

Main Examination (2013)**For Direct Recruitment to Grade-I of Arunachal Pradesh Judicial Service***Total Marks : 100**Time : 3 (Three) hours***Paper-III****Constitutional Law**1. Answer the following – whether true or false : (1x5=5)

- (a) Right to vote is a fundamental right.
- (b) Judicial review is one of the basic features of the Constitution of India.
- (c) The Chief Justice of the High Court is the appointing authority of District Judges.
- (d) Part IX of the Constitution of India relating to Panchayats was inserted by the 73rd Amendment.
- (e) Article 19(1) (d) of the Constitution of India guarantees to all citizens the right to move freely throughout the territory of India.

2. Write brief notes on any 3(three) : (4x3=12)

- (a) Public Interest Litigation.
- (b) Doctrine of pith and substance.
- (c) Preventive detention.
- (d) Power of the President of India to grant pardon.
- (e) Comptroller and Auditor-General of India.

3. Answer any 3(three) questions : (6x3=18)

- (a) Distinguish between Article 32 and Article 226 of the Constitution of India.
- (b) Article 21-A of the Constitution of India imposes duty on the State to provide free and compulsory education to all children of the age group of six to fourteen years whereas Article 51-A(k) imposes a duty on every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years. Examine and explain the distinction between the two.

- (c) Is the power of the Indian Parliament to amend the Indian Constitution unlimited? Explain with reference to the landmark judgments of the Supreme Court of India.
- (d) Death sentence is constitutionally valid in India. Examine the above with reference to the “rarest of the rare case” doctrine.
- (e) What do you understand by “error of law apparent on the face of the record”? What is the remedy for correcting such error?

Jurisprudence

1. Write brief notes on any 2(two) : (5½x2=11)

- (a) Doctrine of “Ultra-Vires”.
- (b) Vicarious liability.
- (c) Possession and ownership.
- (d) Doctrine of “lifting the corporate veil”.

2. Answer any 2 (two) questions : (7x2=14)

- (a) What are the requisites of a valid custom? Can the custom of child marriage and dowry be enforced in a Court of law?
- (b) What do you understand by “Ratio Decidendi” and “Obiter Dicta”?
- (c) Explain in your own words the relation between law, equity and justice.
- (d) Write briefly on the theories of punishment. In the case of an offender convicted for committing the offence of rape on a minor girl, what punishment would you suggest? Why?

Judgment writing

- 1. Write a judgment on the basis of the paper book supplied by briefly narrating the facts, discussing the evidence and recording a finding by giving reasons.

(40x1=40)

* * * * *

PAPER BOOK

Seen
Sd/- Illegible
31.8.02

FIRST INFORMATION REPORT

GR NO. 741/2002

First information of Cognizable Crime reported under Section 154, Criminal Procedure Code

Police Station : Doom Dooma

Sub-division : Tinsukia

District : Tinsukia

Case No.214/2002

Date and hour of occurrence : Not noted

Date and hour when reported : Dt 30-8-2002 at 12-45 PM

Place of occurrence and distance and direction from Police Station : Budlabeta T.E. No.10 line
Mza - D/Dooma, Abt - 6 km East

Date of despatch from Police Station : Dt 31-8-2002

N.B. :- A first information must be authenticated by the signature mark or thumb impression of informant attested by the signature of the office recording

- (1) Name and residence of Informant and complainant : Dr K Konwar, Medical Officer
Budlabeta T.E., P/S D/Dooma
- (2) Name and residence of accused : Un-known
- (3) Brief description of offence with Section and of property carried off, if any : U/S 302 IPC
Committing murder
- (4) Steps taken regarding investigation explanation of delay in recording information : S.I. B. Singh will please investigate the case
- (5) Result of the case : Sd/- Dipak Tamuly, SI
Officer in Charge, Doom Dooma PS
Doom Dooma
30-08-2002

(FIRST INFORMATION TO BE RECORDED BELOW)

The written report of the complainant is received at the P.S. and treated as F.I.R. which is enclosed herewith.

Sd/- Dipak Tamuly, SI
Officer in Charge, Doom Dooma PS
Doom Dooma
30-08-2002

Note - The signature, seal or mark of informant should be affixed at foot of the information

Ext - 4
Sd/- Illegible
Sessions Judge
Tinsukia

EJAHAR

To

The Officer in Charge
Doom Dooma Police Station
Doom Dooma P.O., Assam

Dated - 30-08-02

Ref : Sri Robi Sombaria P/W No.10 line, Budlabeta Tea Estate,
S/o - Late Sombaria

Dear Sir,

This is to inform you that the above noted person was brought to the hospital (Bokpara Hospital) at 10.05 AM (IST) on 30-8-02 with history of assault - cut injury on left side of the neck. The patient died at 10.10 AM (IST) on 30-8-02.

Ext.4(1)
Sd/- Illegible
Sessions Judge
Tinsukia

Finis
Yours faithfully
Sd/- K Konwar
Medical Officer, Budlabeta T.E.
30.8.02

Received and registered Doom Dooma P.S. Case No.214/2002
U/S 302 IPC.

Sd/- Dipak Tamuly, SI
Officer in Charge, Doom Dooma PS
Doom Dooma
30-08-2002

S.C. No.101(T) 2002

CHARGES WITH TWO HEADS

[No.XXVIII(II), Schedule V, Act V, 1898]

(Sections 221, 122, 223, Code of Criminal Procedure)

(1) Name and
office of
Magistrate

I (1) Sri B.D. Agarwal,
Sessions Judge, Tinsukia

(2) Name of
accused
person

hereby charge you (2) (i) Sri Shyam Mure
(ii) Sri Ramesh Manki

as follows

First - That you, in the night of 29-8-2002 committed the murder of Rabi Sambaria at Budlabeta Tea Estate, under P.S. Doom Dooma by assaulting the deceased with sharp weapon like dao with an intention to cause the death of the person with common intention and thereby committed an offence punishable under Section 302 r/w Sec. 34 of the Indian Penal Code, and within (3) my cognizance

(3) My
cognizance or
the
cognizance of
the Court
Sessions

Secondly - That you on or about the day of
..... at

And thereby committed an offence punishable under Section . of
the Indian Penal Code, and within (3)

(4) In case
tried by
Magistrate,
committed by
the said court

And I hereby direct that you be tried (4) by the said Court on the said charge. Charge was read over and explained to the accused persons in their own language, to which they pleaded not guilty and claimed to be tried.

Dated the 30.7.2004 day of

19

R.O. & A.C.
Sd/- Illegible
Sessions Judge,
Tinsukia

**IN THE COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE(S),
TINSUKIA**

G.R. CASE NO.741/02

STATE

-VS-

Shyam Mura & another

COMMITMENT ORDER

Dated : 30-06-04

Accused person Ramesh Manki and Shyam Mura are present from the jail. Copies furnished. Perused case record. Charge sheet is submitted against the accused person U/S 302/34 of IPC which is exclusively triable by the Hon'ble Sessions Judge. So this case is committed to the court of the Hon'ble District and Sessions Judge, Tinsukia. The entire case record, article and documents are forwarded to the court of the Hon'ble District and Sessions Judge along with a copy of this order. Accused persons are sent back to the judicial custody till 14-7-04. They are to be produced before the Hon'ble Sessions Judge, Tinsukia on 14-7-04.

Sd/- Illegible

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-1

aged about years taken in oath or solemn affirmation under provisions of the Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia this 20th day of November, 2004

My name is : Sri Bishnu Sambaria

My father's name is : Lt Sambaria

I am by caste ...

My house is at : Mauza Budlabhata T.E.

District : Tinsukia

Police Station : Doom Dooma

I reside at present in Mauza Budlabhata T.E. District Tinsukia where I am Garden Labour.

On S.A.

The deceased Rabi Sambaria was my elder brother. I know both the accused persons Shyam Mura and Ramesh Manki. We all live in the same locality at Budlabhata T.E.

My brother was murdered about two years ago. Myself and my deceased brother were living separately. His house was situated at a distance of about 150 feet away from my house. On one morning, I heard bulla about the homicidal death of Rabi. Accordingly, I went to the house of the deceased and found that the deadbody was lying on the ground inside the dwelling house. I also saw one cut wound on the neck. (At this stage the witness stated that his brother was still alive when he visited the P.O.). Thereafter, the injured was taken to the garden hospital, but my brother succumbed to the injuries on way to the hospital. My brother was not in a position to speak.

After the death, police came for investigation and held inquest on the deadbody. I had given thumb impression on the inquest report.

The wife of the deceased later told me that the wife of the accused Ramesh called the deceased to their house on the previous evening and for the whole night the deceased did not return home. The wife of the deceased also told me that in the morning, few persons from the locality brought her husband to their house in injured condition.

(CROSS FOR ACCUSED PERSONS)

I cannot say if the wife of the deceased had seen the accused persons assaulting her husband. When I reached the P.O., the injured was also in dying condition and he did not tell me anything.

(TO THE COURT) : Accused Ramesh is the brother in law of the deceased. The house of the said accused is situated at a distance of about 200 feet from the house of the deceased. The wife of the accused Ramesh is our sister. The accused Shyam Mura is also used to live in the house of Ramesh.

R.O: & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-2

aged about 26 years taken in oath or solemn affirmation under provisions of the Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 20th day of November, 2004

My name is : Sri Ram Bihari Kachar

My father's name is : Lt Sriram Kachar

I am by caste ...

My house is at : Mauza Budlabhata T.E.

District : Tinsukia

Police Station : Doom Dooma

I reside at present in Mauza Budlabhata T.E. District Tinsukia where I am Garden Labour.

On S.A.

The deceased Rabi Sambaria was my maternal uncle. The accused Ramesh Manki is also my uncle. However, the co-accused Sham is not related to us.

Rabi Sambaria was murdered about two years ago. I used to live adjacent to the house of the deceased. In the early morning at about 7.30 AM. I heard bulla and then I went to the house of the deceased. I found that Rabi was lying in injured condition in his house. One of the wound was on the neck and another wound was on his finger. On being enquired, the deceased Rabi told me that he was assaulted by the accused Ramesh in his house. The deceased had also named two more persons in the assault, but I have forgotten those two names. As per the deceased, he was beaten in the previous night. Thereafter, we shifted the injured to the hospital. However, Rabi died on way to the hospital.

Thereafter, police came for investigation. The I.O. had held inquest on the deadbody. Ext.1 is the inquest report and Ext.1(1) is my signature.

After the offence, the accused persons had absconded from our village. They were subsequently apprehended from another tea garden after few days by local people.

I cannot say whey Rabi was killed.

(CROSS FOR ACCUSED PERSONS)

No person from the locality had seen the accused assaulting the deceased. The deceased did not tell me as to why he was assaulted. When the deceased made dying declaration to me, the chowkidar of the tea garden namely Rangso Sabor, wife of the deceased, VDP Secretary Kundan Kanda and Janmajia and few children were also present.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-3

aged about 50 years taken in oath or solemn affirmation under provisions of the Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 20th day of November, 2004

My name is : Sri Kangso Sabor
My father's name is : Lt Arjun Sabor
I am by caste ...
My house is at : Mauza Budlabhata T.E.
District : Tinsukia
Police Station : Doom Dooma
I reside at present in Mauza Budlabhata T.E. District Tinsukia where I am Garden Labour.

On S.A.

The deceased Rabi was my maternal uncle. Similarly, the accused Ramesh Manki is also my uncle (Mousa). The co-accused used to live in the house of the accused Ramesh.

Rabi was killed about two years ago. In the early morning while I was going to distribute duties on the garden labourers, I saw that few young people were bringing the deceased Rabi in injured condition from a small field, which was situated near the house of accused Ramesh. Within a short time, I also went to the house of the deceased. Till then he was alive. I saw one cut wound on the neck and one on the palm.

In my presence, the injured Rabi told his wife that he was assaulted by Ramesh. The deceased did not name any other assailant. Thereafter, the deceased was taken to the garden hospital. However, Rabi died in the vehicle itself.

After sometime, police case for investigation and held inquest on the deadbody. Ext.1 is the inquest report and Ext.1(2) is my signature.

Before the arrival of the police, we went in search of the accused. However, the accused persons had left their house and no one was available in their house. I had also noticed marks of blood stained in his compound and kachcha floor of the verandah was given mud wash.

The FIR was lodged by the doctor of the garden hospital and it was handed over to the police by me.

(CROSS FOR ACCUSED PERSONS)

The deceased did not speak about the incident elaborately. While the deceased made dying declaration, few persons were present, including Kundan, Krishna Kanda, Haru Tanti etc.

R.O. & A.C.
Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-4

aged about 37 years taken in oath or solemn affirmation under provisions of the Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 30th day of November, 2004

My name is : Sri Rupak Kumar Gogoi
My father's name is : Lt Kankhadhar Gogoi
I am by caste ...
My house is at : Udaipur
District : Dibrugarh
Police Station : Dibrugarh

where I am Asstt Professor, Deptt of Forensic Medicine, AMCH, Dibrugarh

On S.A.

On 31.1.2002 I was working as Asstt Professor, Forensic Medicine at AMCH, Dibrugarh. On that day, I performed post mortem examination on the deadbody of one Robi Sambaria in connection with Doom Dooma PS Case No.214/02 u/s 302 IPC and found as follows :-

EXTERNAL APPEARANCE

One male deadbody of average built, dark brown in complexion, wearing half shirt and towel. Rigormortis was present in upper and lower limbs. Eyes and mouth are partially opened. Body was cold on touch.

INJURIES

- (i) One incised wound measuring 2x1 cm x muscle deep over left palm.
- (ii) One incised wound measuring 2cm x 1cm x muscle deep on middle phalynx of left ring and middle finger.
- (iii) One incised wound on palmer surface of the left thumb measuring 1.5cm x 1cm x 1cm.
- (iv) One incised wound measuring 5cm x 2cm x muscle deep on left lateral side of the neck directed downward and backward.

CRANIUM AND SPINAL CANAL

Scalp, skull, vertebrae, membrane and brain were found healthy.

THORAX

Wall and viscera were also found healthy.

ABDOMEN

Wall and viscera were found healthy.

In my opinion, cause of death is shock and haemorrhage as a result of the injuries described above. All the injuries are ante mortem and homicidal in nature, which might have been caused by heavy sharp cutting weapon. Approximate time

since death was 24 to 36 hours. In my opinion, injury No.(iv) was sufficient to cause death of a person in ordinary course of nature.

Ext.2 is the PM report and Ext2(1) is my signature.

(CROSS FOR ACCUSED PERSONS)

The main cause of death was shock and haemorrhage.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-5

aged about 45 years taken in oath or solemn affirmation under provisions of the
Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 21st day of December, 2004

My name is : Sri Sanjib Das
My father's name is : Lt Aboni Mohan Das
I am by caste ...
My house is at : No.6 Sukreting
District : Tinsukia
Police Station : Doom Dooma

where I am Mechanic in Tea Factory.

On S.A.

I know the accused Ramesh Manki. He lived near my quarter. However, I do not know the accused Shyam Mura. I also did not know the deceased Rabi Sambaria.

The house of accused Ramesh is at a distance of about 100 metres from my quarter. The accused was a professional quack.

The incident took place about 2 ½ years ago. At about 9/9.30 PM I heard music sound of a tape recorder from the house of accused Ramesh. Wife of the accused was not seen in his house since few weeks prior to the incident. I did not see any quarrel in between the accused Ramesh and his wife.

Next day, at about 1.30 PM, I saw police personnel in the house of the accused. Then, I also went there and heard that one person died. I cannot say who was killed. People who had assembled there told me that Ramesh had killed one person.

Line chowkidar Kangso, Mahabir, son of the accused Ramesh namely Sahnbra told me that Ramesh had committed the offence. I left the place quickly as I had to go to my duty.

(CROSS FOR ACCUSED PERSONS)

It is a fact that the persons named by me in the chief examination did not tell me that they had seen the accused killing someone.

R.O. & A.C.
Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-6

aged about 50 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 24th day of January, 2005

My name is : Smti Dhaneswari Gowala
My father's name is : Sri Dhaniram Gowala
I am by caste ...
My house is at : Budlabeta T.E.
District : Tinsukia
Police Station : Doom Dooma

where I am day labour

On S.A.

I know the accused Ramesh Manki, standing in the dock. We are from the same locality. However, the co-accused Shyam Mura is not known to me. I also knew the deceased Rabi Sambaria since for sometime I had worked with him in the same tea garden.

He was murdered more than two years ago. On one morning, I heard that Rabi was murdered by someone. I did not go to see the deadbody nor I can say who killed Rabi and with what motive.

(CROSS FOR ACCUSED PERSONS)

Declined.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-7

aged about 30 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 24th day of January, 2005

My name is : Smti Shnti Sambaria
My father's name is : W/O Lt Rabi Sambaria
I am by caste ...
My house is at : Budlabeta T.E.
District : Tinsukia
Police Station : Doom Dooma

where I am a garden labour

On S.A.

I know the accused Ramesh Manki. He has married the sister of my husband.
However, the accused Shyam Mura is not known to me.

My husband was killed about 2 ½ years ago. On the rerlevant evening, my
husband's sister Sumitra Sambaria took away my husband to her own house,
situated nearby. However, my husband did not return home for the whole night. In
the morning, I went to the house of the accused Ramesh to enquire about my
husband, then I found my husband lying in the courtyard of the said accused in an
unconscious state. I found a number of lacerated injuries on the body of my
husband. On being enquired, as to who assaulted him, my husband told me that he
was assaulted by Ramesh and one Shyam.

I was accompanied by the garden chowkidar and ¾ boys to the PO. At that
time, the accused Ramesh was absconding from his quarter.

Thereafter, my husband was shifted to garden hospital. However, he
succumbed to the injuries on way to the hospital. The doctor of the hospital informed
police. Immediately, police officers came for investigation. I was also interrogated.

The accused Ramesh had a quarrel with his wife on the relevant day and as
such, my husband was called by Ramesh to intervene.

(CROSS FOR ACCUSED PERSONS)

When I met my husband, he was semi-conscious and could speak at low voice.
My husband told me that he was first assaulted by Ramesh. My husband also told
me that one Shyam and one another boy had also accompanied Ramesh at the time
of assault. My husband also told me that he was offered liquor by the accused
persons and accused persons had also taken alcohol in the night.

I cannot say what was the reason or motive for assaulting my husband.

My husband did not elaborate about the number of assaults dealt upon him.
However, I myself had noticed cut wounds on the neck and on both the palms.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-8

aged about 40 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 4th day of February, 2005

My name is : Sri Suren Tati
My father's name is : Sukra Tati
I am by caste ...
My house is at : Line No.10, Budlabeta T.E.
District : Tinsukia
Police Station : Doom Dooma

where I am garden employee.

On S.A.

I know the accused Ramesh Manki. He resides in the same line of the tea garden where I reside. However, accused Shyam Mura is not known to me. Deceased Rabi Sambaria was also living in Line No.10 of the tea garden. He was known to me. Rabi was murdered about two years ago.

At about 12.00 noon when I was returning from duty I heard hulla in our line. Police had got information. I saw police officer coming to the house of accused Ramesh Manki. Police recovered one dao from the house of accused Ramesh Manki. The weapon was seized vide Ext.3. Ext.3(1) is my signature. However, I did not see either of the accused persons. However, I do not remember if the accused persons accompanied the police officer at that time.

I had heard from the garden people that Ramesh had committed the murder.

Sister of the accused Rabi Sambaria namely Sumitra is the wife of accused Ramesh.

(CROSS FOR ACCUSED PERSONS)

No person from the locality had told me that he had seen the accused person committing the murder. I did not see the recovery of weapon. When I reached the PO, I saw the policie officer returning from the house of accused Ramesh.

Today, the seized dao has not been produced before the court.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-9

aged about 32 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 24th day of January, 2005

My name is : Smti Sumitra Manki
My father's name is : W/o- Ramesh Manki
I am by caste ...
My house is at :
District : Tinsukia
Police Station : Doom Dooma

where I am casual labourer of Budlabeta TE

On S.A.

Accused Ramesh Manki is my husband. I also know the accused Shyam Mura. My husband was a garden employee. Simultaneously, he was also giving home treatment to the garden people for various ailments. Accordingly, accused Shyam had also come to our house on the relevant date of incident to take treatment from my husband. Shyam stayed in our house for about two weeks.

The deceased Rabi was my elder brother. I married Ramesh about 15 years ago.

My brother died more than two year ago. Since about one week prior to the date of incident I was staying with the sister in law Dhandeswari (PW-6). I went to stay with PW-6 after minor altercation with my husband, since I protested about his taking liquor.

Early in the morning on the relevant day while I was going to attend my work in the garden the snacks vendor told me that my brother was killed by someone. Before my arrival at the PO my brother was taken to hospital.

(CROSS FOR ACCUSED PERSONS)

The snacks vendor did not tell me that he had seen the accused committing murder of my brother. My husband Ramesh had no enmity with my deceased brother.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-10

aged about 40 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 19th day of April, 2005

My name is : Sri Subhash Nayak
My father's name is : Lt Chakra Nayak
I am by caste ...
My house is at : Talap
District : Tinsukia
Police Station : Doom Dooma

where I am cultivator.

On S.A.

The deceased Rabi Sambaria was not known to me. However, the accused Shyam Mura is my neighbour. Co-accused Ramesh Manki was not known to me from before.

The incident took place more than two years ago. Accused Ramesh Manki was practising quack treatment. Accused Shyam Mura had consulted Ramesh for certain treatment. When the accused Shyam went to meet Ramesh at village Tarajan, he was apprehended by the villagers on the charge that Shyam Mura had committed murder of one Rabi Sambaria. When Shyam was arrested by police, accused Ramesh took shelter at village Dhaisa Balijan. Thereafter, the wife of accused Shyam told me that the murder was actually committed by accused Ramesh. Thereafter, I accompanied the wife, sister and few other persons and apprehended Ramesh and he was handed over to police.

Ramesh was apprehended after about two weeks of arrest of Shyam.

(CROSS FOR ACCUSED PERSONS)

I did not see the accused Shyam going to Tarajan to meet Ramesh. It was told to me by the wife of accused Shyam. The entire story was narrated to me by the wife of accused Shyam.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-11

aged about 22 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 6th day of June, 2005

My name is : Sri Kishan Robi
My father's name is : Lt Robi Sambaria
I am by caste ...
My house is at : Line No.10, Budlabetea TE
District : Tinsukia
Police Station : Doom Dooma

where I am day labour

On S.A.

The deceased Rabi Sambaria was my father. I know the accused Ramesh Manki, who is my uncle. The said accused has married the sister of my father. However, the accused Shyam Mura is not known to me.

My father was murdered about three years ago. On the relevant night, my aunt took my father to their house telling my father that a meeting was convened there. However, my father did not return home in the night.

When I went to enquire about my father, I found my father in injured condition in the court yard of the Ramesh with multiple injuries. I offered water to my father and enquired about the incident. Then, my father told me that after making him to drink alcohol with meat, he was kept confined and mercilessly beaten by Ramesh and two more persons. When I went to the house of the accused, Ramesh and his wife were missing.

At the relevant time, my aunt had separated from my uncle i.e. Ramesh Manki. Accused Ramesh was living at a distance of about half a kilometre from my house. Subsequently, I arranged an ambulance from Budlabeta Tea Estate. However, my father succumbed to the injuries on way to hospital.

(CROSS FOR ACCUSED PERSONS)

I cannot say for what purpose the meeting was convened in the house of the accused. My mother did not visit the PO as I carried my father on my shoulder to our house.

It is not a fact that my father was not in a condition to speak. I cannot say if the accused Ramesh had enmity with my father.

It is a fact that my father did not disclose the name of other assailant.

It is not a fact that my father did not make any dying declaration. It is not a fact that I have implicated the accused Ramesh on a hearsay evidence.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-12

aged about 50 years taken in oath or solemn affirmation under provisions of the
Indiana Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 29th day of June, 2005

My name is : Dr Kamal Konwar
My father's name is : Sri Keshab Konwar
I am by caste ...
My house is at : Gohpur
District : Sonitpur
Police Station :

I reside at present in Borjuli TE, Sonitpur, where I am Medical Officer at Borjuli TE

On S.A.

On 30-8-2002 I was working as Medical Officer at Budlabeta TE. On that day
at 10 AM the line chowkidar of line No.10 of the tea garden brought one Rabi
Sambaria in an injured condition to my hospital.

On examination, I found one cut wound on his neck. The injured was in an
unconscious state. The person died within five minutes.

Thereafter, I informed police by sending a written information. Ext.4 is the
said FIR. Ext4(1) is my signature.

On the next day, police came for investigation. Till then, the deadbody was
kept in the hospital. The IO was accompanied by an Executive Magistrate. They held
inquest on the deadbody. Ext.1 is the inquest report. Ext1(3) is my signature.

The persons accompanying the injured, did not tell me how the deceased had
sustained cut wound on his neck.

(CROSS FOR ACCUSED PERSONS)

I do not remember the name of the line chowkidar, who brought the injured
to my hospital. The cut wound was on the left side of the neck in oblique position. I
did not notice any other mark of injury.

Nobody told me as to who had committed the offence.

R.O. & A.C.
Sd/- Illegible
Sessions Judge
Tinsukia

FORM FOR RECORDING DEPOSITION

THE DEPOSITION OF PW-13

aged about 44 years taken in oath or solemn affirmation under provisions of the Indian Oaths Act.X of 1878 before me Sri BD Agarwal, Sessions Judge, Tinsukia
..... this 29th day of November, 2005

My name is : Sri Babu Singh
My father's name is : Sri Gopi Mohan Singh
I am by caste ...
My house is at : Hojai
District : Nagaon
Police Station : Doom Dooma

I reside at present in Lekhapani, where I am SI, Lekhapani PS.
On S.A.

On 30-8-2002 I was attached to Doom Dooma Police Station. On that day, one Dr K Konwar of Budlabeta TE lodged an FIR alleging that one Rabi Sambaria was brought to the hospital in injured condition on 30-8-2002 at 10 AM and the person died within a few minutes. The FIR was registered as Doom Dooma PS Case No.214/02 u/s 302 IPC. The case was endorsed to me for investigation.

First, I went to the tea garden hospital and recorded the statement of the Medical Officer Dr K Konwar. I also requisitioned the services of Executive Magistrate Sri ML Surekha. In my presence, the EM held inquest on the deadbody in the garden hospital. Ext.1 is the said inquest report and Ext.1(4) is the signature of EM which was given in my presence. During inquest, I had noticed one cut injury on the sole of the left leg. Similarly, one cut wound of one inch size was also noticed on the left side of the neck. After inquest, the deadbody was sent to AMCH, Dibrugarh for post-mortem examination.

Then I visited Line NO.10 of Budlabeta TE where the mar-pit had taken place. I recorded the statements of wife and son of the deceased and other independent witnesses. During interrogation, I came to know that accused Ramesh Manki and Shyam Mura were involved in the crime. Accordingly, I went in search of the accused persons. Shyam Mura was available at home and he was arrest ed. At the relevant time, Shyam Mura was staying with Ramesh Manki. Hence, I searched his house. The search was carried out in presence of witness Kundan Kando and Suren Kachari and one dao was recovered from his house. Ext.3 is the seizure memo and Ext.3(2) IS MY SIGNATURE. Ext.3(3) is the signature of the accused Shyam Mura.

On 4.9.2002 I got message over telephone that the accused Ramesh Manki was apprehended by the villagers and the accused was detained at Kubang Tinali. The place of arrest was approximately 12 KM away from the tea garden. Then, I went to Talap and formally arrested the accused. I also recorded statements of arrerst of the accused.

As a part of investigation, I also prepared one sketch map of the PO. Ext-5 is the sketch map and Ext.5(1) is my signature. After completing the investigation, I submitted the charge-sheet against both the accused persons on 21-12-2005.

(CROSS FOR ACCUSED PERSONS)

Declined.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM OF RECORDING EXAMINATION OF ACCUSED
EXAMINATION OF ACCUSED PERSON

The examination of Ramesh Manki, aged about 40 years, taken before Sri BD Agarwal, Sessions Judge, Tinsukia on the 4th day of January, 2006 in the Assamese language, interpreted by me

My name is **Ramesh Manki**

My father's name is Late Birsha Manki

I am by caste..... and by occupation Cultivator

My home is at Budlabeta TE, Police Station Doom Dooma

District – Tinsukia, I reside at

Q.No.1 : It is in the evidence that the deceased Rabi Sambaria was your brother in law and living nearby. What you have to say ?

Answer : Yes, it is a fact.

Q.No.2 : Witness Bishnu Sambaria, Smti Shanti Sambaria and Kishan Robi (PWs- 1,7 & 11) have deposed that your wife called the deceased Rabi to you house in the previous evening to settle the marital dispute. What you have to say ?

Answer : It is not a fact. My wife was not at home. She was staying in another house nearby since 4/5 days after altercation with me.

Q.No.3 : Witness Ram Bihari Kachar, Kangso Sabor, Sanjib Das, Smti Shanti Sambaria, Suren Tanti and Kishan Robi (PWs-2,3,5,7,8 & 11) have deposed that you have killed Rabi Sambaria by assaulting him with sharp weapon. What you have to say ?

Answer : It is not a fact.

Q.No.4 : PWs-2, 10 and the IO have also deposed that after committing the offence, you were found absconding and subsequently you were apprehended by the villagers from Dhaisa Balijan after few days. What you have to say ?

Answer : I went to Dhaisa Balijan village to look after my tea cultivation. I did not flee away.

Q.No.5 : PWs 3,7 and 11 have deposed that the deceased Rabi was assaulted in your house compound situated at Budlabeta TE. What you have to say ?

Answer : It is not a fact. The deceased was lying in injured condition in a field at a distance of about 100 metres from my quarter.

Q.No.6 : PW-3 has also deposed that he had noticed marks of blood stain in your compound. What you have to say ?

Answer : It is not a fact.

Q.No.7 : PW-8 has also deposed that one dao was recovered by the IO from your house. What you have to say ?

Answer : It is not a fact.

Q.No.8 : PWs – 7, 9 and 11 have also deposed that you had strain rerlation with your wife and the deceased was called to your house to settle marital dispute. What you have to say ?

Answer : I had a quarrel with my wife five days prior to the incident. Thereafter, my wife went to stay with her aunt Dhaneswari Gowala (PW-6). However, the deceased did not come to our house to settle the dispute.

Q.No.9 : Would you like to say anything more ?

Answer : Garden people were forcing me to vacate my land, as they were interested to open a school. When I did not agree to their request, I have been falsely implicated in this case.

Q.No.10 : Would you like to adduce evidence in your defence ?

Answer : No.

The above examination was taken in my presence and hearing and contains a full and true account of the statement made by the accused.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

FORM OF RECORDING EXAMINATION OF ACCUSED
EXAMINATION OF ACCUSED PERSON

The examination of Shyam Mura, aged about 25 years, taken before Sri BD Agarwal, Sessions Judge, Tinsukia on the 4th day of January, 2006 in the Assamese language, interpreted by me

My name is **Shyam Mura**

My father's name is Late Budhram Mura

I am by caste..... and by occupation Garden labour

My home is at Khobang, Kharguli Line, Police Station Doom Dooma

District – Tinsukia, I reside at

Q.No.1 : It is in the evidence of witness Kangso Sabor, Smti Sumitra Manki and Subhash Nayak (PWs-3, 9 and 10) that at the relevant time you were staying in the house of accused Ramesh Manki. What you have to say ?

Answer : At the relevant time I was taking quack treatment under the accused Ramesh Manki. For this purpose, I also stayed in his house for few days. However, on the relevant night, I was at my house at Talap.

Q.No.2 : It is also in the evidence of PW-1, PW-7 and PW-11 that on the previous evening of the murder, wife of Ramesh Manki took the deceased Rabi to their house to settle their marital dispute. What you have to say ?

Answer : I cannot say.

Q.No.3 : It is also in the evidence of PWs 3,7 and 11 that Rabi was found in injured condition in the courtyard of the accused Ramesh Manki. What you have to say ?

Answer : I cannot say.

Q.No.4 : Would you like to say anything more ?

Answer : In the morning of the murder, I went to the house of accused Ramesh Manki to bring medicine, as I was suffering from Jaundice. Then, few people forced me to become a witness in the case against Ramesh. When I refused to become a witness, they falsely implicated me in this case.

Q.No.5 : Would you like to adduce evidence in your defence ?

Answer : No.

The above examination was taken in my presence and hearing and contains a full and true account of the statement made by the accused.

R.O. & A.C.

Sd/- Illegible
Sessions Judge
Tinsukia

Ext.2
Sd/- Illegible
Sess Judge
Tinsukia

Assam Schedule XLIII(Part 1) Form No.24

POST MORTEM REPORT

Ref : Doom Dooma PS Case No.214/02, Dt 31.8.02 U/S 302 IPC
Station : Assam Medical College
Date of : 31.8.02
PM No.950/02 Dt 31.8.02
Name, Sex, Age and caste : Robi Sambaria, M,H, Age- 40 yrs
S/o Lt Sombaria
10 No. line Budlabheta TE, PS- Doom Dooma

Whence brought
Village and Thana : In an open room of Badlabheta TE Hospital

Name of constable by : 1. C/75 Padmeswar Dutta
whom brought and : 2. Sri Kongkha Sabar (Nephew of the deceased)
names or relatives
accompanying

Date and hour of despatch: 31-8-02 at AM
Arrival at dead house : 31-8-02 at 10.30 AM
Examination : 31-8-02 at 11 AM

Information furnished : As per inquest report, dead body challan etc
by police

by whom identified : 1. C/75 Padmeswar Dutta
before medical officer : 2. Sri Kongkha Sabar (Nephew of the deceased)

N.B. Observe the state of all the organs and when no disease/injury is
found write "Healthy"

I. EXTERNAL APPEARANCE

- | | |
|--|---|
| 1. Condition of subject – stout, emaciated, decomposed etc | : One male dead body of average built, dark brown complexion, dresses in half khaki shirt and a Towel. Rigor mortis developed. |
| 2. Wounds – position and character | : Completely in both upper and lower limbs, eyes and mouth partially opened. Body cold on touch. Anus and penis healthy. |
| 3. Bruise position, size and nature | : Wounds : (1) One incised wound 2 x 1cm x muscle deep over left palm.

(2) One incised wound 2 X 1cm x muscle deep each on middle phalynx of left ring and middle finger.

(3) One incised wound on palmer surface of left thumb 1.5 x 1 x 1cm.

(4) One incised wound 5 x 2cm x muscle deep on Left lateral ride of the neck, directed downwind And backwounds. |
| 4. Mark of ligature on neck, dissection etc | : No ligature mark detected on dissection neck tissue incised as described. |

II. CRANUM AND SPINAL CANAL

- | | |
|----------------------------|---|
| 1. Scalp, skull, vertebrae | : All healthy |
| 2. Membrane | : Healthy |
| 3. Brain and spinal cord | : Brain- healthy, Spinal cord- not examined |

Note – The spinal canal need not be examined unless any indication of disease or injury exist.

III THORAX

- | | |
|--------------------------------|--|
| 1. Wallis, ribs and cartilages | : Healthy |
| 2. Pleurae | : Healthy |
| 3. Larynx and trach ere | : Healthy |
| 4. Right lung | : Healthy |
| 5. Left Lung | : Healthy |
| 6. Pericardium | : Healthy |
| 7. Heart | : Healthy, full with fluid and clotted blood |
| 8. Vessels | : Healthy |

IV ABDOMEN

- | | |
|--------------------------------------|---|
| 1. Walls | : Healthy |
| 2. Peritoneum | : Healthy |
| 3. Mouth, pharyanx, oesophagus | : Healthy |
| 4. Stomach and its contents | : Healthy an dempty |
| 5. Small intestine and its content: | Healthy, contains digested food |
| 6. Large intestine and its content : | Healthy and contains gas and focal matter |
| 7. Liver | : Healthy |
| 8. Spleen | : Healthy |
| 9. Kidneys | : Healthy |
| 10. Bladder | : Healthy and empty |
| 11. Organs of generation | : Healthy |
| external and internal | |

V. MUSCLES, BONES AND JOINTS

- | | |
|-------------------------|----------------|
| 1. Injury | : As described |
| 2. Disease or deformity | : Not detected |
| 3. Fracture | : Not detected |
| 4. Dislocation | : Not detected |

MORE DETAILED DESCRIPTION OF INJURY OR DISEASE

OPINION OF ASSISTANT SURGEON AS TO CAUSE OF DEATH
SUB- ASSISTANT SURGEON

Cause of death is shock and haemorrhage, resulting from injuries as described. All injuries are ante-mortem and caused by heavy sharp cutting weapon and homicidal in nature.

Approx time since death 24 to 36 hrs.

Ext.2(1)
Sd/- Illegible
Sessions Judge
Tinsukia

Sd/- Dr RK Gogoi
Asstt Professor
Deptt of Forensic
Assam Medical College
ASSISTANT SURGEON
SUB-ASSISTANT SURGEON

The 31st day of Aug 02

REMARKS BY CIVIL SURGEON

The day of

Signed.....
Civil Surgeon

Ext.3
Sd/- Illegible
Sess Judge
Tinsukia

Seen
Sd/- Illegible
CJM (J)
31-8-02

SEARCH AND SEIZURE LIST

Ref : D/Dooma PS Case No.214/02 U/S 302 IPC
Place of seizure : 10 No line Budlabheta TA
Date, time : 30-8-02

I, S.I. B Singh of D/Dooma PS do hereby search the house of accused person Ramesh Manki, S/o- Late Birsa of 10 No line Budlabheta TE and found the following descriptive article on being shown and led by co-accused Sri Shyam Mura, S/o Lt Budhram Mura of Khobang Kherbari Talap by observing all formalities of law but accused Ramesh Manki found not available at his house.

The search and seizure is made in presence of undersigned witness.

Description of seizure

(1) One daoa with wooden handle. It is about 18 inches long

Seizure witnesses

1. Sd/- Kundan Kandha (25)
Of 10 No line Budlabheta TE
PS - Doom Dooma

2. Sd/- Sri Suren Kochari (29)
S/o- Late Sukra Kochari

Ext.3(1)
Sd/- Illegible
Sess Judge
Tinsukia

Ext.3(2)
Sd/- Illegible
Sess Judge
Tinsukia

Seized by
Sd/- Illegible
30-8-02
D/Dooma

Ext.1
Sd/- Illegible
Sess Judge
Tinsukia

Seen
Sd/- Illegible
20-11-04

INQUEST REPORT

Ref : D/Dooma PS Case No.214/2002 U/S 302 IPC

Now I, ML Sureka, Co & EM, Doomdoo Circle, having arrived at Mentan Hospital in Budlabheta tea estate, do hereby hold inquest on deceased Rabi Sambaria, son of late Sambaria, a resident of line No.10 of Budlabheta Police Station, PS Doom Dooma when Sri Bishnu Sambaria identifies the body to be his elder brother, in presence of the following witnesses.

The deceased belonged to tea community. He is a male of about 40 (forty) years. Hair (in head) is about 3 inches long. The eyes are closed. The nose is in normal condition. The hands are on the chest, the dead body is found lying in east-west direction on the open verandah of the hospital. The legs are lying parallel. The chest bears no injury. Injury caused by sharp weapon is seen in the left palm. About 1 inch deep injury caused by sharp weapon, is seen in the left side of the neck. Semen is seen in the penis. No injury is seen in the left side of the back. No cloth is seen around the waist. A light blue colour shirt is seen on the chest.

The entire body of the deceased is seen by turning it upside down. Although no other injury, except one in left side of the neck and one in the left palm, is seen in the body. Yet to ascertain the actual cause of death instruction is being given to send the body to the Assam Medical College, Dibrugarh for post mortem examination and the body is being handed over to the O/C of the Doomdoo police station.

Name & address of the witness

1. L.T.I.
Bishnu Sambaria (35)
s/o late Sambaria of
Line No.10 Budlabheta TE

2. Sd/- Kongso Sabar (48)
S/o- late Arjun of Do

Ext 1 (2)
Sd/- Illegible
Sess Judge, Tinsukia

3. Sd/- Sri Ram Bihari Kamar (35)
S/o lt Siram Kamar
Resident of line No.10 of
Budlabheta TE

Ext.1(1)
Sd/- Illegible
Sess Judge, Tinsukia

4. Sd/- Makal Konwar, Regd No.7772
MO Budlabheta TE
P/o- Doom Dooma, Tinsukia

Ext.1(3)
Sd/- Illegible
Sess Judge, Tinsukia

Ext.1(4)
Sd/- Illegible
Sess Judge
Tinsukia

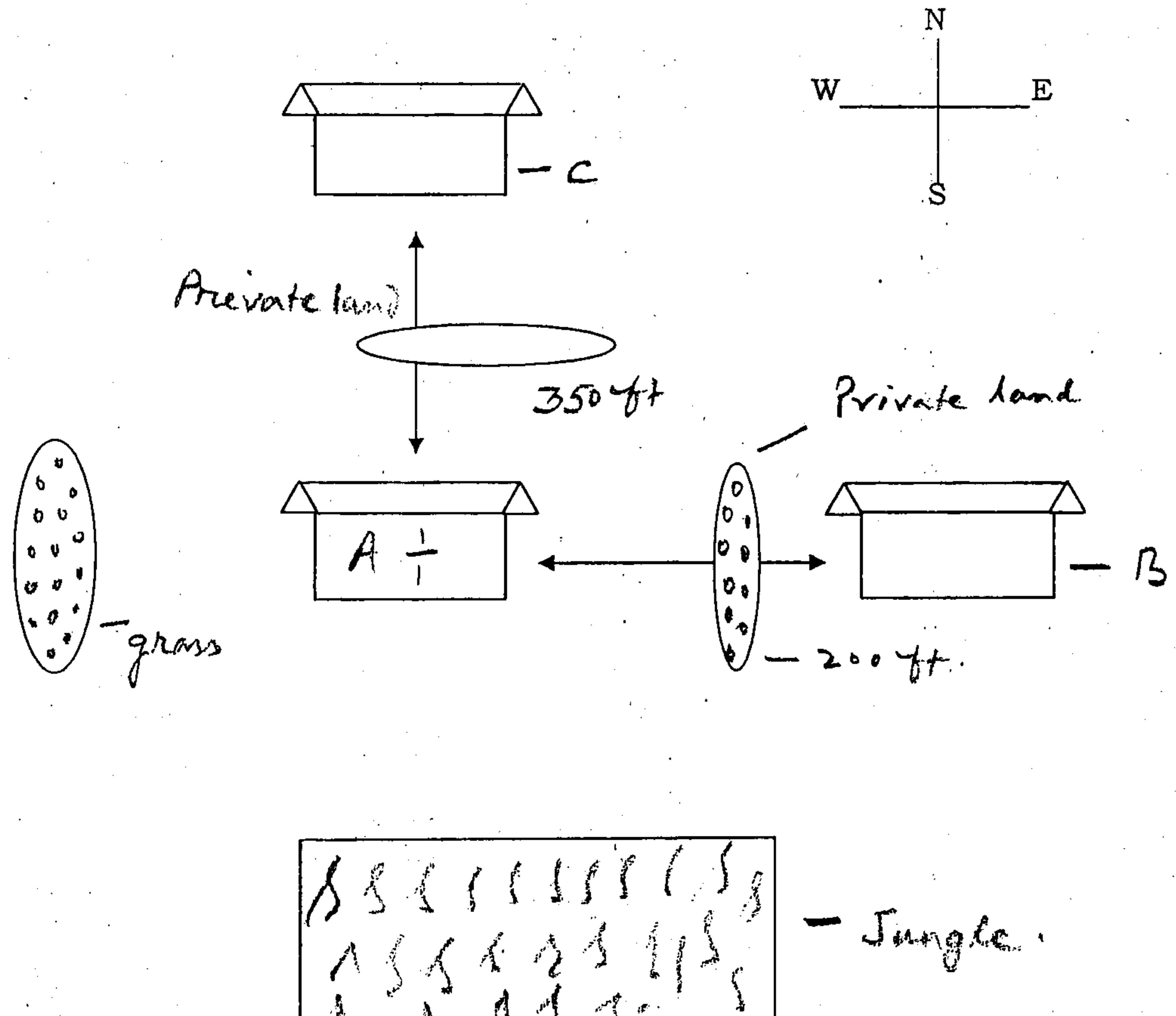
Sd/- ML Surekha (ACS)
Circle Officer
Doomdoo Rev Circle
30-4-02

Sd/- Dr RK Gogoi
Seal
31-8-02

Ext.5
Sd/- Illegible
Sessions Judge
Tinsukia

ROUGH SKETCH MAP OF P.O.

Ref : D/Dooma PS Case No.214/02 U/S 302 IPC



Map

1. A - indicates Ramesh Manki's house
2. B - indicates Sanjib Das house, some 200 ft away from the PO
3. C - indicates Smt Dhaneswari Gowala's house some 350 ft away from the place of occurrence.

Ext.5(1)
Sd/- Illegible
Sess Judge
Tinsukia

R/ Sketch Map Drawn by
Sd/- Illegible
D/Dooma PS
Camp- 10 No. line Budlabheta TA

**GOVT OF ASSAM
OFFICE OF THE SUPERINTENDENT OF CENTRAL JAIL ;; DIBRUGARH**

NO.CJD/47/06/577

Dated, Dibrugarh the 12th March , 2006

From : The Superintendent
Central Jail, Dibrugarh

To : The Asstt Registrar (Judl)
Gauhati High Court, Cuwahati

Sub : Appeal petition of life convict AC/11618
Sri Ramesh Manki of Central Jail, Dibrugarh

Sir,

I have the honour to forward herewith a petition dated 11-03-06 in original submitted by the life convict AC/11618 Sri Ramesh Manki of this jail for favour of kind disposal by the Hon'ble Gauhati High Court, Assam. The convict Sri Ramesh Manki was convicted by the Hon'ble Sessions Judge, Tinsukia on 6-3-2006 in connection with Sessions Case No.101(T)/04 U/S 302/34 IPC and sentenced to suffer RI for life and fine of Rs.1000/-, in default RI for 3 months.

The copy of judgment of the said convict is enclosed herewith.

Enclosure

1. Petition in original - 1 No
2. Copy of judgment - 1 No.

Yours faithfully,

Sd/- Illegible
Superintendent,
Central Jail, Dibrugarh

Memo No.CJD/47/06/577-A

Dated Dibrugarh the 12th March, 06

Copy forwarded to the Hon'ble Sessions Judge, Tinsukia for favour of kind information.

Sd/- Illegible
Superintendent,
Central Jail, Dibrugarh

XXXXXXXXXXXXXXXXXX