

DATE : 21-04-2013.

1

**WRITTEN EXAMINATION FOR DIRECT RECRUITMENT TO GRADE-I OF  
NAGALAND JUDICIAL SERVICE-2013**

Total marks – 100  
Time – 3 hours.

**Paper- III**

Constitutional law

Answer any 4 (four) questions:

10X4= 40

- (1) Explain what is right of equality before law and equality of opportunity in respect of public employment with reference to reservation policy. 10
- (2) State various modes of acquiring citizenship at the commencement of the Constitution. 10
- (3) What is double jeopardy and what are the protections provided in respect of conviction for offences, with reference to life and personal liberty? 10
- (4) Explain, with reference to fundamental duties of citizens of India, if fundamental rights are absolute? 10
- (5) Which court is to be moved for enforcement of Fundamental rights and what powers can the court exercise in this regard? 10

Jurisprudence

Answer any 2 (two) questions:

10X2= 20

- (1) Distinguish between ratio decidendi and obiter dicta.
- (2) What is the distinction between right in rem and right in personam?
- (3) What is malicious prosecution, Elucidate?

Judgment writing

40

- (1) Write a judgment on the basis of materials supplied in the Paper book enclosed.

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# PAPER BOOK

# FIRST INFORMATION REPORT

(Under Section 154 Cr. P.C.)

G.R. NO. 474/2004

1. Dist..Sivsagar...P.S. Sivsagar.....Year 2004.....

FIR No. 194 Date...12/06/2004.....

2. (i) Act.....Sections...376 IPC.....

II) Act.....sections.....

iii) Act.....sections.....

iv) Other Acts & Sections.....

3. a) General Diary Referenced Entry No.....Time.....

b). Occurrence of offence: Day.....Date.2003 Time...2..P.M.

b) Information received date 12.06.04....Time 8:30 P.M.

G.D. No..... at the Police Station. ....Sivsagar

4. Type of Information .....Written .....

5. Place of occurrence: Joysagar Demow Pathar

a) Direction and Distance from P.S.. About 8 K.M. East

b) Address...Mauza - Sala guri....

.....Beat No.....

C). In case out side limit of this Police Station then the  
names of

P.S...Sivsagar.....District.....Sivsagar.....

6. Complainant/Informant :

a). Name.....Sri Ghanakanta Das.....

b). Father's name .....Lt. Akanman Das.....

C). Date/year of Birth.....

d). Nationality ...Indian.....

e) Pass port No.....Date of issue.....Place of issue.....

f) Occupation .....

g) Address...Joysagar Demow Pathar Ps.

Sivsagar...Dist: Sivsagar.....

7. Details of knows/suspected/unknown accused with full  
particulars.....

Sri Pramud Hazarika Akoui

S/o Sri Gulap Ch. Hazarika

Joysagar Demow Pathar

P.s Sivsagar

8. Reasons for delay in reporting by the Complainant/

Informant:.....

9. Particulars of properties stolen/ involved(Attach separate  
sheet if necessary):.....

10. \* Total value of properties stolen/involved:.....

11. \* Inquest Report/ U.D. Case No., if any.....

12. F.I.R. Contents (Attach separate sheets, if required): The written Ejahar of the complt is received through Honable Court and treated as FIR which is enclose here with.

13. Action taken: Since the above report reveals commission of offence (s) u/s as mentioned at item No.2, registered the case and directed\* S.I. Moni Mohan Singha to take up the investigation / transferred to P.S.....on point of jurisdiction.

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

Sd/ Illegible  
12.6.04

(Seal)

Signature of Officer-In-Charge  
Police Station with

\* Name: Sri Pradip Borgohain

\* Rank: .....Inspector.....

Number, if any O/c Sivsagar P.S

Sri Ghana Kanta Das

Signature / Thumb impression  
of the Complainant / Informant

13/06/04



In The Court Of The Executive Magistrate, Dist Sivsagar

Dated the 9<sup>th</sup> day of June, 2003

Sub: Ejahar

Complainant: Ghana Kanta Das  
S/O Lt. Akanman Das  
Village JoySagar Dimow Pathar  
P.S And Dist : Sivsagar.

Seen  
Sd/- Illegible  
Prosecuting Inspector  
Sivsagar Court  
14.6.04

Ext. 1  
Sd/- Illegible  
1<sup>st</sup> Addl. Sessions Judge  
Sivasagar  
8.12.04

Seen  
Sd/- Illegible  
C.J.M.  
Sivasagar  
14.6.04

Sir,

Humble submission is that I am the father of Smti Jonmoni Das. She is now 16 years old. Around 2 PM one day in December, 2003 When nobody else was at home, my neighbor Golap Chandra Hazarika's son Promode Hazarika @ Akani committed rape on her and asked her not to tell anyone about the occurrence, threatening to kill her if she would do so.

Out of fear for her life my daughter maintained silence on the said incident. But when she was discovered to have been carrying for five months, the matter was revealed to me.

You are therefore requested to direct the Sivsagar PS to apprehend the accused and try him Accordingly.

This is my humble request to your honour.

Sd/ Ghana Kanta Das  
O/c SVR P.S  
For enquiry & *illegible*  
Case as *per appropriate*  
Provision of law

Ext 1 (1)  
Sd/ Illegible  
08/12/2004

*1st Addl. Sess. Judge*  
*Sirangar*

Received regd. SVR P.S. Case No. 194/04 u/s 376 IPC dtd.

12.6.04

Sd/-illegible

12.6.04

O/C SVR P.S.

Seal

Sess Case No.120(S-S)2004

**CHARGE WITH ONE HEAD**

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

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

1) L. Hazarika. Addl. Session Judge

(Ad-hoc), Sibsagar.

Hereby charge you (1) Promod Hazarika.

as follows:-

(1) During the month of December one day at about 2 P.M. at village Demow Pathar gaon under Sibsagar police station you committed rape on Smti Junamoni Das having Sexual intercourse with her against her will and without her consent and thereby committed an offence punishable under Section of 376

The Indian Penal Code and within (4) my cognizance.

And I hereby direct that you be tried (5) by the said charges the charge is to the accused to which <sup>hand over and explained he</sup> pleaded not guilty and claimed to be tried.

Sd/ Illegible  
Dated this 21/09/2004  
1<sup>st</sup> Addl. Session Judge,  
Sivasagar



IN THE COURT OF JUDICIAL MAGISTRATE, 1<sup>st</sup> CLASS

SIVSAGAR

G.R. CASE NO. 474/2004

STATE

-VS.-

Sri Pramod Hazarika

COMMITMENT ORDER

Dated : 19.08.04

Accused Sri Pramod Hazarika has been produced before me from jail having the offence alleged against him is u/s 376 IPC. Which is exclusively triable by the Hon'ble court of Sessions. It is on record that accused was not granted bail till date. Be that as it may considering the nature of offence alleged the case record is committed to the court of Hon'ble Session Judge Sivsagar for trial along with C.D.

Let P.P be informed about the committal ~~accused~~ is directed to appear before the Hon'ble Sessions Judge Sivsagar on the date fixed to stand trial.

Fix 23.08.04 for app. Let committal papers be prepared forthwith.

Sd/ Illegible  
Judicial Magistrate 1<sup>st</sup> class, Sivsagar

**FORM FOR RECORDING DEPOSITION**

THE DEPOSITION of P.W 1

aged about 51 years taken <sup>in oath</sup> or solemn affirmation under

provisions of the Indian Oaths Act. X of 1878, before me L

Hazarika Anwar, Additional Sessions Judge(Ad-hoc),

Sibsagar..... this..8.12.2004..... day of..... of.....

My name is.....Ghana Kanta Das.....

My father's name is.....Late Akanman Das.....

I am by caste.....My house is at Mouza.....

Police Station .....District.....

I reside at present in Mouza..... Demow pathar.....

Police Station ...Sibsagar.....District...Sivasagar.....

Where I am.....Peon General Insurance.

On S/A,

I know the accused Promod Hazarika. Jonmoni Das is

my daughter. She is 16 years old now. She was born on

31.10.87. The occurrence took place in December 2003. In

June 2004 when I found that Jonmoni was carrying for five

months, I interrogated her. She said that she had become

pregnant due to rape b y accused Promode. She further said

that Promode had threatened not to tell anyone about the rape and that because of that she had not told anyone about the occurrence. I filed an ejahar with the ADC, Sibsagar in connection with the occurrence. The ejahar was sent to Sibsagar P.S. Ext.1 is the ejahar and Ext.1(1) my signature. Police interrogated me and recorded my statement. They also had Jonmoni Das medically examined. Jonmoni gave birth to a male child on 29.08.2004.

XXXXX

I came to know of Jonmoni's pregnancy on 4 June, 2004. I submitted the ejahar on 9.6.2004. The filing of the case was delayed as I remained busy from the 4<sup>th</sup> to the 9<sup>th</sup> in trying to reach an amicable settlement. The very day on which I had lodged the ejahar with the ADC, I had lodged the same with the P.S. It is not true that ( I lodged the ejahar with Sivsagar P.S. only on 12.6.04. it is not true that) keeping the ejahar with myself, I had threatened Promode's mother to the effect that if Promode refused to marry Jonmoni, I would lodge the ejahar with the P.S. In my statement to the daroga I said that I had filed the case when Promode refused to accept Jonmoni. The accused person's house is in front of mine. The houses of Dambaru Hazarika and Damboru Das are.

near that of mine. I do not have an amicable relation with

*Promode*

Promode's father. It is not true that the allegation against is

false. It is not true that Jonmoni had not become pregnant by

Promode. It is not true that Jonmoni is more than 18 years

old.

Sd/ Ghana Kanta Das

RO & AC  
Sd/ Illegible  
8.12.2004  
1<sup>st</sup> Addl. Sessions Judge  
SIVASAGAR.

## FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 2

aged about 42 years taken <sup>in oath</sup> or solemn affirmation under provisions of the Indian Oaths Act. X of 1878, before me L. Hazarika ~~Anowar~~, Additional Sessions Judge(Ad-hoc), Sibsagar..... this..3.1.2005..... day of..... of.....

My name is.....Smti Padmini Das @ Pamini.....

My father's name is.....W/o Ghana Kanta Das.....

I am by caste.....My house is at Mouza.....

Police Station .....District.....

I reside at present in Mouza..... Demow pathar.....

Police Station ...Sibsagar.....District...Sivasagar.....

Where I am.....House wife.

On S/A,

I know the accused Promode Hazarika. Jonmoni Das my second daughter. She is now 17 years old. When her menstruation cycle stopped on 17 Puh last year, I interrogated her. As her menstruation cycle had ceased, I



treated her with local medicines without knowledge

Promode Hazarika's mother Banti Hazarika took Jonmoni to

Kalugaon and had her examined by a doctor there. When the

doctor advised Promode's mother to have Jonmoni's urine

examination, the latter did so. I took Jonmoni to Jaysagar

Civil Hospital and had her examined by a doctor there. The

doctor declared that Jonmoni was six month's pregnant.

When asked, Jonmoni<sup>n</sup> said that her pregnancy had been

caused by Promode Hazarika. When I went to Promode to

ask about that he tried to cut me with a dao. My husband

lodged case with the P.S. Jonmoni gave birth to a male child

on 5 Bhada last.

XXXXXX

There are houses of other people near that of ours.

But none except Promode's family members have visiting

terms with us. It is not true that Jonmoni is more than 18

years old.

Sd/ Padmini Das

RO & AC.

Sd/ Illegible

3.1.2005

1<sup>st</sup> Addl. Sessions Judge

SIVASAGAR.

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 3

aged about 16 years taken <sup>in oath</sup> or solemn affirmation under provisions of the Indian Oaths Act. X of 1878, before me L

Hazarika Anowar, Additional Sessions Judge(Ad-hoc),

Sibsagar,..... this, 3.1.2005..... day of..... of.....

My name is..... Smti Junmoni Das.....

My father's name is..... Ghana Kanta Das.....

I am by caste..... My house is at Mouza.....

Police Station ..... District.....

I reside at present in Mouza..... Demow pathar.....

Police Station ...Sibsagar..... District...Sivasagar.....

Where I am..... Dependent.....

On S/A,

I know accused Promode Hazarika. I am now 16 years old. On 17 Puh last year I was alone at home at daytime. Around 2 O'Clock at daytime. Promode Hazarika came to our house and asked for water. I gave him a glass of water. Having drunk the water, Promode grabbed me by the

hand, took me to the bed room where he laid down on the bed and forcibly committed rape on me. When I struck him with my hand, he, too, hit me back. I had been wearing a set of 'Churidar' and 'top'. Promode took off my wearings and laying me down on the bed, took off his 'gamosa' whereupon he pushed his penis into my vagina and committed rape on me. I told Promode's mother about his committing rape on me. The next day also Promode came to our house. When Promode tried to commit rape on me, I tried to shout, but he gagged me. After Promode had raped me, my menstruation period stopped. When I told Promode's mother of that, she took me to a doctor at Kalugaon who advised her to have my urine examined. I told my mother about the doctor's advise to have my urine tested. Mother took me to a doctor who examined me and declared that I had become pregnant. The doctor said that my pregnancy was <sup>Six</sup> months' old. The doctor had examined me in Jeth. Four months after that I gave birth to a male child. Father filed a case. The police had me examined by a doctor and also had my statement recorded.

15  
by a Magistrate in court. Ext.2 is my signature made in the court and Ext.2(1) my signature.

XXXXXX

Q: There are houses near that of yours. If you speak or shout, the same can be heard from those houses, where was your 'nabou' (elder brother's wife)?

Ans: There are houses near that <sup>of</sup> ours. But the people living there do not have good relation with us. They can hear if we talk and shout. 'Nabau' was not at home.

Q: Was Promode in the habit of visiting your house?

Ans: Yes, he was.

Q: Did you resist Promode from committing such act?

Did you raise any shout?

Ans: Yes, I tried but could not resist him. I raised shout.

Q: You told the daroga on the day of occurrence itself, you had informed your elder sister Deepamoni about the occurrence; that Deepamoni had immediately told Promode's mother and that there had ensued a quarrel over that matter. Is it true?

Ans: Yes.

Q : The villagers came to know of that quarrel. Is it true?

Ans: Yes.

Q : In your statement to the daroga you said that your father, family members and Promode's mother had quarreled for 5/6 months over that issue; that Promode's mother had charged at your father in order to assault him that she had a quarrel with your grandmother and that after the quarrel a case had been filed. What do you say?

Ans: Yes, I said so.

Q : Did you inform the P.S of the incident?

Ans: I did not inform the P.S I do not know if father had done so.

Q : You were more than 18 years old at the time of occurrence, but you falsely stated that you were only 16. What do you say?

Ans: I was 16 years old then and not 18 years.

Q : Promode had committed sexual intercourse with you enticing you with the promise that he would marry



17  
you and that you had assented<sup>to</sup> that. What do you say?

Ans: Promode did not have sexual intercourse with me with the promise to marry me. I had no assent to the sexual intercourse.

Q : Did your elder sister Rupamoni give birth to a child when she was still a spinster?

Ans Yes.

Q : No such incident as you have narrated did occur in the month of Puh, 2003

Ans: There was an incident.

Q : Promode did not exert any force. In order to have him as your husband, you had willfully allowed him to have sexual relationship with you. Later, when he refused, you filed false suit. What do you say?

Ans: Promode had committed forcible sexual intercourse with me. The allegation that with the intention of marrying Promode I had voluntarily allowed him to have sexual intercourse with me is false. The

allegation that I have filed a false case is also not

true.

Sd/ Jonmoni Das

RO & AC  
Sd/ Illegible  
3.1.2005

S/C 120(S-S)04

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 4

*in oath*  
aged about 49 years taken <sup>^</sup> or solemn affirmation under

provisions of the Indian Oaths Act. X of 1878, before me, Sri

*Adhoc -*  
K Dohotia, 2<sup>nd</sup> <sup>^</sup> Additional Sessions Judge, Sibsagar

..... this 9.2.2005..... day of..... of.....

My name is..... Dr Taibur Rahman.....

My father's name is..... Late Habibur Rahman.....

I am by caste..... My house is at Mouza.....

Police Station..... District.....

I reside at present in Mouza..... Police Station.....

District..... Where I am..... Sr. M & HO, Sivasagar

Civil Hospital.

On S/A,

On 14.6.04 I was at Sivasagar Civil Hospital as Sr. M

& HO.

On that day at 10.10 AM on police requisition the

*Smt.*  
Sivasagar P.S vide *letter no* 194/04, I examined Jonmoni <sup>^</sup>

Das D/o Sri Ghana Das of Demow Pathar under Sivasagar

P.S. She was escorted by : HG Smti Dulumoni Konwar.

Brief History –

Had sexual relation in the month of Puh. LMP –25<sup>th</sup> Aghone.

Findings :-

Her general behaviour normal with clear mental state.

Built & Nutrition – Fair built, weight 45 Kg Height 4'9".

Dentition - 31 no.s of teeth, 16 in upper jaw, 15 in lower  
jaw.

Development of hair – Auxillary and pubic hair plenty.

Breast - Breast enlarged with dark ariola milk secretion  
present.

Marks of violence – Absent.

Genitalia – Fully developed with plenty pubic hair. Hymen  
absent with marked tear.

Vagina – Capacious and bluish in colour

Abdomen – 24 week pregnancy breech presentation with  
presence of fetal heart.

Vaginal smear examination – No spermatozoa.

Ultra sonography of the abdomen – Gynecologist Dr.

R.K Hazarika reported that single intra uterine pregnancy of 26.4 weeks cervix 3.6 cm with changing position of the foetus. Fetal heart rate 144 per minutes.

X-ray examination of the left elbow and left wrist *joint*

Radiologist Dr. R.K Hazarika reported that complete fusion of epiphysis around the left elbow joint. Complete fusion of epiphysis around left wrist joint.

Opinion:- On examination of *Smt* Jonmoni Das *1 arm of the*

Opinion that the age of the girl is above 18 years. She is carrying 16 weeks of pregnancy on the date of examination.

No sign of recent sexual intercourse is found.

Ext.3 is my report in 2 pages.

Ext.3(1) is my signature.

XXXXXX

The victim stated before *me that* she had sexual relation in the month of Puh. She had not stated the year.

Sd/ Taibur Rahman  
9.2.05

RO & AC  
Sd/ Illegible  
2<sup>nd</sup> Addl. Sessions Judge  
Sivasagar (Assam)  
9.2.2005



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

S/C 120(S-S)04

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 5

aged about 60 years taken <sup>in oath</sup> or solemn affirmation under  
provisions of the Indian Oaths Act. X of 1878, before me, Sri  
<sup>Adhee -</sup>  
K Dohotia, 2<sup>nd</sup> Additional Sessions Judge, Sibsagar  
..... this..15.3.2005..... day of..... of.....

My name is.....Sri Lakheswar Das.....

My father's name is.....Late Maharaj Das.....

I am by caste...My house is at Mouza...Demow pathar...

Police Station .....District.....

I reside at present in Mouza....Police Station..Sivasagar..

District.....Where I am.....Day labour.

On S/A,

I know accused Promode Hazarika. I do not know the  
complainant, I also do not know his daughter Jonmoni Das.

I know nothing about the occurrence.

During their visit to the village in search of Promode,  
the police came to my house.

The members of the Mahila Samity produced

Promode at the P.S.

I do not know why the police came in search of

Promode.

XXXXX

Declined.

LTI of Lokheswar Das

RO & AC  
Sd/ Illegible  
2<sup>nd</sup> Addl. Sessions Judge  
Sivasagar  
15.5.2005

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

S/C 120(S-S)04

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 6

*in oath*

aged about 20 years taken <sup>^</sup> or solemn affirmation under

provisions of the Indian Oaths Act. X of 1878, before me, Sri

*Adhee -*  
K Dohotia, 2<sup>nd</sup> <sup>^</sup> Additional Sessions Judge, Sibsagar

..... this..15.3.2005..... day of.....of.....

My name is.....Sri Moni Rekha Hazarika.....

My father's name is.....W/O Sri Tilok Das.....

I am by caste...My house is at Mouza...Demow pathar...

Police Station .....District.....

I reside at present in Mouza....Police Station..Sivasagar..

District.....Where I am.....Home maker

On S/A,

I know accused Promode Hazarika.

Jonmoni Das is my 'nanad' (husband's younger sister).

I got married with Tilok Das some 1½ years ago.

After my marriage I came to know that Jonmoni Das,

my husband's sister had been pregnant.

When asked, Jonmoni did not reveal the name of the  
person who had made her pregnant.

XXXXX

Declined.

Sd/ Miss Moni Rekha Hazarika (Das)

RO & AC  
Sd/ Illegible  
2<sup>nd</sup> Addl. Sessions Judge  
Sivasagar,  
15.3.05

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

S/C 120(S-S)04

FORM FOR RECORDING DEPOSITION

THE DEPOSITION of P.W 7

*in oath*

aged about 13 years taken <sup>^</sup> or solemn affirmation under

provisions of the Indian Oaths Act. X of 1878, before me, Sri

K. Dohotia, 2<sup>nd</sup> <sup>*Adhoc*</sup> Additional Sessions Judge, Sibsagar

..... this..15.3.2005..... day of.....of.....

My name is.....Miss Jonaki Das.....

My father's name is.....Sri Ghana Kanta Das.....

I am by caste...My house is at Mouza...Demow pathar...

Police Station .....District.....

I reside at present in Mouza....Police Station..Sivasagar..

District.....Where I am.....Student of class IX

On S/A,

I know accused Promode Hazarika. Jonmoni Das is

my elder sister.

Elder ~~sister~~ gave birth to a male child some seven

months ago. About two months before the child's birth elder



sister said that she had become pregnant because of being  
raped by Promode Hazarika.

After the birth of the child my father filed a case  
against Promode in the P.S.

XXXXX

Declined.

Sd/ Miss Jonaki Das

RO & AC  
Sd/ Illegible  
2<sup>nd</sup> Addl. Sessions Judge  
Sivasagar  
15.3.05

S/C 120(S-S)04

**FORM FOR RECORDING DEPOSITION**

THE DEPOSITION of P.W 8

aged about 48 years taken <sup>in oath</sup> or solemn affirmation under  
provisions of the Indian Oaths Act. X of 1878, before me, Sri  
K Dohotia, 2<sup>nd</sup> Additional Sessions Judge, Sibsagar

..... this 7.5.2005..... day of..... of.....

My name is.....Sri Moni Mohan Singha.....

My father's name is.....(L) Kunja Bihari Singha.....

I am by caste...My house is at Mouza.....

Police Station .....District.....

I reside at present in Mouza...Police Station.....

District.....Where I am.....O/C Gaurisagar P.S

On S/A,

On 12.6.04 I was the officer-in-charge of Joysagar

Police Out Post under Sibsagar P.S.

On receipt of Ext.1, the written ejahar from  
complainant Ghana Kanta Das that day, Pradip Bargohain,  
the O/C of Sibsagar P.S registered Sibsagar P.S Case No.

194/04 U/s 376 I.P.C against accused Promode Hazarika, and gave me the charge of investigation.

On receipt of the charge of investigation, I opened the case diary and started for the P.O. The P.O was complainant Ghana Kanta Das' house at Dimow Pathar Gaon. I examined the witnesses and also recorded the statement of Jonmoni Das, the victim girl and sent her to Sibsagar Civil Hospital for medical examination. I also sent her to Court with the prayer for recording of her statement U/s 164 Cr.P.C.

In the course of investigation I collected the medical report and a copy of the victim girl's statement made in the court. I arrested the accused Promode Hazarika and interrogated him.

Having found evidence against the accused for having committed offence punishable U/s 376 I.P.C, I submitted charge-sheet against him. Ext.4 is the charge-sheet and Ext.4(†) my signature.

XXXXX

Ext.1 is dated 9.6.04. On perusal it is found to have been lodged at the P.S on 12.6.04.

As per the ejahar, the occurrence took place in December, 2003.

The reason (for delay) in filling the ejahar was not mentioned.

The P.O is about 4 or 5 Kms away from Joysagar Police Out Post.

Sd/ Moni Mohan Singha

RO & AC  
Sd/ Illegible  
2<sup>nd</sup> Addl. Sessions Judge  
Sivasagar  
7.5.05

Assam Schedule VII, Form No. 99  
High Court Criminal Form No. (M) 85

FORM OF RECORDING EXAMINATION OF ACCUSED

EXAMINATION OF ACCUSED PERSON

Session case no 120 (S-S) 04

(Section 313 of the Criminal Procedure Code)

The examination of.....the accused.....

Aged about ..18 years, taken before me Sri K. Doholia , 2<sup>nd</sup>

Adhoc Addl. Sessions Judge, at Sivsagar on the .....day of

.....28/06/05 in the ....., interpreted by .....

My name is ..... Sri Promod Hazarika .....

My father's name is ..... Sri Golap Hazarika.....

I am by caste .....and by occupation .....Service<sup>at</sup> pvt. firm<sup>firm</sup>

Sivsagar My home is at Mouza.....Police

Station....Sivsagar.....

District.....I reside at ... Demow Pathar

Joysagar

Q no 1. In her evidence adduced on 3.1.05 PW 3

Jonmoni Das adduced that around 2 P.M on 17

push the previous year when she had been



alone at home, you had gone to their house

and had asked for water . What do you say?

Ans:- It is a lie.

Q.2 Pw 3 further adduced that you had asked her  
for water , that she had <sup>given</sup> you a glass of water to  
drink; that having drunk the water, You had  
grabbed her by the hand whereupon you had  
taken her to the bedroom where laying her on  
the bed , You had committed rape on her by  
force. What do you say?

Ans: I did not do anything to Pw3 as has been  
alleged . She has adduced false evidence.

Q.3 Pw 3 further said that when she had hit you  
with her hands, you also hit her back. What do  
you say?

Ans: it is absolutely false.

Q.4. Pw3 further said that she had been wearing a  
pair of Churi dars' , that you had taken off her  
wearing; that you had then lain her on the bed,  
had taken off the 'Gamoxa' you had been

wearing and raped her by pushing your penis

into her vagina. What do you say?

Ans: I did not rape pw3 in the manner as alleged.

She has lied.

Q.5. Pw 3 also said that when during the time you had been committing rape on her , She had tried to raise shout, you had pressed her mouth shut. What do you say?

Ans:- This is absolutely false. I had not even gone to their house.

Q6. Pw 3 also said that after the rape by you, her menstruation cycle had stopped; that when she told your mother of that , She had got you examined by a doctor at Kalagaon who had advised her to get your urine tested. What do you say?

Ans: I know nothing about this.

Q.7. Pw3 further said that when her (Pw3's) mother had taken her to a doctor, the latter declared that she had developed pregnancy; That the

doctor had examined her in the month of 'jeth'

and that four month thereafter , She had given

birth to a male child. What do you say?

Ans: I heard about her giving birth to a baby.

Q.8 Pw2 said in evidence that when he tried to  
interrogate you on the pregnancy of Pw3 , you

had tried to cut him. What do you say?

Ans: It is a lie.

Q.9 Pw4 , Dr. Taibur Rahman adduced in evidence  
that on examination of Smoti Jonmoni Das at  
Sibsagar Civil Hospital on 14/6/04 as per police  
requisition he found her 26 week's pregnant  
What do you say?

Ans: I do not know.

Q.10 Pw5 adduced that the members of the Mahila  
Samity had produced you at the P.S. What do  
you say?

Ans: Yes.

Q.11 Do you have anything to say of your own?

Ans: No, I am innocent.

Q12. Will you adduce defence witness?

Ans: No I won't.

Sd/ Promode Hazarika  
Signature of accused

Sd/ Illegible  
28/06/05  
( Signature of Magistrate)

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

Sd/ Illegible  
28/06/05  
( Signature of Magistrate)

Case No. 120(S-S)04

Ext. 2

Sd/-Illegible

1<sup>st</sup> Addl. Sessions Judge

Sivasagar

3.1.05

Statement of the victim was Junmoni Das D/o Sri Ghana

Kt. Das aged about 16 years R/O Demow Pathar Under

Sivasagar P.S. inconnection with Sivasagar P.S. Case

No. 194/04 u/s 376 IPC is recorded u/s 164 Cr. P.C. by Sri

(Illegible) JMFC Sivasagar on 14.6.04

The victim girl is identified by WHG Miss  
Dulumoni Konwar.

On, S/A

I am now 16 years old. On 17 Puh last when there was nobody in our house, Promode Hazarika, a youth of our neighbourhood, forcibly committed rape on me. When I raised the issue to his mother, she didn't pay heed to that. Saying that she would first have me medically examined and then would do the needful, she spent six months. Disputes between our two families continued to rage over this matter. The day before yesterday Promode rushed at me in order to kill me. He also insulted my father and elder brother. When my grandmother raised the issue with his mother, the latter abused her in filthy languages. Promode had committed



39 7/6  
forcible sexual intercourse with me. When I asked him to  
marry me, he refused. Legal action should be taken against  
the accd persons. Promode's mother said that she would not  
accede to our request even if we complained to the police.  
She said that I was carrying the fruit of another man's sin in  
my womb.

This is what I have got to say.

Sd/- Jonmoni Das

Case No. 120(S-S)04  
Ext. 2(1)  
Sd/-Illegible  
1<sup>st</sup> Addl. Sessions Judge  
Sivasagar  
3.1.05

Sd/- Jonmoni Das

Case No. 120(S-S)04  
Ext. 2(2)  
Sd/-Illegible  
1<sup>st</sup> Addl. Sessions Judge  
Sivasagar  
3.1.05

R.O. & A.C  
Sd/-Illegible  
Judicial Magistrate  
1<sup>st</sup> Class Sibsagar  
14.6.04

Case No. 120(S-S)04

Ext. 3

Sd/-Illegible

1<sup>st</sup> Addl. Sessions Judge

Sivasagar

9.2.05

Seen

sd/-Illegible

CJM

Sibsagar

22/6/04

**MEDICOLEGAL EXAMINATION REPORT SIVASAGAR  
CIVIL HOSPITAL**

No. 71.....  
21/6/04

Date. 14.6.04

Hosp. Regd. No. 1495/04

Place:

Received the requisition from Sivasagar P.S. on  
13.6.04 to examine the victim Smti Junmoni Das for  
age/evidence of recent signs of Sexual assault/pregnancy  
and to issue the necessary certificate concerned in Cr. Case  
No. 376 IPC with ref. Letter No. 194/04.....

The individual was accompanied by

HC/PC/WPC/H.G. Smti Dulumoni Konwar, Miss Dulumoni

Kowar.

Name of the individual: Junmoni Das Alleged Age:

Address: D/o Sri Ghana Das ; *Demo Pathar*

Consent of individual/parents: Sri Junmoni Das

Name and signature of the female attendant: Mrs. Mira

Borgohain (*A. N. M.*) Mira Borgohain

Identification marks: 1. Scar mark left side of fore head.

2.

Date & time of Examination 14.6.04 (10.10 a.m.)

Brief History: Had sexual relation : Menarche

In the month of Puha : LMP 25 Aghun

Marital status: Unmarried/Married

General behaviour: Normal

Mental State: Clear

Cloths : Changed/Unchanged : Findings:

### GENERAL PHYSICAL EXAMINATION

1. Built & Nutrition: Fair

2. Weight 45 kg

3. Height 4' 9"

4 Teeth 8/8

8/7

5. Development of hair

Axillary:

Pubic:

Plenty

6. Breasts:

a). Development :

*Enlarged with dark areola*

b). Findings :

Milk secretion (+)

7. Marks of Violence on the body: Absent

### EXAMINATION ON THE GENITALIA

32 71  
1. Development of genitalia Fully developed

2. Pubic hair: Plenty

3. Clitoris: Normal

4. Labia majora & Minora: Soft and fully developed

5. Fourchette: Normal

6. Hymen: Absent with healed

scar

7. Vagina: Capacious and bluish in colour.

8. Injuries: Absent 9. Discharges and stains Leuorrhoea +

10. Internal Examination P/Abdomen Lt 24 wks. Breech

Flts & R/d

### LABORATORY INVESTIGATIONS

1. Vaginal smear Date 14.6.04 Name of Pathologist

Regd No. .... No. Spermatozoa seen

2. Pregnancy Test (H.C.G in urine): Name of Pathologist

ULTRASONOGRAPHY

Name of Sonologist Dr.

14.6.04

R.K. Hazarika

Single intrauterine pregnancy of 26.4 wks Cx 3.6 cm

Changing position FHR= 144/m

### RADIOLOGICAL EXAMINATION Part X Rayed

Left elbow & left wrist jt.

X-Ray No. L=2 date 1.4.04

Name of the Radiologist

Dr. R.K. Hazarika

Report: Complete fusion of the epiphyses around the left elbow jt.

Complete fusion of the epiphyses around the left wrist of jt.

#### OPINION

On examination of Junmoni Das I am of opinion that the age of the girl is above(18=Eighteen) years. She is carrying 26 ~~wks~~ of pregnancy on the date of exam. No. sign of recent sexual intercourse is seen.

Enclosure: 1. X-Ray Report of left elbow & left wrist jt.

2. Vaginal smear report.

3. Ultrasonography report

4.

Case No. 120(S-S)04

Ext. 3(1)

Sd/-Illegible

2<sup>nd</sup> Addl. Sessions Judge

Sivasagar, Assam

9.2.05

Sd/-Dr. T. Rahman

Sr. Medical & Health Officer

Sivasagar Civil Hospital

Place : Sivasagar

Date: 14.6.04



Case No. 120(S-S)04  
Ext. 4  
Sd/-Illegible

7.5.05

Assam Schedule XL-A (Part I ), Form No. 148

CHARGE SHEET

District

Charge sheet No. 84/04

Police Station

In First Information No 194/04

Dated : 23.6.04

Date: 13.6.04

Name, address & occupation of COMPLAINANT

1

Sri Ghana kt. Das

S/o Lt. Alkonman Das

Of Dimow pathar

P.S. Sivasagar

Dist. Sivasagar

Names & addresses of accused persons not sent up for trial  
whether arrested or not arrested including absconders.

[Show absconders in red ink]

2

Names and addresses of accused persons sent up for trial

45-52-  
In custody

3

On bail or recognizance

4

Sri Promud Hazarika

S/o Sri Gopal Hazarika

Of Demow pathar

P.S. Sivasagar

Property (including weapon) found with particulars of  
whether, when and by whom found and whether forwarded  
to magistrate

5

Name and addresses of witnesses and what point each is  
called to prove

6

1. Sri Ghana kt. Das, S/o Lt. Akonman Das

Of Dimow pathar, p. S. SVR

2. Srimati Juh moni Das, D/o Sri Ghana kt. Das, of Do

3. Smti Padumi Das, W/o Sri Ghana kt. Das, of Do

4. Sri Bipul Deka, S/o Lt. Horendra Nath Deka, P.S. Do

*Joyshree Gas Agency*

5. Sri Tilak Das, S/o Sri Diharam Das, of Dimow pathar

P.S. Do.

6. Sri Lakheshwar Das, S/o Lt. Maharaj <sup>u</sup>Ds, of Do.

7. ~~Smti~~ Moni Rekha Hazarika

W/o Sri Tilok Das

Of Dimow Pathar

P.S. SVR

8. Smti Junaki Das, W/o Sri Ghana kt.Das

Of Do

9. Dr. T.Rahman, Sr. Medical & health Officer

SVR Civil Hospital

10. S.I. Mani Mohan Singha, I/C JSRO.P.

Charge or information; Nature of offence and circumstances connected with if so consise detail, and under what section of the penal code charged

7

By filing a written ejahar through Sibsagar Court, Complainant Ghanakanta Das, S/o Lt. Akanman Das of village Dimowpathar, P.S. Sibsagar informed the P.S. that Promode Hazarika @ Agoni, son of Golap Hazarika of the same village had forcibly raped his (complainant's) daughter Smti Jonmoni Das in the month of December last; that he (accd) had asked the girl not to tell anyone about that, threatening to kill her if she did so and that the girl had become five months pregnant. On receipt of that ejahar, a case was registered and investigation held.

During inquest, sufficient evidence could be gathered against accd Promode Hazarika, S/o Golap Hazarika of village Dimowpathar, P.S. Sibsagar and he was found to have committed an offence punishable u/s 376 IPC.

Accordingly, the accd. is hereby charge sheeted under the said section of IPC.

The <sup>court</sup> be pleased to fix a date and summon the witnesses named in column 6 to prove <sup>the</sup> veracity of the charge.

Copies of the victim's statement, X-Ray report and medical reports are attached herewith.

Case No. 120(S-S)04

Ext. 4(1)

Sd/-Illegible

1<sup>st</sup> Addl. Sessions Judge  
Sivasagar

3.1.05

Sd/- Mani Mohan Singh, SI  
I.O,

Jaysagar Police Out Post  
23.6.04

Fdd. To the Hon'ble Court of CJM SVR through the PI SVR

Court for <sup>vo</sup> favour of trial.

Forwarded

Sd/- Illegible

Prosecuting Inspector

Sibsagar

Assam

15/7/04

Sd/-Illegible

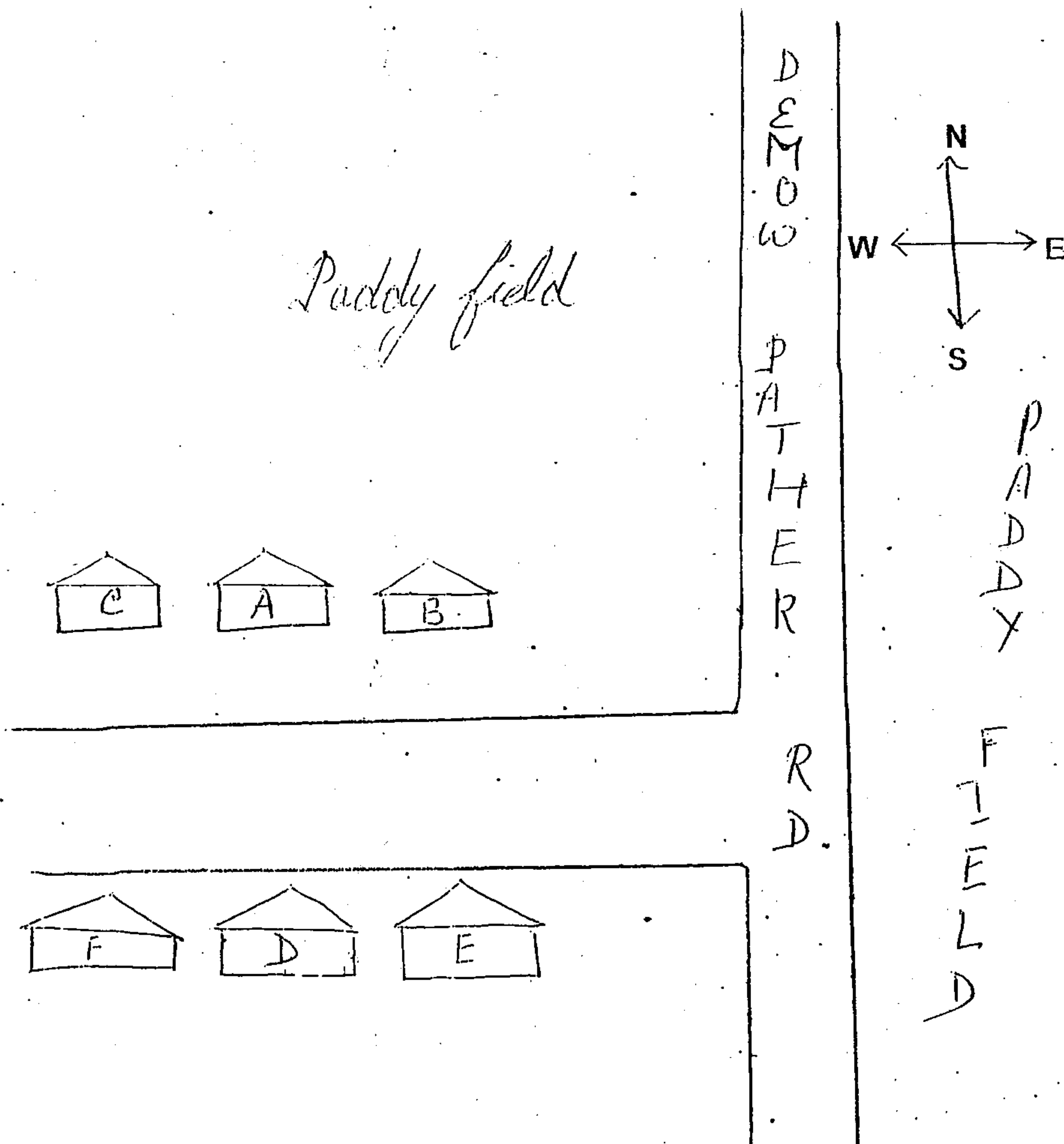
Inspector

Officer in Charge

Sibsagar Police Station

15.7.04

Rough Sketch map of the P.O.



1. A indicates the house of complt.
2. B indicates the house of Diganta Hazarika
3. C indicates the house of Tilok Da\$
4. D indicates the house of Promod Hazarika
5. E indicates the house of Arup Hazarika
6. F indicates the house of Dilip Das