

D. E. MOHANTY

General Secretary

Orissa Provincial Committee,

All India Trade Union Congress.

CUTTACK-1

DI-4/3-195-60

Dear Com. Sathian

Barbil Committal proceedings are over. Out of ~~28~~, four comrades have been released and 23 others including Baset & Bhera committed to Sessions. 6 Coms who were formerly on bail have been sent to jail after Committal -

The Sessions proceedings will begin in the 1st week of May. We have to prepare for the same.

I am sending an appeal herewith - Please publish it in TUB with the news - I think the A.I.U.C. should have an appeal along with it. Please request Com Dange or K.S. for the same.

Please convey the news to Com. Indrajit Gupta & Com Elias.

Hope you move immediately

In Barbil
Herewith the proceedings
upon Alamu nikhil Padakshin
Please publish it in TUB
Greetings
Durgabhai

Remittances to Com. D.C. Mohanty.

8 July 1961 - Rs. 1000/-

~~1000~~
I

18 Aug 1961 - Rs. 2000/-

II

21 Sept. 1961 - Rs. 4000/-

III

Total

Rs. 7000/-

1000/-

IV

ଉତ୍କଳ ପ୍ରାଦେଶିକ ଚେତ୍ର ଯୁନାୟନ କଂଗ୍ରେସ

Utkal Provincial Committee

ALL INDIA TRADE UNION CONGRESS

Cuttack-1.

Dated 13-3-1960.

Ref. No.

Dear Comrade,

Finding herewith the order of Com. A
meat. of Com. A comrades. The sessions will probably
begin in the 1st week of May. We have to make
all arrangements before the proceedings start.

Kaushik Mahan is visiting Koudhela on
24th March 60. We have decided to present him
a memorandum on the problems of displaced persons
in the Koudhela and regular workers. On 27th we have
planned a demonstration of women in Koudhela.
We would like Com. Elias to come down to address
the meeting but I have written to him but I
cannot request you to prevail upon him to
come down.

With greetings

Sincerely

G. Chakrabarty

Com. A. George

ROURKELA STEEL MAZDOOR UNION

Reg. No. 237

P. O./H. O. ROURKELA-1

A. I. T. U. C.

I. R. No. 1925 Date 20.6.61

SUNDARGARH (ORISSA)

Ref No. R. S. M. U

File No. Replied on

Cuttack

Dated 16/6/1961

Dear Com. Sadhan -

You must have received my letter posted from Badjanda in the last week of last month. Now the elections are over and we have to plan out our work.

You must have read from papers that Com. Ram. Ch. Ram has been elected to the Assembly. He is the vice-President of the West State P.U. and an office bearer in most of our Unions - you can give this news in JUR.

Com. Dange told me at Calcutta last month that you would lose after the Benbil case. The case will now come up for hearing. As it seems, it will be taken up from the middle of July or at best in the last week of

ROORKEE STEEL INDUSTRIES
August - We have engaged Sri Dinabandhu
Sahu ex Law minister for defence. He
is the best criminal lawyer in our state.
But as you know his fees are pretty
high. It won't come down below Rs 400/-
per day. Besides that two or 3 junior
lawyers have to be engaged. Please
~~do~~ discuss the matter with Com. Dange
and let me know immediately.
We are now practically penniless
after election. Therefore consider these
things and let me know. I shall
move accordingly. The police has
prepared a strong case against Bosa &
Dhes. We have to properly fight it
out.

I will be going out to Udaipur
and Roorkee after 20th. I will
be back in the 1st week.

All this is in
vague terms.
How many days it will

SAS

Greetings
rationally

cannot estimate what is the
approximate help they
want. It can't be limitless.
Durgastobhai

Cuttack

Dear Comrade

21/6/61

The Barbil Case

Will begin on 3rd July
and will continue day to day.

I wrote to you previously.
Please let me know what
and how you are moving
on my proposal.

I am today going to
Alway (Kerala) to attend
the meeting of the Federation
of the Employees of Indian
Aluminium Co. Ltd. I
will be returning back to
Cuttack on 30th from

Alway

→ Please do not
delay. That this letter

✓ Mr. Routrala.

CUTTACK-1

DI. 10. 10. 1950

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Bambil case
page 4

Dear Comrade,

We have decided to hold the union conference on 30th Oct. here. Please contact Com. Gopalani & persuade him to attend our conf. This is very necessary in view of the desire of a very large number of Keralala workers and also our promise in the past to bring him. Please treat this as urgent and let me know to Routrala address. A copy of the intimation may be sent to my Cuttack address too.

2). Just at the time of the conference we want Coms atleast from Jambhirdpur, Bursapur + Durgapur for a discussion of the demands etc. Accordingly I have written to Com. Anjad and Com. Nithan of Durgapur. I am today

going to Calcutta & shall discuss
the question with Com. Indrajit &
Com. Elias if he has come

3) The H.S.L. authorities were delaying
implementation of their assurances given
after the last strike notice withdrawal. It was
yesterday workers surrounded the Deputy
General Manager and the General Office.
After some time the management has
taken back another 20 workers ~~into~~ out
of 37 workers who were to be reinstated. The
question of the promised payment of overtime
dues of mustered workers have been agitated.
Practically in every department workers
pressed for the payment. The management
has come out with a written statement circular
directing the promised payment by 1st week
of November.

daily Regarding the promised increment
of wages by 25% ^{under permission was granted}, which the Minister
of Labour previously promised before workers,
has not yet been done. It is understood it
is pending with the Cabinet. A mass
petition is being sent to the Labour Minister
requesting him to implement his promise within
the month of October - The matter shall also be
taken up in the Assembly when it meets on
October 24th at Bhubaneswar.

4). In Rourkela a tense situation prevails now. Every where workers are now fighting for being made regular in their services. Spontaneous struggles ~~have~~ without the help of any union is being taken up. Yesterday such a struggle for forcing the management to give an assurance for making the workers of Field Maintenance Division regular took place. The workers ~~got~~ went on a lightning sit down strike. None of the unions knew about it. Today the police started arresting their leaders. Some of them came to us and we contacted the management of the Asst Labour Commissioner. But while we were conducting negotiations another section without the knowledge of this section went to the H.M.S and they moved for the bail - Naturally towards evening the workers were in two camps each group trying the other to come to either us or the H.M.S. The other group succeeded and the workers ~~went~~ who came to us requested us to allow them to remain with other workers in the interest of Deptt. unity - Such bitter struggles are now now daily occurrence.

5). Now Michel John has intensified his activity. He is personally here and has

organised his work. They are now approaching every worker to become their members if they want to get all the facilities in the plant -

Therefore it has become very necessary to meet and discuss. If even one regular meetings are not possible, then atleast Coms of Tata, Durgapur, Burnpur and ourselves can meet at Ranchi ~~at~~ at the time your conference would help.

b) Regarding Barbil, the situation is equally serious. 45 workers including Com. Nirmal Bose have been arrested in connection with the murder case. The murder took place at Bamebadi ~~at~~ (weekly Bazar) - ~~the~~ It is alleged that one Md. Forish, a man who was hired by the management of Serajuddin & Co was killed by a mob in the hat. Previously a tense situation existed. ~~the~~ ~~the~~ workers organised the union 6 months back. The mine owner desperately fought the workers who were under our banner. Having failed to disperse the hating young workers he retrenched 500 workers a month & half back. But it had no desired effect. Hence therefore he brought a hired union breaker Md. Forish from Calcutta to break up the union. With a small handful of dalals they formed one union which the workers claim is to be theirs - on 22nd when Com. Bose & Bose were want for a public meeting in Gundera the

D. C. MOHANTY
General Secretary
Utkal Provincial Committee,
All India Trade Union Congress.

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The mining centre of the Company (25 miles from
Barbil) the dalals organised one driver
to dash a Truck to the jeep of our comrades
on way. But that failed just for the presence
of our driver in taking the vehicle out of the
road on the point of accident. Then in the meeting
these Company founders came in to trucks with
microphones, lathis & knives etc and disturbed
the meeting. The police consent did not
utter a word to them. After this they obstructed
our comrades way and ~~wanted to~~
demanded our vehicle to be given to them. The
workers numbering about 700 opposed & for the
whole night workers surrounded our comrades
and stood guard against the Company
founder. In the morning of 23rd the magistrate
came & they went away. On the 24th in
the weekly Bazar these founders went with
mikes lathis etc. ~~for some~~ ~~reasons~~ ~~and~~
~~started~~ ~~assault~~ ~~on~~ ~~us~~. They also
started assault I was told. A scuffle
ensued and in the melee Md. Hash was
killed. Ramp other was injured. Com. Bose
& Behra were not there in the Hat or
in Gunda. They were in Barbil.

Now ~~to~~ Com. Behra's whereabouts
are not known. The police is after him.
I saw the A. I. G. police and ~~the~~ he has
taken up the case himself. He came for
enquiry to Barbil on 8th.

We are trying to move the bail for the arrested. We have sent one Junior Comrade to Barbil. But the employers are out to take maximum advantage of this case. They are trying to create utmost confusion - It is necessary to vigorously carry on the union work to counter the employers' offensive. We are in short of cadres & we do not know how far we shall succeed in departing off in Comrades to this place. For the time being I am trying to spend a few days. I was there for 2 or 3 days and I am today going to Barbil. If Com. Sadeau who is well versed with the place can be spared for atleast 2 or 3 months now we can carry on. Please consider this.

Another question which worries us is the defence of the case. A lot depends on the successful defence of the case. The local congress Press has begun to crusade against us.

I am not going to Calcutta today as my presence is necessary at Barbil. I am writing everything about Rourkela to Com. Indrajit.

Hope to hear from you.

Sincerely
fraternally
Devabandhu

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Attack
1st/10/60

Dear Comrade,

You must have been told about developments in Barbil and the arrest of our comrades in a murder case. Now this is no senior comrade there - Taking advantage of this situation the Prime owners have started their offensive to wipe us out. Therefore it has become very necessary to keep the up the work and activity in Barbil. I had been to the place. It was there for a week. I came back today. I was thinking that if Com. Sadhan an Muckhejee could be spared to be posted in Barbil for atleast 3 months if not more then we can send some other cadres to get acquainted with the work in co-operation with Com. Sadhan. I hope you will consider this point.

As regards defence of the case it has become a more serious

matter - Effective defence has to be organised - we are trying our level best - we shall let you know the developments. But your guidance & help is essentially needed -

with fraternal
greetings
Dr. J. M. Mohanty

Com. Dange

File - Sent to
SAD - 1127/D/60
19.8.66.

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Oct 18, 1960

Dear Com.Mohanty,

Your letter of 10th inst.

2. As regards Rourkela Conference, better proceed ahead and finish.

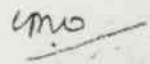
Presence of comrades from Jamshedpur, etc. will be good. I take it you have informed Com.Indrajit and he will be there to coordinate and guide.

3. Re. Barbil, this is the first report we have got. I told you and also wrote to Sadhan at Jamshedpur. Now he is due back here anyday after an absence of about three weeks. With the AITUC Conference and verification work, it is not possible to spare him. In fact, we are short of personnel.

I am sending copy of your letter to Com.Dange for his information.

With greetings,

Yours fraternally,



(K.G.Sriwastava)

D. C. MOHANT 7 NOV 1960

General Secretary,
Utkal Provincial Committee,
All India Trade Union Congress.

CUTTACK-1

DI. 3. 11. 1960.

Dear Comrade,

I came back today from a tour of Roudala & Barbil. I am giving a ~~see~~ small note on the situation in both the places. I came through Calcutta and have also discussed with Com. Indrajit Gupta and Com. Elias.

Barbil.

The total arrest up to date is 58. The police has not yet submitted the charge sheet. We moved for the bail of some and it has been refused by Magistrate. We have filed bail petitions in Sessions Court and the hearing of the same will commence in Baripada on 5th Nov. The case is being taken up in Keonjhar, the Dist. Hd. Qrs - But there is no permanent sessions court and the sessions judge of Mauzbhang Dist whose Hd. Qrs is Baripada (20 miles from Barbil) takes up the case. Keonjhar is Keonjhar, which is a small town, rather a big village, ~~there~~ no good lawyers are found. Therefore we have to take a lawyer for the purpose from Cuttack. In Keonjhar town also except the Dak Bungalow no accommodation is available and whenever the case will be taken up the Dak Bungalow will probably be occupied by the party of

the Sessions Judge. Therefore the difficulty even of finding accommodation for a lawyer from outside. Barbil is 50 miles away from Khongha.

In Barbil the situation is bad. In Gunda area where the incident took place the situation is worst. You must have received copies of the statement of Com. P. Patraik and the ladies who were raped by police and the founders of the management. I also sent you their photos - In Gunda the management with the help of you, I succeeded in driving out all the ~~worst~~ old workers from the colony and got a letter ~~signed~~ ^{signed} by them of resignation signed by them under duress. Therefore practically ^{there are} no workers in the ~~old~~ particular mines. 3 families of the arrested workers are still there but they are so much horrified that it is difficult for them to remain there. Therefore in a nutshell what ever the management desired but could not do for the last 6 months has been achieved after this case & police terror.

In other mines the case as such has not created much depression but taking advantage of the absence of its leaders the managements & the INTR have been scaring up the workers. Attempts have been made to stop our collections. The continued absence of the union leaders has created problems for the day to day work. We have sent one worker there and are contemplating to send another but they can never cope with the work & problems. First of all they are new

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All India Trade Union Congress.

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and can not go amongst the workers. Secondly the workers can not immediately put their confidence in them - we therefore we therefore seriously thought if Com. Sadhan could be sent for two months then these comrades could pick up the work along with Sadhan. If Sadhan is not coming then I may be of some use but not to the same ~~work~~ extent as Sadhan. But my difficulty is that it is not at all horrible to devote full time to Barbil ~~work~~ and remain there - in that case work in all other places will suffer - But I am now devoting as much time I can spare in Barbil. The Govt and the management think that whatever might happen to the case, the continued absence of the union leaders and our inability to immediately replace them will smash our organisation & influence in Barbil and therefore it shall be impossible for us to conduct the case even. Therefore the situation is pretty serious.

As regards conducting the case the situation is equally serious. We have as yet spent a thousand rupees over the case. But it has not yet begun. The union finances were nil. We have raised a few rupees as donation but everything spent up. The management has as yet engaged 4 best lawyers of Cuttack, Bhubaneswar and Chaitasa (Sainthabum) so as to deprive us of having any opportunity of engaging them or getting good legal aid. Even now if we are to ensure some legal assistance we have to engage one or

his eminent lawyers of Cuttack to conduct the case. Our lawyer friends are of opinion that at the argument stage if Com. Chari or some prominent lawyer could be procured then proper justice might be expected. Now the question of finance is bothering us. It will be really impossible for us alone to conduct the case efficiently if left to us. I have discussed details with Com. Indrajit and hope you will do the needful.

Romkela -

The conference of the union was held. The preparations for the conference could not be good and hence the gathering etc was not satisfactory. I was busy in Barbel & only reached Romkela on 29th evening. Any way the formality has been over. Com. Dange has been elected President, B.K. Panda working President and Com. Elias, Panigrahi, myself & H.C. Ray (Advocate) vice presidents. Com. N. Paul the general Secy & 5 other workers Jt. Secretaries. Now the pressure of work is growing & we have to anyhow ~~push~~ push on. ~~talked~~ After discussion of Com. G.C. Patraik with Com. Dange we have sent another Com. (Com. Strickland) for Romkela union office. I shall send you later a detailed report on ~~work~~ Com. Anjad, Dr. Misra, Com. Nihar parti visited and we had a discussion. We all felt that some of our steel plants should meet in November and exchange opinions & finalise the work. I have discussed the same with Elias. Hope they will intimate you.

Verification work has completely failed due to my complete preoccupation.

3. The above work
- Panigrahi
- Indrajit
- Anand

TRADE UNION RECORD

(FORTNIGHTLY)

OFFICIAL ORGAN OF
ALL-INDIA TRADE UNION CONGRESS

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- Struggle Against Colonialism p. 6

STOP THIS REPRESSION ON OUR MINERS

"POLICE TEARGASSED, LATHI-CHARGED MODERN SATGRAM COLLIERY WORKERS THIS (OCTOBER 25) MORNING", "ARMED PATHANS PREVENTING WORKERS EAST NIMCHA COLLIERY TO WORK"—Such telegrams are received almost every day, these days, from the Colliery Mazdoor Sabha, Asansol, by the Central Office of the AITUC.

The law and order situation in Raniganj coal belt particularly has come to such a pass that normal trade union functioning has become virtually impossible.

And, what is far worse, the coalminers terrorised by the gangsters, hired by the mineowners, and the police, get little justice from the Central Labour Relations Machinery. Mrs. Renu Chakravarty, M.P., who visited the area, wired on October 28 from Asansol:

"SURPRISED FIND REGIONAL LABOUR COMMISSIONER WHO VISITED MODERN SATGRAM COLLIERY TWENTYSEVENTH EVENING, REFUSED TO MEET UNION REPRESENTATIVES, SPENT TIME EXCLUSIVELY IN AGENTS (EMPLOYERS) BUNGALOW. PROPER ENQUIRY DEMANDED."

Reports of similar nature are coming in from other mining areas too. We are publishing below a report received from Modern Satgram Colliery, Raniganj coal belt as well as a report about the situation in the iron ore mines of Barbil.

The workers and trade unions throughout our country cannot but feel indignant at the turn of events in the mining areas. They have to raise their powerful voice to compel the authorities to stop the repression on our miners.

RANIGANJ

On October 25, a gang of armed gangsters reported to be fostered by the management of Modern Satgram Colliery suddenly attacked the office of the Colliery Mazdoor Sabha (AITUC).

During this attack, it is reported, the police in effect took the role of disinterested spectators but afterwards when the workers organised themselves to resist the attack, police then moved forward.

side were released afterwards and warrants of arrest were reported to have been issued against many active functionaries of the Sabha.

Kalyan Roy, General Secretary of the Indian Mine Workers Federation, Ram Banerjee, Secretary of the Sabha and six more workers were arrested on October 28, on undisclosed grounds.

The Modern Satgram Colliery belongs to West Bengal Mining Company and is situated seven miles off Asansol. It is one of the biggest coal-

situation in this mining area. (See TUR, October 5, 1960) In that statement, he forewarned that: "The situation in the Modern Satgram Colliery, Sri Amritnagar Selected Colliery, Mahabir Colliery and Real Jambad Colliery is such that any moment, the gangsters imported by the management may start an all-out attack against the workers who have dared to form unions, demanded correct implementation of the Awards and the Mines Act."

Despite this warning, police did not take any measure to put a stop to the activities of the gangsters and all the while the Labour Department of the Government of India tried to jostle the Mazdoor Sabha by saying that the Sabha has committed breach of the Code of Discipline and in regard to the complaints of the union regarding implementation of Awards etc., the only answer that was forthcoming was that the complaints were being investigated.

In the entire belt of Raniganj coalfield, dozens of crimi-

nal cases have been instituted against the trade union functionaries of the AITUC and the inactivity and open support of the police helped the coalmine-owners to usher in a reign of sheer terror and gangsterism. Serious allegations have also been made by the trade unionists about the role of the central labour relations machinery. The Labour Department officials have adopted a discriminatory policy against the AITUC union and it is reported that hardly any dispute raised by AITUC unions has been referred to adjudication in recent years. Encouraged by this attitude of the Union Labour Ministry, employers have resorted to mass victimisation of workers. The non-implementation of awards and labour legislations coupled with the mass victimisation of workers have contributed to the tense industrial relations in the Raniganj coal belt.

It is apparent that if proper steps are not taken even now by the Government to safeguard legitimate trade union activities, the coalminers will have to organise themselves to resist rather than surrender to mine-

(Continued on page 2).

PREPARATIONS FOR 26TH SESSION

Following the decision of the TNTUC (Tamilnad Committee of the AITUC) a Reception Committee has been formed for the 26th Session at Coimbatore, with Parvathi Krishnan, Vice-President, AITUC, as Chairman and K. N. Chinayyan as Secretary. The Committee includes leading personalities in Coimbatore associated with

Rs. 25,000 to Rs. 30,000.

Arrangements are being made to accommodate over 1,000 delegates, including foreign delegates. Delegates will be charged only Rs. 1.50 nP. per day for boarding.

The TNTUC has also planned to train one thousand volunteers to make necessary arrangements for the Session.

Leading artistes of

REPRESSION ON MINERS

(Continued from front page)

owners. The situation can take an even worse turn and it would be only proper that adequate measures are taken right now to avert the inevitable crisis.

BARBIL

The reign of terror and wanton repression that has been unleashed by the joint efforts of employers, black-legs and police was recently enquired into by Pran Nath Patnaik, MLA, Orissa Legislative Assembly, and he narrated his experience of visit to this area in a Press Conference held at Cuttack on October 20. In the press conference, three women workers also narrated the story as to how the goondas in connivance with police played havoc with the workers and their families in that area and made categorical allegation that some police officers and employers' men committed rape and outrage of modesty.

Pran Nath Patnaik MLA in his statement disclosed that following a clash between the workers and the goondas in Gurda (Keonjhar) area on September 26, he went there to obtain a firsthand knowledge of the situation. One person named as Md. Idris died in the melee.

In the course of his visit and enquiry, Pran Nath Patnaik learnt that the wages paid by the employer in that area is much below the rates obtaining in the neighbouring areas. The employers, Serajuddin & Co., do not even implement the various labour legislations and utter chaos and highhandedness of the management are the special features of the situation in this area.

The workers of this area started organising themselves under the Keonjhar Mines & Forest Workers Union (AITUC) in order to achieve their just and minimum demands. As a counter-measure to that, the employer organised a rival union with the help of goondas and black-legs and illegally retrenched 500 workers. But having failed to obtain the desired results in these attempts, the employer brought a famous goonda leader from Calcutta.

After the arrival of this goonda leader, organised assaults and acts of violence started. On September 22, 1960, when the leaders of the KMFU Union were going in a jeep, a heavy truck belonging to Serajuddin & Co., attempted to dash against it. It was only due to the dexterity of the driver of the jeep that no accident took place.

In the meeting that was organised on the same day by the KMFU Union, a band of goondas under the leadership

returning from the place of the meeting, attempts were made by the goondas to way-lay them and to confiscate the jeep. To avoid any clash, the workers and the union leaders sat there peacefully throughout the night and it was only after the Magistrate and Superintendent of Police arrived at the place, the union leaders and the jeep could be extricated.

Day after day, such organised hooliganism went on and more attempts at provocations were made and this reached the climax in the melee of September 26. No attempts were made by the police to establish order in this area.

After the clash of September 26, a reign of terror has been established in this mining

area. The goondas in connivance with the police have started such repression that the Talapani and Thakurani workers' settlements are almost vacated. Workers have gone to other areas with their families to seek protection and security. In other mining settlement, the employers themselves also have evicted many workers from their dwellings. Complaints were heard about flagrant outrage of modesty of women workers in many places.

Pran Nath Patnaik also stated that despite his being a member of the Orissa Legislative Assembly, various attempts were made to thwart his enquiry. The goondas have openly abused him and a stage had been reached when his own security was not guaranteed.

In the Press Conference, one of the three women workers, Junal Dei alleged that on September 26 night police

arrested her from her own residence and took her to Thana and there some of the police constables outraged her modesty. In her statement, she named these persons.

The other two women workers, Budhni Dei and Moni Dei, alleged before the Pressmen that on September 30 night some goondas and police constables attacked their quarters and raped them. These two women workers also named the persons who committed rape.

In connection with the incident that took place on September 20, police have so far arrested 44 persons including Nirmal Kanti Bose, General Secretary of the Keonjhar Mines & Forest Workers Union under Sections 147|148|149|302|307|325|120B of the IPC. They have not yet been granted bail and warrants of arrest are reported to be pending against some other functionaries of the union.

Spotlight

"ARBITRATOR" Mr. D.V. Vyas

When the 17th Session of the Indian Labour Conference recommended that voluntary arbitration should be encouraged as against adjudication for the settlement of disputes, the participants in the conference would have hardly expected that they would have to reckon with arbitrators like ex-Justice Mr. D. V. Vyas.

It was the fate of the airline employees in our country to prove to the world that arbitrators of Mr. D. V. Vyas type could be, if anything, highly arbitrary—and, instead of speedy settlement of disputes, an arbitrator could not only prolong a settlement for months, but could even sabotage a settlement mutually agreed upon between the parties to the dispute.

Following failure of negotiations to resolve the dispute on wage scale, it was agreed by the Air Corporation Employees Union and the management of the airline corporations to take recourse to arbitration. Accordingly, a Board of Arbitrators, comprising two members each from employees and employers and Mr. D. V. Vyas to preside, was set up in 1959.

In the course of the arbitration proceedings, the management and union representatives on the Board found that an amicable solution of the dispute was possible by a bipartite settlement. Among other issues, the employers agreed to raise the minimum wage from Rs. 90 to Rs. 122 per month.

management on the Board and then they sought the Chairman's approval. Mr. D. V. Vyas refused and insisted that he would write out the Arbitration Report on his own, irrespective of what the parties agreed among themselves.

He argued that if there is no unanimity of opinion among Board members, the Chairman (Mr. Vyas himself) could have the final say. Since Mr. Vyas disagreed with the others on the settlement reached between them, the Board could have no unanimous report. Mr. Vyas, therefore, decided to write out the report on his own.

This was, indeed, preposterous.

Apart from the enormous fee of Rs. 150 per hour or part of an hour payable to Mr. Vyas, the employees were seriously apprehensive of the possible reasons which lay behind Mr. Vyas' desire to prolong a settlement. His impartiality came into question.

It was alleged that Mr. Vyas and his wife were given a free trip to USA by the Air-India International. The union also filed a writ petition in the Bombay High Court, requesting the court to restrain Mr. Vyas from writing the report, since there is evidence to prove his inability to write an impartial report. The Court issued an interim injunction.

Some employees also resorted to a hunger-strike early in October this year, for three days, protesting

Minister, Mr. Shantilal Shah, is reported to have persuaded the union to withdraw the writ petition, on the assurance of Government's intervention. The union responded to Mr. Shah's persuasion but eventually it all came to nothing.

Mr. D. V. Vyas is still writing his report—None knows for how long!

In his tenacity to cling to his position, despite the no-confidence expressed on him, Mr. Vyas has, in fact, excelled the record of some of the Congress Ministers. He has, of course, earned additional notoriety for his anti-labour bias in the Hind Cycles arbitration where through his award, the Birlas were blessed in effecting an actual cut in the workers' emoluments.

Equally obliging was he to the Times of India management. He awarded the employees, on the bonus dispute, just Rs. 1-½ lakhs but after the workers protested, the Times of India management themselves agreed to raise it to Rs. 3½ lakhs!

AITUC publication on Central Government Employees Strike

FIVE GLORIOUS DAYS

217 pp.

Price: Rs. 3.50
(Postage extra)

AITUC—THEN AND NOW

By S. S. Mirajkar, President, AITUC

The working class in India will be celebrating the 40th Anniversary of AITUC with great joy and pride. On this happy occasion, everyone who has worked under the banner of this oldest central TU organisation in the country will hold one's head high in reviewing briefly how through great vicissitudes this mighty organisation of Indian working class has passed and how it has shaped the destinies of the class which it represents and fights for.

The First World War had brought in its train all the miseries for the working class and all going for the capitalists and speculators. Prices had gone up and it was again the textile worker of Bombay who fought and secured the Dear Food Allowance which lasted for several years and subsequently merged in the wage.

Unions were getting formed. Here and there, workers would secure some gains. The British Government was also alive to the situation. They were organising the Labour Office in Bombay. Some preliminary labour legislation also made its appearance.

Immediately after the end of World War I and before the formation of the AITUC, two big labour actions had taken place. One was the tramway-men's strike and the other was the postmen's strike. Both were major battles. These actions also had emboldened workers to organise themselves into unions. These actions further proved the growing TU consciousness although the process was very slow and required proper guidance and assistance.

The postmen's strike had made a deep impression on my young mind. I was a High School student then. My brother was a striking postman. Our neighbours were postmen themselves who were on strike, several of whom had lost their jobs because of victimisation. Their families and children suffered agonies. I was a witness to all those harrowing results flowing from the strike. No wonder that my interest was aroused in the labour movement and I followed my interests, once aroused, to its final logic. No wonder, therefore, that I found myself in the inaugural Session of the AITUC.

INAUGURAL SESSION

The AITUC was born at its first inaugural session in Bombay on October 31, 1920. The most illustrious patriot Lala Lajpat Rai presided over this Session at the Empire Theatre in the heart of the business centre of the Indian bourgeoisie.

Bombay had already become an important industrial centre

was no Central Organisation yet. It had already become very urgent and thus AITUC came to be formed in 1920.

Among those present at this session, besides Lala Lajpat Rai, were N. M. Joshi, Barrister Pawar, Diwan Chaman Lal, M. A. Jinnah, and host of other national leaders. They were all inspired by the humanitarian desire of helping the poor worker. Little did they imagine then that the organisation they were planting will soon become a powerful weapon in the hands of the Indian workers to fight the onslaughts of capitalism and effectively challenge it. However, little did we imagine, then that we will be called upon to lead this organisation and through it, lead the Indian workers' struggles.

ORGANISATIONAL POSITION

In early days after the foundation of the AITUC, a large number of unions were being formed but TU consciousness was not developed to a great extent. I remember that in those days, ingenuous methods had to be used to attract the workers including the playing of harmonium and playing card tricks at the factory gate.

Until 1923, organisationally the AITUC was weak. The annual sessions became a routine affair. But gradually a change was taking place in the character of the AITUC. The leadership of the AITUC was gradually passing from the hands of moderates and philanthropists to the hands of leftist elements.

The Girni Kamgar Union (Red Flag) in Bombay with a membership of 65,000 and G.I.P. Railwaymen's Union with a membership of 45,000 entered the organisationally weak AITUC and tilted the entire balance against the moderate leadership.

The Government of India, alive to these developments acted immediately to head the militant working class movement. In March 1929, the Government arrested some of the top leaders (32) of the working class movement and the AITUC and staged a farce of a trial under the frame-up

ment of antagonism between Capital and Labour", the "creation of workers' and peasants' parties, youth leagues, unions," etc., and the encouragement to strikes. The honourable judge declared in summing up:

"Perhaps the deeper gravity was the hold acquired over the Bombay textile workers illustrated by the 1923 strike and the revolutionary policy of the Girni Kamgar Union."

DOMINANT TREND

The dominant trend in the TU movement in those days was clearly expressed in the Presidential address by Pandit Jawaharlal Nehru in Nagpur Session of the AITUC in 1929:

"We are often accused of preaching class war and of widening the distance between the classes. The distance is wide enough, thanks to capitalism, and nothing can beat the record of capitalism in this respect. But those who accuse are singularly unseeing and ignorant of what goes on around them. Is it the Socialist or the Communist who separates the classes and preaches discontent or the capitalist and imperialist who by his policy and methods has reduced the great majority of peoples into wage slaves.... The class war is none of our creation. It is the creation of capitalism and so long as capitalism endures, it will endure. The class war existed and exists today. By our trying, ostrichlike to ignore it, we do not get rid of it. Only by removing the causes are we likely to bring peace."

However, ideological differences arose in 1929 which ultimately resulted in the split within the AITUC. The split arose on the questions of attitude towards the Royal Commission of Labour and affiliation to Pan Pacific Secretariat of the RILU, a leftist International TU organisation.

The TU movement remained divided for nearly a decade. Several efforts for unification were initiated and finally in the year 1939, at Nagpur, the unity was achieved. Thus AITUC once again became the supreme body of the Indian working class. A special clause was introduced in the AITUC constitution regarding political resolution that no such resolution could be regarded as passed unless it secured three-fourth majority. On all other TU matters, decisions were taken unanimously and by agreement.

During the second world

were inside it. Efforts to split the TU movement by formation of the Indian Federation of Labour proved to be abortive. The strength of the AITUC was growing every day.

With the advent of independence and coming into power of the Congress Party, need was felt by the ruling party to have its own TU organisation that would arrest the growth of militant trade unionism in the country. Scared by the unprecedented influence of the AITUC over the Indian working class, the Congress Party leaders organised under their direct leadership the Indian National Trade Union Congress (INTUC) in 1946. Further split occurred and the HMS came into being the UTUC was another offshoot of the disunity process unleashed by the Congress Party.

The trade union movement in the country since then remained divided which has considerably weakened the collective bargaining strength of the working class. However, the AITUC still remained as the staunchest defender of working class interests.

PROBLEMS OF UNITY

Many efforts were made, conferences organised, discussions took place between the top leaders without success for building TU unity. To this day in spite of best efforts disunity among the central organisations prevails. One can safely predict that the unity will not come about by top conferences, negotiations and talks. However the Indian worker realizes the need for this unity and he has begun his efforts on factory and workshop basis. Workers are uniting for the defence of their common demands. The best example of this was recently provided by the general strike of the Central Government employees. There are numerous such examples of workers' unity throughout the country. Workers have realised that unity lies this way. May be that through this process workers may compel their leaders to unite in one central organisation.

The objective of wiping out the AITUC and smashing its influence completely met with a miserable defeat. The Indian worker regards the AITUC as his organisation and is proud of it. Hence today, the AITUC influence has spread far and wide. Workers love their AITUC although the Government and employers at many

PROBLEMS OF ENGINEERING WORKERS IN BOMBAY

BY VITHAL CHAUDHARI

General Secretary, General Engineering Employees' Union, Bombay

Apart from the low wages, far below the need-based minimum, what is particularly striking in the engineering industry is the complete anarchy on wage norms, grades and classification.

This is best seen in Bombay City itself. If a skilled worker in National Electrical Industries gets Rs. 3 per day, his colleague in Crompton Parkinson on the same job will get Rs. 3.75, while in Bharat Bijlee Rs. 2.25 only, although working on the same electric motor. The same chaos is also true regarding the semi-skilled and even unskilled categories.

The unskilled worker in Bombay gets a minimum wage varying from Rs. 1.16 to 1.50 per day while semi-skilled worker earns a minimum wage varying from Rs. 1.50 to Rs. 1.65 per day. Only skilled workers gets a minimum wage of Rs. 2.25 to Rs. 3.00 per day.

In some factories workers are divided in three grades, in some six to ten grades and in a company like Kamani Engineering Corporation, the number of grades goes up to even sixteen. None knows who is placed in what group and why in that group!

Due to this extraordinary chaotic and arbitrary state of affairs, our worker is exploited most, his worth and skill never repaid, he is placed invariably in a lower placement and gradation.

DEMAND FOR WAGE BOARD

Therefore we want a wage board for the fixation of wages and scales of pay. We demand simple and scientific classification, standard wages for standard jobs and automatic increments every year.

The earlier we take up this agitation the better. Otherwise the profit-greedy employers alone will continue to benefit from the industrialisation of the country and the toiling cadre of the industry will remain in the same abysmal living conditions.

Productivity and incentive schemes, such as production bonus, piece-rates etc., are the subjects which we have to handle almost every day. Hence, we in engineering industry are primarily concerned in this regard.

Fundamentally we are not opposed to any higher pro-

higher production per capita, in particular, i.e., higher productivity, is a very essential factor.

The main point is why should this incentive scheme be counterposed to our question of basic demand for a proper wage? Why should it be considered as an unavoidable prior charge on industry like the investment on plant and machinery, its upkeep and management and also inseparable from such expenses?

We have worked on the so-called minimum of Rs. 30 plus D.A. for the last ten years. During the same period, profits have boomed. Why then should we be told that our wage will be increased only if there is higher production? Why not part with our minimum wage from the profits first?

PAY NEED-BASED MINIMUM NOW

We, therefore, look at these production schemes as only a device to loot us further.

And wherever these schemes are introduced, the experience is the same.

While giving an award in Mukund Iron and Steel works and Hind Cycles Ltd., the Industrial Tribunal held the employers viewpoint that "productivity is essentially a management responsibility". The workers are then thrown at the mercy of the management on this point to be fooled and forced to toil to any measure it liked.

In early stages, the results are attractive to workers and workers whose wages have otherwise no chance of any increment also accept it as an inevitable alternative to earn more. But the employer is not satisfied with this. He after noting that the scheme has given the company good results suddenly modifies the scheme, increases the norms, reduces their rates ultimately ensuring for himself the same or more production for lesser payment to workmen than before.

A worker from the Mukund Iron and Steel works reports that for a piece, formerly the rate was 5½ nP. after a minimum of 50 pieces. After some time the rate was changed to 3 nP. after a minimum of 65 pieces. The daily earnings of the worker fell from about Rs. 3 per day to Re. 1 per day.

Another example to be noted is in Indian Tools Manufac-

namely straighteners, from 100 to 300.

The result was that the earnings of the workers had at once fallen to one-third of their original earnings.

In Sankey Electrical Stampings Ltd., the management cunningly manoeuvred with the INTUC Union, which was made to sign an agreement. By this agreement the workers actually lost their usual annual bonus of 5 to 6 months and received only 3 months' bonus. The production bonus which was promised to be 25 per cent of basic earnings after every four months came down to 16 per cent of the same.

A quotation from Kamani Engineering Company's production bonus scheme is revealing:

"Managements Discretion: It is emphasised that the decision of the management is final in respect of the amount of incentive as well as the workman or workmen from whom the same is payable, and the management is not bound to give any reasons for the same. Further the management reserves the right to amend, modify, alter or terminate the above-mentioned scheme, at any time and without any notice thereof as and when necessary."

Our experience in almost all the factories shows that despite the colossal profits made, they tried their level best to oppose any demand for a wage rise. Instead of considering this genuine demand sympathetically, they resort to disruption and victimisation.

PROFITS SOAR—WAGES STATIC

Take the Crompton Parkinson Works itself. It required more than a year to enter into an agreement on wages with them. This unit has expanded during last three years, has been paying more than Rs. 15 lakhs annually as only Service Fees to its parent body in U.K. compared to Rs. 5 lakhs only a few years back. Number of workers increased from 750 to 1,350. But what is the reflection of this expansion and prosperity in the new Wage Agreement? The minimum that was Rs. 1.16 per day is raised to Rs. 1.30 i.e., barely 12 per cent increase; and the maximum which was Rs. 7.12 nP. is raised to Rs. 7.50 nP., —a rise of 5.3 per cent!

There is New Standard En-

purchased two more new units which employ together about 500 men. Not being content with this expansion, the ambitious management has purchased a land at Goregaon and the whole new construction is afoot.

But what is the condition of the wage earner here. A moulder, the most skilled and the chief architect in Foundry Shop is staggered between Rs. 3.00 to 5.50 with only 90 per cent of the revised textile scale as the D.A.

Why, you ask for more, prompt comes the reply, the company is not in a position to pay unless you produce more. Can workers remain satisfied with this attitude?

Take, again, another huge concern, viz., Mukund Iron and Steel Works. There is not only no wage revision since 1955 but there is regular suppression of workers if they raised a demand.

RISE IN PRODUCTIVITY

Who does not know that this unit has progressed by leaps and bounds with its 700 workmen only 8 years back, to more than 1,500 now. Production in steel rolling has gone up from 17,112 tons in 1952-53 to 39,965 tons in 1958-59 (i.e., 128 per cent) and the productivity from 175 man-hours ton in 1953-54 to 75 man-hours/ton in 1957-58 (i.e. 133 per cent). Advantage of this higher production (126 per cent) and productivity (133 per cent) has been also reflected in the steep rise in the market quotation of their share. Market quotation which had fallen to Rs. 5.58 nP. in 1956 has now shot up to Rs. 22.80 nP. In October 1959, i.e., a clear rise of more than 300 per cent.

But, for all these gains of the management, what are the returns for workers? It is the same wage-scale as existed in 1955. 300 workers were victimised because they asked better bonus and better working conditions. They weakened our Union, and built up an INTUC Union which again is unrecognised and kicked away whenever not liked by the management.

The Zenith Tin Works, another Company with better fortunes than any time in the past, running in shifts, working at a newly constructed, modern-style factory, has also taken to the same kind of attitude.

It started with an attack on its workmen by victimising them, among whom it included a Supervisor, I. D. Khan of 13 years service, Vice-President of our Union and leading spokesman of the workers. He is also a member of the Working Committee of the National Federation of Metal and Engineering Workers of India. The Union was recognised from the inception

REPORT OF SUGAR WAGE BOARD

—Why This Delay?

By RAM ASREY, General Secretary, UFTUC

The Central Wage Board for Sugar Industry came into existence in December, 1957. It is still said to be deliberating somewhere in South India. It was officially stated in Lok Sabha that the Board will submit its recommendations by September 1960, so that the Government of India could consider them by November and the recommendations could be given effect to in 1960-61 season itself.

Now the whole time-table seems to have been changed and the Board is delaying submission of its Report. It is apprehended that it may submit its report actually in December and then the Government of India may take two to three months to consider it and release the report for publication. Naturally, the employers in their turn will take time for "consideration" of the Report and by that time, the 1960-61 season will either be over or just at its end.

The tactics apparently seem to be that the workers in that case may not get an opportunity to think and react on the Board's recommendations as they will resume only in November next year for the 1961-62 season.

Meanwhile the Government and the employers are busy in helping each other with the 'measures' to increase production—after all increase in production is in national interests! The Government of India has again offered to continue rebate of 50 per cent in the basic excise duty of Rs. 11.25 per cwt. to all such sugar mills which produce sugar during 1960-61 season in excess of the

average of their production in the two preceding seasons.

To the demand of the cane-growing peasants the Government had already given deaf ears and despite last year's agitation the prices of sugarcane will remain the same i.e., Rs. 1.62 per maund for delivery at the gate and Rs. 1.50 for delivery at rail heads.

According to H. N. Bahuguna, Minister for Industries, Government of Uttar Pradesh, they submitted certain proposals to the Central Government which if implemented will increase the State's sugar output by 4,00,000 tons per annum. And this increase is to be over and above the record production of the state in the preceding season, which is 12,21,453 tons, a rise of 3,33,607 tons as compared to 8,87,847 tons of 1959-60. In fact the sugar industry all over the country achieved an all-time record in 1959-60 season by producing 24,00,763 tons by July 7, 1960, the previous maximum being 23,26,179 in 1956-57.

Recently, the Sugar Mill-owners' Association is reported to have once again raised the question of increasing price of sugar inside the country. It is well-known that for long, a cry has been raised for the decontrol of the price of sugar in view of the increased production.

Having failed to get decontrol, now these 'patriotic' owners are raising the cry of increasing sugar prices internally so that, with a view to earn "foreign exchange", the sugar stocks may be exported on still lower prices to U.S.A. Of course, Cuba being "too revolutionary," we cannot refuse to be even this much humani-

tarian just as not to export sugar to America!

The sugar-season has started—and representatives of AITUC unions working in Sugar Industry in Maharashtra and Western Uttar Pradesh held meetings at Poona and Meerut respectively late October. S. A. Dange, General Secretary, AITUC, attended Poona meeting. After having reviewed the position with regard to the Wage Board, the two meetings demanded immediate submission of the Wage Board Report and Government decision on the same by January, 1961.

The Meerut meeting has decided to hold a Sugar Workers Conference in Shamli in the last week of November in which AITUC unions from all over the State are expected to participate.

(EDITOR'S NOTE: Since the article was written in the last week of October, the Hindustan Times, Delhi, reported on November 1, that the Sugar Wage Board finalised its recommendations on October 10 and that the Report would be sent to the Government in the middle of November.

(According to this news-item, the Board has fixed for unskilled workers, a basic monthly wage of Rs. 86 in Maharashtra region, Rs. 81 in Southern region, Rs. 73 in Northern region and Rs. 70 in Central region. Skilled workers are to get differential wages, with an increase up to 10 per cent depending on the quality of the skill. A fixed retainer of 50% of basic wage for skilled workers and 25% of basic wage for unskilled workers during the off-season also reportedly figures among recommendations. A sliding scale of gratuity and a formula for payment of incentive bonus on the basis of profits have also been suggested by the Board.)

The problem of temporary workers who are kept on that basis for months on end, sometimes for 4 to 5 years is widespread in this industry. In Bharat Barrel, out of about 700 works, 620 are temporary. In Meckenzieys Ltd., the ratio of permanent to temporary workers is 50:50. In Cooper Connel and Clifford, alias Somani and Co., the proportion is 15:85. In even the recently built project viz. Automobile Products of India, there are about 300 temporary, and 300 casual labourers, out of a total of 1,050 employees.

In Sankey Electrical Stampings there is a different practice to keep workers permanently temporary. Those who are new recruits have to sign bonds stating that he is temporary and he will not make any claims when he is thrown out. Such bond-workers are more than 200 in this company who are to renew their bonds of employment after every three months. There are workers of 2 to 2½ years of this description in this Company.

During the last two years the Engineering Workers in Bombay resisted the attacks of the employers. A long and very doggedly-fought battle was by 600 workmen, including members of the electrical and supervisory staff of the National Electrical Industries. It lasted for 94 days in which 56,400 man-days were lost. This company had for its workmen Rs. 1.25 mP. of the D.A. merged with wages and it wanted to deconsolidate it. All the efforts of the negotiated settlement failed the workers remained united till the end. Finally seeing that there was no possibility of direct settlement, the whole issue was referred to the arbitration and then came an end of this long dispute.

The other two strikes that also must be mentioned were in Bharat Bijlee Ltd., and Star Textile Engineering Works which lasted for 43 days and 62 days respectively, involving 34,800 man-days. In both these strikes there was the same demand of reinstatement of victimised workers, who have been the union's leading cadres and whom the company did not want to accept as leaders for these factories.

During the last two years and particularly during last twelve months, the General Engineering Employees Union has been putting up a hard struggle against such attack on the workers' organisation—attacks organised by INTUC—employer combination and helped by policy of the Government.

In spite of all the efforts to disrupt the ranks of the working class, the AITUC has emerged out as the strongest force among the Engineering workers in Maharashtra.

The Engineering workers in Bombay are increasingly coming under the banner of the AITUC and consolidating their

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such as on Annual Bonus, Attendance Bonus, Gratuity, Dearness Allowance, Retrenchment and Recruitment of workers, canteen facilities, and so on.

But the Company could not tolerate this kind of trade union activity and on November 30, 1959 this modern management axed him, and along with him, some 13 more workers, in order to make it appear as bona fide retrenchment.

There is yet another kind of management. They would not like to give anything voluntarily and would like to be compelled by the High Court or Supreme Court for making the payment, whether it is

a writ against the award of an adjudicator.

In the Estrella Batteries Ltd., workers had no wage scales or grades for more than 15 years. Also, since 1953, no rise was given to workmen. Shri Sawarkar, Industrial Tribunal, in his award of 1957 fixed some scales and suggested some increment. The company went in Appeal to Supreme Court, and managed to get a stay order, calculating that some 12 years hence, wage-burden would be to the tune of Rs. 40 lakhs and convinced 'everybody' that the Company would be just crushed under that heavy burden.

The Supreme Court could

was able to prevail upon the company to get withdrawal of its appeal from Supreme Court. All past arrears were paid in May last, which amounted to about Rs. 2½ lakhs.

Take another example of the same kind of Management, e.g., Bharat Barrel and Drum Mfg. Co. This company went to Supreme Court against an award which pertained to Bonus of 1952 and some arrears of wage increase. And what was the result, which came in 1960? The Supreme Court heard the company's arguments and before even hearing the union's arguments, was convinced that the company had no case and dismissed the appeal.

The company later on entered into Bonus agreement with us for the years 1957, 1958 and 1959 and withdrew these dis-

U.N. MUST ACT TO END ALL FORMS OF COLONIALISM

The Secretariat of the WFTU issued the following statement on October 21:

The victorious struggle against colonialism, the shame and scourge of our era, acute form of capitalist exploitation and plunder, has entered a new phase.

The WFTU, which since its establishment has made the ending of colonialism one of its basic aims, is deeply glad of this. It sends warm greetings to those trade union organisations that are contributing to the success of the anti-colonialist struggle.

In fifteen years, hundreds of millions of men and women have freed themselves from the bondage of colonialism. Many new politically independent states have risen from the ruins of 19th century empires to undermine the foundations of imperialism and are making a positive contribution each day to the consolidation of world peace.

But millions of human beings are still under the colonial yoke. Thanks to the victories and sacrifices of the peoples of Africa, Asia and Latin America, thanks to the shining example and peace policy of the socialist camp, thanks to the solidarity shown by workers and trade unions in all countries, today it is possible and necessary to put an end to colonial oppression. It is possible and necessary to finish with the rule of despotism and hunger, of forced labour and racial oppression, of darkness and economic plunder, which still holds sway from Algeria to Angola, from West Irian to Mozambique and Puerto Rico.

The final and complete eradication of the colonial system is today one of the paramount tasks of the peoples, of all progressive and peaceful forces in the world. In accordance with the Soviet Union's proposal, therefore, all representatives attending XV General Assembly of the United Nations have unanimously agreed to include this question on the Assembly's agenda.

The W.F.T.U. considers this decision, which it supports, as an important event. It emphasises, however, that the decisive factor in doing away with the hateful colonial regime all over the world is the united struggle of the working people, above all of the peoples who are still oppressed. That is the way to frustrate the manoeuvres of the imperialists, who were obliged to vote in favour of this decision. Experience shows that American imperialism will stop at nothing to use the UN

United Nations Charter itself.

In addition, as XI Session of the W.F.T.U. General Council pointed out, workers and trade unions must remain vigilant and active, not only to eliminate the colonial system and all its economic and social vestiges, but also to fight against neo-colonialism, which is being used by the American imperialists and their allies in their attempts to extend and strengthen

their power in the colonies and newly independent countries.

The World Federation of Trade Unions is determined to work as effectively as possible for the final and complete end of colonialism and considers that all national, regional and international trade union organisations can and should meet and consult with each other on the best means of combining all their forces in

a powerful united campaign to this end.

It believes that, as an immediate step, all trade union organisations should request the United Nations Organisation to declare itself unequivocally in favour of:

—complete and immediate independence for colonial and trust territories, by recognizing and guaranteeing their peoples the right to decide their own future and to choose freely their own form of government;

—the eradication of all forms of domination and economic plunder by foreign powers;

—respect for the sovereignty and integrity of all independent states, and non-interference in their internal affairs.

FIFTY LAKH BRITISH WORKERS PRESS FOR WAGE INCREASES

Spurred by rising living costs, with dearer rents, fares and fuel taking a heavy toll, well over five million workers in Great Britain are now pressing for substantial pay increases, according to a report in *Daily Worker*, dated October 17.

The workers are also demanding a proper return for their skill and responsibility.

The £2.2.0 a week increase which contracting electricians are to get from January 1 pays regard to both factors and has stimulated pressure among other workers, including engineering, mine and building workers and government employees.

Three million fitters, turners, boilermakers, foundryworkers, vehicle

builders and others in the engineering industry have a claim in for £1 a week rise. Over a million building workers are demanding substantial increase.

Over three lakh day-wage workers in mines as well as engineering and shipbuilding draughtsmen are demanding a substantial wage rise.

The engineering unions point out that for the first eight months of the year, gross profits declared by purely engineering companies were 2 per cent up on last year's record figures, those for radio and electrical firms increased by 13 per cent, and those for motor and aircraft establishments by 16½ per cent.

Bryn Roberts, General Secretary of the National Union of Public Emplo-

yees, warned the authorities that he has never known such widespread dissatisfaction.

In a message to members he said it is silly for the Press and others to say that the average weekly wage in general industry is £14.2.6, when public employees earn £5 less.

"It is not surprising that there is a shortage of labour in the public services and that in many places, the authorities are unable to carry out their functions properly," he said.

Bryn Roberts added that letters received from members disclose a distressing story of struggle to keep the families going. Yet, the U.K. Government spends £1,600 million a year on armaments.

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adherence of the Indian working class.

The history of the AITUC is not only the history of splits. It has solid achievements to its credit. It secured the 8-hour day for Indian workers. It taught him to unite and struggle for defence of his living standard. It led without hesitation all the big and small strike struggles of the Indian workers throughout the country. It created trained worker leadership in thousands to lead and conduct their union activities. Above all, it brought about class consciousness among workers.

It has steered and moulded the Indian working class in such a way that no other organisation has done or will ever do successfully.

AITUC which taught Indian workers the significance of the slogan "Workers of the World Unite!" Hence today AITUC is a proud member of the world organisation, the WFTU right from its foundation. S. A. Dange, our General Secretary, occupies Vice-Presidency of that organisation. The Indian worker understands the significance of international working class movement.

Such is, therefore, the AITUC which completes its forty years of existence and useful service to Indian workers. With the massive support of the Indian working class, the AITUC will remain forever as their organisation in spite of the unbel-

WFTU CONDEMNS ASSASSINATION OF INAJIRO ASANUMA

Louis Saillant, General Secretary WFTU, sent the following telegram to the SOHYO, the Central Council of Japanese Trade Unions, condemning the assassination of Inajiro Asanuma, Japanese Socialist leader:

"Deeply disturbed by assassination of Brother Inajiro Asanuma, eminent leader of Japanese people's united struggle for peace and democracy against U.S. imperialism and Japanese reaction, WFTU extends sincere condolence to his family and friends, Japanese workers and people. His assassination is closely related to revival of fascism and militarism which threatens fundamental rights of workers. The

WFTU expresses its

LEGAL NOTES

DEFINITION OF WORKER— SUPREME COURT JUDGMENT

In a judgement delivered on October 12, the Supreme Court, interpreting the definition of "worker", as contained in the Indian Factories Act, held that it covered only persons who had the relationship of a servant to the factory, and that it did not extend to the employees of a contractor working in the premises.

This judgement implies, as the *Statesman* (Oct. 14) points out, that if "this somewhat inartistic definition of 'worker' is not suitably amended the provisions of the Indian Factories Act may become mere paper recommendations. A person engaged in manufacture may employ any number of persons through independent contractors, take work from them and yet escape all liabilities and duties of the owner of a factory by keeping his direct employees below the level of 20 'workers'."

The judgement was delivered by Mr. Justice Hidayatullah, dismissing the appeal by the State of Kerala against Gujarat Travancore Agency against the judgement of Kerala High Court.

The facts of the case are that the Inspector of Factories, during his inspection of the premises occupied by the respondent, found 23 persons employed in garbling pepper and packing it in bags.

The agency was prosecuted for failing to register the concern under the Factories Act and commencing work without prior permission. It was alleged that since the agency was employing more than 20 persons in a manufacturing process, it was bound to register itself under the provisions of the Factories Act.

It was argued on behalf of the agency that the premises were not a factory and the persons employed in garbling pepper were not 'workers'.

The magistrate trying the case held against the agency

and the Sessions Judge upheld the conviction. Kerala High Court set aside the conviction in revision and acquitted the respondents.

The Supreme Court observed that there was no doubt that the agency was engaged in a manufacturing process and if 20 or more "workers" were employed by it, it would be considered to be a factory.

The Supreme Court then examined the definition of the term "worker" to determine whether the persons working in the premises came within the definition. The court referred to its earlier decision in the case of Chintaman Rao and stated that "it was observed that to determine whether a person was a 'worker', the proper test was to see whether or not the 'employer' had control and supervision over the manner in which the work was to be done." In this case, it was held that the employees of a contractor working on the premises were not workers.

Following the decision in the earlier case, the court held that the employees involved in the present case were not workers and hence the view taken by the High Court was correct. The appeal was accordingly dismissed. (*Statesman*, October 14)

JUTE WORKERS OBSERVE DEMANDS WEEK

The observance of the "Demands Week" against sealing of looms and for interim relief within two months of the sitting of the Jute Wage Board, was a great success in West Bengal.

The call for the Demands Week was given by the Bengal Chatkal Mazdoor Union (AITUC) and observed throughout West Bengal jute mills areas. A number of mass rallies were held and from these rallies, demands were voiced for immediate grant of interim relief and to work the sealed looms.

The dearness allowance of the jute workers was not raised since 1955, while the consumer price index has steadily gone up. The Bengal Chatkal Mazdoor Union has calculated that according to the index of increase of prices, during the period of 1957 to 1960, in four years every worker in jute mills has lost Rupees 237.48 nP. The total amount thus saved by the jute mills comes to about rupees four crores and seventyfive lakhs.

During the last hundred years, the jute mills never sealed 19 per cent looms at a time but in the last month suddenly 19 per cent of the looms were sealed by employers. This has resulted in thousands of workers being rendered idle. In West Bengal, the total number of looms is 64 thousand.

According to the trade unionists, the reason of shortage of raw materials which has been assigned by the Indian Jute Mills Association (IJMA) for the sealing of looms, is not correct. Actually this crisis has been created by the IJMA to jeopardise the work of the Jute Wage Board.

It is felt that the increase in price of raw jute in the current months is also due to the speculations of the jute mill owners and through these methods, the employers are seeking to make the question of unemployment more acute and create conditions in which it will be difficult for the Wage Board to function properly.

PROCEDURE FOR VERIFICATION

(Contd. from page 8)

sample of the latter has to be drawn, i.e., 120 persons have to be interrogated personally. If on personal interrogation it is found that 30 of the 120 persons (i.e. 25%) deny membership of the union, the strength of the union will be reduced by 25% of 800 persons whose membership was objected to, i.e. by 200. In other words, the final strength of the union will, in this case, be 1800:

1200—(25% of 800) = 1800

If the persons who, on interrogation deny their membership of the union claiming them as their members inform the verification officer that they are members of a rival union, the verification officer will check their membership with the list of members and records of that union and adjust the list accordingly, i.e. their names will be added to the list of the rival union and excluded in the manner mentioned above, from the list of the claimant union.

(9) While conducting personal verification as mentioned in para (7) above, the verification officer will not allow the representatives of any union or management to be present.

(10) The verification officer will report his findings to the Central/State Implementation Machinery which in turn will communicate its decision to the management as well as to unions.



30 FEMALE WORKERS REINSTATED IN ROURKELA

Thirty female workers of Rourkela demonstrated before the Deputy General Manager on October 10 demanding reinstatement. The management earlier had assured in writing that these workers would be reinstated but failed to implement the given promise. As a result of the demonstration the management re-employed the women workers on the same day.

Three more demonstrations were staged on the same day by the temporary workers. The management agreed to expedite the absorption of these workers in permanent jobs.

BOMBAY TEXTILE WORKERS DEMONSTRATE BEFORE SECRETARIAT

Five thousand workers of Century Mills, Bombay, marched to the Secretariat of Maharashtra Government and demonstrated before the Chief Minister. The morcha was organised by Mumbai Girni Kamgar Union in protest against the offer of the management to give a bonus of 32 days only. A memorandum was submitted to the Chief Minister on behalf of the demonstrators and were assured that he would consider the demands.

CLOSED MILL PARTIALLY OPENED IN TRICHUR, KERALA

The Sitaram Textile Mills, Trichur, which was gutted by fire on December 8, 1959, began partially working on October 6, 1960, with 100 looms in its weaving section functioning.

Before the fire havoc, the mill had 418 looms and over 18,000 spindles employing about 2,000 workers.

The lessees of the mill are said to be interested in working only 300 looms in all, working two shifts.

The Sitaram Textile Mill Workers' Union (AITUC) has submitted plans to the management to absorb a larger number of the unemployed workers, by introducing three-shift working and with no increase in workload.

SAVATRAM MILLS, AKOLA REOPENED

The Savatram Mills, Akola, employing two thousand workers was closed down on March 5 this year. The workers under the leadership of Girni Kamgar Union (Lal Bawta) had struggled to restart the mills. The union demanded that in case the management was incapable of reopening the mills the Government should take it over and run it.

RELIEF TO ASSAM

The AITUC has donated a sum of Rs. 1,000 for relief of riot-affected persons in Assam.

AITUC affiliates, the Kamani Engineering Workers' Union (Bombay), Sangamner Akola Taluka Bidi Kamgar Union (Lal Bawta) Sangamner, Jay Engineering Workers' Union, Calcutta, have sent Rs. 15,10 and 50 respectively to Assam State Committee of AITUC, for relief work.

40th Anniversary of AITUC

GREETINGS FROM W.F.T.U.

Louis Saillant, General Secretary, WFTU, sent the following cable message to S. A. Dange, General Secretary, AITUC on October 31:

"On the occasion of the Fortieth Anniversary of the foundation of the AITUC, the WFTU sends its fraternal greetings to the AITUC and all its members.

"The foundation of the AITUC forty years ago was a big success of the workers' struggle to unite the working class for improvement in living conditions and defence of TU and democratic rights.

"During these forty years, the AITUC has contributed a great deal towards consolidation of national indepen-

dence and world peace.

"We assure our unwreserved solidarity with the AITUC and all its members and wish them further successes in their struggles."

Messages were also received from the All-Union Central Council of Trade Unions, USSR, the Central Council of Czechoslovak Trade Unions, the Central Council of Polish Trade Unions, among others.

RECEPTION IN DELHI

Delhi State Committee of the AITUC observed the Fortieth Anniversary of the AITUC by holding a reception on the lawns of the Central Office of the AITUC on October 30. More than 250 trade unionists

in Delhi attended the reception.

After the reception, a meeting was held under the presidency of S. V. Ghate which was addressed by P. Ramamurti, B. D. Joshi, E. M. S. Nambudiripad and B. T. Ranadive.

The speakers in their speeches traced the growth of the movement under the banner of the AITUC and narrated the role of the AITUC in winning the TU rights by the workers in the country. They also explained the tasks of the trade unions in the country and the need for unity among all sections of the working class.

K. G. Sriwastava, Secretary, AITUC, read the messages received from WFTU and fraternal organisations.

The premises of the AITUC were decorated and illuminated in a befitting manner.

Recognition Of Unions Under Code Of Discipline

PROCEDURE FOR VERIFICATION

[The following procedure has been suggested for verification of membership of unions under the Code of Discipline. This will be considered by the Central Implementation and Evaluation Committee at its next meeting. Unions should examine the proposals and send their comments to the AITUC office before November 10, 1960—AITUC Secretariat.]

(1) On receipt of a representation from a union for recognition under the Code of Discipline, the Central/State Implementation machinery will first ascertain:

(a) the names of unions functioning in the establishment together with their number and date of registration—by reference to the Registrar of Trade Unions concerned.

(b) whether any of the unions functioning in the establishment was responsible for an established breach of the Code during the past one year. (By an 'established breach of the Code' is meant a breach reported to and on enquiry established by the Implementation Machinery of the State or the Centre);

(c) whether the existing recognised union, if any, has completed a period of two years of recognition.

(2) After ascertaining the above facts, the Implementation Machinery at the Centre will request the Chief Labour Commissioner to arrange verification of membership of unions entitled to recognition under the Code. In the States, either the Implementation Officer will carry out this verification or get it done through the State Labour Commissioner, depending on the practice obtaining in each State.

period of six months immediately preceding the date of reckoning along with (i) membership - cum - subscription register, (ii) receipt counterfoils, (iii) cash and account books, (iv) Bank books and (v) a copy of the Constitution of the union. If the number of members of a union is more than 10,000 a longer time on the basis of one additional day for every 2,000 member over 10,000, should be given for submission of its list of members and records.

If any of the unions fails to produce the list of its members and records, a second and final notice will be given by registered post/A. D. asking it to produce them within 10 days or a longer period as mentioned above, if the membership of the union exceeds 10,000 at the stipulated place and time. If the union fails to produce the list and records on the second occasion also, no further attempt will be made to verify its membership. However, in respect of the union which has submitted its list and records, the verification officer will examine them and report its membership without inviting objections from the rival union, i.e. the defaulting union, and without doing any personal verification as mentioned in

(4) The date of reckoning, mentioned in para 3 above will be taken as the first of the month in which verification begins i.e. when the verification officer asks the unions to submit their lists and books for scrutiny.

(5) The verification officer will then check the list of members with the membership register and receipt counterfoils and exclude those who have not paid 3 months subscription during the period of six months preceding the date of reckoning. This examination will be 100 per cent and will be done in the presence of the office bearers of the union concerned but not in the presence of the office bearers or representatives of the rival union. If the union objects to the elimination of any member from its membership register, it will have to give full and valid reasons for such an objection. The verification officer will then re-check the records (i.e. membership register, receipt books, etc.) to ascertain the correct position. The verification officer will scrutinise carefully the cash and accounts books as well as the bank book maintained by a union to ascertain that the amount of subscription shown to have been received has been properly accounted for and that the amounts received as subscription are not incompatible with the total number of persons shown in the register and the list furnished by the union.

(6) The verification officer will thereafter intimate, in writing, to the unions concerned that the verified lists of their respective members are ready for inspection by the union representatives at an appointed time and place. The unions will also at the same time be informed that after inspection of the veri-

basis of one additional day for every 2,000 objections over and above 10,000) of the date of inspection. It should be made clear to the unions that general and vague objections like inflated membership, etc., will not be considered; the objections should give names of persons whose membership of a union is objected to and the reasons therefor.

(The union representatives will be allowed to make notes from the verified lists shown to them in the presence of the verification officer; they will, however, not be allowed to take any of the lists, nor a copy of the lists will be given to them.)

(7) The objections received from the unions will then be verified by personal interrogation, by the verification officer, of the members on the basis of the following systematic random sampling system:

(i) If the objection list furnished by a union consists of 500 or less names of members, the number of persons to be personally interrogated should be 20% subject to a minimum of 100;

(ii) If the Objection List furnished by a union consists of more than 500 but not more than 1000 names, the number of persons to be personally interrogated should be 15% subject to a minimum of 100;

(iii) If the objection list furnished by a union consists of more than 1000 but not more than 2000 names, the number of persons to be personally interrogated should be 10% subject to a minimum of 150;

(iv) If the objection list furnished by a union consists of more than 2000 but not more than 5000 names, the number of persons to be personally interrogated should be 5% subject to a minimum of 200; and

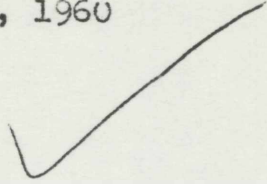
(v) If the Objection List furnished by a union consists of more than 5000 names, the number of persons to be personally interrogated should be 2% subject to a minimum of 250.

The persons selected for personal interrogation should among other things be asked whether they are members of a particular union and whether they had paid subscriptions for 3 months within a period of six months from the date of reckoning and if so, the amount of subscription paid, the months for which it was paid, etc. The Verification Officer will maintain a list of members personally interrogated, giving their ticket numbers, name of section where working, the result of personal interrogation, etc.

(8) Where the random sample check reveals that certain members interrogated deny membership of a union, its list of members will be worth

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Nov 29, 1960



Dear Com. Mohanty,

Yours of 23rd November and the report on Barbil.

Com. Sadhan is not here now since he had gone to Poland to attend a WFTU Seminar. He is not expected to return till after another two weeks or so.

With greetings,

Yours fraternally,

me

(K.G. Sriwastava)

Dear Comrade,

12
22/11/54

Yesterday the ~~date~~^{case} of the Barbil Comrades was fixed. The charge sheet was submitted. Out of 58 Comrades 30 have been discharged and 28 retained in custody. These 28 include Com. N Bose, Com. Bishra and all important Comrades. The Comrades who have been released have been are mostly workers. The case has been posted to 3rd and the committing magistrate will start the hearing your case from that day. The prosecution are examining 56 witnesses. In Barbil the managements mostly Boid & Co & Serapuddin have been trying to see our office wiped out of Barbil. Taking advantage of the absence of Comrades they have prevailed upon as it seems upon the owner of the office building (a tin house a thatched mud house) to dismantle the house. On Saturday the 19th while our local Comrades were absent ~~they~~ a few men led by the house owner came and took away the thatch and began to break the wall of the house which was locked by that time. In the mean time our Comrades came and informed the police. The police did not take any notice your same but anyhow the house owner refrained from continuing the dismantling.

We moved for bail of the Comrades. Out ~~then~~ of the 15 Bails moved only 2 have been

granted out of them to have some one has been released. The rest to are in jail. The local police and authorities are doing everything to delay the ~~trial~~ bail order being implemented.

Before coming to Kroyhan I went on 18th to Calcutta and attended the W. Bengal Orissa Regional Salt ~~Commission~~ Advisory Board meeting. Com. Sidhanta of RSP and Com. Panigrahi R.P. also attended. On my return from Cuttack I will send you a detailed report on the proceedings of the Board.

I will be going from here to Barbil and stay there for 3 days. Then I shall go from there to Boudkela and stay there for 2 or 3 days - we have been much handicapped by financial stringency here.

of Com. Sashan is Grating
then please tell him to Indrani
send the photos of Serapuddin Indrani
to me. Indrani
what has your Indrani
decided about Indrani
Sashan to Barbil Indrani
for a few months Indrani

UTKAL STATE COMMITTEE OF AITUC

Bangali Sahi,
CUTTACK.1
10. 2. 61

An Appeal

Help the defence of Trade union leaders imprisoned on charge of murder in Barbil.

Dear Friends,

Barbil area is the most important iron and manganese ore area in the state of Orissa. 75 thousand workers work in these mines. The living and working condition of these workers are very bad. The workers have been fighting for the last 15 to 20 years for living quarters, drinking water, minimum wage, human treatment and for the implementation of Labour Laws. The mine-owners and the Governmental machinery have joined together in suppressing the trade union movement. Innumerable false cases have been instituted; firing, lathi charge, imprisonment, illegal detention and all types of repression have been resorted to in the past. Even women workers have been raped and molested. The workers and their trade union have stood against all these attempts by the mine-owners and the Government.

Recently, in the month of September, 1960 fifty eight trade union leaders and militants were arrested in Gurda (25 miles from Barbil) in connection with a murder case. After two months out of these thirty were released as the police could not make out any charge against them. At present twenty eight T. U. leaders including Sri Nirmal Bose and Sri Haribandhu Behera face the trial under the charge of murder.

It has become urgently necessary to defend these valiant sons of the working class and thereby save the thousands of mine workers, the prestige of the women folk and their trade union movement from attacks of the mine-owners and the Government. The defence has become a costly one. The committal proceedings will start from 20th February.

I would, therefore, request all patriotic countrymen, all workers and their trade unions irrespective of opinion and organisation to donate to the defence funds of the case. Donations may kindly be sent to my following address.

D. C. Mohanty
General Secretary,

Utkal state committee of the AITUC
Chandini chauk, Cuttack.2.

Nabajuga Press, Cuttack.2.

Bangali salu
Cuttack-1.
22.12.61

Dear Sadhan Babu,

I hope you have not gone to London.
I am sorry I could not go due to
Textile strike and due to non-~~a~~
renewal of my passport. You did
not intimate the Govt of India that
I am in the list of your delegates. ~~But~~
therefore they did not issue any
passport.

Anyway I am looking for
another chance.

I wrote to Com. Sinwastava to
send the sum of ~~Rs~~ two thousand
that was promised for Barbil cases.
The lawyers have ~~not~~ not been paid fully
and they are ~~not~~ liberally making my
life hell. Behera & Bose have only
collected a small amount and
the lawyers have to be paid another 4 thousand.
I am really worried. Will you please
talk to Com. Dange and send the money.
Elections will now come and it would
be impossible for any body to attend to
these work. Please let me know what

You do.

I sent Rs 1500/- towards
my London trip. That was ~~to~~
borrowed and collected with the
understanding that if I do not
go to London the money would
be returned. Please send me the
same amount.

We had to withdraw the
Textile strike in the face of
fizzling away of the same.

I went to Koudela & came back
only two days back. The ~~strong~~
Satyagraha of master Rtn employees
then before the main fate of HSL
was also fizzling out and we
decided to call off the Satyagraha
on the assurance given H.S.L. that
they would employ those workers
on vacancies that would arise
from the date of call off. The State
Implementation Committee decided
to enquire into the employment
of Contractors on the basis of
the decision of the 19th Tripartite.
Com. Nityananda Pandey went
to Delhi on 5th for the above

issue. But we did not receive any letter or any information from him till 18th. I am very anxious about him. Whether he is at Delhi or has gone elsewhere. Please possibly write to me if he went to Delhi and if so when did he leave Delhi. Please treat this as urgent.

Sincerely
 Sincerely
 D. Chaurahia

12 D. Tal
 9 U. Tal

अन्तर्देशीय पत्र
 INLAND LETTER



Com. Sadhan Mukherjee
 All India Trade Union Congress
 4 ASOKA ROAD
 New Delhi

पहला मोड़ First fold

तीसरा मोड़ Third fold

भेजने वाले का नाम और पता :- Sender's name and address :-

दम पत्र के अन्दर कग न रखिये NO ENCLOSURES ALLOWED

यहाँ काट कर खोलिये To open cut here

In the Court of the Deputy Magistrate, Keonjhar.

Present:-Shri P.C.S.Patra, B.L.,
Magistrate, 1st Class.

This the 29th Day of February, 1961.

G.R. 172
T.R. 215 of 1960.

Xerox full document

Complainant: -----The State.

Accused :-

- 1) Nirmal Kanti Bose (35 years)
- 2) Haribandhu Behara (30 Yrs)
- 3) Ratnakar Sahani (35 Yrs)
- 4) Monglu Gowala (30 Yrs)
- 5) Pandu Ganapat Ahir (45 Yrs)
- 6) Handu Gargal (35 Yrs)
- 7) Borengi Chatter (20 yrs)
- 8) Sylius Lagan (25 years)
- 9) Sriram Puri
Madan (22 yrs)
- 10) Bira Mahanto (30 years)
- 11) Sudarsan Mahanto (20 years)
- 12) Niranjan Mahanto (35 years)
- 13) Siba Tonhi (35 years)
- 14) Manindra Kishore
Mitra (35 years)
- 15) Albert Jojo (30 years)
- 16) T.P. Ramachandra Nair
(30 years)
- 17) Harischandra Patel (35 yrs)
- 18) Bikram Munda (35 years)
- 19) Paramananda Mahanto (25 yrs)
- 20) Golam Mustafa (35 years)
- 21) Ballav Charan Rout (30 yrs)
- 22) Sachindra Kumar Sen (35 yrs)
- 23) Dehram Chatter (30 yrs)

Offences :-

Eighteen Accused Viz. A 1 to
A5, A9 to A12, A14 to A17,

A19 to A23 are charged for having agreed to do or caused to be done on 22.9.60, 23.9.60 and 26.9.60 the commission of offence of murder by illegal means and that such act of murder was done on 26.9.60 at Benaibari Weekly market in pursuance of the said agreements or agreement punishable U/Ss 120 B read with Section 302 of the Indian Penal Code.

Alternative charges on all the twenty three accused persons for their having committed murder by intentionally or knowingly causing the death in furtherance of their common intention, or in prosecution of their common object of that unlawful assembly or for having abetted the commission of the offence and present at the time and place of commission of the said offence thereby punishable either U/Ss 302/34 I.P.C. or U/Ss 302/149 I.P.C. or U/Ss 302/114 I.P.C. All the twenty three accused persons are charged for the offence of rioting punishable U/S 147 I.P.C.

Accused No. 4 and Accused No.5 are charged for having committed murder by intentionally or knowingly causing the death of one Mohamed Idris punishable U/S 302 I.P.C.

Accused No. 8 is charged for having attempted to commit murder of one Narabari Patnaik and another Samshekhan punishable U/S 307 I.P.C.

Accused Nos. 5, 11, 13, 16 17 and 19 are separately charged for having voluntarily caused grievous hurt on different individuals punishable U/S 325 I.P.C.

Accused No.6 is charged for the alleged offence of wrongful confinement and voluntarily causing hurt punishable U/Ss 342/323 I.P.C.

Accused Nos. 2, 3, 5, 7 to 16, 18, 19, 21 and 22 are separately charged for their having voluntarily caused hurts punishable U/S 323 I.P.C.

Finding :-

Prima facie case made out.

Order :-

The accused are committed to Court of Sessions to stand their trial for the offences with which they have been separately or individually charged.

O R D E R.

On the first information report of one Mohd. Yasin residing at Guruda Mines that the accused N.K. Bose, and many others on 26.9.60 at Bameibari Weekly market in pursuance of their previous agreements or agreement, formed an unlawful assembly with deadly weapons attempted to murder, and caused grievous hurt, rioting etc. punishable U/Ss 147/148/149/307/325 and 120 B I.P.O., the Chamakpur Police during investigation of this case apprehended in all 58 persons.

After consultation of the Investigation, the said police submitted a charge sheet against 29 persons and the remaining 30 accused persons were accordingly discharged and released by this Court by its order dated 21.11.60.

Thereafter this case was taken up for enquiry and Twenty seven material witnesses as to the actual commission of offences, as produced by Prosecution, were examined and the Advocate appearing for some of the Accused had also cross examined to some of these witnesses. All these Twenty eight accused persons, have also been examined by this Court. After conclusion of the evidence of material witnesses as to the actual commission of the offence and on perusal of the relevant documents available on record, there did not appear evidence sufficient to frame a charge against five accused persons, viz. Larengi Gowala, Gobardhan Mahanta, Sidhu Munda, Chandu Charan Ghoshari and H.N. Chakravarti. The special Prosecutor was also heard in the matter. He also is not able to show

these aforesaid five accused persons to commit them to Court of Sessions to stand their trial. In the circumstances, and for the reasons recorded in the order sheet dated 25.2.61 these five accused persons were accordingly discharged. The present order of commitment therefore relates only to the Twenty three accused persons as indicated herein.

The facts material to the case as evidenced on record and on examination of the witnesses as to the actual commission of the offences may be briefly stated thus :-

Two Firms namely M/S Mineral Metropolis Private Ltd. and Messrs. Serajuddin & Co. have been operating their lease hold Mining areas, locally known as Guruda Mines, appertaining to Chumakpur Police Station within Champua Sub-Division of this District. The Bulk of the employees of these firms are either members of two Labour Unions known as Orissa Mining Workers Union or K.M. F.W. Union. The flag of the former is a Tricolour one which Union will hereinafter will be referred to as Tricolour Union. The Flag of the latter K.M. F.W. Union is of red colour which union will accordingly be referred to hereinafter as Red Flag Union. There were and have been acute animosities and rivalries between these two Unions viz. Tricolour Union and Red Flag Union. The deceased Mohd. Idris, some time prior to September, 1960 came from Calcutta to recognise and revitalise this Tricolour Union. Under his leadership and with the active cooperation and assistance of P.Ws 5, 13, and 20 viz. Samsher Khan, Mohd. Abdul Hadi and driver Narahari Patnaik, the Labour strength of the Red Flag Union was simultaneously on the decline. The General Secretary of this Red Flag Union is the accused Nirmal Kanti Bose. It is said that the Accused Pandu Ganapat Abir, Monulu Gowala and one M.N. Chakravarti (since discharged) were the former discharged employees of Messrs Serajuddin & Co. and Accused H.C. Patel was a former discharged employee of M/S Mineral Metropolis Co. Private Ltd. On 22.9.60 night in the

said mining area, the rival Unions and their workers crossed on the road and the accused N.K. Bose with accused Haribandhu Behara and Retnaker Sahani were leading their gathering in the Red Flag Jeep with their followers. The members of this Tricolour Union under the leadership of Mohd. Idris challenged accused N.K. Bose and other accused present there to show as to what benefits they could secure for the labourers. There after the members of the Tricolour Union expressed that they would be detaining the jeep then, in possession of the accused N.K. Bose and his men on the ground that the accused N.K. Bose and his men on the ground that the accused N.K. Bose purchased that jeep out of the subscriptions contributed by them as such their right to detain it at Guruda for their use. This demand created anger from the Red Flag Union Leaders viz. accused N.K. Bose, Behara, T.R. Nair, Sahani and G.C. Choudhary. They raised out the slogan that they would play Holi with their blood and they would murder these Dalas of the Tricolour Union and take away the jeep. Thus under threat of violence and murder and by show of force, they took their jeep from that place. It is said (vide P. No. 2) that prior to this incident on 22.9.60, the members of this Red Flag Union H. Chakravarti and B.B. De struck a note of caution to P. No. 2 S. K. Mohammed Sahajahan and strongly discharged him from going out after sunset from his residence for fear of posing his life along with other worker of their Tricolour Union. On 23.9.60 the accused Nagnindra Kishore Mitra and accused D.R. Chatter were heard (vide P. No. 7 K.C. Singh) telling and inciting the labourers at their meetings to kill the Dalas of Tricolour Union whenever they would find it convenient. On 24.9.60, P. No. 7 K.C. Singh affirms, to have lodged information in respect of the incident relating to 22.9.60 before the police S.I. then at his Guruda Camp. It is seen from the relevant version of P. No. 9 S.K. Muzumdar, a member of the Red Flag Union, that their General Secretary

accused N.K. Bose along with accused Sahani, Behara, Mustafa, T.P.R. Nair, Chatter, Mishra, Ballav Charan Rout, Panda, Mongula Cowala and Chand. Chyva; Chudhari gathered in the House of accused H.C. Patel of their Union. It is said that the accused Nihal Kanti Bose directed P.W. 19 Panda Kol to go and inform the labourers to go with bows and arrows. But this labourer (P.W. 19) Panda Kol had to hurriedly return with information to accused N.K. Bose and others there that Deputy Superintendent of Police and Inspector of Police had been at the spot there. It further transpires (vide P.W. 10's version) that on Sun-day, a day prior to this occurrence (26.9.60) i.e. 25.9.60 the accused Mishra along with the other accused Chatter and Nair took out female labourers from their hittings and declared of their intention to create gholal in the next day that (i.e. 26.9.60) and the female labourers should therefore be careful and the male labourers should come with lathis to the weekly Market to be held the next day at Banaibari. It is seen from the relevant version of P.W. 27 Jayantida Sahu, that many people were found accordingly coming armed with lathis from Guruda side on 26.9.60 to that Banaibari Hot and gathering near the Nala along with accused N.K. Bose, U. Bahara and others who came there in a jeep.

Thus it is said that on 26.9.60 there was a weekly market as it was the last market prior to the Puja Festival. This market day falls on Monday and it was a holiday for all the employees of the neighbouring Mining Areas.

The Jeep of the accused N.K. Bose was standing on the road facing towards the Banaibari Police Outpost. There was a Nala close to this market. Accused N.K. Bose, with his other co-accused and many others were found assembled near that Nala. All of them excepting accused Ballav Charan Rout were seen armed with lathis. Accused Ballav Charan Rout was said to be armed with an Iron Rod. Accused T.P. R. Nair was seen having a

a whistle in his mouth. The accused N. K. Bose, Haribandhu Behara Ratnakar Sahani and Harischandra Patel were heard exhorting the gathering and declaring that they should do away with the four Dalsle of the Tricolour Union Viz. Mohd. Idris, Mohd. Hadi Narahari Patnaik and Samsher Khan immediately in that Hat and clear their way. The other members gathered there fully armed cried out their approval to this declaration. Thereafter the accused T. P. R. Nair gave out his whistle. On his giving the whistle, the persons gathered there ran towards the grocery shop of Chandi Bangali's shop. There the accused Mongul Gowala was seen standing on the bonnet of $\frac{1}{2}$ Ton Truck parked there and seen waving both his hands and crying out in his "Kol Language" "Illa Ijji Pe" meaning thereby to come round near him immediately. Immediately thereafter there was heavy pelting of stones and assaults with sticks by these accused persons and several others. The accused N. K. Bose and Haribandhu Behara were seen inciting the assailants crying out "Katham Kardeo" The deceased Mohd. Idris, one of the persons in the Hat and being a leader of the Tricolour Union was seen coming within this confused stone pelting and sticks assaulting areas. Many stones were hurled at him. The deceased was unarmed then. Accused Bikram Munda, Mongul Gowala and Pandu Ganapat Ahir were found chasing him and assaulting him with their lathis. He was running hither and thither presumably to escape himself from those onslaughts. Pursued by accused Mongulu and Pandu he ran towards rice market. He fell down there with his face up-wards. Accused Mongulu and Pandu were seen maintaining their pressure on him. He lying on the ground with folded palms was looking on all sides presumably for help or appealing his assailants not to assault him further. Accused Mongulu took a stone Boulder from the spot and crushed it on his face. Immediately thereafter accused Pandu took up a bigger boulder and crushed it on his face. His face became flattened and blood profusely bleeding from his nose and mouth. He was seen struggling hard on the ground before

exist of life from his mortal coil. Thus it is said that the deceased Mohd. Idris, the leader of the Tricolour Union met with the tragic end of his life in the hands of these accused persons in pursuance of their previous agreements or agreement at the spot of that way for causing his immediate death in the hope of removing obstacles standing in progress of their Red Flag Union. The eye witnesses to this occurrence of tragic end of Mohd. Idris are P.W., Mohd Yasin, P.W. I Kamulal Hoda, P.W. 11, Mohd Nabee, P.W. 14, M.C. Das, P.W. 24 M.C. Lohar, P.W. 25 Pannalal, P.W. 26 A. Hanna and P.W. 27 Dayanidhi Sahu Besides this the relevant versions of P.Ws. 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, and others are corroborative and conclusive as to the gathering of N.K. Bose, H. Behara, and other accused persons now arraigned in the clock near the Nala on that date prior to these occurrences and accused Bose, Behara Sahni and Nair were seen exciting their following them armed with Lathies to do away with their declared four dalas of the Tricolour Union of whom the deceased Idris was the prominent according to them. The evidence as to the indiscriminate assaults caused by other accused finds material corroboration from the injured P.Ws. as well as other witnesses besides their own respective individual assertions of their being assaulted by the several individual accused persons.

It is also seen from the relevant version of the same evidence that P.W. 20 Narahari Patnaik whom the Red Flag Union holds as one of the four Dalas of the Tricolour Union was also sought to be murdered and to that end in view, accused Sriram Purti alias Madan was found attempting to commit murder of this injured witness by crushing a Boulder on his head which he warded off with his both hands. This accused was also seen assaulting heavily on the chest of injured witness P.W. 6 Shamsheer Khan.

Thus it is established that the eighteen accused persons A. to A5, A9 to A12, A14 to A 17, A19 to A23 were not only

actively indulging on 26.9.60 with the other accused and their other gathering to do away with the life of Mohd. Idris in the market on that day during broad day light but these accused persons were also found chasing to Kill Mohd. Idris and three others from time to time and were found attempting and preparing on previous occasions too declaring their avowed object that they would play Holi with their blood and thus would remove these obstacles standing in their way. Therefore there appeared a prima facie case against these accused persons U/Ss 120 B. read with section 302 I.P.C.

It is also clear from the relevant versions of the witnesses examined in this case and the documents as evidenced on record that all these twenty three accused persons on 26.9.60 at that Bameibari Weekly market either in furtherance of their common intention and armed with lathies forming an unlawful assembly and in prosecution of that common object of that assembly, two of their members namely, Pandu Ganapat Ahir and Mangul Gawala committed murder by causing the death of said Mohd. Idris or as active participators and abettors thereof than were found present and instigating the commission of the aforesaid murder of Mohd. Idris thereby punishable either U/Ss 302/34 I.P.C. or 302/149 I.P.C. or 302/114 I.P.C. respectively.

Besides, the fact that the deceased Mohd. Idris met with his tragic death instantaneously at the spot admits of no doubt or controversy. It is also clear from the relevant version of prosecution evidence that Pandu Ganapat Ahir and Mangul Gawal were seen crushing with stones on his face to bring the end of his life. Therefore these two accused persons are accordingly charged U/S 302 I.P.C. for having committed murder by intentionally or knowingly causing the death of the said Mohd. Idris at Bameibari Weekly Market on 26.9.60.

prosecution is that on 26.9.60 these twenty three accused persons armed with lathis formed into an unlawful assembly and in prosecution of their common object of committing murder grievous hurts etc. did commit murder, attempted to commit murder and several members were thus found committing the offence of rioting. They were accordingly charged U/S 147 I.P.C.

While all these accused persons or bulk of them either in furtherance of their common intention or common object or as active abettors present armed with lathis and several others as previously agreed to among themselves or and agreed at the spot and caused to be done illegal acts by force and violence for which they have been collectively and separately charged U/Ss 120 B and 302 I.P.C. U/Ss 302/34 or U/Ss 302/149 or 302/14 I.P.C., U/S 302 I.P.C. and U/s 147 I.P.C. the prosecution case as evidenced on record further reveals that the accused Bido Tanti was seen voluntarily causing grievous hurt to P.W. 5 Abu Bakar, accused Sudarsan causing such grievous hurt to P.W. 16 Ramchandra Das, accused T.P. Nair and Pandu Ganapat Ahir, causing grievous hurt to P.W. 20 Marabaxi Patnaik and accused H.G. Patil and Patil and Mahanto causing such grievous hurt to P.W. 6 Samsher Khan. The aforesaid accused persons are thus accordingly charged separately U/S 323 I.P.C. for their having voluntarily caused grievous hurts to the aforesaid injured P.W.s.

The accused Pandu Ganapat Ahir was found wrongfully confining P.W. 13 Mohi. by holding him from behind his two hands and causing hurt to him and P.W. 15 Lambodar Mishra. He has therefore to be charged U/Ss 342 /323 I.P.C.

The prosecution case as evidenced on record and from the relevant documents and from medical opinion reveals that several of these accused have voluntarily caused hurt either by lathis or by pelting of stones and caused injuries. It is noticeable that the accused Hirenjan Mahanto was causing hurt

hurt to P.Ws. 15 and 16 Isabodar Mishra and H.C. Das ,
Accused Mongil Gawal causing hurt to P.W. K. Bakar, Mohd.
Hadi ,Mohd. Masin Samsheer Khan, Sadatullah and Narahari
Patnaik, accused S.K. Sen. causing hurt to P.Ws. Sardatallah
and K.C. Singh, Accused M. K. Mitra causing hurt to P.Ws.
Mohd. Korben and K.C. Singh, accused T.P. ^Hair causing hurt
to Sardatulla accused Ratnakar Sabani causing hurt to
P.W. 20 Narahari Patnaik, accused H. Behera causing hurt
to P.W. 2 shajahan .Accused Parmasada causing hurt to
P.W. 20 N. Patnaik, accused Syllus Irgan causing hurt P.W. :
. 15 Kamal Hoda, accused Albert Jojo causing hurt to P.W.
21 Sardatullah accused Biro Mahanto causing hurt to P.W. 2
Shajahan and P.W. 4 Kalicharan Mohanto, Accused ^Halay
Charga Bout causing hurt to P.Ws. Mohd. Yasin, Mohd. Korben
M.C. Das and N. Patnaik, accused Bikram Munda causing hurt
to deceased Mohd. Idris and P.Ws. K. Abu Bakar ,M. Patnaik
and Abdul Rahman, accused Sibho Tantha causing hurt to
P.W. 20 Narahari Patnaik accused Bairagi Chatter causing
hurt to P.W. Abdul Hadi and Sadastullah and accused
Sriram Purti @ Madan Voluntarily causing hurt to P.Ws.
K.C. Singh, Mohd Hadi, Samsheer Khan, Narahari Patnaik
and Mohd. Ramjam. Since there appeared prima facie case
against these individual accused persons for their having
voluntarily caused hurt to the persons as specified
therein, they are separately charged for their such
commission of offences punishable U/S 323 I.P.C.

Although the offences with which they are
charged U/Ss 325 I.P.C., 342/~~322~~ 323, 147 and 323 I.P.C.
can as well be tried by this court, as there are some
occurrences along commission of the major offences during
the same transaction warranting capital punishments for
which they have been charged during this enquiry these a
accused persons charged for these minor ~~offic~~ offences

are also proposed to be committed to court of sessions. The accused were examined in this Court. They desire to make a proper statement before the Court of Session and they also expressed that they would tender a list of witnesses to be examined by Sessions Court.

For the facts and reasons as evidenced on record and as stated above, these twenty three accused persons are committed to court of Sessions to stand their trial for their alleged commission of offences punishable U/Ss 120 B/302 I.P.C., U/Ss 302 /34 or 302/149 or 302/114 I.P.C., U/S 147 I.P.C., U/Ss 325 I.P.C., 342/323 and or U/S 323 I.P.C. with which these accused persons are jointly severally or individually charged.

Out of these accused persons, accused persons, 1,2,3,4,7,10,12,13,14,16,17 and 21 to 23 are defended in this court and Accused Nos. 4,5,6,8,9,11,15,18,19,20 are found to be too poor to defend themselves. Since they are charged for offences also U/S, 302/120 B and U/S 302 /34 or 302 /149 or 302/114 I.P.C., the benefit of a counsel at state expense may be made available to defend them during their ex such trial before the court of session. Pronounced in the open Court this the 28th day of February, 11 : 1961.

Magistrate, 1st class.

List of witnesses examined in the committed court.

- P.W. 1) Mohd Yasin.
P.W.2) Sariff Mohd Sahajahan.
P.W. 3) K. Abu Bakar.
P.W. 4) Kalicharan Mohanto.
P.W. 5) Kasrul Hoda.
P.W. 6) Shamsara Khan.
P.W. 7) Krishan Chandra Singh.
P.W. 8) Mohd Korben.
P.W. 9) S.K. Mazumdar.
P.W. 10) Phulmani Lahare.
P.W.11) Mohd Nabree.
P.W. 12) Stahabuddin.
P.W. 13) Mohd Abdul Hadi.
P.W. 16) Rama Chandra Das.
P.W. 17) John Langan.
P.W.18) Ram Chandra Thakur.
P.W. 19P Pandu Kol.
P.W. 20) Narahari Patnaik.
P.W. 21) Sarda Tullack.
P.W. 22) Ashraf Ali.
P.W. 23) Abdul Sattar.
P.W. 24) Mahichandra Lehir.
P.W.25) Panna Lal.
P.W. 26) Abdul Nanna.
P.W. 27) Dayanidhi Sahu.

Sd/- P.C. S.Patro.

Magistrate Ist Class, Sadar,
Koraput.

A NOTE ON BARBIL MURDER CASE

Gurda is a mining area, specially of iron ore, owned by Messrs. Serajuddin & Co. ^{It is about 19 miles off from Barbil.} Actually this company is owned by Md. Serajuddin, who has formed several limited companies with his family members as share holders. This mine-owner formerly was a cotton yarn trader and through the ex-ruler of Keonjhar state managed to get leases of mining tracts, subsequently came to limelight by dint of his "own methods of getting over all the hurdles" and among his patrons were the District Magistrate, some relatives of the ex-ruler of Keonjhar State, former Chief Minister of Orissa and so on.

In his mining zone, he used to have his own administration which included punitive steps for the persons who dared to violate his rules and regulations. No person used to be allowed to enter his premises without permission. The punishment for violation included flogging, forcibly lifting the offender in a vehicle and dropping him in far away places in the jungle.

N.K. Bose was employed with Serajuddin & Co., as the Chief Accountant and later promoted to the position of Chief Secretary to Serajuddin (known as Malik Saheb). Bose somehow put the so-called Malik Saheb in a tight corner when he led the strike of the entire office staff of the company. Serajuddin flew in a mad temper and threaten^{ed} to shoot Bose and another comrade Chatterjee. He also dismissed the staff.

These comrades some-how fled away from Gurda and came to Barbil and managed to put up the cases of dismissals to the Regional Labour Commissioner. These cases were finally settled by payment of heavy compensation and Serajuddin could never digest this insult. This was the first industrial dispute in his firm and he lost it.

Later on when I was at Barbil, we had a number of strikes in the loading plot - at that time Barbil was the

money and was compelled to grant a number of concessions to the labourers.

Later on, he transferred all his staff and office at the loading point from Barbil to Gurda.

With our contacts established at Barbil among his labourers and also Bose's former contacts, we tried to slowly penetrate into Serajuddin's mining area and break his security measures.

We were able in March 1960 to establish a branch office of Keonjhar Mines & Forest Workers Union in a small village about 6 miles off Gurda.

During this period, Serajuddin managed to employ the services of INTUC elements to break the unity of the workers and also to disrupt our organisations. There were a number of small troubles and about 23 employees of Serajuddin & Co were involved in various criminal cases.

THE INCIDENT:

The Mineral Metropolis Ltd, another company owned by Serajuddin retrenched about 500 workers in September, 1960. A meeting was organised by Bose and Behera near Gurda in this connection. When they were going to the place of the meeting in the union jeep, a heavy truck belonging to the Serajuddin Company tried to dash against it but some-how the jeep escaped collision.

When the meeting was actually convened (September 22) a gang of goondas headed by Md. Idrish, (an INTUC man brought from Calcutta by Serajuddin and appointed in the Gurda mines in March-April, 1960), organised ^{at} disturbance and the meeting had to be abandoned.

After the abandonment ^{of the meeting;} when the workers dispersed and Bose & Behera were going, these goondas tried to way lay them

and confiscate the jeep. To avoid clash, Bose & Behera sat there throughout the night cordoned off from the goondas by the workers and it was only after the Magistrate and the Superintendent of Police arrived there, they could be extricated. No arrests were made.

On September 26, a batch of goondas headed by Md. Idrish went to Bamebari bazar, few miles from Gurda, in a truck that was fitted with loudspeakers and also equipped with lathies and other weapons. These goondas, it is reported, snatched away the receipt book of our union ^{from one of our organisers} and also beat him up.

This resulted in a clash and in the melee Md. Idrish was killed and many others were injured. Bose and Behera at that time were at Barbil.

THE ARRESTS AND REPRESSION:

Following the incident, the goondas in connivance with the police started attacking the workers. Terror was let loose and from two workers' ^{colonies,} ~~colonies~~ - Talapani and Thakurani, workers fled away to seek protection elsewhere.

From next day onwards, police started arresting our people and there were complaints of manhandling, assaults as well as outrage of modesty.

Bose was arrested at Barbil and Behera absconded, though after a few days was caught. A total of 58 arrests were made. No bail was ~~not~~ granted and even the High Court refused to let them out on bail, ^{except for 6 ~~arrestees~~ who were arrested from the village.}

Police submitted the charge-sheet sometime in November and the charges included - murder, rioting, illegal assembly, forcible detention, use of weapons etc.

Police did not submit charge sheet against 30 persons and they were released. But they ~~also~~ lost their employment.

The commitment trial began in December and orders were pronounced in February, 1961. Out of the 28 accused, 5 were released and rest 23 committed to Sessions trial.

DEFENCE:

The employers have engaged all the good lawyers available in three towns nearby - which means, from Chaibasa from Keonjhar and from Mayurbhanj. Besides them, a senior lawyer from Cuttack has been appointed.

Our defence arrangement is that a local lawyer at Keonjhar, a senior lawyer from Cuttack (@ Rs.200 per day I am told) and an assistant. The Cuttack lawyer will be coming when the sessions trial begins.

FINANCIAL POSITION:

Previously, the average collection of subscription amount~~to~~ about Rs.400 per week. This has fallen down very drastically. Now it is Rs.100 to Rs.150 per week. Sometimes, even less. The entire amount is spent on defence.

Besides, ~~thexexexexex~~ this case, there are other cases at Barbil, Champua and Keonjhar courts. The total number of pending cases will ^{be} about 12. Total number of accused will be about 100. _i

New Delhi

March 9, 1961

S. M.

ଉତ୍କଳ ପ୍ରାଦେଶିକ ଚେତ୍ର ଯୁନିୟନ କଂଗ୍ରେସ

Utkal Provincial Committee

ALL INDIA TRADE UNION CONGRESS

Ref. No.

Cuttack-1.

Dated 4/7/1951

Dear Comrade,

The ^{serious} ~~case~~ trial of the murder case of Barbil Comrades will start on 31st July and will continue for one & half months. I told you about it previously and at Calcutta meeting - you asked me to contact Sathian in this respect. I have already written two letters to Com. Sathian and another to Com. Srinivastava. But ^{I have} not received any letter from any of them. We are in a fix. We cannot proceed in proper arrangements for defence without hearing from you. I told you our financial condition. We have already spent four thousand rupees in the case up to date and we are not in a position to spend any ~~more~~ more. We engaged one of the best criminal lawyers of Cuttack Bar Sri D. Sahu in the case. But now he has been appointed Advocate General. Therefore we are in difficulty. We are thinking of appointing another good advocate for the case. But ~~no~~ none you find advocates

are prepared to go and stay in Keonjhar
unless they get 450/- to 500/- per day besides
the expenses. - Besides that two junior lawyers
have to be appointed and ^{are} still engaged.
The biggest difficulty is that Keonjhar town
is far away from Cuttack and all practicing
lawyers are reluctant to go and stay there,
leaving all their practice here in High
Court -

Hope to receive some reply from
you. On the receipt of your reply we
shall move

Yours

fraternally

D. Kanohanty

Com. S. A. Dudge

A. I. T. U. C.

I. R. No. 2215 Date 10/11/1961

To Mr. Comrade,

~~12/ Hirakud~~

6/7/61
D/H

You must have received my letter from Alwaye. My letter to Com Dange must have been also received.

file

Barbil

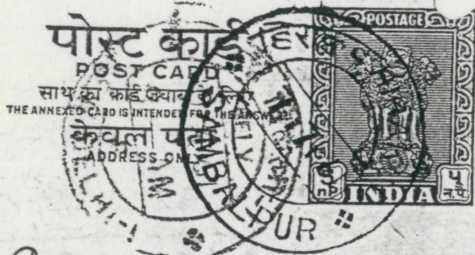
The Barbil ~~case~~ murder case series trial starts begins on 31st July. Our hands are tied ~~to~~ financially ~~with~~ ~~with~~ after the elections - we formerly engaged Sri D. Sahu as defence lawyer. But now he has become the Advocate general and we cannot get his services. Other lawyers are not prepared to go to Bhojpur unless they are paid Rs 4800 per day.

We can only move on
receipt of information
from you. The ~~date~~ date
of trial is very near and
we have to move. Please
write to my Cuttack
address about the nature
and extent of help -

Com. Sathian must have
received my letter. But
no reply from him too.

I am anxious to get
a ~~text~~ reply from you.

Yours
D. Chakravarty



Com. K. G. Sriwastava

Secy, A. I. T. U.

4 Asoke Road

New Delhi

136

July 7, 1961

Com.D.C.Mohanty,
General Secretary,
Utkal Committee of the
All-India Trade Union Congress,
Bangali Sahi,
CUTTACK, Orissa

Dear Com.Mohanty,

Your letter regarding the money for defence of the Barbil case. The estimate you put forward is that you will require Rs.500 per day for a big lawyer and another Rs.500 for two juniors, etc. This for one and a half month. All this amounts to about Rs.40,000. Obviously, we have no capacity to give you that much money. We did not spend even for Jamshe pur that much, though the case lasted over six months in the sessions alone. It looks your Orissa lawyers are more costly than those of Jamshedpur and Patna.

Can you not try and get the case moved to Cuttack, on the plea of inconvenience and the offence being 302 and so on? Under 302, some accused can ask the State to give them assistance in Defence. That also should be used.

The AITUC, at the most, can raise 8000 to 10,000 for the whole case. That also by instalments. We have at our disposal only 5000/- at present.

So you can do whatever is best on this basis.

I do not think that sessions should be allowed to drag on for a long time. Besides, you can try to engage a lawyer on a lump sum basis, instead of daily basis. There should be propaganda about the case also among people and workers without going into merits and sub judice matters. Defence propaganda is not a part of the case and can be done, so that delay is not caused and Government also is moved. Someone from you should make the case real task and not leave it to chance and God. The Party also should be informed and made to treat it seriously. I wonder how much mobilisation of the workers is taking place in the area itself.

With greetings,

Yours fraternally,



(S.A.DANGE)

General Secretary

(134)

Rep. A. J.

July 7, 1961

Dear Com.Mohanty,

Further to Com.Dange's letter to you of date, we enclose cheque for Rs.1000/-, as the first instalment of aid towards defence of Barbil case.

Please acknowledge receipt and keep us informed of the progress of the case.

With greetings,

Yours fraternally,

S. A. Dange

(K.G.Sriwastava)

Encl: cheque

1/3/61

Barber Case file Sambalpur
Dear Com. Sadhan,

I came here in the 1st week in connection with Aluminium union work but fell ill and still bed-ridden. I got a relapse of my old disease. - I may even take 4 or 5 days more to go back to Cuttack.

I wrote to you about the Barber murder case. It comes off on 31st July. I don't know if Com. Sinwastava, Com. Dange or yourself would have written to my Cuttack address. I am today sending a man to Cuttack. If nothing has been done from the A.I.U. end will you please take a personal care in the matter? I need not impress upon you the seriousness of the problem. - We are trying to give the best possible lawyers available in our state. I don't think a lawyer from Calcutta at the serious stage would do better. Because the witnesses are only 4 and they have to be cross examined in 4 days.

Konjhar Jail,
27-6-1961

My Dear Com. Sadhan,

Barber Case file
Since a very long time there is no news from you. We all are here as under trial prisoners in connection with Gurda murder case. Our this case will come up in ~~later~~ sessions from 31st July. So, we all hope that you will take necessary steps for defending the case with consultation of Com. S.A. Dange. Convey our greetings to Com. Dange. You should come here for once to look into the case affair. It is a false case but very serious. We all are waiting for your early arrival here.

When you come here would you bring me a

A. I. T. U. (Cuttack)
I.R.N 2391 Date 21 11 1961
File No..... Replied on 19.7.61

Dear Comrade,

Retrieved today from Sambalpur after an absence of a fortnight. Received the cheque for Rs 1000.00 and also the letter of Com. Dange and your covering letter.

I will be writing to you in details about the case and all arrangements I made for it.

I have again fallen ill and was suffering

ଉତ୍କଳ ପ୍ରାଦେଶିକ ଚେଡ଼ି ଯୁନିୟନ କଂଗ୍ରେସ

Utkal Provincial Committee

ALL INDIA TRADE UNION CONGRESS

Cuttack-1.

Ref. No.

A. I. T. U. C.
I. R. No. 2628 Pat. 14 AUG 1961
Filed No.
Pat. No.

Dated 2/8/1961.

Barbil Case

Dear Comrade,

Received your letter along with the cheque for Rs 1000.00.

The case commenced on 31st July. But it has been adjourned to 4th August. If the Mr. Topping judge is not transferred by that date the case will go on from day to day.

There are 68 witnesses and the case will go on for at least ^{tw} 5 weeks.

Previously we engaged Sri D. Sahu, one of the leading criminal lawyers but he has been engaged as appointed as Advocate-General and therefore shall not be able to be engaged for us. Now we have engaged Sri R. C. Mishra one of the leading advocates of the High Court bar. Besides him there is one another advocate to assist him and two local lawyers. The ~~fee~~ daily fees of all these lawyers come to Rs 450.00. We found that a total contract for the case will not go to our advantage. Because the case is being conducted in an

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out of way ^{place} the advocates will tend to try to finish the case as soon as possible and might not do proper justice to cross examination etc. Hence after a lot thought and consultation we fixed the daily fees. This excludes of course the conveyance and food expenses at Kronghan. The case could not be transferred to Antlack as ~~the~~ Kronghan belongs to another judgeship sessions judgeship.

Hence taking the length of the case for 5 weeks our Total ^{Judgeship} Expenses will be as follows.

Lawyers fees for 32 working days — 13400.00

Food, conveyance and other case expenses 2500.00

Rs 16000.00

I think this is the minimum expenses envisaged.

We have been carrying on a drive for defence funds in the Banbil area amongst the workers. We hope to collect a good amount. As yet we have collected about 2½ thousands which has been spent in the case. We still hope to collect Rs 1500.00 or a little more. Due to rainy season the mining work gets slackened and consequently the workers' wage is lowered. Therefore collections will not be much. Com.

ଉତ୍କଳ ପ୍ରାଦେଶିକ ଚେତ୍ର ସୁନୟନ କଂଗ୍ରେସ

Utkal Provincial Committee

ALL INDIA TRADE UNION CONGRESS

Cuttack-1.

Ref. No.

3

Dated 195 .

Pweneudu Mazumdar ~~is~~ is also helping us the Funds drive. Besides the defence fund drive we have approached the Govt for a special grant for the defence of the accused. The Govt ~~has~~ has not as yet given their final orders but have promised to do so. Therefore we can manage the ^{session trial} case if we can get a little more than Rs 10000. from the AITUC. We are really grateful that you ~~can~~ have been doing your best for us.

It may be necessary for me to be present at Kuvnghan during the ^{Trial} case. I have suffered again from my old disease and I am very weak. I shall not therefore be able to attend the meeting of the working committee and General Council at Delhi. Moreover the grassal State Council meeting of the Party will be held from 12th to 19th to review the election campaign and my presence will be necessary here. Therefore my absence in the working ~~road~~ committee and Council meetings might be understood. ~~These~~ ^{attaching} cons will ^{My} health condition is causing me anxiety. May I request you to send to outside

for a treatment and rest. I have got passports for USSR, Czechoslovakia and Poland. If arrangements can be made I can go out after the Pujas or at least in December.

with Gratings
fraternally yours
D Chakravarty

Com. S. A. Dange

A. I. T. U. C.
I. P. No. 2166. Date. 11.1.61
Dear Comrade,

27/1/61
Kronghar
8/2/61

The Barbil murder case
Sessions's trial has been going on
since 4th. A number of witnesses
have been examined. As yet
the case is going on well and
most of the witnesses have failed
to establish the prosecuted case.
The case as it seems will take a
very long time. Today the trial was
adjourned due to the sudden illness
of one of our comrades inside the jail.

I wrote previously a
letter where in I stated that the total
fees of all of our 4 lawyers come
to Rs 450.00 per day. We have to
spend for their boarding & lodging
besides that. You must have received
the same.

sent by
cheque
on
18.9.61

2
We are trying to collect some more
But due to rains mining jobs
have been stopped temporarily &
hence the collections are very slow
Com. P. Mazumdar is also helping
us in the collections.

Please send me more
money. The ~~lawyer~~ lawyers have to
be paid something.

Please send the draft
in the name of 'D. Co
Mohanly' instead of 'Durga Mohanly'
for ~~the~~ having it conveniently
cashied.

If the case goes on from
day to day and it is not finish
before 31st, I may not be able
to go to attend the General Com
meeting. Other Coms shall attend.

You please send the che
and all letters to my current
address.

Please convey my greetings
to Com. Dange.

With Greetings
Respectfully yours
Durgamohanty

By another no.
I have sent a sum of
Rs 20.00 towards the
affiliation fees of Talcher
Deulbesa Walmine Hazdur
union. Please send an
affiliation certificate
to the following address -
11 Sri Srinivas Misra
Talcher - Deulbesa Coalmine
Mazdur Union
Talcher
PO - Talcher
Dist - Dhenkanal

Post Key
no. may
be sent
by
T. M. S.

अन्तर्देशीय पत्र
INLAND LETTER



Com. K. G. Srivastava
Secretary AITUC
4 Ashoka Road
New Delhi

← तीसरा मोड़ Third fold →

भेजने वाले का नाम और पता :- Sender's name and address :-

D. C. Mohanty
Konjhar



इस पत्र के अन्दर कुछ न रखिये NO ENCLOSURES ALLOWED

पहला मोड़ First fold

दूसरा मोड़ Second fold

Keonjhar Jail
MS. 8. 1967

My Dear Mukherjee,

We have received your letter and were very happy for the same. Our sessions trial has began from yesterday. From our side Com. Ram Ram & a senior advocate from Cuttack Shri Ramchandro Misra are conducting the case. It may continue for a month or so. Com. De Mohanty will arrive here to-day. Meanwhile can you arrange for a visit of Com. S. A. Dange to here. It will help us a lot. Convey our greetings to Com. Dange and other comrades of AITUC

Keonjhar Mines and Forest Workers' Union.

(Registered No. 63)

P. O. BARBIL, DIST. KEONJHAR, ORISSA.

RLY. STN. BARAJAMDA, S. E. RLY.

Keonjhar

In Reply Please Quote.....

4th Sept. 1961

A. I. T. U. C.	
I. R. No. 3129	Date 7 SEP 1961
File No.....	Replied on.....

Dear Comrade,

I have received the cheque of 2000.00
refus sent by you. The total sum received from
is ₹ 3000.00.

The case has been going on. It was adj'd
for a few days towards the end of the last month or
is going on from today. ~~Good~~ The total days were
is 22. But the number of witnesses finished is
still 42 witnesses have been examined. It seems
forced for another 3 weeks at least. It has to pitor
all our calculations. The Govt. Pleader is interested in
increasing the number of days of work and the
going on with lengthy examinations - ~~For~~ yes
we were faced with a very terrible situation. ~~6~~
lawyers insisted that their fees for the last 2
must be cleared & the file and they would force
As you know we don't have the required
They used their lawyers' bribes and I had
give them a cheque of ₹ 7000.00 requesting
cash it after a week - therefore please send
least 5000.00 immediately so that I can
it in the Bank before they go to court. The
the collection here was handicapped due to
employment of workers due to heavy & excessive
and also due to the arrest of Com. P. Mazum
we have collected in the meantime ₹ 500.00
has gone towards the day-to-day expenses. I
to spend a huge sum for certain unfor

purpose for case which I can not state here. The
expenses up to date (during the sessions trial) has
about £ 500.00 - This includes the cheques given to the

As regards the case ~~most~~ ^{all} of conspir-
acies have been finished. The prosecution case has
quashed ~~to~~ completely. Out of the Occurrence with
most important of them have been examined. In
examinations our Advocates have been successful
bringing serious contradictions - It can be
that case against Com. Michael Rose, Com. Pehesa
other important Coms will not stand. From
the rest you Clarence witnesses will be
The prosecution has been bringing one or two
against each you accused. So there are 20 or
witnesses in all. As a when the case is going on
fairly. But as long as the lengthening you
we are just in the complete disadvantage. I am
know when will transfer to the required finance
has completely, which has done and I can
then the will be a very long time to be
good financial dealing and Dept.

I will be writing to you regularly
and all anxious about Com. Michael's health. I
from before that your illness he has been
attending in some details.

I am sorry that I could not attend to
meeting - Michael's health has been a hope he
have reported everything about the case and
affairs of our state.

Please convey my respectful
to Com. Dange. Please immediately send me
or cheque to my current address.
With regards.

Com. K. G. Biriwastara

Yours faithfully
D. Chohanthy

A. I. T. U. C. P. Panfali Sahu

I. R. N. 2839. Date: 5. Aug. 1961

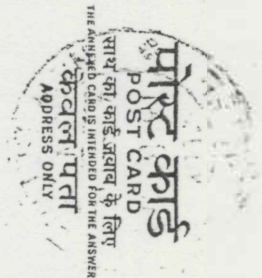
Dear Counsel Applied on 3/5/61
File No. Applied on 3/5/61

You must have received my letter. The Trial of Barbil Coms was adjourned on 10th to 16th instant due to the sudden illness of one of our Coms inside the jail. The ^{case} will begin again on 16th - ~~30th~~ Till 10th. 5 witnesses have been examined & cross examined. One of your Prosecution witnesses was brought to ~~prove~~ a letter written at the instance of your main accused 'Pandu' to another accused from Tata on 25th. But that witness stated in cross examination that 'Pandu' was in Tata Nagar on 25th, i.e. a day before the date of the murder. Similarly other witnesses have forectically failed. But the main witnesses will come from 16th. All Coms inside jail have been very much elated at the news of the help the AITUC is giving. They have asked me to convey to

the Actue and particularly to Comjuge
their gratitude and greetings.
I hope you are sending me some
more money. The lawyers want some.
At least for the days already worked.

I am separately sending
you by m.o. money for 5 copies
of Coimbatore Report and ~~at~~
5 copies of syllabus. Please send
them.

Greetings
Jy
D. Chanchant



Com. K. G. Srinivaswara

Son. A. T. M. E.

A Asoka Road

New Delhi

D. C. MOHANTY
General Secretary

Utkal State Committee
All India Trade Union Congress

A. I. T. U. C.

Bangali Sahi

CUTTACK

I. R. No. Date Dated the 14th Aug 1961
File No. Replied on at - Konjhar

Dear Comrade,

The case is nearing its end. The evidence is closed. As it appears we have been successful in smashing the ~~case~~ charge of murder u/s. 302 against all. The conspiracy charges are practically negatived. Therefore there still remains some charges ~~on~~ u/s 325 & 147 etc. Therefore as a whole the case has progressed well - Now the accused statement and the arguments and the view of the judge of occurrence by the judge will take another week at least. We hope that most of our accused ~~to~~ comrades would be released.

I hope you must have heard from Com. K.G. about my last letter. Till 11th I had not received any further money or cheques from you. I am in a very difficult position. The cheque about given to our lawyer if cashed will take me into a humiliating position. Please note ~~that~~ after the case is over I ~~can~~ will be again pressed for clearing of the lawyer's bills.

I hope you will be sending me the money ~~as so~~ by the end of this week.

~~with~~ ~~Grate~~
I would have requested you to send the lawyer's cheques directly but they do not want to take cheques in their own names. I hope you understand

A. I. T. U. C.

D. C. MOHANTY

General Secretary

Utkal State Committee

All India Trade Union Congress

I. R. No. 3213

Date 20 SEP 1961

Bangali Sahi

CUTTACK

File No. Replied on Dated the 17-9-1961.

Dear Comrade,

The Baulbil firing case ended on Saturday. The judgment will be delivered on 7th October. As it seems there is a fair chance of the release of most your comrades. I will let you know the result after the judgment is out.

You must have received my two letters. I hope you will move on in.

The accused comrades have expressed their admiration & gratitude for the help and fraternal sympathy of the AITUC & Com. Dange.

With greetings
Yours truly
D. Mohanty

27H-A

Sept 18, 1961

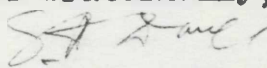
My dear D.C.Mohanty,

I received your letter of 1st September and the next one of 14th September. I do not at all like the practice of issuing cheques and then asking us to send money immediately under the threat of the cheque being dishonoured. Because at this end too, we have to think of many other things. However, I am remitting to you a sum of Rs.4000/- by tomorrow's mail.

As regards what you do with the cheque, it is for you to decide.

The balance of payment which we have promised, i.e., about one or two thousand more, will be sent next month. After that, we will not be able to give you anything more. So you should make your commitments with these facts in mind.

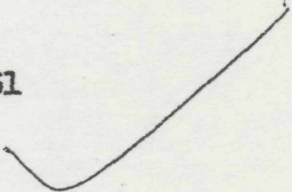
Yours fraternally,


(S.A.Dange)

2711-A

BY REGD POST

Sept 21, 1961



Dear Com.Mohanty,

Further to Com.Dange's letter,
our cheque for Rs.4000/- is sent herewith.

Please send us your official
receipt.

With greetings,

Yours fraternally,

U.S.

(K.G.Sriwastava)

Encl:
Cheque No.674085 dated 21.9.61
on National and Grindlays Bank Ltd., New Delhi
for Rs.4000/-.

3280
26 Oct. 1961
Barbil, 10.1961
Mr. C. M. Mukherjee

I have received your letter after reaching here. We have released from Bail on 12th and thereafter we had been to Cutback. Only day before yesterday we came to Barbil. We all are OK. But due to our long absence from here everything is in a mess. We have to build a new and a fresh govt organisation. In this regard Centre's help and guidance is essential. With regard to wage-scale of Inon workers of this area and the general report of the workers of our union and organisation

position sending. It
will take some time.

What about manganese
workers minimum
wage-scale?

The copy of the
Judgement is with
R.C. Ram. We have told
Com. Dem to send a copy
to AITUC. Com. Dem is
~~with~~ busy with Chairman
Strike and lockout. Convey
our greeting Com. Dange.

With greetings
yours sincerely
H. Behere



Com. S. Mukherjee

~~Secretary~~

All India Trade Union

Congress

4 - Ashok Road

New Delhi

A. I. T. U. C.
I. R. No. 110 Date 10/10/61 C-3
No. Rep.



274 A 300



INDIAN POSTS AND TELEGRAPHS DEPARTMENT

No.

Received here at _____ H. _____ M.

0 PB 13 KEONJHARGARH 9 24 S A DANGE M P GENERAL SECY

AITUC 4 ASHOK ROAD NEWDELHI =

ALL ACQUITTED IN GURDA MURBER CASE STOP ACCEPT OUR DREETINGS

= HARI BANDVHU

Barbil Case

The sequence of entries at the beginning of this telegram is—class of telegram, time handed in, serial number (in the case of foreign telegrams only), office of origin, date, service instructions (if any) and number of words.

This form must accompany any enquiry respecting this telegram.

Very full document

IN THE COURT OF THE SESSIONS JUDGE OF MAYURBHANJ-KEONJHAR
AT KEONJHARGARH.

Present: Shri P.C.De, B.L., Sessions Judge,

The 7th Day of October, 1961

Sessions Trial No.6-K of 1961

State

Vrs.

1. Nirmal Kanti Bose
2. Haribandhu Behera
3. Ratnakar Sahani
4. Mangulu Gowala
5. Pandu Ganpat Ahir
6. Hendu Gagrai
7. Bairagi Chhattar
8. Syli Lagan
9. Sriram Purti (a) Madam
10. Bira Mahanta
11. Sudaram Mahanta
12. Niranjan Mahanta
13. Siba Tanti
14. Manindra Kishore Mitra
15. Albert Jojo
16. T.P.Kamachandra Nair
17. Harisehandra Patel
18. Bikram Munda
19. Paramananda Mahanta
20. Golam Mustafa
21. Ballav Charan Rout
22. Sachindra Kumar Sen
23. Debram Chatter

... .. Accused Persons .

For Prosecution : Shri S. Misra, Advocate, Cuttack,
Special Public Prosecutor

&
Shri S.K.Mahapatra, Advocate, Keonjhar.

For Accused : Shri R.C. Misra, Advocate Cuttack,
Shri R. Ram, Advocate, Cuttack &
Shri A.P. Das, Advocate, Econjhar.

J U D G E M E N T.

In this sensational murder case from the Gurda^u mining area, 23 accused persons stood trial in my Court under different sections. The occurrence took place at about mid-day in the weekly hat at Bameibari

on 26.9.1960. This hat sits on Mondays. In the occurrence several people were injured and one person, Md. Idris, was killed. Accused Mangulu Gowala and Pandu Ganpat Ahir stood charged under section 302 I.P.C. as according to the prosecution, they committed the murder of Md. Idris. All the other accused persons stood charged under section 302/34, 302/149 and 302/114 I.P.C. for the offence of having been members of an unlawful assembly in furtherance of the common intention of all committed murder of Md. Idris or abetted the said murder. All the 23 accused persons also stood charged under section 147 I.P.C. for having used violence in prosecution of the common object being members of an unlawful assembly. 18 accused persons stood charged under section 120B I.P.C. read with section 302 I.P.C. for being party to a criminal conspiracy to commit the murder of Md. Idris, Had, Samser Khan and Narahari Patnaik, in pursuance of which conspiracy the above murder of Md. Idris was committed in the weekly hat. The accused persons were differently charged under sections 323 and 325 I.P.C. for the offences of committing simple hurt and grievous hurt at the time of occurrence to other persons.

The accused persons are all members of Keonjhar Mining and Forest Workers' Union, locally known as Lal Jhanda Union as the flag of the Union is of red colour. This Union operates in all the mining areas in Keonjhar District. Its head office is at Barbil and it has got its branch office at Guruda. Accused Nirmalkanti Bose and Harbandhu Behera are the ~~lax~~ leaders and main office bears of this Union. They stay at Barbil, the head office of the Union. The other accused persons belong to Guruda and are --

members of the said Union. The branch office of the Union at Guruda is located in the house of accused H.C. Patel and accused T.P.R.Nayar is the Secretary of that branch office at Guruda. Some of the other accused persons are the leading members of the Union at Guruda.

At Guruda is located the office of the two important and connected mining concerns of Keonjhar district. They are Serajuddin & Co. and Md. Serajuddin. Serajuddin & Co. has for its partners Md. Serajuddin and his relations including his brothers and nephews. Md. Serajuddin mining concern belong exclusively to Md. Serajuddin. Thus, Md. Serajuddin is, for all purposes, the proprietor of the two mining concerns. Under these two mining concerns, some contractors work whose business is to remove the ores from the mining sites and take them to rail head at Banaspani for loading purposes. Mineral Metropolis Ltd. and Singhbhum Mining Development Company are two such firms having their offices at Guruda. The proprietor of Mineral Metropolis Ltd. is Habibur Rahman, a nephew of Md. Serajuddin and the proprietor of the other one is also a relation of the said mine-owner. In the district of Keonjhar, specially in Champua sub-division, there are many mines owned and worked by different Companies. As already stated, the Lal Jhanda Union, of which the accused persons are members, is operating in all these mining areas and except at Guruda and Barbil which is the head office of Bird & Co., one of the mine-owners, this union has no rival in the other mining areas. We are not concerned with the Barbil mining areas in this case. We are concerned only with the Guruda mining area. At Guruda there is another labour Union known as Orissa Mining Workers' Union. This Union uses a Tricoloured flag and it is locally known as Tiranga

Jhanda Union, in short Tirangi Union. Both the Unions, the Lal Jhanda Union and the Tirangi Union, are registered Unions. It is the admitted prosecution case that the Tirangi Union has got the backing of the Serajuddin & Co. According to the prosecution, this Company has recognised the Tiranga Union and had not recognised the Lal Jhanda Union. The prosecution has failed to prove satisfactorily as to which of the two Unions came to operate at Guruda first. It has led some oral evidence that the Tricolour Union was first in the field at Guruda while there is also evidence before me that the Lal Jhanda Union was there much before the starting of the Tricolour Union at Guruda. There is no dispute that the Lal Jhanda Union has been formed much earlier to the Tricolour Union though the prosecution would say that its field of operation at Guruda was later than the formation of the Tricolour Union there. It is unfortunate, the prosecution did not produce before the court the relevant documents of the two Unions to show which of the Unions was in the field at Guruda earlier. Be that as it may, there is no dispute to the prosecution case that there was strong rivalry between the two Unions at Guruda and the members of the the Lal Jhanda Union were feeling aggrieved because of the sympathetic attitude of the concerned mine-owners towards their rival Union. They also believed that Tiranga Union was formed by the mine-owners to suppress them and their activities. There is further no dispute that in the beginning of 1960 at the instance of the concerned mine-owners one S.I. of police with an Armed Force was posted at Guruda and Serajuddin & Co. was bearing the costs of this Police Force which was kept there by the State to prevent

labour troubles at the request of the Company.

The prosecution story consists of two parts. The first part is with regard to a conspiracy to take away the lives of four persons, Md. Idris, Hadi, Samser and Narahari Patnaik, as the accused persons believed that these four were the Dalals of the Company and were trying to suppress the activities of the Lal Jhanda Union. According to the prosecution, all the accused persons and other members of their Union resolved in the night of 23.9.60 at Guruda in the house of accused Patel to take away the lives of those four persons at the Bameibari hat on 26.9.60. They also conspired to the same effect in the hat on the 26th and immediately they indulged in murderous assaults causing the death of Md. Idris and injuring the other three persons along with some of their companions.

The second part of the case relates to the actual commission of the offences of murder and assaults.

In my judgement I will first deal with the conspiracy case and then come to the actual occurrence.

This case was conducted by Shri S. Misra, Advocate, Cuttack, who was appointed Special Public prosecutor for this particular case. He was assisted by Shri S.K. Mahapatra, Advocate of the local Bar, a retained lawyer of Serajuddin & Co. Shri Mahapatra filed power on behalf of Md. Yasin P.W.13, one of the injured and an eye-witness to the occurrence. At the earlier stage of this case when bail was moved before me on behalf of the accused persons at Baripada Shri H. Kanango, a senior Advocate of Cuttack Bar, opposed the bail petition before me and he appeared on behalf of the Company though he had filed power

on behalf of Md. Yasin P.W.13. During the long trial and from the inception of the case till the conclusion, it was apparent that Serajuddin & Co. was taking a very keen interest in the prosecution. The attitude of the Company is understandable as the deceased was serving under it and he was a leading member of the Union which was getting full support of the Company.

Accused N.K. Bose and H. Behera were defended by Shri R.Ram, Advocate, Cuttack and accused Mangulu Gowala and Pandu Ganpat Ahir by Shri A.P. Das of Keonjhar Bar who was appointed as defence Advocate in this case to defend those two accused persons directly charged under section 302 I.P.C. The other accused persons were defended by Shri R.C. Misra, a senior Advocate of Cuttack Bar. It was Shri R.C. Misra who conducted the defence being assisted by the other two Advocates.

All the accused pleaded not guilty to the charges framed against them. They denied the case of conspiracy. Accused Nirmalkanti Bose and H. Behera, the two main leaders of the Lal Jhanda Union who appeared to be the main targets of the prosecution, took the plea that they had not come to the hat on the day of occurrence and they knew nothing about the occurrence. They denied any conspiracy to murder.

The two accused Mangulu and Pandu Ganpat who have been charged under section 302 I.P.C. also took the plea that they had not come to the heat on the day of occurrence.

As regards the other accused persons, some stated to have come to the hat on the day of occurrence and some denied to have come. Of those who stated to have come to the heat, some stated that they had left the hat before the occurrence took place and so they

had no knowledge about the occurrence. Others who stated to have been present at the time of occurrence gave out the cause of the trouble as follows : On 25.9.60, the day prior to the occurrence, Md. Hadi and the other members of the Tiranga Union had forcibly kidnapped Madan Tiria, a male labourer and a member of Lal Jhanda Union and in the hat, Jambi alias Dasma, the maternal aunt of the alleged kidnapped man challenged Hadi and his companions and asked them to release the said kidnapped man. At this Hadi and his companions got engaged and forcibly lifted the woman into their truck. There was great resentment at this in the hat and the people who were present there challenged Hadi and his companions as a result of which there was a rioting. There were assaults on both sides. Those accused who speak about this also state that they did take no part in the assault and they simply witnessed the occurrence from a distance. Of course, of the accused, Sudarsan Mahanta had stated that he was one of the public in the hat who protested to the molestation of the maternal aunt of Madan Tiria and being assaulted by Hadi and his companions he fled away from the place.

Prosecution examined 49 witnesses and exhibited a large number of documents. Ex.76 is the last number of Exhibit. On the side of defence no witness was examined and a few documents were exhibited. Ex.F is the last Exhibit. Most of the documents exhibited in this case are unnecessary and practically have no bearing in this case.

Let me first take up the prosecution case with regard to conspiracy. The prosecution has put in Exs.36, 38, 39, 41, 42, 43, 46, 49 and 71. These contain some of the reports made to the police on

which S.D. entries were made. In these reports complaints were made about the highhanded action of the Lal Jhanda Union. It is unnecessary for me to refer to these reports in detail as those do not prove anything about the prosecution case of conspiracy to kill Md. Idris, Samser, Hadi and Patnaik, whom the Lal Jhanda people termed as Dalals of the Company. These reports simply prove that there was keen rivalry between the two Unions and the Company was complaining against some of the members of the Lal Jhanda Union for their unseemly conduct and highhanded action. Some of the reports have been made by Shri B.C. Ghosh, the Mines Manager of Serajuddin & Co. Of course he is now dead. No office bearer of the Tiranga Union has been examined in this case. As already stated no records of that Union or of the Lal Jhanda Union have been produced before me. As such though the prosecution could have satisfactorily proved with the help of those reliable documents as to which of the two Unions operated at Guruda earlier and what was their respective strength near about the time of occurrence, it has failed to do so.

While dealing with the case of conspiracy, I would like to deal with an incident which took place between the two Unions in the evening of 22nd -- September 1960 and continued till the next day noon. Evidence in detail has been led by the prosecution on this point, though in my view, this incident goes in favour of the Lal Jhanda Union and against the Tirangi Union. The witnesses who have deposed about this incident are P.w.s.6, 11, 13 and 16. From their evidence we get it that a meeting of the Lal Jhanda

Union took place in the Volley ground at Guruda near Pit No.3 in the afternoon of 22nd September 1960. In that meeting stones were pelted and a female labourer who attended the meeting was hit. After the meeting was over, the Lal Jhanda people were coming back to go to their huttings. Their number would be 400 to 500 and all of them were armed either with bows and arrows or lathis. They had a jeep with them. While they were proceeding on the road, the members of the Tirangi Union, about 20 to 30 in number, came on the road from behind in a truck. They had gone to Siljoda to address a meeting. While they were returning they met the Lal Jhanda people on the road. These Tiranga people, 20 or 30 in number, were all unarmed. On either side of the road was jungle. Stones were lying here and there on the road. Though the Tirangi people were 20 to 30 in number and were unarmed while their opponents were 400 to 500 in number and all armed, yet they created disturbance and they stopped the Lal Jhanda people and claimed their jeep. At that place was a Police S.I. with 2 or 3 constables. It was a pitch dark night. There was great hullah and commotion, yet the Lal Jhanda people did not resort to any unlawful means. They were silently and peacefully standing at the spot being obstructed by the handful of Tirangi people. They stood at the spot the entire night and the next morning till noon. If the Lal Jhanda people had been aggressive they could have easily finished the handful of Tirangi people who were all unarmed and would have escaped under the cover of darkness in that lonely spot. This incident, to my mind, goes to the credit of the Lal Jhanda people and definitely showsthat at least till noon of 23rd September therehad been no conspiracy

to assault, far less to kill any member of the Tiranga Union. In this connection I would like to refer to the evidence of P.Ws.9 and 11. P.W.9 is a barber who has got an electrified rent-free room from Serajuddin & Co. He gets monthly Rs.10/- from the Company and also is entitled to the annual bonus that the Company gives to its employees. He says that in the morning of 23rd September when he was engaged in shaving the baby of accused Patel in his house, he found accused Bose, Behera, Patel, Pandu Ganpat and two female labourers talking among themselves. At that place Bose asked Pandu Kol to go with bow and arrows to the place where their jeep had been detained the previous night. Pandu Kol went and came back. He told the gathering that the D.S.P. had already come to the spot. Accused Bose then gave out "We will see to that in the hat". This Pandu Kol is P.W.11. He says that when P.W.9 was shaving the baby of accused Patel, accused Bose asked this witness to go to the place where the jeep had been detained and ask the Lal Jhanda people to come to the place with bows and arrows so that seeing the weapons the Tirangi people would release the jeep. He went but came back within a few minutes as he found the D.S.P. at the spot. When accused Bose was informed of the presence of the D.S.P. at the spot, he stated "it would be seen on the hat day". This Pandu Kol was working under Hossain Sahab, a contractor of Serajuddin & Co. This Hussain Sahab is a relation

P.Ws. have stated that the Lal Jhanda people in the evening of 22nd were present on the road with bows, arrows and Lathis, there was no necessity for accused Bose to send Pandu Kol in the morning of 23rd to the Lal Jhanda people at the spot to advise them to come with bows and arrows. Had it been the case that the Lal Jhanda people who were detailed on the road were unarmed, there could have been some sense in such advice. But when all the Lal Jhanda people were armed and they had put up no resistance in the dark night at the lonely spot even when they were superior in number and strength, it does not stand to reason that accused Bose who is an educated young man would send P.W.11 to his people who were detained on the road with the advice that they should go back and bring bows, arrows and lathis. Further even if the two witnesses P.Ws.9 and 11 are believed to the effect accused Bose gave out at the time that "it would be seen on the hat day", that does not prove any conspiracy. The incident in the night of 22nd which continued till noon of 23rd, definitely, in my view, goes to show that the Tirangi people were highly aggressive and were not in a mood to maintain peace and cordiality with their rival Union. Though -- numerically they were weak, they had the influential backing of the Company and as I would also show later on, of the Police, too. The Police, as already stated, had been stationed at Barbil at the instance of the Company which was bearing the extra costs. In this connection I may refer to an observation made by the learned lower court in paragraph 2 at page 5 of his commitment order :

" There were and have been acute dissensions and rivalries between these two Unions viz.,

Tricolour Union and Red Flag Union. The deceased Mohd. Idris, some time prior to September, 1960 came from Calcutta to reorganise and revitalise this Tricolour Union."

I may mention here that the special Public Prosecutor who conducted the prosecution in my court also appeared in the lower court. This Md. Idris, as is the admitted prosecution evidence, was serving at Calcutta office of Serajuddin & Co. and he came to Guruda only a month or two before the occurrence. The exact time when he came to Guruda and in what post he was working at Guruda have not been shown to the court by the -- prosecution, though this could have been done with reference to the records of the Company. However, bringing of Md. Idris to Guruda is definitely a sympathetic act of the Company towards the Tirangi Union. The witnesses that the prosecution has examined, one and all, are some way or other related to Serajuddin & Co. By Serajuddin & Co., I include the proprietors of the different Companies and firms working at Guruda. It is clear that the interest of the company was that there should be such a Union at Guruda which would best serve their interest. The company did not relish the presence of the Lal Jhanda Union which definitely was not to their liking. It was represented to me that the Special Force had been stationed only at Guruda and Barbil and the costs were borne by Serajuddin & Co. and Bird & Co. In these two Companies, as already stated, there have been two rival Unions, the Lal Jhanda Union and the other Union sponsored and actively supported by the Company. In the other mining areas under different Companies there has been no rival Union

and there has been no necessity of posting Special Police Force.

Now I come to the evidence led by the -- prosecution about the actual conspiracy. The first conspiracy took place in the night of 23rd September in the house of accused Patel. The two witnesses about this conspiracy are P.Ws.3 and 6. P.W.3 is a Mining Supervisor under Serajuddin & Co. About the conspiracy he states in chief as follows:-

"There was a meeting of our Union in the night of 23.9.60 in the house of accused Patel. That meeting was attended to by almost all the leaders and workers including myself. (The witness also mentions the names of most of the accused persons as being present in that meeting). In the meeting there was a discussion about the earlier -- happenings. In the meeting there was unanimous opinion that our Union was losing ground since Md. Idris (the deceased) came to Guruda and joined the first Union. To maintain the strength of our Union accused Bose and accused Behera resolved that Md. Idris and other leaders of the Union including Patnaik should be done away with in the Bameibari hat. After those two accused gave out this, accused Mitra and accused Pandu stood up and took the vow that they would do away with the lives of those persons. Thereafter all others present there excepting myself and Dama Somaya took the same vow. After this vow was taken, accused Bose and Behera gave out that all the workers of the Union should be informed to attend Bameibari hat with lathis and daggers."

In cross examination he stated as thus :-

"I attended the meeting in the evening of the

23rd at the invitation of accused Patel.

In the meeting that evening I could know that in the previous night the members of the first Union had surrounded our jeep. I was in that meeting for about one and half hours. I did not hear anything more about the happenings in the previous evening.

x x x Bose and
Behera addressed the meeting one after the other in the evening of 23rd. Oath to kill Idris and other members was taken after this.

x x x x
The oath taken in the meeting was that Md. Idris, Patnaik and other Dalals should be finished in the Bameibari hat. This oath was first taken by accused Bose, then by accused Behera, thereafter by Mitra and Pandu. After those four had taken the oath, all the rest in a body took that oath. The oath was taken in the name of Lal Jhanda. Nobody took exception to my not taking the oath. I did not like the oath. I did not raise my voice of objection there. "

He further said as follows:-

" I did not tell anybody else about the oath or anything else that happened in the meeting. It was to the Police that I disclosed for the first time what had happened in the meeting. "

The witness admits that he is liked by his masters. He is liked by Mr. Serajuddin, the Proprietor, Mr. Ansari, the Manager, Mr. Gupta, Officer in charge of the Guruda Mines and Sri Dam Patnaik, Surveyor and his immediate superior. He states that he did not take the oath

because he felt that to kill a man was a wrong thing and further he had the fear of being persecuted and prosecuted. He had also the fear of being put to trouble if any offence was committed. He states that 8 members depend on him and he knows that if he loses his service he will be put to much difficulty. Out of fear he did not inform his masters about the oath. His fear was that if the Lal Jhanda members could know that he had divulged their secret, they would do him harm. He states that he was never a member of Viranga Union though that Union was formed at Guruda long before Lal Jhanda Union came to the field. As regards why it was resolved that the killing would take place in the hat, the witness states as follows :-

" It was stated in the meeting that the leaders of the first Union were often going to the hat and so they should be finished there. Nobody suggested that the killing should not take place in an open hat. "

The other witness is Dama Somaya P.W.6. About the conspiracy in the night of 23rd September he states as follows:-

" In the night of the following Friday at about 10 P.M. there was a meeting of our party in the house of accused Patel. Accused Bose, Behera, Chhatar, Ballav, Mitra, Nayar, Pandu, Mangulu and others whose names I do not know were there. I and witness Majumdar (P.W.3) were also there. In the meeting the incident of the previous evening was discussed. Accused Bose gave out that Idris was trying to break our Union since the time he came from Calcutta. He sought for our advice as to how to meet this situation. Thereafter he suggested that all of us should take a vow in

the name of Lal Jhanda that we should clear the Dalals of the other Union from the path. The members took the vow. First accused Nirmal, Behera, Mitra and Pandu took the vow. Then others stood up and took the vow. While taking the vow they raised their hands with closed fists and stated " We are taking the vow in the name of Lal Jhanda that we shall remove from the path the Dalals of Tiranga Jhanda Union." I didnot take the vow. After this vow, accused Bose gave out that the labourers in the huttings should be asked to go to the hat on the following Monday with lathis and other weapons. On the following Monday the morning accused Pandu and Mangulu come to our huttings at Guruda. They called the labourers and told them ' all of you come to the hat with sticks and other weapons. What decision will be taken in the hat that will be given effect to there'".

In cross-examination he stated that excepting P.W.3 none knew that this witness had not taken the vow. He did not approve of the proposal and so he did not take the vow. He did not raise his voice of protect in the meeting. He had no intention to proceed against the members of the Tiranga Union. Till he was examined by the Police he had not disclosed to anybody about this meeting and the vow. He did not raise any objection when accused Mangulu and Pandu came to the huttings the next day and asked the labourers to go to the hat being weel prepared. He did not also tell the labourers not to go to the hat as Golmal was expected. In cross-examination though he tried to deny, yet he was forced to admit that he was serving under Serajuddin & Co. He further admitted that he was working in the Company

under a false name. He gave out his name to be Raghunath Munda though his real name was Dasa Sonaya. He, of course, denied the defence suggestion that he is still working as the office Peon of the Tiranga Union.

Definitely these two witnesses P.Ws. 5 and 6 are not witnesses of any status and credibility. They are men of the Company and there can be no difficulty to get witnesses like them. If there was such a conspiracy and such a vow, there was no reason why none of these witnesses would have given warning to concerned persons. There was no reason why they would have been silent all these days and would have given their statement to the Police after the occurrence had taken place. If there was a meeting in the house of accused Patel in the night of 23rd in which a large number of persons was present, and if all of them excepting these two witnesses took the vow, definitely those people would have taken strong exception to these two witnesses not taking the vow. If the evidence of these two witnesses that they were active members of the Lal Jhanda Union is to be believed, they are to be treated as accomplices and their evidence should be viewed with great caution. Further these two witnesses do not give out exactly what the vow was. They simply state that vow was taken to the effect that Md. Idris and other Dalals of the Tiranga Union should be finished in the hat. Who are the other Dalals whose lives were being contemplated to be taken are not specifically mentioned. On which hat day the killing is to take place is not specifically given. It is also not explained why it was resolved that the murderous assaults should take place in an open hat in broad day light.

Next I may refer to the evidence of P.W.5, a young girl aged about 16. She stated that a day previous to the occurrence accused Mitra took some female labourers to the house of accused Chhatar where there were some male labourers and accused Nayar. There accused Mitra gave out that there would be golmal on the following day at the hat and warned the male labourers to go prepared for it. He also cautioned the female labourers. This witness admits that she was the youngest of the labourers present at the alleged meeting. She cannot name any of the male labourers. She admits that at the time of occurrence her father was working in the mines of Serajuddin Company. Neither she nor anybody else asked accused Mitra what golmal was expected in the hat. She could not form any idea from the warning of accused Mitra as to what kind of trouble was expected in the hat. The evidence of this witness does not prove any conspiracy. Rather it goes to show that there had been no such conspiracy to take the lives of Idris, Samser, Patnaik and Hadi. If the conspiracy had already taken place in the night of 23rd -- definitely accused Mitra would have disclosed the conspiracy to this gathering on the 25th. So the evidence of this witness even if believed rather goes against the conspiracy case of the prosecution.

P.w.42 K.C.Sing is another witness with regard to the conspiracy. He states that in the night of 23.9.60 at about 8 P.M. accused Mitra and Chhatar were instigating the labourers at B.M.Pit hutting to murder him and other Dalals of the Company. He submitted a report, Ex.45-A, to Guruda Police on 24.9.60. In that report written in English and signed by this witness and two others, M.C. Das and

Mobarak Ali, it has been mentioned that the two accused Mitra and Chhatar in the night of 23.9.60 went from door to door in the hutting area instigating the labourers to kill the Dalals staying in the hutting either while they were sleeping or at any convenient place with bows and arrows or spears. This witness had been also injured in the occurrence. He had gone to the hat in the same vehicle with Md. Idris deceased, Hadi, Madhab Das, Mobarak Ali and others. In cross-examination this witness says that the Lal Jhanda people were called Madhab Das, Mobarak, Krupasindhu, Jagabandhu and himself as Dalals as they were not joining their Union. If this witness and his report Ex.45(a) are to be believed, then the conspiracy case of the prosecution to kill Idris, Samser, Hadi and Patnaik gets much weakened. According to the -- prosecution the Lal Jhanda people wanted to murder those four persons as according to them they were the Dalals of the Company and they were standing in the way of their progress. P.W.42 mentions other persons being termed as Dalals. He does not mention the names of Idris, Samser, Patnaik and Hadi being the target of Lal Jhanda Union. Further if accused Mitra and Chhatar were instigating the labourers in the hutting in the night of 23.9.60 going from door to door to kill this witness and others, the presence of these two accused persons in the alleged meeting that very night in the house of accused Patel is difficult to be believed. This witness P.W.42 is also a servant of the Serajuddin & Co.

Considering the circumstances and the nature of oral evidence adduced by the prosecution, I have no hesitation to find that the case of conspiracy in the night of 23rd as alleged by the prosecution is

false. In my view, this case of conspiracy has been connected only to give more emphasis to the occurrence.

Next I have to come to the second part of the conspiracy which took place in the hat on the 26th just before the occurrence. Immediately after the conspiracy the occurrence took place. The witnesses who speak about this conspiracy also speak about the occurrence. As such this conspiracy and the occurrence are inter-related and so I will discuss them together. Here I may mention that the investigation and supervision of this case have not been clean and there has been much scope for criticism of the conduct of the Police in this case. Even the Medical Officer of Barbil who examined the injured persons at Guruda hospital in the evening of the 27th has not been free from blame. Not only the witnesses in this case are men of the Companies either serving under the Company or having some connection of other with the Company or its proprietors, the Police and the Medical Officer also seem to have been much influenced by the Company. At least their conduct shows that, I will refer to the defects in the investigation and supervision and also in the reports of the Medical Officer P.W.8 who examined the injured persons hereafter at proper places. I have made the above observation in the beginning to show that there was sufficient time and scope for connecting a false case to rope in the leaders of Lal Jhanda Union and as many of their members as possible, only because an incident had taken place.

That an occurrence took place in the hat is not denied. That Md. Idris lost his life on account of violence is also not denied. In the same manner, it is also not denied that the injured P.Ws. got their

injuries in that occurrence. The defence strongly suggested that the occurrence took place not as a result of any conspiracy but on account of the aggressive and highhanded action of the injured persons including the deceased who belonged to Tirangl Union. They man-handled a female labourer and wanted to take her away in a truck from the hat. Their action was challenged by the people present at the place. The injured persons including the deceased began the assaults on the challenging persons with Lathis. The deceased Idris was using a Bahungi in the assault. The large number of persons gathered retaliated by throwing stones and some using lathis. Some of the accused persons denied their presence in the hat on the day and some stated that they had seen the occurrence but they did not take any part in it.

On the other hand, the prosecution story in short on this point is this : As previously arranged the members of the Lal Jhanda Union from Guruda came in batches to the hat all armed with lathis. Accused Bose and Behera, the two leaders, came in a jeep from Barbil. They kept their jeep near the hat. They met their people in the hat and all of them went and gathered ^{near} ~~near~~ the nullah to the east of the hat. The strength of the gathering was more than 150. There accused Bose, Behera, Mitra and Sahani instigated the labourers to take away the lives of Hadi, Samser, Patnaik and Idris who had come to the hat that day. The gathering took the vow in the name of Lal Jhanda at the place that they would kill those four persons in the hat that day. Thereafter accused Nayar blew a whistle. All the persons present there began to run towards the rice market to the west. Immediately

beyond the rice market to the west is an open space in between the shops of Chandi and Taher. In that open space were parked a station wagon and a half-ton truck. Hadi was then standing at that place. All the people who ran from the nullah side including the accused persons reached the rice market quite close to the open space where the two vehicles were parked. Accused Mangulu went over the bonnet of the half-ton truck and shouted in his dialect "Ila Hiju Pe" meaning "Come this side". Thereafter those present in the rice market began to throw stones towards the open space and they also began to use lathis. Then one after another the assaults took place. First Hadi was assaulted and thereafter other injured persons came to the place one after another. They were assaulted as and when they were coming. They were also being chased to some distance and after a good thrashing they were being left out. All the while stones were being pelted and lathis were being used. There was great hullah in the hat. The hat was getting empty because of the disturbance. That day the hat was over-crowded as it was the last hat day before the Puja festival. About 4000 to 5000 people had come to the hat that day. People became panicky and ran here and there. Last of all came Idris. He was waving his two hands requesting the people not to indulge in marpit. When he came stones were thrown at him and he was assaulted by Pandu, Mangulu and Bikram with lathis. He came from the rice market side. Being assaulted he turned his back and ran towards the rice market. He was chased by Pandu and Mangulu. The rice market is north-south long and consists of two rows. In the two rows heaps of big stones are kept

ever which the dealers keep their baskets. Idris had just crossed the two rows when he fell down with his face upwards. When he fell down he folded his hands and moving his hands this way and that way imploried the people not to kill him. Mangulu and Pandu came there. Mangulu raised a big stone from the place and threw it on the face of Idris. Pandu then raised a bigger stone and threw it on his face. Both Mangulu and Pandu gave out that Idris was dead. All the persons present there including the accused persons fled away from the place. Many of the injured had in the mean time ran away from the place and gone back to Guruda. Some who were present came to Idris. At that time P.W.47 Sri B.K.Raut, Officer-in-charge of Chamakpur P.S. came to the spot. At the spot he drew up the F.I.R. Ex.47 on the report of P.W.15 Md. Yasin. He then came to Guruda with Md. Idris and other injured who were still present at the spot. Md. Idris expired on the way. Thereafter the -- investigation proceeded and I will come to the investigation part afterwards.

I have given above the gist of the prosecution story about the conspiracy and occurrence as appearing from the evidence of the witnesses. So, I have to see if the prosecution story is believable or the defence version that the occurrence took place not as a result of conspiracy but on account of the high-handed aggressive action of the injured and the deceased in the hat. However, I would like to mention here that the prosecution through its material witnesses during trial had strenuously attempted to show that Md. Idris was killed by Mangulu and Pandu Ganpat who threw two big stones marked M.Os.III and IV

on his face when he had fallen on the ground with his face upwards and was imploring them with folded hands to save his life. The two stones M.Os.III and IV had been weighed by the I.O. P.W.48 who held the major portion of the investigation and he found the smaller stone thrown by Mangulu on the face of Idris to be 8 seers and the bigger stone thrown by accused Pandu on the face of Idris to be $20\frac{1}{2}$ seers. In fact M.Os.III and IV are two fairly big and heavy stones. In this case there has been a separate charge only against accused Mangulu and Pandu under section 302 I.P.C. The witnesses have one after another -- dramatically deposed about the manner how Idris was finally disposed of. In a parrot-like manner they deposed how Idris came to the scene last of all waving his two hands, then how he was chased and how he fell down with face upwards in the rice market and how lastly the two big stones were hurled on his face, one after another, by Mangulu and Pandu when he with folded hands was imploring these two to save his life.

P.W.30 is the Medical Officer of Champua who held the post-mortem examination on 27.9.60. Ex.53 is his post-mortem report. He found the following external injuries :-

1. A lacerated wound $3\frac{1}{2}$ " x $\frac{3}{4}$ " x $\frac{3}{4}$ " on the right side of the head 1" above and behind the right ear.
2. A lacerated wound $1\frac{1}{4}$ " x $\frac{1}{2}$ " x 1" above injury No.1.
3. A bruise on the bridge of the nose laceration above it.

4. A lacerated wound $1\frac{3}{4}$ " X $\frac{1}{2}$ " on the right side of the lower jaw.

5. A lacerated wound $\frac{1}{2}$ " X $\frac{1}{4}$ " on the right cheek.

6. A lacerated wound $1\frac{1}{2}$ " X $\frac{1}{2}$ " on the right side of the upper lip.

7. A lacerated wound $\frac{3}{4}$ " X $\frac{1}{4}$ " on the left side of the upper lip.

8. A lacerated wound 1" X $\frac{1}{2}$ " on the ~~left~~ middle ~~side~~ of the upper lip.

9. A lacerated wound 1" X $\frac{3}{4}$ " on the left side of the chin.

10. A lacerated wound $2\frac{1}{2}$ " X $\frac{3}{4}$ " X $\frac{1}{2}$ " on the right side of the forehead.

11. A lacerated wound $\frac{1}{2}$ " X $\frac{1}{2}$ " on the base of right finger.

12. Abrasions 2" below the right knee.

13. Abrasions on the right side of the chest.

14. Patches of ecchymosis on both the cheeks below the eyes and the nose.

He has stated that Md. Idris, the deceased, a healthy young man aged about 27 met his death as a result of the injuries. What is very important in this connection is that the Medical Officer did not find any serious injury in the face of the deceased. Definitely the evidence of the material P.Ws. shows that the two big stones M.Os.III and IV were thrown on the face of the deceased with force. According to the same repeated evidence of the witnesses, when Idris had fallen down with his face upwards, Manguly and Pandu went to him, they raised the two big stones M.Os.III and IV and standing over him, one after

another, threw the stones on his face. The ~~present~~ prosecution case is that there was a conspiracy to murder him. The prosecution had led evidence to show that with that end in view the occurrence started. In such a circumstance definitely the two stones would have been hurled on the face with force. The stones were hurled not from a distance but by the two accused standing close to Idris who had fallen on the ground with his face upwards. There is absolutely nothing in the evidence of the witnesses to show that the stones missed the aim. In fact, if the evidence is believed there can be no question of missing the aim. These two accused, Mangulu and Ganpat, were represented by the State Defence Lawyer. It was not necessary to get the opinion of an expert on the point if there would be serious injuries to the face if the two stones M.Os.III and IV are hurled on the face by the assailants who would be standing over the injured lying on the ground with his face upwards. Any man with common sense would find that there would have been severe fractures and the bones of the face would have been smashed to pieces. The Medical Officer P.W.30 also stated in court that if the stones were thrown on the face he would have expected much graver injuries and many more serious fractures in the face. The I.O. had sent Ex.54 containing some queries to this Medical Officer on 7.11.60. The two stones M.Os.III and IV had been sent to the Medical Officer at that time. In his reply Ex.54(a) he had, of course, stated that the injuries to the face could be caused by the two stones. The opinion of the Medical Officer at that time was not taken as to whether there would have been graver injuries on the face if the two

stones had been hurled by the assailants standing over the injured person lying on the ground with his face upwards.

Another important thing to be seen in this connection is this. According to the evidence of the P.Ws., while running away Idris had crossed the first row of the rice market and he fell with his face upwards in the rice market. His head was on the ground and his body was in the rice market between the two rows. The admitted case is that in the two rows heaps of stones had been stored. If Idris had fallen as has been stated by the material P.Ws., definitely the back portion of the body of Idris would have got injuries on account of the fall on the stones. P.W. 30 did not find any injury on the back portion of the dead body. That is definitely a strong circumstances to show that the death of Idris did not take place as has been the evidence of the P.Ws.

Having come so far I would like to refer to the investigation made by the two Police Officers P.W.47, the S.I. of Police and P.W.48, the Inspector of Police to dispose of this point here. P.W.47, the S.I. of Police, reached the spot within a few minutes of the occurrence. P.W.13 met him there and showed him his injuries. P.W.13 further showed him the two stones M.Os. III and IV with which, according to P.W.13, Idris who was then lying in a truck had been assaulted. P.W.47 states in court that the two stones were lying at a place where a big patch of blood had fallen on the ground. He drew up the F.I.R. Ex.47 at the spot at that time on the report of P.W.13. Then he went to Guruda with P.W.13, the

deceased and other persons. He reached Guruda hospital at 2 P.M. At 4.10 P.M. he again came to the hat. At the spot he then seized the stones M.Os.III and IV, lathis, blood-stained earth and a pair of shoes lying there. He prepared the seizure list, Ex.51 at the time. In cross examination he has stated as follows:

"I effected the seizures in the hat at 6.30 P.M. between 4.10 P.M. when I reached the hat and 6.30 P.M. when I effected the seizures, I was in the hat. I did not go to the Out Post. (It may be mentioned here that Bameibari Out Post is less than a furlong from the hat). I did not examine any witness. I was moving about the hat and visiting the spots during those two hours. I have stated in the case diary that I visited the spots in presence of Md. Taher (P.W.29), Md. Sarif and others. I have not mentioned in my diary the names of persons present as witnesses though I have mentioned in my diary the names of persons present as witnesses though I have mentioned the names of Md. Taher and Md. Sarif whom I took to be witnesses. I knew that Md. Sarif and Md. Taher were witnesses to the occurrence. I did not examine them as the situation was very tense, I was alone, I had also got information that the hospital and Guruda Camp would be raided and so, I could not examine the witnesses and directed them to come to Guruda."

Thus, this S.I. who came to the place of occurrence immediately after the occurrence had taken

place did nothing but draw up the F.I.R. and went away to Guruda hospital with Md. Idris who was then almost dying. He came back to the place of occurrence that very day at 4.10 P.M. and he was there in the hat till 6.30 P.M. During these two hours admittedly he mixed with those persons whom he knew to be eye-witnesses and went round the hat which is a very small area. Yet during those two hours he simply effected the seizures and prepared the seizure list Ex.51. He did nothing more. He did not examine the witnesses in the hat though he knew them to be eye-witnesses. He did not even go to the Out Post which was only a furlong from the hat during those two long hours to know if the Out Post people had known anything about the occurrence and if any entry had been made in the Station Diary at the Out Post. It may be mentioned here that this witness is the Officer-in-charge of Chamakpur P.S. and the Out Post at Bameibari is under him. Any way, when during the period of more than two hours he did only one thing, viz., the seizures and drew up the seizure list Ex.51, it is definitely expected that he would not have committed any mistake in that act. He effected the seizures in the company of many material eye-witnesses. He seized the two stones, M.Os. III and IV, which he had earlier seen when he came to the spot immediately after the occurrence. Those two stones were lying by the side of the blood-stained earth. Now let me turn to his seizure list Ex.51. The place of seizure in his seizure list Ex. 51 has been clearly shown as follows:-

"In Bameibari market place in between the shop of Md.Taher and Chandi Charan Dutta on the place of occurrence."

So, all the articles that he seized including the blood-stained earth and the two stones M.Os.III and IV were found in the open space in between the shops of Md. Taher and Chandni Charan Dutta. The other articles seized contained some lathis, and what is, important, a Bahungi. The Bahungi is an important thing as indirectly it supports the defence version that in the occurrence Md.Idris, the deceased, was using the Bahungi. None of the P.Ws. had mentioned about the use of any Bahungi by the assailants, while the defence suggestion was that Md. Idris came to the scene and used a Bahungi in assaulting and dispersing the crowd. Leaving the case of Bahungi at present, we find that the S.I., P.W. 47, found blood-stained earth and the two stones M.Os.III and IV in the space between Chandi's shop and Md. Taher's shop. That is definitely not the place where the prosecution witnesses would make the court believe that Idris was assaulted with the two stones M.Os. III and IV by Mangul and Ganpat. According to the P.Ws. the place would be beyond the rice market and that place is not in between the shops of Taher and Chandi. The place between the shops of Taher and Chandi is the place where the assault began according to the P.Ws. and where the entire assault took place according to the defence version.

Now let me refer to the spot map drawn by the Inspector of Police, P.W.48. The spot map is Ex.70. From the evidence of the Inspector we get it that he came to the hat on the 27th at 9.20 A.M. He was engaged till 1.30 P.M. in the examination of witnesses. Thereafter he prepared the spot map between 2 P.M. to 3.30 P.M. When he prepared the spot map at the spot he had

with him two witnesses P.Ws. 23 and 43. The places he had shown in the map and the index were so done after verifying from these two witnesses and P.W.41. They pointed out the different spots. In the notes to the map he had shown some measurements and those measurements are made with reference to the place of occurrence. In evidence he states as follows :

"In the map I have mentioned place of occurrence in connection with my measurements. What I have done is I have taken the centre of the place between Chandi's shop and Taher's shop and that centre I have treated as place of occurrence while showing the distances in the map. That place of occurrence is only for the purpose of the map and not for anything else. "

So, what the Inspector has done in his map is that he has shown the place of occurrence as the place between Chandi's shop and Taher's shop. That is also the defence version. The assault on Idris must have taken place in that place and not beyond that. What has been shown in the map supports the seizure list Ex.51, prepared by the Sub-Inspector of Police a day earlier. He has also shown the place of occurrence as between Chandi's shop and Taher's shop. I have already stated that the Sub-Inspector of Police P.W.47 seized blood-stained earth only from one spot and that between Chandi's shop and Taher's shop. The fact that he did not seize blood-stained earth from any other spot would go to show that he did not find blood stains at any other place. I have already stated that the only thing he did during those two hours of his stay in the hat was to effect the seizures. He

could not have committed any mistake. Definitely he would have seized blood-stained earth from other places if he would have so found. The Inspector of Police P.W. 48 states that he found blood stained earth at 5 different places and he also found blood-stained earth beyond the rice market where Idris was alleged to have fallen on the ground and was alleged to have been assaulted with the two stones M.Os. III and IV. Curiously enough the Inspector of Police, an experienced Police Officer, did not seize blood-stained earth from that place or any other place. He had with him by that time the seizure list Ex.51. He must have known by the time that his Sub-Inspector has seized blood-stained earth only from one place and that between Chandi's shop and Taher's shop. If the Inspector found blood-stained earth at other places it was his duty to have seized blood-stained earth from those places. At least he could not have failed to seize blood-stained earth from the spot where Idris was alleged to have been murderously assaulted with stones M.Os. III and IV. Non-seizure of blood stained earth from other spots, the seizure list, Ext.51 and the map Ex.70 would show that the place of occurrence was only between Chandi's shop and Taher's shop and no where else. The evidence of the Medical Officer goes to show that the two stones M.Os.III and IV could not have been hurled with force on the face of Idris as is the -- prosecution story and evidence. Considering all these circumstances one can have absolutely no doubt about the fact that the prosecution witnesses have made out a false case and have given a coloured

and tainted version of the manner in which Idris was assaulted. The way in which they have deposed about Idris coming to the scene last of all, the dramatic manner in which he came and the brutal assault made on him when he had fallen on the ground with his face upwards while with folded hands imploring for his life, is nothing but pure fabrication only to assume an air of innocence so far as they are concerned and to paint the accused persons as the worst sinners.

Here I will revert to the case of the prosecution as regards conspiracy in the hat immediately before the assault took place. About this conspiracy 8 witnesses have been examined. They are P.Ws.13, 16, 19, 23, 32, 35 and 45. All these witnesses are also witnesses to the occurrence. Prosecution examined 24 witnesses to prove the occurrence and these 8 are among those 24. Some of these witnesses were also injured in the occurrence. The evidence that these witnesses have given about the conspiracy in the hat is unworthy of any credence. The prosecution case is that near the nullah at the custom end of the hat there was a gathering of about 150 persons including all these accused. They were all armed with lathis. There accused Bose, Behera, Sahani, Mitra and Patel induced the gathering to finish Idris, Samser, Hadi and Patnaik, the 4 Dalals of the Company in the hat and the gathering in a body agreed to do that by saying "Thik He". Thereafter accused Nayar blow a whistle and the gathering began to run towards the rice market. When they reached the rice market Mangulu crossed it and went over the bonnet of the half-ton truck that was standing to the immediate west of the rice market in the open

space in between Taher's shop and Chandhi's shop. He shouted 'Ila Hiju Pe'. Thereafter the gathering began to use lathis and stones and the marpit began. About the marpit I will come after I dispose of this conspiracy part of the prosecution case.

I have already shown that the prosecution case of conspiracy in the night of 2erd is false. If really there had been such a conspiracy there was no necessity for a further conspiracy in the hat. Further if the object of the Lal Jhanda people including the accused persons was to kill Idris, Samser, Hadi and Patnaik and that, too, in broad day light in a hat, the mob which had been instigated beforehand would have come to the hat with bows and arrows and not simply with lathis. The evidence of the P.Ws. shows that none in the gathering had bows and arrows. Further the evidence of the P.Ws. shows that before 11 A.M. Behera and Bose had come in a jeep to the hat and their jeep was standing on the road ~~to the hat and their jeep was standing on the~~ near a Muslim hotel quite close to the Bameibari Out Post. The hat is to the east of the main road. At one end of the hat is Chandhi's shop and at the other end is the Muslim Hotel. The Out Post is nearer to the Muslim hotel than Chandhi's shop. All the above 8 witnesses and also the other witnesses to the occurrence have deposed that they had seen the jeep of accused Bose and Behera on the road when they came to the hat. They all came between 11 to 11.30 A.M. The occurrence took place at about ~~12.30~~ 12.30 P.M. The S.I., P.W.47, reached the hat at 12.55 P.M. and a little before his arrival the occurrence had taken place. He had drawn up the F.I.R. Ex.47 and he has given the time of occurrence

as between 12.30 P.M. to 1 P.M. From the evidence of the above 8 P.Ws. it is clear that the gathering of 150 including the accused persons had reached the hat by 11 A.M. and they had all collected near the nullah. In fact, the evidence of P.W.19 would show as if these people had collected near the nullah a little after 9 A.M. It is strange that these people would be all standing near the nullah and conspiring the same thing over again and their conspiracy would be heard at different times by these 8 witnesses.

The P.Ws. have stated about the arrival of accused Bose and Behera in a jeep. They have also stated that the jeep was kept on the wrong side of the road, viz., right side and it was facint the Bameibari Out Post. The witnesses have also stated that they had seen Bose and Behera in the gathering and also at the place of occurrence. According to the O.Ws., Idris was assaulted last and the last act in the tragic drama was throwing of the two big stones on the face of Idris who was lying in the rice market with his face upwards and hands folded. After this the mob including the accused persons fled away from the hat. It is most suspicious that the prosecution has not examined a single witness to show when the jeep of Bose and Behera left the place. The jeep could not have vanished in the air. Bose and Behera who came in the jeep must have returned in that vehicle. The jeep must have gone on the road in front of Bameibari Out Post. The jeep while returning was expected to have been noticed by P.W. 47, the Sub-Inspector, who came on that road from the opposite direction to the hat. Not only none of the witnesses deposes about the return of the jeep from

the hat, but P.W. 47 also does not state that he has seen the jeep. The Inspector P.W.48 was asked about this jeep. He stated as follows:-

"I had tried to ascertain in course of my investigation when the jeep of Nirmal Bose left the hat after the occurrence and by which route. I have not given in the charge sheet any witness who can speak as to when after the occurrence the jeep of Nirmal Bose left the hat and by which route."

The learned Public Prosecutor in this connection frankly conceded before me that the Inspector could not find as to how, where and when the jeep alleged to be standinⁱⁿ/the hat had gone back. He also frankly told me that the Inspector in course of investigation found that a jeep from the hat had gone towards Joda. Definitely the Inspector who investigated the case did not find sufficiently strong evidence to come to a conclusion that the jeep which accused Nirmal Bose and Lal Jhanda people used (and which is the same jeep which was detained at Guruda by Tiranga mob in the night of 22nd and the following morning) had come to the hat on the day of occurrence. As already stated the jeep is kept by accused Bose and Behera who stay at Barbil. The head quarters of the Inspector P.W.48 and the D.S.P. who supervised the case is at Barbil. They got a message about this occurrence from the Sub-Inspector P.W.47 at about 4 P.M. and immediately they left Barbil and came to Guruda. They passed via Bameibari hat. There is nothing to show that the Inspector before leaving Barbil made any attempt to find if the jeep of accused Nirmal Bose or accused Bose and Behera were at Barbil. There is nothing also

to show that such enquiry was made afterwards. Be that as it may, if the jeep of Bose and Dehera would have come to the hat before 11 A.M. and that on the road in front of Bameibari Out Post, the A.S.I. and the constable in the Out Post would have noticed it. They would have also noticed it when it went away.. In this connection I would refer to the evidence of P.W.12, J.P. Jotisi. He was the A.S.I. in charge of Bameibari Out Post on the day of occurrence. The learned Public Prosecutor did not put a single question to this important witness in chief as to whether he was at the Out Post on the day and at the time of occurrence. However, in cross examination many unpleasant things have been revealed. This A.S.I. has been under suspension for his having left the Out Post on 26.9.60 without permission. He states that he opened the S.D. at the Out Post on 26.9.60 at 8 A.M. He had been permitted to proceed on C.L. from the 26th September 1960. There was no written order as to who would relieve him but it was settled that the Chamakpur A.S.I. was to remain in charge. There was no order that P.W.12 would proceed on leave before the arrival of his reliever. He left the station before any reliever came to the Out Post as there was a Sub-Inspector of Police at Guruda only about four miles from Bameibari.

This witness further states that he left the Out Post at 11.10 A.M. and he made over charge of the Station Diary to the constable on duty. At the request of the learned Defence Advocate I referred to the Station Diary of Bameibari Out Post and I found an entry therein dated 26.9.60 showing that this A.S.I. left ^{the} ~~the~~ Out Post at 11.10 A.M. and made over charge of the Station Diary to the constable on

duty. The time '11.10' A.M. has been over-written. It appears some other time was given and it has been changed to 11.10 A.M. The Inspector also admitted that there was such a over-writing as regards the time and for that the constable who took charge of the Station Diary has been placed under suspension. It really the A.S.I. left the Out Post at 11.10 A.M. and he had put the time correctly as 11.10 A.M., there is absolutely no reason why that time should be over-written either by this A.S.I. or the constable to whom he made over charge.

I have very closely scrutinised the entry and it appears to me that the time given was 1.10 and it has been changed to 11.10. That appears to be also reasonable as the A.S.I. could not have left the Out Post without permission or without there being an officer to relieve him. The A.S.I. would have left the station after the S.I. P.W.47 came there. I will show later on that the conduct of the Police at the locality has not been free from grave suspicion. So far as conspiracy aspect is concerned, the evidence of this A.S.I. is very significant. The A.S.I. states as follows :

"At 11.10 A.M. I left Bameibari in a jeep and came to Joda. From Joda I came to Champua, therefrom to Chaibasa and thence to my village. On the way I did not meet the Chamakpur S.I. (P.W.47). I had known as the previous day that Sri B.K.Rout S.I. Champur (P.W.47) was to come to Bameibari on the 26th. Yes, it is true it was settled that Sri B.K-Rout would remain in charge of Bameibari Out Post during the period of my absence on C.L.

x x

x x x x x x x

So long as I was at the station on the 26th I did not see the jeep of accused Bose near about the station. "

Towards the last portion of his evidence he has stated that he left the Out Post in the jeep of Mangilal Rungta. Thus, even if it is believed that P.W.12 left the Out Post at 11.10 A.M. and not later, though the suspicious interpolation of the relevant Station Diary entry No.940 would make me believe that he left the Out Post later on, his evidence gives a smashing blow to the prosecution case. His evidence clearly shows that by 11.10 A.M. the jeep of accused Bose had not come to the hat though from the evidence of the P.Ws. it would appear as if the jeep had come to the hat long before 11 A.M. and was placed on the main road on the right side facing the Out Post by the side of the Muslim hotel which would be about 100 yds from the Out Post. The space between the Out Post and the Muslim hotel is an open one and there is no obstruction to visibility. The jeep which would have passed in front of the Out Post and which was parked near the Out Post would not have gone unnoticed by the A.S.I. or any constable of the Out Post. Further the A.S.I. says that he left the Out Post in a jeep of Mangilal Rungta. This is very important. So definitely a jeep had come to the hat and by that jeep the A.S.I. left the Out Post. That is not the jeep of accused Bose but of Mangilal Rungta.

Considering the above circumstances, I have no hesitation to hold that the jeep of accused Bose and Behera had not come to the hat and as such the evidence that Bose and Behera came from Barbil to

the hat in their jeep is false.

Now let me touch the evidence of the material witnesses about the conspiracy in short. P.W.12 Yasin has stated about this conspiracy as follows :

" When we reached the hat we separated and entered the hat from different directions for making purchases. Along with me was only Kamrul Huda. I made my purchases going round the hat. After finishing my other purchases I went to purchase fowl. Fowls are sold at the eastern end of the hat. When I was purchasing fowl, I saw therefrom that near the nullah many people had assembled. This nullah is at the extreme end of the hat. I could notice there Nirmal Bose, Hadibandhu Behera, Ratnakar Sahani, Harischandra Patel, Pandu Ganpat, Mangulu, Mustafa, Nayar, Sudarsan Mohanta, Bira Mohanta, Niranjan, Goberdan Mohanta, Ingan, Albert Jojo, N.K.Mitra, Chhatar, Siram Prusti alias Madan, Ballav Rout, Wali Ahmad, Bikram Munda, Siba Tanti, Bandu Gagrai and many others. Those persons were talking among themselves. Two or three minutes after that I heard Nirmal and Behera telling the people "Md. Idris, Hadi, Samser and Patnaik, these four Dalals of Tirangi party, have come to the hat today. We have to clear those persons from our path". Nayar, Patel and Mustafa then repeated those words of Bose and Behera to other persons at that place. Then all the persons present stated "That's O.K." (Thik Hai). Hearing that I left the place to inform this to my people. I had barely gone one or two steps when I heard from behind the sound of a whistle, I looked back and saw the whistle

in the mouth of Nayar. Almost all present in the nullah had lathis. Accused Ballav had an iron rod. "

"Simultaneously with the blowing of the whistle all the persons present there began to run towards Chandi's shop. There was a half ton carrier near Chandi's shop. I saw Manglu riding over the bonnet of that carrier. He shouted 'Ila Hiju Pe'. It is a Kol dialect and it meant 'All of you do come quickly'. Mangulu was waving his two hands. There was another station wagon near the half ton carrier. All the persons ran to that place and began to (Pathar Chalana and lathi Chalana Suru Kia) throw stones and use lathis. From a distance I could see Pandu assaulting Hadi. "

This P.W.18 is the informant and on his report the F.I.R. Ex.47 has been drawn. In the F.I.R. he has given the strength of the gathering as 400 to 500. If this witness is believed he could hear the conspiracy when he was purchasing fowl in the market.

The next witness is P.W.16. He had come to the hat along with P.W.13. The relevant portion from his evidence relating to the conspiracy is as follows:

" I made my purchases in the hat. I went to purchase a pot to keep the fish that I had to purchase. When I went to the Potters' stand, I saw 50 or 60 persons had assembled near the nullah. AS the jeep was there I thought there would be some meeting. So I proceeded ahead and saw from a distance of 15 or 16 cubits the people who had assembled there. I saw Bose, Bahera, Bahani, Patel, Mustafa, Mitra, Ghatar, Ballav, Pandu, Mangulu, Silaj, Albert Jojo,

Dairagi Chhatar, Randu Gagrai, Paramananda Mahanta, Niranjan Mahanta, Bira Mahanta, Bikram Munda, Siba Tanti, Birsing Munda, Lemba Munda, Clement Khadia, Jairam Chhatar, Mangol Chhatar, Naranga Goula, Benzamin Khachua, Nayar and many others. I did not find anything like a meeting, I saw they were talking among themselves. To hear them what they were talking I proceeded 5 or 6 cubits more ahead. The distance between them and me became 5 or 6 cubits. I heard Bose, Behera, Sahani, Nayar, Patel, Ballav, Mitra, Chhatar, Siraj and Pandu telling the people present there "You know, Md. Idris, Patnaik, Hadi and Samser are the four Goondas of the Tiranga party. They are our enemies. If they be in the field we cannot proceed even a step. We have to clear them from our path". When the people were so exhorted, they all exclaimed "Thik Hai". Thereafter Nayar blew a whistle. Hearing that I began to run to the hat. Mangulu crossed me and went ahead of me. He was followed by other persons. They also went ahead of me. While running when I reached the rice market, I saw Mangulu standing on the bonnet of a half-ton carrier and shouting 'Ila Hiju Pe' waving his both hands. All the people reached near him."

In Crossexamination he stated as follows:-

"The potters' stand would be about 35 cubits from the vegetable market. The nullah where the accused persons were

would be within 30 cubits from the potters' stand. Till I reached the potters' stand I had not seen the accused persons. When I was at the potters' stand I found Kamrul Huda (P.W.45) and Yasin (P.W.13) in the fowl market. They were 12 or 13 cubits away from me in my back side opposite to the nullah. I was in between them and the nullah. x x

x x When I proceeded ahead I could not understand what the accused persons were talking and so I went closer and reached the place where the accused persons had gathered. When I reached the spot I found simultaneous group talks going on, one was saying and a group of 4 or 5 hearing. When I heard the names of 4 of our persons. in those group talks, I became alarmed. I made attempt to inform them and I turned my face and began to run."

Thus, from the evidence of this witness it is clear that the distance between the place where P.W.13 and P.W.45 were standing and the place where the accused persons conspired near the nullah would be about 45 cubits. This witness could see the gathering near the nullah from a distance of 35 cubits while he was in the potters' stand. He could not hear what talk was going on there and so he moved on and came to a distance of 5 or 6 cubits from the gathering. Then only he could hear what conspiracy was going on near the nullah. What this witness deposes rather carries some sense. Definitely in that crowded hat nothing could be audible from a distance of 45 to 50

cubits. This witness rightly stated that as he could not hear anything though he was nearer to the gathering than P.W.13 and 45 as he was at a distance of only 30 cubits, so he proceeded towards the gathering and from a distance of 5 or 6 cubits he could hear the group talks where four persons were named as targets. The evidence of this witness definitely makes the evidence of the other witnesses who heard about the conspiracy from a long distance improbable. Now the point is if this witness can at all be believed that he went to a distance of only 5 or 6 cubits from the gathering to hear what was being talked there. It is not his evidence that he mixed with the gathering. It is an open space and he was standing alone at a distance of 5 or 6 cubits ahead of the gathering. He must not have gone unnoticed and definitely the Lal Jhanda people who gathered there would have molested him and would have treated him as a spy. This witness is also a highly interested witness. He is not only an employee of the Company but appears to be a prominent member of the Tirangi Union. His evidence in this cases goes to show his interestedness.

P.W.19 is a blacksmith who admittedly worked under Hossain Saheb, a relation of Sirajuddin for 8 or 9 years at Guruda. He states that he had gone to the hat to sell four cocks. He went there at 9 A.M. He saw the gathering while he was standing on the poultry stand. The accused persons and about 59 or 60 other persons had gathered near the nullah. Of course he does not state anything about the conspiracy.

P.W.28 Dayanidhi Sahu who owns a shop in the

hat states that at 11 A.M. he saw the jeep of Nirmal Bose coming to the hat. In that jeep he found Bose and Behera. Five minutes after the arrival of the jeep he saw many people coming from Guruda side, one after another and they had lathis in their hands. He saw among them accused Pandu, Patel, Biba Tanti, Mangulu, Ballav, Mitra, Chhatar and many others. They went inside the hat. He also went after them to the hat. He went to the nullah side to purchase rice direct from the dealers who would be coming that way. He found many people had assembled there including Bose and Behera and others whom he had seen earlier coming on the way. Their number would be about 50 to 100. There he heard Bose, Behera and two others explaining to the groups of people assembled there in Oriya saying that Idris, Samser, Patnaik and Hadi were the Dalals of Tirangi party. They had come to the hat and they had to be cleared from the path. As he could not find any rice dealer he left the spot and came away. This witness further states that he was near the nullah only for about 2 or 4 minutes. He stood at a distance of 20 to 25 cubits from the place where the gathering had taken place. He could not say in which direction he was standing. Neither could he say in which side of his shop he was standing at the spot. This witness was not noticed by other witnesses. Further this witness states that Bose, Behera and others were addressing the gathering in Oriya while the other witnesses state that accused Bose addressed the gathering in Hindi. Apart from the fact that this witness could not have heard from a distance what talk was going on as would be apparent from the evidence of P.W.16, it

is indeed curious that this witness had gone to that side as if to be a witness to the conspiracy. He states that he went to find out rice dealers and he waited for 2 or 4 minutes and during that short time ^{he} heard about the conspiracy. Further from the evidence of this witness it is evident that the other accused persons including Manguly, Nayar and Mitra came to the hat very soon after the arrival of accused Bose and Behera in a jeep and they entered the hat by the side of the shop of this witness and went towards the nullah. Immediately after they had gone to the nullah, this witness also followed them and came that side. P.W.24 Md.Hadi who came to the hat at about 11.30 or 11.35 A.M., as is his evidence, along with Idris and others in a Station Wagon, saw all these accused persons including Mangulu coming on the road with lathis and they passed by his side and went to the nullah by the side of Chandi's shop. He saw these persons after he had remained in the hat for some time and while he was talking with some female labourers. P.W.42 K.C.Sing also came with this witness P.W.24 Md.Hadi. P.W.42 states that he reached the hat along with P.W.24, Idris and others at 11.30 A.M. Reaching the hat he went to Mali's hotel for tea. On the way near a Muslim hotel he met accused Sen, Mustafa, Nayar, Pandu, Mangulu and Behera. They were standing there. Accused Sen asked him as to who came in the Station Wagon. He gave out the names. Accused Behera then exclaimed "It is alright. Let us go." If the evidence of P.W.24 and P.W.42 is believed and if it is considered along with the evidence of P.W.23 Dayanidhi Sahu, then it would appear as if the accused persons and other people

in the gathering had already come to the hat at 11 A.M. They had gone to the nullah. Thereafter they were moving round the hat in batches with lathis. It was only from K.C. Sing P.W.42 accused Behera, Mitra, Pandu and others could know that the four Dalals had come in the Station Wagon. By that time they had not the knowledge that those four persons would be coming to the hat. The evidence of other P.Ws. including that of P.W.23 would show that accused Behera and Bose came in a jeep, they went to the nullah side, thereafter other accused persons and a large number of their party men came to the hat with lathis in their hands, they went by the side of the shop of P.W.23 and came to the nullah where the gathering took place and then began the conspiracy. P.W.23 had gone to the nullah immediately after the gathering had started and he was there only for 2 or 3 minutes and he could hear the conspiracy. So, what P.W. 23 speaks is not consistent with what P.Ws.24 and 42 speak. P.Ws. 24 and 42 came long after P.W.23 had gone to the nullah side. If there had already been a conspiracy and immediately after the conspiracy the occurrence took place, what P.Ws.24 and 42 speak cannot be true. Moreover, if the accused persons passed by the side of Hadi P.W.24 when he was alone and when there had been the earlier conspiracy in the night of 23rd and when the accused persons had come prepared to kill Hadi and three others, there is no reason why they did not avail themselves of the opportunity of finishing Hadi when he was alone, and unprotected and they would pass by his side calmly, go upto Chandi's shop, and therefrom by the side of that shop to the nullah. P.W. 42 was examined at a very

late stage towards the close of the trial and he is the only witness who speaks that from his an enquiry was made as to who had come to the hat in the Station wagon. Possibly it was felt that there would be some criticism of the prosecution case as to how could there be a conspiracy to kill the four persons when nothing was known whether those four persons had actually come to the hat or not. To supply a connecting link through P.W. 42 at the last stage of the trial, evidence was adduced to the effect that from him enquiry was made and from him it was ascertained that the four Dalals had come to the hat. As I have just shown, his evidence as also the evidence of P.W.24 Hadi is not in keeping with the circumstances nor does it fit in with the evidence of P.W.23 and other witnesses regarding the conspiracy in the hat.

P.W.32 stated that he and Sameer P.W.35 went together to the hat. P.W.35 was in the vegetable market while he was in the poultry stand. Therefrom he heard about the conspiracy. Definitely, as I have shown earlier, this witness, even if he is believed that he was in the poultry stand there was the gathering near the nullah, could not have overheard their talk. P.W.35 is Sameer. While he was in the vegetable stand at a long distance from the gathering he could hear the conspiracy. He stated that after coming to know about the conspiracy he began to run from the vegetable market. He was at a long distance from the gathering. Immediately after the conspiracy, according to the prosecution, a whistle was blown and the gathering began to run towards the rice market. It is curious that this witness who was one of the four persons named to be killed in the gathering, could not run away to safety and that he was assaulted only.

at a distance of a few feet from the place where he could hear the conspiracy.

P.W. 39 is the Chaukidar of Sirajuddin & Co. He states that he had gone to the barbers' stand for his hair cropping. While his hair was being cropped he could hear the conspiracy. In my court he states that in the conspiracy it was mentioned by accused Behera and Bose that the four Dalals had come to the hat and they should be finished while in the lower court the witness had stated that in the conspiracy it was mentioned that the four Dalals would come to the hat that day and when they would come they should be done with. This is definitely a material discrepancy. Further the witness cannot name the barbers at the stand though according to him there were some barbers at that time.

P.W. 48 states that he was with P.W.13 in the fowl market when he heard about the conspiracy. Definitely as I have already shown, he could not have heard anything about the conspiracy if he was at the fowl market.

That the conspiracy case is false would be apparent from the following consideration. The mob was strong, it was violent and had come armed. They had also taken the vow to take the lives of the four persons. They had taken resolve in the night of 23rd and also immediately before the occurrence. After taking the vow they ran towards the open space between Chandi's shop and Taher's shop. There they found Hadi P.W.24 first. After Hadi they had also got there Patnaik and P.W.35 Samser, one after another. In fact, the evidence regarding assault shows that

all the three above persons were completely at the mercy of the mob. There was absolutely no difficulty to kill those three persons. If the prosecution story is believed those three were unarmed. Pandu has been painted as the worst villain in the piece. He assaulted all the above three and also Md. Idris, the deceased. He was very violent. He chased P.W.24 Hadi and followed him inside Chandi's shop room. There Pandu did not assault him and spared him. Pandu assaulted and chased Patnaik beyond Chandi's shop upto the road near a truck. When Patnaik fell down he felt him and came back. He did not take his life. He found Samsar falling down on the ground after the assault. His life was not taken. The mob, if the evidence of the P.Ws. is believed, was more than 150 in strength. They were all armed with lathis and stones. Stones were being hurled indiscriminately. Lathis were also used vigourously. Yet, the lives of Hadi, Samsar and Patnaik were spared, though if the mob so wanted, their lives could have been taken without any -- difficulty as would be evident from the evidence of the P.Ws. The very fact that their lives were not taken goes to show that there was no much conspiracy.

I have not the slightest hesitation to find that the prosecution has come up with a false case of conspiracy only to distort truth. The P.Ws., interested as they are, never wanted to place before the court a true version of the occurrence as in that case they might be in danger and not the accused persons. It can never be believed that there would have been some sort of conspiracy at one end of the hat. The hat was a crowded one. Immediately after the conspiracy a whistle would be blown, as if a

marching order was given. Thereafter the mob would run with lathis to one direction, viz., to the open space between Chandi's shop and Taher's shop adjoining the rice market to the west. While running in that direction they would be passing through the large crowd and even they would cross some of the injured persons, P.Ws. 13, 16 and others. They would not assault them while passing by their side. They would not assault also Samer P.W.35, one of their targets, though they passed by his side. According to the prosecution the first assault was on Hadi. They went to the place and found Hadi alone there. Thereafter all of them began throwing stones and using lathis though only one person was there and it was Hadi P.W.34. Hadi's life is not taken. He escaped with minor injuries. One after another, the injured persons came to the scene. All the while the mob about 150 in number would be brandishing their lathis and pelting stones, aiming at whom the P.Ws. have not been able to state. One after another the injured persons came and last came Idris. As soon as one after another would be emerging in the scene, they would be given heavy beating and the tragic drama ended with the throwing of two big stones on the face of fallen Idris thereby killing him there. This is indeed a story which no court can find it safe to believe. Rather the defence version about the occurrence appears to be very cogent and probable and definitely there are materials to support such a version. I will hereafter deal with the evidence relating to the actual assault in short and place the circumstances to show that the prosecution story is concocted. It is not only a case of exaggeration but also a case of complete

distortion of truth and suppression of material and essential particulars.

Lastly I will refer to the conduct of the Medical Officer P.W.8 who examined the injured persons and gave his report that the injuries of all the injured were grievous in nature and also in short to the conduct of the Police posted at the locality and the officers who investigated and supervised this case.

I now take up the case of actual assault. The prosecution has examined 34 witnesses. They are P.Ws.13, 14, 15, 16, 18, 19, 20, 21, 22, 24, 26, 28, 29, 31, 32, 35, 36, 37, 38, 39, 41, 42, 43 and 45. Of these 24 witnesses, P.Ws.19, 21, 23, 26, 28, 29, 36, 38, 41 and 43 did not receive any injury. They simply witnessed the occurrence.

Let me begin with the evidence of P.W.13. He is the informant. About the occurrence he begins by saying that as soon as the whistle was blown by Nayar in the gathering near the nullah, the entire mob began to run towards the open space between Chandi's shop and Taher's shop. Accused Manguly who went ahead/over the bonnet of the half-ton truck and shouted 'Ila Hiju Pe'. Thereafter all the persons gathered at that place began to throw stones and use lathis. He used the actual words "PATHAR CHALANA O LATHI CHALANA JURU KIA". He saw from a distance of 20 to 30 feet Pandu assaulting Hadi. He went to separate them but Pandu hit him with a lathi. Ballav and Mangulu threw stones at him. He was injured at many places and was bleeding profusely. All the persons present there were throwing stones from the rice market to the place in between the Station Wagon

and the half-ton truck lying between the shops of Chandni and Taher. Being seriously injured he concealed himself at the back of Chandni's shop. The back room had Jhuti walls and a tin roof. From the place of hiding he could see through the Jhuti portion of the wall that was happening at the open space in between the Station Wagon and the half-ton truck. At the place where he was hiding, there were some females with their articles. From that place of hiding he could see that assault was going on with great force. He used the words "HAD CHAL RAHATHA BAHUT JOR SE". He saw K.C. Singh being assaulted with Lathis by Siran Puri and Narahari Patnaik by Pandu and Siba Tanti. People who were in the hat were running away with their articles. Then he saw Idris coming to the spot from between the cloth market and rice market. He was waving his two hands. Stones were thrown at him. Thereafter Pandu, Mangulu, and Bikram assaulted him with lathis. Being assaulted Idris began to run hither and thither. Those people began to chase him and beat him. When Idris crossed the rice market he fell down with his face upwards. While lying on the ground he folded his hands and moved his hands this way and that way. Those people had no mercy. Mangulu raised a big stone and thrashed his head with it. Immediately thereafter Pandu raised another bigger stone and he also thrashed his head. On being struck with the stones his hands and feet began to flutter. Pandu and Mangulu ran away from the place saying "SALA KHATAM HO GIA". All the other persons also ran away from the place. When all of them left, this witness came out from his hiding place and went to Idris. Idris was then gasping. He found 2 or 4 more persons near Idris. With their help he removed Idris

to the truck nearby. At that time the S.I., Police P.W.47, came to the place. He lodged the F.I.R. Ext.47 and then with the S.I. brought Idris to Guruda hospital. Idris was dead by the time the truck reached the hospital.

Thus, from the evidence of this witness it appears that he had seen the assault on Hadi. Thereafter he was assaulted. Then he ran away from the place and concealed himself behind the back room of Chandi's shop. From that place of concealment through the Jhati walls he could see the assaults on K.C.Sing, Narahari Patnaik and Idris. He did not see the assault on anybody else. At the place of concealment besides him there were many females. None of these females has been examined in this case. If the evidence of this witness is taken on its face value, the improbability of it is manifest. He clearly states that the gathering ran in a body to the rice market. The strength of the gathering, according to his evidence, would be 150. The moment they reached the place of occurrence they began to throw stones and use lathis. According to this witness at that time only one person was there and that was Hadi. So it is improbable that for the assault of one man, the entire gathering of 150 would be using lathis and also throwing stones. It is one thing to say that there was another gathering in the open space and the mob that came from the nullah side began to throw stones at them and also use lathis against them but definitely it is a different thing and also an improbable thing that there was only one person who was the target of the large mob and lathis were used against him and stones were thrown at him. Curiously enough this

Hadi did not lose his life and he escaped with minor injuries. According to P.W.13 he wanted to save Hadi and so, he came from behind the mob, passed through the mob and went near Hadi when he was first assaulted by Pandu. It is indeed difficult to believe that this witness should have passed through the violent mob and he would not have been assaulted then. He passed the mob and reached Hadi and till then he did not receive any injury, though stones were being thrown and lathic were being used. When he reached Hadi he was assaulted by Pandu. Then he began to run for safety and he was hit with stones. He could see whose stones hit him and he names Mangulu and Ballav. Then he concealed himself behind the back room of Chandi's shop and through the Jhati walls he could see what was going on in the open space which was the place of occurrence. There he saw the assault on K.C.Sing, and Narahari Patnaik. Then he saw the assault on Idris and he gives a graphic description of the assault on Idris. I have already shown that the manner of assaults on Idris as given by the P.Ws. cannot but be false. Though from the evidence of other P.Ws. it would be seen that many other persons who received injuries at the place of occurrence, yet this witness who saw the occurrence from the start to the finish did not see assaults on anybody else except Hadi, himself, K.C.Sing, Patnaik and Idris. Curiously enough in his F.I.R. Ex.47 this witness states that he could see from his hiding

place the assaults on Samser, Bakar, Chankidar Kali Charan, Ram Chandra Das, Md. Ramjan, Lambodar, Md. Kurban, Abdul Hanan and many other persons. He does not mention the name of K.C.Sing in the F.I.R. If really the witness had seen the assaults

on the persons as mentioned in the F.I.R., there is no reason why he did not mention the same thing in the lower court and also in my court. That rather goes to show that this F.I.R. Ext.47 was not drawn at the spot but the report was made at Guruda hospital after the informant had seen the injured persons. Further a reading of the F.I.R. goes to show that the mob coming from nullah side being 400 to 500 strong gathered at the open space between Taher's shop and Chandi's shop and those people began to throw stones and use lathis on the Tirangi people who had gathered there. Let me quote the exact words used in the F.I.R. in this connection :

To my mind, the above statements are more in keeping with the truth than the evidence given in my court consistently by all the P.Ws. From the above relevant portion of the F.I.R. it is clear that there was a gathering of the people of the party to which P.W.13 belonged at the open place between Chandi's shop and Taher's shop. The mob 400 to 500 strong reached that place and began to throw stones at and use

lathis on that gathering of the people belonging to the party of P.W.13. Seeing that P.W.13 went there. In evidence however, P.W.13 would begin saying that there was no gathering of his people and only Hadi was there and the mob began to throw stones and use lathis with force on him. This cannot be believed. It is also difficult to believe that in a small space where two parties had gathered and were fighting with each other and that space was in a crowded hat, any person could be accurate as to who the assailants were and who injured whom. Further it would have been impossible for this witness to have noticed the occurrence from his hiding place peeping through the Jhathi walls of the back room of Chandi's shop. He could have never witnessed minutely the assaults on Idris. The very fact that he was giving a minute and graphic description of the assaults on Idris goes to show that this witness was just giving expression in court to the concocted false story about the brutal assaults on Idris. Otherwise, how is it that he could not notice the assaults on other injured persons and he could notice the minutest details of the assaults on Idris from a distance remaining behind a room when there was a large gathering consisting of the mob and outsiders.

P.W.14 is a truck Khalasi at Guruda. He states that he was at the hat at the time of occurrence and he was taking tiffin when he heard the hullah near Chandi's shop. He went there and saw the assaults on Samser by Paramananda Mohanta. He protested and was assaulted by Sudarsan Mohanta and Niranjana Mohanta. Out of fear he ran towards the jungle on the other side of the road. 10 or 15 minutes thereafter he came from the jungle and saw

Idris lying on the ground. He helped P.W. 13 to remove injured Idris to the truck standing nearby. He states that at the place about 100 people were using lathis and stones. Excepting Samser he did not see anybody else being assaulted. People who had come to the hat were running away and there was none in the rice market at that time, though that is not the evidence of the other P.Ws. If really this witness was in the hat at the time of occurrence and was taking tiffin in the hat it is difficult to believe that he came to the place of occurrence which was at a very small distance from him at a time when the occurrence was almost over and also he would not see anybody else excepting Samser then at the place being assaulted. Definitely this witness is not giving a correct picture of the occurrence. He is trying to conceal the part he has played in the occurrence. The hat, it may be stated here, sits in a very small and compact area.

P.W.15 was a labourer under a mines contractor in Siljoda camp. He states that after the gathering reached the open space they began to use lathis with force and they also throw stones with force. He came from behind and he saw that Hadi was being assaulted with lathis. When he went to the rescue of Hadi he was assaulted by Sudarsan Mohanta. Out of fear he fled from that place and he was hit with stones thrown by Randu Gagrai. He went running towards the road. While running he could see Nayar and Albert Jojo throwing stones at Sahadutullah. He also saw Samser being assaulted by Pandu, Siram and Paramananda Mohanta. Then he saw Bikram Munda and Pandu chasing Patnaik driver and assaulting him. Then when he saw that the marpit was going to take a serious turn, out

of fear he ran towards the B.B. Plot. There he met a truck which was going to Guruda. In that truck Patnaik driver and some other injured were there. He went in that truck. This is what the witness has stated in his chief. I need not refer to his evidence in cross examination. The evidence that he has given in chief, rather, in my view, gives a smashing blow to the prosecution story. Like P.W.14 he would say that the mob was using lathis and throwing stones with force though only one person was there and that was Hadi. This witness like P.W.13 came from behind, passed the mob and went to Hadi. There he was assaulted and out of fear he ran towards the road, when running towards the road, his back must have been towards the mob. Curiously enough while he was running he could see who were throwing stones at whom and who were being injured. He could see the assault on Samsar and the assault on Patnaik. Out of fear he ran towards B.B. Plot which is beyond Chandi's shop to the south. He found a truck in which Patnaik driver and many other injured persons were there. He also boarded the truck and went to Guruda hospital. A closer scrutiny of the evidence of this witness would show that there was fight between two groups and this witness was in one of the groups.

P.W.16 states that he immediately followed the mob that ran towards the open space between the shops of Chandi and Taher. It is better I reproduce here his statement beforem :

" I also reached that place. Hadi was standing there and Randu Gagrai came from behind and caught hold of his two hands from back side. He was holding the hands and Bairagi Chhatar was hitting his head with

lathi. I then went between Bairagi Chhatar and Hadi and shouted at Chhatar saying "what were you doing". When I wanted to separate the two, Naranga Gopala came from the side and gave me a blow at my back with a lathi. When I looked at Naranga I saw at a distance of 5 or 6 cubits Ulla Mistri was being assaulted by Albert Jojo. Ulla Mistri had a bleeding injury on his head. When he was going to sit down, Nayar who was in the rice market at a distance of 7 to 8 cubits from me and also from Ulla Mistri's back. Nayar then raised another stone. I then ran to Nayar and asked him what he was doing. When I had gone to Nayar, Bira Mohanta gave a blow on my head with a lathi. I began to run away from the place. When I was running away accused Behera threw a stone at me from the rice market and it hit my left thigh. Some how I escaped and concealed myself by the side of a Station wagon which was there. Two or three stones hit the Station Wagon. At that time Md. Idris came to the spot by the side of the halfton truck. He had just entered the spot and was shouting "what are you doing" and waving his two hands, when stones began to be thrown at that direction. People also rused at him with lathis. At that moment I ran from my place of hiding and went over the truck in which I had come to the market. In that truck I came to Guruda hospital. Many injured persons were there in the truck."

The same comment can be made on the evidence of this witness as has been made on the evidence of the

earlier two witnesses who immediately followed the mob and wanted to intervene to save Hadi. Curiously those two witnesses have not mentioned the presence of this witness at the spot. This witness states that he saw the occurrence hiding behind a vehicle which was in the midst of the place of occurrence. It is strange that he did not see the injuries on all other persons though he was at such close quarters. What is very strange is that he escaped with very minor injuries though the mob was violent and was 400 to 500 strong and were indiscriminately throwing stones and using lathis.

P.W.18, a Khalasi of a truck owner of Jhumpura to which place Serajuddin belongs, states that he had gone to the hat with other eye-witnesses in a truck. He was in the shop of a tailor near the place of occurrence. When he heard the nullah he went near the place and saw stones and lathis being used. It was not possible for him to see who was assaulting whom. It is quite reasonable that even from close quarters it is not possible for a man to notice accurately as to who was assaulting whom. He saw Samser falling down. He went to give him water. At that time Bikram Munda assaulted him with a lathi. He ran away from the place and went back to Nabi's shop. From that place he saw the assault on Idris. He then describes in minute details the assaults on Idris. That appears to be the main purpose of the prosecution story, to reproduce through mouths of the P.Ws. the graphic description of how brutally the death of Idris was caused. When this witness could not see from close quarters the actual assaults and when he could not notice also how Samser got his injuries, it would be difficult for one to believe

that this witness would be bold enough to go to Samser through the violent mob with a pot of water in his hand. Like other P.Ws. this witness is also concealing the real truth that he was a member of one of the two fighting parties.

P.W. 19 whom I have earlier shown to be an interested witness speaks about the occurrence in a manner, though in keeping with the prosecution case, that makes him completely unbelievable. He states that he saw the occurrence from close quarters. One after another the assaults on injured persons took place. One person would be assaulted. There would then be a big interval. The mob would be there, all the while using lathis and stones. Another injured would be coming. He would be assaulted. Then there would be again a big gap. A third man would be coming. He would be assaulted. Again there would be a gap. Then another assault on a different person, so on and so forth till the last assault on Idris put the final curtain.

P.W. 20 had gone to the hat along with some of the other eye-witnesses. He was in the vegetable market when the mob ran to the open space, the place of occurrence. He went after them and went to the road where his truck was standing. When the mob reached the open space, Hadi was standing there. The witness thereafter states as follows:-

"Randu Gagrai caught hold of his both hands from back side. Four or five persons used were lathis on him. There/Pandu, Bairagi, Chhatar and 5 or 6 more persons. Blows fell on Haddi but I could not see whose blows fell on him. His head was bleeding. Then

came Yasin (P.W.13) to that place and he was also assaulted. I did not see who assaulted Yasin. Then I saw Kurban falling down there, Ulla Mistri was also there and his head was also bleeding. I could not see who assaulted all these persons. Thereafter Haddi, Bakar and K.C.Singh came running from that place, to Chandhi's shop and concealed themselves there. Pandu came running after them. Pandu had a lathi with him. Pandu also ran into the shop. While he was entering into the shop. I wanted to stop him but he entered into the shop and used his lathi there but on whom I cannot say. Then Pandu came out from the shop and went towards Taher's shop. Then I came to the truck where I had kept my articles. Then I saw Patnaik driver coming from the back side of Chandhi's shop and Pandu chasing him. Patnaik was then shouting 'Bachao Bachao'. Patnaik fell down by the road side and Pandu left him and went away. Great hullah was going on at that time. Stones were falling on and near the truck where I was and so I ran away from that place and concealed myself between the bushes. Two or 3 minutes after that the truck started, I ran to it and got into it, I found injured Patnaik driver there in that truck. The truck which I have spoken of was on the road a little ahead of Chandhi's shop."

This witness, if he is to be believed, came running ahead of the mob from the vegetable market and he

came to the road in front of Chandi's shop where his truck was standing. From that road he saw the occurrences. There was no obstruction to his visibility as the assailants were in the open space near the rice market and the injured persons would be between him and the mob. Even then this witness could not see who assaulted whom. This witness states that Hadi, Bakar, K.C.Bing came running from the place of occurrence and entered into Chandi's shop. The other witnesses who had seen the assaults on Hadi did not depose about this fact. According to this witness Pandu followed the three persons and he also entered Chandi's shop after them. He used lathi but on whom his blows fell the witness cannot say. Here I may state that those three persons and another witness John Lukan examined as P.W.36 have deposed that when they all entered Chandi's shop, Pandu chasing them also entered the shop and used his lathi, but curiously enough they could not say on whom the lathi blows fell. Pandu after giving the blows came out of Chandi's shop room. Then he began to chase Patnaik who was hiding in the back side of Chandi's shop. He chased Patnaik beyond Chandi's shop upto the road. Patnaik while so chased screamed for his life. He fell down on the road. When Patnaik fell down Pandu went near him but did not assault him and came away again to the place of occurrence. The other earlier witnesses have not deposed all these facts. If Pandu had chased Patnaik and Patnaik was one of the four targets, Pandu could have easily finished him on the road after he had fallen on the ground. All throughout the trial Pandu has been shown to be the worst sinner and the instigators being accused Behera and Bose.

Pandu was here, there and every where at the time of assault. He was assaulting every P.W. He was chasing the P.Ws. from one place to another and one after another. There cannot be any doubt that truth has been completely distorted in this case. I am only referring to the examination in chief of the witnesses. I am not referring to the able and damaging cross-examination of the witnesses because their very chief is not consistent with truth or broad probabilities.

P.W.21, a motor driver of the company, states about the occurrence as follows:-

"All those people (who had gathered near the nullah and who ran towards the open space) going from the rice market gathered at that place. Immediately lathis and stones were used. At that time I did not see any body assaulting any body. I simply saw lathis and stones being used. Thereafter I saw blood on the head of Haddi Saheb but could not know who injured him. Thereafter I saw Mangulu and Pandu chasing

Idris and assaulting him while he was running."

Then the witness gives a graphic description of the assaults on Idris. So, if this witness saw the occurrence from close quarters, it is not known how he could not see who assaulted whom. He simply saw the assault on Hadi and thereafter the assault on Idris. Though he could not see the other assaults, he could see minutely the assaults on Idris.

P.W. 23 is Dayanidhi Sahu, a shop-keeper. He says that he followed the mob to the rice market and therefrom he saw somebody assaulting Hadi. He

also saw the assault on Samser but he could not recognise the assailants. Then, according to him, came Idris and the witness describes in detail the assaults on Idris. He states in cross-examination that he was moving in the rice market when the assaults were going on. While moving in the rice market he was inspecting the rice with the dealers and also at the same time watching the assault that was going on. Thus, his evidence would show as if when the assaults were going on quite close to the rice market the rice dealers were peacefully sitting in their rows and selling their articles. He further admits that he could not properly see the assaults and the assailants as between him and those who were being assaulted, there was the violent mob.

P.W.24 is Hadi, the first injured according to the prosecution and also one of the four targets of the Lal Jhanda people. He states that after coming to the hat he was in the open space near his vehicle. At that time he saw some of the accused persons coming from the Muslim hotel side on the road with lathis and they passed by his side. They went by the side of Chandi's shop towards the nullah. From that open space he could see the gathering near the nullah. He then began to talk with some female labourer. Five or ten minutes thereafter he heard a whistle sound. Then the gathering came to the open space with lathis in their hands. Randu Gagrai caught hold of his hands and Bairagi Chhatar, Pandu and Biram assaulted him with lathis. To save himself he sat down at the place. The assailants left him and began to run here and there and indulged in assaulting. Whom they were assaulting he could not

say. He slipped away from the place and went into Chandi's shop. There he saw Bakar and K.C. Sing also following him to that place. Pandu came there with a lathi. He gave blows but he cannot say on whom he gave blows. Chandi Babu, the owner of the shop, was also inside the room. Some time after Chandi Babu gave out that none was there outside and so he and Bakar and K.C.Sing came out of the shop room and went in a truck to Guruda. This is his evidence in Chief. He admits in cross-examination that inside the shop room of Chandi Babu there was also one female labourer hiding. Ofcourse he gives her name as Dasma. I have already stated that admittedly immediately before the occurrence he was talking with some female labourers at the open space.

If this witness was the target and if there was the conspiracy to kill this witness, there could not have been any difficulty to finish this witness in the occurrence. He states that on being assaulted he sat down and his assailants took mercy on him and left him. He was sitting when the mob began to indulge in marpit, yet he could not notice who were the targets of the marpit. He went into the shop room of Chandi Babu followed by Bakar and K.C.Sing. Pandu followed them there. He gave blows but on whom he cannot say. There was a female labourer concealing herself in that room. She was one of those female labourers with whom he was talking before the assault took place. If Pandu took mercy on this witness and did not finish him when he sat down at the open space there is no reason why he should have followed him inside Chandi's room and though in that room there were only 4 or 5 persons and though Pandu gave blows

to somebody, he could now know on whom the blows fell. In this connection I may again repeat the defence version of the occurrence. A male labourer belonging to Lal Jhanda party named Madan Tiria had been kidnapped by the Tiranga people on the previous day, viz., 25th. In the hat when the Tiranga people including this witness and other injured gathered at the open space, the place of occurrence, a female worker named Jambi alias Dasma, the maternal aunt of the kidnapped labourer Madan Tiria -- confronted those people and asked them to release her nephew. There was a golmal when the Tiranga people man-handled the female labourer and wanted to take her away. There was protest by the people present there. Tiranga people became the aggressors. They used lathis and Idris a Bahungi against the people who were protesting. People present there retaliated by throwing stones and using lathis.

The above defence version gets ample support from the evidence of this witness. Admittedly immediately before the occurrence he was talking with a female labourer. Immediately a mob came there and he was the person to be assaulted. He was found with a woman before the assault. I will come to this defence version a little later on. The same comment I would like to make about this witness that he is suppressing the truth.

P.W. 26 is a cloth dealer. He belongs to Jhumpura, the village of Sirajuddin. He says that his shop was near the place of occurrence. He heard the hullah. Many people arrived at the open space and they began to throw stones and indulge in the marpit.

He saw the assault on Patnaik first. After Patnaik's assault, the assault on Samser took place. Then Ramjan driver was assaulted and lastly he saw the assault on Idris. He had not seen the assault on Hadi and Yasin. The manner in which he has given his evidence is suspicious. He has deposed faultingly. I need not refer to his evidence in detail.

I next come to the evidence of P.W.28. He is a driver under Sirajuddin & Co. He states that he saw the occurrence from very close quarters. He first saw the assault on Samser. After the assault on Samser was over, the assault on Patnaik took place. The evidence of the earlier witness P.W. 26 has been that Patnaik's assault took place just before the assault on Samser. That discrepancy apart, he states in chief that Idris came to the place of assault when assault on Samser was going on. He came near Samser and thereafter assault on him began. He further states that Patnaik fell down after his assault and after a little while he got up and he was chased by accused Pandu upto to the road. If the evidence of this witness is believed, then the assault on Idris had already taken place before Pandu chased Patnaik between Chandi's shop upto the road towards the south of Chandi's shop. This witness further states that when assault on Idris was taking place, the assault on Samser was also taking place. This is not the evidence of any other witness.

P.W. 29 Md. Taher states that near his shop at the back side the occurrence took place. Hearing the hullah he came out. He saw Mangulu on the bonnet of the half-ton truck. Then he saw the mob reaching that side. The mob came through the rice market. He

saw the assault on Patnaik. Immediately after his assault, the assault on Samser took place. Thereafter Raja driver and Hanan were assaulted. Lastly Idris came and he was assaulted. Ofcourse the witness gives vivid description of the assault on Idris. If this witness had gone to the spot and was very close to the spot from the very beginning it is strange that he did not see the earlier assaults on Hadi, Yasin and others. He saw the first assault on Patnaik driver. According to him the assaults were taking place one after another, Patnaik, thereafter Samser, thereafter Raja driver, then Hanan and lastly Idris. This witness, however, has stated to the I.O. P.W.48 as follows:-

"The assaults were so quickly made and the injured were so mercilessly beaten that the villagers and traders were terrified and that I had to remain at my stall to look after my goods."

Thus, according to his statement before the Police this witness did not move from his stall and as such he could never have seen the occurrence. The place of occurrence was at the back side of his shop which was closed with a screen. From the stall the -- occurrence was not visible. That is why the witness now comes out with a different story that he came out of the stall and from close quarters saw the occurrence.

P.W. 51 is Abu Bakar. He is one of the injured. He came with Md. Idris, deceased and Hadi to the hat in a station wagon. His evidence about the occurrence gives a smashing blow to the prosecution story as developed by the P.Ws. I need not refer to his cross-examination. I am simply reproducing his evidence in chief:-

"I was present in the hat on the day of occurrence. Md. Idris and Hadi also went. There were 2 or 3 more persons with us."

"We reached the hat at 11.30 A.M. We came in a Station Wagon. We kept the Station Wagon by the side of Chandi's shop. I then went to the Muslim hotel to take tiffin. After tiffin when I was washing my hands, I saw Paramanda Mahanta, Sen, Bira Mahanta, Mangulu and some other persons whose names I do not remember were going with great force on the road with lathis in their hands. They were going on the road towards Chandi's shop. I sat for rest in the hotel. Then I heard a hullah. As the noise became great I came out of the hotel and started for the place where our station wagon had been kept. I saw people running that side. Then I saw Haddi was assaulted by Pandu near the station wagon. I then went to interfere. I was assaulted with lathis by Pandu, Bikram Munda and Siba Tanti. At that time I saw Bakar throwing stones at Haddi. I raised my hands to avoid further assaults on my head. I then got lathi blow on my right side but from whom I cannot say. A stone thrown by somebody hit me. Then I heard Nirmal Bose and Hadibandhu Behera shouting "Saleko Khatam Karo". At that time Idris came there from which side I cannot say. All those who were assaulting me moved away. I began to run away. Pandu chased me. I entered into Chandi's shop. He also entered there and

assaulted me with a lathi. Then Pandu went out of the room. Somebody then closed the room. I cannot say who closed the room. After some time I came out of the room. I saw a truck standing near the road. I went inside the truck and remained there. I do not remember what happened thereafter. I got back my sense nextday in Guruda hospital."

"In the room of Chandi's shop, I found Hadi and K.C. Sing."

In cross-examination he has stated as follows:-

"Idris did not come near me. He was at a distance of 5 to 10 feet from me. x x
x x x x As soon as Idris came those who were assaulting me ran to him. I then ran and was chased by Pandu.
x x x I entered the shop room of Chandi's shop. I cannot say if Hadi and K.C.Sing had gone to that room before me or after me. I saw them only after Pandu left the room assaulting me. I do not remember if I stated in the lower court that Hadi and K.C.Sing entered the shop room after I had entered it."

Thus, according to the evidence of this witness, he saw the assault on Hadi. He ran to the rescue of Hadi and he was assaulted by somebody and at that very time before the assault on any other person had taken place Idris came there. When Idris came there the attention of the assailants was diverted from him towards Idris. This witness then ran to Chandi's shop and concealed himself in a room in that shop. Pandu followed him. He also entered into that room and

beat him. He found in that room Hadi and K.C. Sing. If this witness is believed then Pandu could not have taken part in the assault on Idris because when Idris came this witness ran to Chandi's shop and Pandu chased him to that side. Further there has been evidence to show that Pandu after coming from Chandi's shop-room chased Patnaik driver upto the road going behind Chandi's shop. So Pandu could not have been the assailant of Idris. Further the evidence of this witness shows that Idris was at the spot the moment the marpit began. He gives a lie to the evidence of the other P.Ws. that assaults on persons were taking place one after another after some pause and Idris came to the scene last of all.

P.W.32 is Patnaik driver. This witness was, according to the prosecution, a target of the Lal Jhand-a people. The evidence that he has given would also clearly show his attempt to distort truth. He was a witness to the alleged conspiracy near the nullah. He say that he and Samser were coming on hearing the conspiracy when the mob came running from the nullah side and passed by them. If he was really the target there is no reason why he was spared at that time by the mob. He further states that Samser went first to the rice market and he was assaulted. There is no reason why Samser would go to the place of assault when marpit had already taken place. Samser was ahead of him. He had crossed the rice market and had gone to the open space where the marpit was going on. He was in the rice market when Samser's assault took place. Seeing his assault this witness turned his back and was trying to come away when assaults on him took place.

As his evidence shows, his assault did not take place in the open space but in the rice market. The violent mob had gathered at that very place. They could have easily finished this witness at that place. The manner in which this witness deposes to have gone away in kneeling condition upto the road after his assault is unbelievable specially when there is the evidence of other witnesses that he was chased upto the road by Pandu while he was running away. Further there is no explanation why the witness should try to escape through the open space where the marpit was going on and not in a different route. This witness who is a driver of the company was a discharged constable. There had been allegations by the Lal Jhanda people against the rash action of this witness. One of the allegations was that this witness was trying to damage the jeep of Lal Jhanda people by dashing his truck against it. The defence suggestion was also that this witness took a leading part in the kidnapping of the male labourer Madan Tiria and also in the -- manhandling of the female labourer in the hat.

P.W. 35 is Samser. He had heard the conspiracy and so he and Patnaik P.W. 34 were coming running. It is not explained why they were coming running towards the open space where the occurrence took place. It is also not explained how the mob which was long behind him and P.W.34 could overtake them within a few feet. The witness states that the moment he crossed the rice market the assault on him took place and he fell down senseless. He regained his sense in the hospital. This witness was also a target of the conspiracy along with P.W.34 Patnaik. As they were both long ahead of the mob,

they could have safely escaped. The very fact that having heard the conspiracy both of them were going to the place of occurrence goes to show not only that the conspiracy story was false but also that the occurrence was due to some other reason. This witness is also a driver of a relation of Sirajuddin.

P.W. 26 is the servant of Chandi working in his shop. His evidence does not help the prosecution and so he was allowed to be cross-examined by the Public Prosecutor. It has not been explained why the prosecution did not cite Chandi, the shop-owner who was admittedly present in his shop at the time of occurrence as a witness and instead, his servant was cited. The very fact that the master was not examined but his servant, would show that there was something suspicious in the prosecution story. It was easy to get the support of the servant than of the master for a false story. That has been the defence criticism in the matter.

P.W. 27 Sadatulla had gone to the hat along with some of the P.Ws. including Yasin P.W. 13. This witness says that hearing the hullah he came to the place of occurrence. While going he saw Hadi running away. He further saw Samser being assaulted. Then he saw Patnaik running away and Pandu chasing him. Thereafter he reached the spot. He saw Kurban lying on the ground. He went to raise him. Albert Jojo assaulted him on his head with a lathi. Nayar and Sen threw him stones. He then began to run. Thereafter Idris came. Thus, in confirmity with other P.Ws. this witness states that the assaults took place, one after another and Idris came to the place of occurrence last of all. The last assault before

Idris came to the scene was, according to this witness, on him. He had seen Pandu chasing Patnaik. Both of them passed by his side on the road but he did not see Pandu coming back. I need not repeat the comment about the inconsistent manner of the description of the occurrence given by the P.Ws. including this witness.

P.W. 38 in the same manner describes the assault taking place one after another. He saw the assault from the road. He did not see the assault on Idris as he fled away out of fear. He is an office clerk of Sirajuddin Company.

P.W.39, the Chowkidar of Sirajuddin Company, did not see all the assaults though he was close by. He was assaulted when he came to the rescue of Samsar. He was hit with a stone in his knee and out of fear he ran away from the place. However, he has admitted in his cross-examination that he came back from the hat in a truck driven by a Punjabi driver. This evidence would show that other trucks had also come.

P.W.41 is Gopi Sethi. He was also a witness to the conspiracy. When the mob ran to the place of occurrence he went near it. He saw only the assault on Idris and nothing more.

P.W.42 is K.C.Sing. He had gone to the hat along with Idris, Hadi, Bakar and others. Hearing the hullah when he was in the hat he came to the spot. He saw stones being pelted and lathis being used. He went closer and saw Hadi's assault. Hadi sat down on account of his injuries at the place. Then the assault on Kurban began. This witness wanted to intervene but he got a blow from accused Sen. He wanted to run away but he was caught hold of and blows were given to him

by Mitra and Chhatar. At that time Bikram and Pandu were assaulting Bakar by his side. He ran to Chandi's shop and concealed himself. It is indeed curious that this witness would have noticed the assaults on other persons when he was being assaulted.

P.W.43 is a rice dealer. He says that he was selling rice when the mob gathered there. He was in the rice market. He saw the marpit therefrom.

The marpit was going on vigorously. Then he saw Randu Dagrai holding the hands of Hadi from back side and some one assaulting him. Then he saw Kurban was assaulted by Mitra Babu. Then he saw Patnaik's injury and after that, the injury of Amer. Thereafter came Idris to the place. The witness then describes in detail the assaults on Idris. If this witness is believed then Hadi's assault took place after the marpit had vigorously begun. This witness also admits that many outsiders had seen the marpit like him.

The last witness is P.W.45 Kamrul Huda. He had come to the hat in the same truck with P.W.13 and others. He heard the conspiracy in company with P.W.13 near the nullah and both of them came hurriedly. He, however, separated from P.W.13 and took a different route and went over to the road. From the road he saw the assaults taking place one after another. Though he was standing on the road, a stone was thrown at him. Being hit he ran away from the place and went to the back room or Chandi and therefrom he saw in detail the assaults on Idris. Though he was in the back room

he did not notice P.W.13 there. He saw the assaults on Idris through the Jhati walls of the room. He admits that many people were moving in the open space between him and the place of assault on Idris.

I have discussed the evidence of the eye-witnesses. Their evidence is not only inconsistent but also unbelievable. There has been a definite attempt to twist, distort and suppress truth. An occurrence took place no doubt, but a wrong cause has been shown. The real cause for the occurrence in trouble as in that case they would be found to be aggressors. To make them innocent a case of -- conspiracy has been fabricated in great detail. Interested witnesses have been brought to prove the case of conspiracy. I have earlier shown that this is a case in which the Company is vitally interested. The eye-witnesses are either servants of the Company or are interested in the Company.

In this connection I would refer to the pertinent observations of Their Lordships of the A.P. High Court in a ruling reported in A.I.R. 1961 A.P. 23.

"To insist on independent evidence in faction cases, is to ask for the impossible. It is a matter of common knowledge that in cases arising out of acute factions, as a rule, persons unconnected with either faction, do not care or dare to come forward as witnesses lest they should incur the wrath of the other party. At the same time, in such cases, (especially in cases coming from the Districts of Rayalaseema) there is an

incurable tendency in witnesses to rope in the innocent along with the guilty, not so much out of personal animosity but in the hope of furthering the interests of the faction. To guard against the danger of condemning innocent persons on perjured testimony, it is imperative that evidence should be scrutinised with more than ordinary care and, in particular, sweeping statements and wholesale implications should be received with the utmost caution."

I will simply insert 'the mining areas of Barbil' in place of 'district of Rayalaseema' appearing in the bracketted portion of the ruling. Definitely in this case the Tirangi people and the Company found a golden opportunity to rope in the leaders and important members of the Lal Jhanda party without caring for the truth. The Police also unfortunately played into their hands. Definitely on the evidence I have no hesitation to hold that many of the accused persons including the leaders Bore and Behera are innocent persons and they had not been to the place of occurrence. In this case the prosecution, to repeat again, could have brought independent witnesses who would have given -- convincing and impressive evidence, It was a hot day. Many outsiders were there. Many vehicles had come and as I have shown, there were some Punjabi drivers also. The prosecution examined only the partisan witnesses, witnesses who by their evidence have not only shown the improbabilities of their

evidence but also their interestedness. There is an entry in the Station Diary of Bameibari Out Post on the day of occurrence that the Chaukidar of the locality reported about the marpit in the hat. Ofcourse the time given in the station Diary is 2 P.M. That Chaukidar has not been examined as a witness. The Inspector P.W.48 states that he examined the Chaukidar more than a week after he took up the investigation and he gives the feeble explanation that the Chaukidar was not available as he was a drunkard.

I may also refer to another important ruling of the A.P. High Court reported in A.I.R. 1960 A.P. 70. In the ruling the observation of the Federal Court appearing in A.I.R. 1944 F.C. 1 has been quoted. The observation is as follows:-

"The gist of the learned High Court Judge's finding on the whole case is contained in the observation that there was really no explanation why anybody would have invented a false case against the appellants. This is not in our opinion a justifiable point of view to adopt in a case like the present where the prosecution evidence was found to be largely false and riddled with defects and contradictions. The prosecution having failed completely to establish the guilt of the appellants by good and reliable evidence, it was not for the appellants to explain why their names had been mentioned by the prosecution witnesses as persons who had participated in the riot."

His Lordship of the A.P. High Court discussed the evidence in the case and observed as follows:-

"I am accordingly of the view that the prosecution case be beset with doubts and difficulties, the benefit of which must necessarily go the accused."

I would also refer in this connection to a recent ruling of the Mysore High Court reported in A.I.R. 1961 Mysore 74:

"In assessing the value of the evidence of the eye-witnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the

probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence."

"Where in a narrow strip of land (only 15 yards wide) as many as 15 to 20 men take part in the assault which occupied a period of 5 minutes or less, the possibility of the observations of the witnesses having been inaccurate or not quite accurate cannot be fully discounted."

x x x

"A plea of self-defence is consistent with the express plea of alibi raised by the accused. However, if on the material placed on record, the plea of private defence could be made out consistent with the provisions of S. 105, Evidence Act, there is no -- justification for denying the benefit of its to the accused."

Before concluding I would refer to the argument of the learned Public Prosecutor that if there had been fight between the two parties, there would have been injuries to members of both the parties and not injuries to only one party. He has argued on the assumption that none of the Lal Jhanda people had got any injury. As was rightly argued by the learned defence Advocate it was not a fight by the Lal Jhanda people but a fight by the public who were present at the spot and who resisted the high-handed action of the Tirangi people when they wanted to manhandle a female labourer and take her away by force only for her fault that she challenged

them to have kidnapped her nephew Madan Tiria. As was rightly argued by the learned Advocate, it is not for the accused persons to produce those who were injured in the fracas. Because the investigating officer did not find any injured person, I cannot hold that there was only one-sided fight and not a mutual fight between the two parties. It is very likely that a good number of persons would have been injured on the other side but they concealed themselves and did not like to come out. They knew the mind of the Police, they knew the influence of the Company and so, they did not dare come forward to appear before the Police to show their injuries and to give a correct version of the occurrence. I have already in the beginning stated that I am not satisfied with the investigation of this case. I cannot find that only one party caused the injuries and not the other party. The case is such that any reasonable man cannot but find that there was mutual marpit between the two parties in the hat, both parties got injuries and the case has been started at the instance of one party and the injured of the other party have remained untraced.

The Police arrested accused Behera at Cuttack long after the occurrence and there at that time his cloth was seized as it contained small blood stains. accused Behera has given his explanation that at that time he was suffering from skin disease. If really Behera's cloth had blood stains, intelligent and educated man as he is, he got enough time to destroy the cloth which would have been an evidence against him.

Lastly I take up the case of accused Pandu.

This accused has taken a plea of alibi. Suffice it for me to say that this plan has not been properly proved. On the evidence I am inclined to hold that on the day of occurrence he was not only at Guruda but he had also come to the hat. Possibly he had taken some part in the assaults that took place, but the manner in which the evidence has been given by the P.w.s. as regards the part played by him in the assaults remains unbelievable. I have already shown that the prosecution story about the manner of assault on Idris and the death having been caused by throwing of two stones M.Os. III and IV by Mangulu and Pandu is nothing but fabrication. While discussing the evidence of the P.w.s. I have shown that Pandu could not have been the assailant of almost all the injured and he could not have been at the same time present at the spot and also running after the injured one after another to different places. The evidence regarding his part has been too much exaggerated as to make it difficult to believe. It is quite possible that he took some part in the assault as much it is possible that he did not take any part but was present there. I am inclined to believe from the evidence and on a consideration of the broad -- probabilities and circumstances of the case that the occurrence took place due to the high-handed action of the injured persons and Idris, the deceased, all belonging to Tirangi Union. There can be no question of unlawful assembly. The evidence of the witnesses is unbelievable so far as the cause and particulars of the occurrence are concerned. In such a case,

even if Pandu's alibi is disbelieved and even if his cloths containing blad stains were found from his house, still he has to get the benefit of doubt.

In this connection I would refer to a Hindi speech, Ex.48, seized from the house of accused Patel. This speech, though it has not been proved to have been in the writing of accused Patel, does not prove any conspiracy. It is a speech as strong in its wording as it is the printed leaflet, Ex.49, issued by the Tirangi Union by way of propaganda.

Lastly I would refer to Ex.D, a copy of report submitted by accused T.P.R. Nayar to the S.I. of Police at Guruda on 25.9.60. The S.I./Police, Sri S.C. Das, received this report at 9 A.M. on 26.9.60. He has signed in Ex.D. and put the date and time of his having received the report. Accused Nayar speaks about this report in his statement. The report is to this effect:-

of
"The Sub-Inspector/Police,
Camp- Guruda.

Dear Sir,

It has been reported that to-day at about 4.30 P.M. while one of our members Sri Madan Tiria was receiving subscriptions from the members of our Union near Siljora Rice godown, Jb. M.A.Hadi came to the spot in truck No.ORJ.1125 and dragged the said Madan Tiria towards the vehicle. When Sri Madan Tiria objected to enter into the vehicle Jb.M.A. Hadi insulted him by shouting abusive language and forcefully

thrown him inside the vehicle. Afterwards the above truck has been driven to an unknown destination. This incident was occurred in presence of the following workers:-

1. Sri Baidhara Munda (Tungru Hutting)
2. Sri Debru Karai (Soso Hutting)
3. Sri Johan Luga (Tungru Hutting)
4. Sri Benjamin Kochua (Do)
5. Sri Lakian Lunga (Do)
6. Sri Sakiria Tate (Do)

I would, therefore, request you to please make an immediate inquiry and take necessary action against the accused.

Yours faithfully,

Gurda
25.9.60

Sd.T.P.R.Nayar,
Secretary,
K.M.F.W.Union, Guruda
Branch."

So, this report which was received by the S.I. at Guruda on the 25th goes to show that the defence version about the kidnapping of Madan Tiria is not a false one or an afterthought. The learned Public Prosecutor, rather, ungenerously submitted to the Court that this report was a fabricated one made for the purpose of defence and that the accused persons got the signature of Sri S.C.Das, the S.I. of Police who is now under suspension clandestinely during trial. There is absolutely nothing to show that the defence has adopted any such mean tactics. Sri S.C.Das, the Sub-Inspector of Police, is still in service though under suspension. He cannot be a party to a fabrication and injure his own career.

Moreover, as the evidence of the Inspector shows, Sri S.C. Das has all along gone against the Lal Jhanda Union and supported the Company and the Tirangi Union. There is absolutely no reason why he should take the dangerous course of supporting the Lal Jhanda Union during trial in fabricating a false story. The learned Public Prosecutor further submitted that the Police had made a search for the original of this report and have not found the same. The evidence of the Sub-Inspector P.W.47 shows that the search has been made haphazardly and proper places have not been searched to find out the original. Even if the original is not found, that cannot be a material to hold that Ex.D, the copy of which bears the signature of the S.I., is a -- fabricated documents. It is quite possible that the Police to save their skin have suppressed the original of Ex.D. So, the defence is not baseless. It is supported by convincing documents, circumstances and probabilities of the case. The evidence of the P.Ws. also when considered closely, as I have already shown, indirectly supports the defence.

I may also make mention of a fact, though not very important. At the spot the S.I. P.W. 47 seized 16 lathis including a Bahungi. There is nothing to show that the mob left behind those lathis and left the place. The mob was, at a modest estimate of the witnesses, about 150 strong. The number of lathis seized is 16. Further no P.W. has stated that any one of them was holding a Bahungi while the defence suggested all throughout that Idris indulged in the marpet with a Bahungi. So, the seizure of the

Bahungi indirectly supports the defence version.

I now come to the Police conduct in this case. I have already shown the defects about the seizure and the interpolations in the Station Diary at Bameibari Out Post. Further P.W.47, the S.I., states that he seized the half-ton truck OBJ.629 in which the deceased was brought from the Bameibari hat, at Guruda under Ex.62, the seizure list. He says this with reference to his case diary. Curiously enough the seizure list Ex.62 shows that the vehicle was seized not at Guruda but at Bameibari hat. The time given therein is 2.35 P.M. I have already shown that he seized blood stained earth from one place and though the Inspector found blood patches at 5 places, he did not seize earth from those five places. At 2 P.M. this S.I. sent a chit to the Inspector through a messenger to Barbil informing him about the occurrence. Neither the F.I.R. nor a copy of it was sent to the Inspector. He did not examine any witness between 4 to 6.30 P.M. when he was in the hat. The F.I.R. was not sent by him to Chamakpur P.S. for registration of a case. The A.S.I. who drew up the formal F.I.R. at Chamakpur P.S. has not been examined. The Inspector came with his D.S.P. via Bameibari on the 26th. They reached Bameibari at about 6 P.M. They did not go to the Out Post though it was on the road. Nor did the two officers go to the hat. They stopped by the side of Dayanidhi's shop which is close to the hat. By that time the S.I. was in the hat effecting seizures. Definitely these ~~wh~~ two officers would have been informed about the presence of the S.I. at

that place. At least while going to Guruda and being so near the spot it was expected that these two experienced officers should have gone to the spot. The two officers reached Guruda at about 6.30 P.M. The Inspector says that as soon as he and the D.S.P. reached Guruda they met P.W.47. This cannot be true as P.W.47 would have come from the hat to Guruda after the Inspector and the D.S.P. had come to Guruda. If this statement of the Inspector is correct that immediately after reaching Guruda he and the D.S.P. met the S.I., the only reasonable conclusion would be that three of them came together from the hat in the same vehicle. The Inspector took charge of the case at 8 P.M. Though three Police officers, the S.I., the Inspector and the D.S.P., were there, the medical examination of the injured did not take place on the 26th. There was a Medical Officer at Guruda. True, he was a servant of the Company but there was no bar to his examining the injured on Police requisitions. P.W.8., the Government Medical Officer at Barbil, came on Police requisition the next day evening and examined the injured. These experienced Police Officers were expected to know that the injured were to be examined as early as possible without any reasonable delay from the time of occurrence. There is no reasonable explanation for this long delay in the examination of the injured. While discussing the F.I.R. along with the evidence of the informant P.W.13 in the court, I have shown that the F.I.R. could not have been lodged by P.W.13 at the spot between 1 to 1.30 P.M. as has been

mentioned in the F.I.R., Ex.47. The Inspector says that he sent the formal F.I.R. for registration of the case to Chamakpur P.S. at 10.30P.M. In the evening of 26th. The Inspector cannot say whether the D.S.P. spent the night at Guruda or left for Barbil. The Inspector admits that he opened his case diary on the 27th after the mid-night of 26th and at that time he put the number of the case as Chamakpur P.W. Case No.53 of 1960. He explained that after ascertaining from P.W. 47 about the last number of the case of Chamakpur P.S., he put the number in anticipation hoping that it would be the correct number. The S.I. had left Chamakpur P.S. about a week before the occurrence. Definitely this explanation can satisfy nobody.

Lastly I would like to mention another grave and suspicious irregularity. The case diary shows that a copy of every day's diary was sent the next day by dak to the office of the D.S.P. at Barbil for being forwarded to the S.P. At the request of the defence Advocate, I sent for the copy of the case diary from the S.P.'s office. What astounded me was that though the Inspector had at the end of each day mentioned in his diary that copy was to be despatched the next day by dak, yet the copies appeared to have reached the D.S.P.'s office at Barbil on 22.11.60 about two months after the due dates. The date seals of the D.S.P.'s office have been put in the copies. Further the D.S.P. has endorsed the copies and forwarded them to the S.P. on 3.12.60 and 5.12.60. All the irregularities are definitely suspicious and that has led to strong comment by the

learned Advocate for the defence. The comment that the Police did not act fairly, that they allowed sufficient time for fabrication of a false case to distort the real truth and that they did not proceed in their investigation in the proper line with a view to arrive at the truth, is not without foundation. It is also curious that there was no Police patrol in the hat on the day of occurrence and no constable from the Out Post came to the hat at the time of occurrence, though the Out Post practically adjoins the hat. The Chaukidar who was admittedly present was not produced and he was examined by the Inspector at a very late stage. It is difficult to believe that the constable at the Out Post would not have come to the hat at the time of occurrence. The whole affair seems to be suspicious.

Lastly I come to the conduct of P.W.8, the Medical Officer. I need not discuss his evidence in detail. Suffice it to say that even the learned Special Public Prosecutor did not put reliance on his reports. He found the injuries to be grievous as the injured remained in the hospital for more than 21 days. The injured were not under his treatment. They were not staying in his hospital. They were staying in the Company's hospital at Guruda. He had suggested X'ray examination of some of the injuries. Before the X'ray plates could reach him he gave his opinion that the injuries were grievous as he was satisfied from the statements of the injured that they had remained in the hospital for more than 21 days. It may be mentioned here

that the X-ray plates did not disclose any fracture or grievous injury. He mentioned about some scars. The injured appeared before me and I did not find any such scar which would make the injury grievous. In fact, I had to take the photograph of P.W.32 Patnaik to show that the scar is a negligible one. In one case or two, there have been dislocation of a tooth. It is not necessary in this case to come to a finding whether the injuries of the injured persons were grievous or simple. The Medical Officer states that those injuries could have been caused by stone throwing also. I have found that the prosecution evidence is not reliable. The occurrence did take place but those who participated in the occurrence might not be the accused persons. Definitely many of the the accused persons were not present and some might have been present but they might not have taken any part. They would have simply witnessed it. On the unreliable evidence of the P.w.s. it is difficult for the court to find that any particular accused took part in the occurrence. Moreover, as the cause of occurrence has not been properly given, even if any accused person indulged in the marpit, it would not be possible to find him guilty.

It is indeed an unfortunate case. Had the prosecution come up with a clean clear-cut story and had not the witnesses indulged in distortion and suppression of truth, this Court would have come to a definite finding about the guilt of any accused. To me, it appears that there was no sincere attempt to place the truth before the Court or to bring the

real guilty persons to Court and the whole attempt was to bring in the leaders and influential members of the Lal Jhanda Union who were not in the good books of the Company. If the guilty persons have escaped, none but the Company and the P.Ws. are to be blamed.

Accordingly, all the accused persons are found not guilty and acquitted of all the charges framed against them. They be set at liberty forthwith.

M.Os. be destroyed after the period of appeal.

(SEAL OF COURT)

Dictated & corrected by me,

J. Judge.

sd./- P.C. De.
7.10.61.
SESSIONS JUDGE
MAYURBHANG-KEONJHAR.

LIST OF PROSECUTION WITNESSES.

1. Gokul Chandra Das, P.W.1.
2. Narendra Mahapatra, P.W.2.
3. Sachindra Kumar Mazumdar, P.W.3.
4. Joykrushna Naik, P.W.4.
5. Fulamoni, P.W.5.
6. Damo Gomaya, P.W.6.
7. Sayed Abdul Hage, P.W.7.
8. Dr. K. Mohanty, P.W.8.
9. Ram Dachan Tanakur, P.W.9.
10. Dr. M.A.Alam, P.W.10.
11. Pandu Kolh, P.W.11.
12. G.P. Yotishi, P.W.12.

List of P.Ws. (Contd.).

13. Md. Yasin, P.W.13.
14. Ram Chandra Das, P.W.14
15. Lambodar Misra, P.W.15.
16. Sk. Md. Sahajahan, P.W.16.
17. Abdul Sattar, P.W.17.
18. Abdul Hanan, P.W.18.
19. Mohi Chandra Lohar, P.W.19.
20. Sahabuddin, P.W.20.
21. Panalal, P.W.21.
22. Md. Kasim, P.W.22.
23. Dayanidhi Sahu, P.W.23.
24. Md. Abdul Hadi, P.W.24.
25. Md. Kurben, P.W.25.
26. Md. Nabi, P.W.26.
27. Dr. G. Choudhury, P.W.27.
28. Rajkishore Naik, P.W. 28.
29. Mu. Tahir, P.W.29.
30. Dr. S.C.Hazara, P.W.30.
31. Abu Backer, P.W.31.
32. Narahari Patnaik, P.W.32.
33. Hulakraj, P.W.33.
34. Madhab Ch. Das, P.W.34.
35. Samsar, P.W. 35.
36. John Lujan, P.W.36.
37. Sadatulla, P.W.37.
38. Asraf Ali, P.W.38.
39. Kali Charan Mohanta, P.W.39.
40. G.D.Panda, A.S.I., P.W.40.
41. Gopi Sethi, P.W.41.
42. K.C.Sing, P.W.42.
43. Bhuban Padan, P.W.43.
44. Md. Ranjan, P.W.44.

List of P.Ws. (Contd.)

- 45. Abdul Kamrul Hoda, P.W.45.
- 46. Natabar Kuar, P.W.46.
- 47. B.K.Rout, S.I., P.W.47.
- 48. A.C.Bardhan, Inspector, P.W.48.
- 49. C.S. Misra, S.I., P.W.49.

LIST OF EXHIBITS.

- Ex.1, Letter.
- Ex.1(a), Signature of P.W.1.
- Ex.2, Address.
- Ex.3, A chit.
- Ex.4, Command Certificate.
- Ex.5, Dead body chalan
- Ex.5(a), Report of P.W.2.
- Ex.6, Seizure list of M.Os.I and II.
- Ex.7, Signature of P.W.7 on a
medical certificate.
- Ex.8, Seizure list of medical
certificate containing Ex.7.
- Ex.9, Police requisition.
- Ex.9(a), Injury report.
- Ex.10, Police requisition.
- Ex.10(a), Injury report.
- Ex.11, Police requisition.
- Ex.11(a), Injury report.
- Ex.12, Police requisition.
- Ex.12(a), Injury report.
- Ex.13, Police requisition.
- Ex.13(a), Injury Report.
- Ex.14, Police requisition.
- Ex.14(a), Injury report.

List of exhibits (Contd.).

- Ex.15, Police requisition.
- Ex.15(a), Injury report.
- Ex.16, Police requisition.
- Ex.16(a), Injury report.
- Ex.17, Police requisition.
- Ex.17(a), Injury report.
- Ex.18, Police requisition.
- Ex.18(a), Injury report.
- Ex.19, Police requisition.
- Ex.19(a), Injury report.
- Ex.20, Police requisition.
- Ex.20(a), Injury report.
- Ex.21, Police requisition.
- Ex.21(a), Injury report.
- Ex.22, Police requisition.
- Ex.22(a), Injury report.
- Ex.23, Police requisition.
- Ex.23(a), Injury report.
- Ex.24, Police requisition.
- Ex.24(a), Injury report.
- Ex.25, Police requisition.
- Ex.25(a), Injury report.
- Ex.26, Requisition for ~~expert~~ opinion.
- Ex.27, Opinion.
- Ex.28, Report to Police query.
- Ex.29, Police requisition.
- Ex.29(a), Injury report.
- Ex.30, Police requisition.
- Ex.30(a), Injury report.
- Ex.31, Police requisition dated
13.10.60

List of Exhibits (Contd.)

- Ex.32, Police requisition dated
19.11.60.
- Ex.33, Report of P.W.10 regarding
death of Md.Idris Ansari.
- Ex. 34, Do Do
 in proper form.
- Ex.35, Letter dated 26.9.60 to Police
Officer, Guruda.
- Ex.36, Station Diary Entry No.77
dated 11.7.60.
- Ex.37, Station Diary Entry No.78
dated 11.7.60
- Ex.38, Station Diary Entry No.79
dated 11.7.60
- Ex.39, Station Diary Entry No.211
dated 24.8.60.
- Ex.40, Station Diary Entry No.221
dated 25.8.60
- Ex.42, Station Diary Entry No.224
dated 31.8.60.
- Ex.43, Station Diary Entry No.156
dated 16.9.60
- Ex.44, Station Diary Entry No.230
dated 25.8.60.
- Ex.46, Station Diary entry No.17
dated 2.5.60.
- Ex.46(a), Report,
- Ex.47, F.I.R.
- Ex.48, Letter.
- Ex.49, Printed leaflets in Oriya.
- Ex.50, Seizure list.
- Ex.51, Seizure list.
- Ex.52, Seizure list.

List of Exhibits (Contd.)

Ex.7(a), Medical Certificate
granted by P.W.27.

Ex.53, P.M. Report.

Ex.54, Police query dated
7.11.60.

Ex.54(a), Reply to P.W.30 to
Ex.54.

Ex.55, Photo.

Ex.56, Negative of Ex.55.

Ex.56(a), Negative of Ex.55(a).

Ex.55(b), Photo

Ex.56(b), Negative of Ex.55(b).

Ex.55(c), Photo.

Ex.56(c), Negative of Ex.55(c).

Ex.55(d), Photo.

Ex.56(d), Negative of Ex.55(d).

Ex.57, Application dated 18.9.61.

Ex.58, Inquest Report.

Ex.59, Seizure list.

Ex.60, DO

Ex.61, Do

Ex.62, Do

Ex.63, Do

Ex.64, Do

Ex.65, Do

Ex.66, Do

Ex.67, Do

Ex.68, Do

List of Exhibits (Contd.)

Ex.69, Seizure list.

Ex.70, Spot map.

Ex.71, Copy of Ex.B-1.

Ex.72, Report of Haladhar Giri.

Ex.73, Station Diary Entry
dated 27.9.60.

Ex.74, Forwarding letter to
Chemical Examiner.

Ex.75, Seizure list.

Ex.47(a), Formal F.I.R.

Ex.47(b), Signature of Magistrate
on Ex.47.

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Ex.A, Receipt dated 1.8.60 granted
to P.W.3 by General Secretary,
Keonjhar Mines and Forest
Workers' Union.

Ex.A-1, Receipt dated 8.5.60 granted
to P.W.3 by General Secretary,
Keonjhar Mines and Forest
Workers Union.

Ex.A-2, Receipt dated 5.6.60 granted
to P.W.3 by the General Secretary,
Keonjhar Mines & Forest Workers'
Union.

Ex.B, Signature of Police S.I. S.C.Das.

Ex.B-1, Signature of Police S.I. S.C. Das.

Ex.B-3, Signature of Police S.I. S.C. Das.

Ex.C, Signature of S.I. S.C.Das on Ex.57.

List of Exhibits (Contd.)

Ex. D, Signature of S.I. S.C. Das on Ex.57.

Ex.E, True copy of Ex.62.

Ex.F, Notice on N.K. Bose.

List of M.Os.

M.O.I, Shirt.

M.O.II, Half Pant.

M.O.III, A piece of stone.

M.O.IV, A piece of stone.

M.O.V, Dagger.

M.O.VI, Receipt Book.

M.O.VII, A blue shirt of
Haribandhu Behora.

(SEAL OF THE COURT)

Sd./- P.C. De.
7.10.61.
SESSIONS JUDGE,
MAYURBHANT-KEONJHAR.

Memo No.

Dt.

Copy forwarded to the state defence
pleader at his request.

Sd./-
Sessions Judge.
7.10.61

Barbil
Case file

274-A

January 2, 1962

Dear Com. Mohanty,

Thanks for your letter dated December 22.

It could not have been replied due to obvious reasons. Now please find enclosed a cheque of Rs.1,000 from the AITUC towards the payment of Lawyers fees in the Barbil case. It seems to me that for sometime to come, it will not be possible for the AITUC to render any further aid. You know the background, I am sure.

The cheque of Rs.1,500 as a refund of your contribution has been sent to you on December 18.

Please try to send us a copy of the Barbil case judgement. If you cannot get it typed, please send the original and we shall get it typed and return the original. Please treat this as urgent.

What is the position of High Court appeal ?
Is the Orissa State going in for it ?

Com. Nityanand Ponda came here and myself, Com. Vittal Rao and Ponda saw the Deputy Labour Minister and he took the matter up. The Central Labour Relations Machinery, I am informed, is enquiring into the matter. Ponda left Delhi on December 14 and told me that he will go to Rourkela via Ranchi. In fact, he took from me the original letter which we have received from the Ministry in connection with Rourkela.

Rest o.k. My greetings to all.

Yours fraternally

D. C. MOHANTY
General Secretary
Utkal State Committee
All India Trade Union Congress

Bangali Sahi
CUTTACK

Dated the 9/11/1962

274-A

~~Barbil~~
Dear Comrade,
~~Case~~

A few months back I sent you a case for approval for being filed in the Supreme Court. You sent me the opinion of Com. Sadhan that there are no much points but it can be filed. I consulted Com. S.K. Acharya and he opined that we should try because it involves some pertinent points of law. The Tribunal though found that the management contravened Sec 33 came to the conclusion that on the material findings that the dismissal was correct. He asked us to file a petition in the High Court for leave for appeal and on its rejection we can go to Supreme Court.

The High Court has rejected the leave application and we can file the same in the Supreme Court by 6th Feb. The workers of the Textile Mill in Cuttack are very serious about the case and want it to be filed -

Therefore I would request you to make arrangements for its being filed. We will prepare the draft etc at Calcutta but I would only request you to find out a Supreme Court Advocate at Delhi to file the same. We shall not be able to pay for his fees but will pay the necessary expenses of the case.

1951
Dated the 11/11/51

All India Trade Union Congress
Uttar Pradesh State Committee
Lucknow

If the case is admitted we will be in a position to pay a token amount.

This case has become very important because ^{that} our State Tribunal on the basis of the above judgment has been dismissing similar 33A cases and others have suffered.

Therefore please make arrangements. On receipt of information from you -

I am sending by separate cover the judgment of Barbil case. This is the original copy and we would not copy it out. Please send us the original after keeping a copy.

Yes, many thanks for the cheque for Rs 1000.00 for Barbil case.

You must have for a report from Roumkela.

Greetings
Respectfully
D. Chakravarty

Com. K. G. Srivastava

We are late regarding
for free lawyers or exhibiting
the case with money
com.
M.S.
15/11

Keonjhar Mines and Forest Workers' Union

(Registered No. 63 :: Affiliated to A. I. T. U. C.)
P. O. BARBIL, DIST. KEONJHAR, ORISSA.
RLY. STN. BARAJAMDA, S. E. RLY.

IN REPLY PLEASE QUOTE _____

16. 1.

1962

My dear Mukherjee,

Perhaps you have received our letter in reply to yours regarding Kiriburu Project.

You might be knowing that the Police had filed an appeal on 3.1.62 against the order of our acquittal in Gurda Murder case.

Our financial position is very precarious at present. The pleaders' fees etc. in connection with the murder case have not yet been fully cleared. Advocate Shri Ram Misra who was defending us in the Sessions case is not prepared to defend us in the High-court unless his arrear fees are cleared in full and he is paid his fees for the High-court in advance. That means, we are to collect at least seven to eight thousand rupees immediately. The appeal is expected to be admitted within a couple of weeks and if the same is admitted we are to go back to jail.

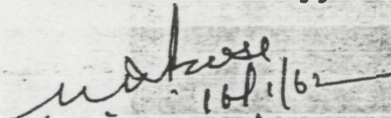
In the circumstances it is impossible to make arrangements for our defence in the High-court unless you arrange some money from that end.

We are trying hard to collect as much as possible but the time is short and in our absence it will be very difficult for others to arrange the required money.

So, please speak to Comrade Dange on the matter and try to send some money at least within a week.

With greetings.

Yours fraternally,


(N. K. Bose)

January 20, 1962

My dear Nirmal-da,

Thanks for your letter of January 16. I have also received your letter concerning Kiriburu. The object of my quarry was to find out whether you could raise an industrial dispute in regard to the termination of services of one employee of that concern. Later, I found out that it will be rather a cumbersome process. So that idea has been dropped.

Regarding the case, I do not know what I can tell you since Com. Dange is not here. Only a few days back, we have sent Rs.1,000 to Com. Mohanty and I do not know whether it will be possible to send anything immediately. In any case, Com. Dange is coming here on Jany.25 and I will discuss the matter with him and let you know the position.

My personal feeling is that in this case the High Court may not order for your surrender because of the very strong judgement of the Sessions Court. I think the defence should press on that plea. I am surprised to know Ram babu's attitude. If he behaves in that manner, which I am sure no lawyer does, it will be the worst position that one can take by indirectly helping the prosecution. If that comes to that, I think we should be rather clear about it and take appropriate measures. I still hope that Durga babu will be able to bring him round.

I will write to you again very shortly.

With greetings,

Yours fraternally,

D. S. MOHANTY
General Secretary
Utkal State Committee
All India Trade Union Congress

Bangali Sahi
CUTTACK ✓

Dated the 22/1/1962

Barbil Case

Dear Sadhan Bn,

I have received your letter of 16th.

The appeal in the Barbil case has been filed by the Govt. But it has ~~not~~^{not} yet come up for ~~reconsideration~~ admission. Probably within the coming week it may come up. We are watching the situation.

A disquieting report comes from Barbil. Behera wrote to me three days back that Bose is probably conspiring with others and the managements do before. I am personally going within a week to Barbil to ascertain the truth of the same.

Please immediately send the original copy of the judgment because we would require the same for bail matters.

Regarding the filing of the case in the Supreme Court I agree with your proposal. We shall send you the draft of our petition and the copy of the award etc. I will also send you a cheque for Rs 500.00. You please manage the whole thing including the nominal fees etc of the lawyer friend with the above sum. As suggested I am sending the vakalatnama signed by the person concerned -

Please see that the ~~copy~~ ^{copy} is filed
by 6th February positively.

Please don't forget to send me
the original by your judgment.

With greetings
fraternally
D. Chohan

N.B

I am publishing a book on the
history of the Indian Trade Union Movt.
in origin shortly. The book is expected to come
out in the 1st week of February. I want
three blocks for the same -

one of Com. Chakravarti
" of Com. Dange
" of Com. Mirajkar.

Please send me the same

If you want it shall be returned after
the printing of the book. Please treat this
as urgent.

D. Chohan

274-A

Cuttack

5-2-62

Dear Comrad,

Received your letter of 15th
Feb for the copy of your judgment.

The ~~app~~ Govt appeal has been
admitted. We applied for bail &
that too has been granted.

Regarding filing your appeal
in Supreme Court the last date is
not ~~for~~ but 17th. I am sending
the papers and a cheque for 500.00
Please do the needful.

Joining away to Guntur's
Election ■
Bharat
Case

Respectfully
Dey