Further, PW-499 Ismail Ali and PW-502 Diganta Barman, in whose

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presence the e-mail accounts of the accused Ranjan Daimari were opened, have deposed that the e-mail accounts were opened after the accused Ranjan Daimari gave the passwords. PW-499 and PW-502 have exhibited the printouts of some of the e-mails of the accused Ranjan Daimari. Ext. 418(v) e-mail of the accused Ranjan Daimari shows that he had signed the e-mail as D.R. Nabla, President, NDFB. Ext. 418 (v) e-mail is reproduced below:-

"From: "Yoko Tachi" <tachi.yoko@yahoo.com>

To: Jangjing2009@gmail.com

PRESS RELEASE

18.11.09

A general meeting of NDFB was held on the 29th and 30th October, 2009 with a view to form National Council of NDFB and to appoint the Chief of Army Staff and Deputy Chief of Army Staff of Boroland Army and Commanding and Deputy Commanding Officers of the Four Commands and to discuss various issues and problems of the party. The meeting was chaired by D.R. Nabla, the President of NDFB and N Dinthi Gawra, the Spokesman of NDFB was unanimously elected as the recording secretary for the meeting. The meeting after detailed and lengthy deliberation unanimously resolved to form the National Council consisting of seven members and adopted the following resolutions.

The meeting has unanimously formed the National Council, the highest executive and decision making body of the NDFB, consisting of seven members.

The elected seven members of the National Council are:

Ronsaigra Nabla Daimari - President

Dinthi Gwra Narzary - General Secretary

Ohnjalu Basumatary - Information and Publicity Secretary

Barbai Basumatary - Assistant Information and Publicity

Secretary

Rifikhang Goyari - Finance Secretary

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Rwjab Deka - Organizing Secretary

Danswrang Narzary - Member

The meeting has unanimously appointed Captain Songbijit Ingti Kathar and Lieutenant Jwngkhang Boro as the Chief of Army Staff and Deputy Chief of Army Staff of Boroland Army respectively.

After a detailed discussion, the meeting has resolved to centralize all operations of the Boroland Army and ask to refrain from activities that may adversely affect the party as a whole and that are against the revolutionary ethics. The meeting has also resolved that any major or serious activity or action must be done only through consultation with the highest authority of the party.

The meeting has resolved and vowed to work and fight together with vigor and determination to liberate Boroland and the Western South East Asia, the so called "North-East India"

D.R. Nabla
President, NDFB"

148. It can be seen from the Ext. 418 (v) e-mail that the accused Ranjan Daimari @ D.R. Nablawas the president of the NDFB and he had issued the Ext. 418 (v) e-mail, which is a Press release, stating that on 29.10.2009 and 30.10.2009, a general meeting of the NDFB was held and in the said meeting the National Council of the NDFB was constituted.

149. Defence did not challenge the PW-499 and PW-502 in the cross-examinations that the e-mail accounts of the accused Ranjan Daimari were not opened after he provided the passwords or that the exhibited printouts of the e-mails were not the e-mails of the accused Ranjan Daimari.

150. Further, in his examination under Section 313 Cr.P.C. regarding what he has to say about the Ext. 418(V) e-mail, the accused Ranjan Daimari has again refused to comment. Therefore, his refusal, in the facts and circumstances of the case, must be held to be his admission of the fact that he is the author of the the Ext. 418(V) e-mail.

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151. PW-590 Gopal Rabha has deposed that he knows the accused Nilim Daimari. One day, the accused Nilim Daimari came to his house and told him that he was suffering from some ailment and the accused Ranjan Daimari had sent him to his house providing him financial assistance. PW-590 Gopal Rabha has further deposed that he told the accused Nilim Daimari that he did not have much money and gave him Rs. 5,000/- for his treatment. Defence declined to cross-examine him. Therefore, the testimony of the PW-590 Gopal Rabha must be accepted to be true in toto. Therefore, PW-590 Gopal Rabha has proved beyond all reasonable doubt that the accused Ranjan Daimari was the supreme leader of the NDFB and the people were paying ransom to the NDFB cadres at the mere mentioning of his name.

152. That PW-590 Gopal Rabha was telling the truth can also be gauged from the fact that the accused Nilim Daimari was in fact suffering from some ailment and he was admitted in the Dispur Polyclinic and Nursing Home. PW-144 Dr. Kaustav Kumar Das has deposed that on 04.08.2008, Nilim Daimari was admitted in the Dispur Polyclinic and Nursing Home and was discharged on 07.08.2008. Ext. 173 (v) and Ext. 173 (xxi) are prescriptions relating to the treatment of Nilim Daimari written by him. Defence declined to cross-examine him. In view of the above, it is crystal clear that the accused Ranjan Daimari was the supreme leader of the of the NDFB and the people like the PW-590 Gopal Rabha was paying ransom to the NDFB cadres at the mere mentioning of his name.

153. That the accused Ranjan Daimari was the supreme leader of the NDFB is also proved by the confessional statement of the co-accused Onsai Boro @ Ajit Boro. The co-accused Onsai Boro @ Ajit Borohas stated in his confessional statement that in the month of July, 2008, the absconding accused Dinthilang and Ulafat told him that the accused Ranjan Daimari had called him and directed him go to Bangladesh to meet the accused Ranjan Daimari. Accordingly, the accused Onsai Boro @ Ajit Boro went to Dhaka, Bangladesh and met the accused Ranjan Daimari there. The accused Ranjan Daimari told him that he has given the command to Dinthilang and that he should follow the command of Dinthilang. Therefore, it is crystal clear that as

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the accused Ranjan Daimari was the supreme leader of the NDFB, the accused Onsai Boro @ Ajit Boro went to Dhaka, Bangladesh to meet him as per the instructions of the absconding accused Dinthilang and Ulafat. Otherwise, the accused Onsai Boro @ Ajit Boro would not have gone to Dhaka, Bangladesh to meet the accused Ranjan Daimari.

154. In the case of **HARI CHARAN KURMI AND JOGIA HAJAM Vs. STATE OF BIHAR**, reported in **AIR 1964 SC 1184**, the Hon'ble Supreme Court has held as follows:-

"11. The question about the part which a confession made by a co-accused person can play in a criminal trial, has to be determined in the light of the provisions of s. 30 of the Act. Section 30 provides that when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. The basis on which this provision is found is that if a person makes a confession implicating himself, that may suggest that the maker of the confession is speaking the truth. Normally, if a statement made by an accused person is found to be voluntary and it amounts to a confession in the sense that it implicates the maker, it is not likely that the maker would implicate himself untruly, and so, s. 30 provides that such a confession may be taken into consideration even against a co-accused who is being tried along with the maker of the confession. There is no doubt that a confession made voluntarily by an accused person can be used against the maker of the confession, though as a matter of prudence criminal courts generally require some corroboration to the said confession particularly if it has been retracted..."

155. In the instant case, the other evidence against the accused Ranjan Daimari discussed above is corroborated by the retracted confession of the co-accused Onsai Boro. Hence, the evidence must be accepted to be true.

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156. The confessional statement of the co-accused Onsai Boro has been discussed below and the same has been found to be voluntary, inculpatory and true and hence, the same can be used against the accused Ranjan Daimari.

157. Further, the Ext. 42 letter (Photostat copy of the Ext. 42 letter is exhibited by the the investigating officer (PW-646 Narayan Singh Yadav), as Ext. 687), recovered from the possession of the accused Nilim Daimari shows that the same was written by B. Jwankhang. B. Jwankhang is the accused George Boro as the accused George Boro uses the aliases of John and B. Jwangkhang. As can be seen from the translated copy of the Ext. 42 letter exhibited by the PW-29, the same was addressed to the "Hon'ble Sir" and though, it is not stated who the "Hon'ble Sir" is, the "Hon'ble Sir" must be the accused Ranjan Daimari as he is the supreme leader of the NDFB. Vide Ext. 42 letter, the accused George Boro had informed the accused Ranjan Daimari that when everything becomes ready, the work will be done and that, when their side will be ready, the work will be done. By "the work will be done" the accused George Boro must have meant causing the serial bomb blasts as they were preparing for causing the serial bomb blasts only. The accused George Boro had also requested the accused Ranjan Daimari to send the accused Ajay Basumatary @ B. Aogi and one Sagrid to Assam in the 3rd week of September, 2008. The Ext. 42 letter proves that the NDFB cadres in Assam were informing the accused Ranjan Daimari about their activities and were seeking his guidance and assistance for carrying out their activities. Therefore, it must be held that the accused Ranjan Daimari was the mastermind behind the serial bomb explosions.

158. The un-edited translated copy of the Ext. 42 letter, translated by the PW-29, is reproduced below.

"Hon'ble Sir,

Revolutionary wishes and respect offer to you firstly. Hope you and all are good. We are also as usual.

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I received all letters send by you and Danswring Sir. Our works are go on as per discussion. The situation of land is like that, I heard, the discussion is going on about the revision of Charter of Demand trough meeting. But what is done it is not known to me fully. It is known to me that Manjid is always present in the meeting of organization, whether it may be councils meeting or any discussion of the organization. It is for odd looking that the organization is guided by a businessman. I do not know why Marjid is attending in organization's meeting. In front of a non-member, what decision will taken or what to do of our organization, it is not known to other person. He had no experience to give advice to organization or the Boro Nation. Any way our organization decided to guide the Nation and freedom then our leaders have do their works as per constitution, on the other hand, some public or businessman guided our organization, it is not good, I think.

It is heard to me that ceasefire is extended for one month. That means this September month.

At present Jugami madam and Baisagi were in West i.e. at the side of Ulafat Sir, I do not meet them, if necessary I will meet them.

I will help Gandhis work as possible as I got a channel experience holder Oma supplier. When everything will be ready, then I will meet him and work will be done by him. He is in contact. I think when our side will be ready then work will be done.

It is better to send advancely Aogai and Sagrid on 3rd week of September.

Charter of Demand will distributed after printing. It will be done within short days. Before received the letter by you.

At last I offer my pray, respect and hope your reply and hope, meeting to you sometime. The end.

Always with you

Yours faithfully

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B. Jwngkhang

02/09/08"

159. That the accused Ranjan Daimari was not satisfied with the cease-fire agreement can also be gauged from the confessional statement of the co-accused Onsai Boro @ Ajit Boro. The accused Onsai Boro @ Ajit Boro has stated in his confessional statement that the accused Ranjan Daimari had told him that in spite of the cease-fire agreement, the Bodo youths were killed. Therefore, they should not remain idle and that he has given command to Dinthilang and the accused Onsai Boro @ Ajit Boro should follow the command of the Dinthilang. As thereafter, the accused Onsai Boro @ Ajit Boro returned to Assam and told Dinthilang and S. Ulafat about his meeting with the accused Ranjan Daimari and S. Ulafat asked him to attend the meeting dated 19.10.2008. When he refused to attend the meeting, he was asked to arrange a motorcycle and he arranged the motorcycle. The same shows that the meeting dated 19.10.2008 was organized as per the instructions of the accused Ranjan Daimari. Further, as in the said meeting, the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary, Rajendra Gayari @ Rajen @ Rifikhang and the absconding accused Dinthilang and S. Ulafat took the decision to cause the serial bomb explosions on 30.10.2008 and thereafter, nine serial bomb explosions were caused on 30.10.2008, it must be held that the accused Ranjan Daimari was the mastermind behind the conspiracy to cause the serial bomb explosions and also guilty of causing the nine serial bomb explosions on 30.10.2008.

160. In view of the above discussion, it must be held that the accused Ranjan Daimari is the chairman/president of the banned NDFB organization and at his instance; the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Rajendra Goyari @ Rifikhang, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and absconding accused Dinthilang and S. Ulafat and the other co-accused hatched the conspiracy to cause the serial bomb explosions in Guwahati and other parts of Assam and pursuant to the said conspiracy, they caused the nine serial bomb explosions on

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30.10.2008. Therefore, the accused Ranjan Daimari must be held guilty of masterminding the serial bomb explosions.

161. Further, in his examination under Section 313 Cr.P.C., the accused Ranjan Daimari has refused to answer questions regarding his connection with the NDFB. Therefore, by remaining silent, to which he is entitled to, in the facts and circumstances of the case, the accused Ranjan Daimari has admitted the said questions to be true. Further, the accused Ranjan Daimari was granted bail by the learned Sessions Judge to enable him to take part in the discussion going on between the NDFB and the Government of India as he was the Chairman of the NDFB. Therefore, it must be held that the accused Ranjan was the Chairman of the NDFB. Perhaps, because of that, he did not deny the same as the denial would have made him liable to be prosecuted and punished for committing the offence of perjury on the face of the court.

162. The fact that the accused Ranjan Daimari is the president/ chairman of the NDFB since before its inception till the day of his arrest and even after his arrest and during the trial, can be gauged from the fact that he was granted bail to take part in the discussion with the Central Government on that ground. Further, as has been held above, the accused Geroge Boro wrote to the accused Ranjan Daimari the Ext. 42 letter though, he did not receive the same, to let him know about the happenings in Assam. The same proved beyond all reasonable doubt that the accused Ranjan Daimari was controlling the activities of the NDFB. From the confessional statement of the co-accused Onsai Boro @ Ajit Boro also, it is crystal clear that all the other leaders of the NDFB, including their army chief Dinthilang, were carrying out their activities as per the instructions of the accused Ranjan Daimari. Otherwise, the accused Dinthilang would not have directed the accused Onsai Boro to go to Bangladesh to meet the accused Ranjan Daimari and the accused Onsai Boro also would not have gone to Bangladesh to meet the accused Ranjan Daimari. As the accused Onsai Boro has stated in his confessional statement that in Dhaka, he met the accused Ranjan Daimari and the accused Ranjan Daimari had told him that despite the cease-fire agreement, the Bodo youths were

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killed, they should not remain idle and directed him to return to Assam and work as per the direction of Dinthilang, and the accused Onsai Boro also obeyed the same, the same proved beyond all reasonable doubt that the accused Ranjan Daimari was the supreme leader of the NDFB and the other leaders/cadres of the NDFB were carrying out their activities as per his instructions. The accused Ajay Basumatary has also stated in his confessional statement that the accused Dinthilang told him in the meeting dated 19.10.2008 that he has received instructions from the "higher up" to explode bombs in Guwahati and other parts of Assam. In his examination under section 313 Cr.P.C., the accused Ajay Basumatary has refused to say anything about who the "higher up" in the NDFB is. But, as has been discussed above, the accused Ranjan Daimari is the only "higher up" in the NDFB. In view of the above, it must be held that the other accused persons caused the nine serial bomb explosions as per instructions of the accused Ranjan Daimari.

163. The confessional statement of the co-accused Ajay Basumatary and Onsai Boro @ Ajit Boro are discussed below and the same are voluntary, inculpatory and true and hence, the same can be used against the accused Ranjan Daimari and the other co-accused named by them as the conspirators and involved in causing the serial bomb explosions, guilty of the same.

164. In **HARI CHARAN KURMI (supra)**, the Hon'ble Supreme Court has held as follows:-

"...it has been a recognised principle of the administration of criminal law in this country for over half a century that the confession of a co-accused person cannot be treated as substantive evidence and can be pressed into service only when the court is inclined to accept other evidence and feels the necessity of seeking for an assurance in support of its conclusion deducible from the said evidence..."

165. In the case of **Shankaria Vs. State of Rajasthan, reported in AIR 1978 SC 1248**, a three-Judge Bench of the Hon'ble Supreme Court has noted the twin tests to be applied to evaluate a confession: "(1) whether the confession was perfectly voluntary and (2) if so, whether it is true and

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trustworthy. The learned Judge pointed out that if the first test is not satisfied the question of applying the second test does not arise. Then the Court indicated one broad method by which a confession can be evaluated. It was said:

"The Court should carefully examine the confession and compare it with the rest of the evidence, in the light of the surrounding circumstances and probabilities of the case. If on such examination and comparison, the confession appears to be a probable catalogue of events and naturally fits in with the rest of the evidence and the surrounding circumstances, it may be taken to have satisfied the second test."

166. As can be seen from the discussion made above, the confessional statement of the accused Ajay Basumatary @ B. Aogi fulfills all the above tests.

167. In view of the above, the confessional statement of the accused Ajay Basumatary @ B. Aogi must be held to be voluntary and true and based on his retracted confession, which is corroborated by the oral and circumstantial evidence as discussed above, it must be held that, at the instance of the accused Ranjan Daimari, the accused Ajay Basumatary @ B. Aogi conspired with the co-accused named by him to cause the serial bomb explosions on 30.10.2008 and actually caused the bomb explosion under the Ganeshguri flyover.

168. But, during trial, the accused Ajay Basumatary @ B. Aogi and Onesai Boro @ Ajit Boro retracted from their confession.

169. Relying on the case of **KALAWATI AND ANOTHER Vs. STATE OF H.P., reported in AIR 1953 SC 131**, the learned senior counsel for the defence vehemently argued that a retracted confession cannot form the basis of conviction. The learned senior defence counsel relied upon the para 8 of the said judgment, which reads as follows:-

"8. It was contended that if an accused person retracted his or her confession, it should not be used against him or her at all, as it would

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contravene article 20(3) of the Constitution, which provides that no person accused of any offence shall be compelled to be a witness against himself. It is difficult to see the force of this point. A confession has to be voluntary before it can be used against a person making it, and a magistrate is bound to satisfy himself that it is being made without any inducement, threat or promise. No person accused of a crime is bound to make a confession, and if there is any compulsion or threat, it has to be ruled out as irrelevant and inadmissible. Sub-section (3) of article 20 does not apply at all to a case where the confession is made without any inducement, threat or promise. It is true that a retracted confession has only little value as the basis for a conviction, and that the confession of one accused is not evidence against a co-accused tried jointly for the same offence, but can only be taken into consideration against him. This deals with its probative value and has nothing to do with any repugnancy to the Constitution."

170. I do not agree with this contention of the learned senior counsel for the defence as in the said judgment, the Hon'ble Supreme Court has not held that a retracted confession can never form the basis of conviction. In fact, in the said judgment, the Hon'ble Supreme Court has upheld the conviction of one of the accused based on his retracted confession, as the same was, like the case in our hand, corroborated by circumstantial evidence. Further, as has been held in **HARI CHARAN KURMI (supra)**, a retracted confession may be taken into consideration against a co-accused who is being tried along with the maker of the confession.

171. Further, dealing with the retracted confession, in the case of **Balbir Singh Vs. State of Punjab, reported in AIR 1957 SC 216**, a four-Judge Bench of the Hon'ble Supreme Court has held as follows:-

"15. In this case, both the confessions were retracted subsequently, and the proper approach in case of this nature is to consider each confession as a whole on its merits and use it against the maker thereof, provided the Court is in a position to come to an unhesitating conclusion that the confession was voluntary and true; and though a retracted confession, if

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believed to be true and voluntarily made, may form the basis of a conviction, the rule of practice and prudence requires that it should, be corroborated by independent evidence. It is unnecessary to consider in this case if the evidence of an accomplice stands on a better, equal or worse footing than a retracted confession; nor need we consider the question of the nature and extent of corroboration necessary for the evidence of an accomplice. In this case, the main points for consideration were (a) whether the confession of the appellant was voluntary, (b) whether it was true, and (c) what independent corroboration was furnished by the other evidence on the record."

172. Again in the case of **State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru, reported in AIR 2005 SC 3820: (2005) CriLJ 3950, (2005) 11 SCC 600**, the Hon'ble Supreme Court held as follows:

"A retracted confession may form the legal basis of a conviction if the court is satisfied that it was true and was voluntarily made. But it has been held that a court shall not base a conviction on such a confession without corroboration. It is not a rule of law, but is only a rule of prudence that under no circumstances can such a conviction be made without corroboration, for a court may, in a particular case, be convinced of the absolute truth of a confession and prepared to act upon it without corroboration; but it may be laid down as a general rule of practice that it is unsafe to rely upon a confession, much less on a retracted confession, unless the court is satisfied that the retracted confession is true and voluntarily made and has been corroborated in material particulars."

173. In the case of **Pyare Lal, reported in AIR 1963 SC 1094**, a four-Judge Bench of the Hon'ble Supreme Court has stated the legal position and principle in regard to the evidentiary value of retracted confession as follows:

"8. The second argument also has no merits. A retracted confession may form the legal basis of a conviction if the court is satisfied that it was true and was voluntarily made. But it has been held that a court shall not

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base a conviction on such a confession without corroboration. It is not a rule of law, but is only rule of prudence. It cannot even be laid down as an inflexible rule of practice or prudence that under no circumstances such a conviction can be made without corroboration, for a court may, in a particular case, be convinced of the absolute truth of a confession and prepared to act upon it without corroboration; but it may be laid down as a general rule of practice that it is unsafe to rely upon a confession, much less on a retracted confession, unless the court is satisfied that the retracted confession is true and voluntarily made and has been corroborated in material particulars. The High Court having regard to the said principles looked for corroboration and found it in the evidence of Bishan Swaroop. P.W.-7, and the entry in the Dak Book, Ex. PA. 4, and accepted the confession in view of the said pieces of corroboration. The finding is one of fact and there is no permissible ground for disturbing it in this appeal."

174. In view of the discussion made above, it must be held that the accused Ranjan Daimari was the mastermind behind the nine serial bomb explosions and at his instance; the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Rajendra Goyari @ Rifikhang, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and absconding accused Dinthilang and S. Ulafat and the other co-accused, hatched the conspiracy to cause the serial bomb explosions in Guwahati and other parts of Assam and pursuant to the said conspiracy, caused the nine serial bomb explosions on 30.10.2008.

(2) CASE OF THE ACCUSED GEORGE BORO @ JOHN @ B. JWANKHANG

175. PW-15 Dr. Tarun Talukdar has deposed that he had a two storied building at Lakhimi Nagar. He resides in the first floor of the said building with his family and lets out on rent the remaining apartments. On 26.10.2007, he had let out the third part of the ground floor to the accused George Boro. The accused George Boro was staying with a girl and a man named Jitu. George

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Boro told him that he was an M.A. in English from Pune and was searching for a job in Guwahati. Occasionally, Bodo youths came to meet George Boro and sometimes, Ajay Basumatary also came to meet him. He has identified the accused Ajay Basumatary as the person who used to meet George Boro in his house. He has deposed that the Material Ext. 9 is the photograph of Jitu Boro, who used to drive the Indica car bearing registration No. AS-01-AE-3826 and was staying with the accused George Boro. Material Ext. 10 is the photograph of a boy who used to visit George Boro while he was staying in his house. In the morning of the day of the bomb blasts, while he was sitting in the balcony of his house, he saw the accused George Boro and four/five boys going out in a TATA Sumo like vehicle. While he was preparing to go to his chamber before 11:00 A.M, he saw that the said vehicle had returned and saw George Boro and a few boys entering into the rented house. Thereafter, he proceeded towards his chamber at Bhangagarh. When he reached Ganeshguri, he saw huge smoke and chaos at which, he asked a policeman what the matter was. The policeman told him about the bomb blast. Thereafter, while he was about to reach his chamber at Bhangagarh, he saw black smoke in the Railway Station area and learnt that the same was of bomb explosions. When he returned to his house in the evening, he saw that the room that he had let out to George Boro was under lock and key. Thereafter, George Boro did not return. One day, his wife received a call from George Boro and he told his wife that he will come after sometime as Bodo boys were arrested. After fifteen/twenty days, George Boro again phoned his wife and told her that he will send the key of the room and the rent through someone and requested her to keep his belongings in some other place and to let out the room to other persons. But, George Boro never came back. When he came to know from the electronic and print media that George Boro was involved in the bomb blasts, he informed the Dispur police about George Boro staying in his house. Then, the police came and broke the lock of the room and took away his belongings. Thereafter, he had let out the room to other persons. George Boro talked with his wife from his phone No. 9957067127.

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176. In the cross-examination he has stated that he has identified the person who used to visit George Boro in the dock. He did not know his name when he pointed out the person in the dock. He came to know his name when he told his name to the court. He did not enter into any rent agreement with George Boro. He never issued any receipt after receiving rent. He has denied the suggestion that George Boro never stayed in his house.

177. PW-16 Golap Medhi has deposed that in the year 2008, he was residing in the house of Dr. Tarun Talukdar and was working as a security man. Ten days before 26.10.2007, George Boro, driver Jitu and a lady came to the house of Dr. Tarun Talukdar searching for a room. They selected a room and as Dr. Talukdar was not present, he told them to come after a few days. Accordingly, they came on 26.10.2007 and took the room on rent. He has identified the accused George Boro in the dock. On 30.10.2008, in between 12:00 noon to 01:00 P.M., George Boro called him from his mobile No. 9957067127 and enquired whether any bomb blast has taken place in Guwahati. He told George Boro that some bombs had been exploded. George Boro told him that he was at Barpeta. George Boro again called him after fifteen/twenty days from a different number and told him that he was going out and will return to Guwahati after sometime. George Boro also told him that his belongings may be taken out from the room and the room may be let out to others. He then told George Boro to call Dr. Tarun Talukdar. Material Ext. IX is the photograph Jitu.

178. In the cross-examination, he has stated that he was working as a security guard in the Aircel tower and was also doing marketing for Dr. Tarun Talukdar. He has denied the suggestion that the Material Ext. IX photograph is not the photograph of Jitu Daimari. He has also denied the suggestion that on the day of the incident, George Boro did not ring him and enquire from him about bomb blasts in Guwahati. He has also denied the suggestion that he never met George Boro earlier.

179. PW-30 Nikunja Bora has deposed that he had a mobile recharge shop at Lakhiminagar. The accused George Boro used to visit his shop for

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purchasing cold drinks and recharge coupon. He knew that the accused George Boro resided in that area but, he did not know the house where he was residing. The accused George Boro used to visit his shop as a customer. The accused George Boro had an Aircel mobile connection. On 30.10.2008, the accused George Boro rang him and asked him to re-charge his Aircel mobile for Rs. 75/-. He did the same. He did not receive the Rs. 75/- from the accused George Boro as thereafter, he never came to his shop. PW-30 Nikunja Bora has proved that at the time of the bomb blasts on 30.10.2008, the accused George Boro was residing at Lakhimi Nagar area and after the blasts, he absconded.

180. From the testimonies of the PW-15, PW-16 and PW-30, it is crystal clear that at the relevant time, the accused George Boro was staying in Guwahati as a tenant in the house of the PW-15 and on the day of the serial bomb explosions, he absconded. Though, the defence suggested to the PW-15 that the accused George Boro never stayed in his house as a tenant as there was no rent agreement, no rent payment receipt and as the PW-15 did not inform the police about letting out his house to the accused George Boro, the same are mere suggestions which, the PW-15 has denied. Therefore, based on the mere suggestions, it cannot be held that his evidence is not believable. Further, the defence did not even suggest to the PW-16 that the accused George Boro was not staying as a tenant in the house of the PW-15. Further, the fact that the accused George Boro was staying as a tenant in the house of PW-15 is corroborated by the confessional statement of the co-accused Ajay Basumatary, which is discussed below. In view of **Haricharan Kurmi & Ors. (supra)** the confession of the co-accused Ajay Basumatary must be treated as evidence against the accused George Boro.

181. Further, as has been discussed above, the Ext. 42 letter shows that the accused George Boro was preparing for causing the serial bomb explosions, at least, from the date of writing of the said letter 02.09.2008. But, in his examination under Section 313 Cr.P.C. regarding the Ext. 42 letter, the accused George Boro has stated as follows:-

"I do not want to say anything in respect of the Ext. 42 letter."

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182. Therefore, it must be held that the Ext. 42 letter was written by the accused George Boro. Otherwise, he would have denied the same. (**Ref. DHAL SINGH DEWANGAN (supra)**).

183. It is worth mentioning here that PW-616 Jimi Boro, the younger brother of the accused George Boro (his evidence discussed below) has proved that the accused George Boro is the author of the Ext. 41 and Ext. 42 letters. PW-616 has deposed that the CBI personnel showed him the Ext. 41 and Ext. 42 letters and he told them that the said letters were written by the accused George Boro.

184. Relying on the cases of **Bhanuwar Lal Tatar vs. Ahmed Khan, reported in AIR 1977 (Gau) 27** and **Fakhruddin vs. State of M.P., reported in AIR 1967 SC 1326**, the learned senior counsel for the defence vehemently argued that the Ext. 42 letter cannot be held to be a letter written by the accused George Boro as the same is not proved as per the provisions of the Indian Evidence Act. But, the said judgments proved the prosecution case that the Ext. 42 letter was written by the accused George Boro. In **Bhanuwar Lal Tatar (supra)** the Hon'ble Gauhati High Court held as follows:-

"17. Section 67 of the Indian Evidence Act provides that if a document is alleged to be signed or to have been written wholly or in part by any person, the signature or handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting. Section 47 of the Evidence Act lays down the mode of proving such signature or handwriting. It provides that when the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed, that it was or was not written or signed by that person, is a relevant fact. The explanation of this section clarifies as to who can be said to be acquainted with the handwriting or signature of another person. According to this explanation a person may be acquainted with the handwriting of a person in three ways: (i) when he has seen a person writing;

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(ii) when he has received documents purporting to be written by the person in answer to documents written by himself; (iii) when in the ordinary course of business documents purporting to be written by that person have been habitually submitted to him.

18. It is seen from the provisions of Section 47 that if a person has seen another person signing or writing a document he can be said to be acquainted with his handwriting and so he is competent to prove that it is in the handwriting and/ or signature of a person. There is nothing in the section to indicate that to be acquainted with the handwriting or signature of a person, the person in whose presence the signature or writing was made must be able to read such signature or writing."

185. In the instant case, Prosecution has proved beyond all reasonable doubt that the Ext 42 letter was written by the accused George Boro as PW-616 Jimi Boro, who happens to be the younger brother of the accused George Boro, has deposed that he told the CBI personnel that the Ext. 41 and Ext. 42 letters were written by the accused George Boro. PW- 616 Jimi Boro must be held to be a person who is acquainted with the handwritings of the accused George Boro and hence, as he has categorically stated that the Ext.41 and 42 letters were written by the accused George Boro, the Prosecution has been able to prove as per the provisions of the Indian Evidence Act that the Ext 42 letter was written by the accused George Boro. The same is also the law laid down in the **Fakhruddin (supra)**.

186. That, on the day of the serial bomb blasts on 30.10.2008, the accused George Boro @ John @ B. Jwankhang absconded and even the members of his family, friend and landlord were not aware of his whereabouts till his arrest, will admit of no doubt. In his examination under section 313 Cr.P.C. the accused George Boro has stated that he has never stayed in Guwahati and hence, the question of his absconding from Guwahati does not arise. But, the case record reveals that after the serial bomb blasts, the accused George Boro @ John @ B. Jwankhang absconded and hence, proclamation and attachment orders were issued against him. But, as even

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after that, he could not be apprehended, at the request of the Government of India, the INTERPOL issued Red Corner Notice against him and thereafter only, he was arrested. Further, from the testimonies of the PW-15, PW-16 and PW-30 discussed above, it is crystal clear that at the relevant time, the accused George Boro was staying in Guwahati as a tenant in the house of the PW-15 and on the day of the serial bomb blasts, he absconded. Therefore, it must be held that on the day of the serial bomb blasts on 30.10.2008, the accused George Boro absconded as he was involved in causing the serial bomb blasts.

187. In the case of **PAKKIRISAMY Vs. STATE OF TAMIL NADU, reported in (1997) 8 SCC 158**, the Hon'ble Supreme Court has laid down the ratio that the subsequent conduct of the accused in absconding from the place of occurrence till he was arrested would lend support to the prosecution to prove his guilt and held as follows:-

"12. The next circumstance which was relied upon by the prosecution was that the appellant was not found in the village where he ordinarily ought to be and was absconding. Only on 28th August, 1986, he went to the Village Administrative Office and gave a confessional statement (Ex. P8) which was recorded by Ramasami (PW 12). No explanation whatsoever was given by the appellant as to where he was during these four days. The courts below, in our opinion, rightly held that the appellant was absconding between 24th August, 1986 and 28th August, 1986 and this would indicate beyond reasonable doubt that the appellant had a guilty mind."

188. In view of the above, the absconding of the accused George Boro @ John @ B. Jwankhang, coupled with the evidence against him discussed above, must be taken as consistent with his guilt only. As such, it must be held that he absconded as he was involved in causing the serial bomb explosions.

189. Further, PW-578 Ms. Janifreza Basumatary has deposed that in the year 2007, she met the accused George in the memorial service of her maternal grandmother at village Odlakhasibari, Harisinga. Thereafter, they

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became friends. On 30/10/2008, she was present in the office of the DY365. She did not meet the accused George after the bomb blast on 30/10/2008. Defence declined to cross-examine her. Therefore, after the serial bomb blasts on 30.10.2008, the accused George Boro @ John @ B. Jwankhang absconded and even his friend Ms. Janifreza Basumatary was not aware of his whereabouts till his arrest.

190. PW-616 Jimi Boro has deposed that the accused George Boro is his elder brother. His statement was recorded by the Magistrate. Ext. 533 is his said statement. He told the Magistrate that in the year 2005, his elder brother George Boro had joined the NDFB. He also told the Magistrate that his elder brother George Boro rarely came to their house and in the year 2006, he met him at the Barpeta Road vegetable market. At that time, his elder brother George Boro requested him to procure a mobile SIM card for him. As he did not have a driving license, he requested his classmate Bhargav Brahma to procure a mobile SIM card. Bhargav Brahma procured an Airtel mobile SIM card in his name and gave the same to him. He gave the said Airtel mobile SIM card to his mother Nilima Boro and thereafter, he went to Guwahati for studying. Later on, he came to know that his elder brother George Boro had collected the said mobile SIM card from his mother. He told the Magistrate that he can identify the handwritings of his elder brother George Boro. The CBI personnel showed him the Ext. 41 and Ext. 42 letters and he told the CBI personnel that the said letters were written by his elder brother George Boro. He told the Magistrate that the CBI personnel seized one notebook and some documents belonging to his elder brother George Boro from him.

191. Though, in the cross-examination, he has stated that he gave the aforesaid statement under pressure of the police as they threatened him that otherwise, they will make him an accused in the case, he did not say that his statement is not true. Therefore, the statement of the PW-616 must be accepted to be true and it must be held that the accused George Boro was a member of the NDFB, was using the mobile SIM card of Bhargav Brahma and that at the relevant time, he was not staying at his home.

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192. Further, in his confessional statement (discussed below) the co-accused Ajay Basumatary @ B. Aogi, has stated that in the second week of October, 2008, he came to Guwahati from Bangladesh and contacted the accused George Boro @ John in his mobile No. 9957067127 from a PCO at Ganeshguri and shown the M/s N.B. Magazine Centre, Ganeshguri, as the said PCO. In this regard, PW-22 Chinmoy Prakash Phookan, Executive Magistrate-cum-Extra Assistant Commissioner, Kamrup (M) Guwahati, has deposed that on 12.01.2009, at the request of the CBI Officers, the Deputy Commissioner, Kamrup (M) Guwahati, deputed him to accompany the CBI Officers for recording the disclosure statement and pointing out memo of the accused Ajay Basumatary @ B. Aogi. He then went to the Panbazar Police Station as the accused Ajay Basumatary @ B. Aogi was detained there. The CBI Officer recorded the disclosure statement of the accused Ajay Basumatary @ B. Aogi in his presence. Ext. 106 is the said disclosure statement and Ext. 106(1) and Ext. 106 (2) are his signatures therein. Ext. 106 (3) and Ext. 106 (4) are the signatures of the accused Ajay Basumatary. Ext. 106 disclosure statement reveals that in the second week of October, 2008, the accused Ajay Basumatary came to Guwahati from Bangladesh and contacted the NDFB cadre George Boro @ John in his mobile No. 9957067127 from a PCO at Ganeshguri. Thereafter, the accused Ajay Basumatary took the CBI officials, the local police and the PW-22 to the Ganeshguri flyover and pointed out the place where he had parked the explosive-laden vehicle. Thereafter, he took them to the spot at the R.P. Road where one vehicle was waiting for them to facilitate their escape. Thereafter, the accused took them to the house No. 123 at Lakhimi Nagar, Hatigaon, which was used as a hide out and for assembling the explosives. The CBI officer prepared a pointing out memo of the places shown by the accused. Ext. 107 is the said pointing out memo. Ext. 107 pointing out memo shows that the accused Ajay Basumatary showed the M/s N.B. Magazine Centre, Ganeshguri as the PCO wherefrom he had made the call to the accused George Boro @ John.

193. PW-49 Nirod Barman, the owner of the aforesaid PCO has, inter alia, deposed that on 10.10.2009, the CBI official seized some bills and call

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details records of his PCO. Ext.105 is a computer generated bill along with thirteen pages of call details records. Ext. 105(1) to 105(13) are his signatures on the backside of the each page. In the page No. 8 of Ext. 105, on 13.10.2008, at around 12:45 P.M., a call was made from his PCO No. 2611644 to the mobile No. 9957067127. Ext. 105(14) is the said entry. The said entry must be the entry relating the the call made by the accused Ajay Basumatary to the accused George Boro @ John in his mobile No. 9957067127. The call detail records are admissible in evidence and in the instant case, the call detail records are duly proved and the defence did not even challenge the PW-49 Nirod Barman in the cross-examination that the same are not genuine. **(Ref. Mukesh (supra)).**

194. PW-616 Jimi Boro has fully corroborated the PW-367 Bhargav Brahma and has deposed that his elder brother George Boro requested him to procure a mobile SIM card for him. As he did not have a driving license, he requested Bhargav Brahma to procure a mobile SIM card for him. Bhargav Brahma then procured an Airtel mobile SIM card and gave the same to him. He gave the said Airtel mobile SIM card to his mother Nilima Boro. Later on, he came to know that his elder brother George Boro had collected the said mobile SIM card from his mother.

195. PW-512 Songthu Songnejir Aimol has deposed that from December 2008 to 2013, he was working as the Circle Nodal Officer of the Bharti Airtel Ltd., Guwahati. He had provided the call details (eight sheets) of Mobile No. 9957067127 of Bhargav Brahma to the CBI. Ext. 458 is the said call details and Ext. 458 (i) is his signature therein. Therefore, PW-367 PW-616 PW-512 have proved beyond all reasonable doubt that, at the relevant time, the accused George Boro was using the mobile No. 9957067127. This proved beyond all reasonable doubt that at the time of the serial bomb explosions, the accused George Boro was staying in Guwahati and on the day of the serial bomb explosions, he absconded. Therefore, his contention that he never stayed in Guwahati is false and manufactured for the purpose of defence only.

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196. Further, as has been discussed earlier, at the relevant time, the accused George Boro was using the mobile No. 9957067127 and on 13.10.2008, at around 12:45 P.M., a call was made from the above mentioned PCO No. 2611644 to the mobile No. 9957067127. This also proves beyond all reasonable doubt that at the time of the serial bomb explosions, the accused George Boro was staying in Guwahati and on the day of the serial bomb explosions, he absconded. Hence, his contention that he never stayed in Guwahati is false and manufactured for the purpose of defence only.

197. Therefore, as the other evidence against the accused George Boro as discussed above is corroborated by the confessional statement of the co-accused Ajay Basumatary, in view of **Haricharan Kurmi & Ors. (supra)**, the confession of the co-accused Ajay Basumatary must be treated as evidence against the accused George Boro.

198. In his examination under Section 313 Cr.P.C., the accused George Boro has stated that he does not exactly remember where he was staying from 30.10.2008 till his arrest. But, he has stated that he used to visit and stay in Shillong, Aizawl, Pune and in other places. He has also categorically stated that he never stayed in Guwahati. Thus, he has taken the plea of *alibi* that at the time of the serial bomb blasts, he was not present in Guwahati. But, the accused did not adduce any positive evidence to prove the plea of *alibi* and the evidence on record does not support the same. On the other hand, the testimonies of the prosecution witnesses discussed above and the call detail record (**Ref. Mukesh (supra)**) of the P.C.O. M/s N.B. Magazine Centre proved, beyond all reasonable doubt that about since one year before the serial bomb blasts, the accused George Boro was residing in the house of PW- 15 as a tenant and on the day of the serial bomb blasts, he absconded. Therefore, his absconding must be held to be consistent with his guilt only.

199. In the case of **Mukesh (supra)** the Hon'ble supreme court has held as follows:-

"247. Presently, we shall deal with the plea of alibi as the same has been advanced with immense conviction. It is well settled in law that

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when a plea of alibi is taken by an accused, the burden is upon him to establish the same by positive evidence after the onus as regards the presence on the spot is established by the prosecution. In this context, we may usefully reproduce a few paragraphs from Binay Kumar Singh v. State of Bihar¹⁰²: (SCC p. 293, paras 22-23)

"22. We must bear in mind that an alibi is not an exception (special or general) envisaged in the Penal Code, 1860 or any other law. It is only a rule of evidence recognized in Section 11 of the Evidence Act that facts which are inconsistent with the fact in issue are relevant. Illustration (a) given under the provision is worth reproducing in this context:

'(a) The question is whether A committed a crime at Calcutta on a certain date. The fact that, on that date, A was at Lahore is relevant.'

23. The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of concurrence that it is extremely improbable that he would have participated in the crime. It is a basic law that in a criminal case, in which the accused is alleged to have inflicted physical injury to another person, the burden is on the prosecution to prove that the accused was present at the scene and has participated in the crime. The burden would not be lessened by the mere fact that the accused has adopted the defence of alibi. The plea of the accused in such cases need be considered only when the burden has been discharged by the prosecution satisfactorily. But once the prosecution succeeds in discharging the burden it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter-evidence to the effect that he was elsewhere when the occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at

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the scene when the occurrence took place, the accused would, no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down that, in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi..."
(emphasis supplied) 102 (1997) 1 /SCC 283: 1997 SCC (Cri) 333

The said principle has been reiterated in Gurpreet Singh v. State of Haryana¹⁰³, SK. Sattar v. State of Maharashtra¹⁰⁴, Jitender Kumar v. State of Haryana¹⁰⁵ and Vijay Pal⁸⁰.

248. We had earlier indicated that in their Section 313 Cr.P.C. statements, the accused have advanced the plea of alibi. Accused Pawan Kumar Gupta alias Kaalu has taken the plea of alibi stating, inter alia, that throughout the evening of 16-12-2012 till late night, he was in the DDA District Park, Hauz Khas, opposite IIT Gate, New Delhi, watching a musical event organized in connection with Christmas celebration and that he was never in the bus, Ext.P-1, and had not committed any offence with the prosecutrix or with the informant.

249. Before coming to the defence evidence led by accused Pawan, we may refer to the answers given by him in response to the questions put to him in his statement under Section 313 Cr.P.C. wherein he has admitted that Mobile No. 9711927157 belongs to him. He further stated that he had consumed liquor in the evening of 16-12-2012 and had accompanied accused Vinay Sharma to the musical event at DDA District Park where he took more liquor and fell unconscious and was later brought to his house by his father and uncle. He stated that he went out in the evening of 16-12-2012 and saw a quarrel between accused Vinay Sharma and accused Ram Singh (since deceased). Then he returned to his jhuggi. After some time, he came out of his jhuggi and saw accused Vinay Sharma, his sister, mother and others going to a musical party and so, he also went with them and took more liquor in the party and even lost his mobile phone. Strangely enough, in his supplementary statement recorded on 16.08.2013 under Section 313 Cr.P.C., he stated that

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he was present in the said party with his family members and friends and that a video clip was prepared by one Ram Babu, DW 13, and that he does not remember if he had accompanied accused Vinay Sharma to the said park on that evening. It is in contradiction to the stand taken by him in his earlier statement recorded under Section 313 Cr.P.C.”

200. The accused George Boro could not put forward any justifiable explanation as to why he absconded after the serial bomb blasts. He also did not adduce any positive evidence to prove that he never resided in Guwahati and the evidence on record does not support his plea of *alibi*. Therefore, an adverse presumption has to be drawn against him that he absconded as he was involved in causing the serial bomb blasts. In his examination under Section 313 Cr.P.C. regarding absconding from Guwahati on the day of the serial bomb blasts, the accused George Boro has stated that he never stayed in Guwahati and hence, the question of his absconding from Guwahati does not arise.

201. In view of the above discussion, in the facts and circumstances of the case and as in his confessional statement, the co-accused Ajay Basumatary has stated that besides him, John (the accused George Boro @ John @ B. Jwankhang), Kharau Sir (the accused Khargeswar Basumatary @ Rahul Brahma), Rifikhang (the accused Rajendra Gayari @ Rajen @ Rifikhang), and Ulafat (the absconding accused S. Ulafat) took the responsibility of causing the blasts at Ganeshguri, Panbazar, Barpeta Road, Bongaigaon and Kokrajhar respectively, the accused George Boro must be held to be one of the conspirators of causing the serial bomb blasts on 30.10.2008 and guilty of causing the bomb blast under the Ganeshguri flyover, Dispur Guwahati, which killed eighty persons, injured five hundred and forty people and caused huge damage to properties.

202. Further, as can be seen from the above discussion, vide Ext. 42 letter, the accused George Boro @ John @ B. Jwankhang wanted to inform the accused Ranjan Daimari about their preparation for causing the serial bomb blasts. Therefore, it must be held that the accused George Boro @ John

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@ B. Jwankhang is a member of the NDFB and he conspired with other accused to cause the serial bomb blasts on 30.10.2008 and also caused the bomb blast under the Ganeshguri Flyover, Dispur Guwahati.

(3) CASE OF THE ACCUSED AJAY BASUMATARY @ B. AOGI

203. To prove its case against the accused Ajay Basumatary @ B. Aogi, Prosecution primarily relied upon his confessional statement, the confessional statement of the co-accused Onsai Boro @ Ajit Boro, oral testimonies and some circumstantial evidence. Therefore, let us discuss the confessional statement of the accused Ajay Basumatary @ B. Aogi first to find out whether the same is voluntary, true and inculpatory and based on the same and other evidence, it can be held that the accused Ajay Basumatary is a member of the banned NDFB organization and guilty of conspiring with the co-accused to cause the serial bomb explosions and also guilty of causing the bomb explosion under the Ganeshguri Flyover?

204. The case record shows that after his arrest, the accused Ajay Basumatary @ B. Aogi was remanded to police custody and thereafter, to judicial custody. On 27.01.2009, the Investigating Officer filed an application before the concerned Judicial Magistrate praying for recording his confessional statement. The learned Judicial Magistrate allowed the petition and directed to produce the accused before him for recording his confessional statement on 28.01.2009, at 4:30 P.M. Accordingly, on 28.01.2009, the accused was produced before the learned Judicial Magistrate. The learned Judicial Magistrate explained to the accused that he was not bound to make any confession and that, if he makes any confession, the same may be used against him as evidence and if he is ultimately convicted, he will not be entitled to lesser punishment for making the confession. The learned Judicial Magistrate also explained to the accused that he was not a police officer but a Judicial Magistrate and that he will not be remanded to police custody or CBI custody even if he refuses to confess. But, the accused expressed his willingness to confess and the learned Judicial Magistrate was satisfied that

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the accused was willing to tell the truth voluntarily. But, to give the accused enough time for reflection, the learned Judicial Magistrate did not record his confessional statement on that day and remanded him to judicial custody with a direction to produce him on the next day for recording his confessional statement. The accused was not produced on the next day. Thereafter, the accused was produced before the learned Judicial Magistrate on 30.01.2009 but, as the learned Judicial Magistrate was busy with other works, he did not record his confessional statement and forwarded the accused to the learned Chief Judicial Magistrate for necessary order. The learned Chief Judicial Magistrate directed the learned Judicial Magistrate Abdul Mazid Mohammad Mahiuddin (PW-478) to record the confessional statement of the accused and the accused was produced before him for recording his confessional statement at 3:30 P.M. But, the learned Judicial Magistrate felt that the accused needs some more time for reflection and therefore, remanded him to judicial custody till 03.02.2009. On 03.02.2009, at 2:00 P.M., the accused was produced before the learned Judicial Magistrate and the accused again expressed his willingness to confess his guilt. The learned Judicial Magistrate again explained to the accused the provisions of Section 164 Cr.P.C. and kept the accused in his chamber under the supervision of his office peon Baharul Islam Bora, for reflection. At 03:00 P.M., the learned Judicial Magistrate again asked the accused whether he was willing to confess. The accused again expressed his willingness to confess. The learned Judicial Magistrate again warned the accused like before but, in spite of repeated warnings, the accused expressed his willingness to confess. Therefore, satisfied with the fact that the accused was going to confess voluntarily, the learned Judicial Magistrate recorded his confessional statement in the prescribed form and thereafter, forwarded the case record to the learned Chief Judicial Magistrate. The learned Chief Judicial Magistrate remanded the accused to judicial custody till 17.02.2009.

205. The orders relating to the recording of confessional statement of the accused Ajoy Basumatary @ B. Aogai are reproduced below.

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27.01.09

C.R. put up today on petition of the I.O praying for recording confessional statement of the accused Shri Ajoy Basumatary @ B. Aogai u/s 164 Cr.P.C. Prayer is allowed after hearing C.B.I. and perusal of C.D. C.D. returned to I.O. after perusal.

Produce the accused tomorrow as it is already 4:30 P.M. now.

s/d Illigible

28.01.09

Accused Shri Ajoy Basumatary is produced before me from jail custody.

I have apprised to the accused that he is not bound to make any confession and that if he confesses it may be used as evidence against him and shall not entitle him to lesser punishment if he is ultimately convicted.

I also told the accused in specific terms that I am a Magistrate not a policeman and that he shall not be sent to police custody or the custody of CBI even if he chooses not to confess.

The accused expressed his willingness to make confession. I am satisfied after hearing the accused that he is inclined to tell the truth voluntarily.

So as to give the accused enough time for reflection, I have not recorded his confession today. Produce him tomorrow (29.01.09). Till then, no policeman or any other person linked with the investigation shall communicate with the accused in any manner.

Today's proceeding as noted above was held in my office chamber where nobody except me and the accused was present.

s/d Illigible

29.01.09

The accused Ajoy Basumatary is not produced before me till 3:40 P.M. today as per the order dated 28.01.09.

Call for a report from the jail authority in this regard.

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Produce the accused positively on 30.01.09 (tomorrow).

s/d Illigible

30.01.09

Accused Ajay Basumatary is produced before me.

Seen the report of the Jail Authority which is accepted with a caution to be careful in future.

For my heavy work load today, I am not in a position to record the scheduled confession.

Send the C.R. to and produce the accused before the Hon'ble C.J.M. for n/o.

s/d Illigible

30.01.09

Record is put up before me. Gone through the order of the Ld. Special Magistrate.

Let the confessional statement of the accused be recorded in the court of Md. Mahiuddin.

s/d Illigible

30.01.09

As per the order of learned C.J.M. (K) the accused Ajoy Basumatary is produced before me at 3:30 P.M. for recording his confessional statement.

In my considered opinion, the accused needs time for reflection.

As such the accused is remanded to judicial custody till 03.02.2009.

The I.O. is directed to produce the accused on 03.02.09 at 2 P.M.

s/d Illigible

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03.02.09

C.R. is put up before me today.

Accused Ajay Basumatary has been produced before me at 2:00 P.M. from jail hajot for recording his confessional statement u/s 164 Cr.P.C.

The accused has expressed his willingness for confessing his guilt. Hence, provisions and cautions as provided u/s 164 Cr.P.C. has been once again explained to him and the accused is kept in my office chamber for reflection of his mind at the disposal of my office peon Baharul Islam Bora.

Later on at 3:00 P.M. the accused is again asked whether he is willing to confess or not. The accused once again expressed his willingness to confess.

The accused is warned as before. In spite of repeated warnings, the accused has expressed his willingness to confess his guilt.

Hence on being satisfied that, the accused is going to confess voluntarily, I recorded his confessional statement u/s 164 Cr.P.C. in the prescribed form and appended with the C.R. During recording, precaution has been taken that nobody comes in contact with the accused.

*Let the accused and the C.R. be sent to the learned C.J.M. (K).
s/d Illigible*

03.02.09

Record is put up before me after recording the confessional statement of the accused.

The accused is remanded to jail hajot till 17.02.09.

The record be sent back.

s/d Illigible

206. The above orders clearly show that before recording his confessional statement, the accused Ajoy Basumatary @ B. Aogai was given sufficient time for reflection. Further, as on 28.01.2009, the learned Judicial Magistrate explained to the accused about the nature and use of a confessional

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statement and remanded him to judicial custody, the accused definitely knew that even if he did not confess, he will not be remanded to police custody or CBI custody. Thereafter, the accused was produced before the learned Judicial Magistrate on 30.01.2009 for recording his confessional statement. On that day also, the learned Judicial Magistrate remanded the accused to judicial custody for reflection till 03.02.2009. Therefore, the accused definitely knew that he will not be remanded to police custody or CBI custody even if he did not make any confession. But, inspite of that, the accused made the confession. Therefore, his confession must be held to be voluntary.

207. A liberal translation of the confessional statement of the accused Ajoy Basumatary @ B. Aogai reads as follows:-

"I had joined the NDFB in the month of August, 2005. The Commander of Karbi Along, namely Gauthrup, enrolled me in the NDFB From the camp of Karbi Along, one Jhon took me to our camp situated in the District of Khagrachari, Bangladesh. I found four / five persons in the said camp. Instructor Suglai trained me there for two and half months. He gave me training of arms. In the month of April / May, 2006, the Bangladesh Army attacked us and killed about ten members, including the instructor. Thereafter, I gave training to other members as the instructor. In the year 2007, I gave training to twenty five / thirty members. Thereafter, in the year 2007, one Bonsha gave me training on setting of time device. In the year 2008 also, training was organized and I was the instructor of the said training.

On 13-10-2008, I came to Guwahati from Bangladesh via Shillong. In Guwahati, I met Jhon at Ganeshguri. From there, I went to the rented house of Jhon situated at Hatigaon. I stayed there for three days, three nights. From there, on 17-10-2008, I went to the house of NDFB member Rifikhang, situated at Barpeta Road. After spending one night there, I went to the house of the Army Chief of the NDFB, namely Dinthilang, situated at Jharaguri, Kokrajhar. I stayed there for one night (that night will be 18-10-2008) and on the next day (which will be 19-10-2008), a meeting was held in

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his house. I, John, Rifikhang, Kharau Sir, Ulafat and the Army Chief were present in the said meeting.

In the said meeting, the Army Chief told as that he has received order from the higher up to explode bombs in Guwahati and other parts of Assam and asked us to take the responsibility of exploding the bombs. There, we fixed the date on 30-10-2008 and the time at 11:30 am. I and Jhon took the responsibility of exploding the bomb at Ganeshguri, Kharau Sir took the responsibility of exploding the bombs at Panbazar and Court, Rifikhang took the responsibility of exploding the bomb at Barpeta Road and Ulafat took the responsibility of exploding the bombs at Bongaigaon and Kokrajhar. After the meeting, I spent the night there and from there went to Dhubri. On 24-10-2008, I returned to Hatigaon from Dhubri.

On 27-10-2008, N.D.F.B. girl cadre Bithora delivered an LPG cylinder in the room of Jhon. A boy named Jitu accompanied her as the driver. The cylinder was filled with explosive like substances. I saw a detonator, an A.V. battery and a watch in the house of Jhon.

On 28-10-2008, I placed the detonator inside the cylinder. We did nothing on 29-10-2008. Jhon had already seen the place.

On 30-10-2008, at around 9:30 am, I connected the time device to the cylinder. At around 10:00 am, Jhon and Jitu brought a Maruti 800 car. I have forgotten the number of the said car. Earlier, at around 6:00 am, Jitu and Tarun had brought a TATA Sumo vehicle. With our clothes and baggage in the TATA Sumo vehicle, Tarun waited for us near the Ganesh Mandir.

I, Jhon and Jitu put the cylinder in the Maruti car and took the same to Ganeshguri. Jitu was driving the car. We parked the car under the Ganeshguri fly over, towards Dispur side, locked the car and went to Ganesh Mandir. There, at around 10:10 am, we boarded the TATA Sumo vehicle and went to Dhubri via Hatigaon.

Later on, I learnt that at 11:30 am, bombs were exploded at Ganeshguri and other places in Assam.

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In the month of November last, I took Rifikhang to Dhaka, Bangladesh and leaving him there; in the month of December, I returned to Dhubri and stayed there. On 26-12-2008, I went to Goalpara. There, the Goalpara police arrested me."

208. A bare perusal of the confessional statement is sufficient to hold that the same is inculpatory and true.

209. Further, the confession of the accused Ajay Basumatary @ B. Aogi that, on 13-10-2008, he came to Guwahati from Bangladesh via Shillong and met the accused John (alias of the accused George Boro) at Ganeshguri, Guwahati and thereafter, went to the rented house of John situated at Hatigaon and stayed there for three days and three nights, is corroborated by the PW-15 Dr. Tarun Talukdar, the landlord of the accused George Boro @ John. PW-15 Dr. Tarun Talukdar has deposed that occasionally, Bodo youths used to come to meet George Boro and sometimes, the accused Ajay Basumatary also came to meet him. Therefore, the confessional statement of the accused accused Ajay Basumatary @ B. Aogi is true.

210. The learned senior counsel for the defence vehemently argued that the confessional statement was not recorded as per the law laid down by the Hon'ble Supreme Court in the case of **Sarwan Singh Rattan Singh & Another vs. State of Punjab, reported in AIR 1957 SC 637**. In the said case, the Hon'ble Supreme Court has held as follows:-

"The whole object of putting questions to an accused person who offers to confess is to obtain an assurance of the fact that the confession is not caused by any inducement, threat or promise having reference to the charge against the accused person as mentioned in S.24 of the Indian Evidence Act.

There can be no doubt that, when an accused person is produced before the Magistrate by the investigating officer, it is utmost importance that the mind of the accused person should be completely freed from any possible influence of the police and the effective way of securing such freedom from

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fear to the accused person is to send him to jail custody and give him adequate time to consider whether he should make a confession at all. It would naturally be difficult to lay down any hard and fast rule as to the time which should be allowed to an accused person in any given case.

However, speaking generally, it would, we think, be reasonable to insist upon giving an accused person at least 24 hours to decide whether or not he should make a confession. Where there may be reason to suspect that the accused has been persuaded or coerced to make a confession, even longer period may have to be given to him before his statement is recorded. In our opinion, in the circumstances of this case it is impossible to accept the view that enough time was given to the accused to think over the matter.”

211. But, as can be seen from the orders relating to recording of the confessional statement mentioned above, the confessional statement of the accused Ajay Basumatary was recorded as per the aforesaid direction of the Hon'ble Supreme Court. Therefore, as the confessional statement of accused Ajay Basumatary has been held to be voluntary and true and is also inculpatory, based on the same, he must be held guilty of committing the alleged offences.

212. Further, the co-accused On sai Boro @ Ajit Boro has stated in his confessional statement (confessional statement of the co-accused On sai Boro @ Ajit Boro is discussed below) that the absconding accused Ulat had called a secret meeting of the NDFB cadres on 19.10.2008. The said meeting must be the meeting dated 19.10.2008 referred to by the accused Ajay Basumatary @ B. Aogi in his confessional statement. Therefore, the co-accused On sai Boro @ Ajit Boro has also corroborated an important aspect of the confessional statement of the accused Ajay Basumatary @ B. Aogi. As such, the confessional statement of the accused Ajay Basumatary @ B. Aogi must be held to be true.

213. The relevant portion of the confessional statement of the accused On sai Boro @ Ajit Boro reads as follows:-

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"...Thereafter, on 18th October (later on, said to be the 19th), Ulafat called a secret meeting and asked me to attend the meeting. I did not go to the said meeting..."

214. Further, in his examination under Section 313 Cr.P.C. regarding what he has to say about his confessional statement, the accused Ajay Basumatary has stated that he never absconded and that he did not make any confession. But, strangely, in reply to the question about what he has to say regarding his confession that the absconding accused Dinthilang told him that he had received orders from the "higher up" to explode bombs in Guwahati and other parts of Assam and who the "higher up" in the NDFB is, he refused to comment on the same. Therefore, on the one hand, the accused Ajay Basumatary has stated that he never absconded and did not make any confession and on the other hand, when he was asked about a statement made by him, he refused to comment on the same. This shows that his confessional statement is true and as the accused Ranjan Daimari has himself claimed to be the chairman /president of the NDFB, (the case of the accused Ranjan Daimari has been discussed above) he is the "higher up" in the NDFB.

215. In view of the above, it must be held that the confessional statement of the accused Ajay Basumatary @ B. Aogi is inculpatory, voluntary and true and hence, based on his retracted confession, which is corroborated by the oral and circumstantial evidence as discussed above, it must be held that, at the instance of the accused Ranjan Daimari, the accused Ajay Basumatary @ B. Aogi conspired with the co-accused named by him to cause the srial bomb explosions on 30.10.2008 and actually caused the bomb explosion under the Ganeshguri flyover (Ref. **HARI CHARAN KURMI (supra)**).

216. In the case of **Shankaria Vs. State of Rajasthan, reported in AIR 1978 SC 1248**, a three-Judge Bench of the Hon'ble Supreme Court has noted the twin tests to be applied to evaluate a confession: "(1) whether the confession was perfectly voluntary and (2) if so, whether it is true and

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trustworthy. The learned Judge pointed out that if the first test is not satisfied the question of applying the second test does not arise. Then the Court indicated one broad method by which a confession can be evaluated. It was said:

"The Court should carefully examine the confession and compare it with the rest of the evidence, in the light of the surrounding circumstances and probabilities of the case. If on such examination and comparison, the confession appears to be a probable catalogue of events and naturally fits in with the rest of the evidence and the surrounding circumstances, it may be taken to have satisfied the second test."

217. As can be seen from the discussion made above, the confessional statement of the accused Ajay Basumatary @ B. Aogi fulfills all the above tests.

218. In view of the above, the confessional statement of the accused Ajay Basumatary @ B. Aogi must be held to be voluntary and true and based on his retracted confession, which is corroborated by the oral and circumstantial evidence as discussed above, it must be held that, at the instance of the accused Ranjan Daimari, the accused Ajay Basumatary @ B. Aogi conspired with the co-accused named by him to cause the srial bomb explosions on 30.10.2008 and actually caused the bomb explosion under the Ganeshguri flyover.

219. But, during trial, the accused Ajay Basumatary @ B. Aogi retracted from his confession.

220. That the confessional statement of the accused Ajay Basumatary is true can also be gauged from the fact that, as has been discussed above, at the relevant time, the accused George Boro was using the mobile No. 9957067127. PW-49 Nirod Barman, the owner of the above mentioned PCO, has deposed that on 13.10.2008, at around 12:45 P.M., a call was made from his PCO's land line No. 2611644 to the mobile No. 9957067127. Ext. 105(14) is the call detail record. The said call detail record must be relating to the call made by the accused Ajay Basumatary to the accused George Boro @ John in

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his mobile No. 9957067127. The mobile No. 9957067127 was allotted to the PW-367 Bhargab Brahma and he had procured the same at the request of the PW-616 Jimi Boro, the younger brother of the accused George Boro and gave the same to the PW-616, who in his turn, has given the same to the accused George Boro @ John, through his mother. Call detail record is admissible in evidence (**Ref. Mukesh supra**).

221. Further, relying on the case of **Mohmed Inayatullah vs. State of Maharashtra, reported in AIR (1976) 1 SCC**, the learned senior defence counsel vehemently argued and I also find that the disclosure statements and the pointing out memo are, as such, not admissible in evidence, being statements made before the police. But, in view of the provisions of Section 27 of the Evidence Act, the same will be definitely admissible in evidence if something is discovered pursuant to the disclosure statements and the pointing out memo.

222. Section 27 of the Evidence act reads as follows:

“27. How much of information received from accused may be proved- Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

223. In the instant case, though the learned senior counsel for the accused vehemently argued that nothing was discovered pursuant to the Ext. 106 disclosure statement and Ext. 107 pointing out memo of the accused Ajoy Basumatary, as mentioned in the Ext. 107 pointing out memo (already discussed above), the accused Ajay Basumatary led the Investigating Officers and the PW- 22 to the M/s N.B. Mazagine Centre P.C.O. situated at Ganeshguri, Guwahati, wherefrom he had allegedly made a call to the mobile No. 9957067127 of the accused George Boro on 13.10.2008 and the Investigating Officers seized the call detail record of the P.C.O., which proved the same. In his examination u/s 313 Cr.P.C., regarding what he was doing for his livelihood and where he was staying before the serial bomb blast on

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30.10.2008 and till his arrest, the accused Ajay Basumatary has stated that he was staying at his village home and was engaged in cultivation. In his examination u/s 313 Cr.P.C., the accused Ajay Basumatary has stated that his house is at village- Dilagimithifang, Police Station- Diphu, District: Karbi-Anglong, Assam. Therefore, the case of the accused Ajay Basumatary is that before the serial bomb blasts and till his arrest, he never came to Guwahati, which is also a plea of *alibi*. Therefore, if before the serial bomb blast on 30.10.2008 and till his arrest, the accused Ajay Basumatary was staying at his house at village- Dilagimithifang, Police Station- Diphu, District: Karbi-Anglong, Assam, how could he knew about the existence of the M/s N.B. Mazagine Centre P.C.O. at Ganeshguri, Guwahati? This same is possible only if he was staying in Guwahati or had visited the said P.C.O. earlier. The fact that the accused Ajay Basumatary knew about the existence of the M/s N.B. Mazagine Centre P.C.O. at Ganeshguri and he told the investigating officer about the same and the PW-22 proved the same and pursuant to his Ext. 106 disclosure statement and Ext. 107 pointing out memo, the investigating officer discovered the M/s N.B. Mazagine Centre P.C.O. and also seized the call detail records, the same is admissible in evidence as per the provisions of the Section 27 of the Evidence Act as in **Mohmed Inayatullah (supra)**, Sarkaria J. while clarifying that the expression "fact discovered" in Section 27 is not restricted to a physical or material fact which can be perceived by the senses, and that it does include a mental fact, explained the meaning by giving the gist of what was laid down in Pulukuri Kotayya's case. The learned Judge, speaking for the Bench observed thus:

"Now it is fairly settled that the expression "fact discovered" includes not only the physical object produced, but also the place from which it is produced and the knowledge of the accused as to this (see Pulukuri Kotayya v. Emperor; Udai Bhan v. State of Uttar Pradesh)"

224. In view of the above, as the accused Ajay Basumatary led the Investigating Officer and the P.W-22 to the M/s N.B. Magazine Centre P.C.O. situated at Ganeshguri, Guwahati, wherefrom he had called the accused Geroje Boro in his mobile number, the accused Ajay Basumatary knew about

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the existence of the said P.C.O., which he should not have as he was not a resident of Ganeshguri, Guwahati. Had the accused stated that he used to visit Ganeshguri, Guwahati or was staying in Guwahati, then the same would not have been admissible in evidence. Therefore, the fact that the accused Ajay Basumatary knew about the existence of the M/s N.B. Magazine Centre P.C.O. situated at Ganeshguri, Guwahati and pursuant to his disclosure statement and the pointing out memo, the said P.C.O. was found and the call detail records were seized and it was found that a call was made from the said P.C.O. to the mobile number of the accused Geroge Boro, the same is a fact discovered based on his disclosure statement. As can be seen from the evidence of the PW-49 Nirod Barman, the owner of the aforesaid PCO, the Investigating Officer seized the call detail records of his P.C.O. that he had earlier collected in presence of the PW-22. Therefore, when the accused Ajay Basumatary led the Investigating Officer and the PW-22 to the said P.C.O., the call detail records were lying there and hence, as the same were discovered pursuant to the disclosure statement made by the accused and the accused knew about the existence of the P.C.O. there, the same is admissible in evidence as fact discovered based on his disclosure statement as per the provisions of the Section 27 of the Evidence Act.

225. In view of the above, as the retracted confession of the accused Ajay Basumatary @ B. Aogi is inculpatory, voluntary and true and is corroborated by PW-15 Dr. Tarun Talukdar, the confessional statement of the co-accused Onsai Boro @ Ajit Boro and circumstantial evidence, based on his retracted confession alone, the accused Ajay Basumatary @ B. Aogi must be held to be a member of the banned NDFB organization and guilty of conspiring with the co-accused of the case to cause the serial bomb explosions in Guwahati and other parts of Assam and also of causing the bomb explosion under the Ganeshguri flyover.

(4) CASE OF THE ACCUSED ONSAI BORO @ AJIT BORO

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226. To prove its case against the accused Onsai Boro @ Ajit Boro, Prosecution relied upon the testimonies of the PW-493 Sun Wary, approver Dasarath Basumatary (PW-488), his confessional statement, confessional statement of the co-accused Ajay Basumatary @ B. Aogi and some circumstantial evidence. Therefore, let us discuss the same.

227. PW-488 Dasarath Basumatary, an approver of the case, has deposed that he knows Hemraj Musahary. Hemraj Musahary was a dealer of stolen motorcycles. He also knows Raja Boro. Raja Boro was the boss of Hemraj Musahary. He also knows Sunwary Boro. Sunwary Boro is his friend. He also knows the accused Indra Brahma. The accused Indra Brahma is also his friend. In the month of October, 2008, one day, Hemraj Musahary requested him to sell a red colored Bajaj Pulsar motorcycle. Raja Boro had given the said motorcycle to Hemraj Musahary. Hemraj Musahary kept the said motorcycle in his house for one day. The registration number of the said motorcycle was AS-25-G-7034. In the mean time, Sunwary Boro came to his house and they talked with Hemraj Musahary. Hemraj Musahary told them that they should pay him Rupees ten to twelve thousand and sell the motorcycle. Sunwary Boro then called Indra Brahma and told him about the motorcycle and asked him whether anybody will purchase the motorcycle. Indra Brahma told him that he will inform later on and after sometime, called Sunwary Boro and told him that a person will purchase the motorcycle. He and Sunwary Boro then went to Bengtal with the motorcycle and met Indra Brahma there. After some time, a healthy person arrived there and took away the motorcycle by paying Rupees ten or twelve thousand. He does not know the name of the healthy person who had purchased the motorcycle. After about twenty days, the police arrested him. The police also showed him a motorcycle and asked him whether the said motorcycle was the motorcycle that they had sold to the healthy person. He replied in the affirmative. Later on, he came to know that the said motorcycle was used in the bomb blast at Paglasthan, Bongaigaon. Ext. 409 (three sheets, six pages) is his statement recorded by the Magistrate. Ext. 409 (i), (ii), (iii), (iv), (v), (vi) and (vii) are his signatures therein.

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228. In the cross examination, he has stated that he does not remember when the police arrested him. The statement made before the Magistrate was not read over to him. He did not tell the Magistrate that he wanted to help the police. He neither prayed for pardon before the Magistrate nor did he tell the Magistrate that he was guilty, verbally or in writing. He does not remember whether the Magistrate told him that he was guilty and as he promised to tell the truth, the court pardoned him. He was arrested in connection with this case but, was not remanded to judicial custody. He was kept at the police station. He was in police custody for about fifteen days. Thereafter, he was set at liberty by the police. After his statement was recorded by the Magistrate, he was released by the police. He did not know that the above named persons used to deal in stolen motorcycles. He only heard about the same. He does not exactly know at what price they had sold the motorcycle. He and Sunway Boro sold the aforesaid stolen motorcycle but, he does not know the person to whom they had sold the motorcycle. He was never granted bail by the court. After the recording of his statement by the Magistrate, he never visited the court. He does not personally know that Indra Brahma had purchased the aforesaid stolen motorcycle. He has been working as a sub-contractor and supervisor under a contractor. The police interrogated him but, he does not know whether the police recorded his statement in writing. He has not seen the aforesaid motorcycle either in the court or outside the court. Except the above, he knows nothing about the incident of this case. His statement made before the Magistrate that he knows well about the incident is not correct. It appears from the perusal of the record of the Bongaigaon P.S. Case No. 451/2008 that on 26.11.2008, the Investigating Officer arrested the accused Sun Wary, Hemraj Mushahary and Dasarath Basumatary and the learned Chief Judicial Magistrate, Bongaigaon remanded them to police custody for eight days. Thereafter, on 04.12.2008, they were produced before the learned Chief Judicial Magistrate and the Investigating Officer filed a petition stating that the accused Hemraj Mushahary and Dasarath Basumatary have stated before him that they were involved in the case and disclosed about their involvement and others before him. They have further stated that they will adduce evidence to prove the same and hence,

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the Investigating Officer prayed for making them approver as per the provisions of Section 306 Cr.P.C. The learned Magistrate then recorded the statements of the accused Hemraj Mushahary and Dasarath Basumatary and allowed the prayer of the Investigating Officer and made them approver. Therefore, PW-488 Dasarath Basumatary has lied on oath that the statement made by him before the Magistrate was not read over to him as no Judicial Magistrate will commit such a mistake. Further, he did not depose that the Ext. 409 statement is not true or voluntary. Further, as he did not implicate the accused Lokhra Basumatary @ Lobo, he was declared hostile and the Prosecution was allowed to cross-examine him. But, by cross-examining him, the learned senior Public Prosecutor, CBI, failed to elicit any other thing from him. But, in view of what he has stated in the cross-examination, the prosecution should have prayed for prosecuting him for not complying with the conditions of pardon and for perjury. Be that as it may, his testimony cannot be rejected as not admissible or not trustworthy as the defence did not challenge him in the cross-examination that he has deposed falsely.

229. In **Haricharan Kurmi (supra)**, the Hon'ble Supreme Court has held as follows:-

"14. In appreciating the full effect of the provisions contained in s. 30, it may be useful to refer to the position of the evidence given by an accomplice under s. 133 of the Act. Section 133 provides that an accomplice shall be a competent witness against an accused person; and that conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. Illustration (b) to s. 114 of the Act brings out the legal position that an accomplice is unworthy of credit, unless he is corroborated in material particulars. Reading these two provisions together, it allows that though an accomplice is a competent witness, prudence requires that his evidence should not be acted upon unless it is materially corroborated; and that is the effect of judicial decisions dealing with this point. The point of significance is that when the Court deals with the evidence by an accomplice, the Court may treat the said evidence as substantive evidence and enquire

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whether it is materially corroborated or not. The testimony of the accomplice is evidence under s. 3 of the Act and has to be dealt with as such. It is no doubt evidence of a tainted character and as such, is very weak; but, nevertheless, it is evidence and may be acted upon, subject to the requirement which has now become virtually a part of the law that it is corroborated in material particulars."

230. In the case of **RAMESHBHAI MOHANBHAI KOLI AND OTHERS Vs. STATE OF GUJARAT** reported in **(2011) 11 SCC 111**, the Hon'ble Supreme Court held as follows:-

*"8. It is settled legal proposition that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross examine him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent that their version is found to be dependable on a careful scrutiny thereof. (vide **Bhagwan Singh Vs. The State of Haryana**, ; **Shri Rabindra Kumar Dey Vs. State of Orissa**, ; **Syad Akbar Vs. State of Karnataka**, and **Khujji alias Surendra Tiwari Vs. State of Madhya Pradesh**).*

*9. In State of U.P. Vs. Ramesh Prasad Misra and another, this Court held that evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused but required to be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence can be relied upon. A similar view has been reiterated by this Court in **Balu Sonba Shinde Vs. State of Maharashtra**; **Gagan Kanojia and Anr. v. State of Punjab (2006) 13 SCC 516**; **Radha Mohan Singh @ LalSaheb and Others Vs. State of U.P.**; **Sarvesh Narain Shukla Vs. Daroga Singh and Others**, and **Subbu Singh Vs. State by Public Prosecutor**.*

*10. In **C. Muniappan and Ors. v. State of Tamil Nadu JT 2010 (9) SC 95**, this Court, after considering all the earlier decisions on this point, summarized the law applicable to the case of hostile witnesses as under:*

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70.1 The evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence.

70.2 In the instant case, some of the material witnesses i.e. B. Kamal (PW.86); and R. Maruthu (PW.51) turned hostile. Their evidence has been taken into consideration by the courts below strictly in accordance with law.

70.3 Some omissions, improvements in the evidence of the PWs have been pointed out by the learned Counsel for the appellants, but we find them to be very trivial in nature.

*71. It is settled proposition of law that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be disregarded. After exercising care and caution and sifting through the evidence to separate truth from untruth, exaggeration and improvements, the court comes to a conclusion as to whether the residuary evidence is sufficient to convict the accused. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution's witness. As the mental abilities of a human being cannot be expected to be attuned to absorb all the details of the incident, minor discrepancies are bound to occur in the statements of witnesses. (vide **Sohrab and Another Vs. The State of Madhya Pradesh; State of U.P. Vs. M.K. Anthony; Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat; State of Rajasthan Vs. Om Prakash; Prithu @ Prithi Chand and Another Vs. State of H.P.; State of U.P. Vs. Santosh Kumar and State Vs. Saravanan and Anr. AIR 2009 SC 151**).*

*In the case of **Attar Singh vs State Of Maharashtra**, decided on 14 December, 2012, the Hon'ble Supreme Court held as follows:-*

"13. We have meticulously considered the arguments advanced on this vital aspect of the matter on which the conviction and sentence imposed on the appellant is based. This compels us to consider as to whether the

conviction and sentence recorded on the basis of the testimony of the witness who has been declared hostile could be relied upon for recording conviction of the accused-appellant. But it was difficult to overlook the relevance and value of the evidence of even a hostile witness while considering as to what extent their evidence could be allowed to be relied upon and used by the prosecution. It could not be ignored that when a witness is declared hostile and when his testimony is not shaken on material points in the cross-examination, there is no ground to reject his testimony in toto as it is well-settled by a catena of decisions that the Court is not precluded from taking into account the statement of a hostile witness altogether and it is not necessary to discard the same in toto and can be relied upon partly. If some portion of the statement of the hostile witness inspires confidence, it can be relied upon. He cannot be thrown out as wholly unreliable. This was the view expressed by this court in the case of Syed Akbar vs. State of Karnataka reported in AIR 1979 SC 1848 whereby the learned Judges of the Supreme Court reversed the judgment of the Karnataka High Court which had discarded the evidence of a hostile witness in its entirety...

....Thus, merely because a witness becomes hostile it would not result in throwing out the prosecution case, but the Court must see the relative effect of his testimony. If the evidence of a hostile witness is corroborated by other evidence, there is no legal bar to convict the accused. Thus testimony of a hostile witness is acceptable to the extent it is corroborated by that of a reliable witness. It is, therefore, open to the Court to consider the evidence and there is no objection to a part of that evidence being made use of in support of the prosecution or in support of the accused."

231. In view of the above, the testimony of the PW-488 Dasarath Basumatary cannot be rejected as not admissible or not trustworthy as the defence did not challenge him in the cross-examination that he has deposed falsely. Therefore, based on the testimony of the PW-488 Dasarath Basumatary, it can be safely held that the accused Onsai Boro @ Ajit Borohad

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illegally purchased the stolen motorcycle and given the motorcycle to the NDFB cadres for using in the bomb blast at Paglasthan, Bongaigaon.

232. PW-493 Sun Wary has deposed that his brother Anupam Wary alias Bogla Wary was a member of the NDFB. He knows the accused Indra Brahma. He was a classmate of Dasarath Basumatary of their village. He also knows Hemraj Musahary. Hemraj Musahary was his relative. Hemraj Musahary has died in a motorcycle accident. Dasarath Basumatary and Hemraj Musahary used to sell motorcycles. Hemraj once asked him to look for a customer for selling one Bajaj Pulsar motorcycle. He has forgotten the registration number and the color of the said Bajaj Pulsar motorcycle. He talked with Dasarath and Hemraj and thereafter, they talked to Indra Brahma over mobile phone whether anybody will purchase the said motorcycle. Indra Brahma told them that he will have to enquire about the same and called them after twenty minutes and told them that a person will purchase the motorcycle. He and Dasarath then took the said motorcycle to Bengtal. After sometime, Indra Brahma arrived there and thereafter, an aged and stout person arrived there and paid the price of the motorcycle and took away the motorcycle. Later on, he saw news of bomb blast in television. Thereafter, the police arrested him and Dasharath. The police interrogated him and showed him the aforesaid motorcycle. Ext. 221 (five copies) are the photographs of the said motorcycle. The CBI personnel also interrogated him. They received Rs. 12,000/- (Rupees twelve thousand) only, for selling the motorcycle. He had received Rs. 1,000/- (Rupees one thousand) only, as commission and Dasharath also received Rs. 1,000/- (Rupees one thousand) only, as commission. Hemraj received Rs. 10,000/- (Rupees ten thousand) only. He did not tell the CBI that the accused Indra Brahma was a member of the NDFB. He was declared hostile but, by cross-examining him, the Prosecution could not prove any other thing. In the cross-examination by the defence, he has stated that he does not remember when the police arrested him.

233. Thus, PW-493 Sun Wary has proved that the said Bajaj Pulsar motorcycle was purchased by an aged and stout person and PW-488 Dasarath Basumatary has proved that the motorcycle was purchased by a healthy

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person and both of them have proved that the said person was brought by the accused Indra Brahma. The accused Onsai Boro @ Ajit Boro is a stout and healthy person and is also older than PW-493 Sun Wary and PW-488 Dasarath Basumatary and he has stated in his confessional statement that he had told Indra and Lokhra to search for a bike and they brought a bike and he gave Lokhra Rs. 15,000/- and purchased the bike. Therefore, though the PW-488 and the PW-493 did not identify the accused Onsai Boro @ Ajit Boro as the healthy and stout person who had purchased the said motorcycle from them, in view of his confessional statement, it must be held that the accused Onsai Boro @ Ajit Boro is the said person. Therefore, as the said red-colored Pulsar motorcycle was used in the Bongaigaon bomb explosion, the accused Onsai Boro @ Ajit Boro must be held guilty of causing the explosion.

234. PW-645 Kamal Kr. Banthia has deposed that in the year 2008, he had a business establishment under the name and style "Town Stores", at A.O.C. Road, Bongaigaon. He has changed the name of the said shop to "Kamal Kumar Banthia & Sons". On 30.10.2008, at around 08:00 AM, while he was present in his shop, at around 08:08 am, a youth parked his red colored Pulsar motorcycle in front of his shop, came to his shop and asked for dry fruits. When he told the youth that he does not sell dry fruits, the youth left his shop. At around 08:30 AM, an employee of his shop arrived and started sweeping the shop's floor. He then went outside and saw that the said motorcycle was still there in front of his shop. Thereafter, he went inside and after about fifteen minutes, he again came back and saw that the aforesaid motorcycle was still parked there. He then inspected the motorcycle and saw that something was tied with wire in the side box of the motorcycle. Suspecting foul play, he directed his younger brother Dhanraj Banthia to inform the police. Immediately, his brother informed the police and a traffic police arrived there and inspected the motorcycle and informed his superior officers about the matter. Thereafter, many police personnel arrived there and checked the motorcycle. Suspecting that there was something, the police personnel covered the motorcycle by a blanket. Thereafter, the police brought a crane and shifted the motorcycle to a nearby vacant place. The Police found some explosive materials inside the side box of the motorcycle. Thereafter,

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while the Police were waiting for arrival of the bomb disposal squad, at around 11:30 am, the said explosive material exploded. After the explosion, the Bongaigaon Police called him and asked him who had parked the said motorcycle in front of his shop. He told the police about the parking of the motorcycle by the above mentioned youth. He cannot identify the youth now as he had talked with the youth for a few minutes only. The youth was well built and was about five feet six inches tall. Defence declined to cross-examine him.

235. As can be seen from the testimony of the PW-645, he could have identified the youth from amongst the accused who had parked the motorcycle in front of his shop as one of them had parked the motorcycle there. Further, PW-488 Darasath Basumatary and PW-493 San Wary could have also identified the accused Onsai Boro @ Ajit Boro as the person who had purchased the motorcycle used in the Bongaigaon blast from them, through the accused Indra Brahma and Lokara Basumatary, as the accused Onsai Boro @ Ajit Boro fits the description of the person given by them and the accused Onsai Boro @ Ajit Boro has confessed about the same.

236. A liberal translation of the confessional statement of the accused Onsai Boro @ Ajit Boro reads as follows:-

"In the year 1998, I had joined the NDFB. Thereafter, from April 1998 to August 1998, I took training at Namlang, Bhutan. After the training and till the cease fire agreement of 2004, I used to travel in between Assam and Bhutan. After the 2004 cease fire, I started staying at the designated camp or with my wife in rented house. In the month of July, 2008, Dinthilang and Ulafat called me. They told me that Ranjan Daimari had called me and asked me go to Bangladesh. They also gave me Rs. 30,000/-. Dinthilang and Ulafat gave me the number of a Garo boy and I contacted him and directly went to Dhaka. In Dhaka, I spent one night in the flat of Dan Sirang. Next day, Ranjan Daimari came and talked with me. Ranjan Daimari asked about my identity and when I had disclosed my identity, he asked me about the situation. Thereafter, Ranjan Daimari told me that command has been given to Dinthilang and that I should follow the command of Dinthilang. Ranjan

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Daimari also told me that we should not remain idle. He told me that though we are in cease fire, our boys have been killed and the memorandum that the NDFB had given to the Government has failed. After talking with me for about ten minutes, Ranjan Daimari went away. Thereafter, I stayed for one week as I had diarrhea and thereafter, returned to Assam. After reaching Assam, I told Dinthilang and Ulafat about the same and questioned them as to why they had sent me to Bangladesh for nothing. I also quarreled with Ulafat. Thereafter, on 18th October (later on, said to be the 19th), Ulafat called a secret meeting and asked me to attend the meeting. I did not go to the said meeting. Then Ulafat told me that if I do not go to the meeting, I should give a bike to him (motorcycle). Thereafter, I told Indra and Lokhra to search for a bike. They brought a bike and I gave Lokhra Rs. 15,000/- from the balance of Rs. 30,000/- which was earlier given to me. Ulafat told me to deliver the bike to Uma Raja. Then I directed Lokhra to give the bike to Uma Raja. The bike was a red-colored Pulsar bike. I have forgotten the registration number of the bike. I do not know what Uma Raja and others did thereafter."

237. The orders relating to the recording of confessional statement of the accused Onsai Boro @ Ajit Boro are reproduced below.

"31.05.2010

Seen the supplementary order sheet along with the petition of I.O. dated 30.05.2010. Keep these with C.R.

Accused Onsai Boro is produced before me today. Though the accused was remanded to police custody for five days vide order dated 28.05.2010, I.O has reported today in writing that police remand of the accused is no more required for investigation. Send the accused to jail custody fixing as before for production.

I.O has prayed for recording confessional of the accused Onsai Boro. Heard the I.O and perused C.R. The prayer of the I.O is allowed for the interest of a fair and adequate investigation u/s 173 (8) Cr.P.C.

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I am busy with pending matters. Send the C.R. and produce the accused before Hon'ble C.J.M. for necessary order.

s/d Illigible

31.05.10

Record is put up before me as per order of the learned Special Magistrate.

Gone through the prayer of the I.O for recording confessional statement of accused Onsai Boro @ Ajit Boro.

Mr. N.K. Das is endorsed to record the confessional statement of the accused.

s/d Illigible

31.05.10

Gone through the order dated 31.05.10 passed by the Learned C.J.M. (K). One Onsai Boro @ Ajit Boro is produced before me by CBI personnel.

I have given him the mandatory warning required by law.

Send him to judicial custody for reflection till 01.07.2010.

Jail authority will see to it that the said accused is not allowed to mingle with other detainees.

The said accused will be produced before me tomorrow in the second half.

Send back the C/R.

s/d Illigible

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01.06.2010

Accused Onsai Boro @ Ajit Boro is produced before me from jail hajot.

I have again given the mandatory warning in respect of recording of confessional statement.

On being satisfied about his willingness and voluntariness to confess, his confession is recorded in separate form and tagged with C/R.

As per prayer of the petition dated 31.05.2010 for furnishing copy of the statement the same is allowed. Office (G.R. branch) is directed to furnish a photo copy of the confessional statement to the Police Inspector/ CBI, STF Mr. A.S. Tariyal.

Inadvertently in the order dated 31.05.2010 passed by this court the time allowed to accused Onsai Boro @ Ajit Boro for reflection was written on 01.07.2010 which should be 01.06.2010. This fact is clear from the later part of the order also. Hence, the same may be treated as 01.06.2010.

Send the accused Onsai Boro @ Ajit Boro to jail hajot till 02.06.2010. He shall be produced before the learned Special Magistrate for necessary order with regard to his detention as the learned Special Magistrate is the court before whom the said accused was produced from police remand.

Fixing 02.06.2010 for production of accused before the learned Special Magistrate, Guwahati.

s/d Illigible

09.11.2010

Accused Jayanti Brahma, Ajay Basumatary, Raju Sarkar, Prabhat Boro, Indra Brahma, Amal Boro, Khargeswar Basumatary, Onsai Boro, Nilim Daimari, Mridul Goyari and Lokhra Basumatary are produced from jail hajot. They are again remanded to jail hajot till 23.11.2010 for production.

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Accused Ajit @ Onsai Boro has orally retracted from his earlier confession and supported the contents of petition No. 3114 dated 26.10.2010.

s/d Illigible

238. The above orders show that on 31.05.2010, the accused Onsai Boro @ Ajit Boro was produced before the learned Judicial Magistrate for recording his confessional statement. On that day, the learned Judicial Magistrate gave the accused the statutory warning and remanded him to judicial custody for reflection. On the next day, the accused Onsai Boro @ Ajit Boro was again produced before the learned Judicial Magistrate and after being satisfied that the accused was willing to make the confession voluntarily, recorded his confessional statement. Therefore, the confessional statement of the accused Onsai Boro @ Ajit Boro must be held to be voluntary.

239. Further, as in his confessional statement, the co-accused Ajay Basumatary @ B. Aogi has stated that the decision about the date and time of the serial bomb explosions were taken in the meeting dated 19.10.2008 and the accused Onsai Boro @ Ajit Boro has also stated that the absconding accused Ulafat had called a secret meeting of the NDFB cadres on 19.10.2008, an important aspect of the confessional statement of the accused Onsai Boro @ Ajit Boro is corroborated by the accused Ajay Basumatary @ B. Aogi. In view of the above and as the accused Onsai Boro @ Ajit Boro has implicated him with the conspiracy of causing the serial bomb blasts by going to Dhaka, Bangladesh to meet the accused Ranjan Daimari and provided the motorcycle for using in the Bongaigaon blast, he is a member of the criminal conspiracy to cause the serial bomb explosions and is guilty of causing the serial bomb explosions. Further, PW-488 Dasarath Basumatary and PW-493 Sun Wary have also proved that the accused Onsai Boro @ Ajit Boro had purchased the motorcycle used in the Bongaigaon bomb explosion from them. Therefore, the confessional statement of the accused Onsai Boro @ Ajit Boro is not only voluntary, but also true.

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240. Further, the accused Onsai Boro @ Ajit Boro had illegally purchased the motorcycle used in the Bongaigaon bomb explosion as per the direction of the absconding accused S. Ulafat and has given the motorcycle to one Uma Raja, again as per the direction of the absconding accused S. Ulafat and the said motorcycle was used in the Bongaigaon bomb blast. Therefore, based on his confessional statement alone, the accused Onsai Boro @ Ajit Boro must be held to be one of the conspirators to cause the serial bomb explosions and also guilty of causing the serial bomb explosions on 30.10.2008.

241. In his examination under Section 313 Cr.P.C. regarding his confessional statement, the accused Onsai Boro has stated that he did not make any confession, which does not make sense as his confessional statement was recorded by a Judicial Magistrate as per the law and the same is part of the case record. Therefore, he is denying the proceeding of a court, which is simply not tenable in the eye of law. The accused Onsai Boro @ Ajit Boro, should, at least, have and ought to have respect for the law of the land and should have accepted that his confessional statement was recorded by the learned Judicial Magistrate and could have retracted from the same, which he did. But, he cannot take the plea that he did not make any confession when the confession is recorded by a Judicial Magistrate in the court.

242. But, like the co-accused Ajay Basumatary @ B. Aogi, the accused Onsai Boro @ Ajit Boro also retracted from his confession. But, in view of the discussion made in the case of the co-accused Ajay Basumatary @ B. Aogi, the subsequent retraction will not make his confessional statement unreliable or false. Because, like the confessional statement of the co-accused Ajay Basumatary @ B. Aogi, the confessional statement of the accused Onsai Boro @ Ajit Boro is also voluntary, inculpatory and true and is corroborated by the PW-488 Dasarath Basumatary and PW-493 Sun Wary and by the confessional statement of the co-accused Ajay Basumatary @ B. Aogi. Therefore, in the facts and circumstances of the case, based on his retracted confession alone, the accused Onsai Boro @ Ajit Boro must be held to be a member of the banned NDFB organization and guilty of conspiring with the co-accused of

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the case to cause the serial bomb explosions in Guwahati and other parts of Assam and also for illegally purchasing a stolen motorcycle and providing the said motorcycle to the NDFB cadres for using in bomb explosion and also for causing bomb explosion at the old Paglasthan bus stand, Bongaigaon.

(5) CASE OF THE ACCUSED RAJU SARKAR

243. PW-621 Suresh Chandra Das, an investigating officer of the case has deposed that he had seized one number plate of a vehicle, containing registration No. AS-12-D-8335 and an engine of a Maruti vehicle, the engine No. being F8BIN303447, from the blast site near the Baptist Church complex, Panbazar, Guwahati. He also seized about 1100 grams of soil and sixteen damaged vehicles from the blast site vide Ext. 538 seizure memo. During investigation, he found that the seized number plate was the registration number of a motorcycle and the owner of the said motorcycle was a resident of village Odali, under Lanka police station. He called the owner of the motorcycle to the Panbazar police station and interrogated him. During investigation, he found that the motorcycle bearing registration No. AS-12-D-8335 was not used in the bomb blast and hence, he set the owner of the motorcycle No. AS-12-D-8335 at liberty. He also found that the Maruti vehicle having engine No. F8BIN303447 seized from the blast site near the Baptist Church complex, Panbazar, Guwahati, was used in causing the blast using a fake number plate.

244. PW- 547 Upen Bora, Deputy Director, Explosive Division, F.S.L. Assam, Guwahati, deposed that in connection with Panbazar P.S. Case No.398 / 08, he had examined the exhibits contained inside a packet and found the following articles:

1. One damaged part of an engine of a vehicle marked by them as Ex- A.
2. 490 grams of soil marked by them as Ex-B.

After conducting proper chemical and analytical examination of the exhibits, he arrived at the following conclusions:

1. Ex-A was a damaged part of a Maruti car (Engine No. F8B IN 303447).
2. Ammonium Nitrate and RDX had been found in Ext-B.
3. The serial No. of the tyre attached to the engine was :

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(i) MRF-ZIGMA CC- RADIAL- 70-60375376469.

Ex-B was destroyed during examination.

Ext. 496 is the report prepared by him and Ext. 496 (i) is his signature therein.

245. PW- 466 Chandra Deep Sharma has deposed that in the year 2009, he was working as a Senior Executive in the Vigilance Department of the Maruti Suzuki India Limited, Gurgaon, Haryana. On 04-02-2009, a CBI Officer approached him seeking information regarding a Maruti car. He checked the official records and furnished the information to the CBI Officer. The information sought for was regarding the Maruti 800 car bearing chassis No. 223480 and Engine No. 303447. The said car was dispatched to the M/s Ganga Automobiles Limited, Green Park, New Delhi. Ext. 334 is the information that he furnished to the CBI Officer and Ext. 334 (i) is his signature therein with his office seal.

246. PW- 489 Pancham Lal has deposed that he is a retired Head Clerk of the General Administration Department, Govt. of NCT, New Delhi. In the year 2009, he was posted as an Upper Division Clerk in the Office of the R.T.O., South-West Division, Sheikh Sharai, New Delhi. On 03.02.2009, he was verbally directed by the Motor Licensing Officer to hand over the record of the Maruti 800 car bearing registration No. DBG-5540 to the CBI official and he handed over the concerned file to the CBI official. The CBI official seized the said file vide Ext. 410 seizure memo. Ext. 410 (i) is his signature therein. Ext. 411 is the seized file containing Registration Records of the Maruti 800 car bearing registration No. DBG-5540. As per the Ext. 411, the original registered owner of the Maruti 800 car No. DBG-5540 was M/s Swastik Enterprises. Later on, the ownership was transferred to Shri Multan Chand Jain. The Ext. 411 file shows that the Engine No. of the said Maruti 800 car is 303447 and the said car was sold by M/s Ganga Automobiles Limited to M/s Swastik Enterprises and was registered as No. DBG-5540.

247. PW-387 Om Prakash Borar has deposed that Multan Chand Jain is his brother-in-law. He resides in New Delhi and was the registered owner of the white colored Maruti 800 car bearing registration No. DBG-5540. He had

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purchased the said Maruti car from Multan Chand Jain and brought the car to his residence at Monabari Tea Estate. After driving the car for about two years, he sold the car to one Dibyajyoti Choudhury.

248. PW-61 Dibyajyoti Choudhury has corroborated the PW-387 and has deposed that he had purchased the Maruti 800 car bearing registration No. DBG-5540 from PW-387 Om Prakash Borar and sold the car to one Sayeda Kaiser.

249. PW-62 Sayed Mustafa Kaiser has corroborated the PW-61 and has deposed that he had purchased the Maruti 800 car bearing registration No. DBG-5540 from Dibyajyoti Choudhury, in the name of his wife Sayeda Kaiser. Thereafter, he had changed the registration number of the car from DBG-5540 to AS-01-E-9226, through the DTO, Kamrup, Guwahati and later on, sold the car to one Pradip Hazarika.

250. PW-67 Bipin Ch. Rajbangshi, the last registered owner of the Maruti 800 car bearing registration No. AS-01-E-9226 has deposed that he had sold the said Maruti 800 car to the accused Raju Sarkar, through one Kartik Mandal and executed the Ext. 114 sale deed and Ext. 115 receipt for the same. He has also executed the Ext.116 Transfer of Registration Form in presence of the said Kartik Mandal. He has further deposed that at the time of sale, the accused Rahul Brahma was accompanying the accused Raju Sarkar.

251. PW-68 Kartik Mandal has deposed that he had introduced the accused Raju Sarkar to the PW- 467 Bipin Ch. Rajbangshi. PW- 467 Bipin Ch. Rajbangshi had sold his Maruti car bearing registration No. AS-01-E-9226 to the accused Raju Sarkar. He signed as a witness in the Ext. 114 and Ext. 116 documents. He has further deposed that at the time of sale, the accused Rahul Brahma was accompanying the accused Raju Sarkar.

252. PW-475 Shankar Deka has deposed that the accused Raju Sarkar was working as a mechanic in his motorcycle show-room. Thereafter, the accused Raju Sarkar opened a motorcycle repairing shop near his show-room. After some time, the accused Raju Sarkar wanted to again work under him but, he did not re-appoint him. He has further deposed that in the year 2008, the

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accused Raju Sarkar had purchased a Maruti Car from one Bipin Rajbangshi of Village- Madhukuchi. Defence did not challenge him in the cross-examination that the accused Raju Sarkar had not purchased any Maruti Car from Bipin Rajbangshi. Therefore, his testimony must be accepted to be true.

253. PW- 582 Kushal Ch. Talukdar has deposed that he is an LIC Agent. PW- 67 Bipin Chandra Rajbangshi was his client. Bipin Chandra Rajbangshi had a Maruti 800 car and he had sold the said car to the accused Raju Sarkar. Defence declined to cross-examine him. Therefore, his testimony must be accepted to be true.

254. By cross-examining them, the, defence has failed to bring out anything based on which it can be said that they were not telling the truth. The defence did not even challenge the PW- 582 Kushal Ch. Talukdar that PW-67 Bipin Chandra Rajbangshi did not sell his Maruti car to the accused Raju Sarkar. Therefore, it must be held that on the day of the serial bomb blasts on 30.10. 2008, the accused Raju Sarkar was the owner of the Maruti car bearing registration No. AS-01-E-9226 and was possessing it. Therefore, as the engine of the said Maruti car was found at the blast site near the Baptist Church complex, Panbazar, Guwahati and the bomb was planted in the said car, it must be held that the accused Raju Sarkar had parked the car with the bomb there and had caused the blast.

255. PW-585 Jayanta Boro has deposed that he knows the accused Raju Sarkar. The accused Raju Sarkar used to work as a mechanic in a motorcycle dealer and he was learning under the accused Raju Sarkar. He has further deposed that the accused Raju Sarkar had purchased a Maruti car. After the bomb blasts that occurred at various places in Assam on 30.10.2008, he did not meet the accused Raju Sarkar. Therefore, PW- 585 Jayanta Boro has proved that after the bomb blasts on 30.10.2008, the accused Raju Sarkar absconded. In view of the above discussion, as the accused Raju Sarkar absconded from the day of the serial bomb blasts, the same must be held to

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be consistent with his guilt only and therefore, he must be held guilty of causing the bomb blast near the Baptist Church complex, Panbazar, Guwahati.

256. PW-586 Ranjit Boro has deposed that he knows the accused Raju Sarkar. He had met the accused Raju Sarkar at the Panbazar Police station. As his uncle Ganesh Basumatary was taken to the Panbazar Police station, he went to the Panbazar Police station to meet him and there, he met the accused Raju Sarkar. He has further deposed that the accused Raju Sarkar told him that he had committed a mistake. The mistake must be the causing of the bomb blast as he was detained by the police in connection with the bomb blasts cases.

257. The accused Raju Sarkar had disclosed before the Investigating Officer about his involvement in the bomb blast near the Baptist Church, Panbazar, Guwahati and his disclosure statement was recorded in presence of witnesses. He also led the Investigating Officer and the witnesses to the places used and visited by him in connection with the serial bomb blasts and a pointing out memo of the places pointed out by him was also prepared. Ext. 14 is the said disclosure statement and Ext. 15 is the pointing out memo.

258. PW-182 Smt. Basanti Boro, resident of Garchuk, Noagaon, Guwahati, has deposed that one day, the police went to her house and asked her whether some persons had been to her house or not. She told the police that three persons came to their house on the previous night and one of them spent the night in their house and the other two stayed in a different house. The police apprehended one of the other two persons, took him to their house and asked her whether he was one of the said persons. She told the police that he was one of the three persons. She has identified the accused Raju Sarkar as the said person. She has further deposed that the said persons came to her house in a vehicle. Defence did not challenge her in the cross-examination that the accused Raju Sarkar was not one of the three persons who had taken dinner in her house and taken to her house by the police.

259. Further, though, in his examination under Section 313 Cr.P.C., the accused Raju Sarkar has stated that the PW-182 has deposed falsely, as he did not challenge her in the cross-examination that she has deposed falsely,

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her testimony must be accepted to be true and it must be held that his disclosure statement, that in the night of 29.10.2008, along with the co-accused Rahul Brahma and Tapa, he went to the house of Basanti Boro and took dinner there and spent the night there is true, though, the mere disclosure statement is not admissible in evidence as the same was made during police custody. He could have taken the plea that he had been to the house of the PW-182 in an earlier occasion. But, his contention that the PW-182 has deposed falsely is not tenable in the eye of law. Therefore, it must be held that in the night of 29.10.2008, that is in the intervening night of the serial bomb blast, the accused Raju Sarkar had been to the house of the PW-182 Smt. Basanti Boro, situated at Garchuk, Noagaon, Guwahati, and was preparing for causing the bomb blasts in the morning.

260. Thus, the testimonies of the prosecution witnesses discussed above proved beyond all reasonable doubt that the accused Raju Sarkar had purchased the Maruti car bearing registration No. AS-01-E-9226, the damaged Engine No. 303447 of which was seized by the investigating officer namely, PW-621 Suresh Chandra Das from the blast site near the Baptist Church complex, Panbazar, Guwahati, from the PW- 67 Bipin Chandra Rajbangshi in presence of the PW- 68 Kartik Mandal and at the time of purchase, the accused Khargeswar Basumatary @ Rahul Brahma was accompanying him and that the said Maruti car was used in the bomb blast near the Baptist Church complex, Panbazar, Guwahati. In his examination under section 313 Cr.P.C., the accused Raju Sarkar has stated that he did not purchase the Maruti car bearing registration No. AS-01-E-9226 from PW- 67 Bipin Ch. Rajbangshi. But, in view of the discussion made above, his contention is not tenable in the eye of law.

261. As can be seen from the discussion made above, the ownership of the Maruti car bearing registration No. AS-01-E-9226 was not transferred to the accused Raju Sarkar as per the provisions of the Motor Vehicles Act. But, for not transferring the ownership of the vehicle to the accused Raju Sarkar as per the provisions of the Motor Vehicles Act, the accused Raju Sarkar may avoid liabilities arising under the said Act. But, the same will not disprove

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the fact that the accused Raju Sarkar had purchased the said Maruti car from Bipin Ch. Rajbangshi vide Ext. 114 sale deed and the sale was complete as he had paid the sale consideration and has taken the delivery of the said Maruti car. Therefore, as the said Maruti car was used in the bomb blast near the Baptist Church Complex, Panbazar, Guwahati, the accused Raju Sarkar had the responsibility to explain as to how in the morning of 30.10.2008, the said Maruti car with explosives reached the parking place near the Baptist Church Complex, Panbazar, Guwahati. But, he did not put forward any explanation and has simply stated that he never purchased the said Maruti car from Bipin Ch. Rajbangshi. Therefore, it must be held that the accused Raju Sarkar had parked the Maruti car with the bomb near the Baptist Church Complex, Panbazar, Guwahati and caused the blast.

(6) CASE OF THE ACCUSED PRABHAT BORO @ TEPA

262. PW- 57 Nakul Boro has deposed that since 2008, he was working as a driver in Guwahati and was staying in a rented house in Sarumatoria, under Dispur Police Station. The accused Prabhat Boro @ Tapa and two others were also staying with him. The accused Prabhat Boro was also driving vehicles. After the bomb blast that occurred at Ganeshguri, he lost contact with the accused Prabhat Boro.

263. PW- 382 Ashish Boro has also deposed that he is a professional driver. In the year 2008, he was driving the Bolero vehicle of one Mr. Nath, resident of Shewali Path, Hatigaon, Guwahati. At that time, he was staying in a rented house in Sarumatoria, behind the Down Town Hospital, Guwahati, along with Nakul Boro. The accused Prabhat Boro @ Tapa was also staying with them. At that time, the accused Prabhat Boro @ Tapa was driving the Indica car of one Nirmali Sharma. On 29.10.2008, he went to Arunachal Pradesh. There, he came to know about the bomb blasts in Guwahati on 30.10.2008. On that day, Tapa was not present in their rented house. When he returned to Guwahati, then also he did not find Tapa in their rented house. CBI asked him about Tapa and he has identified Tapa before the CBI.

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264. In the cross-examination, he has stated that he does not remember whether the CBI showed him the photograph of Tepas or not. As he knows Tepas, he has identified him in the Court. CBI did not ask him to identify Tepas placing him with other persons. Defence did not challenge him in the cross-examination that the accused Prabhat Boro @ Tepas was not staying with him in Sarumatoria, Guwahati and that after the bomb blast on 30.10.2008, Tepas did not abscond. Therefore, PW- 382 Ashish Boro and PW- 57 Nakul Boro have proved beyond all reasonable doubt that till 30.10.2008, the accused Prabhat Boro @ Tepas was staying with them in Sarumatoria and thereafter, he absconded.

265. PW- 51 Rabi Ram Boro has deposed that the accused Prabhat Boro is his nephew. During the year 2007-2008, the accused Prabhat Boro was working as a driver. He used to talk with Prabhat Boro over phone. At that time, the accused Prabhat Boro was using the mobile No. 986448574 and he was using the mobile number 9864121111. In the year 2008, Prabhat Boro was driving the vehicle of one Mrs. Sarma of Guwahati. On 30.10.2008, that is, on the day of the serial bomb blasts, at around 10/11 A.M., Prabhat Boro called him and told him that he was going to his native place at Barama. Thereafter, Prabhat Boro never contacted him.

266. In the cross-examination, he has stated that he is sure that on 30.10.2008, at around 11:00 A.M., the accused Prabhat Boro called him. He has denied the suggestion that on 30.10.2008 the accused Prabhat Boro did not call him. Therefore, PW- 51 Rabi Ram Boro has also proved beyond all reasonable doubt that till 30.10.2008, the accused Prabhat Boro @ Tepas was staying in Guwahati and after the bomb blast on 30.10.2008, he absconded.

267. PW- 46 Smt. Nirmali Sarma has deposed that the accused Prabhat Boro was driving her Indica car bearing registration No. AS-01-W-6864. In the month of October, 2008, she dismissed him from service as he was irregular in performing his duties. She has also identified the accused PrabhatBoro @ Tepas in the dock.

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268. In the cross-examination, she has stated that from November, 2007 to October, 2008, the accused Prabhat Boro was working under her as a driver. During that period, she did not notice any abnormalities in the behavior of the accused Prabhat Boro. He was irregular and hence they dismissed him from service. After he left, she did not maintain any relation with him. Therefore, PW- 46 Smt. Nirmali Sarma has also proved beyond all reasonable doubt that till October, 2008, the accused Prabhat Boro was staying in Guwahati.

269. PW-638 Pranab Das, Inspector, CBI, EO-V, Guwahati, who had assisted the investigating officers of the bomb blast cases, has deposed that the accused Prabhat Boro @ Tapa had disclosed about his involvement in the bomb blasts in the CJM court complex and near the Baptist Church Complex. He has further deposed that the disclosure statement of the accused Prabhat Boro was recorded in his presence and pointing out memo of the places shown by him was also prepared in his presence. Ext. 12 is the said disclosure statement and Ext. 13 is the said pointing out memo.

270. In the cross-examination, he has, inter alia, stated that he does not remember where in the vehicle the accused Prabhat Boro @ Tapa was sitting while he was leading the investigating officers to the places mentioned in the Ext. 13 pointing out memo. He has further stated that he does not remember if the accused Prabhat Boro @ Tapa was sitting in the rear seat of the said vehicle. Therefore, by cross-examining him, the defence has proved that the accused Prabhat Boro @ Tapa, in fact, led the investigating officers to the places mentioned in the Ext. 12 disclosure statement and Ext. 13 pointing out memo.

271. PW- 382 Ashish Boro, PW- 57 Nakul Boro, PW- 46 Smt. Nirmali Sarma and PW- 51 Rabi Ram Boro have proved beyond all reasonable doubt that till 30.10.2008, the accused Prabhat Boro @ Tapa was staying in Guwahati and after the serial bomb explosions on 30.10.2008, he absconded. Therefore, as after the serial bomb explosions on 30.10.2008,

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the accused Prabhat Boro @ Tapa absconded, the same must be taken as consistent with his guilt only (Ref. **PAKKIRISAMY** (supra)).

(7) CASE OF THE ACCUSED KHARGESWAR BASUMATARY @ RAHUL BRAHMA @ KHARMSWAR

272. The accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar was arrested from Ziro, Arunachal Pradesh and was brought to Guwahati via Lakhimpur. During transit, he gave an interview to the PW- 618 Jitumoni Neog, a reporter of the News Live T.V. Channel, at Lakhimpur Police Reserve. In the interview, he told PW- 618 that he had parked the car with bomb at Panbazar. When the PW-618 asked him at whose instance he had caused the blast, he told that as per the direction of the accused Ranjan Daimary, he had caused the blast.

273. PW-617 Sayed Zarir Hussain, Managing Editor of the New-Live T.V. Channel, has fully corroborated the PW- 618. He has deposed that he had telecast the interview of the accused Rahul Brahma. He has also exhibited an office copy of the C. D. of the said interview as Material Ext. VIII and a translated copy of the interview as Ext. 535. The Ext. 535 reads as follows.

*"To
The SP
CBI, STF
New Delhi, Camp Guwahati
Ulubari, Guwahati*

Translation of statement made by NDFB cadre Rahul Brahma before News Live reporter in Lakhimpur after his arrest on May 29, 2010 in Arunachal Pradesh regarding the Assam serial blasts on Oct. 30, 2008.

Byte 1

RAHUL BRAHMA :: A gas cylinder was brought in a Maruti car to Pan Bazar. Raju Sarkar parked the car at Pan Bazar. It was done as per the order issued by Ranjan Daimary. TNT was packed in the cylinder.

Byte 2

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RAHUL BRAHMA :: I was at Bharalumukh at that time (probably referring to the time when the explosives went off). Then I reached Rangia. From Rangia I reached Simalu Chapori. The order was issued by Ranjan Daimary.

REPORTER'S QUESTION :: Who were the others involved in triggering the blasts ?

RAHUL BRAHMA :: B. Jang Khang and Aogai at Ganeshguri and N. Thungri Narzary at CJM's court."

274. Defence did not challenge him in the cross-examination that the Ext. 535 is not the true translated version of the interview of the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar given to PW- 618. Therefore, there is no doubt that the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar gave the interview voluntarily and the same is true.

275. But, the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar gave the interview during transit remand. Therefore, the interview is a statement made during police custody. In the case of **State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru, reported in AIR 2005 SC 3820: (2005) CriLJ 3950, (2005) 11 SCC 600**, the Hon'ble Supreme Court observed as follows:-

"We have noticed above that the confessions made to a police officer and a confession made by any person while he or she is in police custody cannot be proved against that person accused of an offence. Of course, a confession made in the immediate presence of a Magistrate can be proved against him. So also Section 162 Cr.P.C. bars the reception of any statements made to a police officer in the course of an investigation as evidence against the accused person at any enquiry or trial except to the extent that such statements can be made use of by the accused to contradict the witnesses. Such confessions are excluded for the reason that there is a grave risk of their statements being involuntary and false..."

276. Therefore, based on the Ext. 535 interview / statement alone and though, the defence did not challenge the PW- 617 and PW- 618 in the

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cross-examination that the Ext. 535 is not a true and correct translated version of the interview given by the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, the accused cannot be held guilty of conspiring to cause the serial bomb blasts or causing the blast near the Baptist Church Complex, Panbazar, Guwahati, at the instance of the accused Ranjan Daimary

277. PW-553 Krishna Kanta Swargiary had deposed that the accused Khargeswar Basumatary had connection with the NDFB. Defence did not challenge him in the cross-examination that the accused Khargeswar Basumatary did not have connection with the NDFB. Therefore, the PW-553 has proved that the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar is a member of the NDFB. Further, the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar has disclosed before the investigating officer about his involvement in causing the blasts inside the C.J.M. Court Complex and near the Baptist Church Complex. The Investigating Officer recorded his disclosure statement. He also led the Investigating Officers to the places visited by him for causing the bomb blasts and also the place where the bomb-laden Maruti car was parked. But, again though his statement is stated as disclosure statement, nothing was discovered pursuant to the disclosure statement. Therefore, the same is a mere statement made before the police. But, the charge leveled against the accused Khargeswar Basumatary that he is a member of the NDFB and that he had purchased the Maruti car used in the Panbazar bomb blast along with the accused Raju Sarkar have been fully established.

278. PW-67 has deposed that the accused Khargeswar Basumatary was accompanying the accused Raju Sarkar at the time of purchasing his Maruti car and has identified the accused Khargeswar Basumatary from the photograph shown by the Investigating Officer as the person who was accompanying the accused Raju Sarkar at the time of selling his Maruti car. PW-67 has also identified the accused Khargeswar Basumatary in the dock as the person who was accompanying the accused Raju Sarkar at the time of selling his Maruti car. Ext. 118 is the said photographs of the accused Khargeswar Basumatary. Defence did not even challenge him in the cross-

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examination that at the time of selling his Maruti car to the accused Raju Sarkar, the accused Khargeswar Basumatary was not accompanying him.

279. PW-68 has also deposed that at the time of selling the Maruti car to the accused Raju Sarkar, another person was accompanying the accused Raju Sarkar. Ext. 118 is the photograph of the said person. He has identified the accused Khargeswar Basumatary in the dock as the said person. Defence did not challenge him in the cross-examination that the accused Khargeswar Basumatary was not accompanying the accused Raju Sarkar at the time of purchasing the Maruti car from PW-67. Therefore, it must be held that at time of purchasing the said Maruti car from PW-67 by the accused Raju Sarkar, the accused Khargeswar Basumatary was accompanying the accused Raju Sarkar. Therefore, as the said Maruti car was used in the bomb blast near the Baptist Church Complex, Panbazar, it must be held that along with the accused Raju Sarkar, the accused Khargeswar Basumatary had purchased the the said Maruti car for causing the bomb blast and also caused the blast near the Baptist Church Complex, Panbazar.

280. Further, after the serial bomb blasts on 30.10.2008, the accused Khargeswar Basumatary absconded and he was arrested from Ziro, Arunachal Pradesh. In his examination under Section 313 Cr.P.C., the accused Khargeswar Basumatary has stated that before the serial bomb blasts on 30-10-2008 and thereafter also, he was staying in the house of his would be in-laws at village- Pub-Naokata, P.S.- Goreswar and as his would be in-laws were their blood relation, his father did not agree to his marriage and therefore, quarreling with his father, in the month of January, 2009, he eloped with his would be wife and went to Arunachal Pradesh. In Arunachal Pradesh, he first worked in the Dolo Mondo English School, Hapoli town, Ziro, as an Assistant Teacher till December, 2009. Thereafter, till his arrest, he had worked as a DTP operator at the "Patha Printing Press" at Hapoli town, Ziro, Arunachal Pradesh. But, he did not adduce any evidence to prove the same, and the evidence on record does not support the same. Hence, his statement cannot be accepted to be true. Further, as he was accompanying the accused Raju Sarkar at the time of purchasing the Maruti car from the PW-67, his

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statement is a blatant lie. Therefore, it must be held that after the serial bomb blasts, he absconded and while he was hiding in Ziro, Arunachal Pradesh, the CBI arrested him. In view of the above, his absconding must be taken as consistent with his guilt only and hence, it must be held that the accused Khargeswar Basumatary is a member of the banned NDFB organization and he participated in the activities of the said organization (Ref. **PAKKIRISAMY** (supra)).

(8) CASE OF THE ACCUSED RAJENDRA GAYARI @ RAJEN @ RIFIKHANG

281. After the serial bomb blasts, the accused Rajendra Goyari @ Rifikhang absconded and hence, proclamation and attachment orders were issued against him. But, as even after that, he could not be apprehended at the request of the Government of India, the INTERPOL issued Red Corner Notice against him and thereafter only, he was arrested. Therefore, it must be held that he absconded as he was involved in the serial bomb blasts cases and his absconding must be taken as consistent with his guilt only. Therefore, it must be held that the accused Rajendra Goyari @ Rifikhang is a member of the banned NDFB organization and he participated in the activities of the said organization (**Ref. PAKKIRISAMY (supra)**).

282. Further, in his confessional statement, co-accused Ajay Basumatary has stated that the accused Rifikhang was present in the meeting dated 19.10.2008 held in the house of the absconding accused Dinthilang and in the said meeting, the accused Rifikhang was entrusted with the responsibility of causing the bomb blast at Barpeta Road. The confessional statement of the accused Ajay Basumatary has been discussed above and the same has been held to be voluntary and true. Further, in view of the discussion made above, the confessional statement, co-accused Ajay Basumatary can be used against the accused Rajendra Goyari @ Rajen @ Rifikhang and based on the same, he must be held guilty of hatching the conspiracy to cause the serial bomb blasts and also of causing the serial bomb blasts.

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283. Further, in his confessional statements, approver Anup Kr. Boro has also implicated the accused accused Rajendra Goyari @ Rajen @ Rifikhang with hatching the conspiracy to cause the serial bomb blasts. The confessional statements of the approver Anup Kr. Boro has to be treated as his previous statements. He has deposed as PW- 615 that the accused Mridul Gayari is his childhood friend. He used to go to the house of the accused Mridul Gayari. The accused Mridul Gayari has two brothers namely, the accused Rajen Gayari (accused Rajendra Goyari @ Rajen @ Rifikhang) and Jawaharlal Gayari. He does not remember last time when he had been to the house of the accused Mridul Gayari. On 11.11.2008, the police arrested him from his house and seized one mobile phone vide Ext. 523 seizure memo. The police took him to the Barpeta Road police station and produced him before the Magistrate at Barpeta. The Magistrate recorded his statements. Ext. 461 and Ext. 462 are his said statements (the Ext. 461 and Ext. 462 are confessional statements). Ext. 461(2) to Ext. 461(10) and Ext. 462(2) to Ext. 462(11) are his signatures therein. He has passed Higher Secondary Examination from G.L.C. College, Barpeta Road. The accused Rajen Gayari is a member of the cease fire faction of the NDFB. He does not know Madai.

284. In the cross-examination, he has stated that he did not tell the Magistrate that he will confess his guilt. He was released on bail from the Jail after six / seven months of arrest. He has not seen his seized mobile phone in the court. Except the mobile phone, the police did not seize anything else from his house. He was never a member of the NDFB. He never prayed before the Magistrate that if he was pardoned, he will confess his guilt. No Magistrate ever told him that he was pardoned. After recording his statements, he was again remanded to police custody. He was produced before the Magistrate after three days of his arrest. Before recording his statements, the Magistrate did not tell him that the same may be used against him. He has passed the High School Leaving Certificate Examination in Bodo medium and Higher Secondary Examination in English medium. He cannot read or write the Assamese language but, can speak Assamese language. The police subjected him to physical and mental torture. He does not know

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whether he is an accused of this case or not. He has not received any summons from the court to appear as an accused. His bailors are alive. His bailors never told him that he will be summoned as an accused in this case. He knows nothing about NDFB.

285. Defence did not challenge him in the cross-examination that the accused Rajendra Goyari @ Rajen @ Rifikhang is a not a member of the NDFB. Therefore, based on the unchallenged testimony of the PW- 615 Anup Kr. Boro, which is admissible in evidence in view of discussion made earlier, it must be held that the accused Rajendra Goyari @ Rajen @ Rifikhang is a member of the banned NDFB organization and he participated in the activities of the NDFB.

(9) CASE OF THE ACCUSED INDRA BRAHMA

286. As has been discussed above, PW- 488 Dasarath Basumatary has deposed that he and PW-493 Sun Wary had sold the stolen motorcycle bearing registration No. AS-01-25 G-7034 to a healthy person through, the accused Indra Brahma. PW-493 Sun Wary has also deposed that he and the PW- 488 Dasarath Basumatary had sold the stolen motorcycle to an aged and stout person, through the accused Indra Brahma. It has already been held that the said stout and healthy person is the accused Onsai Boro, who is a member of the NDFB. Therefore, as the prosecution has proved beyond all reasonable doubt that the said motorcycle was used in the Bongaigaon blast, the accused Indra Brahma must be held guilty of causing the bomb blast at Bongaigaon.

287. Further, PW-495 Rindao Basumatary has deposed that he knows the accused Indra Brahma. He met the accused Indra Brahma in the National Games held in Guwahati and they became friends. Later on, he learnt that Indra Brahma had joined the NDFB.

288. Defence declined to cross-examine him. Therefore, the testimony of PW-495 must be accepted to be true and it must be held that the accused Indra Brahma is a member of the banned NDFB organization. Therefore, as the accused Indra Brahma has helped the accused Onsai Boro in purchasing

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the aforesaid stolen motorcycle for using in the bomb blast and the said motorcycle was actually used in causing the bomb blast at Bongaigaon, he must be held guilty of causing the serial bomb blasts at Bongaigaon. In view of the above, it must be held that the accused Indra Brahma is a member of the banned NDFB organization and he participated in the terrorist activities of the said organization.

289. Further, as in his confessional statement, the accused Onsai Boro has stated that he had purchased the motorcycle used in the Bongaigaon bomb blast through the accused Indra Brahma and Lokhra Basumatary. The confessional statement of the accused Onsai Boro has been discussed above and the same has been held to be voluntary and true. Therefore, relying on the confessional statement of the accused Onsai Boro @ Ajit Boro, the accused Indra Brahma must be held guilty of participating in the activities of the banned NDFB organization. **(Ref. HARI CHARAN KURMI (supra)).**

(10) CASE OF THE ACCUSED LOKHRA BASUMATARY @ LOBO

290. After the serial bomb blasts on 30.10.2008, the accused Lokhra Basumatary @ Lobo absconded and proclamation and attachment order was issued against him and thereafter only, he was arrested. Therefore, it must be held that he absconded as he was involved in causing the serial bomb blasts. As such, his absconding must be taken as consistent with his guilt only and it must be held that the accused Lokhra Basumatary @ Lobo participated in the activities of the banned NDFB organization. **(Ref. PAKKIRISAMY (supra)).**

291. Further, as in his confessional statement, the accused Onsai Boro has stated that he had purchased the motorcycle used in the Bongaigaon bomb blast through the accused Indra Brahma and Lokhra Basumatary and paid Rs. 15,000/- to the accused Lokhra Basumatary towards the price of the motorcycle. The confessional statement of the accused Onsai Boro has been discussed above and the same has been held to be voluntary and true. Therefore, relying on the confessional statement of the accused Onsai Boro, the accused Lokhra Basumatary must be held guilty of participating in the

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activities of the banned NDFB organization. **(Ref. HARI CHARAN KURMI (supra)).**

292. PW- 638 Shri Pranab Das has deposed that the accused Lokhra Basumatary disclosed before him about his involvement in the bomb blasts cases. The accused Lokhra Basumatary also led the Investigating Officers to the places visited by him while preparing for causing the bomb blasts. But, though the PW- 638 has deposed that the disclosure statement of the accused Lokhra Basumatary was recorded in his presence, nothing was discovered pursuant to the said disclosure statement. Hence, his disclosure statement is not admissible in evidence.

293. But, in view of the discussion made above, it must be held that the accused Lokhra Basumatary participated in the activities of the banned NDFB organization.

(11) CASE OF THE ACCUSED BAISHAGI BASUMATARY @ B. BITHURAI

294. After the serial bomb blasts, the accused Baishagi Basumatary @ B. Bithurai absconded and hence, proclamation and attachment order were issued against her. But, as even after that, she could not be arrested, at the request of the Government of India, the INTERPOL issued Red Corner Notice against her and thereafter only, she was arrested. Therefore, it must be held that she absconded as she was involved in the serial bomb blasts cases. Therefore, her absconding must be taken as consistent with her guilt only and it must be held that the accused Baishagi Basumatary @ B. Bithurai is a member of the banned NDFB organization and she participated in the activities of the said organization **(Ref. PAKKIRISAMY (supra)).**

295. In his confessional statement, the accused Ajay Basumatary has stated that the NDFB girl cadre Bithorah has delivered the cylinder filled with explosives in the room of the accused George Boro on 27.10.2008 and his confessional statement has already been held to be voluntary and true and can be used against the co-accused named by him. Therefore, it must be held

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that the accused Baishagi Basumatary @ B. Bithurais a member of the NDFB and she participated in the activities of the said organization.

296. Further, in the Ext. 42 letter written by the accused George Boro, which has been discussed above, it is stated that Jugami Madam and Baisagi (the accused Baishagi Basumatary @ B. Bithurai) were staying with "Ulafat Sir". "Ulafat Sir" is the absconding accused as S. Ulafat. Therefore, "the girl NDFB cadre Bithora" referred to by the accused Ajay Basumatary and "Baisagi" referred to by the accused George Boro, is the accused Baishagi Basumatary @ B. Bithurai and she was a member of the NDFB and she participated in the activities of the said organization.

(12) CASE OF THE ACCUSED JAYANTI BRAHMA @ JUGAMI

297. After the serial bomb blasts on 30.10.2008, the accused Jayanti Brahma @ Jugami absconded and during investigation she was arrested. Therefore, it must be held that she absconded as she was involved in causing the serial bomb blasts and her absconding is consistent with her guilt only. **(Ref. PAKKIRISAMY (supra)).**

298. Further, in the Ext. 42 letter written by the accused George Boro, which has been discussed above, it is stated that Jugami Madam (the accused Jayanti Brahma @ Jugami) and Baisagi were staying with "Ulafat Sir". "Ulafat Sir" is the absconding accused as S. Ulafat. Therefore, Jugami Madam referred to by the accused George Boro is the accused Jayanti Brahma @ Jugami and she is a member of the NDFB and she was a member of the NDFB and she participated in the activities of the said organization.

(13) CASE OF THE ACCUSED MATHURAM BRAHMA @ MUDAI

299. After the serial bomb blasts, the accused Mathuram Brahma @ Mwdwi absconded and hence, proclamation and attachment order were issued against him. But, as even after issuance of proclamation and attachment order, he could not be arrested, at the request of the Government of India, the INTERPOL issued Red Corner Notice against him and thereafter

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only, he was arrested, it must be held that he absconded as he was involved in the serial bomb blasts cases. Therefore, his absconding must be taken as consistent with his guilt only and it must be held that the accused Mathuram Brahma @ Mwdwi is a member of the banned NDFB organization and he participated in the activities of the said organization (**Ref. PAKKIRISAMY (supra)**).

300. PW-20 Bipul Saikia, Circle Officer, Kokrajhar, has deposed that the accused Mathu Ram Brahma @ Mwdwi led the CBI Personnel to the house of Dinthilang @ Arun Borgoyary, situated at village - Jharaguri, where from he had collected the TNT explosives and at that time, he was present with the CBI personnel. A pointing out memo of the places shows by him was also prepared. Ext. 30 is the said pointing out memo.

301. PW-21 Debeswar Borah, Circle Officer, Goreswar, has also deposed that the accused Mathu Ram Brahma @ Mwdwi led the CBI Personnel to the house of Rifikhang and showed the places under the bamboo bush where he had hidden the TNT explosives, cylinder and Pressure cookers. The accused Mathu Ram Brahma @ Mwdwi led them to the places in Barpeta Road vegetable market and Chaudhury Shopping Complex where he had planted the bombs. His statement was recorded in his presence. Ext. 31 and Ext. 32 are the said statements. PW-17 Jatindra Nath Pathak, EAC, Kamrup (M), Guwahati, has also deposed that on 28.02.2011, the accused Mathu Ram Brahma @ Mwdwi made the Ext. 29 disclosure statement before him. The accused Mathu Ram Brahma @ Mwdwi disclosed that he had brought 50 kilograms of TNT explosives from the house of Arun Borgoyari, along with Jitu Daimary, in an Indica car and kept the same in the house of the accused Rifikhang. The accused Mathu Ram Brahma @ Mwdwi also told them that he filled the empty gas cylinder used in the Ganeshguri Flyover blast with the said TNT explosives and also filled two pressure cookers used in the blasts at Choudhury Shopping Complex and at Vegetable Market, Barpeta Road, with the TNT explosives. (The disclosure statement is also mentioned as Ext. 4 and pointing out memos are mentioned as Ext. 5, 6 and 7).

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302. PW-646 N. S. Yadav, the Investigating Officer of the case has deposed that the accused Mathuram Brahma @ Mwdwi told him that he brought about 50 kilograms of TNT explosive from the house of the absconding accused Arun Borgayari @ Dinthiling, along with Jitu Daimari, as per the direction of Rajen Goyari @ Rifikhang and hid the same in a wooden hut near the house of Rajen Goyari @ Rifikhang at village- Khagrabari. He has also deposed that the accused Mathuram Brahma @ Mwdwi led him to the places wherefrom he had brought the said TNT explosives and hid the same at village- Khagrabari. The accused Mathu Ram Brahma @ Mwdwi further told him that he filled the empty cylinder used in the Ganeshguri blast with TNT explosives and also filled the two pressure cookers used in the Choudhury Complex and Vegetable Market at Barpeta Road with TNT explosives. He has also identified the places where the pressure cooker bombs with the motorcycle was planted near the Choudhury Shopping Complex. Ext. 4 is his said disclosure statement and Ext. 5, 6 and 7 are the pointing out memos of the places showed by him to the Investigating Officer. (The disclosure statement is also mentioned as Ext. 30 and pointing out memos are mentioned as Ext. 31 and Ext. 32). N. S. Yadav.

303. In his confessional statement, the approver Anup Kr. Boro has implicated the accused Mudai (Mudai is the alias of the accused Mathuram Brahma) with the conspiracy to cause the serial bomb blasts though, the confessional statement of the the approver Anup Kr. Boro has become his previous statement as he turned approver.

304. In view of the discussion made above, based on his disclosure statement and pointing out memos and confessional statement of the approver Anup Kr. Boro, the accused Mathuram Brahma cannot be held guilty of conspiring to cause or of causing the serial bomb blasts. But, in view of the discussion made above, the accused Mathuram Brahma @ Mwdwi is a member of the banned NDFB organization and he participated in the activities of the said organization

(14) CASE OF THE ACCUSED NILIM DAIMARI @ D. NIZWAMSA

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305. PW-635 Madhusudhan Thapa, the Second Officer-in-Charge of the Tura Police Station, West Garo Hills, Meghalaya has deposed that in the early morning of 04.09.2008, they had received secret information that some NDFB cadres were trying to cross over to Bangladesh and their intelligence team found that one suspected NDFB cadre was trying to go to Bangladesh from Akhongri bus station to Nokchi. He then went to Akhongri bus station and found that the accused Nilim Daimari @ D. Nizwamsa was the said suspected NDFB cadre. He then interrogated the accused Nilim Daimari @ D. Nizwamsa but, he could not give proper answers to his queries. Thereafter, he searched the accused Nilim Daimari @ D. Nizwamsa and recovered one pen drive, one mobile handset having Bangladeshi SIM card and one hand written letter in Bodo language addressed to Hon'ble Sir by one B. Jwngkhang, dated 02.09.2008. He then took the accused Nilim Daimari @ D. Nizwamsa to the Tura police station and registered the Tura police station Case No. 156(9)/2008, under Section 121 IPC, r/w Section 6 and 20 of the Unlawful Activities (Prevention) Act, 1967 against him, arrested him on 04.09.2008 and remanded him to judicial custody through the learned ADM, Tura Court. Ext. 313 is the seizure memo and Ext. 313 (2) his signature therein. Ext. 616 is a certified true copy of the arrest memo and Ext. 616 (1) is his signature therein. Ext. 617 is a certified extract copy of the case diary. Ext. 617 (1) is his signature therein. Later on, Inspector Rathore of CBI approached the Tura court and filed a petition seeking possession of the seized articles. The petition was allowed.

306. In the cross-examination, he has stated that, he had seized the aforesaid articles from the possession of the accused Nilim Daimari at Akhongri bus station. He has denied the suggestion that he took the signature of the witness in a blank paper and prepared the seizure memo. He has further stated that he does not know Bodo language and could not read the letter as the same was written in Bodo language. He has not seen the seized mobile phone in the court. Inspector Rathor of CBI collected the seized articles from his possession as per the order of the court of the learned ADM, Tura. One sub-inspector of police came to Tura with the order of the Chief

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Judicial Magistrate, Kamrup and took the accused Nilim Daimari in his custody. He has not seen the seized articles in the court. Defence did not challenge him in the cross-examination that he did not arrest the accused Nilim Daimari @ D. Nizwamsa and did not seize one pen drive, one mobile handset having Bangladeshi SIM card and one hand written letter in Bodo language addressed to Hon'ble Sir by one B. Jwngkhang from his possession vide Ext. 313 seizure memo. In his examination under Section 313 Cr.P.C., the accused Nilim Daimari admitted about his arrest by the Tura Police.

307. PW-456 Akhay M. Dalu has deposed that in the month of September, 2008, he was working as a Daily Wage Worker in the bus counter of the Green Hills Agency, Tura, Meghalaya. One day, the Police arrested a person and recovered one mobile phone, one letter and another thing from the possession of the arrested person. The Police prepared a Memorandum and obtained his signature therein as a witness. Ext. 313 seizure list is the said Memorandum and Ext. 313 (i) is his signature therein. Vide Ext. 313, seizure list, one pen drive, one mobile handset having Bangladeshi SIM card and one hand written letter in Bodo language were seized from the possession of the said person. As PW-635 Madhusudhan Thapa has deposed that he had arrested the accused Nilim Daimari and seized the said articles vide Ext. 313 seizure list, the person referred to by the PW-456 Akhay M. Dalu must be the accused Nilim Daimari.

308. In the cross-examination, he has stated that he put his signature in the Ext. 313 using a ball point pen. Ext. 313 is a carbon copy. He cannot say what is written in the Ext. 313.

309. Defence did not challenge him in the cross-examination that the Ext. 313 (i) is not his signature or that the Tura police did not recover one pen drive, one mobile handset having Bangladeshi SIM card and one hand written letter in Bodo language from the possession of the arrested person, that is, the accused Nilim Daimari.

310. PW-590 Gopal Rabha has deposed that he knows the accused Nilim Daimari. One day, the accused Nilim Daimari came to his house seeking

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financial assistance for his treatment as he was suffering from some ailment. He told him that the accused Ranjan Daimari had sent him. He gave the accused Nilim Daimari an amount of Rs. 5,000/- (Rupees five thousand) only, for treatment. Defence declined to cross-examine him. Therefore, PW-590 Gopal Rabha has proved that the accused Nilim Daimari went to his house seeking financial assistance for his treatment as per the direction of the accused Ranjan Daimari and PW-590 Gopal Rabha had paid him an amount of Rs. 5,000/- (Rupees five thousand) only.

311. That PW-590 Gopal Rabha was telling the truth can be gauged from the fact that the accused Nilim Daimari was in fact suffering from some ailment and he was admitted in the Dispur Polyclinic and Nursing Home for treatment of the same. PW-144 Dr. Kaustav Kumar Das has deposed that on 04.08.2008, Nilim Daimari was admitted at the Dispur Polyclinic and Nursing Home and was discharged on 07.08.2008. Ext. 173 (v) and Ext. 173 (xxi) are two prescriptions relating to the treatment of Nilim Daimari prescribed by him.

312. Defence did not challenge him in the cross-examination that the accused Nilim Daimari was not admitted in the Dispur Polyclinic and Nursing Home and that the PW- 144 did not treat him. Therefore, it must be held that PW-590 Gopal Rabha was telling the truth and the accused Nilim Daimari was a member of the NDFB as he went to the house PW-590 seeking financial assistance as per the direction of the accused Ranjan Daimari. Had the accused Nilim Daimari not a member of the NDFB, he would not have gone to the house PW-590 seeking financial assistance as per the direction of the accused Ranjan Daimari.

313. PW-389 Powal Chandra Daimari, father of the accused Nilim Daimari has deposed that Nilim Daimari was staying in Ganeshguri and studying computer technology. He has further deposed that thereafter, the accused Nilim Daimari went missing and they came to know from newspaper reports that while trying to cross the Indo-Bangla border in Meghalaya, he was arrested by the police. Defence declined to cross-examine him. There is no

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reason to disbelieve the PW-389 as no father will depose against his son. Therefore, the accused Nilim Daimari, who at the relevant time was staying in Ganeshguri, went to Tura, Meghalaya and was arrested by the Tura Police near the Indo-Bangla border. As he was staying in Ganeshguri, Guwahati, he had no reason to go to Tura and his reply to the same in his examination under Section 313 Cr.P.C. that, he went to Tura in search of a job, is simply unbelievable. Nobody from Guwahati goes to Tura in search of job as everybody in Guwahati knows that there are better job opportunities in Guwahati than in Tura. Further, the accused Nilim Daimari did not state for what job he went to Tura, without even informing his father. He also did not adduce any positive evidence to prove the same and the evidence on record does not support his case. Therefore, it must be held that the accused Nilim Daimari went to Tura to go to Bangladesh to meet the accused Ranjan to deliver the letter written by the accused George Boro and for other NDFB related matters.

314. PW- 389 Babul Chandra Daimari has deposed that the accused Nilim Daimari is his younger brother. About ten years ago, the accused Nilim Daimari left home and thereafter, he never returned. The accused Nilim Daimari told the members of his family that he will go to Delhi for working in a company. But, later on, they came to know from newspaper reports that while trying to cross the Indo-Bangla border in Meghalaya, he was arrested by the police. Later on, he came to know that the accused Nilim Daimari was staying in Guwahati along with his friends Jinku and Raju. Therefore, as the accused Nilim Daimari neither go to Delhi nor stayed in Guwahati but, went to Tura, Meghalaya, he must have gone to Tura, to go to Bangladesh to meet the accused Ranjan to deliver the letter written by the accused George Boro and for other NDFB related matters.

315. PW- 606 Ravi Kumar Srivastava, Principal Scientific Officer, CFSL, New Delhi, who had examined the Pen Drive seized from the possession of the accused Nilim Daimari has deposed that the Pen Drive was of Transcend make, 512 MB capacity, Black/Orange color having black cap. He has computed the Hash value of the pen drive in write protection mode, using

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Encase software (v.4) and the Hash value was C05DBC91EB8F631A04F8CE027D4AD227. No errors were reported during the hashing process. The Pen Drive appeared to be undamaged with no loose parts or objects. He had retrieved all live as well as deleted data from the Pen Drive marked as 'P1'. He had also determined the information relating to the memory capacity and memory utilized in respect of the Pen Drive. After examination, he found that the Pen Drive was fully functional and undamaged. Ext. 526 (three sheets) is his report and Ext. 526 (i), 526 (ii) and 526 (iii) are his signatures therein. Material Ext. VI is the sealed cloth parcel bearing details of the case No. and the Exhibit bearing his initial with date. He had retrieved all the live as well as deleted data from the pen drive and prepared in the form of soft copy in one CD. PW-606 Ravi Kumar Srivastava has exhibited the parcel containing the articles seized from the possession of the accused Nilim Daimari by the PW-635 Madhusudhan Thapa vide Ext. 313 seizure list as Material Ext. VI. The Material Ext. VII is the office copy of the CD. He had prepared the copies of CDs on 16.04.2009 and fully burnt the same so that no data could be added later in the CDs at any stage. The same can also be ascertained, verified by the date of modification of contents available in the CDs. The Pen Drive seized from the possession of the accused Nilim Daimari contains articles regarding manufacturing of explosive devices, writings about NDFB, writings regarding how to establish as a self-sustainable Boro nation, etc. The same proves that the accused Nilim Daimari was a member of the NDFB. In his examination under Section 313 Cr.P.C. regarding the seized articles, he has simply stated that nothing was seized from his possession.

316. The testimonies of the PW- 389, PW-635, PW-456 and PW-590, PW-606 discussed above proved beyond all reasonable doubt that the accused Nilim Daimari was a member of the NDFB and he was arrested by the Tura Police while he was trying to go to Bangladesh by crossing the Inda-Bangla border in Tura.

317. But, as the final decision about the serial bomb explosions was taken in the meeting dated 19.10.2008, that is, while the accused Nilim

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Daimari was in judicial custody, he cannot be held to be aware of the same. He also cannot be held to have played any role in causing the serial bomb blasts on 30.10.2008 as on that day, he was in judicial custody. Therefore, the accused Nilim Daimari cannot be held guilty of causing the serial bomb blasts on 30.10.2008 though, he must be held that he is a member of the banned NDFB organization and he had participated in the activities of the said organization.

(15) CASE OF THE ACCUSED MRIDUL GOYARI

318. In his confessional statement discussed below, the approver Anup Kr. Boro has stated that the accused Mridul Gayari is his childhood friend. The accused Rajen Gayari is the brother of the accused Rajen Gayari and the accused Rajen Gayari is a member of the NDFB. He has also deposed the same. He has further stated in his confessional statement that, "...On that day, I came to know from Madai that for planting bomb at Choudhury Complex, Barpeta Road, Mridul Goyari and another person (I have forgotten his name) will go to Choudhury Complex..." The approver Anup Kumar Boro was examined as PW- 615. But, he has not deposed the same as can be seen from his testimony discussed above. Besides the confessional statement of the approver Anup Kr. Boro, which is his previous statement as he has turned approver, there is no other evidence to hold the accused Mridul Gayari guilty of conspiring to cause the serial bomb blasts or of causing the serial bomb blasts. But, it seems, the accused Mridul Gayari knew about the accused Rajendra Goyari @ Rifikhang conspiring to cause the serial bomb blasts as he was residing with the accused Rajen Goyari @ Rifikhang in the same house and hence, guilty of concealing the said fact by not informing the police about the same. But, as there is no evidence to prove the same, based on the statement of the approver Anup Kr. Boro, it cannot be held beyond all reasonable doubt that the accused Mridul Gayari knew about the conspiracy to cause the serial bomb blasts by the accused Rajendra Goyari @ Rifikhang and others and concealed the same. As such, he is entitled to get the benefit of the doubt.

(16) CASE OF THE APPROVER ANUP KR. BORO

319. In connection with Barpeta P.S. Case No. 262/2008, the approver Anup Kr. Boro was arrested on 11.11.2008 and was produced before the learned C.J.M., Barpeta, with a prayer for remanding him to police custody for fourteen days. The prayer of the Investigating Officer was allowed and the accused was remanded to police custody for twelve days. But, after two days, that is, on 13.11.2008, the Investigating Officer produced the accused before the learned C.J.M. In-Charge, Barpeta and filed a petition praying for recording his confessional statement. On the same day, the learned C.J.M. recorded his confessional statement (his confessional statement discussed earlier), after giving him three hours' time for reflection. After recording his confessional statement, the learned C.J.M. In-charge remanded him to police custody.

320. The order relating to the recording of confessional statement of the approver Anup Kumar Boro is reproduced below.

"Present- Shri Rajneesh Bora, i/c CJM, Barpeta

13.11.2008

"...The accused Anup Kumar Boro has been produced before me for recording his statement. As today is holiday, I am in charge; the accused is produced before me in my official residence. On being asked about the alleged offence, he immediately agreed to confess. Hence, I kept him in my drawing room for reflection and none other than my orderly peon Shri Niranjana Oja was allowed to enter.

After three hours of reflection time, I asked him about the alleged offence and he again agreed to confess. Hence, as he voluntarily confessed his guilt, I recorded his confession in the prescribed form u/s 164 of Cr.P.C. and the said form is kept with the case record.

Send back the accused to police custody."

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321. A bare perusal of the above order will show that the confessional statement of the approver Anup Kumar Boro was not recorded as per the provisions Section 164 Cr.P.C. There is no whisper in the order about informing the accused the nature and use of a confessional statement. Further, as after recording the confessional statement, the learned C.J.M. In-Charge remanded the accused to judicial custody, by no stretch of the imagination the confessional statement can be held to be voluntary, though the same appears to be true. It is settled law that the Section 164 of Cr.P.C. is a salutary provision which lays down certain precautionary rules to be followed by the Magistrate while recording a confessional statement so as to ensure the voluntariness of the confession and the accused being placed in a situation free from threat or influence of the police. In the case in hand, the learned C.J.M. In-Charge has not recorded the confessional statement as per the provisions of Section 164 Cr.P.C. Before recording the confessional statement, the accused was under the influence and control of the police as he was produced from police custody and after recording the confessional statement also, the accused was placed under control of the police. Therefore, it cannot be held that at the time of making the confessional statement, the accused was free from the threat or influence of the police. As such, his confessional statement is not admissible in evidence. Later on, the accused Anup Kumar Boro was made an approver.

322. The confessional statement of the approver Anup Kumar Boro recorded in connection with Barpeta Road P.S. Case No. 262/2008 reads as follows:-

"Mridul Gayari of village Khagrabari, district-Baksa, was my childhood friend. Since our school days, we were friends.

Elder brother of Mridul Gayari namely, Rajen Gayari @ Rifikhang, was the Commander of the 4th Battalion of the NDFB. About three years ago, I got acquainted with Rajen Gayari. I met Madai, Bidai, George and some unknown members of the NDFB in the house of Mridul Gayari.

During last five / six months, I developed friendship with Madai. Sometimes, we discussed about internal matters of the NDFB, like collection

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of funds. About two-and-half / three months ago, I met Madai in the house of Mridul. On that day, Madai told me that NDFB demanded donation from the chairman of the Barpeta Road Municipality namely, Bidya Choudhury but, instead of giving any donation, Bidya Choudhury threatened the NDFB members. Madai told me that we must take revenge for the same. He told me that if we get chance, we shall try to explode bomb. After the last Durga Puja, i.e. in the second week of October, I met Madai, George, Rajen Gayari and Bidai in the house of Mridul. I and Mridul listened to their discussions from an adjacent room and I learnt that Madai was entrusted to explode bomb at Barpeta Road, George was entrusted to explode bomb at Ganeshguri, Guwahati and Bidai was directed to collect about two cycles and motorcycles.

After a few days, I saw Rajen @ Rifikhang in the house of Mridul. I saw four electronic table clocks in the room of Rifikhang. I saw that about one feet long wire were attached on the back side of each clocks. Small batteries of wrist watch were attached to the said wires. As the clocks were beautiful, I asked Rajen to give me one clock. Rajen told me that the clocks were used in bomb. Rifikhang also told me that he and Bidai had brought the clocks from the Kokrajhar designated camp of the NDFB by a Bolero vehicle. Before three / four days of 30th October, I again had been to the house of Mridul. Besides me and Mridul, Madai and another unknown member of NDFB were present in the house of Mridul. On that day, I came to know from Madai that for planting bomb at Choudhury Complex, Barpeta Road, Mridul Gayari and another person (I have forgotten his name) will go to Choudhury Complex. I also came to know that two bombs will be exploded at Barpeta Road. Bombs will be planted at the new bus stand, Barpeta Road. I also came to know that the NDFB member Thumri will plant the bomb at the bus stand. Madai told me that his house was at Kokrajhar. Madai also told me that Tarun and Jitu will help George in exploding the bomb at Ganeshguri, Guwahati. But, I could not know the date of the explosion.

Madai used my Airtel mobile No. 9954540557 for about one and half month. Madai asked for the same for a few days. I had another SIM card. Therefore, on good faith, I gave Madai my Airtel SIM card. Madai returned the SIM card on 09.11.2008. Madai sent the same in the hand of a boy to

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Govardhana Chowk. From 10.11.2008, I again started using the said Airtel SIM card. I never thought that Madai will use the SIM card for bad purposes. In the intervening night of 10.11.2008 and 11.11.2008, at around 03:00 am, the police arrested me from my house and interrogated me at the police station. Then only I came to know that my SIM card was used by the NDFB in the bomb blasts.

Rifikhang and others had hired a silver colored Bolero vehicle and used the same. I have forgotten the registration number of the said Bolero vehicle.”

323. The approver Anup Kumar Boro is examined as PW- 615 and his deposition has been already been discussed earlier. Defence did not challenge PW- 615 in the cross-examination that the accused Mridul Goyari is not his childhood friend and that the accused Rajen Goyari is a not a member of the NDFB. The defence also did not challenge him in the cross-examination that he did not make the Ext. 461 and Ext. 462 confessional statements or that the same are not true. Therefore, as his confessional statements are true though, the same became his previous statements as he was made an approver, based on his unchallenged testimony it must be held that the accused Rifikhang is a member of the NDFB.

324. In view of the above, the prosecution did not pray for prosecuting the approver Anup Kumar Boro for not complying with the conditions of pardon. The approver Anup Kumar Boro was not tendered pardon as per the provisions of Section 306 Cr.P.C. His confessional statements were also not recorded as per the provisions of Section 164 Cr.P.C., in as much as, after recording his confessional statement, he was remanded to police custody. Therefore, he cannot be prosecuted for not complying with the conditions of pardon as he was not granted pardon under any condition, as can be seen from the order granting pardon passed by the learned Chief Judicial Magistrate, Barpeta, which is reproduced below. Further, as the prosecution did not examine the approver Anup Kumar Boro at the beginning of the trial, I do not think it proper to proceed against him at this beletad stage *suo moto*.

"ORDER

Smt. L. Baruah, CJM, Barpeta

22.11.08

Accused Anup Kr. Boro-24 years is produced before the Court today by Barpeta Road PS. police after expiry of 12 (twelve) days police custody along with medical report. I.O. prayed for the accused person be treated as approver in connection with above case.

The prayer of I.O. is *allowed*.

He is remanded to jail hajat till 5-12-08."

325. But, as the prosecution did not do so, I do not think it proper to proceed against him at this beletad stage *suo moto*. It is worth mentioning here that the approver Dasarath Basumatary was not examined by the prosecutin at the beginning of the trial as required under the law.

(17) CASE OF THE APPROVER DASARATH BASUMATARY

326. It appears from the perusal of the record of the Bongaigaon P.S. Case No. 451/2008 that on 26.11.2008, the Investigating Officer arrested the accused Sun Wary, Hemraj Mushahary and Dasarath Basumatary and the learned Chief Judicial Magistrate, Bongaigaon remanded them to police custody for eight days. Thereafter, on 04.12.2008, they were produced before the learned Chief Judicial Magistrate and the Investigating Officer filed a petition stating that the accused Hemraj Mushahary and Dasarath Basumatary have confessed before him that they were involved in the bomb blast case and disclosed about their and others involvement in causing the bomb blasts. They have further stated that they will adduce evidence to prove the same. Therefore, the Investigating Officer prayed for making them approver as per the provisions of Section 306 Cr.P.C. The learned Chief Judicial

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Magistrate then recorded the statements of the accused Hemraj Mushahary and Dasarath Basumatary and allowed the prayer of the Investigating Officer and made them approver. During trial, prosecution examined the approver Dasarath Basumatary but, could not examine the approver Hemraj Mushahary as he has reportedly expired. The approver Dasarath Basumatary has deposed that Hemraj Mushahary has died in a motorcycle accident. The approver Dasarath Basumatary is examined as PW-488, but as he did not implicate the accused Lokhra Basumatary @ Lobo, he was declared hostile and the prosecution was allowed to cross-examine him. But, by cross-examining him, the learned senior Public Prosecutor, CBI, could not bring out anything to prove its case. Further, instead of declaring him hostile, the prosecution should have prayed for prosecuting him for not complying with the conditions of pardon and for perjury. But, as the prosecution did not do so, I do not think it proper to proceed against him at this beletad stage *suo moto*. It is worth mentioning here that the approver Dasarath Basumatary was not examined by the prosecutin at the beginning of the trial as required under the law.

(18) THE CASE OF THE ABSCONDING ACCUSED PERSONS

327. Prosecution has been able to prove beyond all reasonable doubt that, with the help of the absconding accused Thungri Boro @ Tensu Narzary @ Thulunga, absconding accused Dinesh Boro had purchased the Maruti 800 car bearing registration No. AS-01/M-0327 used in the CJM court complex bomb blast and that the absconding accused Jitu daimari and Tarun Boro had purchased the Maruti 800 ncar bearing Registration No. AS-01-E-7747 used under the Ganeshguri flyover bomb blast. The absconding accused Dinesh Boro was the last registered owner of the Maruti 800 car bearing registration No. AS-01/M-0327 used in the CJM court complex bomb blast. He had purchased the said Maruti 800 car from PW-11 Kunal Bhuyan, with the help of the absconding accused Thungri Boro @ Tensu Narzary @ Thulunga. PW-11 Kunal Bhuyan has deposed that he had sold the Maruti 800 car bearing registration No. AS-01-M-0327 to Dinesh Boro in presence of Thungri Boro. The ownership of the car was also transferred to Dinesh Boro. PW-39 Jai

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Chandra Handique, District Transport Officer (DTO), (Registration and Licensing), Kamrup, Guwahati, has deposed from the record that with effect from 19.09.2008, Dinesh Boro became the registered owner of the Maruti Car bearing registration No. AS-01-M-0327. PW-9 Arun Patowary has deposed that he had sold his Maruti Car bearing registration No. AS-01-E-7747 to the absconding accused Jitu daimari and Tarun Boro, through PW- 10 Raju Ali. PW- 10 Raju Ali has fully corroborated the PW-9. Prosecution has also led evidence to prove that the absconding accused Dinthilang @ Arun Borgoyary @ Kabn Borgoyary, Bidai @ Bishnu Gayary @ Haranga and S. Ulafat were involved in the serial bomb blast cases. Several prosecution witnesses like, PW-9, PW-10, PW-11, PW-35, PW-42, PW-43, PW-48, PW-52, PW-375, PW-378, PW-390, PW-374, PW-375, PW-378, PW-390, PW-374, PW-552, PW-568 have deposed about involvement of the absconding accused persons in the serial bomb blast cases. Further, as even after issuance of proclamation and attachment orders, the absconding accused Dinthilang @ Arun Borgoyary @ Kabn Borgoyary, Bidai @ Bishnu Gayary @ Haranga, S. Ulafat, Thungri Boro, Dinesh Boro, Jitu daimari and Tarun Boro could not be brought to the court for trial, their absconding is consistent with their guilt only. I refrain from discussing in detail the case of the absconding accused, unless it is necessary to do so as can be seen from the discussion made above, for the sake of brevity and as the same will serve only academic purpose.

FURTHER ARGUMENT OF THE DEFENCE

328. Failing to shake the prosecution case, the learned senior counsel for the accused vehemently argued that as the case relates to nine bomb explosions at nine different places and over the same, nine cases were registered by the Assam police and also by the CBI, the Investigating Officer should have submitted nine charge separate sheets and each case should have been tried separately by the courts having territorial jurisdiction. Therefore, the learned senior counsel for the accused submitted that as the Investigating Officer of the CBI has submitted one consolidated charge sheet for all the nine cases, the same has caused great prejudice to the accused in as much as, all the accused are not involved in all the cases. Therefore, the

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learned senior counsel for the accused has submitted that the accused should be acquitted.

329. I do not agree with this contention of the learned senior counsel for the accused. Because, as can be seen from the discussion made above, the nine serial bomb explosions were caused under a common conspiracy and some of the accused were involved in the conspiracy to cause the serial bomb explosions and some of the accused aided and assisted in causing the nine serial bomb explosions. Therefore, not to speak of prejudicing the accused, the joint trial has benefited the accused as in the event of separate trial, some of the accused would have been convicted for hatching the conspiracy to cause the serial bomb explosions and for causing the explosions in all the cases, some in more than one case and only a few for causing the blast only in one case. Further, this case is covered under clause (d) of Section 178 Cr.P.C. Therefore, this court has the jurisdiction to try the case. As such, the contention of the learned senior counsel for the accused is rejected.

330. The learned senior counsel for the accused further argued that the charges were not specific in as much as, it is not specifically mentioned in the charges how the accused hatched the conspiracy to cause the serial bomb explosions and wage war against the Government of India, how the accused caused the nine serial bomb explosions, etc. The learned senior counsel for the accused further argued that it is not even mentioned in the charges that the NDFB is an unlawful organization, declared unlawful by the Government of India as per the provisions of Section 3 of the Unlawful Activities (Prevention) Act, 1967 and the same caused prejudice to the accused persons. Therefore, the learned senior counsel for the accused has submitted that the accused may be acquitted.

331. I do not agree with this contention of the learned senior counsel for the accused as the accused very well knew for what offence they have been charged with and tried. In their examinations under Sections 313 Cr.P.C., some of the accused have categorically stated that they expressed heartfelt condolences to the members of the families of the deceased blast

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victims and one of the accused has even strongly condemned the bomb blasts incidents. Therefore, for not specifically mentioning the same in the charges, no prejudice has been caused to the accused persons.

332. The learned senior counsel for the accused further argued that the prosecution did not prove the Gazette Notification vide which the NDFB was declared as an unlawful association as per the provisions of the Indian Evidence Act. Therefore, the learned senior counsel for the accused has submitted that the NDFB cannot be held to be an unlawful association and as such, the accused cannot be held to be guilty for being members of an unlawful association.

333. This is a farfetched argument to say the least. Because, as can be seen from the discussion made above, the prosecution has the Ext. 314 and Ext. 656 copies of the Gazette Notifications vide which the Government of India has declared the NDFB as an unlawful association and the learned senior counsel for the accused did not challenge the prosecution witnesses in the cross examination that the Ext. 314 and Ext. 656 notifications are not genuine documents. Further, in their examinations u/s 313 Cr.P.C., none of the accused has stated that the NDFB is not declared as an unlawful association. In their examinations u/s 313 Cr.P.C., the accused Ranjan Daimary @ D.R. Nabla @ Lasdum @ Loudum, George Boro @ John @ B. Jwankhang, Rajendra Gayari @ Rajen @ Rifikhang and Onsai Boro @ Ajit Boro have refused to say anything in this regard. Therefore, their refusal, in the fact and circumstances of the case, must be held to be the admission of the fact that the NDFB is an unlawful association, declared unlawful by notifications issued under Section 3 of the Unlawful Activities Prevention (Act), 1967, which has become effective under sub-section (3) of the said Section. In the case of **Mukesh Vs. State (supra)**, the Hon'ble Supreme Court held as follows:-

"205. The aforesaid submission can be singularly rejected without much discussion on the foundation that a question to that effect was not put to the doctors in their respective cross-examinations..."

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334. This shows that if the defence wants the court reject the testimony of a witness, it must challenge the witness who has deposed the same or exhibited the document, that what he has deposed is not true or that the document exhibited by him is not genuine.

CONCLUSION

335. As can be seen from the discussion made above, the accused Nilim Daimari @ D. Nizwamsa was arrested by the Tura Police on 04.09.2008. Thereafter, he was brought to Guwahati and on the day of the serial bomb explosions, he was languishing in Central Jail, Guwahati. After the serial bomb explosions on 30.10.2008, all the other accused persons absconded.

336. The record of the CBI Case No. RC DST/2008/S/0003, New Delhi, shows that the learned Special Judicial Magistrate, Assam, Guwahati, issued proclamation and attachment orders against the absconding accused Ranjan Daimari @ Nabla, George Boro @ John @ Jongkhang, Khargeswar Basumatary @ Rahul Brahma @ Khargeswar, Rajen Goyari @ Rifikhang, Miss. B. Thorai @ Baiswagi, Mudai and others. Later on, except the absconding accused Dinthilang @ ArunBorgoyary @ KabnBorgoyary, Bidai @ Bishnu Gayary @ Haranga, S. Ulafat, Thungri Boro, Dinesh Boro, Jitu Daimari and Tarun Boro, all the other absconding accused were arrested.

337. The case diary reveals that at the request of the Government of India, the INTERPOL issued Red Corner Notices against the absconding accused George Boro @ John @ B. Jwangkhang, Rajen Goyari @ Rifikhang and Miss. B. Thorai @ Bwisagi.

338. The case diary further reveals that the CBI publicized the names of eleven absconding accused persons through Duradarshan and also published an advertisement in the *Dainik Agradoot* newspaper (an Assamese daily newspaper) in its issue dated 23rd August, 2010. The said advertisement is reproduced below.

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI**NOTICE**

THIS IS TO INFORM THE GENERAL PUBLIC THAT THE FOLLOWING ABSCONDING ACCUSED PERSONS ARE WANTED IN CONNECTION WITH CBI CASE NO. RC DST/2008/S/0003 TO 0011(ASSAM SERIAL BOMB BLAST CASES) DATED 30.10.2008. CBI HAS DECLARED THE FOLLOWING CASH REWARD MENTIONED AGAINST THEIR NAMES FOR GIVING INFORMATION LEADING TO THEIR ARREST. THE NAME OF THE PERSON, WHO WILL HELP IN GIVING THE INFORMATION REGARDING THEIR ARREST WILL BE KEPT SECRET. THE INFORMATION REGARDING THEIR LOCATION MAY BE GIVEN AT THE FOLLOWING ADDRESS /PHONE OF CBI. THEIR BLANK ARREST WARRANTS HAVE BEEN ISSUED BY THE SPL. JUDICIAL MAGISTRATE, GUWAHATI.

SI No.	Name of the Accused	Reward	Photograph
1	Arun Borgoyary @ Dinthilang @ Kabn Borgoyari s/o Robin Borgoyari R/o Village-Jharaguri, P.S. Gosaigaon, & vill. Boro Adabari, P.S. Kokrajhar, Distt. Kokrajhar, Assam	Rs. 1,00,000/-	Photograph paste
2.	George Boro @ John @ B. Jwangkhang S/o Jogendra Nath Boro, R/o Kalabhanga Mission Road, Down Town, P.S. Barpeta Road, Dist. Barpeta, Assam.	Rs. 1,00,000/-	Photograph paste
3.	Tensu Narzart @ Thungri Boro @ ThungriNarzary @ Thulunga S/o Sh. SambharNarzary R/o Village Shantipur, Bhelamari, P.S. Barama, Dist. Baksa, Assam	Rs. 1,00,000/-	Photograph paste
4.	Uttam Sargiary @ S. Ulafat S/o Janny Ram Sargiary R/o Village Tengazar, P.S. Goreswar, Dist. Baksa, Assam & Oxiguri Raimona, P.S. & Dist. Kokrajhar,	Rs. 1,00,000/-	Photograph paste

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	Assam.		
5.	Rajen Goyari @ Rifikhang, S/o Kanteswsar Goyari, R/o Village Khagrabari, P.S. Barpeta Road, Dist. Baksa, Assam.	Rs. 1,00,000/-	Photograph Paste
6.	Jitu Daimari, S/o Baburam Daimari, R/o Village Hotapara, P.O. Barpeta Road, Dist. Baksa, Assam.	Rs. 50,000/-	Photograph paste
7.	Tarun Swargiary, S/o Thaneswar Sargiary, R/o Village Dolagaon near Hotapara, P.O. Gobardhana, P.S. Barpeta Road, Dist. Baksa, Assam.	Rs. 50,000/-	Photograph paste
8.	Dinesh Boro S/o Bholaram Boro, R/o Village Shantipur, Bhelamari, P.S. Barama, Dist. Baksa, Assam.	Rs. 50,000/-	Not provided
9.	Miss. B. Thorai @ Bwisagi, P.S. Borbori, Nalbari, Dist. Baksa and Vill. Manglajora, Dist. Dhubri, Assam	50,000/-	Not provided
10.	BishnuGoyari @ Bidai @ Haranga, S/o JalaGoyari, R/o Village Oksiguri Moinamata, P.S. Sorbhog, Dist. Baksa, Assam.	Rs. 50,000/-	Photograph paste
11.	Mudai @ Muthu Brahma, S/o Sh. Rasana Mushahari/ Brahma, R/o Village Bongsijhora, Police Outpost Tipkai, P.S. Bogribari, Dist. Kokrajhar, Assam.	Rs. 50,000/-	Photograph paste

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339. In view of the above, it must be held that after the serial bomb explosions, the accused persons absconded and their absconding, in the facts and circumstances of the case, must be held to be consistent with their guilt only. The evidence discussed above, coupled with their non-explanation regarding absconding after the serials bomb explosions, clearly established their guilt beyond all reasonable doubt. **(Ref. Pakkirisamy (supra)).**

340. Further, as has been discussed above, in their examinations under Section 313 Cr.P.C., the accused Ranjan Daimari, George Boro and Ajay Basumatary have refused to answer questions relating to their connections with the NDFB organization. Therefore, as the prosecution has been able to establish its case against them beyond all reasonable doubt as discussed above, an adverse inference must be drawn against them that had they answered the said questions, the same would have proved that they are members of the banned NDFB organization and were associated with its terrorist activities.

341. It appears from the confessional statement of the accused Ajay Basumatary that, as per the instructions of the accused Ranjan Daimari, he and the co-accused George Boro, Khargeswar Basumatary, Rajendra Gayari and absconding accused Dinthilang and S. Ulafat held a meeting on 19.10.2008 and in the said meeting, they hatched the conspiracy to cause the serial bomb explosions on 30.10.2008, at 11.30 AM., in Guwahati and other parts of Assam. Further, pursuant to the said conspiracy, on 30.10.2008, at around 11.30 AM., the nine serial bomb explosion were caused in Guwahati and other parts of Assam. Therefore, all of them are guilty of hatching the conspiracy to cause the serial bomb explosions, which is an offence punishable u/s 120-B IPC.

342. In the case of **YAKUB ABDUL RAZAK MEMON Vs. STATE OF MAHARASHTRA STATE OF MAHARASHTRA Vs. YAKUB ABDUL RAZAK MEMON AND OTHERS, reported in (2013) 4 SCALE 565**, the Hon'ble Supreme Court held as follows:-

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"3. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.

6. It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

64. The offence u/s 120B is a crime between the parties to do a particular act. Association or relation to lead conspiracy is not enough to establish the intention to kill the deceased. To make it clear, to bring home the charge of conspiracy within the ambit of Section 120B, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. It is difficult to establish conspiracy by direct evidence.

65. Since conspiracy is hatched in secrecy, to bring home the charge of conspiracy, it is relevant to decide conclusively the object behind it from the charges leveled against the accused and the facts of the Case. The object behind it is the ultimate aim of the conspiracy. Further, many means might have been adopted to achieve this ultimate object. The means may even constitute different offences by themselves, but as long as they are adopted to achieve the ultimate object of the conspiracy, they are also acts of conspiracy.

343. In the case of **Yash Pal Mittal Vs. State of Punjab, reported in AIR 1977 SC 2433, (1977) 4 SCC 540**, the Hon'ble Supreme Court held as follows:-

"9. The offence of criminal conspiracy u/s 120A is a distinct offence introduced for the first time in 1913 in Chapter VA of the Penal Code. The very agreement, concert or league is the ingredient of the offence. It is not necessary that all the conspirators must know each and every detail of the

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conspiracy as long as they are co-participants in the main object of the conspiracy. There may be so many devices and techniques adopted to achieve the common goal of the conspiracy and there may be division of performances in the chain of actions with one object to achieve the real end of which every collaborator must be aware and in which each one of them must be interested. There must be unity of object or purpose but there may be plurality of means sometimes even unknown to one another, amongst the conspirators. In achieving the goal several offences, may be committed by some of the conspirators even unknown to the others. The only relevant factor is that all means adopted and illegal acts done must be and purported to be in furtherance of the object of the conspiracy even though there may be sometimes misfire or over-shooting by some of the conspirators. Even if some steps are resorted to by one or two of the conspirators without the knowledge of the others it will not affect the culpability of those others when they are associated with the object of the conspiracy.”

*68. For an offence u/s 120B Indian Penal Code, the prosecution need not necessarily prove that the conspirators expressly agreed to do or cause to be done the illegal act, the agreement may be proved by necessary implication. It is not necessary that each member of the conspiracy must know all the details of the conspiracy. The offence can be proved largely from the inferences drawn from the acts or illegal omission committed by the conspirators in pursuance of a common design. Being a continuing offence, if any acts or omissions which constitute an offence are done in India or outside its territory, the conspirators continuing to be the parties to the conspiracy and since part of the acts were done in India, they would obviate the need to obtain the sanction of the Central Government. All of them need not be present in India nor continue to remain in India. The entire agreement must be viewed as a whole and it has to be ascertained as to what in fact the conspirators intended to do or the object they wanted to achieve. (Vide: **R.K. Dalmia Vs. Delhi Administration, Lennart Schussler and Another Vs. The Director of Enforcement and Another, ShivnarayanLaxminarayan***

Joshi and Others Vs. State of Maharashtra, and Mohammad Usman Mohammad Hussain Maniyar and Others Vs. State of Maharashtra.”

344. The accused George Boro has stated in his examination u/s 313 Cr.P.C. that he does not want to say anything regarding Ext.42 letter. Therefore, it must be held that the Ext. 42 letter was written by him. As such, as he has stated in the Ext.42 letter that, “when everything will be ready, he will meet him and the work will be done by him and that when our side will be ready, then the work will be done”, he must be held to have been referring to the work of causing the serial bomb explosions. Otherwise, he should have stated that he was not the author of the Ext. 42 letter or should have explained for what purpose and to whom he had written the Ext. 42 letter. Further, as he has stated in the Ext. 42 letter that the accused Jugamai and Baiswagi were staying with the absconding accused Ulafat, they must be held to be members of the banned NDFB organization.

345. Further, as after the serial bomb explosions, the accused Ranjan Daimari, George Boro, Ajay Basumatary, Khargeswar Basumatary and Rajendra Goyari absconded, it must be held that they were involved in causing the serial bomb explosions. Otherwise, they would not have absconded. Therefore, the accused Ranjan Daimari, George Boro, Ajay Basumatary, Khargeswar Basumatary and Rajendra Gayari must be held guilty of the conspiracy to cause the serial bomb explosions with intent to cause the death of persons and damage to properties, which is an offence punishable under Section 120-B IPC. Further, as they had actually caused the serial bomb explosions that killed eighty eight persons, they must be held guilty of committing the offence of murder, punishable under Section 302 IPC. Further, as the blasts had caused grievous hurt to one hundred and forty one persons and hurt to three hundred and ninety nine persons, they must be held guilty of committing the offences punishable under Sections 326 and 324 IPC. Further, as in causing the serial bomb explosions, they had used RDX, Ammonium Nitrate and TNT, which are special category of explosive substances, as per the definition of explosive substance given in Section 2 (a) of the Explosive Substances Act, 1908, which is an offence punishable under

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Section 3 (b) of the Explosive Substances Act, 1908, they must be held guilty of committing the said offence. Further, as has been held earlier, the accused Ranjan Daimari, George Boro, Ajay Basumatary, Khargeswar Basumatary and Rajendra Gayariwere members of the banned NDFB organization, they voluntarily promoted the objects of the said organization, engaged in terrorist activities, possessed RDX, Ammonium Nitrate and TNT, which are special category explosive substances capable of causing mass destruction, caused the death of eighty eight people and injuries to five hundred and forty people by causing explosions using special category explosive substances. Therefore, they are guilty of committing offences punishable under Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967.

346. Further, as the serial bomb explosions caused damage to vehicles and other moveable and immovable properties, the accused Ranjan Daimari, George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, RajendraGayari @ Rajen @ Rifikhang, Baishagi Basumatary @ B. Bithurai, OnsaiBoro @ Ajit Boro, Indra Brahma, Lokhra Basumatary @ Lobo and Raju Sarkar must be held guilty of causing mischief by explosive substances, which is an offence punishable under Section 435 IPC. But, my predecessor did not charge the accused for committing the offence under Section 435 IPC and charged them for committing the offence punishable under Section 427 IPC, instead. But, as the accused knew about the offence for which they were tried and they did not deny the factum of the serial bomb explosions as some of them have stated in their examinations under Section 313 Cr.P.C. that they have nothing to say about the serial bomb explosions, some have expressed their heartfelt condolences to the members of the bereaved families of the deceased victims and sympathy to the injured victims and one has strongly condemned the same, they can be held guilty of committing the offence punishable under Section 435 IPC.

347. Further, as by causing the serial bomb explosions, which is a terrorist act as per the definition of terrorist act given in Section 15 of the Unlawful Activities (Prevention) Act, 1967, the accused Ranjan Daimari,

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George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang, Baishagi Basumatary @ B. Bithurai and Raju Sarkar had caused the death of eighty eight people, they must be held guilty of committing the offence punishable u/s 16 of the Unlawful Activities (Prevention) Act, 1967. Further, from the discussion made above, it is crystal clear that except the accused Prabhat Boro @ Tapa, Raju Sarkar and Mridul Goyari, all the other accused persons were members of the banned NDFB organization, which is a terrorist organization and was involved in terrorist act. Therefore, they must be held guilty of committing an offence punishable u/s 20 of the Unlawful Activities (Prevention) Act, 1967.

348. But, the prosecution has failed to prove beyond all reasonable doubt that the accused Mridul Goyari is a member of the banned NDFB organization and he knew about the conspiracy to cause the serials bomb explosions or was anyway connected with causing the nine serial bomb explosions. As such, the accused Mridul Goyari is entitled to get the benefit of doubt and deserves to be acquitted.

349. Further, though the prosecution has proved beyond all reasonable doubt that the accused Nilim Daimari is a member of the banned NDFB organization, it could not prove beyond all reasonable doubt that he knew about the conspiracy to cause the serial bomb explosions hatched by the accused Ajay Basumatary @ B. Aogi, George Boro @ John @ B. Jwankhang, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang and absconding accused Dinthilang and S. Ulafat, at the instance of the accused Ranjan Daimary. Therefore, he is guilty of only taking part in the unlawful activities of the NDFB organization, declared unlawful under Section 3 of the Unlawful Activities (Prevention) Act, 1967, which are offences punishable u/s 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.

350. Further, though the prosecution has proved beyond all reasonable doubt that the accused Jayanti Brahma @ Jugami is a member of the banned

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NDFB organization, it could not prove beyond all reasonable doubt that she knew about the conspiracy hatched by the accused Ajay Basumatary @ B. Aogi, George Boro @ John @ B. Jwankhang, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang and absconding accused Dinthilang and S. Ulafat, at the instance of the accused Ranjan Daimary, to cause the serial bomb explosions. Therefore, she is only guilty of taking part in the unlawful activities of the banned NDFB organization, declared unlawful under Section 3 of the Unlawful Activities (Prevention) Act, 1967, which are offences punishable u/s 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.

351. Further, though the prosecution has proved beyond all reasonable doubt that the accused Baishagi Basumatary @ B. Bithurai is a member of the banned NDFB organization and as she has supplied the explosive-laden cylinder in the rented house of the accused George Boro @ John @ B. Jwankhang, she knew about the conspiracy to cause the serial bomb explosions, the prosecution could not prove beyond all reasonable doubt that she also caused the explosions. Therefore, she is only guilty of taking part in the unlawful activities of the banned NDFB organization, declared unlawful under Section 3 of the Unlawful Activities (Prevention) Act, 1967, which are offences punishable u/s 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.

352. Now, the question that remains to be answered is whether the serial bomb explosions caused by the accused persons can be held to be waging war or attempting to wage war against the Government of India, which is an offence punishable under Section 121 IPC and whether the conspirators are liable to be punished under Section 121 or 121A or both. In the case of **State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru, (supra)** the Hon'ble Supreme Court observed as follows:-

"Section 121 and 121A occur in the Chapter 'Offences against the State'. The public peace is disturbed and the normal channels of Government are disrupted by such offences which are aimed at subverting the authority of

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the Government or paralyzing the constitutional machinery. The expression 'War' preceded by the verb 'wages' admits of many shades of meaning and defies a definition with exactitude though it appeared to be an unambiguous phraseology to the Indian Law Commissioners who examined the draft Penal Code in 1847. The Law Commissioners observed:

"We conceive the term 'wages War against the Government' naturally to import a person arraying himself in defiance of the Government in like manner and by like means as a foreign enemy would do, and it seems to us, we presume it did to the authors of the Code that any definition of the term so unambiguous would be superfluous."

The expression 'Government of India' was substituted for the expression 'Queen' by the Adaptation of Laws Order of 1950. Section 121 now reads-

"Whoever wages War against the Government of India or attempts to wage such War, or abets the Waging of such War, shall be punished with death or imprisonment for life and shall also be liable to fine".

The conspiracy to commit offences punishable u/s 121 attracts punishment u/s 121A and the maximum sentence could be imprisonment for life. The other limb of Section 121A is the conspiracy to overawe by means of criminal force or the show of criminal force, the Central Government or any State Government. The explanation to Section 121A clarifies that it is not necessary that any act or illegal omission should take place pursuant to the conspiracy, in order to constitute the said offence.

War, terrorism and violent acts to overawe the established Government have many things in common. It is not too easy to distinguish them, but one thing is certain, the concept of War imbedded in Section 121 is not to be understood in international law sense of inter-country War involving military operations by and between two or more hostile countries. Section 121 is not meant to punish prisoners of War of a belligerent nation. Apart from the legislative history of the provision and the understanding of the expression by various High Courts during the pre-independence days, the Illustration to Section 121 itself makes it clear that 'War' contemplated by Section 121 is not

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conventional Warfare between two nations. Organizing or joining an insurrection against the Government of India is also a form of War. 'Insurrection' as defined in dictionaries and as commonly understood connotes a violent uprising by a group directed against the Government in power or the civil authorities. "Rebellion, revolution and civil War are progressive stages in the development of civil unrest the most rudimentary form of which is 'insurrection'-vide Pan American World Air Inc. v. Actnacas& Sur Co. [505 F.R. 2d 989]. An act of insurgency is different from belligerency. It needs to be clarified that insurrection is only illustrative of the expression 'War' and it is seen from the old English authorities referred to supra that it would cover situations analogous to insurrection if they tend to undermine the authority of the Ruler or Government.

The Court must be cautious in adopting an approach which has the effect of bringing within the fold of Section 121 all acts of lawless and violent acts resulting in destruction of public properties etc., and all acts of violent resistance to the armed personnel to achieve certain political objectives. The moment it is found that the object sought to be attained is of general public nature or has a political hue, the offensive violent acts targeted against armed forces and public officials should not be branded as acts of WagingWar. The expression 'WagingWar' should not be stretched too far to hold that all the acts of disrupting public order and peace irrespective of their magnitude and repercussions could be reckoned as acts of WagingWar against the Government. A balanced and realistic approach is called for in construing the expression 'WagingWar' irrespective of how it was viewed in the long long past. An organized movement attended with violence and attacks against the public officials and armed forces while agitating for the repeal of an unpopular law or for preventing burdensome taxes were viewed as acts of treason in the form of levying War. We doubt whether such construction is in tune with the modern day perspectives and standards. Another aspect on which a clarification is called for is in regard to the observation made in the old decisions that "neither the number engaged nor the force employed, nor the species of weapons with which they may be armed" is really material to prove

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the offence of levying/Waging War. This was said by Lord President Hope in R v. Hardie in 1820 and the same statement finds its echo in many other English cases and in the case of MaganlalRadhaKrishan v. Emperor [AIR 1946 Nag 173]. But, in our view, these are not irrelevant factors. They will certainly help the Court in forming an idea whether the intention and design to wage War against the established Government exists or the offence falls short of it. For instance, the fire power or the devastating potential of the arms and explosives that may be carried by a group of persons-may be large or small, as in the present case, and the scale of violence that follows may at times become useful indicators of the nature and dimension of the action resorted to. These, coupled with the other factors, may give rise to an inference of Waging War.”

353. As can be seen from discussion made above, in the instant case, the accused stealthily planted the bombs and fled away from the blast sites, leaving the bombs to explode at the set time. Thereafter, they all absconded. The accused also never claimed the responsibility of causing the blasts. The said act of the accused cannot be held as waging war against the Government of India, or against anybody. In a war, the rival parties know with whom they are fighting. But, in the instant case, nobody knew about who had planted the bombs till the arrest of the accused persons. Even today, the accused have denied the commission of the bomb explosions. They even refused to identify themselves with the NDFB organization. In view of the above, though by causing the nine serial bomb explosions, the accused had caused loss to life and properties, the same cannot not be held to be an act of waging war against the Government of India. Therefore, I hold the accused not guilty of waging war or attempting to wage war against the Government of India, punishable under Section 121 IPC and Section 121-A IPC.

354. The accused Ajay Basumatary @ B. Aogi has stated in his confessional statement that, along with the co-accused George Boro @ John @ B. Jwankhang and JituDaimari, he had put the explosive-laden cylinder in the Maruti car bearing Registration No. AS-01-E-7747, took the car from the rented house of the accused George Boro @ John @ B. Jwankhang situated at

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Hatigaon to Ganeshguri, parked the car under the Ganeshguri Flyover and caused the explosion.

355. PW-629 Khagen Chandra Das has deposed that on 30.10.2008, he was posted at the Dispur Police Station as an attached officer. On that day, at around 11:30 AM, a bomb exploded under the Ganeshguri flyover. The Officer-in-Charge of the Dispur Police Station lodged an FIR of the incident, registered the same as FIR No. 1419/08 and entrusted him to investigate the case. Accordingly, he investigated the case. During the course of investigation, he found one completely damaged Maruti 800 car at the blast site and came to know that the bomb was planted in the said Maruti 800 car. He verified the engine number of the said Maruti 800 car with the office of the District Transport Officer, Guwahati and the District Transport Officer, Guwahati, informed him that the registration number of the said Maruti 800 car was AS-01-F-7747. The engine of the said car was sent to the FSL, Kahilipara, Guwahati for examination.

356. PW-547 Upen Bora, Deputy Director, Explosive Division, F.S.L. Assam, Guwahati, who has examined the damaged engine of the said Maruti 800 car and debris collected from the blast site under the Ganeshguri flyover, has deposed that after conducting proper chemical and analytical examination of the exhibits, he found that the engine was damaged due to the explosion taking place inside the car and the debris contained Ammonium Nitrate and RDX.

357. Prosecution has proved beyond all reasonable doubt that at the relevant time, the absconding accused Jitu Daimari and Tarun Boro were the owners of the Maruti 800 car bearing registration No. AS-01-E-7747 used in causing the explosion under the Ganeshguri flyover. PW-9 ArunPatowary has deposed that he had sold the said Maruti 800 car bearing registration No. AS-01-E-7747 to the absconding accused JituDaimari and TarunBoro, through PW- 10 Raju Ali. PW- 10 Raju Ali has fully corroborated the PW-9.

358. It is crystal clear from the discussion made above that the final shape to the conspiracy to cause the serial bomb explosions was given in the

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meeting dated 19.10.2008, by the accused the accused George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, and Rajendra Gayari @ Rajen @ Rifikhang and absconding accused Dinthilang and S. Ulafat, at the instance of the accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum. The accused Onsai Boro @ Ajit Boro also knew about the conspiracy to cause the serial bomb explosions though, he did not take part in the said meeting. Further, though after the serial bomb explosions, the other accused persons also absconded, in view of the discussion made above, they cannot be held guilty of hatching the conspiracy to cause the nine serial bomb explosions. They are guilty of aiding and assisting the accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang and absconding accused Dinthilang and S. Ulafatin causing the nine serial bomb explosions, without having knowledge of the conspiracy to cause the serial bomb explosions. Therefore, as they have participated in the terrorist activities of the banned NDFB organization, they are guilty of committing offences punishable under Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967.

359. In view of the discussion made above, the accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang, Jayanti Brahma @ Jugami, Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo, Indra Brahma, Baishagi Basumatary @ B. Bithurai, Prabhat Boro @ Tepa, Raju Sarkar, Nilim Daimari @ D. Nizwmsa and Mathu Ram Brahma @ Mudai are also guilty of committing offences punishable under Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967. As except the accused Mridul Goyari and Nilim Daimari @ D. Nizwmsa, all the other accused persons are involved in causing the terrorist act of serial bomb explosions, they are guilty of committing the offence u/s 16 of the Unlawful Activities (Prevention) Act, 1967.

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360. As the accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, George Boro @ John @ B. Jwankhang, Ajay Basumatary @ B. Aogi, Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, Rajendra Gayari @ Rajen @ Rifikhang, Jayanti Brahma @ Jugami, Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo, Indra Brahma, Baishagi Basumatary @ B. Bithurai, Prabhat Boro @ Tapa, Raju Sarkar, and Mathu Ram Brahma @ Mudai were members of the terrorist organization NDFB which caused terrorist act of serial bomb explosions that killed eighty eight people, they are liable to be punished u/s 20 of the Unlawful Activities (Prevention) Act, 1967.

361. Further, as by causing the bomb explosion under the Ganeshguri Flyover, the accused Ajay Basumatary and George Boro and the absconding accused Jitu Daimari and Tarun Boro caused the death of thirty two people and grievous hurt and hurt to many others, which are offences punishable under Section 302, 326 and 324 IPC, they all are guilty of committing the said offences.

362. As by causing the bomb explosion under the Ganeshguri Flyover, the accused Ajay Basumatary and George Boro and the absconding accused Jitu Daimari and Tarun Boro had caused damage to properties worth lakh of rupees, which is an offence punishable under Section 435 IPC, they are guilty of committing the said offence.

363. As by causing the bomb explosion under the Ganeshguri Flyover, the accused Ajay Basumatary and George Boro and the absconding accused Jitu Daimari and Tarun Boro had caused damage to properties used as dwelling houses and as places for custody of properties, which is an offence punishable under Section 436 IPC, they are guilty of committing the said offence.

364. By causing the bomb explosion under the Ganeshguri Flyover using RDX and Ammonium Nitrate, which are special category explosive substances, the accused Ajay Basumatary and George Boro and the absconding accused Jitu Daimari and Tarun Boro had committed offences punishable u/s 3 (b) and 4 (a)(b) (ii) of the Explosive Substances Act, 1908. Therefore, they all

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are guilty of committing the offences punishable u/s 3 (b) and 4 (a) (b) (ii) of the Explosive Substances Act, 1908.

365. By delivering the explosive-laden cylinder in the house of the accused George Boro, the accused Baishagi Basumatary @ B. Bithurai; by keeping the explosive-laden cylinder in his house, the accused George Boro; by fitting the time device detonator in the explosive-laden cylinder, the accused Ajay Basumatary @ B. Aogi and by carrying the explosive-laden cylinder in their Maruti car bearing Registration No. AS-01-E-7747 to Ganeshguri, the absconding accused Jitu Daimari and Tarun Boro; by parking the Maruti car with the explosive-laden cylinder under the Ganeshguri Flyover and causing the explosion, the accused Ajay Basumatary, George Boro and absconding accused Jitu Daimari have committed offences punishable u/s 3 (b) and 4(a)(b) (ii) of the Explosive Substances Act, 1908.

366. By causing the bomb explosion near the Baptist Church Complex, Panbazar, Guwahati, using RDX and Ammonium nitrate, which are special category explosive substances, the accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and Raju Sarkar have committed offences punishable u/s 3 (b) and 4(a)(b) (ii) of the Explosive Substances Act, 1908. Therefore, they are guilty of committing the said offences.

367. The accused Khargeswar Basumatary @ Rahul Brahma @ Kharamswar and Raju Sarkar had prepared the Maruti car bearing registration No. AS-01-E-9226 with the bomb using RDX and Ammonium Nitrate, parked the car near the Baptist Church Complex, Panbazar, Guwahati and caused the explosion that killed seven persons and caused grievous hurt and hurt to many others, which are offences punishable under Sections 302, 326 and 324 IPC. Therefore, they are guilty of committing the said offences.

368. Prosecution has proved beyond all reasonable doubt that the accused Raju Sarkar had purchased the Maruti car bearing registration No. AS-01-E-9226, the damaged Engine No. 303447 of which was found at the blast site near the Baptist Church complex, Panbazar; from the PW- 67 Bipin Chandra Rajbangshi, in presence of the PW- 68 Kartik Mandal and at the time

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purchase, the accused Khargeswar Basumatary was accompanying the accused Raju Sarkar. The said Maruti car was used in causing the bomb explosion near the Baptist Church complex, Panbazar, Guwahati. Therefore, they are guilty of committing offences punishable under Sections 3 (b) and 4 (a) (b) (ii) of the Explosive Substances Act, 1908.

369. By causing the bomb explosion near the Baptist Church Complex, Panbazar, Guwahati, the accused Khargeswar Basumatary and Raju Sarkar had caused damage to vehicles and business establishments worth lakh of Rupees, which is an offence punishable under Section 435 IPC. Therefore, they are guilty of committing the said offence.

370. By causing the bomb blast near the Baptist Church Complex, Panbazar, Guwahati, the accused Khargeswar Basumatary and Raju Sarkar had caused damage to properties used as dwelling houses and as places for custody of properties which is an offence punishable under Section 436 IPC. Therefore, they are guilty of committing the said offence.

371. The accused Onsai Boro @ Ajit Borohas stated in his confessional statement that, as per the instructions of the absconding accused Dinthilang and S. Ulafat, he went to Bangladesh to meet the accused Ranjan Daimari and met him in Dhaka, Bangladesh. He has further stated that the accused Ranjan Daimari told to him that as the Boro youths were killed, they should not remain idle and directed him to return to Assam and follow the command of the absconding accused Dinthilang. Thereafter, the accused Onsai Boro @ Ajit Boro returned to Assam and illegally procured the motorcycle used in causing the explosion at the old Paglasthan bus stand, Bongaigaon, through the accused Lokhra Basumatary @ Lobo and Indra Brahma. Therefore, the accused Onsai Boro @ Ajit Boro, Ranjan Daimari and absconding accused Dinthilang and S. Ulafat are guilty of hatching the conspiracy to cause the serial bomb explosions, which is an offence punishable u/s 120-B IPC. Therefore, they are guilty of committing the said offence.

372. By assisting in causing the bomb explosion at the old Paglasthan bus stand, Bongaigaon by arranging the motorcycle, the accused Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo and Indra Brahma had caused

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grievous hurt and hurt to eleven persons. Therefore, they are guilty of committing offences punishable u/s 326 and 324 IPC.

373. By assisting in causing the bomb explosion at the old Paglasthan bus stand, Bongaigaon using RDX and Ammonium Nitrate, which are special category explosive substances, the accused Onsai Boro @ Ajit Boro, Lokhra Basumatary @ Lobo and Indra Brahma have committed offences punishable u/s 3 (b) and 4(a)(b) (ii) of the Explosive Substances Act, 1908.

374. Being members of the banned terrorist organization NDFB and continuing to remain as members of the said organization and participating in the terrorist activities of the said organization, the accused, 1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, 2. George Boro @ John @ B. Jwankhang, 3. Ajay Basumatary @ B. Aogi, 4. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, 5. Rajendra Gayari @ Rajen @ Rifikhang and 6. Onsai Boro @ Ajit Boro, 7. Lokhra Basumatary @ Lobo, 8. Indra Brahma and 9. Baishagi Basumatary @ B. Bithurai have committed offences punishable under Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967.

375. Being members of the banned terrorist organization NDFB and continuing to remain as members of the said organization and participating in the activities of the said organization, the accused, 10. Jayanti Brahma @ Jugami, 11. Mathu Ram Brahma @ Mudai, and 12. Prabhat Boro @ Tapa and 13. Raju Sarkar, have committed offences punishable under Sections 10 and 13 of the Unlawful Activities (Prevention) Act, 1967.

376. In the result, from the facts and circumstances of the case and above discussion, I hold that the prosecution has succeeded in bringing home the charges under Sections 120-B, 302, 326, 324, 435, 436 IPC, Sections 3 (b) and 4(a)(b) (ii) of the Explosive Substances Act, 1908 and Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967 against the accused, 1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, 2. George Boro @ John @ B. Jwankhang, 3. Ajay Basumatary @ B. Aogi, 4. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, 5. Rajendra Gayari @ Rajen @

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Rifikhang and 6. Onsai Boro @ Ajit Boro beyond all reasonable doubt. Hence, I hold them guilty of committing offences punishable under the said Sections of law and convict them accordingly.

377. The prosecution has also succeeded in bringing home the charges under Sections 326, 324, 435 IPC, Sections 3 (b) and 4(a)(b) (ii) of the Explosive Substances Act, 1908 and Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967 against accused, 7. Lokhra Basumatary @ Lobo, 8. Indra Brahma, 9. Baishagi Basumatary @ B. Bithurai, beyond all reasonable doubt. Hence, I hold them guilty of committing offences punishable under the said Sections of law and convict them accordingly.

378. The prosecution has also succeeded in bringing home the charges under Sections 302, 326, 324, 435, 436 IPC and Sections u/s 3 (b) and 4(a) (b) (ii) of the Explosive Substances Act, 1908 against accused, 10. Raju Sarkar, beyond all reasonable doubt. Hence, I hold him guilty of committing offences punishable under the said Sections of law and convict him accordingly.

379. The prosecution has also succeeded in bringing home the charges under Sections 10, 13, 16 and 20 of the Unlawful Activities (Prevention) Act, 1967 against accused, 11. Jayanti Brahma @ Jugami, 12. Mathu Ram Brahma @ Mudai, and 13. Prabhat Boro @ Tapa beyond all reasonable doubt. Hence, I hold them guilty of committing offences punishable under the said Sections of law and convict them accordingly.

380. The prosecution has also succeeded in bringing home the charges under Section 10 (a) of the Unlawful Activities (Prevention) Act, 1967, which is punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and Section 13 (1) (a) and (b) of the Unlawful Activities (Prevention) Act, 1967, which is punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine, against accused, 14. Nilim Daimari @ D. Nizwmsa beyond all reasonable doubt. Hence, I hold him guilty of committing offences punishable under the said

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Sections of law and convict him accordingly. But, as the accused has already undergone imprisonment for more than the maximum period prescribed by law for the offences committed by him, I set off the sentence of imprisonment against the period of detention already undergone and sentence him to pay a token fine of Rs. 100/- (Rupees one hundred) only, on each count, in total, Rs. 200/- (Rupees two hundred) only as he has already undergone imprisonment for more than the maximum period prescribed by law for the offences committed by him, in default to undergo rigorous imprisonment for one month, on each count, for committing the offences punishable under the said Sections of law, which, in my considered opinion, will meet the ends of justice. As the minimum sentence prescribed by law has been imposed upon the accused, there is no necessity of hearing him on the question of sentence as no prejudice is caused to him for not hearing him on the question of sentence.

381. But, as has been held earlier, the prosecution has failed to prove beyond all reasonable doubt that the accused, 15. Mridul Goyari is a member of the banned NDFB organization, or he participated in the activities of the said organization, or he knew about the conspiracy to cause the serials bomb explosions by the co-accused, or he was anyway involved in causing the serial bomb explosions. Therefore, the accused Mridul Goyari is entitled to get the benefit of doubt. Hence, I acquit him giving him the benefit of the doubt.

382. The prosecution has failed to bring home the remaining charges against the accused persons. Hence, I acquit them from the remaining charges.

383. The Probation of Offenders Act is not applicable to the case. Hence the accused are not entitled to get the benefit of the ameliorative relief as envisaged under the said Act

384. Further, as can be seen from the discussion made above, the Government has already paid the compensation to the dependents of the deceased victims and to the injured victims. Therefore, there is no necessity

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to award any compensation to the victims as per the provisions of Section 357-A of the Cr.P.C.

385. The points are decided, accordingly.

O R D E R

386. Issue Jail warrant against the accused Nilim Daimari @ D. Nizwmsa and release order for the accused Mridul Gayari.

387. Bail bond of the accused Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum is cancelled and he is remanded to judicial custody.

388. The sentence upon the accused, 1. Ranjan Daimari @ D.R. Nabla @ Lasdum @ Loudum, 2. George Boro @ John @ B. Jwankhang, 3. Ajay Basumatary @ B. Aogi, 4. Onsai Boro @ Ajit Boro, 5. Raju Sarkar, 6. Prabhat Boro @ Tepa, 7. Khargeswar Basumatary @ Rahul Brahma @ Kharamswar, 8. Rajendra Gayari @ Rajen @ Rifikhang, 9. Indra Brahma, 10. Lokhra Basumatary @ Lobo, 11. Baishagi Basumatary @ B. Bithurai, 12. Jayanti Brahma @ Jugami and 13. Mathu Ram Brahma, will be passed after hearing them on question of sentence on the next date as per the provisions of Section 235 (2) Cr.P.C., on 30.01.2019.

389. Send a copy of the order to the District Magistrate, Kamrup (Metro), Guwahati as per the provisions of Section 265 Cr.P.C.

390. Furnish copy of the judgment to the convicts free of cost, immediately.

391. The case will be restored to file as and when the absconding accused are produced before the Court.

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392. Signed, sealed and delivered in the open Court on this the 28th day of January, 2019, in Guwahati.

(Shri A.Chakravarty)

Judge, Special Court for Trial of
Sessions Case No. 59 (K) of 2011,
Kamrup (Metro) Guwahati

Dictated & corrected by me.

(Shri A. Chakravarty)
Judge, Special Court for Trial of
Sessions Case No. 59 (K) of 2011,
Kamrup (Metro) Guwahati

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APPENDIX-I

PROSECUTION WITNESSES

PW-1 Shri Sisir Kumar Baruah, PW-2 Shri Imran Hussain Khandekar, PW-3 Md Makibul Haque, PW-4 Sri Pranab Medhi, PW-5 Md. Riajul Hussain Ahmed, PW-6 Sri Nagen Bora, PW-7 Sri Haren Das, PW-8 Shri Himangshu Das, PW-9 Sri Arun Patowary, PW-10 Md. Raju Ali, PW-11 Sri Kunal Bhuyan, PW-12 Sri Dipak Kumar Das, PW-13 Azizul Haque, PW-14 Biren Kumar Das, PW-15 Dr. Tarun Talukdar, PW-16 Golap Medhi, PW-17 Jatindranath Pathak, PW-18 Arup Deka, PW-19 Utpal Kumar Deka, PW 20 Bipul Saikia, PW 21 Debaswar Bora, PW-22 Chinmoy Praksh Phukan, PW-23 Shyam Saran Das, PW-24 Manabendra Deka, PW-25 Smti. Ajanta Phukan, PW-26 Mrs. Hira Saikia, PW-27 Smti. Sulavi Phukan, PW-28 Shri Prahlad Kundu, PW-29 Dr. Bhupen Narzary, PW-30 Shri Nilunja Bora, PW-31 Shri Rajesh Goel, PW-32 Dr. Hiteswae Dev Sharma, PW-33 Dr. Pradip Thakuria, PW-34 Dr. R. Chaliha, PW-35 Dr. Manoj Kumar Singha, PW-36 Dr. Partha Pratim Das, PW-37 Sri Basanta Kumar Lahakar, PW-38 Mrs. Aditi Saikia, PW-39 Shri Jaichand Handique, PW-40 Sri Partha Sarathi Purkaystha, PW-41 Sri Kamal Krishna Sarma, PW-42 Smt. Malabika Boro, PW-43 Sri Phani Ram Boro, PW-44 Shri Phikendra Saikia, PW-45 Smti Jinali Saikia, PW-46 Smti. Nirmali Shurma, PW-47 Shri Nirpad Chaudhury, PW-48 Smti. Sebika Gogoi, PW-49 Shri Nirod Barman, PW-50 Shri Rajib Talukdar, PW-51 Shri Rabi Ram Boro, PW-52 Shri Abhijit Sarma@Prafulla, PW-53 Smti. Pramila Das, PW-54 Smti. Labanya Sarkar, PW-55 Smti. Bhagyalaxmi Choudhury, PW-56 Shri Sebak Mandal, PW-57 Shri Nakul Boro, PW-58 Shri Bhubeneshwar Bora, PW-59 Shri Kumud Ch. Boro, PW-60 Smti. Purnima Begum, PW-61 Sri Divyajyoti Choudhury, PW-62 Sayed Mustafa Kaisher (Haider), PW-63 Shri Pradip Hazarika, PW-64 Shri Dilip Kumar Agarwal, PW-65 Md. Islamauddin Khan, PW-66 Shri Phanidhar Talukdar, PW-67 Shri Bipin Ch. Rajbongshi, PW-68 Shri Kartik Mandal, PW-69 Shri Ekhtaruddin Talukdar, PW-70 Smti. Rehima Begum, PW-71 Smti. Namita Medhi, PW-72 Smti. Arpana Deka, PW-73 Smt. Jonaki Nath, PW-74 Smt.

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Nabalakshmi Tahbildar, PW-75 Smt. Chabi Dutta, PW-76 Smt. Rita Acharjee, PW-77 Shri Kulodhar Roy, PW- 78 Shri Taher Ali, PW-79 Dr. Nilanjyoti Choudhury, PW-80 Pranati Bala Das, PW-81 Smt. Jeuti Kalita Barman, PW-82 Shri Dibakar Bhattacharjee, PW-83 Dilip Kumar Kothari, PW-84 Dr. Richa Pandey, PW-85 Shri. Muni Das, PW-86 Miss Sara Francis, PW-87 Kabin Chandra Kalita, PW-88 Shri Lohit Kumar, PW-89 Dr. Dipak Kumar Das, PW-90 Shri Bijoy Barman, PW-91 Shri Dilip Kumar Sarkar, PW-92 Shri Montu Baruah, PW-93 Shri Deba Kumar Saloi, PW-94 Smti. Mina Talukdar, PW-95 Shri Sushanta Rudra, PW-96 Shri Shantanu Bhattacharya, PW-97 Shri Pradip Kumar Konwar, PW-98 Shri Gupi Kanta Medhi, PW-99 Dr. Walliul Islam, PW-100 Dr. Anjan Jyoti Bhuyan, PW-101 Shri Prasanna Deorah, PW-102 Mrs. Minoti Saikia, PW-103 Shri Manas Garodia, PW-104 Smti. Ranjita Phukan, PW-105 Mrs. Mintu Kalita, PW-106 Shri Montu Kumar das, PW-107 Shri Mobaraque Hussain, PW-108 Shri. Pranjit Kumar Bhuyan. PW 109 Shri Kamal Barman, PW-110 Shri Jay Chandra Handique, PW-111 Shri Rajat Barman, PW-112 Shri Dilip Medhi, PW-113 Shri Dipjyoti Medhi, PW-114 Shri Jame Das, PW-115 Shri Bishwa Das, PW-116 Shri Dipjyoti Deka, PW-117 Dr. Santanu Sharma, PW-118 Shri Debabrata Goswami, PW-119 Shri Tailendra Nath Das, PW-120 Shri Ajmal Haque, PW-121 Shri Aftab Ali, PW-122 Md. Ashan Ali, PW-123 Shri Simanta Deka, PW-124 Smt. Golapi Tumung, PW-125 Shri Gunajyoti Boro, PW-126 Shri Purandar Talukdar, PW-127 Shri Jiten Haloi, PW-128 Dr. Dhiraj Purkasthya, PW- 129 Dr. Atanu Borthakur, PW-130 Dr. Gunajit Talukdar, PW-131 Shri Ram Deb Shah, PW- 132 Shri Ram Ghulam Shah, PW-133 Dr. Ramananda Das, PW-134 Shri Dulu Kumar Khaund, PW- 135 Smt. Jonaki Kalita Pathak, PW-136 Shri Mahendra Nath Deka, PW-137 Mrs. Jonali Tamuli, PW-138 Ms. Chandamita Das, PW-139 Shri Sanjitb Kumar Das, PW-140 Shri Manbir Sinha, PW-141 Shri Mukunda Thakuria, PW-142 Shri Prabhunath Prasad, PW-143 Shri Nipanka Goswami, PW- 144 Dr. Kaustav Kumar Das, PW-145 Shri Keke Bania, PW-146 Shri Arup Hazarika, PW-147 Shri Anil Jaiswal PW-148- Shri Himangshu Sharma, PW-149 Shri Har Kumar Sharma, PW-150 Shri Jagat Kalita, PW151 Shri Ranjit Kalita, PW-152 Shri Umesh Barman, PW-153 Shri Sahidul Islam, PW 154 Smt. Pompa Chakravarty, PW-155 Shri Chandan Kumar Bhowmik, PW-156 Shri Himangshu Das, PW-157

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Shri Niipul Das, PW-158 Shri Nayan Moni Kalita, PW-159 Shri Mohan Chandra Das, PW-160 Shri Madhu Kalita, PW-161 Shri Mon Chandra Das, PW-162 Shri Shankar Baishya, PW-163 Shri Kishore Baishya, PW-164 Shri Pradip Deka, PW-165 Shri Hiteshar Kalita, PW-166 Shri Shankar Bezbaruah, PW-167 Shri Arup Deka, PW-168 Shri Sundar Deka, PW-169 Shri Niren Barman, PW-170 Shri Kamleswar Teron , PW-171 Shri Saroj Kumar Choudhury, PW-172 Shri Manendra Deka, PW-172 Shri Manendra Deka, PW-173 Shri Kartik Paul, PW-174 Shri Dinesh Choudhury, PW-175 Shri Subhash Sharma, PW-176 Shri Anowar Hussain, PW-177 Smt. Padmini Kumari, PW 178 Shri Montu Deka, PW 179 Shri Pawan Kumar Agarwal, PW 180 Shri Kailash Das, PW 181 Shri Moinul Ali, PW 182 Smt. Basanati Boro, PW 183 Shri Mainul Haque Ali, PW 184 Shri Saifuddin Ahmed, PW 185 Shri Kasi Prasad Aggarwal, PW-186, Shri Minar Ali, PW-187, Shri Jaynal Abedin, PW-188 Shri Ajahar Ali, PW-189, Shri Dilip Basak, PW-190- Smt. Roushanara Khatun, PW-191- Shri Rajab Ali, PW-192- Shri Abdul Majid, PW-193- Shri Hatem Ali, PW 194- Shri Mohammad Ali, PW -195 Shri Anowar Ali, PW- 196 Shri Arup Choudhury, PW-197, Shri Shiv Shankar Saha, PW- 198, Shri Abdul Kalam Azad, PW- 199, Shri Taleb Ali, PW- 200 Shri Rupam Prasad Barua, PW-201, Shri Islamuddin, PW-202, Shri Taser Ali Ahmed, PW-203, Shri Gopal Saha, PW-204- Shri Amir Hussain, PW-205, Shri Jyoti Kumar Das, PW-206, Shri Maibul Islam, PW-207, Shri Rakibul Hussain, PW-208, Shri Abdus Salam, PW-209, Sahjamal Mia, PW-210, Shri Prakash Mandal, PW-211, Shri Harunal, PW-212, Shri Hasmat Ali, PW-213, Shri Sah Jahan Ali, Rashid, PW-214, Dr. Paresh Kalita, PW-215, Shri Amar Jyoti Das, PW-216, Dr. Gunajit Patowary, PW-217, Shri Majibur Rahman, PW-218, Shri Ibrahim Ali, PW-219, Shri Kanak Choudhury, PW-220, Shri Dharma Kanta Ray, PW-221, Shri Nurul Islam, PW – 222, Shri Rajiv Kumar Bora, PW – 223, Shri Prateek Hajela, PW – 224, Smt. Indira Gogoi, PW – 225, Shri Carol Narzary, PW – 226, Shri Hridoyjit Barman, PW- 227, Dr. Ilias Ali, PW – 228, Smt. Indira Barman, PW- 229, Shri Dhanraj Banthia, PW – 230, Shri Sujoy Das, PW-231, Md. Sumad Ali Akand, PW-232, Md. Mumtaj Paramanik, PW- 233, Shri Manser Ali, PW-234, Shri Kartik Saha, PW-235, Dr. Kaushik Das, PW- 236, Shri Ram Niwas Prasad Gupta, PW – 237, Shri Tapan Pal, PW-238, Shri Badal Barman, PW-239, Smt. Jironi Basumatary, PW- 240, Shri Shankar Das, PW-241, Shri

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Bijoy Kumar Dutta, PW-242, Shri Anil Dutta, PW- 243, Shri Mamo Narzary, PW-244, Smt. Gesao Basumatary, PW – 245, Smt. Rahima Bibi, PW-246, Smt. Hasiton Bibi, PW-247, Shri Prahlad Basumatary PW- 248, Smt. Keshari Basumatary, PW-249, Smt. Munna Nath, PW-250, Md. Sofiul Islam, PW – 251, Smt. Sinduri Rabha, PW-252, Shri Subal Ghosh, PW-253, Smt. Purnima Koch, PW- 254, Smt. Suply Sorji Koch, PW-255, Smt. Adaiswari Coch, PW-256, Smt. Karguni Basumatary, PW-257, Shri Satyajit Sarkar, PW- 258, Smt. Bristi Barman, PW-259, Shri Ram Chandra Dey, PW – 260, Smt. Arati Sarkar, PW- 261, Shri Kalipado Malo, PW-262, Shri Khagen Pachani, PW- 263, Shri Nantu Sen, PW-264, Shri Sanjib Barman, PW-265, Shri Subrata Pandit, PW-266, Shri Lawjeng Basumatary, PW – 267, Smt. Jamirun Bibi, PW-268, Shri Rahim Ali, PW-269, Smt. Anowara Khatoon, PW- 270, Shri Siddique Akand, PW-271, Shri Ranjit Chauhan, PW-272, Shri Fazrul Rahman, PW-273, Shri Fazal Haque, PW- 274, Shri Arjun Roy, PW-275, Shri Gopal Krishna Nath, PW – 276, Shri Sudhangshu Debnath, PW-277, Shri Gobinda Nandi, PW-278, Smt. Bani Gayari, PW- 279, Smt. Khamshi Brahma, PW-280, Shri Babu Ram Sharma, PW-281, Smt. Sarala Nath, PW-282, Smt. Damanti Brahma, PW-283, Smt. Bihan Nath, PW-284, Smt. Sabashi Brahma, PW-285, Smt. Kamala Uzir, PW- 286, Shri Amiruddin Mandal, PW – 287, Smt. Maya Das, PW-288, Smt. Bimala Basumatary, PW-289, Smt. Sita Devi PW- 290, Shri Anup Dey, PW-291, Shri Indrajeet Pal, PW-292, Shri Akhil Chandra Saha, PW-293, Shri Amit Kar, PW- 294, Shri Subhra Debnath, PW-295, Shri Pabitra Das, PW – 296, Shri Bakey Lal Mandal, PW-297, Shri Abhijit Sikder, PW-298, Shri Vijay Kumar Pal, PW- 299, Shri Nabadish Roy, PW-300, Shri Swapan Kumar Saha, PW-301, Shri Uttam Narzary, PW – 302, Shri Manjit Basumatary, PW-303, Smt. Momi Biswas, PW-304, Smt. Sangita Roy PW- 305, Shri Biswadeep Barman, PW- 306, Shri Nazir Qureshi, PW-307, Shri Suman Sarkar, PW-308, Shri Arjun Shah, PW- 309, Shri Fazar Ali, PW-310, Shri Santosh Roy, PW – 311, Shri Shanti Ranjan Dutta, PW-312, Shri Bipul Dutta, PW-313, Shri Ansula Daimary, PW- 314, Shri Dev Chand Chauhan, PW-315, Shri Arun Debnath. PW – 316, Shri Mantu Kumar Das, PW-317, Shri Mamindra Das, PW-318, Shri Bikramjit Pal, PW- 319, Shri Samir Das, PW-320, Shri Ramananda Pathak, PW-321, Smt. Ranjana Pathak, PW-322, Shri Jugal Pathak, PW- 323, Shri Tapas

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Kumar Saha, PW-324, Shri Pradeep Pal, PW – 325, Shri Ashish Sarkar, PW-326, Shri Biplob Kumar Saha, PW-327, Shri Dhiren Das, PW 328 Shri Santosh Barman, PW 329 Shri Prabin Ch. Das, PW 330 Shri Bipul Saha, PW 331 Shri Raj Kumar Saha, PW 332 Shri Narayan Saha, PW 333 Shri Dhiren Karmakar, PW 334 Subhash Das, PW 335 Basudev Dey, PW 336. Shri Prabin Ch. Das, PW 337 Amalesh Saha, PW 338 Gopal Acharjee, PW 339 Shri Sanjiv Kumar Roy, PW 340 Shri Biswajit Chakravarty, PW 341 Shri Pradeep Chandra Gope, PW 342 Shri Chandi Arya, PW 343 Shri Gopal Karmakar, PW – 344, Shri Fanindra Barman, PW-345, Shri Makbul Hussain, PW-346, Shri Dipankar Sutradhar, PW- 347, Shri Deba Kumar Bora, PW-348, Shri Radha Kanta Roy, PW-349, Shri Niranjana Pal, PW-350, Shri Raju Das, PW- 351, Shri Bidya Nanda Choudhury, PW-352, Md. Hanif Ali, PW – 353, Shri Pradeep Saha, PW – 354, Dr. Mantu Kumar Das, PW-355, Dr. Binay Kumar Das, PW-356, Dr. Dwijesh Chandra Sharma, PW- 357, Shri Jitendra Nath Sharma, PW-358, Shri Ashok Kumar Bora, PW-359, Md. Insan Ali, PW- 360 Shri Alok Niranjana Das, PW- 361 Shri Kamal Barua, PW- 362 Shri Uttam Kakati, PW- 363 Smt. Sewlali Deka, PW- 364 Shri Moniruddin Ahmed, PW- 365 Shri Vicky Kumar Bothra, PW- 366 Shri Ansum Basumatary, PW- 367 Shri Bhargab Brahma, PW- 368 Shri Santosh Roy , PW- 369, Shri Kishore Kumar Bothra , PW- 370, Shri Shankar Sharma, PW- 371 Smt. Haina Basumatary, PW- 372 Shri Biren Chandra Deori, PW- 273 Shri Aswini Mahanta, PW- 374 Shri Bhola Boro, PW- 375 Shri Arabinda Boro, PW- 376 Shri Bhupesh Boro, PW- 377 Shri Raju Boro, PW- 378 Shri Satin Boro, PW- 379 Shri Larench Narzary , PW- 380 Dr. Kanak Chandra Das, PW- 381 Ramesh Deb Sharma, PW- 382 Shri Ashim Boro, PW- 383 Shri Lakhi Kachari, PW- 384 Shri Lal Mohan Boro. PW- 385 Shri Bijoy Rabha, PW- 386 Shri Pranab Boro, PW- 387 Shri Om Prakash Borar, PW- 388 Shri Babul Chandra Daimary, PW- 389 Shri Powal Chandra Daimary, PW- 390 Shri Ratan Boro. PW- 391 Smt. Erra Hazarika, PW- 392 Shri Rama Kanta Das, PW- 393 Smt. Labanya Das, PW- 394 Shri Jayanta Das, PW- 395 Shri Tapan Das. PW- 399 Shri Rajiv Lahary, PW- 400 Shri Nabin Boro, PW- 401 Smt. Nalini Daimary, PW- 402 Shri Bramun Boro, PW- 403 Shri Ajit Baishya, PW- 404 Shri Debajyoti Dutta, PW- 405 Shri Nitai Boro, PW- 406 Shri Samsul Hoque, PW- 407 Shri Dhruvajyoti Dutta, PW- 408 Shri Hiranya Kumar Laskar, PW- 409 Shri

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Amiya Kumar Sharma, PW- 410 Shri Narayan Nath, PW- 411 Shri Alimuddin Ahmed , PW- 412 Shri Biren Haloi, PW--413, Shri Nipon Chandra Rabha, PW- – 414, Shri Diganta Das, PW- – 415, Smt. Arati Aich, PW- – 416, Shri Vicky Saha, PW- 417 Shri Jiten Kalita, PW- 418 Shri Arif Md. Nizami, PW- 419 Shri Amrul Hoque, PW- 420 Shri Julfikar Ali. PW- 421 Abdul Kuddus, PW- 422 Shri Ajay Kumar Moulik, PW- 423 Shri Sobaram Gayari, PW- 424 Shri Safer Ali Ahmed, PW- 425 Shri Ramjan Ali, PW- 426 Shri Maniruddin, PW- 427 Shri Abdul Barek , PW- 428 Shri Mannan Sarkar, PW- 429 Shri Mirzan Ali, PW- 430 Shri Kurban Ali, PW- 431 Shri Abdul Salam, PW- 432 Shri Abdul Mannaf, PW- 433 Shri Neel Kamal Das, PW- 434 Smt. Jinnatun Nessa. PW- 435 Shri Amir Ali, PW- 436 Shri Bulbul Hussain, PW- 437 Shri Anisur Rahman, PW- 438 Shri Dilowar Hussain, PW- 439 Shri Sadhan Mahanta, PW- 440 Shri Rafiqul Islam, PW- 441 Shri Tafizuddin and PW- 442 Shri Farman Ali, PW- 443 Shri Solaiman Hussain, PW- 444 Shri Sorhab Ali, PW- 445 Shri Shyam Lal Mahato, PW- 446 Sayed Aftab Ali, PW- 447 Shri Binod Sharma, PW- 448 Shri Bishnupada Saha, PW- 449 Dr. Shalini Bhasin Baruah, PW- 450 Dr. Dewan Matiwur Rahman, PW- 451 Shri Basanta Kumar Lahkar, PW- 452 Shri Biswa Buragohain , PW- 453 Shri Gunjan Sonowal, PW- 454 Shri Homen Das, PW- 455 Shri Yashwant Sarmah, PW- 456 Shri Akhay M. Dalu, PW- 457 Shri Supriyo Kumar Roy , PW- 458 Shri Md. Wazidur Rahman, PW- 459 Shri Bankim Biswas, PW- 460 Shri Satyajit Bora , PW- 461 Shri Debesh Chandra Deka, PW- 462 Dr. Himangshu Das , PW- 463 Shri Hemen Chandra Kalita , PW- 464 Shri Kandarpa Das, PW- 465 Shri Munindra Kumar Das, PW- 466 Shri Chandra Deep Sharma, PW- 467 Shri Maneswar Das, PW- 468 Shri Hiranya Saikia, PW- 469 Shri Pulen Koch, PW- 470 Shri Alok Das, PW- 471 Shri Pulak Barman, PW- 472 Shri Siddharth Phukan, PW- 473 Shri Mahat Deka , PW- 474 Smt. Debika Medhi , PW- 475 Shri Shankar Deka, PW--476, Shri Shantanu Dey, PW--477, Shri Thanuram Kalita, PW- 478 Abdul Mazid Mohammad Mahiuddin, PW- 479 Dr. Hem Chandra Brahma, PW- 480 Dr. Parbati Kumar Doley, PW- 481 Dr. Bimal Chandra Medhi, PW- 482 Dr. Nihar Ranjan Biswas and PW- 483 Shri Ringkhang Boro, PW- 484, Dr. Nabanindra Nath Sharma , PW- 485, Dr. Ananta Mohan Rabha, PW-- 486, Shri Abdul Hamid , PW--487, Shri Mirjan Ali, PW- 488, Shri Dasarath Basumatary, PW-- 489, Pancham Lal , PW- 490 Shri

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Babul Ali, PW- 491 Shri Bishnu Dev Paswan, PW-- 492, Shri Mantu Kumar Thakur, PW- 493, Shri Sun Wary, PW- 494, Shri Baban Roy, PW- 495 Shri Rindao Basumatary, PW- 496 Shri Chandan Mandal, PW-497, Shri Golap Chandra Ray, PW- 498, Shri David Soren and PW- 499, Shri Ismail Ali, PW- 500 Shri Joy Shankar Bhatta , PW- 501 Shri Thaneshwar Sharma, PW- 502 Shri Diganta Barman, PW- 503, Shri Ujjal Goswami ,PW- 504, Smt. Beena Rajkhowa and PW- 505 Shri Tapan Kumar Deb, PW- 506 Smt. Banya Gogoi, PW- 507, Shri Akkash Ali, PW- 508, Smt. Latika Barua, PW- 509 Shri Prasanta Dutta, PW- 510 Dr. Kuldip Kumar Saikia, PW- 511 Shri Jitumani Das, PW- 512 Shri Songthu Songnejir Aimol, PW- 513 Shri Rajneesh Bora, PW- 514, Shri Mrinal Talukdar, PW- 515, Shri Nipun Chakravartty, PW- 516 Shri Narayan Patangia, PW- 517 Shri M. Talimoa, PW- 518 Shri Balendra Nath Basumatary, PW- 519, Dr. Phaltanga Kungur Brahma, PW- 520 Smt. Tilottama Brahma Patgiri, PW- 521 Shri Dilip Mandal, PW- 522, Shri Sahadev Debnath, PW- 523 Shri Fazal Ali, PW- 524 Shri Sushanta Saha, PW- 525 Shri Dhruva Jyoti Bora, PW- 526 Shri Shantanu. P. Gotmare, PW- 527 Shri Sudhangshu Chakravarty, PW- 528 Shri Binoy Krishna Barua, PW- 529 Shri Padmadhar Chetia and PW- 530 Shri Rajesh Rajbhar, PW- 531 Shri Benu Madhab Nath. PW- 532 Shri Haridas Kalita, PW- 533 Shri Jahur Ali, PW- 534 Md. Noor Hussain, PW- 535 Shri Ananda Chandra Das, PW- 536 Shri Arabinda Kalita, PW- 537 Shri Nila Pankaj Baishya, PW- 538 Abul Kalam Azad, PW- 539 Shri Nayanmoni Bharali, PW- 540 Smt. Malati Tirki, PW- 541 Smt. Reecha Pandey, PW- 542 Shri Nabin Chandra Nath, PW- 543 Smt. Rohini Musahary, PW- 544 Smt. Basimoni Karketa, PW- 545 Shri Nilkamal Das, PW- 546 Dr. Putul Mahanta, PW- 547 Shri Upen Bora, PW- 548 Shri Nipen Das, PW- 549 Md. Sayed Ahmed, PW- 550 Shri Bipul Dey, PW- 551 Shri Sobhan Kalita, PW- 552 Shri Jalu Basumatary, PW- 553 Krishna Kanta Swargiary, PW- 554 Shri Khagen Basumatary alias Boro, PW- 555 Shri. Swmdwn Basumatary, PW- 556 Shri Madan Mohan Sharma, PW- 557 Shri Vinod Kumar Verma, PW- 558 Shri Anil Kumar, PW- 559 Mohd. Farooq, PW- 560 Shri Bajranglal Ahir, PW- 561 Shri Umapati Yadav, PW- 562 Shri Sunil Kumar, PW- 563 Shri Biswajit Saha, PW- 564 Shri Lal Babu Sah, PW- 565 Shri Shrabin Sah, PW- 566 Shri Satyaranjan Mitra, PW- 567 Shri Sayeed Ahmed, PW- 568 Shri Brownchen Boro, PW- 569

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Dr. Madhurja Bhattacharjee, PW- 570 Shri Pankaj Kumar Borah, PW- 571, Shri Mukesh Kumar Soni, PW- 572, Shri Amrit Kumar Singha, PW- 573 Dr. Bhaskar Borkotoky, PW- 574 Dr. Asiruddin Ahmed, PW- 575 Shri Arun Basumatary, PW- 576 Dr. Nitu Kumar Gogoi, PW- 577 Shri Madhu Swargiary, PW- 578 Jenefreza Basumatry, PW- 579 Shri Jefril John Basumatary, PW- 580 Dr. Iran Bharali, PW- 581 Shri Atul Boro, PW- 582 Shri Kushal Talukdar, PW- 583 Shri Ajay Boro, PW- 584 Shri Ganesh Basumatary, PW- 585 Shri Jayanta Boro, PW- 586 Shri Ranjit Boro, PW- 587 Shri Rabindra Boro, PW- 588 Shri Satish Gayari, PW- 589 Shri Jinku Baglari, PW- 590 Shri Gopal Rabha, PW- 591 Shri Shankar Sharma, PW- 592 Shri Asish Mushahary, PW- 593 Shri Sanjay Kumar Basumatary, PW- 594 Shri Subrata Dey, PW- 595 Shri Binaisha Brahma, PW- 596 Shri Duke Bon Basumatary, PW- 597 Dr. Rajani Kanta Deka, PW- 598 Shri Laxman Basumatary, PW- 599 Shri Ganesh Chandra Boro, PW - 600 Smt. Dimpi Kalita, PW- 601 Shri Laxman Thapa, PW- 602 Shri Janardhan Kalita, PW- 603 Dr. Rishav Kumar Baruah, PW- 604 Shri Dhananjay Kumar Das, PW- 605 Smt. Rashmi Boro, PW -606 Shri Ravi Kumar Srivastava, PW- 607 Smt. Rwmwshri Swargiary, PW-608 Shri Biplab Boro, PW- 609 Shri Raj Kumar Banthia, PW-610 Shri Purna Chandra Baruah, PW-611 Shri Bhupendra Nath Das, PW-612 Shri Jishnu Barua, PW-613 Shri Nibaran Das, PW-614 Shri Ranjit Rai, PW 615- Shri Anup Kumar Boro, PW-616 Shri Jimi Boro, C-1 Shri Jaleswar Das, PW-617 Shri Syed Zarir Hussain, PW-618 Shri Jitu Moni Neog, PW-619 Shri Sachindra Boro, PW-620 Shri Nilendu Bikash Bardhan , PW-621 Shri Suresh Chandra Das, PW-622 Shri Manjit Kumar Buragohain, PW-623 Shri Anil Kumar, PW-624 Shri Ashok Singh Tariyal, PW-625 Shri Sunil Singh Rawat, PW- 626 Shri Kangkan Lal Choudhury, PW- 627 Shri Sanjoy Mukherjee, PW - 628, Chojom Sherpa, PW-629 Shri Khagen Chandra Das, PW – 630, Shri Phani Dhar Kalita, PW- 631, Shri Debasish Ghosh, PW- 632, Shri Narayan Chandra Biswas, PW -633 Shri Pankaj Kalita, PW- 634 Shri Mahesh Chandra Adhikari, PW-635, Shri Madhusudhan Thapa, PW-636 Shri Sarat Chandra Kalita, PW- 637 Shri Intzar-ul- Hassan, PW-638 Pranab Kumar Das, PW- 639 Shri Daruka Nath Pegu, PW- 640 Shri Tapan Kumar Nath, PW- 641 Shri Narendra Singh Kharayat, PW 642 Shri Nalini Kant Pathak, PW-643 Shri Narayan Singh Rathore, PW 644 Prem Sundar Paul Choudhury, PW 645 Shri Kamal Kumar

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

Banthia, PW 646 Shri Narayan Singh Yadav, PW 647 Harish Chander Sharma, PW 648 Shri Utpalananda Sarma, PW 649 Dr. Sudhir Kumar Shukla and PW 650 Shri Naulak Lian Paite.

Categories of some of the Prosecution Witnesses

1. Relatives/ Friends/ Associates of the deceased victims:

P.W. Nos. 87, 93, 96, 98, 102, 107, 108, 113, 116, 120, 126, 135, 139, 141, 146, 150, 154, 156, 157, 159, 167, 169, 170, 177, 180, 186, 188, 190, 201, 212, 213, 221, 230, 373, 363, 381, 382, 392, 393, 394, 395, 396, 403, 410, 411, 412, 415, 417, 429, 433, 434, 444, 461, 463, 464, 517, 521, 539 and 542.

2. Injured Victims:

P.W. Nos. 88, 107, 119, 112, 114, 115, 118, 120, 127, 135, 137, 138, 147, 149, 150, 151, 153, 163, 164, 165, 166, 174, 178, 186, 187, 189, 191, 192, 193, 194, 195, 196, 197, 199, 198, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 230, 231, 232, 233, 234, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 300, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 330, 337, 339, 340, 341, 342, 343, 344, 346, 353, 362, 373, 384, 394, 395, 403, 406, 407, 416, 417, 421, 422, 425, 426, 427, 428, 430, 431, 432, 435, 436, 437, 438, 439, 441, 447, 448, 460, 464, 507, 509, 543, 544, 549, 538, 550, 563 and 566.

3. Relatives/ Friends/ Associates of the injured victims:

P.W. Nos. 86, 100, 106, 107, 112, 121, 122, 124, 126, 131, 140, 142, 145, 155, 234, 297, 329, 338, 345, 392, 394, 395, 408 and 521.

4. Witnesses whose properties were destroyed in the blasts:

P.W. Nos. 86, 87, 95, 96, 97, 98, 101, 102, 103, 104, 105, 109, 112, 116, 118, 125, 121, 126, 131, 132, 134, 136, 140, 141, 142, 148, 149, 150, 152,

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

15, 155, 156, 157, 159, 161, 162, 166, 167, 168, 172, 173, 174, 175, 179, 180, 181, 196, 200, 311, 318, 31, 348, 361, 391, 392, 404, 405, 407, 461, 467, 476, 501, 525, 537, 564, 565 and 581.

5. Medical Officers:

P.W. Nos. 89, 99, 100, 117, 128, 129, 130, 133, 143, 214, 216, 227, 235, 354, 355, 380, 449, 450, 462, 472, 480, 481, 482, 519, 541, 546, 569, 573, 574, 576, 580 and 603.

6. Investigating Officers:

P.W. Nos. 621, 622, 623, 624, 625, 627, 628, 629, 631, 632, 633, 634, 636, 637, 638, 640, 641, 642, 643, 644, 646 and 647

7. Official witnesses:

P.W. Nos. 357, 316, 358, 360, 364, 409, 451, 454, 457, 458, 466, 470, 471, 474, 478, 479, 484, 485, 486, 487, 489, 497, 498, 499, 502, 503, 504, 506, 510, 512, 513, 514, 515, 516, 526, 528, 529, 534, 536, 547, 567, 570, 594, 597, 600, 601, 604, 606, 612, 620, 626, 630, 639, 648, 649, 650.

SOME OF PROSECUTION EXHIBITS (THE OTHERS WERE MISPLACED

DURING TRANSIT AS STATED BY THE LEARNED PUBLIC

PROSECUTORS

- | | |
|----------|------------------------|
| Ext.1(a) | - Disclosure statement |
| Ext.1(b) | - Copy of FIR |
| Ext.2(a) | - Pointing out memo |
| Ext.2(b) | - Copy of FIR |
| Ext.3(a) | - Rough sketch |

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.3(b) - Copy of FIR
- Ext.4(a) - Disclosure statement
- Ext.4(b) - Copy of FIR
- Ext.5(a) - Pointing out memo
- Ext.5(b) - Copy of FIR
- Ext.6(a) - Pointing out memo
- Ext.6(b) - Copy of FIR
- Ext.7(a) - Pointing out memo
- Ext.7(b) - Copy of FIR
- Ext.8(a) - Disclosure statement
- Ext.8(b) - Copy of FIR
- Ext.9(a) - Pointing out memo
- Ext.9(b) - Copy of FIR
- Ext.10(a) - Rough sketch map
- Ext10(b) - Rough sketch map
- Ext.11(a) - Rough sketch map
- Ext.11(b) - Seizure list
- Ext.12(a) - Disclosure statement
- Ext.12(b) - Registration certificate
- Ext.13(a) - Pointing out memo
- Ext.13(b) - Copy of proposal form of United India Insurance Co.
Ltd.
- Ext.14 - Registration certificate
- Ext.15(a) - Pointing out memo
- Ext.15(b) - Copy of sale letter
- Ext.16 - Deed of agreement
- Ext.17 - Photo copy of driving licence
- Ext.18 - Transfer certificate of vehicle

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- Ext.19 - Form of issuance of duplicate Registration Certificate
- Ext.20 - Form of notice of transfer of ownership
- Ext.21 - Letter to D.T.O., Kamrup
- Ext.22 - Photo copy of Registration certificate
- Ext.23 - Copy of photo identification memorandum
- Ext.24 - Seizure list
- Ext.25 - Statement u/s 164 Cr.P.C.
- Ext.26 - Seizure list
- Ext.44 to Ext.95 - Post-mortem reports
- Ext.96 - Transfer certificate of vehicle
- Ext.97 - Seizure list
- Ext.98 - Statement of witness Malabika Bora
- Ext.99 - Statement of witness Phani Ram Bora.
- Ext.100(a) - Copy of address proof of Tensu Narzary
- Ext.100(b) - Statement of witness Phikendra Saikia
- Ext.101(a) - Copy of locality report of membership
- Ext.101(b) - Statement of witness Jinali Saikia
- Ext.102 - Statement of witness Kamal Kishore Sarma
- Ext.103 - Seizure list
- Ext.104 - Counter foil of BSNL
- Ext.105 - Counter foil of BSNL
- Ext.106 - Disclosure statement
- Ext.107 - Pointing out memo
- Ext.108 - Letter to Principal, Pandu College, Guwahati
- Ext.109 - Application for admission in college
- Ext.110 - Seizure list
- Ext.111 - Statement of witness Dilip Kr. Agarwal
- Ext.112 - Registration certificate

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.113 - Seizure memo
- Ext.114 - Document of agreement
- Ext.115 - Receipt
- Ext.116 - Transfer certificate of vehicle
- Ext.117 - Seizure memo
- Ext.118 - Photograph identification memo
- Ext.119 - List of injured victims admitted in Down Town
Hospital
- Ext.120 to Ext.141 - Discharge certificates
- Ext.142 - Letter to O/C Panbazar P.S.
- Ext.143 - Zimmanama
- Ext.144 - Authority letter
- Ext.145 - Subscriber Enrollment Form
- Ext.146 - Acknowledgement of Reliance Telecom Ltd.
- Ext.147 - Copy of deputation letter from Panbazar P.S.
- Ext.148 - Forwarding letter
- Ext.149 - Inquest report
- Ext.150 - Dead body challan
- Ext.151 - Prayer for Post-mortem examination
- Ext.152 - Inquest report
- Ext.153 - Dead body challan
- Ext.154 - Copy of deputation letter from Panbazar P.S.
- Ext.155 - Prayer of Post-mortem examination
- Ext.156 - Inquest report
- Ext.157 - Dead body challan
- Ext.158 - Copy of deputation letter from Panbazar P.S.
- Ext.159 - Prayer for Post-mortem Examination
- Ext.160 - Inquest report

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.161 - Dead body challan
- Ext.162 - Prayer for Post-mortem Examination
- Ext.163 - Inquest report
- Ext.164 - Dead body challan
- Ext.165 - Copy of deputation letter from Panbazar P.S.
- Ext.166 - Prayer for Post-mortem examination
- Ext.167 - Inquest report
- Ext.168 - Dead body challan
- Ext.169 - Prayer for post-mortem examination
- Ext.170 - Letter to O/C Panbazar P.S.
- Ext.171 - Zimmanama
- Ext.172 - Letter to N.S. Jadav, DSP (CBI)
- Ext.173(a) - Subscriber Enrollment Form
- Ext.173(b) - Indoor Ticket for history chart of Nilim Daimary
- Ext.174 - Zimmanama
- Ext.175 - Zimmanama
- Ext.176 to Ext.178 - Medical report
- Ext.179 - Injury report
- Ext.180 - Injury report
- Ext.181 - Injury report
- Ext.182 - Statement in respect of bomb blast victims of Kamrup
- Ext.183 - Copy of case summary of injured victim, Dispur Hospital
- Ext.184 - Copy of case summary of injured victim, Dispur Hospital
- Ext.185 - Letter from Executive Magistrate, Kamrup (M)
- Ext.186 - Statement in respect of bomb blast victims of

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

Kamrup

- Ext.187 to Ext.197 - Injury reports of GNRC Hospital
- Ext.198 - Discharge certificate
- Ext.199 - Post-mortem report
- Ext.200 - Post-mortem report
- Ext.201 - Post-mortem report
- Ext.202 - Letter for sanction of financial assistance of injured victims
- Ext.203 - Post-mortem report
- Ext.204 - Post-mortem report
- Ext.205 - Post-mortem report
- Ext.206 - Seizure list
- Ext.207 - Seizure list
- Ext.208 - Seizure documents in the Office of the D.T.O. Barpeta
- Ext.209 - Seized documents in the Office of the D.T.O. Barpeta
- Ext.210 - Seized documents in the Office of the D.T.O. Barpeta
- Ext.211 - Seizure memo
- Ext.212 - Seized documents in the Office of the D.T.O. Barpeta
- Ext.213 - Seized documents in the Office of the D.T.O. Barpeta
- Ext.214 - Copy of Bongaigaon P.S. G.D.Entry
- Ext.215 - Inquest report
- Ext.216 - Prosecution Sanction order
- Ext.217 - Prosecution Sanction order
- Ext.218 - Order of transferring of case to CBI
- Ext.219 - Order of transferring of case to CBI

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.220 - Statement u/s 164 Cr.P.C. of witness Kishore Kr. Bothra
- Ext.221 - Photographs
- Ext.222 to Ext.241 - Post-mortem report
- Ext.242 - M.V.I. Repor
- Ext.243 - M.V.I. Report
- Ext.244 - M.V.I. Repor
- Ext.245 - Seizure list
- Ext.246 to Ext.250 - Post-mortem report
- Ext.251 to Ext.279 - Hospital admission slip
- Ext.280 - Seizure list
- Ext.281 - Seizure list
- Ext.282 - Seizure list
- Ext.283 - Proposal form of United India Insurance Co. Ltd.
- Ext.284 - M.V.I. Report
- Ext.285 - Inventory report of M.V.I.
- Ext.286 - Inventory report of M.V.I.
- Ext.287 - Inventory report of M.V.I.
- Ext.288 - Inventory report of M.V.I
- Ext.289 - Enrollment Form of Reliance Mobile
- Ext.290 - Seizure list
- Ext.291 - Photo copy of Registration Certificate
- Ext.292 - Copy of Insurance policy
- Ext.293 - Letter from U.B.I. addressed to N.K.Pathak, DSP(CBI)
- Ext.294 - Statement of Account from U.B.I., Rangia Branch
- Ext.295 - Statement of Account from U.B.I., Rangia Branch
- Ext.296 - First page of Account holder of U.B.I., Rangia Branch

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.297 - Account Opening Form of U.B.I., Rangia Branch
- Ext.298 - Certificate of Sarkari Gaonbura
- Ext.299 - Seizure list
- Ext.300 - Inquest report
- Ext.301 - Inquest report
- Ext.302 - Seizure memo
- Ext.303 - Letter from Dist. Civil Hospital, Bongaigaon
- Ext.304 - Injury report of Bongaigaon Civil Hospital
- Ext.305 - Medical report of Bongaigaon Civil Hospital
- Ext.306 - Seizure memo
- Ext.307 - Cover file of D.T.O. Kamrup
- Ext.308 - Report of M.V.I., Kamrup
- Ext.309 - Ejahar
- Ext.310 - Application form of Registration of Motor vehicle
- Ext.311 - M.V.I. Inspection Report of Kamrup, Assam
- Ext.312 - Copy of Memorandum
- Ext.313 - Seizure list
- Ext.314 - Copy of Gazette Notification of India
- Ext.315 to Ext.329 - Inquest reports
- Ext.330 - Dead body challan
- Ext.331 - Forwarding report
- Ext.332 - Inquest report
- Ext.333 - Dead body challan
- Ext.334 - Letter from Maruti Suzuki India Ltd., Haryana.
- Ext.335 - Subscriber Information Form of Aircel
- Ext.336 - Subscriber Information Form of Aircel
- Ext.337 to Ext.372 - Seizure list
- Ext.373 - Letter from Maruti Suzuki India Ltd.

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.374 - Copy of case summary of injured victim, Dispur Hospital
- Ext.375 - Report from D.T.O. Nalbari
- Ext.376 - Letter from D.T.O., Nalbari
- Ext.377 - Copy of Verification of Driving licence
- Ext.378 - Copy of case summary of injured victim, Dispur Hospital
- Ext. 379(a) - Police report regarding damaged vehicle
- Ext.379(b) - Confessional statement of accused Ajay Basumatary
- Ext.380 to Ext.385 - Statements of witnesses recorded u/s 164 Cr.P.C.
- Ext.386 - Letter of RNB Civil Hospital, Kokrajhar
- Ext.387 - List of injured persons
- Ext.388 - Letter of RNB Civil Hospital, Kokrajhar
- Ext.389 - Medical examination report of victim persons
- Ext.390 - Advice slip of Kokrajhar Civil Hospital
- Ext.391 - Discharge certificate of RNB Civil Hospital, Kokrajhar
- Ext.392 - Hospital discharge certificate
- Ext.393 - Advice slip of Kokrajhar Civil Hospital
- Ext.394 - Discharge certificate of RNB Civil Hospital, Kokrajhar
- Ext.395 - Advice slip of Kokrajhar Civil Hospital
- Ext.396 - Discharge certificate of RNB Civil Hospital, Kokrajhar
- Ext.397 - Discharge certificate of RNB Civil Hospital, Kokrajhar
- Ext.398 - Seizure list
- Ext.399 - List of injured victims of Barpeta Road bomb blast case
- Ext.400 - List of injured victims of Barpeta Road bomb blast case
- Ext.401 - Copy of Indoor Register

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.402 - Letter from Jt. Director of Health Service, Kokrajhar
- Ext.403 - List of deceased of Kokrajhar
- Ext.404 - Injury report of RNB Civil Hospital, Kokrajhar
- Ext.405 - Injury report of RNB Civil Hospital, Kokrajhar
- Ext.406 - Seizure list
- Ext.407 - Seizure list
- Ext.408 - Letter from Bhangagarh P.S.
- Ext.409 - Statement of accused Dasarath Basumatary
- Ext.410 - Seizure memo
- Ext.411 - File cover of M/s Swastik Enterprise
- Ext.412 - Seizure list
- Ext.413 - Sale letter
- Ext.414 - Seizure list
- Ext.415 - Disclosure statement
- Ext.416 - Memo of disclosure statement
- Ext.417 - Printout of e-mail
- Ext.418 - Copy of press release
- Ext.419 - Disclosure statement
- Ext.420 - Printout of e-mail
- Ext.421 - Copy of Press release
- Ext.422 - Copy of Press release
- Ext.423 - Copy of Press release
- Ext.424 - Copy of proposal of resolve the Boroland
- Ext.425 - Copy of Press release
- Ext.426 - Printout of e-mail
- Ext.427 - Printout of e-mail
- Ext.428 to to Ext.439 - Copy of specimen signatures
- Ext.440 - Letter from SOU P.S.

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- Ext.441 - Letter regarding particulars of NDFB cadres
- Ext.442 - Copy of Enquiry report against NDFB cadres
- Ext.443 - Forwarding letter
- Ext.444 - Statement u/s 164 Cr.P.C. of witness Ranjit Ramchiary
- Ext.445 - Prayer for examination of seized exhibits
- Ext.446 - Injury report of GMCH
- Ext.447 - Seizure list
- Ext.448 - Seizure list
- Ext.449 - Letter from Bharati Airtel Ltd.
- Ext.450 - Enrolment Form of Airtel
- Ext.451 - Enrolment Form of Airtel
- Ext.452 - Seizure memo
- Ext.453 to Ext.457 - Enrolment Forms of Airtel
- Ext.458 - Letter from Airtel
- Ext.459 - Call details of Airtel
- Ext.460 - Letter from Bharati Airtel Ltd.
- Ext.461 - Confessional statement of Anup Kr. Bora
- Ext.462 - Confessional statement
- Ext.463 - Statement u/s 164 Cr.P.C. of witness Bhargav Brahma
- Ext.464 - Statement u/s 164 Cr.P.C. of witness Lakshman Basumatary
- Ext.465 - Statement u/s 164 Cr.P.C. of witness Prabin Basumatary
- Ext.466 - Deposition of Lakshman Basumatary
- Ext.467 - Deposition of Prabin Basumatary
- Ext.468 - Deposition of Bhargav Brahma

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.469 - Forwarding letter.
- Ext.470 - Letter for payment of financial assistance to injured, KKJ
- Ext.471 - Letter for payment of financial assistance to injured, KKJ
- Ext.472 - Leaf-let in memory of Lt. Dome trust and Lt. Pitolu
- Ext.473(a) - Prescription of Kokrajhar Civil Hospital
- Ext.473(b) - Discharge certificate from Kokrajhar Civil Hospital
- Ext.473(c) - Discharge certificate from Kokrajhar Civil Hospital
- Ext.474 - Copy of order of District Magistrate, Bongaigaon
- Ext.475 - Letter from District Magistrate, Bongaigaon
- Ext.476 - Letter from Addl. Deputy Commissioner, Kokrajhar
- Ext.477 - List of deceased of Kokrajhar
- Ext.478 - Copy of Sanction list of Ex-gratia
- Ext.479 - List of injured victims of Kokrajhar
- Ext.480 to Ext.484 - Seizure lists
- Ext.485 - Inquest report
- Ext.486 - Letter regarding information of NDFB
- Ext.487 - Letter from CBI, New Delhi
- Ext.488 - Letter from CBI, New Delhi
- Ext.489 - Confessional statement Onsai Boro
- Ext.490 to Ext.496 - Forensic reports
- Ext.498 - Report of CFSL, Himachal Pradesh
- Ext.499 to Ext.504 - Copies of Notifications of NDFB
- Ext.505 - Report of CFSL, Himachal Pradesh
- Ext.506 - Seizure list
- Ext.507 - Customer Application Form, Aircel
- Ext.508 - Seizure list

SESSIONS CASE NO. 59 (K) OF 2011, KAMRUP (METRO), GUWAHATI

- Ext.509 to Ext.517 - Customer Application Forms, Aircel
- Ext.518 - CDR of Aircel
- Ext.519 - CDR of Aircel
- Ext.520 - Injury report of GMCH
- Ext.521 - Seizure list
- Ext.522 - Injury report
- Ext.523 - Seizure list
- Ext.524 - Inquest report
- Ext.525 - Dead body challan
- Ext.526 - Letter from CFSL
- Ext.527 - Copy of FIR
- Ext.528 - FIR
- Ext.529 - Seizure list
- Ext.530 - Seizure list
- Ext.531 - Order by Governor of Assam
- Ext.532 - Order by Governor of Assam
- Ext.533 - Statement of witness Jimi Boro
- Ext.534 - Forwarding letter of Managing Editor, News Live, Guwahati
- Ext.535 - Issue of News Live report
- Ext. 536 - CFSL report
- Ext.537 - CFSL report
- Ext. 538 to Ext.546 - Seizure lists
- Ext.547 - Petition from CBI
- Ext.548 - Petition from Police Inspector, CBI
- Ext.549 - Seizure memo
- Ext.550 - Photocopy of repairing register, Bongaigaon
- Ext.551 - Petition from Inspector, CBI
- Ext.552 - Petition from Inspector, CBI

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- Ext.553 - Production memo
- Ext.554 - Prescription of Dr. R.N. Das, Jeeban Deep Medical, Kokrajhar.
- Ext.555 - Copy of production memo
- Ext.556 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.557 - Copy of production memo
- Ext.558 - Discharge Certificate from Anandoloke Hospital, Siliguri
- Ext.559 - Copy of production memo
- Ext.560 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.561 - Copy of production memo
- Ext.562 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.563 - Discharge certificate from GMCH, Guwahati
- Ext.564 - Copy of production memo
- Ext.565 - Discharge certificate from Anandoloke Hospital, Siliguri.
- Ext.567 - Copy of production memo
- Ext.568 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.569 - Copy of production memo
- Ext.570 - Discharge certificate from Anandoloke Hospital, Siliguri.
- Ext.571 - Copy of production memo.
- Ext.572 - OPD, Patna.
- Ext.573 - Copy of production memo
- Ext.574 - Advice slip of Kokrajhar Hospital & Neurosciences Centre
- Ext.575 - Discharge certificate from Siliguri Hospital
- Ext.576 - Copy of production memo
- Ext.577 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.578 - Discharge certificate from GMCH, Guwahati
- Ext.579 - Copy of production memo

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- Ext.580 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.581 - Discharge certificate of Goalpara Seven Sister Medical Ltd.
- Ext.582 - Copy of production memo
- Ext.583 - Copy of production memo
- Ext.584 - Disclosure statement
- Ext.585 - Pointing memo
- Ext.586 - List of outgoing calls of mobile No. 9859617201
- Ext.587 - List of incoming calls of mobile No. 9854643645
- Ext.588 - List of incoming calls of mobile No. 9854810776
- Ext.589 to Ext.591 - Copy of production memo
- Ext.592 - Seizure Memo
- Ext.593 - Copy of production memo
- Ext.594 - Copy of production memo
- Ext.595 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.596 - Requisition form of RNB Civil Hospital, Kokrajhar
- Ext.597 - Report of National Rural Health Mission, Kokrajhar
- Ext.598 - Discharge certificate from Lower Assam Hospital, Bongaigaon
- Ext.599 - Advice slip of RNB Civil Hospital, Kokrajhar
- Ext.600 - Advice slip of Kokrajhar State Dispensary
- Ext.601 - Discharge certificate
- Ext.602 - Cash memo of Kokrajhar Diagnostic Centre
- Ext.603 - Cash memo of Santi Medicine, Kokrajhar
- Ext.604 - Discharge certificate from GMCH
- Ext.605 - Discharge certificate from Kokrajhar Civil Hospital
- Ext.606 - Seizure Memo
- Ext.607 - Notification of NDFB

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- Ext.608 - Rough sketch map
- Ext.609 - Rough sketch map
- Ext.610 - Seizure list
- Ext.611 - Seizure list
- Ext.612 - Order of transferring of case to CBI
- Ext.613 - Seizure list
- Ext.614 - Rough sketch map
- Ext.615 - Rough sketch map
- Ext.616 - Copy of arrest memo
- Ext.617 - Extract copy of Tura P.S.
- Ext.618 - Rough sketch map
- Ext.619 - Seizure list
- Ext.620 - Seizure list
- Ext.621 - Letter from BSNL
- Ext.622 to Ext.624 - Copy of CDR
- Ext.625 - Seizure list
- Ext.626 - Letter from United Insurance Co. Ltd.
- Ext.627 - Seizure list
- Ext.628 - Seizure list
- Ext.629 - Notification issued from Govt. of Assam
- Ext.630 - Notification issued from Govt. of India
- Ext.631 to Ext.639 - Copy of FIRs
- Ext.640 - Letter from DTO, Kamrup
- Ext.641 - Copy of FIR
- Ext.642 - Seizure list
- Ext.643 - Seizure list
- Ext.644 - Zimmanama
- Ext.645 - Zimmanama

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- Ext.646 - Seizure list
- Ext.647 to Ext.649 - Copy of BSNL customer form
- Ext.650 - Seizure list
- Ext.651 to Ext. 655 - Enrolment Form of Reliance Mobile
- Ext.656 - Gazette Notification of Govt. of India
- Ext.657 - Order of transferring of case to CBI
- Ext.658 to Ext.666 - Reports of CFSL
- Ext.667 to Ext. 675 - Forwarding letters of CFSL
- Ext.676 - Disclosure statement
- Ext.677 and Ext.678 - Pointing out memo
- Ext.679 - Identification memo
- Ext.680 - Disclosure Statement
- Ext.681 and Ext.682 - Pointing out memo
- Ext.683 - Identification memo
- Ext.684 - Copy of GEQD opinion/ report
- Ext.685 - Envelop.
- Ext.686 - Notebook of George Boro
- Ext.687 - Photocopy of hand-written letter written in Bodo language.

(Shri A.Chakravarty)

Judge, Special Court for Trial of
Sessions Case No. 59 (K) of 2011,
Kamrup (Metro) Guwahati