

**THE GAUHATI HIGH COURT AT GUWAHATI**  
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

**Limited Departmental Competitive Examination for promotion  
to Grade-I of Assam Judicial Service**

Date : 28.07.2019  
Total Marks : 100

Time : 9.00 am – 12.00 pm  
Duration : 3 Hours

[ Instruction : The candidate is expected to refer to the relevant decisions of the Apex Court and the High Court while writing answers ]

PAPER – III

**CONSTITUTIONAL LAW (40 MARKS)**

[Answer any 4 (four)]

(4x10 marks = 40 marks)

1. What is the significance of fundamental rights as enshrined in the Constitution of India ?  
10 Marks
2. Discuss briefly the nature and scope of freedom of citizens guaranteed by the Constitution of India with special reference to the rights of arrested person  
10 Marks
3. Write short notes on the following –  
(a) Doctrine of Ultravires                      (b) Doctrine of Prospective Over-ruling  
(c) Doctrine of Judicial Review, and      (d) Doctrine of Eclipse  
2½ x 4 = 10 Marks
4. What do you mean by Preamble of a statute ? How far is the Preamble useful in interpreting the Constitution ? Can the Preamble be amended under Article 368 ?  
10 Marks
5. What is meant by citizenship ? What are the Constitutional Provisions regarding citizenship ? Mention the persons who became citizens of India at the commencement of the Constitution of India.  
10 Marks
6. What do you mean by Writs ? Compare and contrast between Article 226 and 32  
10 Marks

**JURISPRUDENCE (20 MARKS)**

[Answer any 2 (two)]

(2x10 marks = 20 marks)

1. What do you understand by Civil and Criminal Justice ? Distinguish between the two. What are the advantages and disadvantages of "Justice according to Law" ?  
10 Marks

2 What is the object of Capital Punishment ? Put your arguments against and in favour of capital punishment

10 Marks

3 Distinguish between (a) legal presumptions and legal fictions, (b) question of fact and question of law

10 Marks

4. Write short notes on [ Any 2 (two) ]

5x5 = 10 Marks

- (a) Legal status of dead man
- (b) Legal status of unborn person
- (c) Legal person
- (d) Legal status of lower animal

#### **JUDGMENT WRITING**

1 Write a judgment on the basis of materials available in the enclosed Paper Book

40 Marks

# **PAPER BOOK**

**SESSIONS CASE No. 82(J)/2015**

**MD. SEKANDER ALI & 2 OTHERS**

**-Versus-**

**STATE OF ASSAM & ANOTHER**

**DISTRICT : BARPETA**

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①

Seen  
Sd/- Illegible  
Judicial Magistrate 1<sup>st</sup> Class  
Barpeta  
16.08.08

G.R. NO. 1528/08

FIRST INFORMATION REPORT

(Under Section 154 Cr. P.C.)

1. District : Barpeta, P.S. Sarthebari, Year 2008, FIR No. 124, Date 14.8.08
2. (i) Act....Major .....Sections 302/34 I.P.C.  
(ii) Act.....Sections.....  
(iii) Act.....Sections.....  
(iv) Other Acts & Sections.....
3. (a) Occurrence of offence : Day.....Date from 14.8.2008 Date to..... Time period at about 11 A.M. Time from.....Time to....  
(b) Information received at P.S. Date 14.8.2008 Time 1 p.m.  
© General Diary Reference : Entry No. 359 Time.....
4. Type of information : Written/Oral
5. Place of Occurrence : (a) Direction and distance from P.S. About 10 K.M. North West .....Beat No.....  
(b) Address Village Kowaimari 2 No Block, Mouza - Paka, P.S. - Sarthebari, District - Barpeta, Assam.  
(c) In case, Outside the limit of this Police Station, then.  
Name of P.S.....District .....
6. Complainant's Information :  
(a) Name Md. Ainal Hoque  
(b) Father's Name : Late Abdul Hoque

(2)

(c) Date/Year of Birth 1968 years (d) Nationality : Indian (e)  
Passport No.....Date of Issue.....Place of  
Issue.....(f) Occupation - Service (g) Address : Village  
Kowaimari No. 2 Block, Mouza - Paka, P.S. Sarthebari,  
District : Barpeta, Assam.

7. Details of known/suspected/unknown accused with full particulars: (Attach separate sheet, if necessary)
- (1) Secandar Ali S/o Late Abdul Halim, Village - Kowaimari No. 2 Block.
- (2) Arikul Ali S/o Secandar Ali, Village -do-
- (3) Kulchan Begam W/o Secandar Ali, Village -do-
- All are P.S.- Sarthebari, District- Barpeta, Assam.
8. Reasons for delay if reporting by the complainant/Informant.... .
9. Particulars of properties stolen (Attach Separate sheet, if necessary).....
10. Total value of property stolen.....
11. Inquest Report/U.D. Case No. , If any.....
12. First Information contents (Attach separate sheet, if required) :  
The original F.I.R. are enclosed herewith.
13. Action taken : Since the above information reveals commission of Offence(s) u/s as mentioned at Item No. 2 :
- (1) Registered the case and took up the investigation or
- (2) Directed (Name of I.O. Subodh Ch. Haloi Rank A.S.I. of Police No.....to take up the investigation or
- (3) Refused investigation due to.....or
- (4) Transferred to P.S.....District.....on point of jurisdiction.

3

F.I.R. read over to the complaint/Information, admitted to be correctly recorded and a copy given to the complainant/Informant free of cost.

Sd/- Illegible  
Officer-in-Charge  
Sarthebari Police Station  
Dist. Barpeta  
14.8.08

R.O. A.C.

Name of Deepak Kr. Das

14. Signature/Thumb impression

If the complainant/informants

Rank.....No.....

15. Date and time of despatch to the Court.....

(4)

Ext. 1

Sd/- illegible

Sessions Judge, Barpeta

Seen

Sd/- illegible

Judicial Magistrate 1<sup>st</sup> Class

District - Barpeta

To

16.08.08

The Officer-in-charge

Sarthebari Police Station

Dated 14-08-08

**Complainant:** Md. Ainal Haque, S/O Late Abdul Haque

R/O Kawoimari, Block II, P.S. Sarthebari, Dist: Barpeta

**Accused:** 1. Sekender Ali, S/O Late Abdul Halim

2. Arikul Ali, S/O Sekender Ali

3. Kulsan Begum, W/O Sekender Ali

All of them are residents of Kawoimari Block II, P.S. Sarthebari

Dist: Barpeta (Assam)

Sir.

Humble submission is that around 11 a.m. this the 14<sup>th</sup> day of August 2008 (Thursday), my father went to see the dam of my father-in-law's fishery to the west of aforementioned accused person's house when the accused no. 1 and accused no 2 picked up a quarrel with father over blocking the water of the stream which runs beside the said dam whereupon they forcibly took father to their courtyard by lifting, wrapped his neck with a rope and then caused severe injury in his head & neck by cutting him with sharp weapon. Father died in the courtyard itself.

It is, therefore, prayed to take necessary action after investigating into the matter.

Ext. 1(1)

Sd/- illegible

Sess. Judge, Barpeta

Signature of complainant

Sd/- Ainal Haque

14-08-08



5

Written as per the version of the complainant and read over to him and as the complainant declared it to be up to the mark I put my signature herein.

Sd/- Rofiqul Alam Khan

14.08.08

Received vide GDE No. 359 dt. 14.8.08 and registered Sarthebari P.S. Case No. 124/08 u/s 302/34 IPC.

S.I. Deepak Kr. Das, O.C.

Sarthebari Police Station

District - Barpeta

14.8.08

**CHARGE WITH ONE HEAD**

(No. XXVIII(I), SCHEDULE V, Act 1838)

(Sections 221,222,223, Code of Criminal Procedure)

(1) Name & office of (1) Shri P.Saikia,  
**Sessions Judge,Barpeta**  
Magistrate etc.

(2) Name of accused person Hereby charge you (2) 1. Md. Sekender Ali,  
2. Md. Arikul Ali, and;  
3. Miss Kulchan Begum...accused.

as follows:-

(3) State the offence

That you on 14th day of August,2008 at around 11 am at Sarthebari under the jurisdiction of the Sarthebari P.S. in furtherance of your common intention committed murder by causing the death of Abdul Hoque

(4) My cognizance or the cognizance of the Court of Session.

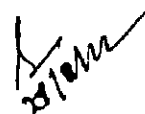
And thereby committed an offence punishable U/S302/34 of The Indian Penal Code and within the cognizance of the court of Sessions

(5) In case tried by Magistrate & by said Court

And I hereby direct that you be tried (5) by the said Court on said charge under sec. 302/34 of I.P.C

The charge is read over and explained to the accused persons to which they pleaded not guilty and claimed to stand trial.

Dated. This 21st day of August,2012.

  
(P.Saikia)  
Sessions Judge,Barpeta

Copy of Commitment Order dt. 6/7/12 Perused  
by Judicial Magistrate, 1st class Barpeta.

ORDER

(7)

(75)

06/07/12

Accused Sekandar Ali, Arikul Ali and Kulchan Begum  
are present

Seen petition vide No 2175/12 filed by accused  
Sekandar Ali, Arikul Ali and Kulchan Begum with a prayer to  
allow them to furnish new bailor.

Heard. Perused the record.

Prayer is allowed.

Copy is ready and furnished to the accused persons.

The accused persons are charge sheeted u/s 302/34 IPC  
which is exclusively triable by the Court of Session.

Hence, the case is committed.

Send the C.R along with the C.D and other relevant  
documents to the Court of Hon'ble District & Session Judge,  
Barpeta

Notify the Public Prosecutor of the same.

Seen the petitions vide No. 2193/12 filed by the accused  
persons, praying to remain on previous bail.

Heard. Considering all, prayer of previous bail is  
allowed.

The accused persons are directed to appear before the  
Court of Hon'ble District & Session Judge, Barpeta on the next  
date fixed.

Fixing 17/07/12 for appearance

Sd/-

Sh. P. Sanyal

JMFC

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of MN 1

Aged about 45 years taken in oath or solemn affirmation under provision of the Indian Oaths Act X of 1978, before me P. Saitia, sess. Judge, Belpets

This 24th day of May 2013

My name is Aynal Haque

My father's name is U. Abdul Haque

I am

By caste Muslim

My house is at Mouza

Police Station

District

I reside at present in Mouza 2nd. Kawai Mami

P.S.

District Belpets

where I am Teacher

On S/A.

I know all the accused persons. The deceased Abdul Haque was my father. On 14/8/08 at about 11 a.m. the alleged incident occurred and at the material point of time I was at my school and while I returned to my house, I came to know that my father had been murdered by the accused persons, namely; Sekandar Ali, Ariful Ali and Kulsom Begum. On the day of incident at about 11 a.m my father went to see the fishery belonging to my father-in-law which is situated nearby the house of the accused persons and there is a canal of running water by the side of fishery of my father-in-law. The said canal was blocked by the accused persons before the incident and as a result of blocking of the canal the water overflowed submerging the nearby areas including the school, paddy field, temple etc. When my father came to know that the accused persons deliberately blocked the canal and as such my father asked the accused persons to clear the obstruction and at this a quarrel took place. As a

AGP. VIII F.93 No.10/12-13

sequel to the occurrence the accused persons forcefully dragged away my

Contd

Aynal Haque

(9)

Contd .

father to their courtyard by tying with rope and thereafter the accused persons assaulted my father with sharp cutting weapons causing his instantaneous death at the spot. The witnesses namely Rabia, Kalam etc. saw the incident and these witnesses narrated before me how my father was killed by the accused persons before my arrival at the place of occurrence. Thereafter I lodged an FIR with police against the accused persons and then police came to our house and recorded my statement.

Ext 1 is the FIR and Ext.1(1) is my signature

At this, examination in chief of this witness is reserved due to non-production of seized materials.

R.O. & A.C.

(P. Saikia)

Sessions Judge, Barpeta.

*Muzal - Barpeta*

(10)

**Ref :- Sessions Case No. 172/12**

Further examination in Chief of P.W. 1

**23/9/14**

**On Oath ,**

During investigation of this case, the Police Officer (I.O.) seized some articles, i.e. one plastic rope and one Gamosa. Ext 5 is the seizure List and Ext.5(1) is my signature. The above articles were seized in my presence at the place of occurrence. Material Exhibit-1 is the seized plastic rope and Material Exhibit-2 is the seized Gamocha. The said seized articles are produced before the Court today and I have identified the same.

X X X

Cross is reserved at the prayer of the defence.

17/12/14

R O & A.C.

Sd/- illegible

23.9.14

**On Oath, X X X X X**

I am a teacher. My School starts at 9-15 a.m. I go to school before 9-15 a.m. I was at my school on the day of the occurrence. I went to the place of the occurrence around 11 a.m. When I came to the P.O., father was lying dead in accused person's courtyard. At that time police and other people were present there. There was no wall around accused person's homestead. There is no road by the front of accused person's house and they walk through another man's courtyard to their house. Rubia and Kalam are husband and wife. The house adjacent to the east of their house is that of accused person's. The homestead of the accused is now occupied by Kalam and others. One person, Rafikul Alam by name, wrote the Ext 1 i.e. the ejahar. I did not witness the incident on my own. At that time, I was at the school. I have not mentioned it in the ejahar from whom I learnt about the incident. I have not mentioned about the 'gamosa' (a kind of Assamese towel) in the ejahar. I have seen the seized 'gamosa' in the court today, but, I have not seen marks of blood in the 'gamosa'. At the time of the incident father was clad in a lungi. His lungi was stained with blood. The ground at the P.O. was soiled with blood. When police seized the rope, it was in father's neck and the 'gamosa' was lying on the ground. I cannot say whether police seized father's lungi or not. During investigation, my statement was not recorded in the court in connection with the case. Police interrogated me at the police station on the day of the occurrence. It is not a

(11)

fact that I did not tell police that around 11 a.m. on the day of the occurrence, my father had gone to see my father-in-law's fishery near accused person's house; that the incident had taken place over blocking the stream of water to the fishery; that a quarrel had taken place over my father's unblocking the stream of water. It is not a fact that I did not tell police that Kalam and Rubia had witnessed the incident and that the accused had killed father. It is not a fact that the accused had not killed my father. It is not a fact that police did not seize 'gamosa' and rope belonging to my father in my presence. It is not a fact that I do not know anything regarding father's death. It is not a fact that in collusion with Kalam, I, conspiratorially, have occupied landed property of the accused by assaulting him and that I have adduced false evidence.

Sd/- Aynal Haque

R.O & A.C

Sd/ Illegible,

17-12-14

12

172/12

Assam Schedule VIII, Form No. 93  
High Court Criminal Form No. (M) 83

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of MW 2

Aged about 25 years taken in oath or solemn affirmation under provision of the Indian Oaths Act. X of 1978, before me P. Saikia, JSS Judge, Barpeta

This 24th day of May 2013

My name is Miss Rabia Khatun

My father's name is Mr Kalam Khan

I am

By caste Muslim

My house is at Mouza

Police Station

District

I reside at present in Mouza Balapaten No. 2 P.S.

District Barpeta where I am Housewife

On S/A.

I know all the accused persons. I also knew the deceased Abdul Haque who was my next door neighbour I also know the informant. On 14/8/08 at about 11 a.m. the alleged incident occurred. At the material point of time I was collecting water from our tube-well situated in our compound. At that time suddenly I heard sound of screaming and then I immediately turn around and saw that the accused Sekandar Ali was striking the deceased with a dao and the other accused Ariful and Kulsom were pressing down the deceased on the ground. Then I raised alarm and on hearing my alarm, the accused Sekandar Ali fled away from the spot taking the dao in his hand. In the meanwhile, on hearing my alarm many people gathered at the place of occurrence. My husband Kalam Khan and Jinnat Ali also saw the occurrence. Thereafter, the son of deceased Aynal, getting the said information, came to his house and

AGP. VIII F.93 No.10/12-13

Contd .

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Contd. .

then I narrated the incident to him. Police also recorded my statement and my statement was also got recorded by the Magistrate u/s 174 Cr.P.C.

Ext.2 is my statement recorded u/s 164 Cr.P.C. and Ext.2(1) & 2(2) are my signatures.

Cross-examination :-

My house is situated adjacent to the house of accused persons and the house of deceased is situated at a distance of about 200 ft. away from the house of accused persons. My house is situated to the eastern side of the house of accused persons. We have a tube-well within the compound of our house from where I was collecting water at the time of occurrence. I did not see as to how the deceased happened to come to the courtyard of accused persons. My husband Kalam Khan was not with me at the time of occurrence. I saw that the accused Sekandar Ali struck the deceased with the sharp edge of the dao on the head and neck of deceased. I saw the accused Sekandar inflicting three blows, one blow is on the head of deceased and two blows on the neck and as a result of which blood was oozing out from the injuries. The whole body of the deceased stained with blood as a result of oozing out of blood. At the time of incident the deceased was wearing a lungi of white colour having *cheeks* and a ganji. Blood also tripled down on the ground. Soon after the incident, the informant came to his house. The houses of Atob Khan, Satish Deka, Hiren, Uddhab and Hiten are situated adjacent to the house of deceased. Balapara Anchalik High School is situated adjacent to the place of occurrence. The informant is the Headmaster of the said school. I saw the accused Sekandar Ali fleeing with the dao after causing injuries on the deceased.

It is not a fact that I did not state before the police that-" At the material point of time I was collecting water from our tube-well situated in our compound and at that time suddenly I heard sound of screaming and then I immediately turned around and saw that the accused Sekandar Ali was striking the deceased with a dao and the other accused Ariful and Kulsom were pressing down the deceased on the ground."

श्रीम: श्रीम: श्रीम: श्रीम:

Contd...

It is not a fact that I did not state before the I/O that Jinnat and Kalam saw the incident. It is also not a fact that I did not see the occurrence with my own eyes. Police recorded my statement u/s 161 Cr.P.C. at my house and thereafter my statement was recorded u/s 164 Cr.P.C. by the Magistrate. Before the incident there was no enmity between the deceased and the accused persons.

R.O. & A.C.

*[Signature]*  
24.5.15

(P. Saikia)

Sessions Judge, Barpeta.

ପାଠ୍ୟ ପୁସ୍ତକ : ଶାସ୍ତ୍ରୀ

(15)

17212

Assam Schedule VIII, Form No. 93  
High Court Criminal Form No. (M) 83

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of *MW 3*

Aged about *48* years taken in oath or solemn affirmation under provision of the Indian Oaths Act. X of 1978, before me *p. saikia, sess. Judge, Barpeta*

This *24th* day of *May* 2013

My name is *Tinnat Ali*

My father's name is *Abdul Baseek*

I am

By caste *Muslim*

My house is at Mouza

Police Station

District

I reside at present in Mouza *Kawaimaki No 2*

P.S.

District *Barpeta*

where I am *Cultivator*

On S/A

I know all the accused persons I also knew the deceased Abdul Haque. On 14/8/08 at about 11 a.m. while I was at my house, I heard sound of screaming outside of my house and then I came out of my house and went to the house of accused Sekandar and saw that the accused Sekandar Ali was running away towards southern side of his house taking a dao in his hand. Then I also saw Kulsom was standing at the place of occurrence and the deceased was lying on the ground at the courtyard of accused persons. Thereafter I came to know at the P.O that the accused Sekandar <sup>had</sup> killed the deceased by striking with a dao. The informant came to the place of occurrence after my arrival and thereafter he lodged an FIR with police. Police held inquest on the dead body of deceased in my presence where I put my signature as a witness to the inquest vide Ext 3(1) on Ext 3, the inquest report. Police recorded my statement u/s 164 Cr.P.C.

*Tinnat Ali*

Contd...

Cross-examination:-

I did not see the occurrence with my own eyes. My house is situated at a distance of about 300 ft. away from the house of accused persons. The house of witness Rabia is situated on the eastern boundary of the house of accused persons. The dead body of deceased was lying in front of the main house of accused persons in their courtyard. There is no boundary wall in the house of accused persons. On the date of the incident police recorded my statement

It is not a fact that I did not state before the police that-" On 14/8/08 at about 11 a.m while I was at my house, I heard sound of screaming outside of my house. Then I came out of my house and went to the house of accused Sekandar and saw that accused Sekandar Ali was running away towards southern side of his house taking a dao in his hand. Then I also saw Kulsom was standing at the place of occurrence and the deceased was lying on the ground at the courtyard of accused persons.

It is also not a fact that I did not witness the incident and that I also do not know as to how the deceased died.

*Qari mat ali*

R.O & A.C.

*[Signature]*

(P.Saikia)

Sessions Judge, Barpeta.

(17)

172/12

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of MW 4

Aged about 40 years taken in oath or solemn affirmation under provision of the Indian Oaths Act X of 1978, before me P. Saikia, Esq. Judge, Barpeta

This 2nd day of Aug 13

My name is Ramesha Begum

My father's name is MD Arfan Khan

I am

By caste Muslim

My house is at Mouza

Police Station Saithebari

District

I reside at present in Mouza No. 2 Balapata

P.S.

District Barpeta

where I am Steamerike

Or S/A

I know the accused persons I also knew the deceased. On 14/8/08 at about 11.30 am while I was carrying my cows towards the grazing field I saw that the accused persons were quarreling with the deceased Abdul Haque and at that time the accused Sekandar gave a lathi blow on the head of Abdul Haque and then he fell down on the ground. Then accused Arikul alongwith other accused persons dragged Abdul Haque to their courtyard. Then I raised hue and cry and in the meanwhile the accused Sekandar fled away from his house taking a dao in his hand towards the field. Thereafter I alongwith other village people went to the courtyard of accused persons and noticed the dead body of deceased with cut injuries on his head. Thereafter police came and recorded my statement and my statement was also got recorded before the Magistrate u/s 164 Cr P.C.

R.T. I of  
Ramesha Begum

Contd....

Cross-examination:-

My house is situated at a distance of about 2/3 bighas away from the house of accused persons. I saw the occurrence from a distance of about 1 1/2 bighas of land. The house of accused persons were covered by bamboo fencing in some places which was about 5 feet high and there was other bamboo fencing in front of the house of accused persons. The path leading to the house of accused persons is situated in the eastern side which is also the front of the house of accused persons. The accused persons had some dispute with the deceased regarding boundary land. I do not know as to how the deceased came to the courtyard of the accused persons. I only saw quarrel took place between the deceased and the accused persons once and in that occurrence a lathi blow was given on the head of deceased by accused Sekandar. After the lathi blow, Abdul Haque fell down on the ground and then he was dragged to the house of accused persons. Thereafter I do not know what happened.

It is not a fact that I did not state before the police that accused Sekandar Ali gave a lathi blow on the head of Abdul Haque and thereafter all the accused persons dragged the injured to their house. At the time of occurrence, there was light raining and when I saw the incident, none was present there, but when I raised hue and cry, many people assembled at the P.O. After the occurrence, I entered into the compound of the house of accused persons. At the time of occurrence the deceased Abdul Haque was wearing a white lungi and one white ganji. I do not know whether the wearing apparels of the deceased stained with blood.

It is not a fact that I did not state before the Magistrate in my statement u/s 164 Cr.P.C. as to the date of the incident and causing assault by the accused persons with lathi blow and that the accused persons dragged Abdul Haque to their house. It is not a fact that I did not see any occurrence

R.O. & A.C.

*Ms*

(P. Saikia)

Sessions Judge, Barpeta.

K-4  
Remeka Begum

(19)

48

Assam Schedule VIII, Form No. 93  
High Court Criminal Form No. (M) 83

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of *M/S*

Aged about *30* years taken in oath or solemn affirmation under provision of the Indian Oaths Act. X of 1978, before me *P. Saikia, Subs Judge, Barpeta*

This *2nd* day of *Aug 2013*

My name is *Abul Kalam*

My father's name is *Aliab Khan*

I am

By caste *Muslim*

My house is at Mouza

Police Station *SATHEBARI*

District

I reside at present in Mouza *MD.2 Balapata*

P.S

District *Barpeta*

where I am *Cultivator*

On S/A.

I know the accused persons as well as the informant. I also knew the deceased In the year 2008 on 14<sup>th</sup> August I was at my house and during that time my wife Rabia went to fetch water from a tubewell and then she uttered - "marile, marile" and on hearing the utterance I came out from my house and saw that the son accused and his wife were pressing Abdul Hoque on his leg against the ground and the accused Ariful also pressed Abdul Hoque on his chest and the accused Sekandar was giving dao blows on Abdul Haque on his neck. I saw the occurrence with my own eyes Then I also raised- "marile marile" and then some people including the students of school came. Then the accused Sekandar fled away from the spot taking a dao in his hand towards the field. Then police came and recorded my statement and my statement was also got recorded before the Magistrate u/s 164 Cr P.C. Ext.3 is

~~AGP. VIII P. 93 No. 10/12/13~~ my statement u/s 164 Cr.P.C. where Ext.3(1) and 3(2) are my signatures

Contd.

Statement recorded

Contd....

Cross-examination:-

I have no land dispute with the accused persons nor did they file any case against me. There are some small bamboo fencing in some places in the house of accused persons, but there was no bamboo fencing about the height of 5/6 feet and there was also no bamboo fencing in front of the house of accused persons towards the road. I saw the incident from my house. I only saw the accused Sekandar giving dao blows on the neck of Abdul Haque. Apart from this, I saw no other incident. It is not a fact that I did not state before the police that the accused Sekandar gave dao blows on the neck of Abdul Haque and accused Anifal pressed the chest of deceased and that the wife Kulsom pressed the leg of deceased. The incident occurred in the courtyard of accused persons. I saw the witnesses Ramesha who came to the P.O. after the incident, but I do not know as to whether Ramesha saw the occurrence or not. It is not a fact that I did not state before the police that I saw Sekandar who fled away from the spot towards the field taking a dao in his hand after giving a dao blow on Abdul Haque. The informant is not related to me. It is not a fact that I did not see the occurrence.

ON 27/11/13  
P.S. KANDEL NO

R.O. & A.C.

*M. S. 13*

(P. Saikia)

Sessions Judge, Barpeta



(21)

Sess. 172/12

Assam Schedule VIII, Form No. 93  
High Court Criminal Form No. (M) 83

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of R. W. 6

Aged about 39 years taken in oath or solemn affirmation under provision of the Indian Oaths Act X of 1978, before me Shri P. Saikia, Sessions Judge, Barpeta

This 8th day of November/13

My name is Dr. Meenu Haque

My father's name is Jamal Uddin Ahmed. I am

By caste Muslim My house is at Mouza Kalgachia

Police Station Kalgachia District Barpeta

I reside at present in Mouza \_\_\_\_\_ P.S.

District \_\_\_\_\_ where I am M. & H. O. 1, Barpeta Civil Hospital at Kalgachia.

On S/A.

On 15/8/2008 I was working at Barpeta Civil Hospital as M. & H. O. On that day with reference to Sarthebari P.S. case No. 124/08 under section 302 I.P.C. I examined the dead body of the deceased Abdul Moque on being identified by Constable Rabin Sarma and on examination I found the following:

External appearance:-

An average built person. Dark complexion, eyes are opened partially. Body is stained with mud. Rigor mortis present.

Wounds, position and character:-

- 1) Lacerated wound at the right side of scalp size 6"inch x 3"inch x 2"inch.
- 2) Depressed fracture at the right parietal bone, size 5"inch x 2"inch x 2"inch.
- 3) Large hematoma and laceration present in the right cerebral cortex with midline shifting with tentorial herniation. Size 6"inch x 5"inch x 5"inch.
- 4) Lacerated wound over the left side of chest 3"inch x 3"inch x 1"inch.

Abdomen: Walls, Peritonium, Mouth, pharynx, Oesophagus - Healthy.

Stomach and its contents: Stomach contains undigested food materials.

Small intestine and its contents: Contains faecal matter and gases.

Large intestines and its contents: Contains faecal matter and gases.

Scalp - Lacerated wound at the right side of scalp size 6" x 3" x 2"inch.

Skull - ~~Depressed fracture~~ Depressed fracture of the right parietal bone size 5" x 2" x 2".

Membrane - Healthy.

Brain and spinal cord - Brain: Large hematoma and laceration present in the

cont d. 2/

M. & H. O. 1, Barpeta Civil Hospital

right cerebral cortex with midline shifting and tentorial laceration size 5" x 4" x 3",

Liver, spleen, Kidneys: Healthy. Bladder: Healthy, empty.  
organs of generation, externa and internal-Healthy, intact.

Thorax:-Walls, ribs and cartilages:Healthy-Pleurae: Healthy.

Larynx and trachea: Healthy. Right lung and left lung: Healthy.

Pericardium- Healthy.

Heart: Healthy. Right heart is full with clotted blood.

Left heart chamber is empty.

Muscles, bones and joints:-

Injury: Mentioned above.

Disease or deformity- Absent. Fracture-Mentioned above.

Dislocation: Absent.

Opinion:- In my opinion death was due to coma resulting from head injury as described. All the injuries are ante-mortem caused by blunt force impact.

Ext.4 is the post mortem report. Ext.4(1) is my signature. Ext.4(2) is the signature of the then Joint Director of Health Services, Barpeta which is known to me.

X X X(Cross examination):-

Ext.4 is the carbon copy. Ext.4(1) is my carbon copy signature and Ext.4(2) is the original signature of the Joint Director of Health Services, Barpeta. I put my signature on the post mortem report on 15/8/2008. Whereas the Joint Director of Health Services, Barpeta put his signature in Ext.4(2) on 20/10/2008. I have not mentioned the age of the injury in the post mortem report.

R.O. & A.C.

(P. SAIKIA)

SESSIONS JUDGE, BARPETA.

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Sess No. 172/12

Assam Schedule VIII, Form No. 93  
High Court Criminal Form No. (M) 83

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W-7

Aged about 36 years taken in oath or solemn affirmation under provision of the Indian Oaths Act X of 1978, before me Shri P. Saikia, Sessions Judge, Barpeta

This 8th day of Nov/2013

My name is Abdul Rahim.

My father's name is Lt. Nur Mohammad I am

By caste Muslim My house is at Mouza vill - No. 1, Kawaima

Police Station Sarthebari District Barpeta

I reside at present in Mouza P.S.

Prof where I am Businessman

On S/A.

The accused are known to me. I know the complainant as well as the deceased Abdul Moque. On 14/8/2008 the incident took place at around 11.00 A.M. On that day when I <sup>was</sup> returning from the market, seeing the gathering at the place of occurrence I went there and asked the people gathered there. Amongst them, one Kalam told me that Sekander stabbed deceased Abdul Moque by sharp weapon. In this regard Ainal lodged an F.I.R. before the police. Accordingly, police came and arrested the wife and son of accused Sekander. In the mean time, accused Sekander fled away from the place of occurrence. Police recorded my statement under section 161 Cr.P.C.

GMAR 2/12

X X X (Cross examination):-

At the time of occurrence I was at Balapara Bazar. At the time of occurrence there was no bamboo fencing around the <sup>house</sup> compound of the accused Sekander. When I reached the place of occurrence I found the dead body of the deceased in the courtyard of the house of accused Sekander. My house is situated at a distance of about 1(one) furlong from the house of the accused. I do not know the number of children

of the accused Sekander. It is not a fact that I did not state before

cont d.2/

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- 2 -

the police that the place of occurrence Abdul Kalam informed me that accused Sekander stabbed the deceased Abdul Moque by sharp weapon. It is not a fact that I have given false evidence against the accused.

H.O. & A.C.

*H.O. & A.C.*

(P.SAIKIA)

SESSIONS JUDGE, BARPETA

*Handwritten notes on the left margin:*  
ni  
P.S. Saikia  
S.

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Assam Schedule VIII, Form No. 93

High Court Criminal Form No. (M) 83

Sessions Case No. 172/12

**FORM FOR RECORDING DEPOSITION**

**THE DEPOSITION OF P.W. 8**

Aged about 65 years taken in oath or solemn affirmation under provision of the Indian Oaths Act X of 1978, before me Smti. N. Rajkumari, Sessions Judge, Barpeta this 22<sup>nd</sup> day of January, 2015.

My name is Sri Subodh Chandra Haloi. My father's name is Late Nareswar Haloi, I am by caste..... My house is at Mouza..... Police Station..... District..... I reside at present in Mouza - Pipolibarigaon, P.S. Belsor, District-Nalbari, where I am Retd. Police Officer.

**On Oath,**

On 14-08-08, I was working as ASI at Sarthebari Police Station. Around 11 a.m. on that day a person, Ainal Haque by name and a resident of No.2 Kawoimari, lodged an ejahar by appearing at this Police station. The O/C of the P.S. registered a case with Sarthebari Police Station Case No.124/08 u/s 302/34 IPC and handed over the charge of investigation on me. Taking the charge of investigation I started off to the place of the occurrence. Arriving at the P.O., I found the dead body of the deceased in the courtyard of the accused and held the inquest on it right in presence of the witnesses. I prepared the sketch map of the place of the occurrence. For PM examination, the dead body is sent to the Barpeta Civil Hospital. Accused Arikul Ali and Kulchan Begum were found there and brought to the P.S for interrogation. Then they were arrested and sent to the hon'ble court. Sikandar Ali was absconding. Later, he was found and arrested. I collected the PM report. I submitted the charge sheet against the accused u/s 302/34 IPC Ext 6 is the charge sheet and Ext. 6(1) is my signature. From the place of the occurrence, I seized a 5-1/2 feet (Approx) long plastic rope, stained with blood and a 'gamosa, stained with blood. Ext 5 is the seizure list and Ext 5(2) is my signature. Ext 7 is the sketch map and Ext 7(1) is my signature. I got the statement of Rabia Khatun and Abul Kalam recorded u/s 164 CrPC. I also recorded Ramisha Begum's

statement under the said section. The higher authority had already entrusted me with the responsibility of submitting the charge sheet.

X X X X X

The incident of this case took place around 11 a.m. The date of report is 14-08-08 and the time is 1 p.m. The Police Station is about 10-km from the place of the occurrence. One can cross the first five kilometres of the road from the P.O. by bicycle but the next five kilometres road is motorable. I recorded PW Ainal Haque's statement at the place of the occurrence itself. I did not interrogate the scribe of the ejahar of this case Rafiqul Alam Khan. I have not mentioned it in the case diary why I did not record the statement. Before the ejahar was lodged in this connection, nobody had informed the P.S. of the incident verbally. I did not make an enquiry regarding whose land was that where the dead body was lying. Ext 3 is not a photocopy but it is a carbon copy and the signature is also a carbon copy. I have not mentioned the colour of the seized plastic rope and the gamosa. I have not sent the seized articles to the FSL for examination. I have not seen the said seized gamosa and the rope in the court today. The seized gamosa and the rope were lying near the dead body. There is no house near the P.O. to the east, except for Atar Ali's house. There is the paddy field and the School building to the north, south and west. The earth where the dead body was lying was soiled with blood; however, I did not seize the said earth. As an ASI I should receive written permission from the SP along with official memo for investigating into a murder case. Nothing was mentioned in the case diary regarding the said permission. I did not furnish the copy of the permission along with the case diary. No incident had taken place inside the house at the P.O.

While giving statement before me, PW Ainal Haque did not tell me that around 11 a.m. on the day of the occurrence, my father had gone to see my father-in-law's fishery near accused person's house; that the incident had taken place regarding the accused person's blocking the stream of water to the fishery and that the quarrel had taken place over my father's unblocking the stream of water. PW Ainal Haque did not tell before me that Rabia and Kalam had witnessed the incident and then told him about that.

PW Rabia Khatun did not tell before me that Zinnat and Kalam had witnessed the incident. In his statement Zinnat Ali did not tell me that around 11 a.m. on 14-08-08 he had been at his home; that hearing a hue and cry, he had gone out of his house and that when he had gone to accused person's house. Sikander Ali, taking the dao, left towards south,

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P.N.3

however, he told that the accused had fled after cutting him (deceased) with a dao. PW Zinnat Ali did not tell before me that Kulchan Begum had been standing near the dead body. In his statement, Ramesha Begum did not tell before me that accused Sikander had assaulted Abdul Haque's .....(Illegible) with lathi and then dragged him to their house. PW Abdul Kalam told before me that accused Sikander had hacked (omitted in the original) in the neck and in the head. Later says, Sikandar hacked with a dao, but he did not say that he had been hacked in the neck. PW Abul Kalam did not tell me that Ariful had kept Abdul Haque pressed by his chest and Kulchan had kept his legs pressed down. PW Abdul Kalam told me that the accused had gone in a run but did not tell me that he had run along the field.

PW Abdur Rahman did not tell me that Abdul Kalam had not told him that Sikander had hacked Abdul Kalam with a sharp weapon.

It is not a fact that police had visited the place of the occurrence before I investigated into the case. It is not a fact that I did not go to the place of the occurrence in order to investigate into the matter and that completed the investigation just by sitting at the Police Station.

Sd/- Sri Subodh Haloi

R.O & A.C

Sd/- illegible

22.1.15