



**CHARGE SHEET**  
**(Under Section 173 Cr.PC)**

**IN THE COURT OF SPECIAL JUDGE, NIA, GUWAHATI**

<b>1</b>	<b>Name of the Branch</b>	NIA Branch Office, Guwahati
	<b>FIR No year and date</b>	RC-01/2015/NIA-GUW, Date 20/02/2015
<b>2</b>	<b>Final Report/Charge Sheet No.</b>	02/ 2015
<b>3</b>	<b>Date</b>	03.07.2015
<b>4</b>	<b>Sections of Law</b>	120(B), 121, 121(A), 122, 302,307,326,34of the Indian Penal Code & Sections 25 (1A), 27 of the Arms Act and Sections 16, 18, 19, 20 & 39 of the Unlawful Activities (Prevention) Act 1967.
<b>5</b>	<b>Type of Final Report</b>	Charge sheet
<b>6</b>	<b>If Final Report Un- occurred/ false/ Mistake of fact/Mistake of law/Non- Cognizable /Civil Nature</b>	Not Applicable

7	<b>If Charge-sheeted: Original / Supplementary</b>	Original
8	<b>Name of Investigating Officer</b>	<div style="background-color: black; width: 100%; height: 1.2em; margin-bottom: 2px;"></div> Chief Investigation Officer, <div style="background-color: black; width: 1.5em; height: 1.2em; display: inline-block; vertical-align: middle;"></div> <div style="background-color: black; width: 100%; height: 1.2em; margin-top: 2px;"></div>
9	<b>Name of the Complainant/ Informant</b>	Stephen Murmu S/O Gabriel Murmu Vill Pakriguri PO/PS Serfanguri District Kokrajhar
10	<b>Details of Properties /Articles/ Documents recovered/seized during the investigation and relied upon</b>	<div style="background-color: black; width: 100%; height: 1.2em; margin-bottom: 2px;"></div>

**11. Particulars of accused person charge sheeted:**

**A-1**

Name	<b>Milan Mushahary @ Mithinga</b> (hereinafter referred to as <b>A-1</b> )
Whether verified	Yes
Father's Name	Sh. Pratik Mushahary
Year/Date of Birth	24 years.
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	SS "Second-in-Command" and Lance Corporal of NDFB(S)
Address (Present/ Permanent)	Vill- Hakraduba, P.S. Udalguri District: Udalguri.
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.15
Date of release on bail	NA

Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li> <li>Section 25(1A), 27 of the Arms Act, 1959</li> <li>Sections 16, 18, 20 of the UA (P) Act, 1967</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in Judicial custody at Central Jail, Guwahati

## A2

Name	<b>Swmkhwr Brahma @ Khwrai</b> (hereinafter referred to as <b>A-2</b> )
Whether verified	Yes
Father's Name	Sh. Rajen Brahma
Year/Date of Birth	22 years.
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA

Date of issue	NA
Religion	Hindu
Occupation	Trained cadre of NDFB(S)
Address (Present/ Permanent)	Vill - Ghoshkata Modati, P.S. – Dotma, Dist. – Kokrajhar, BTAD, Assam
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.2015
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>Sections 120B, 121, 121(A), 122, 302, 307, 326 of the Indian Penal Code</li> <li>Section 25(1A), 27 of the Arms Act</li> <li>Sections 16, 18, 20 of the UA (P) Act, 1967</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and in judicial custody at Central Jail Guwahati.

**A-3**

Name	<b>Swmkhwr Mushahary @ Swgwmsat</b> (hereinafter referred to as <b>A-3</b> )
Whether verified	Yes
Father's Name	Late. Sh. Robilochon Mushahary.
Year/Date of Birth	25
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	Trained NDFB(S) cadre.
Address (Present/ Permanent)	Vill – Puthimari, P.S. – Serfanguri, Dist. – Kokrajhar.
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	07.03.15
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"><li>Sections 120B, 121, 121(A), 122, 302, 307, 326 of the</li></ul>

	Indian Penal Code • Sections 16, 18, 20 of the UA (P) Act, 1967
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**A-4**

Name	<b>Bullet Basumatary</b> (hereinafter referred to as <b>A-4</b> )
Whether verified	Yes
Father's Name	Sh. Paresh Basumatary.
Year/Date of Birth	25
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	NDFB(S) cadre.

Address (Present/ Permanent)	Santipur , Khaosibazar , P.S. - Serfanguri , Dist. – Kokrajhar
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	10.01.15
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>Sections 120B, 121, 121(A), 122, 302, 307, 326 of the Indian Penal Code</li> <li>Sections 16, 18, 20 of the UA (P) Act, 1967</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

#### **A-5**

Name	<b>Ganda Basumatary</b> (hereinafter referred to as <b>A-5</b> )
Whether verified	Yes
Father's Name	Jadu Basumatary.
Year/Date of Birth	28



Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	Trained NDFB(S) cadre.
Address (Present/ Permanent)	Bodopur, Jharbari, P.S. - Serfanguri, Dist. – Kokrajhar.
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	10.01.2015
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the Indian Penal Code.</li> <li>• Section 25(1A), of the Arms Act, 1959.</li> <li>• Sections 16, 18, 20 of the Unlawful Activities (Prevention) Act, 1967</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case	NA

reference	
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**A-6**

Name	<b>Bina Basumatary @ Haina</b> (hereinafter referred to as <b>A-6</b> )
Whether verified	Yes
Father's Name	Sh. Nahen Basumatary.
Year/Date of Birth	27 years.
Sex	Female.
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	NDFB cadre.
Address (Present/ Permanent)	Belguri, P.S. - Serfanguri, Dist. – Kokrajhar
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA

Date of Arrest	09.01.2015
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>Sections 120(B) of the Indian Penal Code</li> <li>19, 20, 39 of the Unlawful Activities (Prevention) Act, 1967.</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**A-7**

Name	<b>Jayanto Mushahary</b> (hereinafter referred to as <b>A-7</b> )
Whether verified	Yes
Father's Name	Sh. Pratik Mushahary.
Year/Date of Birth	26
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu

Occupation	Unemployed.
Address (Present/ Permanent)	Village: Hakraduba, P.S. & Dist. – Udalguri.
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.2015.
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>• Section 120(B) of Indian Penal Code</li> <li>• 19, 39 of the UA (P) Act, 1967.</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

#### **A-8**

Name	<b>Gautam Mahalia</b> (hereinafter referred to as <b>A-8</b> )
Whether verified	Yes
Father's Name	Sh. Amrit Chandra Deka Mahalia.
Year/Date of Birth	29
Sex	Male
Nationality	Indian

Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	Driver
Address (Present/ Permanent)	Khagrabari, P.S Udalguri, Dist. - Udalguri
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.2015
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	<ul style="list-style-type: none"> <li>Sections 120(B) of Indian Penal Code.</li> <li>19, 39 of the UA (P) Act, 1967.</li> </ul>
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**A-9**

Name	<b>Khanda Daimary</b> (hereinafter referred to as <b>A-9</b> )
Whether verified	Yes
Father's Name	Lt. Sh. Bunduram Daimary
Year/Date of Birth	25
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	Farming and woodcutting.
Address (Present/ Permanent)	Vill – Dawanbutua, P.S. Serfanguri Dist. - Kokrajhar
Whether verified	Yes
Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.2015
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	Section 39 of the Unlawful Activities (Prevention) Act, 1967
Name(s) of bailer / sureties and address	NA
Previous convictions with case	NA

reference	
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**A-10**

Name	<b>Dwithai Basumatary</b> (hereinafter referred to as <b>A-10</b> )
Whether verified	Yes
Father's Name	Sh. Bantru Basumatary
Year/Date of Birth	20
Sex	Male
Nationality	Indian
Passport No.	NA
Place of issue	NA
Date of issue	NA
Religion	Hindu
Occupation	Unemployed.
Address (Present/ Permanent)	Village– Dawanbutua, P.S. Serfanguri Dist. - Kokrajhar
Whether verified	Yes

Provisional Criminal No.	NA
Regular Criminal No. (if known)	NA
Date of Arrest	09.01.15
Date of release on bail	NA
Under Acts & Sections (of charge sheet)	Section 39 of the Unlawful Activities (Prevention) Act, 1967.
Name(s) of bailer / sureties and address	NA
Previous convictions with case reference	NA
Status of the accused	Arrested and presently in judicial custody in Central Jail, Guwahati.

**12. Particulars of accused persons not charge sheeted:**Nil

**13. (i) Particulars of witnesses examined:** As per the list enclosed as Annexure A

**(ii) List of documents** :As per the list enclosed as Annexure- B

**(iii) List of material objects:** As per the list enclosed as Annexure -C

**14 If FIR is false, action taken** : Not false, allegations in the FIR are true.

**15. Result of laboratory analysis** : As mentioned in Para 17

**16. Brief facts of the case:**

16.1 There was a First Information Report registered in Serfanguri police station of



Kokrajhar district on the 24<sup>th</sup> of December 2014, this FIR No. 65/2014 was lodged against unknown NDFB(S) cadres for the act of killing of 05 (five) innocent villagers and injuring 04 (four) persons belonging to [REDACTED] also known as [REDACTED] community (hereinafter "[REDACTED]s") of Pakriguri village on 23rd December, 2014 between 17:30 to 18:00 Hrs. The complainant was one Stephen Murmu who was the victim of said terrorist act. The Officer-In-Charge of the police station took up the investigation and forthwith initiated the process of investigation.

16.2 After registration of the case at Serfanguri PS, the investigation was conducted by [REDACTED]. During the preliminary enquiry it came up that a group of NDFB(S) terrorists belonging to a SS militarized field formation "Serfanguri Platoon" and commanded by SS 'Platoon Commander' Jwblang entered into a criminal conspiracy to terrorize people belonging to the [REDACTED] community by selectively killing them. In order to give effect to the conspiracy, this group of NDFB(S) terrorists chose to target the [REDACTED] community of Pakriguri village which falls in the jurisdiction of Police Station Serfanguri, District Kokrajhar. These NDFB(S) cadres used sophisticated weapons of prohibitory bore to kill and maim innocent civilians to instill fear and terror in the minds of population in general and the [REDACTED] community in particular.

16.3 During investigation of the aforesaid case by [REDACTED] accused A1, A2, A6, A7, A8, A9, A10 were arrested on the 09.01.15. The next day arrests of A4, A5, were also made. A1 and A2 disclosed during interrogation that they have hid the weapons of offence used in the crime at a particular location and registered their volition to lead the police to the

location of these hidden weapons if given a chance. Police therefore recorded disclosures of A1 and A2 separately. To verify the disclosure so recorded [REDACTED] [REDACTED] formed a search party and proceeded to location so disclosed along with A1 and A2. It became apparent during search that the location disclosed under the two disclosures of A1 and A2 was the same. Search party then dug the place as disclosed and found large quantities of prohibited arms and ammunition that were used in the offence at the PO of the instant case. [REDACTED] proceeded with subsequent investigation till it was handed over to present CIO on the 19<sup>th</sup> of March 2015. The present Chief Investigation Officer had taken over the case from [REDACTED] on 17<sup>th</sup> March 2015, and thereafter from [REDACTED] on 19<sup>th</sup> March 2015. During the period (from registration of FIR by local police and taking over of investigation by present CIO from NIA), [REDACTED] continued with the investigation as per section 6(7) of the National Investigation Agency Act 2008.

- 16.4 The above mentioned case was re-registered and taken up for investigation in pursuance of Ministry of Home Affairs, Government of India's (hereinafter called "MHA") order no. F No. 11011/66/2014-IS.IV dated 16.02.2015. This case was registered by National Investigation Agency as RC-01/2015/NIA-GUW dated 20/02/2015 under Sections 120B, 121, 121A, 122, 326, 307, 302 of IPC and sec 25 (1A), 27 Arms Act and Sec 10 /13 of Unlawful Activities (Prevention) Act, 1967.
- 16.5 It is pertinent to note that cases of similar nature of terrorist acts in which members of the [REDACTED] community were targeted on the 23rd December, 2014 by cadres of NDFB(S) in other areas of Assam are also under investigation by the National Investigation Agency. Several hard-core

NDFB(S) cadres have been apprehended and are in judicial custody at Central Jail, Guwahati under Orders of Spl. NIA Court, Assam, Guwahati and sufficient evidence in this regard has been collected by concerned CIOs for launching successful prosecution against the terrorists of NDFB(S) for terrorist acts committed by them.

- 16.6 During the course of the investigation of one of these cases i.e. [REDACTED]  
[REDACTED] partly to the effect that there was a general conspiracy to kill people of [REDACTED] community in "Bodoland" and the orders to kill came directly from one Bishnu Goyari @ G. Bidai @ Xyla (hereinafter called 'Bidai') who is SS "Commander-in-Chief" of NDFB(S). This order was further conveyed by SS 'deputy Commander-in-Chief' of NDFB(S) Binod Mushahary @ M. Biban @ Batha (hereinafter called "Batha"). This fact is also confirmed by the voice recordings from mobile telephony that was lawfully intercepted by Assam Police and duly received under this investigation.

#### **17 Facts Disclosed During Investigation:**

- 17.2 The place of occurrence is in Kokrajhar district which comes under BTAD (Bodoland Territorial Areas District) Assam. The Bodoland Territorial Council (BTC) is a territorial privilege established according to the memorandum of settlement dated, 10th of February, 2003 entered [REDACTED] [REDACTED] Bodo Liberation Tigers (BLT), Government of India and Government of Assam. The BTC came into existence immediately after the surrender of BLTF (Bodo Liberation Tiger Force) cadres. The BTC has 12

electorate members, each looking after specific area of control called Somisthi. The area under the BTC jurisdiction is called Bodoland Territorial Areas District (BTAD). The BTC constitutes 70% of tribal people. The BTAD consist of 4 contiguous districts – Kokrajhar, Baksa, Udalguri and Chirang, carved out of 7 existing districts Kokrajhar, Bongaigaon, Barpeta, Nalbari, Kamrup, Darrang and Sonitpur. The population of BTC area as per 2011 census report is 31, 55,359 (over thirty one lakhs). The average density of the population in BTC is 326 per sq. km compared to 340 per sq.km of Assam. Amongst the tribal population, Bodos, Rabhas and a number of Garos inhabit in this area out of which Bodos will be in clear majority. The other communities like Ransbanhis, Sarania which also originated from Bodo group inhabit in large part of BTC. Besides, Tea and other Ex-Tea tribes including Santhal etc. are also present. Moreover, other general community like Bengalis, Nepali, Assamese and few numbers of Hindi speaking people are also found in the Council area. The BTC has been divided into four (4) districts for administrative purposes. It has been further sub-divided into 10 civil sub-divisions and 40 development blocks, some of which are partly in BTC area and partly in outside. The provisional geographical area of BTC is 8795 sq. km. It is an autonomous administrative unit constituted under the sixth schedule of the Constitution of India.

- 17.3** Investigation of the case has been conducted with regard to two aspects of the conspiracy. The first concerns the fact that this incident was executed as part of a well-coordinated conspiracy by the NDFB(S), whereby five terrorist acts, specifically targeted at the [REDACTED] community were committed near simultaneously on 23/12/2014 at different locations across the state of Assam

as mentioned above. Their modus operandi, targeted community, objectives, timings have such a high congruence that for a person of ordinary prudence they would prima-facie appear to be handiwork of the same leadership. This investigation has established that this leadership was that of NDFB(S).

**17.4** The motivation of these attacks is rooted in the ideology and objectives of the NDFB(S). The National Democratic Front of Bodoland, of which NDFB(S) is a faction, is a terrorist organization proscribed by the Unlawful Activities (Prevention) Act, 1967. The NDFB was formed in 1994 as a successor organization of the Bodo Security Force. Several factions of the NDFB have entered into peace agreements with the Government of India except the NDFB faction led by Ingti Kathar Songbijit. The NDFB espouses irredentist and chauvinist goals which include the liberation of 'Bodoland' from Indian expansion and exploitation and the establishment of a sovereign 'Bodoland'. To achieve its goals, the NDFB has carried out relentless terrorist campaign against Indian security forces and groups of persons it deems as 'outsiders', [REDACTED]. These groups have been targeted by the NDFB through repeated terrorist attacks, the ultimate objective of the NDFB is to strike fear in the minds of the persons of these communities thereby forcing them to migrate. The migration of these communities will facilitate the establishment of a sovereign 'Bodoland', as per the stated goal of the NDFB.

**17.5** It is revealed during the course of investigation that the scale and scope of the terrorist attacks by NDFB(S) on 23/12/2015 in terms of coordination of timing, locations, the targeted community, the number of deaths of innocent persons (including women and children), the use of automatic sophisticated



weapons establishes the fact about the uncompromising commitment of the NDFB(S) leadership and cadres to the unconstitutional goals of their organization. The motive for the terrorist attack in the instant case should, therefore, be seen as an organic part of the relentless terrorist campaign being waged by the proscribed NDFB to attain these goals.

**17.6** It has been established by this investigation that the members of [REDACTED] community were specifically targeted through these coordinated attacks on 23/12/2014 because the senior leadership of the NDFB(S) harboured the perception that members of the [REDACTED] community had been instrumental in providing information about NDFB(S) to the security forces and that it has resulted in significant 'losses' for the organization in anti-terrorist operations conducted by the security forces. This has been substantiated by the confessional statement of accused, (name has been withheld as per the request of CIO of the case) RC-06/2014/NIA-GUW whose confession was recorded u/s 164 CrPC as part of the investigation of that case.

**17.7** The second aspect of the conspiracy relates to the further conspiracy, planning and preparation for the terrorist act committed by cadres of the NDFB(S) at the PO on 23/12/2014.

**17.8** The investigation has established that the orders for massacre of [REDACTED]s were issued to the NDFB(S) cadres by one Bishnu Goyari @ G. Bidai @ Xyla (hereinafter called '**Bidai**') through Binod Mushahary @ M. Biban @ Batha, the SS Deputy Military Chief of the NDFB(S) (hereinafter called "**Batha**"). This fact has been convincingly established through the recordings of lawfully intercepted mobile phone communications between Batha,

Jwblang(the SS Platoon Commander of 'Serfanguri Platoon' hereinafter called as "**Jwblang**") and A-1. These recordings have been taken on the record of this case from Assam Police and the necessary forensic tests are being conducted. The reports are awaited. These recordings clearly imply the following:

- That the order for conducting the terrorist attacks was issued separately by Batha to Jwblang and A1.
- That the order tasked Jwblang and A1 to mobilize the cadres under their command.
- That the order specifically tasked Jwblang and A1 to target the members of the [REDACTED] community.
- That the order tasked Jwblang and A1 to fire indiscriminately on their targets including women and children.
- That the order *did not* specify any particular geographical location as the target but left it for Jwblang and A1 to decide depending on the exigency.

**17.9** That these *sixteen persons* including Jwblang, A1, A2, A3, A4 and A5 and 10 others (hereinafter referred to as '**Terrorist Squad**') committed acts preparatory to a terror act (*acts preparatory to a terrorist act are included within the offence of conspiracy in the UA (P) Act, 1967*) has been established during the course investigation. It has been established that on 23/12/2014, i.e. [REDACTED]

[REDACTED]. The members of the Terrorist Squad were all armed with sophisticated weapons and were being led by Jwblang. [REDACTED]





Mariam Murmu was also near this tube well and she was also fired upon. She sustained grievous injuries and died while on the way to the hospital. At 'C' Stephen Hasda s/o Som Hasda was in the kitchen and he was hit by bullets. Due to severe injury and trauma he was taken to the hospital where he succumbed to his injuries on 24/12/2014. Smt. Susana Soren, mother of Sh. Som Hasda was sitting at the courtyard of 'C' when a bullet hit her chair causing her to fall down; another bullet pierced her lower foot due to which she remained immobile for some moments. She was later treated of her injuries and survived. Further, the investigation revealed that a bullet had also hit Som Tudu's (age 7 years) s/o Master Kola @ Rola @ Tala Tudu who was later treated of his injuries. About half of the Terrorist Squad then turned towards the house of Bachit Murmu (marked 'E' on the Sketch Map) from 'A'. On hearing the gunshots and seeing the terrorists approaching their house Bachit Murmu and his family fled to the nearby fields. The squad members fired upon them but these bullets failed to hit. During this time the squad ran towards the western side of PO and thereafter turned north. The sequence of events described above has been confirmed from eye witness accounts.

**17.12** During the course of investigation it has been established that five persons died and four persons sustained injuries as a result of the terrorist act committed by the present A1 to A5 and other cadres of NDFB(S). On scrutiny of the post mortem reports as annexed of the deceased and the statement of doctors who conducted the post mortem examination, it has been established that the cause of death of all the five persons was "neurogenic shock and haemorrhage which is ante-mortem in nature and caused by firearms".

**Names of deceased persons**

1. Mariam Murmu (40yrs) W/o Som Hasda.
- 2 Sumita Hasda (21yrs) W/o Ganesh Murmu.
- 3 Sumai Murmu (12 yrs.)S/o Charlis Murmu.
- 4 Moni Besra (30 yrs.)W/o Som Tudu.
- 5 Stephen Hasda (15 yrs.)S/o Som Hasda.

**17.13 Medical** reports as annexed are conclusive that the following persons sustained injuries as a result of the terrorist act at the PO.

- A. Kala Tudu s/o Som Tudu
- B. Smt. Susana Soren w/o Late Sh. Chand Hasda
- C. Smt. Maratha Hembrom w/o Late Sh. Gabriel Murmu
- D. Smt. Anastia Tudu w/o Sh. Mushey Murmu

Of the four injured persons serial A and D were grievously injured due to firearms. This has been established by the medical reports that have been duly obtained during the investigation and are annexed.

**17.14** Examination of the PO after the incident clearly established that sophisticated firearms had been used during the attack. The recoveries and seizures made from the PO after the incident clearly establish the commission of a terrorist act using sophisticated arms and ammunition and corroborate the testimonies of the eye witnesses. The following material objects were seized from the PO after the incident.

- A. 9 (nine) fired empty cartridges of AK series ammunition, one fired bullet of AK Series, two fired empty cartridges of INSAS series.
- B. 12 number of fired empty cartridges of AK series ammunition. Recovered from near the house of Som Tudu.
- C. 13 number of fired empty cartridges of AK series ammunition, and two numbers of missed fired AK series ammunition. Recovered near the house of Sh. Som Hasda.
- D. 15 number of fired empty cartridge of AK Series ammunition, and one number fired empty cartridge of INSAS Series ammunition, and one number of missed fired round of AK Series rifle. Recovered near the house of Sh. Charless Murmu.
- E. 9 number of fired empty cartridge of AK Series ammunition and 3 missed fire ammunition of AK Series ammunition recovered near the house of Sh. Stephen Murmu.
- F. 11 number of fired empty cartridge of INSAS Series ammunition, and two number of fired empty cartridge of AK Series ammunition recovered near the house of Sh. Benjamin Soren.

**17.15** The investigation has established that after committing this crime the squad vanished into the thick foliage from the western side of the village and proceeded toward [REDACTED] villages of northern side. The recorded eye witness account also attest to the shouts of NDFB(S) terrorists calling their other squad mates to escape.

**17.16** The investigation has also established a further conspiracy by A1 to escape from the clutches of law after the massacre. A6 entered into a conspiracy to

provide harbour and other ancillary facilities to A1 so as to enable him to escape to Nepal via Bhutan till the time the situation is favourable to them. Investigation has also established that A1 was helped by A6 to escape to Nepal via Bhutan till the time the situation is favourable to them. Investigation has also established that A1 was helped by A6 to escape to Nepal via Bhutan and for this purpose she arranged for a vehicle and other ancillary facilities. A1 and A6 while coming back to Kokrajhar and going towards unconfirmed location entered into another conspiracy with A7 and A8 so as to change their location. During this escapade A1 was arrested along with A6, A7 and A8 while they were helping A1 to change his location.

**17.17** The investigation has also established that A9 and A10 are active supporters of NDFB(S). They were tasked with collection of local intelligence, on behalf of the NDFB(S) signalling alarm to the squad led by Jwblang and A1 regarding movement of security forces in the area. Both A9 and A10 used to extend all necessary assistance for the safe stay of the NDFB(S) cadres in and around [REDACTED] area.

**17.18** At the time of their arrest A1 was being accompanied by A6, A7 and A8. The A6, A7 and A8 wilfully and knowingly harboured A1 with a view to conceal his presence and to enable him to evade the process of law. It has been established that even at the time of their arrest in Kokrajhar on 09/01/2015 A1, A6, A7 and A8 tried to flee when they were approaching a police check post thus substantiating the allegation that they were wilfully evading the process of law. It has also been established that the car in which A1, A6, A7 and A8 were travelling at the time of their arrest belongs to the father of A8.

**17.19**As already indicated above, the investigation has established culpability of A1 in conspiring and executing the terrorist act that is the subject of this investigation. During the custodial interrogation of A1 the following additional evidence surfaced to substantiate the allegations against him. As per his disclosure huge quantities of weapons that were used in the incident were unearthed and their forensic examination has conclusively established that these very weapons were used at the PO. Also during the investigation a video footage of Jwblang along with A1 and A5 has been seized. This video footage, which is dated to around 16, 17<sup>th</sup> of June, 2014 features Jwblang, A1 and A5 in full military gear while making speeches, the contents of which amount to an attempt to intimidate the Government of India. These acts confirm that the trio are cadres of the NDFB(S). The video footage is clear and raw and A1, Jwblang and A5 are clearly seen. However, to follow the due process of law it has been sent to CFSL, Chandigarh for matching and analysis of the authenticity and genuineness of the video footage.

**17.20**As per the disclosure of A1 and A2 huge cache of sophisticated arms and ammunition and other incriminating objects were recovered. The detailed list of arms, ammunition and other material objects recovered at the instance of A1 and A2 are provided below.

- A. Four AK 56 rifles with four magazines
- B. One HK 33 rifle with one magazine
- C. One M16 rifle with one magazine
- D. One INSAS rifle with one magazine
- E. Four 9 mm pistols with four magazines
- F. Eleven HE 36 grenades



- G. Three hundred rounds of 7.62X39 mm live ammunition
- H. One hundred and thirty Rounds of 5.56X45 mm live ammunition
- I. Twenty rounds of 9 mm live ammunitions
- J. Twelve ammunition pouches
- K. Six bags
- L. Five camouflage jackets
- M. One carry bag of medicines

The ballistic tests of the recovered arms clearly connect them with the material objects recovered and seized from the PO. This result convincingly establishes the culpability of A1 and A2 in the conspiracy and execution of the terrorist act. Moreover, the sophisticated arms and live ammunition recovered at the instance of A1 and A2 clearly show that both of them are hard core terrorists.

**17.21** It has been also established through eyewitness testimony that A2 was carrying and using the INSAS rifle mentioned at serial D of the above list. The investigation has convincingly established that the same INSAS rifle had been snatched from personnel of Sashastra Seema Bal (SSB) during a terrorist attack on an SSB camp in 2010. The INSAS has been connected with the PO, as well, through match with fired cartridges recovered from this weapon.

**17.22** It has been established by the eye witness testimonies that A4 was part of the Terrorist Squad that executed the terrorist act at the PO on 23/12/2014. This fact has been corroborated by his positive identification by an eyewitness during a Test Identification Parade.

**17.23** The involvement of A5 in the conspiracy and execution of the terrorist act has

been established as per the details laid out in above sections. The culpability of A5 is further confirmed by the fact that a prohibited weapon of 7.65 bore Pistol with one magazine and three rounds of ammunition was recovered from his possession at the time of his arrest. The recovery of this weapon and ammunition from A5, when viewed in conjunction with other evidence on record corroborates that involvement of A5 in terrorist activities besides constituting an independent offence under the Arms Act. The video footage taken on record in this case includes A5 along with Jwblang and A1 – thus strengthening the evidence that A5 is indeed a member of the NDFB(S).

**17.24** Several mobile phones were being used by the accused persons at or around 23/12/2014. Most of these mobile phones were seized from the accused persons at the time of their respective arrests. Investigation has established that several of these were active at the time of incident in the mobile towers coverage area which covers the PO. It corroborates other direct evidence that has been collected so far regarding the culpability of A1, A2, A3, A4 and A5 in massacre at the instant PO.

**17.25** CDR analyses of mobile numbers [REDACTED] being used by A1 respectively show that these were located in mobile towers that include the PO at or around the time of the terrorist act. This fact corroborates the evidence with respect to the preparation for and participation in the terrorist act by A1.

**17.26** A1, A2, A3, A5 and A6 have been involved in various criminal cases relating to terrorism and violence in several police stations of Assam. These records have been taken on record to corroborate the culpability of these accused as

hard core members of NDFB(S).

**17.27** The disclosure by A1 and A2, subsequent recoveries of sophisticated weapons and other incriminating materials and the results of the ballistic tests convincingly show that a large number of arms seized through the recoveries were used to commit the terrorist act under investigation. These results unmistakably connect A1 and A2 to the PO and the terror act. The recoveries also imply that the weapons that were used in the terror act were subsequently collected and hidden by A1 and A2. Besides, the recoveries of such sophisticated arms and ammunition from A1 and A2 corroborates the allegation that the duos are hard-core terrorists.

**17.28** The fact that Batha, the SS Deputy Military Chief of the NDFB(S), Jwblang and A-1 conspired and planned the terrorist attack has been established through the lawfully intercepted mobile phone records that has been taken as evidence. The control voice samples have been taken on record and have been forwarded to CFSL, Chandigarh for analysis and matching. The results are awaited.

**17.29** It has been established through eyewitness accounts that sixteen persons committed a terrorist act at or around 5:30 PM at the PO on 23/12/2014. Of these persons, A4 has been identified by a witness during a test identification parade. The involvement of A1 and A2 in executing the terrorist attack has been established through the recoveries of arms used during the terrorist act on their respective disclosures.

**17.30** The fact that the terrorist act occurred and that five persons died as a result of



the terrorist act has been established through the material objects recovered from the PO and the post mortem reports of the deceased. The fact that four persons received injuries as a result of the terrorist act has been established through the medical reports of the injured.

**17.31** The fact that A1, A2, A3, A4 and A5 are members of the NDFB(S) has been established through eyewitness accounts. The membership of A1 and A5 in NDFB(S) has been corroborated through the video footage obtained on record in the case. The video footage along with the control photographs has been sent to CFSL Chandigarh for analyses. The result is awaited. The fact A6 is a member of the NDFB and that she wilfully and voluntary harboured A1 soon after the terrorist act has been established through eyewitness accounts. The fact that A7 and A8 along with A6 voluntary harboured A1 has been established through the manner of their arrest and their attempt to flee on seeing a police 'naka'. The fact that A8 voluntary harboured A1 has been corroborated by the evidence that at the time of their arrest, A1, A6, A7 and A8 were travelling in the personal car of A8.

**17.32** Expert opinion relevant to the case has been sought with regard to three categories of seized material and electronic records seized during the investigation of the case. These are:

- A. The material objects recovered from the PO subsequent to the terror act (empty fired cases, misfired rounds, fired bullet heads); arms and ammunition recovered on the disclosure of A1 and A2 and arms and ammunition recovered during the personal search of A5 at the time of his arrest (one 7.65 pistol, one magazine and three 7.65x17mm rounds). These exhibits were sent

to CFSL, Chandigarh for analyses and matching and the report has been obtained vide letter no. Dated. 18.06.15.

- B. The records of lawful intercepts seized from Assam Police involving conversations between **Batha, Jwblang, A1** and some as yet unidentified cadres of NDFB(S). The control voice samples of A1 have been taken were sent to CFSL, Chandigarh for analyses and matching. The voice samples of Batha could not be collected as he is absconding.
- C. The incriminating video footage featuring Jwblang, A1 and A5 which was recorded by media persons in or around June, 2014. This footage has been taken on the record of the case and was sent to CFSL, Chandigarh along with the control photographs of Jwblang, A1 and A5 for analyses and matching. The report is awaited.

**17.33** A wide variety of evidence, including oral testimonies, test identification parades, documentary evidence, electronic records, material objects and expert opinion have been collected during the course of the investigation of the case. [REDACTED] have been categorized as “Protected Witnesses” in conformity with the procedure prescribed by section 17 of the NIA Act, 2008.

**17.34** Oral testimonies of witnesses have established the participation of Jwblang, A1, A2, A3, A4 and A5, inter alia, in the commission of the conspiracy to commit the terrorist act as well as committing acts preparatory to a terrorist act. Eyewitnesses have identified A4, as an executor of the terrorist act through a test identification parade. It is expected that other eyewitnesses will be able to identify the other perpetrators, including A1, A2, A3 and A5 during the course of the trial. It was natural for these traumatized eyewitnesses to

desist from confronting the accused persons during test identification parades soon after they were victims of a terrorist act.

**17.35** Eyewitnesses have narrated the sequence of events at the PO before, during and after the terrorist act. Their testimonies have been corroborated by documentary evidence such as inquests, post-mortem reports and injury reports.

**17.36** Oral testimonies has also firmly established that A6 is a member of NDFB and that A6, A7 and A8 wilfully harboured A1 in the aftermath of the incident. Testimony of witnesses further establishes that A8 and A9 are supporters of NDFB(S).

**17.37** The recordings of lawfully intercepted mobile phone conversations between Batha, Jwblang and A1 establish the conspiracy, planning and execution of the terrorist act at the PO on 23/12/2014. Further, these recordings help establish that targeting of the members of the [REDACTED] community was a deliberate part of the conspiracy hatched by the senior leadership of the NDFB(S). Similarly, the video footage featuring Jwblang, A1 and A5 clearly establishes that these three accused are hard-core members of the NDFB(S).

**17.38** The expert opinion of CFSL proffered in the case bolsters and supports the independent findings of the investigation. This expert opinion can be marshalled to launch a successful case for the prosecution.

**18. CHARGE:**

Sl. No.	Accused	CHARGE(S)
1	<b>Milan Mushahary</b> (A1)	<ul style="list-style-type: none"><li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li><li>• Section 25(1A), 27 of the Arms Act</li><li>• Sections 16, 18, 20 of the UA (P) Act, 1967</li></ul>
2	<b>Swmkhwr Brahma</b> (A2)	<ul style="list-style-type: none"><li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li><li>• Section 25(1A), 27 of the Arms Act</li><li>• Sections 16, 18, 20 of the UA (P) Act, 1967</li></ul>
3	<b>Swmkhwr Mushahary</b> (A3)	<ul style="list-style-type: none"><li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li><li>• Sections 16, 18, 20 of the UA (P) Act, 1967</li></ul>
4	<b>Bullet Basumatary</b> (A4)	<ul style="list-style-type: none"><li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li><li>• Sections 16, 18, 20 of the UA (P) Act, 1967</li></ul>
5	<b>Ganda Basumatary</b> (A5)	<ul style="list-style-type: none"><li>• Sections 120B, 121, 121(A), 122, 302, 307, 326 of the IPC</li><li>• Section 25(1A), of the Arms Act.</li></ul>

		<ul style="list-style-type: none"> <li>Sections 16, 18, 20 of the UA (P) Act, 1967</li> </ul>
6	<b>Bina Basumatary</b> (A6)	<ul style="list-style-type: none"> <li>Section 120(B) of IPC.</li> <li>Sections 19, 20, 39 of the UA (P) Act, 1967</li> </ul>
7	<b>Jayanto Mushahary</b> (A7)	<ul style="list-style-type: none"> <li>Section 120(B) of IPC.</li> <li>Sections 19, 39 of the UA (P) Act, 1967</li> </ul>
8	<b>Gautam Mahalia</b> (A8)	<ul style="list-style-type: none"> <li>Section 120(B)</li> <li>Sections 19, 39 of the UA (P) Act, 1967</li> </ul>
9	<b>Khanda Daimary</b> (A9)	<ul style="list-style-type: none"> <li>Section 39 of the UA (P) Act, 1967</li> </ul>
10	<b>Dwithai Basumatary</b> (A10)	<ul style="list-style-type: none"> <li>Sections 39 of the UA (P) Act, 1967</li> </ul>

- 18.1 The sanction for prosecution under Section 45(1) (ii) of The Unlawful Activities (Prevention) Act, 1967 as amended has been obtained from the competent authority and enclosed.
- 18.2 All the aforesaid offences have been committed within the jurisdiction of this Hon'ble Court. Hence, this Hon'ble Court has got jurisdiction to try the above offences.
- 18.3 It is, therefore, prayed that this Hon'ble court may be pleased to take cognizance of the offences as mentioned above against each of the aforesaid accused persons and issue process to them to stand trial in accordance with law.


**19. Despatched on** : 03/07/2015

**20. No. of enclosures** : 04

**21. List of enclosures** :

- Annexure A (List of Witnesses) – Page 01 to 05
- Annexure B (List of Documents) – Page 01 to 11
- Annexure C (List of Material Objects) – Page 01 to 05
- Annexure D (Prosecution Sanction Order of the competent Authority u/s 196 CrPC and 15(1) of the UA(P) Act)-- Page 01 to 05

(sd/-)

  
Chief Investigating Officer  
NIA Branch Office: Guwahati

Forwarded by

Superintendent of Police  
NIA Branch Office: Guwahati