

विभाग मंत्रालय
Home - DEPARTMENT/MINISTRY

शाखा
Political - BRANCH A

संग्रह संख्या
Consultation/Collection November 1910

संख्या
No. 48-69

दिनांक
Date _____

विषय
Subject _____

पूर्व निर्देश
Previous reference

बाद का निर्देश
Later reference

1/47

CALCUTTA RECORDS.

5

1910.

GOVERNMENT OF INDIA.
HOME DEPARTMENT.

POLITICAL—A.

Proceedings, November 1910, nos. 48-69.

Application of the provisions of Part I of Act XIV of 1908 to the Nangla dacoity case.
Prosecution of the approver in that case for giving false evidence.

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1910. NOTES.

POLITICAL--A.

Pro., November 1910.

Nos. 48-69.

APPLICATION OF THE PROVISIONS OF PART I OF ACT XIV OF 1908 TO THE
NANGLA DACOITY CASE.
PROSECUTION OF THE APPROVER IN THAT CASE FOR GIVING FALSE
EVIDENCE.

TELEGRAM FROM THE GOVERNMENT OF BENGAL, NO. 2817-P., DATED THE 20TH AUGUST 1909. Pro. no. 48.

For information. His Excellency and Director, Criminal Intelligence, may see and the further report awaited.

G. F.,—20-8-09.

P. W. MONIE,—21-8-09.

H. A. STUART,—21-8-09.

H. H. R[ISLEY],—21-8-09.

M[INTO],—25-8-09.

Director, Criminal Intelligence.

Seen and returned with thanks.

A. B. BARNARD,—2-9-09.

Home Department.

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 2969-P., DATED THE 30TH AUGUST 1909. Pro. no. 49.

For information. Director, Criminal Intelligence may see.

A. L.,—3-9-09.

P. W. MONIE,—3-9-09.

H. A. STUART,—3-9-09.

An easy business in a Bengali village where the houses are scattered and no one would dream of giving assistance or following up the dacoits.

H. H. R[ISLEY],—5-9-09.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. J. STEVENSON MOORE,—13-9-09.

Home Department.

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 2217-P. D., DATED THE 14TH OCTOBER 1909. Pro. no. 50.

The Government of Bengal proposes applying the provisions of Act XIV of 1908 to the Nangla dacoity case. We informed the High Court at Calcutta that action under the Act would be confined to cases of a "complex and political character." The point for consideration is

Judl. A., Feb. 1906, nos. 1-2.

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whether these conditions are fulfilled. The Government of Bengal argue the points in paragraphs 11-13 of their letter. But in connection with this case please see our letter no. 731, dated 13th May 1909. His Excellency and Director, Criminal Intelligence may see.

Poll. A., June 1909, nos. 83-82.

A. L.,—18-10-09.

The case is undoubtedly political but does not appear to be of a particularly complicated nature. The main argument advanced for the adoption of the special procedure is the undesirability of exposing the witnesses to the risks of giving evidence in open court. Though this is not in itself a sufficient ground for applying the special procedure (*vide* decision in the Dacca stabbing case), I think the political nature of the offence, coupled with the facts of its connection with the Anushilan Samiti and the discovery of manuscripts containing instructions for making explosives, brings the case within the category of those to which the procedure of Act XIV is applicable. If this is agreed to sanction may be given in the terms of paragraph 13 of Bengal's letter.

Poll. A., June 1909, nos. 83-82.

H. C. WOODMAN,—18-10-09.

I think we should certainly sanction the application of the Act. There is no doubt that these political dacoities are on the increase and we must use every weapon we possess to stamp them out. His Excellency should see.

H. A. STUART,—18-10-09.

I quite agree. We seem to be coming, in the two Bengals, to a state of things resembling that which Sir William Sleeman had to deal with sixty years ago, with these differences that the dacoits are educated youths of high caste, who use modern weapons and have the railways, the post, and the telegraphs to assist them; that their motives are political; that they are well organised; that they lay themselves out for murdering approvers; and that the difficulties of getting convictions are far greater than in Sleeman's time. If dacoities of this type continue we may have to make provision for special courts with more summary methods of procedure than are admissible under the Act of last year.

H. H. R[ISLEY],—19-10-09.

I omitted to take His Excellency's orders on this case and therefore resubmit it.

H. A. STUART,—20-10-09.

Proposed action approved.

M[INTO],—21-10-09.

A draft telegram to Bengal is placed below, *vide* precedent—our telegram 624-P.,* dated 23rd April 1909, and notes page 2 in the same collection. A telegram to Secretary of State is also placed below.

* Poll. A., June 1909, nos. 83-82.

Director, Criminal Intelligence, may see after issue.

A. L.,—22-10-09.

H. C. WOODMAN,—22-10-09.

Pro. no. 51. TELEGRAM TO THE GOVERNMENT OF BENGAL, NO. 1554, DATED 23RD OCTOBER 1909.

Pro. no. 52. TELEGRAM TO THE SECRETARY OF STATE, NO. 1560, DATED THE 23RD OCTOBER 1909.
Director, Criminal Intelligence.

Seen and returned with thanks.

A. B. BARNARD,—4-11-09.

Home Department.

Pro. no. 53. LETTER FROM THE GOVERNMENT OF BENGAL, NO. 3766-P., DATED THE 13TH DECEMBER 1909.

For information, Director, Criminal Intelligence may see.

A. L.,—15-12-09.

The commitment order is somewhat disconnected and not very lucid.

H. C. WOODMAN,—15-12-09.

H. A. STUART,—15-12-09.

A very mechanical order.

H. H. R[ISLEY],—16-12-09.

Director, Criminal Intelligence.

Seen and returned with thanks.

J. C. KER,—17-12-09.

C. J. STEVENSON MOORE,—17-12-09.

Home Department

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 1720-P., DATED THE 24TH MARCH 1910. Pro. no. 54.

We may report the withdrawal of the case to the Secretary of State. Draft put up.

2. With reference to paragraph 5, we may sanction the application of Part I of Act XIV of 1908 to the case against Abani Bhusan Chakravarti. Draft put up.

3. Before issue of the drafts His Excellency may see. Director, Criminal Intelligence may see after issue.

G. F.,—26-3-10.

No reasons are given for applying the Indian Criminal Law Amendment Act to the trial of Abani Bhusan Chakravarti for participation in the Nangla dacoity. Presumably the chief evidence against him is his own statement and unless there are other witnesses who require the protection given by the special procedure I would not apply the Act. The names of those witnesses and the evidence they gave before the magistrate in the case that has just been withdrawn must be known and I can see no reason why the case should not now be dealt with under the ordinary law.

H. A. STUART,—27-3-10.

We have already sanctioned the application of the Act to the Nangla dacoity case, and the case has I presume been investigated under the special procedure. Can we now legally retransfer to the ordinary tribunal? There is no copy of the Act on the file.

H. A[DAMSON],—27-3-10.

A copy of the Act is placed in the file. Attention is invited to the last part of the Bengal letter where it is said that the Legal Remembrancer is of opinion that a fresh sanction to apply the Act is necessary. I assumed from this that the sanction already given will not cover the case against Abani Bhusan Chakravarti. In our telegram of the 23rd October 1909, we sanctioned the application of Part I of the Act to the case "which is commonly known as Nangla dacoity case and in respect of which proceedings may be instituted under sections 395, 400 or 402 of the Indian Penal Code". If it were not for the opinion of the Legal Remembrancer I should have thought that this would cover the case of Abani Bhusan Chakravarti. Matters seem to stand thus: Either the Act already applies by virtue of our telegram or if it does not apply, then the application of it to the charge against Abani Bhusan is unnecessary.

H. A. STUART,—28-3-10.

We had better be on the safe side and give fresh sanction as asked for.

H. A[DAMSON],—28-3-10.

LETTER TO THE INDIA OFFICE, NO. 401, DATED THE 31ST MARCH 1910.

Pro. no. 55.

LETTER TO THE GOVERNMENT OF BENGAL, NO. 402, DATED THE 31ST MARCH 1910.

Pro. no. 56.

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 1851-P., DATED THE 31ST MARCH 1910. Pro. no. 57.

We may grant the necessary sanction. Draft telegram placed below. A copy of the Bengal letter may be sent to the India Office in continuation of our letter no. 401, dated 31st March 1910. Draft put up. After issue Director, Criminal Intelligence and His Excellency may see the file.

A. L.,—5-4-10.

Sanction may be granted. But I think that we should ask Bengal (separately) whether they are satisfied that there is no possibility if the case is again committed to the Special Tribunal, of a repetition of the former fiasco.

H. C. WOODMAN,—5-4-10.

The Advocate General has given an "unequivocal opinion" in favour of proceedings under section 121-A and in face of this we cannot refuse sanction and need not call for any more information. If a good *prima facie* case is not made out there will presumably be no committal.

H. A. STUART,—6-4-10.

Pro. no. 58. TELEGRAM TO THE GOVERNMENT OF BENGAL, NO. 418, DATED THE 6TH APRIL 1910.

Pro. no. 59. LETTER TO THE INDIA OFFICE, NO. 419, DATED THE 7TH APRIL 1910.

Director, Criminal Intelligence.

Seen and returned with thanks.

A. B. BARNARD,—8-4-10.

Home Department.

Submitted to Honourable Member.

H. A. STUART,—11-4-10.

H. A[DAMSON],—12-4-10.

Approved.

M[INTO],—17-4-10.

Pro. no. 60. LETTER FROM THE GOVERNMENT OF BENGAL, NO. 185-P.D., DATED THE 22ND APRIL 1910.

For information. Director, Criminal Intelligence may see.

A. L.,—29-4-10.

H. C. WOODMAN,—30-4-10.

H. A. STUART,—2-5-10.

H. A[DAMSON],—2-5-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. R. CLEVELAND,—11-5-10.

Home Department.

Pro. no. 61. LETTER FROM THE GOVERNMENT OF BENGAL, NO. 1573-P.D., DATED THE 13TH JUNE 1910

For information. Director, Criminal Intelligence may see.

A. L.,—20-6-10.

It is to be hoped that this case will have a better fate than the last.

H. C. WOODMAN,—20-6-10.

A. EARLE,—20-6-10.

J. L. J[ENNENS],—21-6-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. R. CLEVELAND,—24-6-10.

Home Department.

TELEGRAM FROM THE COMMISSIONER OF POLICE, CALCUTTA, DATED THE 27TH JUNE 1910. Pro. no. 62.

This may be communicated to the Secretary of State. Draft telegram for approval. After issue His Excellency and Director, Criminal Intelligence may see.

A. L.,—28-6-10.

H. C. WOODMAN,—29-6-10.

A. EARLE,—29-6-10.

TELEGRAM TO THE SECRETARY OF STATE, NO. 676, DATED THE 29TH JUNE 1910. Pro. no. 63.

TELEGRAM FROM THE GOVERNMENT OF BENGAL, DATED THE 28TH JUNE 1910. Pro. no. 64.

This information has already been communicated to the Secretary of State *vide* our telegram of 29th instant. The file may now be submitted to His Excellency.

A. L.,—30-6-10.

H. C. WOODMAN,—30-6-10.

A. EARLE,—2-7-10.

J. L. J[UNKINS],—2-7-10.

A précis of the case is put up.

A. EARLE,—5-7-10.

Brief précis of the Nangla dacoity case.

About 1 A.M. on the 17th August 1909, a band of ten or twelve young Bengali *bandit* armed with pistols and daggers entered the house of one Mathura Nath Poddar of the village of Nangla and compelled him by threats to disclose where the keys of his safe and chest were. They then opened the safe and chest and decamped with about Rs. 1,071 in cash and ornaments. Suspicion fell on a gang consisting mainly of the members of a local branch of the Annshilan Samiti, and one of their members, Abani Bhusan Chakravarti, was arrested. This man at once turned approver, and not only confessed to the Nangla dacoity but revealed the existence of a gang banded together to commit dacoities for revolutionary purposes. His confession was verified, and so great was the corroborative evidence obtained by the Sub-Deputy Magistrate who was deputed to enquire into the case, that the Legal Remembrancer recorded his opinion that the *bonâ-fides* of the confession was beyond question.

Twelve more persons were accordingly arrested and with the sanction of the Government of India Part I of Act XIV of 1908 was applied to the proceedings to be instituted under sections 395 or 400 or 402, Indian Penal Code, against the accused. On the 3rd December 1909 the Magistrate of Khulna committed eight of the 12 persons arrested to the High Court under section 395, Indian Penal Code, and also another accused under sections 395 and 109 for abetment of dacoity. The case was tried by the High Court on 14th March 1910, when the approver, Abani Bhusan Chakravarti, retracted his confession and withdrew the statement made before the Magistrate. The case accordingly fell through and the charges were withdrawn, but the accused were still kept in detention on a charge under section 406, Indian Penal Code. On the 13th April 1910 this charge was also withdrawn, but they were immediately arrested for an offence under section 121-A of the Indian Penal Code and Part I of Act XIV of 1908 was applied to the case also. On the 3rd June 1910 the District Magistrate of Khulna committed these accused in addition to four others, *viz.*, 13 in all, to the High Court under section 121-A, Indian Penal Code. The case is now under trial. Meanwhile the approver who retracted his confession was, with the sanction of the High Court, prosecuted under section 193, Indian Penal Code, for giving false evidence. He was also prosecuted for participation in the Nangla dacoity under section 195, Indian Penal Code, and Part I of Act XIV of 1908 was applied to the latter proceedings. On the 14th April 1910, the District Magistrate of Khulna committed him to the High Court under section 395, Indian Penal Code, and on the 27th June he was sentenced by the High Court of Calcutta to 7 years' transportation.

This is the stage at which the case now stands.

See.

M[INTO],—8-7-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. R. CLEVELAND,—19-7-10.

Home Department.

Pro. no. 65.

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 1898-P.D., DATED THE 1ST JULY 1910.

Submitted for information. Director, Criminal Intelligence may see.

A. L.,—9-7-10.

H. C. WOODMAN,—9-7-10.

A. EARLE,—9-7-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. R. CLEVELAND,—19-7-10.

Home Department.

Vide unprinted papers.

Please see the extract from the *Civil and Military Gazette* below.

May we wire to Bengal for an official report?

A. L.,—1-9-10.

H. C. WOODMAN,—6-9-10.

Pro. no. 66.

TELEGRAM TO THE GOVERNMENT OF BENGAL, NO. 875, DATED 6TH SEPTEMBER 1910.

Pro. no. 67.

TELEGRAM FROM THE GOVERNMENT OF BENGAL, NO. 2563-P. D., DATED 7TH SEPTEMBER 1910.

We may report the result of this case to the India Office. Draft submitted. After issue His Excellency and Director, Criminal Intelligence, may see.

A. L.,—9-9-10.

H. C. WOODMAN,—10-9-10.

The Bengal Government telegram refers to the *Khuning* case.

A. EARLE,—10-9-10.

The Khulna conspiracy case was a sequel to the Nangla dacoity. I have made this clearer in the draft.

H. C. WOODMAN,—10-9-10.

A. EARLE,—11-9-10.

Pro. no. 68.

TELEGRAM TO THE SECRETARY OF STATE, NO. 898, DATED 11TH SEPTEMBER 1910.

His Excellency has seen.

A. F. PINNEY,—13-9-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

C. R. CLEVELAND,—19-9-10.

Home Department.

Pro. no. 69.

LETTER FROM THE GOVERNMENT OF BENGAL, NO. 4067-P., DATED 11TH NOVEMBER 1910.

Submitted for information. Director, Criminal Intelligence may see.

A. L.,—18-11-10.

H. G. STOKES,—19-11-10.

Director, Criminal Intelligence.

Seen and returned with thanks.

J. C. KER,—21-11-10.

Home Department.

Exd.—M.D.

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PROCEEDINGS OF THE
HOME DEPARTMENT, NOVEMBER 1910.

Nangla dacoity case.

[Pro. nos. 48-50.]

APPLICATION OF THE PROVISIONS OF PART I OF ACT XIV OF 1908 TO THE NANGLA DACOITY CASE.
PROSECUTION OF THE APPROVER IN THAT CASE FOR GIVING FALSE EVIDENCE.

Telegram no. 2817-P., dated Calcutta, the 20th August 1909.

Pro. no. 48.

From—The Chief Secretary to the Government of Bengal.

To—The Secretary to the Government of India, Home Department.

Suspected case of political dacoity reported from village Nangla, Khulna district. Case under enquiry; further report will follow in due course.

No. 2969-P., dated Calcutta, the 30th August 1909.

Pro. no. 49.

From—SIR CHARLES ALLEN, Kt., Officiating Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

In continuation of my telegram no. 2817-P., dated the 20th August 1909, I am directed to submit the following report regarding a case of suspected political dacoity at Nangla in the Khulna district.

2. It appears that at 1 A. M. on the 17th August 1909 a band of ten or twelve young men entered the house of one Mathura Nath Poddar of village Nangla and with threats compelled him to point out where the keys of his safe and chest were. They opened these and took out Rs. 550 in cash and ornaments, &c. worth over Rs. 500. Some of the dacoits held torches whilst two had pistols and one a dagger. Their faces were muffled so that their features could not be seen, but from their behaviour and manner of speech they are believed to have been young Hindus of the so-called respectable classes. None of the dacoits have as yet been arrested but the case is being enquired into. The result will be reported in due course.

No. 2917-P. D., dated Darjeeling, the 14th October 1909.

Pro. no. 50.

From—F. W. DUKER, Esq., I.C.S., Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to Sir Charles Allen's letter no. 2969-P., dated the 30th August 1909, and to submit, for the consideration and orders of the Government of India, the following proposal for the making by this Government of an order to apply the provisions of Part I of Act XIV of 1908, to the case Emperor *versus* Abani Bhusan Chakrabati and others, under sections 395-400 and 402, Indian Penal Code, more commonly known as the Nangla Dacoity case.

2. Briefly stated, the facts of the case are as follows. One Mathura Nath Poddar, of village Nangla in the Khulna district, reported to the police that on the night of the 16th August 1909, 5 persons entered his hut by forcing the door, one carried a torch, two carried revolvers and one a dagger. Two of them gagged him and demanded the key of his safe, threatening to cut his throat or shoot him if he raised an alarm. He told them where his keys were and they opened his safe and a wooden chest and took out articles amounting in value to Rs. 1,071. There were other dacoits with torches who remained outside in the yard shouting "Joy Kali" and "Allah Allah." All appeared to be young men under 25 years of age of the so-called respectable classes. Two of them had muffled up their faces to prevent recognition.

3. Suspicion fell on a gang which consisted mainly of members of a local branch of the *Anusilan Samiti*. Some of the suspects had been formerly associated

HOME DEPARTMENT, NOVEMBER 1910.

Pro. no. 54.]

Nangla Dacoity case.

in Calcutta with the gang led by Kartik Chandra Dutt, who was convicted in the Bighati Dacoity case, and one of this number, Abani Bhusan Chakrabati, was arrested early in September on a warrant obtained from the Magistrate of Serampore. This man turned approver, and on the 13th September made a confession before a Deputy Magistrate of Serampore, which has since been carefully verified by a Sub-deputy Magistrate. A copy of the confession is enclosed. It is on this confession and the corroborative evidence obtained in the process of verification that up to the present the case chiefly rests.

4. As regards the occurrence at Nangla, the approver in the main bears out the complainant's story, though he insists that the value of the property stolen was not more than Rs. 60. But the confession does not stop short at the Nangla occurrence. Its chief value is that it details the history of a gang, the object of which was to raise money by means of dacoities for the purchase of arms for revolutionary purposes.

5. As stated above a Sub-deputy Magistrate was deputed to verify this confession and succeeded in obtaining corroboratory evidence in various degrees of most of the main features of the approver's story, including his account of the previous movements of several of the accused and his narratives of four attempted dacoities. The Legal Remembrancer to this Government has recorded his opinion, that this verification has placed the *bona fides* of the confession beyond question.

6. A magisterial enquiry into the case is proceeding, and the prosecution intend to apply for charges either under section 396 or sections 400 and 402 Indian Penal Code. The police are meanwhile collecting further evidence and some of the accused are still absconding, and the case stands adjourned until the 10th October.

7. The accused are thirteen in number

- (1) Abani Bhusan Chakrabati.
- (2) Bidhu Bhusan Dey.
- (3) Brojendra Kumar Dutta.
- (4) Kalidas Ghosh.
- (5) Aswini Kumar Bose.
- (6) Satish Chandra Chatterji.
- (7) Manmatha Mitter.
- (8) Sarneswar Haldar.
- (9) Sechindra Nath Mitter.
- (10) Kinu *alias* Prio Pai.
- (11) Nogen Chandra Singha.
- (12) Nilkantha Bhattacharji.
- (13) Joten Ray.

Abani (1) in his confession named ten accomplices and stated that two local men who were unknown to him also took part in the dacoity. On local evidence and the statements of other accused these have since been identified by the police as Brojendra Kumar Dutta (3) and Sarneswar Haldar (8). The remaining ten are all implicated by Abani's (1) verified confession. The further evidence that so far stands against them may be summarised as follows. The police have secured a letter written by Kalidas Ghosh (4) to one Nogen Singha (11) dated 8th August 1909 informing him that Bidhu (2) will see him and take the '*jamas*' and also a letter written to Nogen Singha (11) by Bidhu (2) dated 20th August stating that he will return the '*jamas*' on his way back to Calcutta. It appears

HOME DEPARTMENT. NOVEMBER 1910.

Nangla Dacoity case.

[Pro. no. 5A]

from the context that the word 'jama' which properly means coat, is here used as meaning revolver. These letters written shortly before and shortly after the dacoity probably refer to the procuring and return of the revolvers used at it. There is further evidence against Bidhu (2). Two persons, Hafiz Khondkar and Saiendra Ghosh, who is Bidhu's (2) nephew, prove that two or three days before the 16th they travelled in the same boat with Bidhu (2) to Nowapara, that Bidhu was accompanied by a boy (who is identified with Nogen Chandra Singha (11)), and that he stated that he was going by train from Nowapara to Jhikergacha. This story is not uncorroborated. There is evidence that on the 13th August only two tickets were issued from Nowapara to Jhikergacha, and that Nogen Chandra (11) was absent from the 'Jessore Patrika' Office where he is employed, from the 12th to the 25th August. As regards Aswini Kumar Bose (5) there is the fact that he was arrested in company with Bidhu (2) and Brojendra (3); moreover he and Kinu Pai (10) were seen in company by two villagers of Dhulgram 2 or 3 days before the occurrence, and it is established that Kinu Pai (10) was absent from his home from that date until after the 13th August. There is also evidence that Sachindra Nath Mitter (9) was in communication with Satneswar Haldar (8) before the occurrence, and he absconded subsequently on learning that his house had been searched.

8. It will be observed that this corroborative evidence is chiefly evidence of association. It suffices however to establish that several of the accused were travelling about in a suspicious manner just before the dacoity, and it seems to point to a concentration in the neighbourhood of Nangla. To this extent it serves to strengthen the approver's confession. That confession, it has already been indicated, has emerged satisfactorily from the test of local verification. It appears to His Honour that on these materials he is justified in accepting this as a true case.

9. That it is political in essence there can be no doubt. Abani's confession brings this out with great clearness. He has told how he was initiated into revolutionary ideas by Bidhu Bhusan Dey who is one of the accused in this case, and a member of the Samiti of village Alka, a branch of the Anusilan Samiti. He has described how he tried to collect recruits in response to Bidhu's exhortations, and how later he and others assembled at the house of Kartik Chandra Dutt, who was sentenced to 6 years' rigorous imprisonment in the Bighati case, and how they "used to try for a revolution." He himself had received money from the Alka Samiti with which he had purchased fire-arms, and he had carried money for the same purpose to Kartik Chandra Dutt, which was obtained from a robbery carried out under the leadership of Bidhu Bhusan Dey at a village named Khalki. Abani also describes fruitless attempts to commit dacoities near Kumira, at Kulla and at Gadgachi in the Khulna district, on all of which occasions the dacoits, as in the Nangla affair belonged to the so-called respectable classes and went armed with revolvers. In fact, if Abani's confession is to be accepted, the Nangla Dacoity was one of a series the object of which was to collect funds for the purchase of fire-arms for revolutionary purposes.

10. There is the more reason for crediting this, as there is independent evidence to connect several of the accused with the revolutionary movement. Sachindra Nath Mitter, the principal absconder in the present affair, was formerly the head of the *Brati Samiti* of Kumira, which was proclaimed under Act XIV of 1908 in February 1909. Three of the accused, Bidhu Bhusan Dey, Aswini Kumar Bose and Nogen Chandra Singha were found living together in Calcutta and, when their room was searched by the police, a number of books of an extremely revolutionary character were found, including certain manuscript books containing instructions for making explosives, some of which appear to have been written since the Manik-tola arrests. The accused being men of this character Abani's account of their association and motives is probable enough.

Political A, May 1906, nos. 135-147.

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Pro. no. 58.]

Nangla Daculty case.

11. The case therefore is one that may properly be brought under Act XIV of 1908, should it prove expedient to do so. The Lieutenant-Governor has delayed this application until he has satisfied himself that the confession is really entitled to credit, and that the evidence available has a reasonable chance of securing conviction. If no more evidence is forthcoming it is unlikely that at an ordinary sessions trial a conviction would be obtained under section 395, Indian Penal Code, although there would be some chance of one under section 400.

12. With the procedure of the Criminal Law Amendment Act before the Special Tribunal, His Honour is of opinion that there will be a greatly enhanced chance of conviction under section 400. But apart from improving the chances of conviction His Honour considers that the special procedure is necessary for the protection of the witnesses in the Magistrate's Court. If the case is to be proved it will be necessary to put Abani into the box before the enquiring magistrate. This can only be done with safety if Act XIV of 1908 is applied, as under the ordinary procedure the dangers of exposing the approver by taking his evidence in public would be too great. It is very desirable also that the statements of the minor witnesses should be recorded within closed doors. The influence of the revolutionary party in the neighbourhood where the dacoity was committed is very great; Kumira, the residence of Sachindra Nath Mitter, one of the principal accused, is one of the most notoriously disaffected villages in the province, and if the ordinary procedure be followed the risk of the prosecution witnesses being bought over or intimidated before their statements can be taken in the Sessions Court, will be very great. It is also desirable that the prosecution should obtain the advantage of section 12 of the Act in order to prevent all possibility of the accused being enlarged on bail and countermining the prosecution as they would assuredly do if released.

13. In the circumstances stated above, and having regard to the object of the offenders, which was undoubtedly political, the Lieutenant-Governor is strongly of opinion that the case should be tried under the procedure of Act XIV of 1908. I am accordingly to request that the Governor-General in Council may be moved to accord sanction under section 2(1) of the Indian Criminal Law Amendment Act, 1908, to the making by this Government of the order referred to in the first paragraph of this letter, and that sanction may be in such form as to cover a commitment either under section 395 or section 400 or 402, Indian Penal Code. As it is desirable that the Act should be applied with the least possible delay, I am to request that the necessary sanction may be communicated by telegram.

Statement of accused person.

The statement of
aged about 24 years, made before me
Magistrate of the class, at
on day of 190
in the language interpreted by

My name is Abani Bhusan Chakrabutty. My father's name is Sreenath Chakrabutty; I am by caste Brahmin and by occupation prisoner in Hooghly jail. My home is at Mouza Dhulgram, Thana Narail, District Jessore. I reside at present—Hooghly jail.

Statement recorded in jail. No police officer present. Prisoner was told that he was before a Magistrate.

Question.—What have you got to say?

Answer.—I will say what is true so that no innocent men may receive punishment.

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In 1903 I left school after reading up to the Entrance class at the Siddipasa English School. A few days after I became a Mohuriz to Charu Chandra Nag M. A., B. L., at Khulna. In 1907 I went home after giving up the job. There was a Anushilan Samiti in village Alka. I opened a branch Anushilan Samiti in my village. People from the Alka Samiti used to come to our village and teach *lathi* play, etc. One man named Bidhu Bhusan Dey of the Alka Samiti incited us to revolt against the British Government. I also tried to collect men accordingly. Jamini Kanta Ghose, and Surendra Nath Sirkar of Alka took me to a temple of *kali* in our village and I also took a vow that I would not give out any secret about the Samiti and I will keep this vow during my lifetime. A boy, Priyanath Pal of our village joined our gang. At that time no one else was found. After that last year in the month of Asar I came down to Calcutta. I came to Calcutta on the occasion of a marriage ceremony of the daughter of one Jogendra Nath Kundu of Dakshindih. After the marriage was over, I went to live with my acquaintance Pinali Parai Bhattacharji and Jogendra Nath Rai at 10. 61, Mirzapore Street where they used to stay. There I met a boy named Kiran Chandra Mukerji of Bhugilhat. I had an acquaintance with him from before. He said whether we could join the gang of dacoits formed by Kartick Dutt and others at Durgapore in Chetla. I said that as we belonged to another Society, we could not join the gang of dacoits. Two or three days after that I started for my native village. Kiran accompanied me. I went to my home, Kiran went to Alka. On the next day he took me to Alka and said that I must go to Calcutta again. He said that I should go to Calcutta to fetch some things. On that day I took the express train at Fultola Station and reached Calcutta at 12 o'clock in the night. We thence went to Durgapore in a carriage. We went to the house of Kartick Dutt. That was on one day either towards the end of Asar or in the beginning of Savan last year. I brought with me Rs. 100 from our Samiti at Alka. I made over that money to Kartick Dutt. I heard before that Kiran Mukerji had also given Rs. 100 to Kartick Dutt.

Q.—What was the money given to Kartick Dutt for ?

A.—To purchase revolvers and rifles.

Q.—How could the samiti collect that amount?

A.—That samitis had under it 52 branch samitis from which that amount of money was collected by subscriptions and a portion of the sum was received by a robbery at village Khalki (?) in Khulna District.

Q.—Can you name the aforesaid 52 samitis ?

A.—No. Those samitis were started for the purpose of teaching *lathi* play, etc. They had no designs against the British Government.

Q.—When, by whom and at whose house the aforesaid robbery was committed ?

A.—Last year in the month of Baisakh or Jaistha, the dacoity was committed by Bidhu Bhusan Dey and some other boys at the house of Gopal Chandra Bose. At that time I was not in it. I heard it that they had committed that dacoity.

Q.—What did you do after giving Rs. 100 to Kartick Dutt ?

A.—He kept us there for the next day as he said he would give us two rifles and two revolvers. On that day I returned to no. 61, Mirzapore Street, Kiran remained there.

Q.—Whence Kartick Dutt used to collect rifles, etc. ?

A.—I cannot say.

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Q.—What next ?

A.—From time to time I used to go to the house of Kartick Dutt for these things. Then nearly a month after I heard that a warrant was issued against Kartick Dutt in the bomb case. He, Kiran and their comrades left the place. I could not find them in their house at Durgapore in Chetla.

Q.—Who else were in that house ?

A.—I found Pana Lal Chakrabutty, Girindra Nath Ghose (?) Biren Mullick, Keshab Dey and Bhupati Mukherji in that house. They used to try for a revolution. I do not know their houses. I do not know whose house it was.

Q.—What did you do next ?

A.—Then I returned home in the month of Savan. 10 or 15 days after I again returned to 61, Mirzapore Street, Calcutta, with Rs. 200 from the Alka Samiti.

Q.—Which member of the Alka Samiti used to give you the money ?

A.—The said Bidhu Bhusan Dey used to give me money.

Q.—Do the other inmates of the house in Mirzapore Street know of your secret work ?

A.—No. I did not tell any body—only one boy named Aswani Bose of that house knew it. I told him. That time (second time) I brought one rifle and three revolvers through the said Aswani. He said that he bought them from a Mistti of Thanthania, who repairs guns, etc. I have not seen that gun repairer.

Q.—What price did you paid him for the said things ?

A.—I paid Aswani Rs. 200. At that time from Kumira Bidhu Deb also brought Rs. 75 to Calcutta and he stayed at the house in Mirzapore Street. One Noren Bose of Calcutta kept Kiran Mukerji confined on a charge of stealing his revolver. Bidhu got Kiran released after paying him the price of the revolver from that money. I have not seen the house of Noren Bose.

Q.—What did you do next with the rifle and revolvers ?

A.—I went home—myself, Bidhu, Priya Nath Pai, Satish Chatterjee, Gungadhar Sishir, Kali Dass Ghose, and some men supplied by Sachin Mitra of Kumira and whose names I do not know, first attempted on the Kumira side to loot the money sent to a Zemindari cutcherry; but as we went late, the men of the zemindary had gone away with the money. They went to Bansghat from Kumira. For that reason we could not succeed. Next we attempted a dacoity in the house of a Brahmin whose name I do not know, of a village Kulla near Satkhira. We did not go up to the house of that Brahmin. Balai Sen Gupta of Bhanderbere, who was our informer, informed us in the way that the Brahmin had lent his money out and he had not much money with him. So we all came back.

Q.—What did you do next ?

A.—After that, last year in the month of Bhadra I again came to the said house in Calcutta. There I read in a newspaper of the dacoity at Bighati. I read the name of Abhani, i.e., my name was mentioned in that dacoity. I could not see why my name was mentioned. I was not in the Bighati dacoity. I then returned home.

Q.—What happened next ?

A.—In the last Chaitra or Baisakh myself, Bidhu, Bolai, Nogen, Brojendra, Niberan, Satish, and Kinu, attempted a dacoity in the house of a Kundoo, whose name I do not know, in the village of Godgachi. We entered that house but the

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villagers came as the inmates of the house raised a hue and cry. We therefore returned unsuccessful. In those dacoities we used to go armed with revolvers. We did not take rifles. Two or four days after that dacoity alone I came to Calcutta. At that time I took a separate room on hire in no. 61, Mirzapore Street. Satish, Brojendra, Bidhu and Pinaik were with me there. A few days after a boy named Jotin Rai came to our house in quest of employment in Calcutta. We lived there till the month of Savan last. I took to private tuition, and the others were seeking for employment. Jotin served for a few days in the house of S. K. Mullick. I used to go home and return to Calcutta from time to time. In the month of Savan a man of Dacca named Probodh Rai gave me Rs. 300 for purchasing revolvers, rifles, and cartridges. I gave the money to Aswini. He from time to time used to give me rifles, etc., after purchasing them from the shop of gun repairers. I used to keep them in a steel trunk and to make them over to Probodh on his arrival. I gave him 2 rifles and one gun gradually. Next Probodh accompanied me to my house with a view to collect information for committing a dacoity in a house. We returned to Calcutta after fixing the house for Pahi Poddar of village Dakshindini. We heard on our return that the owner of the house No. 61 ejected my comrades from the house and they removed to 15 Jorabagan. There I stayed for a few days. Sachin Mitra wrote a letter from Kumira saying that a house had been selected for dacoity and inviting them to do it. We left Brojendra in our lodging at Calcutta. Next myself, Bidhu, Nogen, Kali Babu, and Aswini assembled at Jhinkergacha. Being unable to get a steamer on the next day I went to bring two men from Khulna and sent Aswini to bring Priya Nath Pal from my village. I again returned with Jotin Rai, Satish Chatterjee and Nil Kanta Bhattacharjee from Khulna to Jhinkergacha. I did not tell Jotin Rai anything about the proposed dacoity. I called him on the plea of taking him to Calcutta. Aswini brought Priya Nath there. From that place we started for Kumira in a hired boat. We got down at Melekbari and thence went to Kumira. We met Sachin Mitra and two other unknown men in another man's house. Thence we all walked to village Nangla. We reached the village at 12 o'clock in the night. It was, I think, a Sunday. It was the 30th Savan. There Sachin Mitra managed to call a man, I don't know him. That man pointed out the house of Mothur Poddar to us. All of us committed the dacoity in that house. We did not tie any cloth round our face. We put on *Malcochas*. We had no clothes on our body. Four torches were lit up. We had 5 loaded revolvers and lathis with us. I could not see females and children in the house. There was only one male member in the house. We tied him and he pointed out a wooden box. There were some silver ornaments in that box. One man supplied by Sachin Mitra took them. There were three keys for the iron safe and two of them were found in the wooden box. We could not open the iron safe as the 3rd key was not found. We returned only with the silver ornaments. We got nothing more. Thence we came to village Dumiris, and from Dumiris we all went to Khulna in a boat. There I stayed in the house of my relative Tara Chand Rai. From Khulna I went to Lachipau and thence I returned to Khulna. From Khulna I went to Daulatpore where I was arrested by the police. I could not know for what offence I was arrested. I am now in Hajat. The silver ornaments are with Sachin.

Q.—How many revolvers, rifles and guns have you collected from time to time?

A.—I have collected five revolvers and one rifle, and they are with Bidhu Dey.

Q.—Where did you get the cartridges, bullets, powder, caps, etc., from?

A.—The said Aswini used to get them from a man whose name I do not know. He used to live in Calcutta.

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Q.—Did you see Keshab Dey in the house at Durgapore? What costume used he to put on?

A.—Yes. He used to dress like a Bengali. He put on European dress one day, when he went out to get a piece of information.

Q.—Do you know the gun repairer, or his name, who used to sell you rifles, etc.?

A.—No.

Q.—Were books on Explosives and Bombs found in your lodging at Jorabagan?

A.—No. I was not present on the day on which our room was searched. There were three parts of "Mukti Kon Pathe" and some such books in that room.

Q.—What are the full names of your associates whose names you have given.

A.—I say—Priya Nath Pai's village is Chholgram. Nogendra Chandra and Kalidas Ghose's village is Sobpore. Bidhu Bhusan Dey's village is Paikpara. Sachin Mitra's village is Kumira. Satish Chatterjee's village is Bhugilhat. Jatin Rai's house is at Khulna. Aswini Ghose or Bose's village is Basundiha. I do not know the names of the other two men.

Q.—Have you anything to say?

A.—No.

Q.—Have you said all this voluntarily?

A.—Yes.

I believe that this confession was voluntarily made. It was taken in my presence and hearing and was read over to the person making it and admitted by him to be correct and it contains a full and true account of the statement made by him.

13th September 1909.

KUMUD NATH MOOKERJEE,

Deputy Magistrate.

Pro. no. 51.

Telegram no. 1554, dated Simla, the 23rd October 1909.

From—The Secretary to the Government of India, Home Department,
To—The Chief Secretary to Government of Bengal, Darjeeling.

Please refer to your letter 2217 P. D., dated 14th October 1909. The Governor-General in Council sanctions under section 2 (1) of Act XIV of 1908 the application of Part I of the Act to the case which is commonly known as Nangla Dacoity case and in respect of which proceedings may be instituted under sections 395 or 400 or 402, Indian Penal Code.

Pro. no. 52.

Telegram no. 1560, dated Simla the 23rd October 1909.

From—His Excellency the Viceroy,
To—The Secretary of State for India.

Sanction has been accorded to application of Part I of Act XIV of 1908 to case of political dacoity committed at Nangla, Khulna District, Bengal.

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(Pro. no. 53.)

No. 3766-P., dated Calcutta, the 13th December 1909.

Pro. no. 53.

From—F. W. DUKK, Esq., I.C.S., Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

With reference to the correspondence ending with your telegram no. 1554-Political, dated the 23rd October 1909, I am directed to report for the information

	Section of I. P. C.	of the Government of India, that on the
1. Biada Bhusan De	395	23rd December 1909, the Magistrate of
2. Aswini Kumar Bose	395	Khulna committed the accused in the Nang-
3. Kali Das Ghose	395	la dacoity case, whose names are noted
4. Nagendra Chandra Chaudra	395	in the margin, to the High Court for trial
5. Sachindra Nath Mitra	395	under Act XIV of 1908, in respect of the
6. Satish Chandra Chatterji	.. 395	sections entered against their names. A
7. Monmota Nath Mitter	395	copy of the commitment order is enclosed.
8. Kinnu Pasi alias Prynath Pasi	.. 395 and	
9. Nagendra Nath Sarkar	106.	

Order directing that the accused be sent to the High Court for trial.

At 1 A.M. about, on the 16th August 1909, a dacoity was committed in the village of Nangla in Khulna District. Though some of the dacoits were armed with revolvers and some with daggers, I think it sufficient at present, as section 397 is merely useful as providing a minimum penalty, and as there seems to be some doubt as to whether all, or as to which, accused can be held to have 'used' a deadly weapon, to frame the charge under section 395 Indian Penal Code.

Ten persons have been sent up charged with having taken part in the dacoity. I have discharged one (Sorbeswar) as I do not think the relevant evidence against him is sufficient to put him on trial.

The evidence connecting the others is in the first instance that of the approver corroborated in many points from many quarters, showing rather wide ramifications of a political conspiracy. For the purpose of directing that the accused be sent to the High Court for trial under section 395, Indian Penal Code I think I need only (1) give a short account of the dacoity, (2) deal shortly with discrepancies in the evidence, (3) state shortly the evidence connecting each of the committed accused with this specific dacoity, leaving for the present out of consideration the evidence about the political conspiracy of which it is alleged to be the outcome.

1. Account of dacoity.

As the approver's version differs in parts from that of the actual person (Mothura Poddar) whose house was dacoited, I give both versions, dealing later with the discrepancies in them, the chief of which I underline.

Mothura Poddar states as follows :—

I was awakened by feeling choked by something tied round my face. Two men held me and after getting the cloth from my mouth I called out 'I am killed.' The assailants told me not to call out and asked me where were the keys of the iron chest. I did not reply as I was thinking what to say. At last being threatened with a "pistol" I said :—they are in the box. I pointed to the big wooden box. *Some one found the key of the big wooden box from below the pillow where I had been lying.* One of them opened the box. *In it was the iron chest's padlock's key in duplicate in different parts of the chest. The smaller key was in the same bunch with the key of the wooden chest which lay under my pillow. The small wooden box had its key on top of it, and was locked.* The dacoits took all the contents of the iron chest away.

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The approver states as follows :—

I pushed the door and forced the inside fastening. I saw the owner sleeping. While he slept I put my hand over his mouth. Some of the others tied him with a cloth. I took from his waist a key, I tried the key on the large wooden chest and opened it. Inside, I found a small hand box. (I forced the lid open with my dagger). I took out from it, two keys (duplicates) of the iron safe. I took out silver ornaments both from the wooden chest and the hand box. The two keys fitted the lock in the chest, but as I had no key to open the padlock, I smashed the padlock with a (something) seer weight. The key fitted but still the chest would not open. I told the owner I would kill him if he did not give me the right key. He said that was the right key, but a smaller key must also be applied to another lock. He said the smaller key was also in the small box. We searched again but could not find it.....seeing no chance of opening the safe and hearing that many people were collecting outside, we came away.

2.—Discrepancies.

(a) As to the story of the actual dacoity, the discrepancy is particularly confined to the point whether the dacoits opened or failed to open the iron safe.

Comparing the two accounts with the other evidence forthcoming especially that of the 25th prosecution witness, I come to the conclusion that Mothura Poddar is lying, with the same object as one often finds in similar cases where a householder has been robbed, viz., to cheat his creditors, or those whose valuables were deposited with him. To make his lie that the dacoits opened the iron chest consistent, he has been obliged to give a totally different version from the approver's as to how the dacoits got hold of the keys. If the approver had succeeded in opening the iron safe, there would be no point in his falsely confessing failure, nor in his describing so minutely how he threatened to kill Mothura Poddar if he did not give up the small remaining key, and his futile attempts to find it. However the discrepancy is no reason for disbelieving the commission of the actual dacoity.

(b) As to certain documentary discrepancies in the evidence—

- (i) The curious entries in accused Bidhu's diary of this period, tending to show that he was at other places at the period of this dacoity, are discounted by the fact of his signing money order receipts at the place the prosecution contend he was on the 13th August.
- (ii) Something similar to this, showing the same anxiety to conceal his (Kalidas's) real movements, is the post card (Exhibit 28) apparently written quite innocently of the small boy Dharendra Nath Ghose (witness no. 9) to his grandmother, accounting accused Kalidas's absence on this dacoity, by saying that he (Kalidas) had gone or was going to Murshidabad.

There are no other discrepancies worth referring to at length.

Evidence against each accused (Oral).

1. Bidhu Bhusan De.—

(1), The approver describes the part he took in the conspiracy from the beginning and the part he took in the actual dacoity.

(2). The approver says he (Bidhu) left Calcutta ahead of the others to clean and bring the revolvers for the dacoity and got 5 revolvers which he took to Jikergancha. (The documentary evidence corroborates this).

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(3) On the 13th August Bidhu and Nogendra Ch. Chandra went from Paikpara to Jikergacha. This is proved by the following :—

- (a) Witness no. 2 Annada Ch. Dutta delivered money to Bidhu under money order at the Post office on the morning of the 13th August.
- (b) Witness no. 3 (Phani Bhusan) saw Bidhu and Nagendra Chandra at Paikpara on the 13th.
- (c) Hafes Khunkar carried Bidhu and Nagendra Ch. Chandra in a boat up to Batua Ghat; Bidhu said to this man that he was going with the stranger (Nagendra Ch. Chandra) to Jikergacha. From Batua Ghat they went to Nowpara Railway station.
- (d) Witness no. 35, Bidhu Bhusan Mitter proved Bidhu's absence from home for 3 or 4 days during the end of Sraban.

(4) Witnesses nos. 5 and 6 prove that on the 13th August by the night mail 2 third class tickets were sold for *Jikergacha from Nowpara*.

(5) Witness no. 20 Baijanti Nath Ghose identifies Bidhu (whom he knew from before) says that he saw him on the night of the 13th at Panchu Moyra's shop at Jikergacha.

(6) Witness no. 14 Megh Nath Ghose identified Bidhu as one who took food at his shop at Jikergacha.

(7) Witness no. 63 identified him similarly.

(8) The complainant Mothura Poddar witness no. 22 identified Bidhu (or a man of similar features) as one who stood on his left at the dacoity.

(9) Witness no. 18 Surendra Nath Bose identifies Bidhu as one of the persons whom he recognised at Kuntaltolla Bazar on the return journey after the occurrence.

(10) Witness no. 34, Deputy Superintendent Bhowani Ch. Nandi proves that he tried to verify the statements in this accused's diary, but after what Bidhu said he did not think it worth while to go further; Bidhu gave some names of the accused as concerned in the occurrence.

2. Nogendra Ch. Chandra.—

(1) The approver describes the part this accused took in the dacoity and before and after it as a conspirator.

(2) See also (3) (b), (c) and (4) under Bidhu.

(3) Witness no. 15 Deb Nath Patni the boat man that conveyed the party from Jikergacha to Sarulia identified this man as one of the party.

(4) Witness no. 18 identified him as he, whom he saw at Kuntaltolla Bazar on the return journey.

3. Aswini Kumar Bose.—

(1) The approver mentions him as one of the conspirators and describes the part he took in the dacoity.

(2) Witness no. 7 Nepal Patni identifies Aswini as the one who with Kinu crossed the boat at 4 p. m. on the 13th or 14th at Kinu's village, i.e., 2 or 3 days before the Monsha Puja.

(3) Witness no. 6 Nepal Ch. De proves that 2 or 3 days before the Monsha Puja he saw Aswini taking his food at Kinu Pai's house.

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(4) Witness no. 24 Devendra Nath Ghoshal identifies Aswini as one who had a torch in his hand of the three that stood outside the house.

(5) Aswini was arrested with Bidhu at 15 Jorabagan on 2nd September with a number of incriminating documents.

4. Satis Chandra Chatterjee.—

(1) The approver describes the part he took in the general conspiracy and in this dacoity.

(2) He was arrested on account of certain statements made by Bidhu (accused) (Witness no. 34 states so.)

(3) He has been identified by witness no. 63 (Nibaran Ch. Das) as the one who returned in the evening by train with Abani who had left in the morning of 13th August.

(4) He has been identified by Deb Nath Patni the boat man who conveyed the party from Jikargacha Ghat to Sarulia.

(5) He has been identified by Surendra Nath Bose at Kuntaltola Bazar on the return journey.

(6) He has been identified by witness no. 21 Bidhu Bhushan as one who got out of the boat to pass water at Dumuria Ferry Ghat on return journey.

5. Kali Das Ghose.—

(1) The approver mentions him as one of the original conspirators and describes the part he took in the dacoity.

(2) The documentary evidence (Exht. 28) is interesting, as showing the steps accused took even to mislead his own relatives as to his absence from Calcutta where he was employed during the latter end of Sraban. (See witness no. 9's deposition).

(3) He has been identified by witness no. 18 Surendra Nath Bose at Kuntaltola Bazar.

6. Sachindra Nath Mitter.—

Approver's evidence shows that this accused selected the house to be dacoited and sent a letter to the others to come. Approver describes him as one of the original conspirators and describes the part he took in the dacoity; his name was first mentioned by accused Bidhu; he was absconding for over a month.

7. Monmotha Nath Mitter.—

His house at Kumira was pointed out to the verifying officer by the approver as the place where the party assembled and prepared torches and thence started for the house they were to dacoit, the owner of such house accompanying them. Babu Matilal proves that he arrested him in consequence of Bidhu accused's statement, and witness no. 67 proves that no other male besides Monmotha lives in such house.

8. Kinu Pai.—

(1) Approver had known him before, and describes how Aswini brought him to the rest of the dacoity party at Jikargacha on the 14th August and the part Kinu took in the dacoity.

In this connection see (1), (2) and (3) under Aswini.

(2) Kinu was absconding for a long time, with warrants of arrest, proclamation and attachment out against him, and on arrest gave a false name and address.

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9. Nogendra Nath Sircar. (Abetment).—

The documentary evidence shows his connection with the conspiracy and his dealings with firearms especially with the one used in this dacoity. He is a relative of Kalidas, was also associated with other accused at 61, Mirzapore Street; his guilty knowledge of this dacoity may be presumed from the following notes extracted from the documentary evidence.

Letter of Kalidas before the dacoity to this accused " Bidhu is coming, give him the ' jama ' (revolver)."

Letter of Bidhu to this accused after the dacoity " On my way back I will return you the ' jama '."

Accordingly I direct that the accused Bidhu Bhusan De, Aswini Kumar Bose, Kali Das Ghose, Nogendra Chandra Chandra, Sachindra Nath Mitra, Satis Chandra Chatterjee, Monmotho Nath Mitter and Kinu Pai *alias* Priyanath Pai, all charged with dacoity, and Nogendra Nath Sarkar charged with abetment of such dacoity, be sent to the High Court for trial under the provisions of the Indian Criminal Law Amendment Act, 1908, Government having ordered such provisions to apply to these proceedings.

KHULNA ;
3rd December 1909. }

B. C. HAMILTON,
District Magistrate.

No. 1720-P., dated Calcutta, the 24th March 1910.

Pro. no. 54.

From—F. W. DUKE, Esq., I.C.S., Chief Secretary to the Government of Bengal.
To—The Secretary to the Government of India, Home Department.

I am directed to refer to the correspondence ending with my letter no. 3766-P., dated the 13th December 1909, regarding the prosecution of the accused in the Nangla Dacoity case.

2. I am now to report that on the 14th March 1910, the accused in this case were placed on their trial before a Special Bench of the High Court under section 395, Indian Penal Code. During the hearing the approver, Abani Bhusan Chakravarti, retracted his confession and withdrew the statement he had made before the Magistrate, and on the advice of Counsel for the Crown the case against all the accused under the above-mentioned section of the Indian Penal Code was withdrawn. The High Court, accordingly on the 16th March acquitted the accused and directed their release.

3. The accused are, however, still under detention on a charge under section 400, Indian Penal Code. There is little chance of the case under this section being prosecuted with any hope of success now that the approver has turned hostile, and it seems that this case will eventually have to be abandoned. The further action to be taken, is, however, at the present moment under the consideration of the Legal Advisers of Government. The Government of India will be duly informed of the action that it is proposed to take in the matter.

4. In this connection I am to report that on the application of Counsel for the Crown the High Court have sanctioned the prosecution of Abani Bhusan Chakravarti for an offence under section 193, Indian Penal Code. This case will be proceeded with and the result will be reported in due course.

5. Meanwhile, the Inspector-General of Police has applied for the application of Act XIV of 1908 to the trial of Abani Bhusan Chakravarti for partici-

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pation in the Nangla Dacoity. The Legal Remembrancer is of opinion that a fresh sanction to apply the Act is necessary, and I am accordingly to request that the Governor-General in Council may be pleased to sanction the making by this Government of an order to apply the provisions of Part I of the Act to the proceedings in respect of the case against Abani under section 395, Indian Penal Code.

Pro. no. 55.

No. 401, dated Calcutta, the 31st March 1910.

From—SIR HAROLD STUART, K.C.V.O., C.S.I., Secretary to the Government of India,
Home Department,

To—His Majesty's Under Secretary of State for India.

In continuation of His Excellency the Viceroy's telegram dated the 23rd October 1909, I am directed to forward for the information of the Secretary of State a copy of a letter from the Government of Bengal no. 1720-P., dated the 24th March 1910, regarding the withdrawal of the prosecution against the accused in the Nangla Dacoity case, and the application of the provisions of Part I of Act XIV of 1908 to the proceedings in respect of the case against Abani Bhusan Chakravarti under section 395, Indian Penal Code.

Pro. no. 56.]

No. 402, dated Calcutta, the 31st March 1910.

From—SIR HAROLD STUART, K.C.V.O., C.S.I., Secretary to the Government of India,
Home Department,

To—The Chief Secretary to the Government of Bengal.

With reference to paragraph 5 of your letter no. 1720-P., dated the 24th March 1910, I am directed to convey the sanction of the Governor-General in Council to the application by the Government of Bengal of the provisions of Part I of Act XIV of 1908 to the proceedings in respect of the case against Abani Bhusan Chakravarti under section 395, Indian Penal Code for participation in the Nangla Dacoity.

Pro. no. 57.

No. 1861-P., dated Calcutta, the 31st March 1910.

From—F. W. DUKE, Esq., I.C.S., Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

I am directed to refer to the correspondence ending with my letter no. 1720-P., dated the 24th March 1910, regarding the Nangla Dacoity case. It will be remembered that in this case the accused were placed upon their trial before a Special Bench of the High Court under section 395, I.P.C., but, the approver having retracted his confession, the prosecution under this section was withdrawn.

2. In the third paragraph of my letter under reference it was stated that the accused were still under detention on a charge under section 400, I.P.C., and a further report was promised regarding the action which it was proposed to take in the matter. The entire case for the prosecution has again been exhaustively examined by the legal advisers to Government, and the Advocate-General has furnished an unequivocal opinion in favour of proceeding against the accused under section 121-A, I.P.C., instead of under section 400 as originally contemplated. The Lieutenant-Governor has accepted this opinion and has accorded sanction to the institution of proceedings under section 121-A.

3. It appears to His Honour to be expedient that the special procedure provided in Part I of Act XIV of 1908, should be applied to this prosecution, and I

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I am to request that the Governor-General in Council may be pleased to accord his sanction to the making by this Government of an order in writing to that effect under section 2, cl. (1) of the Act cited. The sanction of the Governor-General in Council has already been accorded in your telegram no. 1554-Poll., dated the 23rd October 1909, to such an order in respect of the proceedings which were then contemplated in this case under section 395 or 400 or 402 of the Indian Penal Code, and I am now to ask that the sanction may be extended to the proposed prosecution under section 121-A, Indian Penal Code.

Telegram no. 418, dated Simla, the 6th April 1910.

Pro. no. 58.

From—The Secretary to the Government of India, Home Department,

To—The Chief Secretary to the Government of Bengal, Calcutta.

Please refer to your letter no. 1861-P., dated 31st March 1910. Sanction is accorded by the Governor-General in Council to the application of Part I of Act XIV of 1908 to the proceedings against the accused in the Nangla Dacoity case under section 121-A, Indian Penal Code.

No. 419, dated Calcutta, the 7th April 1910.

Pro. no. 59.

From—SIR HAROLD STUART, K.C.V.O., C.S.I., Secretary to the Government of India, Home Department,

To—SIR RICHMOND KITCHEL, K.C.B., His Majesty's Under Secretary of State for India.

In continuation of my letter no. 401-Poll., dated the 31st March 1910, I am directed to forward for the information of the Secretary of State a copy of a letter from the Government of Bengal, no. 1861-P., dated the 31st March 1910 and to state that the Government of India have sanctioned the application of Part I of Act XIV of 1908 to the proceedings against the accused in the Nangla Dacoity case under section 121-A, of the Indian Penal Code.

No. 185-P. D., dated Darjeeling, the 22nd April 1910.

Pro. no. 60.

From—E. V. LEVINGE, Esq., I.C.S., Officiating Chief Secretary to the Government of Bengal.

To—The Secretary to the Government of India, Home Department.

With reference to the correspondence ending with your telegram no. 418-Poll., dated the 6th April 1910, regarding the Nangla Dacoity case, I am directed to report that on the 13th idem, the charge against the accused under section 400 of the Indian Penal Code was withdrawn and they were accordingly discharged. They were, however, immediately re-arrested for an offence under section 121-A, of the Code and will in due course be placed on their trial on this charge.

2. In this connection, I am to state that on the 14th April 1910, the District Magistrate of Khums committed Abani Bhusan Chakravarti, the approver who retracted his confession in the High Court, to that Court for trial under Act XIV of 1908, for an offence under section 395, Indian Penal Code. A copy of the commitment order is enclosed.

Order directing accused to be sent to the High Court for trial.

Abani Bhusan Chakravarti, charged with dacoity under section 395, Indian Penal Code is herewith sent to the High Court for trial under the provisions of

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the Indian Criminal Law Amendment Act, 1908. The Government order directing such provisions to apply to these proceedings is with the record.

The grounds of commitment are as follows :—

On the night of the 16th of August 1909 about 1 A.M., a dacoity was committed in the house of one Mathur Poddar in the village of Nangla in the Khulna district. Several arrests were subsequently made in connection with that dacoity and a case instituted under section 395, nine accused being sent up to the High Court under the provisions of the Indian Criminal Law Amendment Act, the chief evidence against them being that of an approver, the accused in the present case, Abani Bhusan Chakravarti. Owing to the latter retracting in the High Court the statements he had made on promise of a pardon in the Lower Court the case against the accused fell through and they were discharged. The approver Abani Bhusan Chakravarti is now being tried under the same section, the pardon having been withdrawn.

The chief evidence against the accused is his statement made before the District Magistrate on oath in the previous case which statement is corroborated by witnesses in many important details. He was arrested on the 2nd of September at Daulatpur near Khulna on a warrant from Hooghly in connection with the Bighati Dacoity case there. He was sent to the Hooghly Jail and while there made a confession relating to the Nangla Dacoity case which was duly recorded by a Deputy Magistrate. This confession gave full details as to the movements of accused and his associates before, during and after the dacoity and it was subsequently verified by a Sub-Deputy Magistrate of Hooghly. This confession, substantially the same, was voluntarily repeated before the District Magistrate of Khulna in the previous case under section 395, Indian Penal Code.

With regard to the confession, Babu K. N. Mukherji of Hooghly (witness No. 2) has proved that it was voluntarily made before him in the Hooghly Jail and that no Police officer was present. The suggestion that the accused was tutored by Moulvi Shamsul Alam of the Criminal Investigation Department is not in any way substantiated. It is proved (witness no. 5) that the interview he had with the accused in the Hooghly Jail on the 12th September only lasted from 12-50 P.M. to 3-15 P.M. Having regard to the length and detailed nature of the confession made on the following day to the Deputy Magistrate it is impossible that he should have been tutored in so short a time. Moreover, the same story was repeated with only very slight variations some six weeks later before the District Magistrate of Khulna. There can be no doubt that the confession was voluntarily made and that it was not invented by him at the suggestion of the Police as stated by him when withdrawing the confession in the High Court.

Sub-Deputy Magistrate Babu Sati Prosad Ganguli (witness no. 8) verified the confession accompanying the accused to the places pointed out by him. Many of the incidents of the confession have been verified by witnesses examined before me. His connection with no. 15 Jerabagan Street, Calcutta, as stated by him is proved by witness no. 31 while witness no. 30 proves the arrest there of these members of the gang, as also the finding of several documents, some of which the accused admitted before Mr. Hamilton, District Magistrate of Khulna to be in his own handwriting. His admitted association with 61, Mirzapore Street, Calcutta, is proved by witness no. 33. There is also further corroborative evidence of the truth of the accused's confession with regard to other members of the gang. A list of witnesses for this purpose has been filed. The following evidence duly corroborates the accused's statements with regard to himself.

In his confession he stated that he came to Khulna on 28th Shraban (13th August) two days before the Nangla dacoity took place, that he left for Jhinkergachha by the mail train of the same day at 10 P.M. These statements are corroborated

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by witnesses nos. 23 and 16 respectively. At Jhinkergachha he stayed with Bidhu and Nagendra Chandra, two other members of the gang, at the shop of Pachu Meyra (see witnesses nos. 21 and 18), accused left again for Khulna the next morning, returning to Jhinkergachha the same evening (see witnesses nos. 18, 25, 23 and 17). His statement that he and three others left Khulna for Jhinkergachha on the evening of August 14th is corroborated by the Assistant Station Master of Khulna (witness no. 39) who proves that four tickets were sold for Jhinkergachha that day. The whole party assembled at Jhinkergachha on the night of the 14th (witness no. 18) and a boat was hired by them through Lekhon Meyra (witnesses nos. 18, 19, and 20). Prosecution witnesses nos. 19 and 20 also prove that the party arranged to go as far as Sarulia in the boat, that they reached Trimohini at 10 A.M., on the 15th and made some purchases, that at Sarulia two of their number got down and that the boatmen were paid 8 annas more for taking them to Mallikbari where they finally landed—all as stated by accused in his confession.

As to the dacoity itself, it is proved by witnesses nos. 7, 9, 10, 11, 12 and 13. Witness no. 7 is Mathur Poddar, the complainant in whose house the dacoity was committed. Between his statement and that of the accused there are discrepancies such as the fact that complainant states that the dacoits took the key of the box from below his pillow while the accused states that he took it from the complainant's waist, and the fact that whereas the complainant says that an iron safe was broken open and the contents looted, the accused states that iron safe was not opened at all as they could not undo the lock. These points however, do not detract from the main facts of the dacoity.

Incidents of the return journey as stated by accused are again corroborated as also his presence at Khulna on the 17th (witness no. 23) and his arrest there on September 2nd by Sub-Inspector Mefyzuddin (witness no. 36). The accused's statements have thus been corroborated step by step from the time that he set out to commit the dacoity until the actual commission. Though he has not been identified as having been actually engaged in committing the dacoity, his own statements corroborated as they have been in so many other particulars are very strong evidence. Accordingly I commit him to the High Court, as already stated, for trial under the provisions of the Indian Criminal Law Amendment Act, 1908.

14-4-10.

F. B. BRADLEY-BERT,

District Magistrate.

No. 1573-F. D., dated Darjeeling, the 13th June 1910.

Pro. no. 61.

From—E. V. LEVINGS, Esq., I.C.S., Officiating Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department, Simla.

With reference to the correspondence ending with my letter no. 185-F.D., dated the 22nd April 1910, regarding the Nangla Dacoity case, I am directed to report that as a sequel to that case the sixteen persons named in the attached list, were placed before the District Magistrate of Khulna on a charge of having conspired to overthrow by means of criminal force the British Government in India. After examining 107 witnesses and a mass of documentary evidence, the Magistrate, on the 3rd June 1910, discharged three of the accused, namely, Sarbeswar Haldar, Jotindra Nath Roy and Nilkanta Bhattacharji, and committed the remaining thirteen to the High Court for trial under the procedure of the Indian Criminal Law Amendment Act, 1908 (XIV of 1908), for an offence under section 121-A, Indian Penal Code. A copy of the commitment order is enclosed for the information of the Government of India.

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List.

1. Abani Bhusan Chakravarti.
2. Preo *alias* Kinu Pai.
3. Bidhu Bhusan De.
4. Satish Chandra Chattarjee.
5. Nagendra Nath Sarkar.
6. Kali Das Ghose.
7. Nagendra Chandra Chandra.
8. Mohini Mohan Mitra.
9. Aswini Kumar Bose.
10. Sudhir Chundra De.
11. Sachindra Nath Mitra.
12. Manmatha Nath Mitra.
13. Sarbeswar Haldar.
14. Jotindra Nath Roy.
15. Brojendra Nath Dutt.
16. Nil Kanta Bhattacharji.

Order directing the accused to be sent to the High Court for trial under Section 121-A, Indian Penal Code.

The accused, Abani Bhusan Chakravarti, Bidhu Bhusan De, Aswini Kumar Bose, Nagendra Chandra Chandra, Satish Chandra Chattarjee, Kali Das Ghose, Brajendra Nath Dutta, Preo Nath *alias* Kinu Pai, Sachindra Nath Mitra, Mohini Mohan Mitra, Sudhir Chandra De, Nagendra Nath Sarkar, and Manmatha Nath Mitra charged with conspiracy under section 121-A, Indian Penal Code, are herewith sent to the High Court for trial under the provisions of the Criminal Law Amendment Act, 1908 on the following grounds, the general order directing such provisions to apply to the proceedings having been placed with the record.

One hundred and seven witnesses have been examined and a mass of documentary evidence has been exhibited, the object of the prosecution being to prove first that there was a conspiracy to attempt to overawe by show of force the British Government in India, and secondly that each of the accused was concerned in that conspiracy.

The evidence as to the existence of the conspiracy is both oral and documentary. The whole case is very closely connected with what is known as the Nangla Dacoity case which eventually led to the discovery of much of the evidence which has now been placed on the record. On the 16th of August 1909 a dacoity was committed in the house of one Mathura Poddar at Nangla in the Khulna District the first information of which is exhibit 25 in this case. From evidence obtained during the enquiry into that case, simultaneous searches were made in several places on September 2nd last, the most important being those at no. 15, Jorabagan, Calcutta, in the presence of three of the accused Bidhu Bhusan De, Aswini Kumar Bose and Brajendra Kumar Datta; at a room in no. 164-166, Ahiritola, Calcutta, occupied by the accused Kalidas Ghose, at the house of Bidhu Bhusan De at Paikpara; and at a house in Singia, Solepur, occupied by Nagendra Nath Sarkar. During the searches many documents were seized, which followed by further investigation, revealed the existence of a secret society formed with the object of carrying out revolutionary propaganda of an extremely dangerous character. Among the documents seized at 15, Jorabagan were certain revolutionary pamphlets and documents containing a minute and

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exhaustive treatise on the preparation of bombs and including illustrations in pencil of various kinds of bombs and detonators. These documents also deal with the general principles of revolutionary movements laying down rules for the complete organisation of central and local bodies to carry on the work of spreading revolutionary ideas and of actively engaging in revolutionary measures. The objects of these documents cannot be mistaken. For instance, in dealing with the science of explosives, the reason why the bomb at Chaudernagore did not work is given (page 9 of the strictly confidential book), the reference being to the failure of the bomb that was used against the Mayor of Chander agore. Elsewhere a "terroristic department" is spoken of as the "main organ of the revolution" the function of which is to kill or otherwise punish unpopular Government officers, policemen or detectives hampering or shadowing revolutionary work to commit dacoities, to procure arms from Government arsenals, to manufacture arms, explosives and other deadly things; to conduct secret presses, to act as spies on the police; to take service or employment in disguise at various places, to forge receipts, cheques, drafts, etc., to realise cess, etc., (page 19 of the strictly confidential book). These are but two extracts from these pamphlets, the avowed object of which is to overthrow the Government. All these documents have been printed in a book marked "strictly confidential" and are entered as exhibits 3 G, 3 H, 3 I, 3 J and 3 K in this case. They were found among other papers in a steel trunk in the room at no. 15 Jorabagan, occupied at the time of the search by Bidhu, Aswini and Brojendra, accused, the key of the box being handed over by Aswini, whilst Bidhu signed each exhibit as it was found in the presence of the police officers and the search witnesses. From the account book (ex. 6a) seized at 15, Jorabagan and proved to be in the handwriting of Abani Bhusan Chakravarti, witness no. 29, as well as from other evidence, principally that of no. 8, it appears that among a number of young men associated together, there were Aswini Kumar Bose, Bidhu Bhusan De, Brojendra Nath Datta, Nagendra Chandra Chandra and Abani Bhusan Chakravarti and it is significant as showing their association that these five before coming to live at 15, Jorabagan, had been living together at 61, Mirzapur Street, where their further association with two other accused Satis Chandra Chatterji and Kali Das Ghose has been proved by evidence recorded.

The association of the accused is further proved by the diary of Bidhu Bhusan De which was found during the search of his country house at Paikpara and which has been proved to be in his handwriting. In this diary, (ex. 80A) Bidhu Bhusan De writes "first of all I went to the lodging occupied by Sudhir and others, the next day I came to no. 61. On coming, I found Abani, Satis, Keshav, Pinak and others arrived. Abani has sold my last cycle for Rs. 50. Out of that our common expenses were defrayed. None of us made any serious efforts to secure appointments. It was settled that we should try to secure appointments after we had made another effort". The diary contains further allusions which can only be regarded as referring to a secret understanding between Bidhu and his associates with some common and secret object, and it also further shows that the accused Sachindra Nath, Satish Chandra Chatterji, Kali Das Ghose, and Sudhir Chandra De were members of the association, in conjunction with the other accused living at 61, Mirzapore Street.

While at least five of the accused already referred to were living at 15, Jorabagan, Kalidas Ghose, another accused, was living at 164-166, Ahiritola Street in the employ of a zemindar (wit. no. 57) at Rs. 5 per month and it is in evidence that he was a constant visitor to the other accused at 15, Jorabagan as well as at 61, Mirzapore Street. Some of the accused in their correspondence were using Kali Das' address in order to keep their real addresses secret as will appear from Exhibits 6 and 8 written by the accused Nagendra Chandra Chandra, from Ex. 3 (2)

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addressed to accused Aswini Kumar Bose, from Ex. V addressed to accused Brajendra Nath Datta, and from Ex. 29 B written by Bidhu Bhusan De to his mother two days before his arrest at 15, Jorabagan.

One of the objects of the secret society was to procure arms illicitly for the purpose of carrying out its revolutionary designs. From the account book seized at Bidhu's house at Paikpara (Ex. 3C) it appears that revolvers and cartridges were purchased, while letters seized at Nogendra Nath Chandra's house at Solepur and in the room of Kali Das Ghose at 164-166 Ahiritola Street, Calcutta, show that accused Kali Das Ghose, Nagendra Nath Sarkar, and Bidhu Bhusan De illicitly procured arms and used them for their own purposes. Ex. 16K is a letter written by Kali Das Ghose to Nogendra Nath Sarkar and posted on the 8th August 1909 in Calcutta a few days prior to the Nangla dacoity. In it Kali Das Ghose writes: "When Bidhu Ghose goes there and asks for Jama give it to him for he has no Ja. Till he sees you do not part with the possession of the Jama; it is much needed". In another letter from Kali Das Ghose to the same accused, posted on 11th August 1909 in Calcutta, he speaks of the same "Jama" (Ex. 16J). After the Nangla dacoity Bidhu Bhusan De wrote a postcard on 3rd Bhadra (19th August) from Paikpara to Nagendra Nath Sarkar in which he says "I shall go to Narail in 5 to 7 days, at that time I shall give you your Jama (Ex. 16F). That the word Jama is used for revolver and that Nagendra Nath Sarkar had obtained one for Haripada Ghose an absconding accused through Kali Das Ghose is proved by the following exhibits:—Exhibit 16 D, written by Haripada Ghose to Nagendra Nath Sarkar on the 13th August in which the word revolver has been penciled through and the word Jinisher substituted; Rs. 55 being mentioned as the price. Exhibit 16 E 2 a M. O. receipt signed by Kali Das Ghose acknowledging receipt of Rs. 35 sent to him by Hari Pada Ghose; this receipt being found with a letter Exhibit 16 E 1, mentioning "the thing" both enclosed in Ex. 16 E 3 and found in Nagendra Nath Sarkar's house. Exhibit 15 B a letter written by Nagendra; Exhibit 16 G a letter written by Kali Das Ghose in reply showing that this Rs. 35 had been sent to Kali Das Ghose and Exs. 16 A, 16 J and 15 C which speak of the balance of Rs. 20 and in which the word Jama has again been used to indicate the revolver as well as the word "botam" for the cartridges. To make it clear that the words Jama and Botam refer to revolvers and cartridges Abani has said in his statement (Ex. 18) with reference to Ex. 16 A in this case 'the words Koter banki Kuri taka' I understand to mean the rupees twenty still due at balance for the Jama or revolver and again the words "Botamer daker" I understand to mean if you require buttons for the coat i.e. cartridges for the revolver.

Another method of advancing the revolutionary cause advocated in the pamphlet (Ex. 3G) already referred to is by means of literature, legal and illegal (secretly printed) periodicals and other papers, reviews, books, pamphlets and proclamations. To this branch of the revolutionary propaganda accused Nagendra Chandra Chandra especially devoted himself. Exhibits 10, 11 and 12 have been proved to be his handwriting, and a glance at their contents is sufficient to show their revolutionary and seditious character. Seven of the Poems were published in the "Pallichitra" magazine (Ex. 42) and he has already been convicted as the author of a poem called "Pallirani" in the Pallichitra published at Bagerhat, and there is evidence on the record to prove his connection with the Nangla dacoity and his association with the other accused at Jorabagan, Ahiritola, Mirzapore Street and Solepore.

Lastly there are the confession and statements of Abani Bhusan Chakravarti (Exhibits 4, 18 and 14) made by him as an approver in the Nangla Dacoity case, but afterwards retracted before the High Court. He is now one of the accused in this case and his confession has not only been verified by a Sub-Deputy Magistrate (Ex. 26) but has been corroborated in most of its important details. The

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confession relates the whole story of the Nangla dacoity implicating most of the present accused and admitting the political nature of the association, the Nangla and other dacoities being committed to obtain money for its revolutionary propaganda. In his statement (Ex. 19) made in a previous case, he said "The members formed themselves into a secret society. The members decided that the ultimate object of their society would be to revolt against the British Government. We associates decided as a means to our end to collect arms and ammunition and that as money was required for such purposes we must for some time commit dacoities in order to obtain such money, and that we would continue committing dacoities till we got sufficient money to give us a start". The evidence corroborating the confession is similarly complete and leaves no doubt of its truth. The allegations made by Abani Bhusan Chakravarti on retracting the confession, that he had been tutored by the Police is unworthy of credit. Having regard to the length of the confession, its intricate details most of which were unknown to the Police previously, and the fact that it was repeated by Abani on three separate occasions with practically no discrepancies, it is impossible to believe that it could have been tutored. Moreover it is clear that the Police were not in possession of most of the corroborative evidence which the confession enabled them to obtain. Did any doubt remain, it would have been removed by the corroboration of independent witness with regard not only to the commission of the Nangla dacoity, but to the attempted dacoity at Gadagachi, the incident at Dakhindehi, and the theft at Kaliakhali, as well as to the association of the accused. The principal witnesses who corroborate the confession are nos. 2, 3, 4, 5, 10, 32, 33, 44, 50, 51, 52, 53, 56, 65, 67, 68, 69, 77, 78, 79, 80 and 81, while further corroboration is afforded by the documentary evidence contained in the exhibits 3A, 3D, 20A, 5, 25, 27, 30, 33, and 34. The confession and statements of Abani Bhusan Chakravarti implicate the accused *Prco alias* Kinu Pai, Aswini Kumar Ghose, Brojendra Nath Dutta, Bidhu Bhusan De, Kalidas Ghose, Nagendra Chandra Chandra, Satis Chandra Chatterji, Sudir Chandra De, Sachindra Lal Mitra and Haripada Ghose (absconding) not only as participators in the Nangla and other dacoities but as members of a conspiracy with avowed object of overthrowing the British Government in India.

In addition to this documentary evidence, there is important oral evidence as to the existence of the conspiracy. There are witnesses to prove that the accused took a leading part in the boycott movement, that they delivered lectures of a revolutionary character and that they were in the habit of meeting together to discuss means to further their seditious propaganda, endeavouring to excite hostility to Government and urging others to join them by pointing out how easy it would be to get rid of the English whose numbers were so few as compared with their own. The Kumira Brati Samiti of which some of the accused were prominent members was suppressed by an order of Government in February 1909 (Ex. 24). This *samiti* was closely connected with the Calcutta *Anusilan Samiti* of which the Alka Samiti was a branch. This Alka Samiti again was the parent of fifty-two similar *samitis* (Ex. 4) to which many of the accused belong. The *Anusilan Samiti* and all its branches were also suppressed by order of Government. The association at various places including Calcutta, Khulna, Solepore, Kumira, Alka, Paikpara, and Dhulgram of all the accused sent up is proved by a large number of witnesses of whom the most important are witnesses nos. 6, 8, 13, 22, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 47, 59, 60, 68, 75, 78, 79, 82 and 90.

That there was a conspiracy, the evidence on the record leaves no room for doubt. It remains to show the connection with it of each accused separately. The evidence against Jotin Roy, Sarbeswar Haldar and Nilkantha Bhattacharji against whom sanction was also given, not being considered sufficient they have

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been accordingly discharged. Haripada Ghose is still absconding. The evidence against the thirteen other accused is as follows :—

Abani Bhuvan Chakravarti.—His own confession and statements sufficiently prove his complicity (Exs. 4, 18, 19, 26). There can be no doubt that they were voluntarily made and their truth has been proved by a long chain of corroborative evidence both oral and documentary already referred to. Apart from his own statements he has been shown to have been closely connected with the other accused in whose possession the revolutionary papers and diagrams were found. He has been proved to have been associated with all the other accused sent up at 15, Jorabagan, 15, Shampukur Lane, 61, Mirzapore Street and elsewhere and in connection with the Alka Samiti (among other witnesses 8, 24, 25, 27, 28, 29, 30, 41, 68, 75, 82).

Bidhu Bhuvan De.—He was arrested with Aswini and Brojendra at 15, Jorabagan at the time of the search when the revolutionary pamphlets were found there, while his diary (Ex. 20A) containing many suspicious references to the work of the association was found at his country house in P.likpara. His association with all the accused sent up has been proved (Exs. 3A, 15A, 15D, 15F, 20A, 21) and among others, witnesses (2, 8, 24, 25, 26, 27, 28, 30, 36, 37) and he has been implicated in several cases of dacoity and theft by Abani in his confession and statements (Exs. 4, 18, and 19). He has also been identified by witnesses (wits. 79 and 80) who saw him about the time of the Nangla dacoity under circumstances that afford a very strong presumption that he was on this day to take part in the commission of that dacoity. He is also shown to have participated in the collection of arms (Exs. 30, 15C, 16F, 16K).

Aswini Kumar Bose.—He was arrested with Bidhu and Brojendra at 15, Jorabagan and the key of the trunk in which the revolutionary pamphlets were found was in his possession, and was produced by him. He is also implicated in Abani's confession. Witnesses nos. 6, 25, 28, 29, 30 and others show his association with the other accused while many documents refer to him (Exs. 3A, 3C, 3D, 3N, 30-1, 30-2, 30-3, 15D, 16B, 16H) showing among other things his connection with 15, Jorabagan, 61, Mirzapore Street, and Solepore and the part played by him in procuring revolvers.

Nagendra Chandra Chandra.—His seditious writings found in the *Jessore Patrika* office have already been referred to. He has been prosecuted and convicted as the author of the poem *Palli Rani* in the *Pallichitra Magazine* published at Begerhat in this District. He has further been implicated by Abani (Ex. 4) as a member of the secret society and as connected with 15, Jorabagan (witness no. 8) and has been identified as having been with Bidhu presumably on the way to commit the Nangla dacoity (witness no. 79).

Among the documents that refer to him are many of his seditious poems and songs, while others show his connection with the other accused (Ex. 3A, 3D, 3B, 6, 7, 8, 9, 10, 11, 12).

Satis Chandra Chatarji.—He is implicated by Abani in the Gadgaebi, Kumira, and Kullya attempted dacoities, and in the Nangla dacoity; he is mentioned in Bidhu's diary (Ex. 20A). His association with Abani, Aswini, Sachin, Brojendra and Nagendra Chandra is proved by witnesses 24, 25, 26, 27 and 28 and his association with Nagendra Chandra and Kalidas on the day after the Nangla dacoity at Kanthalala Hat is proved by witness no. 44. The documentary evidence that concerned him is included in Exs. 3A, 3B, and 20A.

Kalidas Ghose.—He is implicated by Abani in all the dacoities and attempted dacoities except the Khaliskhali theft. Witnesses nos. 24, 25, 27, 28, and 44 prove

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his association with the other accused while a very large number of documents refer to him showing his connection with the conspiracy, specially the part played in procuring arms (Exs. 3A, 7, 8, 15, 15A, 15B, 15C, 15D, 15E, 15F, 16A, 16B, 2, 16G, 16H, 16I, 16J, 16K, 20A, 20B, and 23).

Sachindra Lal Mitra.—He is implicated by Abani as the originator of the Nangla dacoity and as concerned in the occurrence at Kumira and Kullya. He is mentioned in Bidhu's diary (Ex. 20 A). He was member of the Kumira Brati Samiti (witnesses 38, 39, and 40) and sent money to Sudhir Kumar De, member of the Alka Samiti (Ex. 40) living at one time at 15, Jorabagan (wit. 8), and there is evidence that he made extremely seditious and inflammatory speeches, saying that "if the people were all on one side the British Government could not exist and everything would be ours" (wit. 37) and again "that by combining we should be able to turn out the British and save India from them" (wit. 38).

Brajendra Kumar Dutta.—He was arrested at 15, Jorabagan with Bidhu and Aswini at the time that the revolutionary pamphlets were seized and he has been implicated by Abani as having been taken to Gadgachi in connection with the attempted dacoity there as a test of his fitness for admission into the secret society. A number of witnesses prove his association with the other accused at Paikpara and 61, Mirzapore Street and also his connection with the Alka Samiti (wits. 24, 25, 26, 28, 29, 30 and 82). Ex. 3A, 3B, 3N, 3O, 3V, and 15D also prove his association with them at 15, Jorabagan, 61, Mirzapore Street and 164-166, Ahiritola Street.

Nagendra Nath Sarcar.—Witnesses nos. 41 and 42 state that Nagendra was a member of the Shebak Samiti at Solepore, which was connected with the Alka Samiti. They prove his association with other accused and heard him give lectures advocating revolutionary measures, saying "one king cannot rule for ever." "A day must come when we must be victorious. Why should we remain under the control of the foreigners?" The documentary evidence against him is very strong, proving his association with the other accused (Exs. 6, 7, 9, 16B, 16C1, 16C2, 16C3, 16C 5 and 16C6) and also his connection with the purchase of a revolver and its transfer to Bidhu for use in the interests of the secret society (Exs. 15C, 16A, 16D, 16E, 1-5, 16F, 16G, 16H, 16I, 16J, 16K).

Sudhir Chandra De.—He is mentioned in Bidhu's diary and by Abani in his statement as a member of the Alka Samiti, from which Abani states that he got Rs. 100 which he made over to one Kartick Dutta, who has been convicted in the Bighati Dacoity case for the purchase of revolvers, (Ex. 40 shows that he received Rs. 45 from Sachindra Mitra of the Kumira Brati Samiti, while witnesses nos. 22, 29, 30, 34, 35, 36, 40, and 47 prove his connection further with the Alka Samiti and his association with other accused.

Kianu alias Pree Nath Pasi.—He is implicated by Abani, as having been concerned in the Nangla, Gadgachi, Kullya and Kumira occurrences. He has been identified by two witnesses (nos. 68 and 78), once with Abani and once with Aswini, en route to Nangla about the time of the dacoity, while other witnesses (nos. 28, 30 and 39) state that he was a member of the Alka Samiti and the associate of Abani, Sudhir, Brajendra and the others.

Mohini Mohan Mitra.—There is evidence (wit. 41) that Nagendra Chandra used to hold meetings in his house, in company with Mohini, Abani, Aswini, Nagen Sarkar, and Kalidas at which speeches of a revolutionary nature were made. Mohini himself being a prominent member of the Shebak Samiti and giving lectures on revolutionary subjects (wit.) 42. He lived at 15, Shampukur Lane, Calcutta, with Aswini and Nagendra Nath Mitra where Abani and Bidhu visited them (wit. 75).

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Mohini and others subsequently removing to 61, Mirzapore Street. The Exhibits that refer to Mohini are nos. 16 CL., 16C 6, and 17A which prove his association with the other accused and with the Anusilan Samiti.

Manmatha Nath Mitra.—Abani in his confession stated that they met in a certain house previous to the Nangla dacoity, the house proving to be Manmatha Nath Mitra's (Ex. 26-1-8). He is related to Sachindra Mitra and constantly associated with him and Bidhu, working for the Brati Samiti of which he was a member and at which Sachindra used to deliver revolutionary speeches? (Wits. 36, 37, 38, 39 and 40).

Considering the evidence against all these thirteen accused sufficient to prove that they did conspire to overawe by show of criminal force the Government of India and to deprive the King Emperor of his sovereignty of British India, I commit them to the High Court as aforesaid for trial before the Special Tribunal under Section 121-A of the Indian Penal Code.

District Magistrate.

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Telegram, dated Calcutta, the 27th June 1910.

From—The Commissioner of Police, Calcutta,
To—The Secretary to Government of India, Home Department.

Abani Chakravarti sentenced seven years' transportation in Nangla Dacoity case.

Pro. no. 63.

Telegram no. 676, dated Simla, the 29th June 1910.

From—His Excellency the Viceroy,
To—His Majesty's Secretary of State for India.

Please refer to Home Secretary's letter no. 401-Political, dated 31st March last. Nangla dacoity. Abani Bhusan Chakravarti has been sentenced to seven years' transportation.

Pro. no. 64.

Telegram, dated Darjeeling, the 28th June 1910.

From—The Chief Secretary to the Government of Bengal,
To—The Secretary to the Government of India, Home Department.

Please refer my letter no. 185-P.D., dated 22nd April 1910, regarding trial Abani Bhusan Chakravarti under Section 395, Indian Penal Code. On 27th June Special Tribunal sentenced accused to seven years' transportation. Letter follows.

Pro. no. 65.

No. 1898-P. D., dated Darjeeling, the 1st July 1910.

From—E. V. LEVINGS, Esq., I.C.S., Officiating Chief Secretary to the Government of Bengal,
To—The Secretary to the Government of India, Home Department, Simla.

I am directed to refer to my letter no. 185-P. D., dated the 22nd April 1910, reporting the commitment of Abani Bhusan Chakravarti, the hostile approver in the Nangla Dacoity case, to the High Court for trial under section 395, Indian Penal Code.

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2. I am now to report that on the 6th June, the accused was placed on his trial before a Special Bench in the High Court and that the hearing of the case was concluded on the 16th when judgment was reserved. On the 27th June the Honourable Judges delivered judgment and sentenced the accused to seven years' transportation. A copy of the judgment is enclosed.

3. The Government of India are aware that sanction has been obtained from the High Court for the prosecution of Abani Bhusan Chakravarti under section 193, Indian Penal Code. He also stands charged with 12 others in the "Khulna" conspiracy case for an offence under section 121-A, Indian Penal Code. The results of these trials will be reported to the Government of India in due course.

Judgment in the case of Emperor vs. Abani Bhusan Chakravarti delivered by Mr. Justice Holmwood at the High Court on Monday the 27th June 1910.

SPECIAL TRIBUNAL CONSISTING OF MR. JUSTICE HOLMWOOD, MR. JUSTICE SHAH-FUDDIN, AND MR. JUSTICE CHATTERJI.

Transcript by William Haydn, Shorthand Expert.

Holmwood, J.—The accused Abani Bhusan Chakravarti has been committed to this court for trial under the provisions of the Indian Criminal Law Amendment Act of 1908 under the following circumstances :—

On the 16th August last at about 1 A.M., a dacoity was committed in the house of one Mathura Nath Poddar, in the village of Nangla in the Khulna district, an information of which was lodged by Mathura Nath Poddar on the 16th August at 8 A.M. On this information a police investigation was started and several arrests were made.

On the 2nd September the present accused was arrested at the Daulatpur Railway station in connection with another dacoity case, known as the Bighati Dacoity case. The village Bighati being situated in the district of Hooghly, the accused after his arrest was ultimately lodged in the Hooghly jail as an under-trial prisoner.

It is stated that the late Khan Bahadur Shamsul Alum under instructions from Mr. Denham of the Criminal Investigation Department proceeded to Hooghly on the 12th September and under a permit given by the District Magistrate visited the accused in the jail. Shamsul Alum is dead and there is no material on the record to show precisely what passed between him and the accused, except that we learn from the statements of Mr. Denham who, accompanied by Shamsul Alum, visited the prisoner on the 13th September and at the Hooghly jail under the same permit, that Shamsul Alum told him on his return from Hooghly that the accused seemed talkative and wanted to say something. Mr. Denham thought that the accused might give him some information of some facts in connection with some of the dacoities committed and he suspected that the information might possibly be with regard to the Bighati and the Nangla dacoities.

Mr. Denham, as above observed, saw the accused on the 13th September when the accused made to him certain statements which made it necessary for Mr. Denham to send Shamsul Alum to the District Magistrate for a Magistrate to come and record the statement of the accused in the jail.

The Magistrate who was sent for the above purpose was Babu Kumod Nath Mukerji, who recorded a confession made by the accused regarding a number of attempted dacoities, as well as the Nangla dacoity itself, and admitting general association of the accused with other people for the purpose of committing dacoities in order to collect money for the purchase of arms and ammunition to be used against the Government.

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Under the orders of the District Magistrate of Hooghly Babu Sati Prosad Ganguli, Sub-Deputy Magistrate, was deputed to accompany the accused to the places, and scenes of attempted and committed dacoities described in the confession in order to verify the statements made by the accused therein.

The Sub-Deputy Magistrate started on his mission of verification with the accused to the above places and his enquiry commenced on the 17th September and ended on the 25th of that month.

On the 30th October 1909 Mr. R. C. Hamilton, the District Magistrate of Khulna, tendered a pardon to the accused under section 337, Criminal Procedure Code and after his discharge examined him as a witness in the Nangla Dacoity case. His examination lasted for two days, namely, the 30th and 31st October. Other witnesses were also examined by him to corroborate the statements made by the accused in his confession.

The statement of the accused as a witness before Mr. Hamilton appears to be an enlarged version of his confession as regards this case and in that deposition he has admitted that the confession that he had made was true and that after making that confession he had pointed out places and things to the Sub-Deputy Magistrate Sati Prosad Ganguly.

Mr. Hamilton on the strength of the statement made by the accused under a conditional pardon as corroborated by other witnesses and circumstances committed on the 3rd December 1909 (1) Bidhu Bhusan De, (2) Aswini Kumar Bose, (3) Kaildas Ghosh, (4) Nagendra Chandra Chandra, (5) Sachindra Nath Mitter, (6) Satish Chandra Chatterjee, (7) Monnotho Nath Mitter and (8) Kinu Rai *alias* Priya Nath Rai; to the Special Tribunal at the High Court for trial on a charge of dacoity and Nagendra Nath Sircar for abetment of the same under the provisions of the Indian Criminal Law Amendment Act after sanction had been obtained from the local Government. The present accused was sent up as a witness.

It also appears that there was a prosecution under section 400, Indian Penal Code of a number of persons in which Abani Bhusan Chakravarty was one of the accused. In this case also a conditional pardon was tendered to him and on its acceptance he was examined on oath in that case on the 22nd December 1909 and in his deposition he repeated his previous statements and particularly attested his deposition in the Nangla case and said that the evidence he gave in the Nangla case was true and his deposition in that case was correct.

When the case came on for hearing before the Special Tribunal the accused was examined as a witness on the 15th March 1909 when he resiled from the statements he had made in his confession of the 13th September and his statements made as a witness under a conditional pardon on the 30th and 31st October. In his statement before the Special Tribunal he said that his previous statements were false and were made at the instigation of the police and that he was tutored to make those statements and that he made those statements out of fear and through inducements. The result of the trial of the above mentioned accused was that they were discharged by that Special Tribunal for want of direct evidence.

On the 2nd April 1910 an application was made on behalf of the Crown to the District Magistrate of Khulna to proceed against the present accused under section 395, I. P. C. The accused Abani Bhusan Chakravarty was therefore produced before the District Magistrate and was asked whether he relied on the pardon as a plea in bar to his trial for dacoity and his reply was "I cannot say anything." The District Magistrate recorded some evidence with the object of proving that the accused when examined in this court resiled from his previous statements, and it having been proved that the prisoner after accepting a pardon from the Court had given false evidence, his pardon was declared forfeited and the District Magistrate

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accordingly put him on his trial under section 395, I. P. C. and committed him to this court under the provisions of the Indian Criminal Law Amendment Act, 1908 on the 14th April 1910.

The confession and his deposition before Mr. Hamilton give details as to his movements and those of his associates before, during and after the Nangla dacoity which find corroboration in numerous material particulars to the most important of which we shall now refer in delivering our findings on the evidence before us, and firstly, the Court finds that the dacoity took place at Nangla on August 16th 1909, as described by the villagers and the accused in his sworn deposition, secondly, the Court finds that there is no reliable evidence to show that the late Khan Bahadur Shamsul Alum exceeded his duty on the 12th September 1909 or that he held out any threat or improper inducement to the accused to confess. The confession recorded by the Deputy Magistrate Babu Kimud Nath Mukerjee appears to be in the actual words used by the accused and to have been made voluntarily. The few questions in the nature of cross examination at the end can be excluded without affecting the body and substance of the confession. This confession is fully corroborated by the discoveries at 15, Jorabagan Street, by certain incidents that transpired during the tour of verification by the witnesses who have given evidence in this Court, notably Nibaran Chander Dass and Dibendra Nath Ghosal, by the depositions on oath of the accused himself and by the correspondence found in the Jail. Thirdly, the Court finds that the verification of Mr. Ganguly is of very little value inasmuch as it was made on wrong principles and resulted almost entirely in an amplification of the confession and not in the discovery of any new corroborative facts and circumstances. The pointing out correctly of Sachindra Nath Mitter's house at Kumira and the altercation with the complainant at Nangla about the opening of the iron safe do, however, attest the *bona fides* of the accused and the facts that he was a witness of truth before Mr. R. C. Hamilton in the magisterial enquiry. Fourthly, the Court finds that deposition before Mr. R. C. Hamilton on the 30th and 31st October 1909 was made without any one to aid or suggest the facts to the prisoner and after he had more than a month for reflection during which he was at liberty to put himself under the protection of the Jail Superintendent and make any complaint of previous police influence that he desired. So far from doing so, he accepted the pardon as the sole inducement for speaking the truth and repeated his allegation that he was concerned in the Nangla dacoity on oath before Mr. Hamilton in a case under section 400 on the 22nd December 1909. Fifthly, the Court finds that the correspondence found in the Jail is in the handwriting of the accused and indicates an intention to suppress the truth, and previously deposed to in order to get the case against the accused disbelieved. Sixthly, the Court finds that the cross-examination of the prisoner in the Nangla Dacoity case contains many inconsistencies and admissions which corroborate his sworn depositions and the facts deposed to at the jail. Seventhly, the Court finds that the large body of oral testimony, though all the witnesses are by no means of equal value, amply corroborates the accused's own deposition as to his movements between the 25th 'Sraban' and the 1st 'Bhadro.'

On these findings the Court convicts Abani Bhusan Chakravarty of the dacoity charged against him under section 395, I. P. C. and under the provisions of that section read with section 59, I. P. C. the Court directs that the accused be sentenced to transportation for 7 years instead of awarding sentence of imprisonment for a similar term.

Telegram, no. 875, dated Simla, the 6th September 1910.

From—The Secretary to the Government of India, Home Department,

To—The Chief Secretary to the Government of Bengal, Darjeeling.

Pro. no. 66.

Your letter 1573-P.D., dated 13th June last. Khulna conspiracy case. Please report result of trial by Special Tribunal. Government of India have received no official report up to date.

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Pro. no. 67.

Telegram no. 2563-P.D., dated the 7th September 1910.

From—The Chief Secretary to the Government of Bengal.

To—The Secretary to the Government of India, Home Department.

Your telegram 875-Political, 6th September, regarding Khulna conspiracy case. On 30th August Special Tribunal, High Court, delivered judgment in case. Their Lordships convicted eleven out of thirteen accused and sentenced them as follows:—

Abani Bhusan Chakravarti, Bidhu Bhusan Dey, Kali Das Ghose, Nagendra Nath Chandra, Sachindra Nath Mitter and Aswini Kumar Bose to 7 years' transportation each; Sudhir Chandra Dey, Nagendra Nath Sircar and Preo Nath alias Kinu Pai to 5 years' transportation each; Brojendra Nath Dutt and Satish Chandra Chatterji to 3 years' transportation each. Mohini Mohan Mitter and Monmota Nath Mitra were acquitted. Copy of judgment will be submitted as soon as possible.

Pro. no. 68.

Telegram no. 898, dated Simla, the 11th September 1910.

From—His Excellency the Viceroy,

To—His Majesty's Secretary of State for India, London.

In continuation of Home Department letter dated 7th April 1910. Nangla dacoity. In Khulna conspiracy case which was sequel to Nangla Dacoity case thirteen persons were committed to Special Bench, High Court, Calcutta, under section 121-A, Indian Penal Code. Judgment delivered on 30th August. Six were sentenced to seven years' transportation; three to five years'; two to three years'. Two acquitted.

Pro. no. 69.

No. 4067-P, dated Calcutta, the 11th November 1910.

From—C. J. STEVENSON-MOORE, Esq., I.C.S., Officiating Chief Secretary to the Government of Bengal,

To—The Secretary to the Government of India, Home Department.

In continuation of my telegram no. 2563-P.D., dated the 7th September 1910, I am directed to submit herewith a copy of the judgment of the Special Tribunal in the Khulna conspiracy case.

JUDGMENT IN THE KHULNA DACOITY CASE, DELIVERED ON TUESDAY, 30TH AUGUST 1910.

Justices Harington, Holmwood and Dass.

Transcript by William Haydn, Shorthand Expert.

The prisoners in the case stand charged under section 121-A of the Indian Penal Code. It is the case for the Crown that there exists a widespread conspiracy to effect a revolution by violence and by force of arms to deprive the King of the Sovereignty of British India.

The allegation is that 13 persons who now stand in the dock are participators in that conspiracy and to justify the inference that the conspiracy exists and that the persons who have been placed upon their trial before us are engaged in that conspiracy, the Crown rely upon certain facts.

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The first important fact upon which the Crown relies is, that there was found in the possession of some prisoners a trunk containing documents advocating revolution by violence describing how some societies to that end should be organized and the lines upon which they should carry out their operations; how high explosives were to be manufactured and how, when prepared, they could be most readily employed for the purpose of murder and the destruction of persons. All the prisoners, it is said, were in close association with those in whose possession these documents were found and with each other and are found to be pursuing lines of action laid down in the documents which were discovered in their possession. For example the minds of persons, peaceful and contented, were to be inflamed by seditious writings, by songs and speeches, and from the prisoners it is alleged emanated seditious writings, seditious speeches, seditious literature directed to the end laid down in the documents found in their possession. Further, bands of men were to be organized for the purpose of actively propagating the doctrines of revolution and those bands were to be trained to warlike exercises and to undergo physical drill and instructions in the use of weapons. It is said that the prisoners were parties to these organizations or were members of such bands and that amongst these bands seditious speeches were made and the youth of the country who were attracted to them were trained to physical exercise and sword drill, so that they may take their part in the revolution of force which it was intended at some future time to bring about. Funds were collected for the purpose of propagating the doctrine of the conspirators and for the collection of arms and ammunition. These funds were to be collected by the association themselves, or were to be collected by robberies committed on the peaceable inhabitants of the country. It is alleged that the prisoners were parties to various robberies or attempts to rob, and lastly the Crown rely on the fact that the correspondence and documents found in possession of the various prisoners disclosed that they were engaged on some secret design which they were unable to express openly; and it is contended that the literature in the possession of the prisoners and the acts done by them point to the one conclusion, and that is that they were parties to the design which is charged against them in the indictment.

Now, with regard to the evidence which has been placed before us. The first piece of evidence which we think it right to refer to, is the statement of one of the accused persons, Aboni. This man was arrested on September 2nd—and on September the 13th he made a statement to a Magistrate named Komode Nith Mukerji. In that statement he implicated himself and a large number of persons in the conspiracy which is charged against the prisoners and out of the number that he implicated, he implicated eight persons who now stand charged. Later on in company with another Magistrate he went to the various points which he had referred to in his statement and pointed out various places which had been scenes of different incidents to which he referred; and later still, before the Magistrate he made depositions against his co-accused in certain proceedings which were instituted against them under section 395 and under section 400 of the Indian Penal Code. While in jail he had communication with another person who was in the jail, a man named Lolit and he intimated in that communication that he intended to withdraw what he said when he came to be called as a witness in the trial of the persons against whom he had made depositions before the Magistrate—and when a witness, he retracted what he had said and suggested that what he had said had been taught him by the late Shamsul Alum. Shamsul Alum was murdered in January. The communications which Aboni held with Lolit were in February and it is a very striking and significant fact that in the communications with Lolit so soon after that murder there is no suggestion that the late Inspector taught this man anything. That appears to us to be pure after-thought and the suggestion is made by Aboni because the man against whom it is made cannot be called to contradict it. It is clear to us that the statement made by Aboni in the presence

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of the Magistrate Komode Nath Mukerji was a perfectly voluntary and honest statement and that, with the statement made before the other Magistrate and his depositions, can be regarded at any rate as evidence against Aboni himself. That is the first part of the evidence on which the Crown relies.

Another piece of evidence—and to our mind a most important piece of evidence in the case—is the discovery of the documents in the possession of the principal persons amongst the accused. Now, these documents were discovered at no. 15 Jorabagan Street, on the occasion of a search made in the rooms there occupied by Bidhu, Aswini and Brojendra on the 2nd of September. In the trunk, which was found there, were documents which, in the ordinary course of things, would have been the property of the different persons who were found together in that room. The trunk was locked, the key was in the tin and was pointed out to the search party by Aswini. The trunk being unlocked there was found in it, amongst a great number of documents, two sets of documents which were of the first importance. One was three small paper books entitled the "Mukti Khone Pathi" and the other was a set of documents which may be described shortly as "confidential exhibits." Now the Mukhti Khone Pathe consisted of a reprint of articles originally published in a seditious newspaper called the *Yugantar*. These articles amongst other matters in supporting the view that there should be a revolution pointed out that a revolution has to be prepared for in two definite stages: one is the formation of public opinion, and the other is (to use the words of the writer) by brute force and the collection of arms. The Mukhti Khone Pathe goes on to show how public opinion is to be got and it recommends publication in newspapers, music, literature, preaching, the formation of secret meetings and secret associations. The second branch of the preparation for revolution, namely, by brute force and the collection of arms is also dealt with, and the paper sets out that arms must be purchased by money collected to that end by robbery. Further, that bombs should be prepared and that the attention of the youth of the country should be directed to the attainment of physical strength for the coming struggle.

That therefore, briefly, is the more important portion of the part played. Then there are the other documents which we have referred to as confidential exhibits. In those exhibits are to be found the details as to the organization of secret societies. There are to be found instructions of how high explosives and bombs are to be manufactured and the instructions are illustrated with beautifully executed pencil drawings which must have been made by a draftsman of very considerable skill. There is no evidence as to when the Mukhti Khone Pathe was published, but the confidential exhibits contain internal evidence that a portion of them at least has come into existence since April 1908. In that month an attempt was made to murder the Mayor and Mayoress of Chandernagore by throwing a bomb into the room in which they were sitting. Mercifully it failed to explode but a reference in one of the confidential documents to this aborted attempt and a discussion of the reason why that bomb did not go off, establish clearly that that particular document has come into existence since that attempt was made.

Now, those were the most important documents found in the possession of the persons at Jorabagan Street and on the occasion of the search the documents when found were signed by the prisoner Bidhu who explained that he took that precaution to guard against any document being interpolated by evil-minded persons. Now, to meet the difficulty which the accused find themselves in, the production of these extremely incriminating documents, it was argued by the defence that what were described as "confidential exhibits" were brought to 15 Jorabagan Street on the day previous to the search by a person named Jogi Rai. That Jogi Rai was a police spy, and, though I do not say it was stated in express terms, I gathered the insinuation was that those documents were put there by the police

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spy for the purpose of getting these persons into trouble. It becomes necessary to examine carefully the evidence to see if there is any foundation for such a suggestion or not. But before dealing with the evidence one is bound to make the observation that the "confidential exhibits" in a very remarkable way form what may be called the complement to what is to be found in the Mukhti Khone Pathe. The Mukhti Khone Pathe directly advises in strong terms the organization of bands; the confidential exhibits give the details of the manner in which these bands are to be organized. The Mukhti Khone Pathe recommends "bombs"; the confidential exhibits show how they are to be manufactured; and in short, the confidential exhibits would enable those who study them to carry out the general directions which are to be found in the Mukhti Khone Pathe.

Now, to establish the suggestion that these documents were something separate from those which belong to the prisoners, it was first sought to make out that they were tied up together in a bundle by themselves. Out of the three witnesses, the two officers engaged in the search were cross-examined on this point and they were both confident that these documents were not tied up in a separate bundle. The third, the independent witness, was not asked any question on this point. Now, if it were true that these documents contained matters unknown to the prisoners and had been brought by another man the night before, one would have expected a statement to that effect to be made at the time. No such statement appears to have been made and, moreover, if it had been the desire to preserve evidence of such a suggestion it was within the power of Bidhu to have recorded that statement. He was supplied with pen and ink and his name was affixed to each document as it was produced. It is impossible to believe if these documents stood apart from the other papers found in this trunk that Bidhu would not have made some endorsement to that effect, but as it is, they are treated in precisely the same way as all the documents which are found in the trunk. And moreover it is a significant fact, with regard to the knowledge of the contents, that in some documents, namely, those which give the illustration of the bombs, the signature appears in close juxtaposition to the pictures and description to be found in that document. Further, there is no evidence at all that Jogi Roy or any stranger came to these rooms the evening before and it appears that the first time it was suggested that these documents had been brought by Jogi Rai was in the statement made by Bidhu on the 8th September—six days after.

Taking all these facts into consideration and especially in view of the fact that these documents were treated by Bidhu just as the other documents found in the trunk, we have no hesitation in coming to the conclusion that the find was a perfectly genuine one and that these documents were, like the other documents in the steel trunk, in the joint possession of the persons who had occupation of 15 Jorabagan Street.

The next branch of the case to which it is necessary to refer is the evidence of association. It is unnecessary at this stage to discuss that evidence. It consists in letters found in the possession of the different prisoners, in a diary found in the house of Bidhu and in the mass of oral evidence, but it is unnecessary to discuss it because no serious attempt has been made by the defence to deny that these persons were in fact in association as alleged by the Crown, but what the defence say is that they were related and that the two Nogens and Kalidas were all inhabitants of Shodipore and they were therefore fellow villagers and it is pointed out that with the exception of Comeera and Jaga all the villages are within moderate distance of each other from which it is to be inferred, and it is contended that that association was a natural and innocent association of persons who come from the same part of the country and were in some cases related to one another. Well now, the statement of Aboni, the possession of the documents to which we have referred and the association of the prisoners who were in possession of those documents lead us to

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the conclusion that the Crown has established that a conspiracy existed having for its aims the objects stated in the charge and it now becomes necessary to see how far the evidence affects the particular prisoners who stand in the dock as indicating that they are implicated in this design and the first piece of evidence that we have to consider is the statement of Aboni to which we have referred a short time ago. Now, it is argued on behalf of the Crown that that statement comes within section 10 of the Evidence Act and is therefore to be treated as evidence against Aboni's fellow prisoners and it is said that if it does not fall within section 10 at any rate it falls under the provisions of section 30; it is the confession of one co-accused and may be referred to in the course of the trial.

It is argued by Mr. Roy with very considerable force that in any case its value can be no higher than that of a statement of an accomplice and indeed, that it has less value than the statement of an accomplice because an accomplice can be placed in the witness-box and can be cross-examined for the purpose of testing his accuracy, while this confession made by Aboni is made when he is one of the persons to be tried and therefore it cannot be tested in the witness-box by cross-examination. Now, there is of course very great force in that argument and further, we come to the conclusion that it could not be treated as evidence under section 10 of the Evidence Act. That section in our view is intended to make evidence communications between the different conspirators while the conspiracy is going on with reference to the carrying out of the conspiracy. No doubt section 10 is wider than the law of England in respect of the evidence in conspiracy, but we do not think that that section was intended to make evidence the confession of the co-accused and to put it on the same footing as communication passing between conspirators, or between a conspirator and other persons with reference to the carrying out of a conspiracy. But with regard to section 30 in our view, it being the confession of a co-accused, it can be looked at under that confession, but its value is discounted by the fact that it cannot be tested by cross-examination, and we should not think for a moment of putting it on any higher ground than a statement of an accomplice, or in any way be influenced by the statements in it except where those statements are corroborated by independent testimony implicating the accused persons in the design with which they are charged. But with regard to Aboni himself not only is the statement evidence against him, but the statement which he has made in what is termed a verification and the deposition he made before the Magistrate are all matters of evidence against him. The question as to whether the confession was made voluntarily was dealt with a short time ago and we need only observe that it is impossible for any person to read the letters which passed from Aboni to Lolit when those persons were in custody without being led to the conclusion that that statement that Aboni made as to the existence of a conspiracy and his part therein were true and were perfectly voluntary. In our view the evidence against Aboni is complete and it is unnecessary for the purpose of dealing with his individual case to go into the oral evidence which was given against him.

Then the next most important person amongst those in the dock is Bidhu. Now Bidhu was arrested at 15 Jorabagan Street on the 2nd of September in possession of gravely incriminating documents to which we have referred and in considering whether his occupation of that house where these documents were found is innocent, it is a very curious and significant fact that he does not use in his correspondence the address of 15 Jorabagan Street; on the contrary he uses an address in Ahiritolla Street, the address of a house belonging to the gentleman in whose employ Kalidas, one of the prisoners, was. Bidhu was not singular in using that address because the other persons who were with him in occupation of the room in 15 Jorabagan Street all used the Ahiritolla Street address and had apparently the same motive for concealing the address in 15 Jorabagan Street. Then there is

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the evidence that Bidhu was in association with Aboni and with Brojo—indeed, he was living with him when he was arrested—with Kalidas, with Satish, with Aswini, with Sudhir and with Kini Poi; and further when Bidhu's house was searched a diary was found which contains a mysterious reference to some enterprise which involves the sacrifice of all home ties, relations and so on—a severance apparently from all domestic relations.

Then there is another matter which we will only touch upon shortly. It relates to the movements, of Bidhu about the time when, according to the statement of Aboni in his confession there was an assembly of persons for the purpose of committing a dacoity at Nangla. According to Aboni the conspirators assembled at a place called Janakachia and they assembled there on the 13th of August intending to go to Nangla and carry out this robbery. In Bidhu's diary there appears a statement that he went on the 12th to Giahat, on the 13th to Myapore, on the 14th to Bogra and on the 15th he came to Burgapore. There is the evidence of the zemindar's naib and the postmaster of Aypore that Bidhu was at Janakachia on the 13th and that he came to the post office at Burgapore near Pikepara for the purpose of cashing a money order. The post master's statement seems important because the documents had reference to the money order and the monies in respect to it are produced and from that it appears that Bidhu was away on the 12th and that he came over and got the cash on the 13th. All this appears to us to amount to this, that excepting the evidence as to Bidhu's movements on the days to which we have referred, it would appear that the entries made in the diary do not disclose the real movements of the people at that time and would lead to the conclusion that for some purpose or other he desired that no person in whose hands the diary might subsequently fall should know that he had been at Janakachia. That, however, is perhaps the less important part of the evidence against Bidhu. There is the possession of the documents, the concealment of the address, the association with the conspirator Aboni which is quite sufficient in our view to establish that Bidhu himself was a party to the agreement that had been come to.

The next man is Aswini and he also is one of the party who was arrested at 15 Jcrabagan Street and he produced the key of the trunk in which the incriminating documents were found and in our view was equally responsible with Bidhu for the possession of those documents. He, like Bidhu, uses an address which was not that place he was residing in. When his house was searched a dagger was found on the premises and he is in association with Bidhu, with Brojen and with other members of the conspiracy. There are letters which pass between him, Nogen, Kalidas and a man named Haripado who at present has not been arrested, which lead us to the conclusion that he with these persons was concerned in the collection of arms. In our view he is as much implicated in the conspiracy as are the other persons with whom he appears, namely Bidhu and Aboni.

Then there comes Kalidas who was employed at 166 Ahiritolla Street and this was the address which was used by the persons who occupied 15 Jorabagan Street where the incriminating papers were found. Now Kalidas is shewn on the correspondence to have been concerned in selling a revolver to a man named Haripado to whom we have just referred. He is shewn to be corresponding with Nogen and Bidhu and his name appears in Bidhu's diary as one of the persons who was associated with him, and Bidhu's diary it must be borne in mind is a document which indicates that some unexplained designs was on hand in which Bidhu and the persons associated with him were interested in. There is oral evidence of the association of Kalidas with Aboni; further with Nogen, with Satish and with Brojendro. With those last three persons he was one of a party who was in the habit of visiting Bidhu's house at Pikepara and he was also in the habit of visiting Aboni, Bidhu and Satish when they resided at 61 Mirzapore Street. Amongst

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his other associates, too, was Aswini who was one of the party who was then at 15 Jorabagan Street. There is therefore association with persons who were undoubtedly engaged in a conspiracy. There is the address of the place in which Kalidas was employed which is used for the benefit of the persons who were associating at 15 Jorabagan Street and there is the deal in firearms.

It is argued by Mr. Roy that the deal in firearms should be held to be a private transaction on the part of Kalidas carried out for his own personal benefit, but when the transaction is looked at in the light of the correspondence with the different persons who are said to be engaged in this conspiracy we think the theory that it was a private business outside what they were engaged in would not be justified and we have no doubt that Kalidas was engaged in the procuring of firearms which was one of the lines of action laid down in the documents relating to the conspiracy which was found at 15 Jorabagan Street.

Next comes Nogendra Chandra Chandra. He is one of those who was found in association with Aboni, with Bidhu, with Aswini and with Kalidas. This association is proved not only by the oral testimony of witnesses who have been called, but by the numerous letters which have been discovered on the search of the premises occupied by the different prisoners. He was one of a party which was in the habit of visiting the house of Bidhu at Pikepara to which place he, Brojo, Kalidas and Satish resorted. He was one of those who visited 61 Mirzapore Street when occupied by Satish, Aboni and Brojen and further he is shewn in association with Nogen Sircar and Aboni who were persons in the habit of visiting Jogen. The evidence of association therefore with regard to Nogen is overwhelming, and a further fact which connects him with the conspiracy and makes it impossible to say that this association was the innocent association of friends, consists in the discovery of a mass of seditious literature of which Nogen Chandra Chandra was the author. A mass of writings is found in the handwriting of Nogen Chandra and it was stated in the course of the case that some of these writings had been published in a periodical. In our view Nogen Chandra Chandra is a party to the conspiracy charged, his particular rôle being the dissemination of seditious writings which is one of the lines on which public opinion is to be formed as recommended by the authors of the Mukhti Khone Pathe.

The next man we have to deal with is Sachindra Lal Mitter. In his case there is evidence of association both with Bidhu and with Aboni and it is shewn that he was a prominent member of one of the band which is described as a "Samiti" to which the prisoners belonged. There are respectable witnesses who being present at the meeting of the Samiti depose to the nature of the speeches they heard Sachindra make. We see no reason to doubt that the evidence they have given is substantially true and Sachindra was one of those who occupied himself at these meetings in preaching the doctrines which the conspirators desired him to promulgate. Now, amongst the other witnesses who speak to Sachindra, there is a man who was the postmaster and head panchyat at Comira. He speaks to Sachindra as an active member of the Samiti and it is a very significant fact that at first this gentleman attended the meetings and only withdrew on learning that there were secret meetings held under the wing of the meeting and that the object of these secret meetings was to effectuate a treasonable conspiracy. That he learnt from a man who is described as one of the principal persons of the Samiti. Well now, the result of his withdrawal appears to have been that threats were made against him and he seems to have reason for supposing that his life was in some danger.

For the defence it was suggested that these were not threats but friendly warnings. Whether threats from a foe or the warnings of a friend, in either case they seem to us to throw a very significant light on what was being carried on under the wing of the Samiti.

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The learned counsel for the Crown attacked the courage of this witness, we think, rather unreasonably. On the contrary although the man appeared to have reason to suppose that he was incurring some personal danger, in our view he showed no lack of courage in sticking to his post at the village in which he resides and in carrying out his duty as a man notwithstanding the threats which had been made against him. Further, Sachindra's position with regard to the association appears in a diary found in the possession of Bidhu, or rather found in Bidhu's house when that place was searched on the 2nd of September. That document contains a statement of how the writer had (to use his own expression) "on arrival at Alka met everyone", and then he gives a list of the names including a man named Sudha and narrates how in their opinion it was not well done by going to Comira with Jogin or to give so much authority to Sachin. "This authority however did not commend itself to me for it is not well worked and may be spoilt by reason of the authority. Sachindra was also a man fond of asserting his authority." That statement in Bidhu's diary corresponds well with the oral evidence as to the position of Sachindra in respect of the Samiti where he is described as a prominent member and a man who makes seditious speeches. We have no doubt that Sachindra is party to the conspiracy charged.

The Advocate General here interrupted saying it was not he who spoke of the witness's courage to which their Lordships had referred to.

His Lordship Mr. Justice Harrington said he remembered the incident very well and their Lordships had observed it to each other at the time.

The next case we have to consider is that of Nogen Sircar. He is shewn to be a member of the Samiti in association with the other persons who have been shewn to belong to the conspiracy. The correspondence shows that he was engaged together with Kalidas in dealing in arms and the letter passing between him and Haripado contains a clear reference to the revolver which is said to have been procured by Kalidas. And then further in the correspondence there are some very significant letters referring to what is described as "jhamma." The defence say that this jhamma refers to that which the word means in its ordinary sense, that is to say, a coat, and it is said that this particular coat referred to was comparatively a costly article which was used in theatrical entertainments. Now a letter was found on the 8th August which bears the postmark of the 8th of August and contains the intimation that Bidhu was in want of a jhamma. It is a letter written to Nogen Sircar and it was stated by one of the witnesses to have been in the hand of Kalidas; but whether in the hand of Kalidas or not it is sent to Nogen Sircar and it refers to this jhamma. "You shall keep the jhamma with you. When Bidhu Babu goes there and asks you for the jhamma give it to him for he has no jhamma. Till he sees you do not part with possession of the jhamma." Now, that is on the 8th of August. On the 18th of August there is another letter which refers to the jhamma. That is signed by Bidhu and addressed to Nogen "at that time I shall give you your jhamma" and it contains the passage "what about your theatre" which is the foundation we say of saying that the jhamma referred to is a theatrical coat. These letters show that for some reason or another Bidhu had need of a jhamma on the 8th or 9th of August and that that need had come to an end on the 18th of August or 19th of August and that he was ready to return the jhamma to Nogen.

Now, it is said by the Crown that the jhamma means a revolver or weapon of some sort. It certainly is a remarkable fact that a dacoity did take place on the night of the 15th or 16th August in which a revolver would have been of use to Bidhu, for he was concerned in that transaction. Well, there is nothing on the correspondence or in Bidhu's diary to show that on any of those days he was engaged in any theatrical performance, from which it may be inferred that he had

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need of a theatrical coat : so far from the diary containing any indication that there was any performance of that sort, if it could be accepted as accurate to that extent, it would show that there was not any such performance. The circumstances go to indicate that, if the oral testimony is true, Bidhu was one of those who assembled at Jhanakachia just previous to the dacoity ; that Nogen was dealing in an article which would have been useful to Bidhu if he was in favour of this transaction, and that article cannot be explained by a theatrical coat, but it is far more probable that it does refer as Aboni says to a revolver or some other thing of violence. The result of the evidence of his association coupled with the evidence which shows that there was a deal in fire arms by this man with the other conspirators, lead us to the conclusion that he was implicated in this conspiracy. But while we have come to the conclusion that he knew and assented to the design in respect of which he is indicted, we think he ought to be given the benefit of a statement made in respect of him by Aboni from which we have been able to infer that he was not one of what may be called the inner ring comprising the more important and more efficient of the conspirators.

The next man to be considered is Kennu Poi. He is shewn to have been an associate of Sudhir, Bidhu, Aswini, and Aboni. He was a prominent member of the Samiti or Akhara and he appears to have been a person of considerable physical vigour because he is described as leading an attack on the foreign goods which were exposed for sale in the market. His particular duty or line appears to have been the teaching of lathi play for the purpose of improving the physique of those who were members of the Samiti. There is the evidence of a man named Nibaran which we think ought to be accepted, that he was one of the party who assembled at Janakachia just before the Nangla dacoity and the circumstances of his position in the Samiti, of the line of action which he followed, and the association with the persons to whom we have referred induce us to come to the conclusion that he was in agreement with the others with regard to the object ultimately to be attained by these persons ; but we think he falls into the same rank as the man that we have last dealt with and does not occupy so important a place in the ranks of the conspiracy as are filled by the first six persons with whom we have dealt.

Next, there is the case of Sudhir Kumar De. Sudhir was also an active member of the Samiti and he was a person who was occupied in the physical training of the young men who came under the influence of this Samiti. He was a prominent teacher of lathi play and physical exercise and he was in association with Bidhu and Aswini, with Aboni and with Kennu Poi. His name appears in the diary of Bidhu as one of a party with whom he was associating. The oral testimony as to his work in promoting the physical training of young men in association with other persons whom we found to be members of a conspiracy, his association with those persons and the reference to him in Bidhu's diary show that he should be placed in the same category as the last two persons, namely, as one of those who is in agreement with the conspiracy but occupies a subordinate position in it.

There remain two persons, Brojen and Satish Chatterjee. Now, with regard to the first, the matter against him which is more serious is, that he was arrested at 15 Jorabagan Street and that he like the other conspirators used the Ahiritolla Street address to conceal his residence at the other address. He is shewn to have been in association with Sudhir, with Aboni, with Kennu Poi, Nogen Chandra, with Kalidas and with Satish, but at the same time the evidence does not point to his having taken any very active share in the carrying on of the lines of action which are laid down in the conspiracy. At the same time it is impossible to believe, that he could have been in association with these persons and have lived with the principal conspirators at 15 Jorabagan Street and have had access — which we conclude he had — to the trunk because documents belonging to him

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were in it, without knowing and approving the designs of the persons with whom he lived, and if he knew and approved of these designs, then he is guilty of conspiracy within the meaning of the section under which he stands charged.

Satish is also shewn to be in association with Brojen, Kalidas, Nogen Chandra, Aboni and Bidhu and he was one of that party that used to visit the house of Bidhu in company with the other persons who were concerned in the conspiracy. It appears from Bidhu's diary that Satish was one of those who formed a party of which Bidhu was a member and he is stated by a police constable to have been seen in close neighbourhood of a boat which was alleged to have been conveying the persons who had committed the dacoity at Nangla away from the scene of their operations. With regard to this evidence of identification, although it is perhaps not very strong evidence, we think at any rate that it was *bonâ fide*, and we think so for this reason. If the constable desired to come and say that which was untrue for the purpose of benefitting himself as an active officer, or for getting the prisoners into trouble, it would be perfectly easy for him to identify more persons in that boat. The circumstance that he identified this man as getting out for a particular purpose seems to us to show that at any rate the constable was *bonâ fide* in the evidence which he gave with respect to Satish. Then there is another circumstance which appears in Bidhu's diary which seems to us to indicate without any doubt that he belonged to a party of these conspirators. Bidhu in his diary laments the conduct of Satish who was engaged with him in some mysterious enterprise and he laments the conduct of Satish in indulging in some immoral habits and acting in a way which was at any rate undesirable and rather strikingly discusses whether this conduct shall not make him give up all the business and then he comes to the conclusion that he has sacrificed so much, he must stick to it notwithstanding. It is very difficult to read that part of the diary without seeing that Bidhu is referring to those who associated with him in the work upon which he had embarked and is lamenting the conduct of a particular man Sachindro which would bring discredit on the whole party. In our view Satish was a party to the agreement and comes within the terms of the section.

Well, now we have to consider the evidence in respect of the two other persons Mohini and Monmotho. Mohini is shewn to be a member of the conspiracy, but it is singular that the speeches with which he is credited are in themselves comparatively harmless and if we regarded as established that he had said what he is alleged to have said, those speeches would hardly come within the lines laid down by the Mukhti Khone Pathe or the confidential exhibits. There is a letter amongst the correspondence which one may say would arouse suspicion against Mohini, but it is a letter written so long ago as the month of January 1907, and we do not think it would be right to press that letter of years ago against Mohini.

Now, the oral evidence to implicate him in the conspiracy happens to be that of certain witnesses whose evidence with respect to Mohini, at any rate we think, should be received with very great caution and it is very significant that he is not mentioned at all by Aboni. That he was in association with Aswini has been established, but then on the other hand it is equally shewn that he was a relation of Aswini's and therefore the association with Aswini cannot be pressed against him without something further to show that the association was in respect of the conspiracy. It was stated that he was associated with Bidhu, but when the oral evidence on that point comes to be examined it appears to be only that of a witness who stated that he was in association with Bidhu and therefore cannot be taken as evidence of association. We have given the best consideration we can with regard to the evidence relating to Mohini and we think there is in this case that element of doubt which renders it right that he should be acquitted on the charge which has been made against him.

Then with regard to Monmotho the evidence against him is considerably weaker than that which has been given against the other accused. The principal