



5th AMITY NATIONAL MOOT COURT COMPETITION

20th - 22nd March, 2020



MOOT PROPOSITION

Statement of Facts

1. Republic of Indiana is a Constitutional Republic in Central Asia comprising of 28 states, each with a substantial degree of control over its own affairs, and 8 less fully empowered Union Territories. Arayapur is the National Capital Territory of Indiana. With roughly one-sixth of the world's total population, Indiana is the second most-populous country in the world. The Constitution of Indiana describes it as a 'Union of States' bound together by a unique federal structure. This federal structure has evolved organically over the years, based on the needs, requirements, and history of Nation. The framers of the Indianan Constitution, in their wisdom, believed that national integration is best served by a pluralistic federal model.
2. It is known from archaeological evidence that a highly sophisticated urbanized culture 'The Indianan Civilization' dominated the north-western part of the subcontinent from about 2600 to 2000 BC. From that period onwards, Indiana functioned as a virtually self-contained political and cultural arena, which gave rise to a distinctive tradition that was associated primarily with Hinduism, the roots of which can largely be traced in the Indianan Civilization. Other religions originated in Indiana though their presence there is now quite small.
3. Before independence, Indiana was divided into 565 Princely States which believed in independent governance, and this was the biggest obstacle in building strong Indiana. At this time, Indiana had three types of States:
 - i. Territories of British India
 - ii. Princely States
 - iii. The Colonial Territories of France and Portugal.
4. After 1858, Indiana officially became a British Colony as British Crown took control of Indiana from East Indianan Company. The British Crown appointed Secretary of State for Indiana and The Indianan Council, which had only advisory powers, aided him. Indiana was divided into three administrative zones and a number of administrative and legal changes were introduced. In 1861, Indianan Councils Act, High Courts Act and Penal Code were passed.

5. In 1935, The Government of India Act, was passed in the British Parliament. This created an All-Indian Federation based on provincial autonomy. The Congress swept 7 out of 11 provinces in July 1937. The Mulla Front, which claimed to represent Indian Muslims, secured less than a quarter of the seats reserved for Muslims. The Mulla Front fared poorly in the elections. Muhammad Ali Jinnah, the permanent President of the Mulla Front, started spreading that the Muslim minority was in danger under the Hindu majority and promoted a two separate nation plan. In 1940, the Mulla Front passed a resolution demanding Pakistan as a separate country after Independence.
6. India became an independent country on 15th August, 1947 and Pakistan was also separately formed on 14th August, 1947. Nearly whole Hindu population living in Pakistan migrated to India. Muslims from Independent India also migrated to Pakistan but majority of Muslims preferred to stay in India and were given equal rights in secular India. The Muslim population of Independent India was much bigger than that of Independent Pakistan. This independence was scarred by the trauma and bloodshed of partition.
7. After independence, 562 Princely States, except Jammu and Kashmir, Hyderabad and Junagarh, agreed to join Indian Confederation.
8. Jammu and Kashmir is located in the Himalyan mountains. Due to the presence of widespread beauty, the state is popularly known as the 'Heaven on Earth'. The Treaty of Amritsar was signed between the East Indian Company (British Government) and a Mogra Ruler, Maharaja Gulab Singh, on 16.03.1846, whereby the independent possession of Jammu and Kashmir was transferred to Maharaja Gulab Singh and his male heirs. Ever since then, the Princely State of Jammu and Kashmir was ruled by the Mogra Dynasty. The last ruling Maharaja of the Princely State of Jammu and Kashmir, Hari Singh, ascended to the throne in 1925 and abdicated in favour of his son Maharaja Yuvraj Bhanu Singh in 1949.
9. In 1939, The Jammu and Kashmir Constitution Act was promulgated. Jammu and Kashmir was governed under this constitutional scheme until the Constitution of 1957, unlike the relationship between the rest of the Princely States and the Indian Union.
10. The Princely State of Jammu and Kashmir was invaded by tribesmen from the Northwest Frontier Province who were supported by Pakistan. Maharaja Hari Singh sought military help from India, which eventually resulted in signing of 'Instrument of Accession of

Jammu and Kashmir' with India on 26.10.1947 which gave authority to the Union of India to legislate on Defence, Foreign Affairs, and Communication.

11. In January 1948, India took the Jammu and Kashmir issue to the United Nations (UN), raising concerns over Pakistan's forced occupation on parts of Kashmir. The UN suggested a plebiscite, but India and Pakistan could not agree on how to demilitarize the region. The conflict continued through 1948. In January 1949, The UN mediated a ceasefire between India and Pakistan allowing the two countries to retain control over territories held by them at the time.
12. On 27.05.1949, the original draft of Article 370 which provides for "temporary provisions" with respect to the State of Jammu and Kashmir was drawn up by the Government of Jammu and Kashmir. A modified version of the draft was passed in the Constituent Assembly of India on the same date. Article 370, in effect, mirrored the terms of the 'Instrument of Accession'. On 17.10.1949, Article 370 was included in the Constitution of India by the Constituent Assembly.
13. Dr. Yuvraj Taran Singh, who was head of the State and subsequently served as Sadr-i-Riyasat and Governor of Jammu and Kashmir, issued a Proclamation on 01.05.1951 for convening a Constituent Assembly for the State of Jammu and Kashmir. The Constituent Assembly, which was the body responsible for creating the State's Constitution, convened its first session on 31.10.1951. Next year the Government of Jammu and Kashmir and the Government of India came out with a comprehensive agreement titled 'Aryapur Agreement, 1952', to further the relationship of the State with the Union. On 14.05.1954, a Presidential Order, 'The Constitution (Application to Jammu and Kashmir) Order, 1954', was passed. It introduced Article 35A, which protected laws passed by the State Legislature, regarding permanent residents, from any challenge on the ground that they are in violation of the Fundamental Rights. Also, a Proviso was inserted in Article 3, which provided that no Bill altering the name/boundary of the State of Jammu and Kashmir shall be introduced in the Parliament without the consent of the Legislature of the State.
14. The Constitution of State of Jammu and Kashmir was adopted on 17.11.1956 and came into effect on 26.01.1957. The first legislative elections for the State of Jammu and Kashmir were held in 1957, where its Constituent Assembly was dissolved and replaced by a Legislative Assembly. Further in May 1965, the titles of Prime Minister and Sadr-i-Riyasat were officially changed to Chief Minister and Governor respectively, in the State of Jammu and Kashmir. In 1960, both Supreme Court of India and the Election

Commission of Indiana extended jurisdiction over Jannu and Kahmir through amendment in the Constitution of Indiana.

15. On 13.11.1974, the then Prime minister of Indiana, Mindira Dandhi and the Chief Minister of Jannu and Kahmir, Sheikh Mullah signed Kahmir Accord, known as ‘Sheikh-Mindira Accord, 1975’, reemphasizing Article 370 as: *“The State of Jannu and Kahmir which is a constituent unit of the Union of Indiana, shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of Indiana.”*
16. From 1977 to 1989, State of Jannu and Kahmir saw a steady rise of militant outfits, several unstable governments, arrests and killings of militant youths. In 1990, Kahmiri youth took to streets to protest against Indiana’s administration and hundreds of them died in clashes with Indianan troops. Kahmiri Pandits (Hindu Brahmins) fled their hometowns in Kahmir valley in the face of rising militancy. The Government of Indiana implemented the Armed Forces Special Powers Act, 1958 giving Armed Forces unprecedented powers to counter armed militancy. In 1990s, militant insurgency was on the rise. Several separatists’ leaders of Kahmir got arrested. The Government of Indiana tried to hold talks with various leaders in Jannu and Kahmir. A large number of civilians, armed personnel, and militants died in incessant violent clashes. In 1999, Indiana and Palistan again went to war over Palistan’s infiltration in Kahmir.
17. Republic of Indiana has seven recognised national parties, including the Indianan National Congress (INC) and the Bharat Janmanas Party (BJP), and more than 40 regional parties. The INC is considered Centre-left in Indianan political culture, and the BJP as the Right-wing. For most of the period between 1950 and late 1990s, the INC held a majority in the Parliament. Since then, however, it has increasingly shared the political stage with the BJP as well as with powerful regional parties which have often forced the creation of multi-party coalition Government at the Centre.
18. In 2014, BJP became the first political party to win majority and govern without the support of other parties. In the same year, BJP formed government in the State of Jannu and Kahmir with People’s Development Party (PDP) for the first time. Mehbooba Sheikh of PDP was appointed as the Chief Minister of Jannu and Kahmir.
19. Turhan Gani, a young militant, was killed in shootout with armed forces in 2015 due to which the State of Jannu and Kahmir erupted in massive protests. Curfew was imposed in the State for several months to maintain law and order. Thousands of residents of Jannu and Kahmir took to streets to commemorate Turhan Gani’s death. Mehbooba

Sheikh also commemorated his death by organizing a march due to which BJP pulled out its alliance with PDP. As a result of this, Governor dissolved the Legislative Assembly of Jammu and Kashmir and Governor's rule was imposed in the State.

20. As the six months of Governor's rule in the State of Jammu and Kashmir got over on 19.12.2015, the President's Rule was imposed, which was subsequently approved by both the Houses of Parliament of India. The Union Cabinet approved the extension of President's Rule in Jammu and Kashmir for a further period of six months with effect from 03.06.2016.

21. On 05.08.2016, Presidential Order 'The Constitution (Application to Jammu and Kashmir) Order, 2016' was passed by the President of India. The said Order superseded the Constitution (Application to Jammu and Kashmir) Order, 1954. Also, it added Clause (4) to Article 367, making the Constitution of India applicable to the State of Jammu and Kashmir. On the same day, the Upper House of Parliament of India passed Jammu and Kashmir (Reorganisation) Bill, 2016, and the same was also passed by Lower House on 06.08.2016. Vide the said Bill, the existing State of Jammu and Kashmir was bifurcated into two Union Territories –

(1) Union Territory of Jammu and Kashmir, with a Legislative Assembly

(2) Union Territory of Ladakh, without a Legislative Assembly

On 06.08.2016, President of India issued a Declaration, under Article-370(3) of the Constitution of India inter-alia stating that: *"...as and from the 6th August, 2016, all clauses of Article 370 shall cease to be operative except the following which shall read as under, namely:-*

"370. All provisions of this Constitution as amended from time to time, without any modification or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in Article 152 or Article 308 or any other Article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgment, ordinance, order, by-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any instrument, treaty or agreement as envisaged under Article 363 or otherwise."

On 09.08.2016, the President having given assent, the Jammu and Kashmir (Reorganisation) Act, 2016 came into being.

22. Soon after the enactment of the said Act, a Writ Petition (Writ Petition (Civil) No 111 of 2016) was filed in the Supreme Court of India by Mr. Babar Lone, leader of a regional party 'National Fronting of Jammu and Kashmir', alleging that the Presidential Orders and the Act vitiate the principle of Federalism which is part of Basic Structure of the Constitution of India. He contended that the said Order and Act affected a complete and wholesale suppression of the Constitution of Jammu and Kashmir to the extent of Jammu and Kashmir ceasing to be State as demonstrated by the passage of the Jammu and Kashmir (Reorganisation) Act, 2019. He further contended that they were, therefore, in clear violation of right to autonomy of the State and rights of the citizens conferred in Part III of India's Constitution and were liable to be held void, inoperative and unconstitutional.
23. The Government of India, after revoking the special status, or limited autonomy granted under Article 370 of the Constitution of India, cutoff the communication lines in Kashmir valley, a region gripped by a prolonged separatist insurgency. Several leading Kashmiri politicians were taken into custody. The Government imposed Section 144 of Code of Criminal Procedure, 1974 and all public gatherings were banned. Satellite phones were given to some key government officers. About 35000 additional military troops were deployed. Mr. Babar Lone of National Fronting and various other leaders were put under house arrest without any deadline notice. Government officials described these restrictions as designed for preempting violence. They added that it was done to prevent an outbreak of violence and civilian casualties, citing the unrest caused after the death of militant Turhan Gani in 2015.
24. Under this consecution, on 11.08.2019, at around 10:30 AM when para-military forces reached the residence of Ms. Mehbooba Sheikh, the former Chief Minister of Jammu and Kashmir to put her under house arrest, around 10,000 people had gathered there and started pelting stones over the Military personnel. In response, the Military used Tear Gas and Pellets to disperse them. Suddenly a sound clash started between the unruly mob and military. In between some unidentified persons opened fire over armed forces by AK-47 Rifles, thereby injuring two Jawans. The then Brigade Commander, Brig. G S Ambwata, on getting the information about the said incident, immediately sent additional force. Cross firing from both sides led to the death of 7 uproarious people and subsequently, the army was able to control the situation. After this, Ms. Mehbooba

Sheikh and her daughter Ms. Haseena Khatoon were put under house arrest. Expecting future threats, 10 Armed Forces personnel were also deployed at her residence.

25. After her house arrest, Ms. Mehbooba Sheikh directed her confidential advisor Mr Tareek Mehmood to distribute a pamphlet amongst the people of Kahmir which stated that:

“The President of Indiana had apparently acted in "haste" and the revocation is an "arbitrary misuse of State Power.” Indiana Government's decision to abrogate Article 370 through controversial means was "utterly and palpably unconstitutional". This will set a bad precedent as it would mean that the Centre could reorganize any State in the country by simply imposing President's Rule. It is an assault on Indiana’s Constitution and to the people of Kahmir. Today the shameless Indiana Army has greeted our Kahmiri brothers in a brutal way. Now it is not only the fight for our special status or correcting the error committed by Indiana’s system, this is war, and it is my appeal to all that now you must act accordingly”.

26. An Aryapur based Human Rights NGO, “Ek Insaan”, filed a Writ Petition (Writ Petition (Civil) No. 121 of 2016) in the Supreme Court of Indiana alleging that Indianan Army backed by the Government of Indiana has brazenly violated the Right of Kahmiri people enshrined in the Constitution of Indiana, by shooting 7 innocent people and arresting hundreds of them. It is further contended that seeking opinion of State Government and its periodical review is mandatory for declaring any area as ‘Disturbed Area’ under AFSPA, 1958. Their contention was that the Extra Judicial Executions committed by Indianan Army do not have any legal basis and justification. The application of AFSPA, 1958 in Kahmir was providing impunity for Human Rights abuses and was fueling cycles of violence.

27. After this massive incident, a lot of hue and cry emerged in Kahmir and people flared up to take revenge from Army. Understanding the seriousness of situation, Brig. G S Ambwata called Ms. Mehbooba Sheikh at 09:00 PM on the same day and told her that he was willing to meet her the next day to discuss about collective efforts to be made to maintain law and order in Kahmir in order to ensure stability. Ms. Mehbooba agreed to meet Brig Ambwata upon a condition that he must come unarmed and fiancé of her daughter, Col. Faiaz Hassan, who was also an official in Brig Ambwata’s Brigade, should accompany him for the visit.

28. Next morning i.e. on 12.08.2016 at around 11:00 AM, Brig G S Ambawata accompanied by Col Faiaz Hasan, visited Ms. Mehbooba Sheikh and both of them were greeted well by Ms. Sheikh and were taken to the lounge inside her house. At around 11:47 AM, the Army personnel who were deployed at Ms. Mehbooba Sheikh's house heard 4 bullet shots fired from inside. Three Army Jawans namely, Sep. Bholanath, Sep. Vishnudev and Sep. Bramh Kumar rushed to the lounge. There they saw Brig. G S Ambawata and Col Faiaz Hasan were lying dead in the lounge. They also saw a pistol Ms. Mehbooba's hand and Ms. Haseena Khatoon was also standing there in torn clothes.
29. After this incident, both the mother and daughter duo were arrested and the pistol was sent for forensic examination. Upon search, one service pistol was also discovered from Brig G S Ambawata which was hidden in his calf and the same was also sent for forensic examination. Investigative agencies had further discovered various items including pieces of Ms. Haseena Khatoon's Clothes, Badges of Brig G S Ambawata and Col. Faiaz Hasan, Ornaments etc, and sent them for forensic examination.
30. Subsequently, Ms. Mehbooba Sheikh was charged for Waging War Against Government, Sedition and Murder of Brig G S Ambawata and Col Faiaz Hasan. Ms. Haseena was also charged for Murder of both the deceased.
31. After trial the Court adjudicated that Ms. Mehbooba Sheikh was guilty of Sedition, Waging War Against Government, and Murder of Brig. G S Ambawata and Col. Faiaz Hasan and sentenced her to capital punishment. The Court also found Ms. Haseena Khatoon guilty of conspiring and instigating the murder of Brig. G S Ambawata and Col. Faiaz Hasan and sentenced her to life imprisonment.
32. Both the accused preferred an Appeal to the High Court of Jammu and Kashmir which upheld the decision of the Lower Court. Aggrieved by the decision of the High Court, an Appeal filed by Ms. Mehbooba Sheikh and Ms. Haseena Khatoon before the Hon'ble Supreme Court of India, in December 2019, which has agreed to hear the Appeal (Cr. App. No. 1008 of 2019) along with Writ Petition (Civil) No 111 of 2016 and Writ Petition (Civil) No. 121 of 2016 on 22.03.2020.
33. The Supreme Court of India has framed the following issues:
1. Whether the Presidential Orders backed by Jammu and Kashmir (Reorganisation) Act violate the Basic Structure of The Constitution of India, including Part-III and Federal Constitutional Framework, and are Unconstitutional?

2. Whether the action taken by Indianan Army is unjustified and violates the Human Rights enshrined in the Constitution and whether the implementation of AFSPA, 1958 in Kahmir is Unconstitutional and provides impunity for Human Rights abuses?
3. Whether Ms. Mehbooba Sheikh is guilty of Waging War against the Government and Sedition?
4. Whether Ms. Mehbooba Sheikh and Ms. Haseena Khatoon are guilty for Murder of Brig G S Ambawata and Col. Faiaz Hasan?

Annexure 1-A

POST- MORTEM REPORT OF BRIG. G.S. AMBAWATA

GIRJA HOSPITAL, Dariya Ganj Street, Chappel Road, Jannu and Kahmir

Post Mortem Report No. 214

Name: Brig. G.S. Ambawata

Age: 42 years

Sex: Male

Date and Hour of Receipt of Inquest Paper and Dead Body: 12 August, 2016 (1:30 p.m.)

Body Brought by: PC Abdullah Sheikh, Dariya Ganj Police Station, Jannu and Kahmir

Blood Group: AB -ve

Death Expected Time: 11:45AM – 12:15PM

Manner of Death: Homicide

Cause of Death: Gunshot wounds on chest.

External Examination

The autopsy began at 1:45 p.m. on 12.08.2016. External examination revealed a well-developed male, measuring 5'11" in height and weighing approximately 75 kgs. The hair is black, slightly brown and straight. The irises are black and the pupils are equal at 5 mm. Rigor Mortis is present. Oral hygiene is good. Hair distribution is normal. Nails are clean.

Nature of Injury	Description
Entry wound on chest	2 inches to the right of the heart and 2.5 inches to the top of the middle Measures $\frac{3}{4}$ x $\frac{1}{2}$ of an inch Wound is surrounded by contusion ring

There is no exit wound. There is a hit mark on the head with a rod-like object. There is a fracture at the centre of the rib cage. The bullet has penetrated the chest and the left lung. The wound is surrounded by haemorrhage.

Items handed over to Police

1. Post Mortem Report No. 214
2. Dead Body of Brig. G.S. Ambawata.
3. Uniform, Badges, Service Revolver, Other Ornaments including a gold chain and ring.

**Autopsy done by:
Dr. Aman Khan**

Annexure 1-B

POST- MORTEM REPORT OF COL. FAIAZ HASAN

GIRJA HOSPITAL, Dariya Ganj Street, Chappel Road, Jannu and Kahmir

Post Mortem Report No. 215

Name: Col. Faiaz Hasan

Age: 36 years

Sex: Male

Date and Hour of Receipt of Inquest Paper and Dead Body: 12 August, 2016 (1:30 p.m.)

Body Brought and Identified by: PC Abdullah Sheikh, Dariya Ganj Police Station, Jannu and Kahmir

Blood Group: O +ve

Death Expected Time: 11:45AM – 12:15PM

Manner of Death: Homicide

Cause of Death: Gunshot wounds on head.

External Examination

The autopsy began at 1:45 p.m. on 12.08.2016. External examination revealed a well-developed male, measuring 6'1" in height and weighing approximately 82 kgs. The hair is brown and wavy. The irises are grey and the pupils are equal at 5 mm.

Rigor Mortis is present. Oral hygiene is good. Hair distribution is normal. Nails are dirty and contain skin cells that do not match with the DNA of the deceased.

Nature of Injury	Description
Entry wound on head	8 inches from the neck on the left side of the head. Measures 3/8 x 1/2 of an inch. Wound is surrounded by powder tattooing.

There is no exit wound. There are multiple nail scratch abrasions on the back and chest. The wound has resulted into penetration of cranium and brain. The wound is surrounded by haemorrhage. The autopsy reveals that the deceased had indulged in sexual intercourse few hours before death.

Items handed over to Police

- Post Mortem Report No. 215
- Dead Body of Col. Faiaz Hasan.
- Uniform, Badges, Blooded Torn-Cloth of a Scarf.

**Autopsy done by:
Dr. Naman Malik**

Annexure 2
Investigation Report

Report No: 111 of 2016

Investigation Officer: Kamal Naqshband

Items Recovered on: 12.08.2016

Crime Scene Investigation: The Investigation of the Crime Scene was conducted on 12.08.2016 from where the bodies were recovered but no conclusive proof has been found as the evidences had been tampered due to entrance of many people.

Blood Samples: Blood which was recovered from the Crime Scene was sent for Forensic Test.

Description of the items recovered:

1. One Pistol was recovered from Ms. Mehbooba Sheikh.
2. One Pistol was recovered during Post Mortem from the body of Brig. G S Ambawata which was reportedly hidden in his calf.
3. Torn cloths of Ms. Haseena Khatoon and Ms. Mehbooba Sheikh.
4. Badges of Brig. G S Ambawata and Col. Faiaz Hasan with blood stains.

All the items were immediately sent for Forensic Laboratory Test.

Investigation of the Lounge: After Investigation it turns out that the lounge was handsomely decorated before the incident. Lots of valuable things were lying there. The objects lying in the room were bit disturbed. There was lot of blood on the ground. The sofa and other items were also blood-stained. Some pictures on the wall were broken. The curtain on left wall was also torn.

Arrest made of the Accused: Two accused, Ms. Mehbooba Sheikh and Ms. Haseena Khatoon, were arrested from their residence and produced before the Magistrate.

Interrogation of the Witnesses: After the investigation, statements of four witnesses were recorded. The witnesses to the present case are, Sep Bholaram, Sep Vishnudev, Sep Bramh

Kumar and Mr. Tareek Mehmood.

Interrogation of the Accused Persons: The accused persons were interrogated and their statements were duly recorded.

Annexure 3
Statement of Accused
u/s 161 of Cr.P.C., 1973

1. Ms. Mehbooba Sheikh (Accused-1)

I am very sad and disappointed by the cowardly act which has been done by Indianan Army and two of its high ranked officers at my residence. On 11.08.2016 Indianan Army used tear gas and pellets on my people who were assembled at my residence for peaceful protest which is our right as per Indiana's Constitution, and then shot 7 of them to death. On the same evening, Brig. G S Ambawata called me and expressed his desire to meet me at my residence. For the purpose of having a secure and good meeting, I told him to bring Col. Faiaz Hasan who was fiancé of my daughter, Ms. Haseena Khatoon, and a frequent visitor to my residence. Next day they both reached my house at around 11:30 AM. I took them to the lounge. We started the discussion about the pathetic condition of Kahmir and Kahmiri people. Suddenly Brig. Ambawata stood up and started shouting at me. He said that I am the one who is responsible for this chaos. He further added that today he and Col. Faiaz will give a life time memorable lesson to me. Thereafter, both of them grabbed my daughter and started molesting her. When I tried to save my daughter, Brig Ambawata also grabbed me and threw me down. On hearing the howl of outrage from lounge my advisor Mr. Tareek Mehmood reached there. He also tried to stop both the Army officers who were behaving in barbaric manner. When the situation got out of control Mr. Tareek took the pistol from my cabinet. He tried to scare them but still they did not stop and held my daughter. When I took the pistol from Tareek, Brig Ambawata treid to grab me and due to sudden snapping and scuffle pistol got fired resulting in death of Brig. Ambawata. Thereafter Col. Faiaz grabbed and dragged me forcefully and as the pistol was automatic it again got fired. Both Brig Ambawata and Col. Faiaz are responsible for the entire incident and their deaths. Me and my daughter have acted in self defence.

2. Ms. Haseena Khatoon (Accused-2)

I don't want to say anything about the incident. The onus of this completely lies on the Indianan Army and their so called decorated officers. They ruined my life and that of my family. God almighty sees everything. Both the officers got punished by God almighty for their sins. We are innocent. Please save us. LONG LIVE KAHMIR, LONG LIVE KAHMIRI PEOPLE.

Annexure-4

Statement of the Witnesses*

[Before the Trial Court]

The witnesses have been examined, cross-examined and re-examined and the following statements have been put on record by the court.

Persons examined:

1. Sep. Bholanath
2. Sep. Vishnudev
3. Sep. Bramh Kumar
4. Mr. Tareek Mehmood

1. Sep. Bholanath

On 11.08.2016, after the clash between our troops and the people assembled at Ms. Mehbooba Sheikh's house, I was detailed by my superior officers with 9 other army personnel at her residence for security purposes. On 12.08.2016 at around 11:00 AM, Brig G S Ambawata accompanied by Col Faiaz Hasan visited Ms. Mehbooba Sheikh's residence. They both were greeted well by Ms. Mehbooba Sheikh and taken to the lounge inside her house. After one hour I heard gunshots inside the house. I immediately rushed inside the house and found both my superior officers dead. I also saw Ms. Mehbooba Sheikh with a pistol in her right hand. Ms. Haseena Khatoun was standing there in torn clothes.

2. Sep. Vishnudev

On 12.08.2016, when I was discharging my official duties assigned to me near the north side gate of Ms. Mehbooba Sheikh's residence, I heard three gunshots. I immediately rushed inside the house and saw that my Brigade Commander Brig. G S Ambawata was shot dead by Ms. Mehbooba Sheikh and his body was lying on the red sofa. I also saw Col Faiaz Hasan moaning in pain and later he died in my hands.

3. Sep. Bramh Kumar

On 12.08.2016, I heard some noise from Ms. Mehbooba Sheikh's residence. I went there and saw that two high ranked officers of my Brigade were shot dead. I saw Ms. Mehbooba Sheikh with a pistol in her hand. Her daughter Ms. Haseena Khatoun and her advisor Mr.

Tareek Mehmood were also present inside the house.

4. Mr. Tareek Mehmood

I am Tareek Mehmood. I am the advisor of Ms. Mehbooba Sheikh. On 12.08.2016 at around 11:30 AM, I went to Ms. Sheikh's residence as she had called me for taking some legal advise for filing a writ petition. At around 11:45 AM, two Army officers, Brig. G S Ambawata and Col. Faiaz Hasan, reached there. Ms Mehbooba Sheikh took them to the lounge and told me to wait in the corridor. After half an hour I heard gunshots inside the house. I immediately rushed towards the lounge and saw that both the officers were shot dead. I do not have any idea about what happened inside the lounge, though I heard the incessant noise from the lounge before the sound of gunshots.

*The participants are free to derive valid assumptions from the same as long as they are able to properly establish the connection between such assumptions from the above-mentioned statements.

Annexure 5

Forensic Science Laboratory Report

1. **Date of Report:** 12.08.2016
2. **Laboratory Address:** Aryapur Forensic Science Laboratory
3. **Case Pertaining to:** FIR 442 of 2016.
4. **Laboratory Tracking No:** 23
5. **Written Title for the Case:** Murder of Brig G S Ambawata and Col. Faiaz Hasan.
6. **Examinations Requested:**
 - a. Examination of *Pistols*.
 - b. *Torn Clothes:* Comparison and Identification.
 - c. Examination of *Badges*
 - d. Blood group analysis
7. **List of Evidence Items Received:**
 - a. Two Pistols.
 - b. Badges
 - c. Torn Clothes
 - d. Blood samples of Brig. G S Ambawata, Col. Faiaz Hasan, Ms. Mehbooba Sheikh and Ms. Haseena Khatoon.
8. **When, how and by whom the evidence items were received:**

Evidence received on 14.08.2016 personally by Dr. Ashish Chaddha, Chief Examiner.
9. **Examinations performed:**
 - a) **Examination of *Pistols*:** First Pistol which was recovered from Ms. Mehbooba Sheikh is checked through the Obliterated Serial Number, which proves that she is the registered owner of the said weapon. Fingerprint recovery of pistol is done with Cyanoacrylate fuming, which establishes that the fingerprints on the weapon are same as that of Ms. Mehbboba Sheikh. The unique striations and scratches left on the pistol proves that it has been fired multiple times in 48 hours, Second pistol which was recovered from the body of Brig. G S Ambawata is completely soaked in blood. Obliterated Serial Number shows that it is an official weapon allotted to Brig. G S Ambawata.
 - b) **Examination of *Badges*:** Badges which belong to the deceased were examined. Blood stains were found thereon which subsequently matched with the blood sample of Ms. Haseena Khatoon and Col. Faiaz Hasan

- c) **Examination of Torn Clothes:** Few pieces of torn clothes were recovered from the place of incident. After examination, it is established that they belong to Ms. Haseena Khatoon. These pieces contain blood stains which are subsequently matched with the blood groups of Brig. Ambawata, Col. Faiaz Hasan and Ms. Haseena Khatoon.

- The laws of India and its Socio-Political conditions are pari materia with the laws and Socio-Political conditions of The Union of India.
- The laws and Socio-Political conditions of Jammu and Kashmir are pari materia with laws and Socio-Political conditions of Jammu and Kashmir.
- ‘Government of India Act, 1935’ is pari materia with the ‘Government of India Act, 1935’.
- The ‘Treaty of Amritsar’ is pari materia with the ‘Treaty of Amritsar’ signed between East India Company and Maharaja Gulab Singh.
- ‘Indian Independence Act, 1947’ is pari materia with ‘Indian Independence Act, 1947’.
- ‘Instrument of Accession of Jammu and Kashmir’ is pari materia with ‘Instrument of Accession of Jammu & Kashmir’ signed between Union of India and Maharaja Hari Singh.
- ‘Aryapur Agreement, 1952’ is pari materia with ‘Delhi Agreement, 1952’.
- ‘The Constitution (Application to Jammu and Kashmir) Order, 1954’ is pari materia with ‘The Constitution (Application to Jammu and Kashmir) Order, 1954’.
- ‘Constitution of State of Jammu and Kashmir’ is pari materia with ‘Constitution of State of Jammu & Kashmir’.
- ‘The Constitution (Application to Jammu and Kashmir) Order, 2016’ is pari materia with ‘The Constitution (Application to Jammu and Kashmir) Order, 2019’.
- ‘Jammu and Kashmir (Reorganisation) Act, 2016’ is pari materia with ‘Jammu and Kashmir (Reorganisation) Act, 2019’.