73, 1946

No. 16 of 1947.

In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT OF FIJI.

BETWEEN

WALLI MOHAMMED and ALI MOHAMMED - *Appellants*

AND

THE KING - *Respondent.*

RECORD OF PROCEEDINGS

INDEX OF REFERENCE.

EXHIBITS

LIST OF EXHIBITS OMITTED FROM THE RECORD BY CONSENT

EXHIBIT MARK	DESCRIPTION OF DOCUMENT
B	Receipt for £10.
C	Receipt for £10.
D	Clothing and Knife.
E	Sack.
F1	Photograph.
F2	Photograph.
F3	Photograph.
F4	Photograph.
G	Photograph.
H	Woodshavings.
I	Burnt Cloth.

DOCUMENTS NOT PRINTED

Judge's Notes of evidence—23rd to 30th July 1946.

Exhibit A—Plan of locality—14th February 1946.

73, 1946

No. 16 of 1947.

In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT OF FIJI.

BETWEEN

WALLI MOHAMMED and ALI MOHAMMED - *Appellants*

AND

THE KING - *Respondent.*

RECORD OF PROCEEDINGS

No. 1.

EVIDENCE of Charlie Bula.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 1. Charlie Bula, 14th February 1946.

Case No. 586/45

Magistrate's Court, Lautoka.

Thursday, 14th February, 1946.

Before J. BENNETT Esquire, Chief Magistrate.

THE KING

V. CHARGE: MURDER.

ALI MOHAMMED

WALLI MOHAMMED

Both accused before the Court on remand.

Superintendent Abraham for the Police.

T. R. Sharma for Ali Mohammed.

K. A. Stuart for the accused Walli Mohammed.

Abraham: Had hoped to be able to produce case in its proper sequence but owing to weather and breakdown of communications in the district have been unable to produce most of witnesses to-day, to save delay will produce those available. Will rectify it is hoped at next sitting.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 1. Charlie Bula, 14th February 1946, *continued.* Examination.

1st P.W. CHARLIE BULA—Sworn.

I am an N.M.P. at the Lautoka Hospital. On 9.9.45 I was instructed by Dr. MacCauley to carry out a Post Mortem examination on a dead body which was identified to me as Lachmi Prasad by Superintendent Spencer and Badri Prasad the brother of the deceased. We did the Post Mortem in the presence of Superintendent Hooper, Assistant Superintendent Spencer and Inspector Caldwell. The body was first photographed in various positions. It was that of a male adult Indian aged about 19 years; dressed in a black shirt, white shorts and a black belt. There was a knife in a leather holster suspended from the belt. The clothes were stained with a lot of blood. They were soaked in blood. The clothes were removed and handed to Assistant Superintendent Spencer. The body exhibited six major wounds situated mainly about head, neck and left arm and there was one small skin scratch in the left arm pit. Rigor mortis was present but was beginning to pass off in the upper extremities. The arms and chest. The left arm was in rigor mortis was stiffened out from the body and bent at the elbow (witness demonstrates) and upraised. The left hand was closed tightly. The right arm was flexed at the elbow and lay across the front of the lower chest; the hand was closed tightly and was grasping some particles of withered grass and earth. Those particles were given to Assistant Superintendent Spencer. The left leg was extended straight with the body and the right leg was semi flexed at the knee joint and rotated outwards (witness demonstrates). The eyes were open and the mouth was partly closed. The wounds were: 2 situated on the back of the neck and head; 2 on the front and side of the neck; 2 on the left upper left limb. Of the 2 wounds on the back of the head and neck one was large and the other was smaller. The larger wound which was incised and gaping extended 1″ from the root of the left ear at the back and then obliquely across the back of the skull within $1\frac{3}{4}$ inches of the lobe of the right ear. The wound sheared off the back of the skull cutting through the muscles of neck to the vertabræal column. The greatest depth of this wound was $1\frac{1}{2}$ inches. Its length was $4\frac{3}{4}$ inches. The smaller wound on the back of the neck was also incised and gaping and parallel to and 2″ above the large wound, last described. It measured 2″ in length cutting through all the layers of scalp and outer table of scalp; its depth was $\frac{1}{2}$″.

On the front of the neck was a large incised gaping wound situated in the upper part of the left side of the neck extending from a point 2″ to the right of the point of the chin and across the side of the neck following the line of the lower jaw back to a point $2\frac{1}{2}$ inches below the lobe of the left ear. In the depth of this wound the upper part of the wind pipe was notched and the muscles of the neck and the main blood vessels were severed. The length of the wound was 7″ and the depth was $2\frac{1}{2}$ inches. Another smaller wound was situated on the right and lower side of the neck, it ran obliquely across the lower part of the right side of the neck crossing the mid line 2″ above the sternal notch. This wound was incised and measured $4\frac{1}{2}$ inches in length and $1\frac{1}{4}$ inches in depth it was gaping and had severed through the muscles on the side of neck and also the wind pipe. There were 2 wounds on the left upper arm one situated on the back part of the upper arm and the other at the elbow joint. The upper wound was a large U shape with gaping edges situated on the back

part of the left upper arm half way between the left elbow joint and arm pit. The skin edge of wound measured 7¼ inches in length the depth was 4½ inches and it went obliquely through the muscles on the back of the arm. The second arm wound was situated at the left elbow joint, incised and gaping running through and opening into the joint. The head of the ulnar was severed. There was a skin scratch 6¾ inches long running through the left arm pit. The cause of death was hæmorrhage and shock caused by the wounds mentioned. The wounds were probably caused by a sharp heavy instrument like a cane knife. When the wounds were inflicted the victim would have bled profusely. There would be profuse bleeding while the body was still fresh.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 1. Charlie Bula, 14th February 1946, Examination, *continued.*

Dr. MacCauley, the Medical Officer, Lautoka, supervised the Post Mortem, I performed it. Dr. MacCauley has left the Colony on long leave.

The notes I have been reading were made by Dr. MacCauley and myself.

They are signed by the Dr. and myself on the 9th September, 1945.

XXnd Sharma: The notes I have been reading were made by Dr. MacCauley and myself.

Cross-examination.

Not XXnd: Stuart.

(Sgd.) C. BULA.

N. M. P. LAUTOKA.

Taken and sworn before me in the presence and hearing of the accused this 14th day of February, 1946.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

No. 2.

EVIDENCE of J. W. Caldwell.

No. 2. J. W. Caldwell, 14th February 1946. Examination.

2nd P.W. JOHN WILLIAM CALDWELL—Sworn.

I am a surveyor in the Fiji Government and am stationed at Lautoka. I prepared a plan at the request of Superintendent Abraham of certain parts of Sabeto. I started the survey on 11.12.45. I went with Superintendent Abraham, Const. P.C. Samesa No. 526 and Assistant Superintendent Spencer to the scene on that day. I drew a plan of the area from the Queen's Road, Sabeto turn off to the vicinity of the old U.S. Hospital at Naboutini. I produce the plan Exhibit "A." Reading from left to right I have marked a branch road which turns to the right from the Sabeto Road crosses the C.S.R. railway skirts Koroyaca Village and goes to Harnam Singh's houses and temporary shelters. The track continues but I have stopped there. To the west of Koroyaca Village I have shown Raj Balli's houses. Returning to the Sabeto Road the next

Exhibit A.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 2. J. W. Caldwell, 14th February 1946, Examination, *continued*

thing I have noted is a bridge crossing near the Sabeto River. A little further on a road branches to the left, passes Shiu Sharan's houses and further on again it passes Ramedar's houses (parents of Vishnu Deo). Returning again to the main Sabeto Road the next thing marked is Gaj Raj Singh's houses some distance from the road on the left hand side. Continuing along the main road I have noted Ramsumer's compound on the right. Further along you come to a branch road turning to the right which is I think a military road. Continuing along the main Sabeto Road I have noted a store on the right called Nataira store. Next noted is a concrete slab on the right which I think was the floor of a U.S. bathroom for American troops. A little past this slab there is a branch road to the left which crosses the Sabeto River and eventually arrives at and passes Ali Mohammed's houses. Returning again to the main Sabeto Road I have noted Walli Mohammed's compound on the right. I have marked an enlargement of this compound on the right of the plan which includes the house, a mangoe tree, a concrete slab, a water well, and a concrete well all inside a fence with 2 gates approaching the main road. I have marked an X and the words " burnt cloth found " just west of Walli Mohammed's compound. This represents a position shown to me by Assistant Superintendent Spencer. I only saw a pile of stones there. Continuing along the main Sabeto Road from Walli Mohammed's compound some distance along I have shown a road on the left which passes Ram Kishur's store and continues on indefinitely but I have shown further north the junction of 2 roads one of which running north passes Ram Narayan's houses and Lachmi Prasad's house. I went straight across country from the end of the road shown in my plan to the junction ; these roads may meet but not nearby. That is all I have shown on the main Sabeto Road. Returning to the branch road which I think is a military road and following along it a short distance, I noticed a small track on the left which runs towards Natawa store passing an old bure on the right ; returning to the military road and following along it I have shown Tulsi Ram's houses lying some distance to the right, further along the road a considerable distance I have marked Nawab Ali's houses on the right and nearby Badri Prasad's houses on the left. These are very close to the road. Continuing along the road I found a bridge where the road crosses the Malika Creek and a small creek on the right of the bridge, on the opposite bank of the Malika Creek I noticed an Ivi tree. Further along the road for a short distance I noticed a track leading off to the right which I followed for some distance when it faded out. The land is eroded and broken. From where the track ends some distance to the west I have noted another track which runs practically due north and crosses over the Malika Creek and eventually passes Kattar's houses on the right. Returning again to Malika Creek a branch track runs S.S. Westerly which meets another track running N.W. and S.E. following along the track N.W. I have noted an X on the plan on the side of the track where Mr. Spencer showed me that the body was found. North of that I have noted another X where Constable Samesa said a sack was found. Just to the West of where I have noted X and " Body found " I have shown a post hole. The area south of the Sabeto Road which I have left blank has numerous tracks wandering everywhere. As I arrived at each house shown on the plan I confirmed their ownership by asking the people. The arrows on the road are small culverts running under the road.

Not XXnd. Sharma :

XXnd. Stuart : All the houses marked on the plan are absolutely to scale.

(Sgd.) J. W. CALDWELL.

Taken and sworn before me in the presence and hearing of the accused this 14th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

Adjourned to 15.2.46 at 9 a.m.

Both accused remanded in custody.

No. 3.

EVIDENCE of J. H. Spencer.

Magistrate's Court, Lautoka.

Friday 15th February 1946.

Before J. BENNETT, Esq., Chief Magistrate.

On adjournment from the 14th February, 1946.

Superintendent Abraham for the Police.

T. R. Sharma for Ali Mohammed.

K. A. Stuart for Walli Mohammed.

Both accused before Court on remand.

3rd P.W. JOHN HUGH SPENCER.—Sworn.

Assistant Superintendent of Police. Stationed at Nadi, i/c Nadi.

I knew Lachmi Prasad. On 11.10.44 I paid the sum of £10 to Lachmi Prasad for giving information to the Police which led to the recovery of a Thomson sub-machine gun from the house of Mangara f/n Shiunath. Mangara is the brother of the accused Walli Mohammed. He Walli Mohammed is known as Ballu. I produce a receipt for £10.0.0 which is signed by Lachmi Prasad. Exhibit B. On 5.12.44 Mangara was sentenced to 2 years and 3 months imprisonment by the Chief Justice at Lautoka for the possession of a sub-machine gun. On the 26.12.44 I paid a further sum of £10.0.0 to Lachmi Prasad for which I received a receipt. I produce the receipt Exhibit C. This is signed by Lachmi Prasad and witnessed by Sub-Inspector Lal Singh, as is Exhibit B. Lal Singh was a sergt. at that time. On the 9th September, 1945 about 11.30 a.m. I received a phone message from Sabeto in consequence of which I went to Sabeto with Sergt. Lal Singh, Constable Samesa, Constable Ram Charitra and others. On arrival at Sabeto I found the dead body of a man

Exhibit B.

Exhibit C.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 3. J. H. Spencer, 15th February 1946, Examination, *continued.*

whom I recognised as Lachmi Prasad. He was lying on his back. Rigor had set in. He had a deep gash in his throat another at the base of his skull at the rear and a gash on the left elbow. The left arm was flexed. He was dressed in white shorts, a black shirt, black belt with a sheath knife on the belt at the rear. I produce the clothes and knife. Exhibit D. I searched the immediate vicinity of the body and I found at a distance of 12 feet from the body in a line approximately due west in the direction of the Malika Creek a small group of what I took to be drops of blood. It was a red substance. Four feet beyond that in the same direction I found another group of blood drops. The drops were in a line parallel to the track and close to it. They were on the opposite side of the track to which the body was found. There was not much blood in either group.

Exhibit D.

I was brought to the body by one Ramdan. It was lying not far away from a telephone post. To get there I followed an old army track which leads off the main Queen's Road Sabeto Road I left the army track to follow a small track to the right towards the Malika Creek. About ½ a mile from the bridge over the Malika Creek along a track in a general westerly direction is where I found the body. It was approximately 150 yards from the creek and almost on the track—in fact the feet were on it.

At 12.15 p.m. the same morning I saw Constable Samesa coming from the direction of the creek. He was carrying a sack which he gave to me. I produce it. Exhibit E. At approximately 12.30 p.m. Inspector Pratap arrived. I then loaded the body on to a truck and underneath the spot on the ground where the head had been lying the ground was deeply saturated with blood but there was no blood under the body or around it. I made a thorough search and found only the two groups of drops I have mentioned. I took the body to Lautoka Mortuary where a Post Mortem was performed in the presence of Superintendent Hooper, Inspector Pratap and myself. The Post Mortem was performed by Dr. MacCauley and N. M. P. Jale who was present throughout. Before the Post Mortem I caused photos to be taken of the body outside the mortuary by a man from Prasad's Studios. I produce 4 photographs which are of the deceased Lachmi Prasad. These are the first four photographs which were taken then outside the mortuary. These are in the exact position in which the body was originally seen by me. Rigor was still present when they were taken. Exhibits F.1, 2, 3, 4, I also produce a fifth photograph Exhibit G. In this the body of deceased has been turned over to show the wounds on the back of the head. I was present when all five were taken. The negatives were handed over to me. They are still in my custody. At the Post Mortem I took possession of the clothes Exhibit D. The deceased's body was identified by Badri Prasad f/n Bholai his brother. He took the body away to Sabeto after the Post Mortem. On 10.9.45 I took possession of a lorry K.57 the property of Ramsumer Maharaj of Sabeto. It was taken to the Nadi Police detachment and kept there.

Exhibit E.

Ex. F. 1, 2, 3, 4; Exhibit G.

On 25.9.45 at Superintendent Hooper's directions I took scrapings from the floor boards of the inside tonneau of the lorry. It is a passenger lorry. I was looking for blood stains. On the 26th September I handed these over to the custody of Constable Ram Charitra, to take to the Government Analyst. At the same time I gave him the sack Exhibit E. I received both these back on the 24.11.45 from Constable Manasa.

I produce the envelope given me by Constable Manasa containing the scrapings. Exhibit H. Exhibit H.

Court: The endorsement on the envelope produced is "scrapings from K.56."

Witness: It should be K.57. It is wrongly marked on the Exhibit. It should read K.57. On 10th September I took a statement from Walli Mohammed. I took it in English through interpretation of Constable Ram Charitra.

Abraham: Preferable if this witness were recalled to give evidence of statements to keep in sequence.

Witness: On 18.9.45 I was shown a spot by Corporal Walli Mohammed in Walli Mohammed's ploughed land situated about 2 chains from the fence around his compound. Where Corporal Walli Mohammed had found some burnt cloth. He handed it over to me. There were still fragments on the ground where he indicated. I produce the cloth Exhibit I. On the 26th September I gave this cloth to Constable Ram Charitra along with the other exhibits to take to Suva. I received it back on the 24th November 1945 from Constable Manasa. On 11.12.45 I accompanied Mr. Caldwell, surveyor, I showed him the position where the burnt cloth had been found and also the place where I saw the body of Lachmi Prasad. Exhibit I.

Abraham: Wish to recall Mr. Spencer after the next witness.

R.O.F.C.

(Sgd.) JOHN HUGH SPENCER,
A.S.O.P.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 4.

EVIDENCE of Ramcharitra.

4th P.W. RAMCHARITRA—Sworn.

Constable No. 605 Fiji Police stationed at Nadi.

On 9.9.45 at 5 p.m. I took a statement from Walli Mohammed without a caution. He made it in Hindustani. I wrote it down in English: read it back to him in Hindustani. He signed it. I produce it. Exhibit J (Statement read). Exhibit J.

At 7.45 p.m. the same evening I took a statement from Ali Mohammed without caution. He made it in Hindustani. I wrote it in English. I read it over to him and he signed it. He agreed with its contents. I produce it. Exhibit K (Statement read). Exhibit K.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 4. Ramcharitra, 15th February 1946, Examination, *continued.* Exhibit L.

On 10th September at 11 a.m. I interpreted from Hindustani to English and English to Hindustani while Mr. Spencer took a statement from Walli Mohammed. I read it back to Walli Mohammed in Hindustani, he understood and approved and signed. The statement produced Exhibit L is it. (Statement read.)

On 26.9.45 I took exhibits from Mr. Spencer to the Government pathologist. They were the sack, Exhibit E, the scrapings Exhibit H and burnt cloth Exhibit I. I handed these over to the Government pathologist at the hospital in Suva on the 27th September.

(Sgd.) RAM CHARITRA.

Taken and sworn before me in the presence and hearing of the accused this 15th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 5. J. H. Spencer (recalled), 15th February 1946.

No. 5.

EVIDENCE of J. H. Spencer, recalled.

3rd P.W. JOHN HUGH SPENCER (Recalled on former oath).
(*Continued*)

At 11 a.m. on 10.9.45 I took a statement from Walli Mohammed through the interpretation of Ramcharitra who interpreted from Hindustani to English. I recorded the statement in English. I read it back in English and Ramcharitra interpreted to Hindustani. Accused appeared to understand, he signed it after having been invited to make any corrections he wished. He did so. Exhibit L is the statement. In the last line on page two of Exhibit L where " Mohammed Ali " is referred to this should read " Ali Mohammed."

Not XXnd : Stuart :
Sharma :

(Sgd.) JOHN H. SPENCER.

The evidence of John Hugh Spencer recorded on the 15th to 20th pages inclusive and on the 22nd page hereof was taken and sworn before me in the presence and hearing of the accused on the 15th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 6.
Attar Singh, 15th February 1946. Examination.

No. 6.

EVIDENCE of Attar Singh.

5th P.W. ATTAR SINGH—Sworn

Sergt. 305 Fiji Police stationed in Ba.

At 7.30 p.m. on 10.9.45 I took a statement from accused Walli Mohammed without caution at Sabeto, Nadi. The statement produced Exhibit M is it. I spoke to him in Hindustani but recorded the statement in English. I read it back to him in Hindustani, he understood and approved and signed it in Hindustani. (Statement read.)

On 11.9.45 at 11.25 a.m. at Naboutini Nadi I took a further statement from Walli Mohammed after caution. This was taken in the presence of Superintendent Hooper and Inspector Sell. We spoke in Hindustani but I recorded the statement in English. I completed the statement at 1.35 p.m. Read it back to the accused in Hindustani, he appeared to understand and approve and signed in Hindustani. I produce the statement Exhibit N. (Statement read.) Exhibit M. Exhibit N.

At 6.30 p.m. on 12.9.45 at Naboutini I recorded another statement from Walli Mohammed after caution. We spoke in Hindustani but I recorded the statement in English. I read it back in Hindustani, he appeared to understand and approve. He signed it. Superintendent Hooper, Assistant Superintendent Spencer and Inspector Sell were present when I took it. I produce the statement Exhibit O. (Statement read.) Exhibit O.

On 12.9.45 at 1 p.m. at Naboutini, Nadi, I took a statement from Ali Mohammed. This was the first statement I took from him. It was taken without a caution. We spoke in Hindustani and I recorded the statement in English. I translated it to him on completion : he appeared to understand and approve and he signed his name in Hindustani. I produce the statement Exhibit P. (Statement read.) The first part of the statement was taken and signed by accused at 1 p.m. At 2.40 p.m. I continued the statement. Exhibit P.

(Sgd.) Sgt. ATTAR SINGH.

Not XXnd : Sharma :

Stuart :

Taken and sworn before me in the presence and hearing of the accused this 15th day of February, 1946.

(Sgd.) J. BENNETT,
Ag. C.M.

No. 7.
Samesa Bainamua, 15th February 1946. Examination.

No. 7.

EVIDENCE of Samesa Bainamua.

6th P.W. SAMESA BAINAMUA—Sworn

Const. No. 526 Fiji Police stationed at Nadi.

On 9th of September 1945, I went with Mr. Spencer and a police party to Votualevu. That is the place where the body was found. When there I was instructed to search in the area in the bush. The bush is low guava. About 40 to 50 yards from where the body was lying towards the stream I found the piece of sack Exhibit E lying on the ground.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 7. Samesa Bainamua, 15th February 1946, Examination, *continued.*

I brought it and handed it over to Mr. Spencer. It was about 6 or 7 yards from the stream. It was partly folded (witness demonstrates), the bottom was wet. It had marks on it which appeared to me to be bloodstains. The top side was dry. I found it after 2 p.m. It was a sunny day. On 11th of December 1945, I pointed out to Mr. Caldwell, Surveyor, exactly where I found Exhibit E.

Not XXd. : Sharma :

Stuart.

To Court : The body found was that of Lachmi Prasad. I knew him before. 10

(Sgd.) Constable 526 SAMESA.

Taken and sworn before me in the presence and hearing of the accused this 15th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 8. Mika Nasili, 15th February 1946, Examination.

No. 8.

EVIDENCE of Mika Nasili.

Jeremaia Tewarava—sworn—Fijian Interpreter.

7th P.W. MIKA NASILI—Sworn.

Villager of Koroyaca, Sabeto. I was born there, have been there all my life. Am now aged 31 years. I know most of the Indians in Sabeto. I knew Lachmi Prasad. I know both accused. The first one is called Ali Mohammed and the second one is called Ballu. I last saw Lachmi Prasad on a Saturday evening : he was alive then. The next time I saw him was the following day Sunday, he was dead. The day was the 9th September, 1945. On the 8th I left Sabeto on my way up to Naboutini about 5 p.m. I was riding my horse up the main Sabeto Road, when I got opposite Ballu's house—the second accused's. At that time Lachmi Prasad was coming out of the mouth of a small track right alongside the creek about 1 chain from the main road. That is Lachmi Prasad was about 1 ch. from me. I passed between Lachmi and Ballu's house. He was coming out from the creek to the main road. I did not see which way he went. I went on to Naboutini and returned about 6 p.m. I came back on my horse and when I came opposite Ballu's house on the way back I saw Lachmi Prasad standing about 4 yards away from the door of Ballu's house—that is the bure near the mango tree. There were some other Indians sitting on the ground with Lachmi. I only knew Lachmi Prasad. I rode on. I did not see Ballu that night. 20 30

Not XXd. : Sharma :

Stuart. (Sgd.) MIKA NASILI. 40

Taken and sworn before me in the presence and the hearing of the accused this 15th day of February, 1946.

(Sgd.) J. BENNETT, Ag. C.M.

Adjourned to 18.2.46 at 9 a.m.

Both accused remanded in custody.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 9.

EVIDENCE of Walli Mohammed.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 9. Walli Mohammed, 18th February 1946, Examination,

Magistrate's Court, Lautoka.

Monday 18th February, 1946.

Before J. BENNETT, Esq., Chief Magistrate.

On adjournment :

Sharma : Stuart has had to go to Nadi and he has instructed me to represent his client this morning.

8th P.W. WALLI MOHAMMED—Sworn

Corporal No. 479 Fiji Police C.I. Dept. Suva.

On 17.9.45 I visited Nadi to assist in investigations of murder of Lachmi Prasad. On the same day I took a statement from the accused Ali Mohammed without caution. I produce the statement. Exhibit Q. We spoke in Hindustani and I recorded the statement in English. I read it back to him in Hindustani, he appeared to understand it and signed it in Hindustani. (Statement read.) Exhibit Q.

At 1 a.m. on the following morning I took a statement from the Accused Ali Mohammed after caution. I produce the statement Exhibit R. He spoke in Hindustani—I recorded the statement in English. I read it back to him in Hindustani. He understood and approved the contents and signed his name in Hindustani. (Statement read.) Exhibit R.

Sharma : Ask that formal objection may be noted to this statement Exhibit R.

Witness : Later that morning Superintendent Hooper, Assistant Superintendent Spencer, Sergt. Major Ahmed and I with a police party went to Sabeto near Ballu's house. Ballu is Walli Mohammed—a piece of land is ploughed between the store and his house—it adjoins his compound on the main road side of his house. Ali Mohammed said " This is the land where I saw the smoke coming from." We got off the lorry and went into this land. He took us to a spot and said " It was somewhere here that I saw the smoke." The spot was at the far side of the field from the road. There we searched and I found some burnt pieces of cloth. Ali Mohammed then said " Yes this is the exact place where I saw the smoke coming from." Superintendent Hooper, Assistant Superintendent Spencer and Sergt. Major looked at the place and Superintendent Hooper instructed me to pick up the burnt clothes. Then after picking these up I put a pile of stones on the spot where they had been. Then accused Ali Mohammed took us on to Votualevu Road. A few chains past the wooden bridge on this road he told us to turn the lorry towards the right. Going in 3 or 4 chains he said " Stop here." It is just open land, no tracks, it had not then been cultivated. We stopped and he took me along a track and we went up a hill and down the other side to a big open land. There Ali Mohammed said " This is the place where Lachmi was killed." Then we walked on and found a spot where there was still a big dry stain which looked like blood. Accused said this is the place where Lachmi Prasad was killed. It was close to a track which runs across the creek towards a house. I don't

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 9. Walli Mohammed, 18th February 1946, Examination, *continued.*

know who's house it is. Superintendent Hooper and Sergt. Major Ahmed were present. Sergt. Major Ahmed said " This is the place where the body was found." Then we all returned to Naboutini village. We were conducting investigations from there. Later in the evening I gave the burnt pieces of cloth to Assistant Superintendent Spencer at Nadi Police Station.

Sharma : No questions.

To Court : The place where the burnt cloth was found seemed to have been newly ploughed. All the field was not ploughed only part towards where the burnt pieces were found.

The Votualevu Road starts southward from the main Sabeto Road near Nathbhai's store.

The wooden bridge I spoke of is the first one as we go from Nathbhai's store.

(Sgd.) WALLI MOHAMMED.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 10. Shankar Pratap, 18th February 1946, Examination.

No. 10.

EVIDENCE of Shankar Pratap.

9th P.W. SHANKAR PRATAP—Sworn

Inspector of Police stationed at Lautoka.

On 12.9.45 I charged and cautioned Walli Mohammed for the murder of Lachmi Prasad. After the caution he made a statement in Hindustani which I recorded in Nagri script. When completed I read it over to accused he appeared to understand and approve its contents. He signed it in Hindustani in my presence. (Statement read in Hindustani and interpreted.) Statement produced Exhibit S.

Exhibit S.

On the 19th September I charged and cautioned the accused Ali Mohammed. He made a statement in Hindustani. I took it down in Nagri script. When completed I read it back to him in Hindustani. He approved its contents and signed it in Hindustani in my presence.

Exhibit T.

I produce the statement Exhibit T. (Statement read in Hindustani and interpreted.)

Sharma : This refers to the statement of the 18th ask formal objection to be noted to it also.

(Sgd.) S. PRATAP.

Sharma : No questions.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 11. Ramdhan, 18th February 1946. Examination.

No. 11.

EVIDENCE of Ramdhan.

Stuart arrives in Court.

10th P.W. RAMDHAN f/n Akalu—Sworn.

I am a cultivator. Aged 65 years and live at Votualevu. Last September I cut my finger with a cane knife—it was on a Sunday—I went to get medicine for it—it was about 8 or 9 o'clock in the morning—I left my home—on a track and on a spot about 10 chains from the creek I found the dead body of a boy. The land where I found it used to be a native lease but now it has become Company's land. Rice is being planted. The body was on the opposite side of the creek from Kattar's house. The track I found the body on leads past Kattar's house to the Government Road. The body was lying on its stomach. One of its legs was bent and one lay straight out full length. The left arm was bent at the elbow (Witness demonstrates). The right arm was lying outstretched. I did not know it was a dead body. I came down the track and come to Bechu' Prasad's place. He telephoned to the Nadi Police.

I thought the body was dead but I did not know. I did not stop to look, since he was dead I could not bring him back to life. He had an injury on his throat—I did not see blood around. It was a big injury—a big cut like a man would make with a knife. After telling Bechu Prasad I waited at the tank. A police party came, a tall Inspector and a Sergt. I took them and showed them the body. I saw the man's face but I did not know who he was. When I showed the body to the Police he was lying in the same position as when I first saw him.

(Sgd.) RAMDHAN.
X his left thumb print.

Sharma : No XXd.

Stuart : No XXd.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 12. Tulsiram, 18th February 1946. Examination.

No. 12.

EVIDENCE of Tulsiram.

11th P.W. TULSIRAM f/n Raghbir—Sworn.

I am a cultivator aged about 21 years. I live at Sabeto. I know the two accused. They live at Sabeto. I knew Lachmi Prasad. He was killed. I heard about it on a Sunday in September last year. I saw Ballu on that day—Ballu is Walli Mohammed the second accused. I heard

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 12. Tulsiram, 18th February 1946, Examination, *continued.*

about Lachmi's death about 1 p.m. I saw Ballu about 7 or 8 a.m. He was ploughing in his own field west of his house. I was ploughing in my own field a short distance from Ballu's. I live a short distance from him. My land is on the same side of the Votualevu as my own house. I had seen Walli Mohammed ploughing for a week before that—that was the first day I had seen him ploughing at this particular place. He had started near his house and had come to this place. I had not seen him ploughing on a Sunday before—he had been working before that.

(Sgd.) TULSIRAM.

Sharma : Not XXd.

Stuart : Not XXd.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 13. Ramnarain, 18th February 1946, Examination.

No. 13.

EVIDENCE of Ramnarain.

12th P.W. RAMNARAIN f/n Bermadiu or Bermadutt—Sworn.

I am a labourer aged 22 years and I live at Sabeto, Nadi. I work at the Air Base. Lachmi Prasad was my brother-in-law. We learnt on a Sunday the 9th of the month I think it was October last year that he had been killed. I last saw him alive on the previous Saturday at 6 p.m. at Ballu's house—Ballu is the accused Walli Mahommed. When I saw him I was going from my house to Harnam Singh's house on a bicycle—my house is further inland from Ballu's. I was on the Government Sabeto Road. I saw Lachmi Prasad, Ballu and some others whose faces were turned away from me so I could not see them. They were playing cards in the compound of Ballu's house. They were about 6 or 7 yards from the second house in the compound (Witness indicates spot on Exhibit A). All told there were about 3 or 4 people there. They were sitting in a circle—they had playing cards in their hands. Then I went on to Harnam Singh's. There was a Khattar on there that night—Pundit Shardanand was reading the sacred book there when I got there. Bishun Prasad or Bishun Deo who lives in Sabeto the son of Ramedar, Ramsaran f/n Ramsumer, Ramharakh Charana f/n Ramharak were already there. There was an army lorry in the compound. It is Ramsumer's. The Pundit was already there. I may have arrived there about 6.20 or 6.30 p.m.

At that time Ramsaran f/n Ramsumer was driving the army lorry.

About 8 p.m. Ramsaran and Bishun Deo went away on the army lorry for a benzine lamp returning in about 20 minutes. The light at the Khattar had not been burning properly. They did not leave the Khattar at any time later that evening.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 13. Ramnarain, 18th February 1946, Examination, *continued.*

Dhayaram f/n Ramsumer arrived there later about 11 p.m. in his own bus. As long as I was there Bishun Deo and Ramsaran were still there. I stayed for about 20 minutes after Dayaram arrived. He regularly drives this bus. I went home on my bicycle. I went with the Pundit Shardanand. I did not see either of the two lorries again that night. When the Pundit and I got to the junction of the main road the army lorry passed us from behind it was Ramsumer's army lorry. I did not see who was driving. It turned to the left towards the tanks, that is towards the Queen's Road. We turned to the right. We were both on bicycles. No lorries passed us on the way home.

(Witness identifies Bishun Deo f/n Ramedar as the person who left Khattar with Ramsaran to get the benzine lamp.)

Sharma : Not XXd.

Stuart : Not XXd.

(Sgd.) RAM NARAIN.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 14.

EVIDENCE of Kartar.

No. 14. Kartar, 18th February 1946. Examination.

13th P.W. KARTAR f/n Budhai—Sworn.

I live at Sabeto and am a cultivator of about 60 years of age. In September last year I had 2 daughters at home. They were unmarried one was 12 years old and the other was 10 years old. I know the accused Ali Mohammed the 1st Accused I don't know the other one. I did not know Lachmi Prasad. Ali Mohammed visited my place. About 2 months before all this trouble he came to my house with two other men whom I did not know. I still don't know them ; I asked him what he had come for and he said he had just forgotten the road and come that way. I then told them to go away. They went. I went to see where the body was found. There was quite a crowd of people and police there—the place is about 20 chains from my house. You get to it through my land and across the creek. There is a track from my house to the creek, it is very ill formed—the other side is company's land.

Sharma : Not XXd.

Stuart : Not XXd.

(Sgd.) KARTAR *X* his left thumb print.

Taken and sworn before me in the presence and hearing of the accused this 18th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

Adjourned to 19.2.46 at 10 a.m.

Both accused remanded in custody.

(Sgd.) J. BENNETT.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 15. Shankar Pratap (recalled), 19th February 1946. Examination.

No. 15.

EVIDENCE of Shankar Pratap, recalled.

Magistrate's Court, Lautoka.

Tuesday 19th February, 1946.

Before J. BENNETT, Esq., C.M.

On Adjournment.

Abraham : Wish to recall Inspector Pratap to give evidence of arrest.

14th P.W. SHANKAR PRATAP—Sworn.

Inspector of Police stationed at Lautoka. On 12.9.45 I arrested the accused Walli Mohammed alias Ballu on the charge of murder of Lachmi Prasad and on the 19th September I arrested the accused Ali Mohammed on the same charge.

Sharma : No questions.

Stuart : No questions. (Sgd.) K. PRATAP.

Taken and sworn before me in the presence and hearing of the accused this 19th day of February, 1946.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 16. Nawab Ali, 19th February 1946. Examination.

No. 16.

EVIDENCE of Nawab Ali.

15th P.W. NAWAB ALI f/n Hassan Din—Sworn.

Of Sabeto. I am aged 18 years and am a labourer employed by the C.S.R. Company. I knew Lachmi Prasad. I heard he was cut up by some one. I heard it on a Sunday in September or October. I was at home that day and the day before. I live on the west side of a road that goes from the Sabeto Road to Votualevu and Nadi—it is an army road. Past my house about 10 chains along the road there is a wooden bridge—I live about 2 chains from the road ; the evening before I was at home. That was Saturday. I did not see any transport pass my house. I was at home from 1 p.m. onwards on Saturday.

(Sgd.) NAWAB ALI.

Sharma : Not XXd.

Stuart : Not XXd.

Abraham : Wish to recall the witness—question was " hear any transport."

Nawab Ali (Recalled by Court)

To Court : I would see cars if they passed along road in day time. At night time I do not know what happens. If I am awake and a lorry passed I would hear it. I did not have a clock. Went to sleep about 8 or 9 p.m.

(Sgd.) NAWAB ALI.

Taken and sworn and interpreted before me this 19th day of February 1946 in the presence and hearing of the accused. (both.)

(Sgd.) J. BENNETT,
Acting Chief Magistrate,
Lautoka.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 17. Badri Prasad, 19th February 1946. Examination.

No. 17.

EVIDENCE of Badri Prasad.

16th P.W. BADRI PRASAD f/n Bhullai—Sworn.

I live at Sabeto and am a cultivator aged about 20 years—22 years. I live on the Votualevu Road. I live a short distance from Nawab Ali on the opposite side of the road. I live about 7–10 paces from the road. I knew Lachmi Prasad. He died. He was cut up with a knife. I heard about it on Sunday—I went to see his body that day. I followed the inspector and the police to the body.

I was at home all day on the Saturday before. I do not recollect any transport passing on the road. I did not see any transport while I was awake. Nor did I hear any. If any had passed I would have heard. I went to sleep between 8.30 p.m. and 9 p.m.

Not Xxd. : Sharma

Stuart.

(Sgd.) BADRI PRASAD in Nagri.

Taken, sworn and interpreted before me this 19th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate,
Lautoka.

No. 18. Ramnayarain, 19th February 1946. Examination.

No. 18.

EVIDENCE of Ramnayarain.

17th P.W. RAMNAYARAIN f/n Balkhandi—Sworn.

I am about 28 years of age and live at Sabeto and work for the United States Army. I am also a cultivator. I am a sirdar in the Q.M.'s Department. Both the accused worked for me. Lachmi Prasad also worked for me. Someone killed him in the month of September. I think the day was a Sunday in September last year.

After the event about a day or two later I had some conversation with the accused Ali Mohammed. He came late to work. I asked him why he was late. He told me that he was delayed on account of some talk he was having with Ballu. I was asking this when I was taking the attendance. He took me to a spot away from the rest of the people and said that Ballu had said to him "If you give evidence for me in the way that I tell you then we might find some way of saving me. You give your statement in this manner that we were alongside the Votualevu Road near Lallubhai's store and that Ballu's father-in-law Ramsumer came along with his lorry

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 18. Ramnayarain, 19th February 1946, Examination, *continued.*

from the direction of Sabeto and was proceeding towards Votualevu. I (Ballu) asked him ' Where are you going ? ' and he (Ramsumer) replied ' I am going to get goat's meat, you people come along with me too '— and we got into the lorry and we saw that there was Bishun Deo and Shiusharan f/n Panchu already in the lorry. We went towards Votualevu and Lachmi Prasad was also with us. The lorry was stopped on the other side of the creek and we all got out and went in the direction of the creek. In front was Lachmi Prasad behind him was Shiusharan and Bishun Deo then Ramsumer Maharaj and I and Ali Mohammed ; behind about 1 chain or 1½ chains back Shiusharan first struck Lachmi Prasad with a knife after him Bishun Deo struck Lachmi."

Ali Mohammed then asked me for my advice. He asked me " What am I to say ? " I told him " Tell whatever is the truth." Then I went away and I don't know anything else. I had no subsequent conversations with either accused about it.

Sharma : No questions.

Stuart : No questions.

(Sgd.) RAMNARAYAN.

Taken, sworn and interpreted before me this 19th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate, Lautoka.

No. 19. Shiusharan, son of Panchu, 19th February 1946. Examination.

No. 19.

EVIDENCE of Shiusharan, son of Panchu.

18th P.W. SHIUSHARAN f/n Panchu—Sworn.

I am a labourer aged about 21 years and live at Sabeto. Last September I was a labourer cutting cane. I knew Lachmi Prasad. I heard on a Sunday that someone had cut him up. I heard about 11 a.m. that he was killed. We went along to the spot where the body was and saw the body. The day before I got up in the morning about 6 a.m. and about an hour later after breakfast I went to work on foot to Yoloko where I was cutting cane. I live about 2 miles from the Queen's Road on a track to the left off the Sabeto Road, Bishun Deo lives further along on the same track. When I arrived at the field the Sirdar said I could go home as very few trucks had arrived at the field. I returned home and I had a bath and food and went to Lautoka. There I had a hair cut and went about places here and there—I met Jagdeo, Buturu and many others. In the afternoon about 2 or 2.30 I sat in a lorry. Gajraj Singh came and I paid my fare. I went on this lorry and got off at Saweni to visit my brother-in-law Nanku's house—I arrived there between 3.30 and 4 p.m. My sister only was there when I arrived, a boy named Ramsewak f/n

Mahabir came. I was asleep when he arrived. I had fallen asleep shortly after my arrival. I awakened late in the afternoon and I saw that Ramsewak was there—it was getting dark. Nanku arrived about ½ to 1 hour later. After we had our dinner—I went off to sleep after a little conversation. I did not leave the house that night neither did Ramsewak or Nanku. About 7.30 or 8 a.m. I left with Ramsewak. We came on the main road met many people we stood there for a long while waiting for a lorry for Sabeto. We got one about 9 a.m. driven by Chatturpal; in about ½ hour we arrived at Sabeto. I am not related to either of the accused. We got one about 9 a.m. driven by Chatturpal and in about half an hour we arrived in Sabeto. I had last seen both accused about 6 or 7 weeks before when we were all working together. I have not met Ali Mohammed after the murder. I may have ridden on Dayaram's or Ramsumer's lorries but I don't recollect.

Sharma and *Stuart:* No questions.

To Court: I last saw Bishun Deo about a week before the murder. I did not see him on that Saturday.

(Sgd.) SHIUSHARAN in Nagri.

Taken, sworn and interpreted before me this 19th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

No. 20.

EVIDENCE of Bishun Deo.

19th P.W. BISHUN DEO f/n Ramadhar—Sworn.

I live at Sabeto and am a carpenter aged about 21 years. I work in the Mosquito Control. I knew Lachmi Prasad. He is dead. I heard about 2 p.m. on a Sunday last year in September. I heard that he had been cut up with a knife. On the Friday before this Sunday the Mosquito Control clerk told me to go to Lautoka. At 7 a.m. on Saturday I went on the Mosquito Control lorry. Also on the lorry was my boss Mr. Stowers his wife and child and the clerk Wiliame a Fijian. We came into Lautoka by the bazar on the top of the lines, there I bought 2 tins of maize and then on to the Mosquito Control office in Lautoka. I stayed with my boss until about 3 p.m. From Lautoka we proceeded to the Namaka Mosquito Control Office. There we unloaded cement and bags of maize. Then we went on to Nadi arriving there about 1 p.m. or 2 p.m. There I met Ramchandar. My boss left me there—we remained in the town for about 2 or 3 hours and then went together to Sabeto in Babu's lorry. Babu is Shakabudin.

At Sabeto Ramchandar and I went together as far as Sabeto lines—the old company living quarters—Ramchandar asked me if I had an invita-

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 20. Bishun Deo, 19th February 1946, Examination, *continued.*

tion to Harnam Singh's Kattar, I said I had, so he asked me to go with him—I told him I would go home, bath, change and return and pick him up at the lines where he lived. I came home, bathed in the river at about 5 p.m. had dinner remained at home for a while then left home and went to Ramchandars in the lines—he had left before my arrival.

Chanan's son named Gurdial was at the lines and a man named Thakur was also there. They told me Ramchandar had left because I was late and had left a message to tell me that he had gone to Harnam Singh's and I was to follow. From there I went on to Harnam Singh's house where I arrived at sunset but it was not yet dark. When I arrived Ramchandar, Ramsaran f/n Ramsumer, Latchman Singh Shiusaran f/n Ramsumer and his mother were there—I saw these people first but there were many other people there—about 30 or 40.

Sharda was conducting the Kattar. Also present were Ramharakh, Ramsewak f/n Ramharakh, Amrith and Jagdeo. I left the Kattar late at night after having a feed and having stayed back for the usual sing song. It was about 2 mid-night or 1 a.m. Ramsaran and his younger brother Shiusharan left during the evening to get another lamp. There was a lamp there but it was not working properly. I was asked with Ramchandar to fix it up, but we could not do it. So Ramsaran and Shiusharan went for another lamp. I was asked to fix the lamp shortly after my arrival but could not, so these two left almost immediately afterwards to get the lamp. They returned with it in about half an hour.

They went in Ramsumer's army lorry to get the lamp and they returned in the same one. A short while later a man named Jafar passed in a jeep and repassed but did not come to the Kattar. Dayaram came in his bus about 12 or 1 a.m. when we were about to leave the party. I don't know the regular driver of the bus : I don't know the number. I saw Dayaram sit down to have some food—I don't know who is the regular driver of this bus—I don't know the number. After he had eaten we left in Ramsumer's army lorry—Ramsaran drove it. I sat in front with him—there was no one else on it. I got off it where the track leading from Harnam Singh's meets the main road, the lorry turned to the left towards the Queen's road. I went straight home. Sharda the Pundit and Ramnarain were going along ahead of me. (Identifies Ramnarain f/n Barmadin in Court.) They were walking in front with their bicycles—I did not pass anyone on the road. I don't know what time I got home—It must have been 12 or 1 a.m. I don't know how long it would take me to walk to my house from Harnam Singh's. When I got home my mother and father were awake but in bed. The children were asleep. I woke my father and mother to let me in. My mother opened the door. I did not actually see who opened it. They were both awake. They asked me to have dinner I said I had been at Harnam Singh's and had had dinner there—I woke the next morning at 6 a.m. The rest of the household were up before I was. After bathing and breakfast I went to Ramsumer's house. I saw Bishna, Ramsumer, Ramsaran and Shiusharan there. Ramsumer had asked me 2 or 3 days earlier to come over and repair the seats of his passenger lorry. It is a yellowish coloured Fargo lorry with black paint on the bonnet. Ramsaran had given me the same message the night before. When I got there it was in the garage. It was not in running order—it did not have tyres—it had been jacked up on blocks

for 4 to 5 months previously. When I got there that Sunday it was in the same position. I helped Ramsumer to repair the tyres. And worked on the lorry all morning. After it was tried out and started Ramsumer and Shiusharan went in the lorry to the river to wash it. I was to repair it after it was washed. Ramsumer has two or three lorries, one is a passenger lorry and one an army lorry and he has also a cargo lorry. I know the two accused. I did not seem them on that Saturday nor did I see Lachmi or Ramsumer. I used to see the two accused every day. I did not used to speak to them. I have spoken to them when we have met on the road. It was about two or three weeks before the murder when I last spoke to them. I've had no conversation with them since. I was neither friendly nor otherwise with Lachmi or the two accused. I looked upon them all the same. The last occasion that I saw Dayaram before the Kattar was at Nadi about two or three weeks earlier.

Sharma : No questions.

Stuart : No questions.

(Sgd.) BISHUN DEO.

Taken, sworn and interpreted before me this 19th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 21.

EVIDENCE of Shiusharan, son of Ramsumer.

20th P.W. SHIUSHARAN f/n Ramsumer—Sworn.

I live at Sabeto and am a cultivator aged about 16 years. I live with my father in his compound. I know the two accused. The second accused Ballu is my brother-in-law. I don't know if my sister is legally married to him—I don't know my sister's name. She is outside the Court now. She is living at my house at present. I don't remember her name. I knew Lachmi Prasad, I have heard he was cut up and thrown away. I heard it on a Sunday about 12 or 1 o'clock. It was last year—I heard that he had been killed on Saturday the day before. I do not go to see the body. On that Saturday I went to Harnam Singh's Kattar with a Fijian called Nawaqa we had taken some leaves over about 10 a.m. I returned from Harnam Singh's at about 5.30 or 6 p.m. with food for my father because there was no one else at home to prepare food for him. All the rest of the family had gone to the Kattar. Only my father was at home—I gave him the food and then I went to sleep. The sun was just setting. I did not go out again that night. When I left Harnam Singh's the Kattar had started. I had food at the Kattar. There were many people there when I left. My mother, sister, my brother Ramsaran,

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 21. Shiusharan, son of Ramsumer, 19th February 1946, Examination, *continued.*

Bishun Deo (identifies previous witness) were all there. I had a boil and was suffering pain so I left. I came home in a lorry driven by Ramsaran. The lorry lights were on. After taking a benzine light from home he returned to the Kattar. I knew he was going for the light—he did not stay at home long. He only stayed long enough to get the lamp and returned. The lorry was the army one—it had no number then—it had not been passed. At home my father was lying on the front verandah and I went to sleep on the other verandah. I don't know what time the rest of the family returned I did not hear them—I saw them the next morning when I got up. I saw my sisters, my brother, Dayaram, my father and other small children ; No other grown up brothers were there—one lorry was in the yard. It was K 57 a Fargo. It is a red coloured lorry to accommodate 13 persons. It was jacked up inside the garage because it had no tyres. The body was in good condition except for repairs needed to the seats. There was another bus there too, belonging to my brother Dayaram. There were no other lorries there. About 8 a.m. my brother Ramsaran came in the army lorry alone—I did not see him come. My mother came from the Kattar about 7 or 8 a.m. Bishun Deo also came about 9 a.m. or 10 a.m. no one else came. Three tyres of the lorry were being fixed and fitted on to the Fargo lorry. It was pushed to enable it to start. Bishun Deo, myself and a Punjabi Vishna pushed it. Vishna had come about 9 or 10 o'clock a.m.

My father and I then took the lorry to the river to wash it. Father drove it. I did not see either accused on the Saturday. I did not see Lachmi Prasad on the Saturday either. I saw both the accused returning from work on the Friday before. They did not come into our compound nor did I have conversation with them.

Signature of Shiusharan in Nagri.

Sharma : Not XXd.

Stuart : Not XXd.

Taken, sworn and interpreted before me this 19th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Ag. C. M.

No. 22. Dayaram, 19th and 21st February 1946, Examination.

No. 22.

EVIDENCE of Dayaram.

21st P.W. DAYARAM f/n Ramsumer Maharaj—Sworn.

I live at Narewa, Nadi and am a lorry driver. I am aged 23 years. Last September I lived at Sabeto in my father's compound in a separate house. I know the 2 accused. The second accused is my brother-in-law. He is not legally married to my sister Bhagwandevi. He has lived with her for more than 3 years and they have children. I am married and have 2 children one is about 5 months old and the other is about 2 years old.

I knew Lachmi Prasad. I was on indifferent terms with him neither enmity nor friendship. He was killed. I heard about it on Sunday the 9th September of last year. I heard that he was killed on the night of the 8th. I did not go to see his body—I saw it passing on the lorry. I was at the Sabeto road near the tanks when it passed. On Saturday the 8th I went to Nadi town on my bus No. 312—I had then had it for about 4 months and I still have it. It is a V8 Ford 1938 model with a 7 passenger body. I went to Nadi about 8.30 to 9 a.m. and I was in Nadi town all day. I did not get any jobs until 6 to 6.30 in the evening. Until then I was on the stand in town near Jamnada's store. There were many car drivers there. There was no particular one in my company. Ramsare, Farid were there—the police may have seen me there, I brought 2 Fijian girls from the stand to the A.T.C. camp at 6.30 p.m. I don't know their names. I left them there and returned to town after dark. I stopped my lorry by the Chinese store—Lee On's and went into Ramjankan's garage—I was there about ½ an hour then I went to the picture show alone. I stood outside looking in from the door. Then I went back to the A.T.C. camp to bring back the 2 Fijian girls and some others—I stayed at the pictures about ½ an hour. I picked up 3 Fijian men and the 2 girls at the A.T.C. camp and took them to a dance at Nawaka arriving there close to 10.30 p.m. I stayed and watched the dance for about an hour. From there I went to Harnam Singh's house, there was no one on the lorry with me. It was close on 12.30 a.m. when I got to Harnam Singh's. My father's army lorry was there—it had no number then. It is No. 1937 now. I went inside, Shardanand the Pundit was singing. Harnam Singh, Ramnarian f/n Barmadin-Ramsaran my brother, Bishun Deo, my wife, my 2 sisters—Bhagwandevi and Lachmidevi—Lachmidevi is married to Gajraj Singh, were all there—I sat down and had some food. While I was eating the singing stopped and some people started to go away. I sat down. Shardanand the Pundit wanted to go in my lorry. I agreed but when he wanted to put his cycle on board I couldn't take him. I then left, I was about the last to leave. My 2 sisters and my wife got into my lorry and I left for home. I went to the main Sabeto Road then turned right and drove straight home. I did not pass anyone on the road. I woke my father to open his house and my sisters went in. I and my wife went to my house. I did not go out again that night.

(Sgd.) DAYARAM.

Taken, sworn and interpreted before me this 19th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate, Lautoka.

Adjourned to 26.2.46 at 11 a.m. at Narsey Hall.

Both accused remanded in custody.

(Sgd.) J. BENNETT.

In the Magistrate's Court, Lautoka.

Magistrate's Court, Lautoka,
Thursday, 21st February, 1946.
Before J. BENNETT, Esq., C.M.

Prosecution Evidence.

On Adjournment.

Case called on by the Court.

No. 22. Dayaram, 21st February 1946, Examination, *continued.*

21st P.W., continued. DAYARAM f/n Ramsumer Maharaj—Sworn.

The next morning I got up at 6 a.m. I woke up first of the family, I had breakfast and about 8 a.m. left to go to Nadi. When I woke up at 6 a.m. all 4 lorries were in the yard. 2 of mine and 2 of my father's. The lorry numbers were, mine No. 312 in which I was in the previous night, my other's number is K66 it had no engine in it and it was parked right opposite my door. It had been parked there for about 3 months—without its engine. I put the engine in sometime last October—one of my father's lorries is K57. It had no tyres on that morning. It is a Fargo 1938 model it was in the garage jacked up with blocks. The 4th lorry was my father's a V8 Ford No. C287, a cargo lorry. That morning about 7 a.m. Ramsaran drove up in an army lorry belonging to my father. At that time it had no number. When I saw him he had no one with him. Before I left for Nadi I did not see anyone else arrive at the house. I think I saw Ali Mohammed on the Friday before that Sunday going along the road to work. I may have seen Walli Mohammed 3 or 4 days before that Sunday. I may have seen Lachmi also but I have no clear recollection. I did not see any of those 3 on Saturday night—I don't remember giving either of them a lift in my lorry after the murder. I saw Walli Mohammed on Sunday the day after the murder. I had gone to Hospital about 4 p.m. I was returning home and I saw Inspector Pratap near Ballu's house. I saw Ballu at a car near his house. I stopped the lorry at a point beyond where the car was parked. I met a Fijian named Mika who told me about the murder. I had no conversation with Walli. I next saw accused Ali at the Nadi Police Station. I have had no conversation with Ali concerning this murder since it happened.

(Sgd.) DAYARAM.

Sharma: Not XXd.

Stuart: Not XXnd.

Taken, sworn and interpreted before me this 21st day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 23.

EVIDENCE of Gajraj Singh.

No. 23. Gajraj Singh, 21st February 1946, Examination.

22nd P.W. GAJRAJ SINGH f/n Santoph Singh—Sworn.

I live at Sabeto and am a lorry driver aged 29 years. I am not related to Ramsumer's family. My wife is not related to them also. I know the two accused, Walli Mohammed who is known as Ballu and Ali Mohammed.

I knew Lachmi Prasad someone killed him. I heard it on a Sunday in the month of September. I think it was the 9th. I have a service bus which is scheduled to leave Naboutini at 7.15 a.m. Naboutini is a little past Ballu's house on the Sabeto Road. I live a little beyond Ramsumer's house on the river side a little nearer the main road than his. I was driving to Naboutini from my house. I picked up Ballu's wife at a point a little beyond Ramsumer Maharaj's house. She had children with her. I dropped her near Ballu's house. I drove on for a little distance turned my lorry and returned to a spot close to where Ballu was ploughing. He was ploughing on the west side of his house in a piece of land near where the N.Z. soldiers had their bathroom. The cement floor is still there—I said " To-day is Sunday it should be a day of rest for you." He replied " I don't get time in the middle of the week I am at work." I said " Lachmi and Ali Mohammed had said that they wanted to give me tyres. Do you know what kind of tyres they are ? " He replied that he did not know. Then he said he had the key of his house and his wife was returning from Harnam Singh's party and he was going home. I did not look at his land carefully to see how much was ploughed but it appeared that some of it had been ploughed some time before. I run on that route on Sundays. I've never seen Ballu ploughing before, on a Sunday. My conversation with Lachmi and Ali was a week or a week and a half before this Sunday. It took place near my house. They had got second hand tyres from the army at Namaka. They could not get them anywhere else. They said they would show me the tyres on Friday the day before the murder—I came home on the evening of the 7th and I saw Ali Mohammed and Lachmi Prasad waiting for me near my house. It was about dusk. I asked what they wanted, they said they had come for the same business. I told them that the timing gear of my lorry had broken near Chaganbhai's bowser near the bridge and I had not time to see the tyres as I was going to take my command car to tow my lorry to Lautoka. I said I did not know when I would return. They said they would see about it some other day. They left. I did not see them again up to the time of the murder. When the police were conducting enquiries I saw Ali Mohammed. I asked him what about the murder—he said " I don't know anything and the police are after me." Then he went away. He did not say anything more to me at any other time. Walli has not spoken to me about the murder. This conversation with Ali was on Sunday or Monday. He was coming from the direction of Sabeto native village to where he said the police had taken him ; I met him near my house. There was no other conversation with him.

Sharma : Not XXd.

Stuart : Not XXd.

(Sgd.) GAJRAJ SINGH.

Taken, sworn and interpreted before me this 21st day of February, 1946, in the presence and the hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate,
Lautoka.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 24. Manasa Mataki, 21st February 1946, Examination.

No. 24.

EVIDENCE of Manasa Mataki.

23rd P.W. MANASA MATAKI—Sworn.

Constable No. 461 Fiji Police Stationed at Suva.

On the 23.11.45 I received a number of Exhibits from the Government Pathologist Dr. Barnes. Included in them were the Exhibits E, H and I produced to me. I brought these to Nadi and on the 24.11.45 I handed them over to Assistant Superintendent Spencer.

Sharma : Not XXnd.

Stuart :

(Sgd.) Const. MANASA MATAKI.

Taken, sworn and interpreted before me this 21st day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

No. 25. Ramadhar, 21st February 1946, Examination.

No. 25.

EVIDENCE of Ramadhar.

24th P.W. RAMADHAR f/n Paltan—Sworn.

I am more than 50 years old and am a cultivator living at Sabeto near the river a little beyond Shousharan's house on a track to the left off the main Sabeto Road. Bishun Deo is my son he lives with me. I knew Latchmi Prasad but he lived far from us. I heard that he died. I heard on a Sunday. On the night of the Saturday before this Sunday I was at home and my boy was at Harnam Singh's party—I was at home when he came home from the party it was between 10 and 12 midnight. I was asleep, he wakened me to let him in. I opened the door for him. I asked him where he was and he replied that he was at the feast. There was no other conversation. My wife was in another room in the same house. She asked him to have his food he said he would not as he had already eaten at the party. He went to sleep. The house was closed up. The next day I woke at normal time. The boy was still asleep and the doors were still closed. I opened the doors to go out to work.

Sharma : No Questions.

Stuart :

RAMADHAR *X* his left thumb print.

Taken, sworn and interpreted before me this 21st day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 26.

EVIDENCE of Rajballi.

No. 26. Rajballi, 21st February 1946, Examination.

25th P.W. RAJBALLI f/n Ackhaibar Maharaj—Sworn.

I live at Sabeto and am a cultivator aged about 25 or 26 years.

Ramsumer is my father-in-law. I am legally married to his daughter. I did not know Latchmi Prasad. I heard about him when the police went there on a Monday to make enquiries. I dont remember the month— I heard that he had been killed 2 days before. I live near a Fijian village which is on the road to Harnam Singh's house. The village is between my house and the road. You can drive to my house through the village. I was at home on the Saturday night before I heard about Latchmi Prasad. My wife Shiudevi and family had gone to the Kattar at Harnam Singh's. I saw Ramcharan that night about 12 midnight or 1 a.m. he came to my house in the army lorry. He just came visiting—I was asleep I heard the lorry and awoke. I asked where he came from and he said Harnam Singh's Kattar—he slept at my place. Even now sometimes he comes and sleeps there. My wife and children stayed at Harnam Singh's. His wife and my wife are sisters. Ramcharan left my house between 6 a.m. and 7 a.m. the next morning. There was no one else in the house.

Sharma : Not XXnd.

Stuart :

(Sgd.) RAJBALLI in Hindi.

Taken, sworn and interpreted before me this 21st day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

No. 27.

EVIDENCE of Harnam Singh.

No. 27. Harnam Singh, 21st February 1946, Examination.

26th P.W. HARNAM SINGH f/n Amok Singh—Sworn.

I am a cane cultivator of Sabeto aged about 35 or 36 years. I am related to the Ramsumers. Family—he is my father-in-law. I am living with my wife at present—I know the 2 accused. The 1st is Ali Mohammed and the 2nd is Walli Mohammed. I knew Latchmi Prasad. He is dead. He died in the month of September. His dead body was found on a Sunday. On the Saturday night before I had a feast a Kattar at my house. I arranged it about a week or a week and a half before. Sharda was the Pundit. My wife had vowed we would have a Kattar so we had it. Its not my religion to have a Kattar. I am a Punjabi but my wife is a Brahmin. I invited about 40 or 50 people. The 2nd accused

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 27. Harnam Singh, 21st February 1946, Examination, *continued.*

was invited the 1st was not—Walli did not arrive but his wife and two little daughters did. He had told me that either he himself would come along or his wife could come by herself. I had invited Latchmi Prasad but he did not come.

People started to arrive at about dusk. Kali wife of Ramsumer came with the wives of Dayaram and Ballu and another daughter called Siuji. They came in a lorry driven by Ramsharan. Many other people came. All Ramsumer's family except he himself came. He was the only one left to stay at home to look after the house.

I don't remember when Shiusharan arrived.

Dayaram came in his own lorry about 11 or 11.30 p.m.

Bishan Singh, Bishun Deo, Ramharakh, Motiram, Jadha, Channan Singh, Battan Singh, Kishun Singh, Ramnarain and many others were there.

Bishun Deo and Ramsaran were there. One of the lamps went out of order and Ramsaran and Bishun Deo went away about 9 or 9.30 p.m. to get another one. There may have been another boy with them. They went in Ramsaran's lorry and were about ½ to ¾ of an hour away. At the end Ramsaran left in his lorry with Bishun Deo about 11.30 or 11.45 p.m. Dayaram arrived about 11.30 p.m. ate food sat for a while then he took his wife and sister away. Ramsaran had not a wife there—the Kattar actually started at 7 p.m. when the Pundit commenced. I know Walli Mohammed's brother Mangara. He is in gaol now, a rifle was found under his house. I don't know who was instrumental in helping the police to find it but I think it was one Jaganath f/n Sarju. He lives in Lautoka now he has been turned out of the Nadi district.

I had a conversation with Walli Mohammed on a week-day when the police were investigating the murder. Sergt. Major Ahmed (Nambiar) asked Walli Mohammed in my presence if he told the truth about who was present at the murder he would be taken on as a crown witness. Walli Mohammed said " I did not kill him I don't know anything." I've never had a conversation with the first accused but on two occasions I've had conversation with the 2nd accused in Natabua Gaol where he is locked up. The murder was not referred to.

Sharma : Not XXnd.

Stuart :

(Sgd.) HARNAM SINGH.

Taken, sworn and interpreted before me this 21st day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 28.

EVIDENCE of Ramsumer.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 28. Ramsumer, 21st February 1946, Examination.

27th P.W. RAMSUMER f/n Rambaran—Sworn

I live at Sabeto and am a cultivator aged about 54 years. I am also a lorry owner. I own C287, K57, and 1937 ; I have a family 3 sons and 6 daughters living and one dead. The dead daughter has left 5 children. My sons' names are Dayaram the eldest, Ramsaran the 2nd and Shiusharan the 3rd. Dayaram and Ramsaran are married. All my daughters have been married off ; Bhagwandevi's husband died and she now lives with Walli Mohammed—she went to him herself. Another daughter Shiudevi is married to Rajballi who has given evidence (25th P.W.). Another daughter Indar Devi is married to Harnam Singh. Another Kalawatidevi is married to Bekar Singh. Another Latchmidevi is married to Gajraj Singh. They live in Sigatoka. Ramdevi is dead. I knew Latchmi Prasad. He did not frequent my house. I heard on the Sunday after Harnam Singh's Kattar on Saturday night, at about 10 or 11 a.m. that someone had cut up Latchmi Prasad. On the previous day the Saturday I took my cargo lorry, C287 to Nadi at 8 a.m. I asked Ramoudh for 3 small tyres—I got these and with them returned to my house about 12 noon or 1 p.m. Ramsaran was with me. I had lunch was sitting down about between 2 and 3 p.m. Ramsaran and others went away in the lorry. His mother, Bhagwandevi and Dayaram's wife went with him. They had the small children with them too. I tended to the cattle and horses. Shiusharan had gone to the Kattar with Ramsaran and Dayaram had gone to Nadi—he was not at home.

About 6 p.m. 2 men came and drank grog with me. Their names have slipped my memory. I think they live at Yaloko. They were going along the road. I was alone so I called them up. They were together. They are cultivators, C.S.R. tenants. Their names are Mahangu and Gajadhar f/n Ganga Din. They are both Hindoos. They stayed with me until about 9 or 10 when Takkis lorry returned from the Ba races. When they left I went to sleep. The house was shut up. I always keep it shut when I go to sleep. Apart from those 2 men no other outsiders visited my home or compound.

During Saturday Walli Mohammed and Ali Mohammed, Bishun Deo or Rachshmi Prasad did not come to my house. They did not come either after I went to sleep. I was asleep when about 12 or 1 a.m. Dayaram came and called out to me. I got up and went out and opened the compound gate and he drove in the lorry with his family and his sister. Dayaram and his family went to sleep in his house and I opened another of my houses for my daughter—he parked his lorry near his own house.

Ramsaran and Shiusharan came about 7 or 7.30 p.m. My 2 friends were with me, we were sitting in the house where the rice mill used to be. One side of this shed is open. In part of it K57 was parked. In the other we were sitting. There is a bamboo partition between us and the car. Ramsaran and Shiusharan came in the army lorry took a benzine lamp and Ramsaran drove away with it. Shiusharan stayed because he had some sores on his mouth. On Sunday morning I wakened between 6.30 a.m. and 7 a.m. No one was up. I was first. At 8 a.m. Ramsaran came with

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 28. Ramsumer, 21st February 1946, Examination, *continued.*

the army lorry. Bishun Deo came after him. I had told him to come to repair the lorry seat. He came between 8.30 and 9 a.m. No one else came. We put the tyres on the lorry we completed that by 11 or 11.30 a.m. We pushed the lorry to start it Shiusharan and I took it to the river and we washed it. We tried to start it but it would not start. I went home and Ramsaran went down with the army lorry to tow it to start it.

K57 has been laid up without tyres for 3 years. The Transport Control Officer had given me a service and told me to get my lorry on the road. He told me a week before and again on Friday. I had no previous offer of tyres from my friend. I had not heard any mention of tyres. About 5 or 5.30 p.m. I took a spring out of K57 for repairs. We got tired and left the work. I did not use it after that—it did not start.

On Monday about 9 or 10 a.m. the police came. They took a statement from me, inspected the lorry. They told me to fit the spring back on it as they wanted to take the lorry away. I fitted another spring. With great difficulty we managed to get it to start but it stopped again. It was towed to Nadi Police Station I got it back about 3 months later. One of my daughters lived with Walli Mohammed but she returned to my house 1 week after he had been taken to custody. About a week after the murder Ali Mohammed boarded my lorry near my house. Ramsaran was driving. There was no one else on it. Ali Mohammed did not say anything to me as he boarded the lorry but he got down at Lallubhai's store. I was then going to Walli Mohammed's house to get his effects. He did not say anything. I did not talk to him at all during the trip—we were in front he was behind. I never had a conversation with him in my bus at any time.

Abraham : This witness is going back on statement.

Court : Draw attention to it.

Q. Did you make a statement to Superintendent Hooper at Noboutini Village ?

A. There was a lot of talk at the village but I did not say anything about Ali Mohammed.

Q. Is that your signature ?

A. It's true that is my signature but I can't read what's in it. The police forced me to sign the statement. Sergt. Major Ahmed's son Corp. Walli Mohammed forced me he said " sign it or he would wipe me out " Sergt. Atar Singh was there—Supt. Hooper was there one day only. He was not there on this statement. He was not there when I signed. They threatened to hit me—I said I would not sign unless it was read out to me. They forced me and I said I would tell the magistrate.

We were taken in custody to Naboutini from our house.

Court : Witness appears hostile.

(Statement made by him on 17.9.45 at Naboutini village (read to witness) recorded by Cpl. Walli Mohammed.) Exhibit V.

Exhibit V.

Witness : The whole contents of the statement are untrue because the distance which Ali Mohammed travelled with me is a short one and does not take 10 minutes to cover. I could not have heard all this from him.

Abraham : Will call Corporal Walli Mohammed later to prove the making of the statement. Will not go further now with this witness.

Sharma :

Stuart : Not XXd.

On being read over witness states that 2 of the 3 tyres he got from Ramandh were unserviceable and he had to get 2 more from Bhagi of Naboutini.

(Sgd.) RAMSUMER.

Taken and sworn, interpreted before me this 21st day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

Acting Chief Magistrate.

Adjourned to 26.2.46 at 11 a.m. at Narsey Hall.

Both the accused remanded in custody.

(Sgd.) J. BENNETT.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 28. Ramsumer, 21st February 1946, Examination, *continued.*

No. 29.

EVIDENCE of J. A. Samuel.

No. 29. J. A. Samuel, 25th February 1946, Examination.

Case No. 586/45.

Magistrate's Court, Lautoka.

Monday, 25th February, 1946.

Before J. BENNETT, Esq., Chief Magistrate.

THE KING

V.

ALI MOHAMMED and WALLI MOHAMMED.

CHARGE : MURDER.
On Adjournment :

Both accused before the Court on remand.

Superintendent Abraham for the prosecution.

T. R. Sharma for the accused Ali Mohammed.

K. A. Stuart for the accused Walli Mohammed.

Case called on to-day by the Court:

28th P.W. JAMES ALFRED SAMUEL—Sworn.

I am 32 years of age and am Laboratory Superintendent at the Colonial War Memorial Hospital, Suva. I arrived in the Colony on October 16th 1945. From that date I worked with Dr. Barnes the Government Pathologist examining certain exhibits. He has now left the Colony on leave. I can produce the results of the examinations. The sack Exhibit E was examined. There were 2 patches on it microscopically suggestive of blood which gave the presumptive test for blood. Precipitin tests

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 29. J. A. Samuel, 25th February 1946, Examination, *continued.*

for blood were indefinite. In simple language that means that we were unable to prove that any of the stains were human blood. Some wooden scrapings—Exhibit H were also examined—of all these only 2 gave presumptive tests. They were labelled A to J as they still are and only samples D and G gave the presumptive tests for blood. Precipitin tests were indefinite. That means that we were unable to prove that any of those specimens carried human blood stains. Exhibit I some pieces of burnt cloth were also examined. Presumptive tests for blood on this exhibit were inconclusive and precipitin tests were indefinite. In this case also we were unable to prove that the specimen contained any human blood.

Sharma : No Questions.

Stuart :

(Sgd.) J. A. SAMUELS.

Taken, sworn and interpreted before me this 25th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting Chief Magistrate.

No. 30. Ramsaran, 25th February 1946, Examination.

No. 30.

EVIDENCE of Ramsaran.

29th P.W. RAMSARAN f/n Ramsumer—Sworn.

I live at Sabeto and am a cultivator aged 21 years. I know the 2 accused. They are not associates of mine. The 2nd accused is my brother-in-law and the 1st lives in the settlement. I knew Latchmi Prasad. He died. We were not very friendly. He was my cousin. I heard that he was killed—I heard on a Sunday. It was in September last year. I heard that he was killed the night before. About 12 mid-day or 1 p.m. the day before, Saturday, I took all my family in a lorry to Harnam Singh's place. I remained there until about 4 p.m. From there I took our army lorry No. 1937 to Chaganbhai's store to fill with benzine and from there I returned to Harnam Singh's house.

I remained there doing odd work here and there and when it came to lighting time we lit a benzine lamp which burnt for less than ½ an hour and then went out of order. Harnam Singh told me to go home and bring my lamp and I took the army lorry and with my brother Shiusharan and my nephew a small boy named Awandhram went to my house for a lamp. I had asked Bishun Deo to go with me but he did not. We got the lamp from home. My father was at home—but I did not go inside to see who was there but there was a lamp burning. I went to the house in which I live with mother, sister and brother and got a lamp there. I was there less than 5 or 10 minutes. Then I returned alone in the lorry to Harnam Singh's—Shiusharan and Awandhram stayed at home. I left the Kattar eventually about 12 midnight or 1 a.m.

My brother Dayaram arrived at the Kattar in his bus between 10.30 p.m. and 11 p.m. The Kattar was conducted by Pundit Shardanand.

I left the Kattar before my brother Dayaram. He was gathering up members of the family to go home when I left. I left with Bishun Deo in the army lorry drove on to the Sabeto Road and dropped Bishun Deo at the corner and I turned to the left towards the Queens Road. Bishun Deo turned to the right towards his own house. I went to my brother-in-law's place in from Koroyaca Village. His name is Rajbal. It was nearer and besides that my family were going home with Dayaram so I decided to go to my brother-in-law's. I had no particular reason. Rajbal only was at home. I slept the night there and left the next morning between 6.30 and 7 a.m. and went home in the lorry. When I got home all were awake I think—I parked lorry and washed my face. We decided to wash K57 as we had called Bishun Deo to come and repair the seat. It was on blocks as it had been without tyres for a long time. The tyres were fixed and put on and it was taken out of the garage and pushed and started. My father and Shiusharan drove it away to wash it. Bishna a Punjabi was also there. He lives at Yaloko. Before I went to the Kattar on Saturday I was at home. I did not see either of the 2 accused that day before I went. I don't think I saw Latchmi Prasad that day either. I think I saw Walli Mohammed the 2nd accused on that Sunday returning from Sabeto direction. I had no conversation with him, he was going past on the road. My sister is Walli Mohammed's reputed wife. She is now at home. She left his house about a week after this Saturday. Myself, my father and Shiusharan went to get her things, we made two trips, on one my father and Shiusharan went when my father drove the lorry and on the 2nd trip all three of us went and this time I drove.

On the 2nd trip we gave accused Ali Mohammed a lift. He asked me where Dayaram was and I told him at Nadi. I had no other conversation with him. As far as I can remember my father had no conversation with him. I did not hear anything between them.

Abraham: This evidence is absolutely contrary to the statement which witness has made to the police.

Witness: I made a statement to the police. I told them that I had had a conversation with Ali Mohammed and that the extent of our conversation was just this.

" He had asked me where Dayaram was and I had replied that he had gone to Nadi. We arrived at the store and I stopped the lorry and he got off and I don't know where he went."

I made statement in Naboutini village—my father was present. He was outside. A policeman called Walli f/n Ahmed (Sgt. Major Nabiar) took it.

The signature on the statement produced Exhibit V is mine.

(Statement read to witness.)

I did not make this statement. I signed it but only that portion of it which I have given to-day in evidence was read out to me. I speak

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 30. Ramsaran, 25th February 1946, Examination, *continued.*

English a little. I can read English. I was not permitted to read it. I was made to stand away while Walli read it to me, Sgt. Major Ahmed and Mr. Hooper were outside. I had no conversation in presence of officers with my father—the police took me to Naboutini in the Black Maria—my father was already there. The police took me into a thatched house. A lot of questions were asked me as to what Ali Mohammed told me. Supt. Hooper was threatening me. He said he would hit me unless I made a statement.

He was telling me what to say. They told me to make a statement the same as my father's which was read over to me. Walli told Mr. Hooper that I was lying and that I did not want to make a statement. Mr. Hooper threatened to give me the boot unless I made a statement. I told them I did not know.

Court : The witness appears clearly hostile.

Witness : Mr. Hooper went out. They made me stand away. They were referring to my father's statement and writing this one of mine. I refused to sign first they threatened and called Mr. Hooper. They said they would take me away and beat me and lock me up.

This was in a Fijian Village but only police in the house. I did not meet Ali Mohammed at any other time after the event.

(Sgd.) RAMSARAN.

Sharma :

Stuart : Not XXnd.

Taken, sworn and interpreted before me this 25th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 31. Nanku, 25th February 1946, Examination.

No. 31.

EVIDENCE of Nanku.

30th P.W. NANKU f/n Guptar—Sworn.

I live at Saweni and am a cultivator aged about 29 years. I know Shiusharan f/n Panchu. He is my brother-in-law. I have heard of Latchmi Prasad, I heard that he was killed. I heard on a Wednesday that he had been cut up and thrown away the previous Saturday. On that Saturday I was cutting cane with a gang in Walli Mohammed's cane fields at Sawehi. I finished about 7 or 7.30 p.m. I came home, Shiusharan f/n Panchu and Ramsewak f/n Mahabij were at home when I arrived. Shiusharan had come to borrow a bullock—he did not get it.

I held it back because I had some work to be done. Shiusharan slept after dinner and stayed the night. Between 7.30 and 9 a.m. the next morning when he left he did not go out. He took a rooster with him when he left.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 31. Nanku, 25th February 1946, Examination, *continued.*

Sharma : Not XXnd.

Stuart :

(Sgd.) NANKU in Nagri.

Taken, sworn and interpreted before me this 25th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,

10 Acting C.M. Lautoka.

No. 32.

EVIDENCE of Shardanand.

No. 32. Shardanand, 25th February 1946, Examination.

31st P.W. SHARDANAND f/n Pundit Deodatt—Sworn.

I am a cultivator and live at Naboutini, Sabeto. I am not a registered Pundit but I practise as a pundit. I am 29 years of age. I have my own land—I knew Latchmi Prasad. He is dead he was knifed. I heard on Sunday and I went and saw the body.

The previous night I was at Harnam Singh's where I performed the duties of a Pundit at a Kattar. I had been asked to perform this on the 20 previous afternoon, Friday. On Saturday I left home and enquired at Lallubhair's store what the time was. I heard 3.30 p.m. The store is about 1 chain from Ballu's house. I passed it and I saw Ballu there and another person. I don't know who it was as I was going fast on a cycle. I passed Ramsumer's house on the way to the Kattar.

When I got to the Kattar I saw Ramsaran, Shiusharan sons of Ramsumer, a Punjabie called Bhikar brother-in-law of Ramsaran, another Punjabi and Harnam Singh.

There were also women there when I got there about 4 p.m.

I started the Kattar about 6.30 p.m. or 7 p.m. Other people had 30 come, but I can't remember their names. The Kattar lasted about 3 hours then food was distributed by some boys. Ramsaran, Shiusharan, Bishnu Deo f/n Ramandar and some others did this. I don't remember anything going wrong with the lights because I had a separate lamp to read with. After the sweetmeats I went and sat down, drank yagona and sang songs for about $\frac{1}{2}$ an hour. I was very sleepy and went home about 11.30 p.m. or 12 midnight. Many people were there when I left. Dayaram f/n Ransumer was the last person to arrive at the Kattar. He came in his own bus about 15–20 minutes before I left. Ramsaran and Shiusharan, Bishnu Deo and all the other people were there when I left. I left with

In the Magistrate's Court, Lautoka.

No. 32. Shardanand, 25th February 1946, Examination, *continued.*

Ramnairan f/n Barmaidin. After we had negotiated the track from Harnam Singh's to the Sabeto Road Ramsumer's army lorry passed. They stopped and had some conversation but I did not see who drove. We turned to the right on the Sabeto Road and the lorry turned to the left. The next day I was sitting under a tree reading a book after I had turned my animals into the field, sometime between 9 a.m. and 11 a.m. when Ballu called me. He was sitting at the mango tree near his house. I went and sat with him. He said he had had a very severe pain in his stomach the day before so much so that he could not bear it. I asked him why he had not taken medicine. He made no mention of the Kattar. I asked his wife if someone had taken charge of the shell which I had left behind at the Kattar. She said her mother had. I had not heard of Latchmi's death at that time. After Ballu had had his food he said he was going to attend the bullocks then my brother's son came and he told us that someone had killed Latchmi Prasad. Ballu was not there then. I've had no conversation with either of the accused about the murder.

Sharma : No Questions.

Stuart :

(Sgd.) SHARDANAND in Hindi.

Taken, sworn and interpreted before me this 25th day of February, 1946, in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 33. Ramkrishna, 25th February 1946, Examination.

No. 33.

EVIDENCE of Ramkrishna.

32nd P.W. RAMKRISHNA f/n Mangal—Sworn.

I am a school teacher. I live at Wailoko and am 23 years of age. I know the 2 accused Alli Mohammed and Walli Mohammed or Bhallu. I knew Latchmi Prasad. Someone killed him and threw him away. He was killed and his body thrown away. The dead body was found on 9th September, 1945. On Saturday the 8th about 11.30 a.m. or 12 noon I was coming from the store, Ram sarup's store in Naboutini, and I saw Ramesha and Latchmi Prasad going along a track on the opposite side of the river to which I was. One of the 2 spoke to me. I don't remember which it was. They asked me if I would play cards—I in turn asked them where they would play. This took place near Ballu's house. They replied at Ali Mohammed's house. I asked if Ali Mohammed was at home if he had not gone to work.

Stuart : This is not evidence.

Court : Agree will note objection.

Witness : They said he was at home. Rambhros was coming behind us—by this time I had joined them. We went to Ali Mohammed's house.

He was in his house sleeping. We went in, he got up and we sat down to play cards. He got up first came out, met us and took us inside, where we sat down to play.

There were five of us as Rambhros had joined us and Ramesh left as he did not get a chance to play. We played for an hour or an hour and a half. We wanted to go home so Rambhros and Latchmi Prasad got up and went in the direction of their houses and I went to mine. We left Ali Mohammed behind. I went home and had food about 4 p.m. I went to see Ballu, whilst en route to his house I could see it was shut up. I saw a man named Mohammed Ali. I spoke to him and then went on in the direction of Ali Mohammed's house. When I reached the bank of the river I saw Ballu on the other side coming from the direction south from Ali Mohammed's house. About 2½ to 3 chains from Ali Mohammed's house. I followed him. He went into the Bila (flat land) he was peeping into a well and I went up and told him my father had sent for him. We rounded up his cattle which were grazing there, left them there and then I took Ballu along to my house. My house is on the north of the Sabeto Road west of and about ½ a mile from Ballu's. Ballu had a conversation with my father about putting post round the house that is renewing the posts of the house. They agreed. Ballu asked for a couple of men to dig the holes.

It was agreed that he should come the next morning to put in the posts. He sat for a while and some Fijians came. They went away then Ballu left about 5 p.m. I remained home for a while then I went to fetch my brother-in-law Rambhros as I went along I saw Ali Mohammed shaving at his house. I suggested to him that we should go and play cards and he said that he had to go to the store and would be back about 7.30 p.m. He said if he was late he would not come. The cards were to be at Rambhros's house. I went on there. When I got there Rambhros and Ramdass were already there and Ramesh arrived simultaneously with me.

Chandalal arrived a little later. We played cards there until about 7.30 p.m. then we had food and then went to Ramesh's house a little distance away. Ramesh and Chandalal had left before we ate. Ramesh, Chandulal and Ramsundar were at Ramesh's house. We played cards there. Ramesh went to bed about 9 p.m. and Ramsundar took his place to play. We played till 1 a.m. or 1.30 a.m. I went home alone then singing. The next morning I went to see Ballu—I met him ploughing near his house between 7 and 7.30 a.m. He was speaking to Gajraj Singh who's lorry was parked. After Garjraj Singh left I asked Ballu if he was coming home to put in the posts. He said he had a lot of work to do but when he had finished the work he was engaged on he would come. He was ploughing alongside the road about 4 chains from his house. I went on towards my house. I saw him again about 3.30 p.m. or 4 o'clock he was coming along in Dayaram's bus. He had the lorry stopped when he saw me and I got into the bus and went with him to his house where we got off. We went up to his house. While we were in the lorry Walli had asked me how seriously Latchmi had been hurt. I told him as we went along that I had not been able to see the injuries properly. I sat at his house for a while then I told him that I was going to Ali Mohammed's wife to tell her that Ali was going in the lorry with the dead body to Lautoka. Ballu said all right. I went home got my little son and went

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 33. Ramkrishna, 25th February 1946, Examination, *continued.*

on to Ali Mohammed's. Later on about Friday the 14th I had a conversation with Ali Mohammed. His daughter had lost a book at school—he came to my house to tell me and asked me to have a search made for it: there was no one present as we had moved to one side to discuss school matters privately: He accused me of having wrongly told other people that I had seen Ballu at his house on the Saturday Latchmi was killed, I said " No I did not say so—who says it ? " I said " I saw Ballu but far from your house. Not at your house." He said then " If that is so its alright people are telling lies." He spoke again about the book and left for home. I had not had any conversation with either of them other than this about the murder.

Sharma: No questions.

Stuart:

(Sgd.) RAMKRISHNA.

Taken, sworn and interpreted before me in the presence and hearing of the accused this 25th day of February, 1946.

(Sgd.) C. BENNETT,
Acting C.M. Lautoka.

Adjourned to 26.2.46 at 11 a.m. at Narsey Hall.

Both accused remanded in custody.

(Sgd.) J. BENNETT.

No. 34. Lal Singh, 26th February 1946, Examination.

No. 34.

EVIDENCE of Lal Singh.

Magistrate's Court, Lautoka.

Tuesday 26th February, 1946.

Before J. BENNETT, Esq., C.M.

THE KING

V.

ALI MOHAMMED
WALLI MOHAMMED } *Murder*

Both accused before the Court.

Appearance as before.

Sharma am instructed by Mr. Stuart to appear on his behalf, he is engaged in Supreme Court.

33rd P.W. LAL SINGH—Sworn.

Constable No. 214 Fiji Police Stationed at Nadi.

I knew Latchmi Prasad. He was killed. His body was found on 8th September 1945. On evening of 8.9.45 I was on duty at Nadi Cinema. I know Dayaram f/n Ramsumer. After 8 p.m. on the 8th but not later than 8.30 p.m. I saw him drive his bus No. 312 from the direction of the

M.H.'s store and stop at the Nadi Cinema. There were some Fijian soldiers in the bus they got off and went into the Cinema. Dayaram drove off in the direction of the Police Station. A short while later he returned about 8 to 10 minutes—and drove off in the direction of M.H.'s store.

Sharma : No Questions.

(Sgd.) Sgt. LAL SINGH.

Taken and sworn interpreted before me this 26th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 35.

EVIDENCE of Daniel Prasad.

34th P.W. DANIEL PRASAD—Sworn.

Corporal No. 393 Fiji Police stationed at Nadi.

I assisted Asst. Supt. Spencer in some of the investigations into the murder of Latchmi Prasad which occurred on the night of the 8th 9th September, 1945.

On 10th September, 1945 I was at the Police Station Nadi when lorry Number K57 was brought there by Constable Ramcharitra. The lorry was towed in. It was kept at the station. There were some stains on the floor of the lorry and these were scraped by Asst. Supt. Spencer. Scrapings were taken by him from the floor in about 6 or 7 places. These were put in envelopes. They were like those produced Exhibit H. The scrapings were pieces of wood. There was no other lorry at the station. I am certain that the No. was K57.

Sharma : No Questions.

(Sgd.) Cpl. DANIEL PRASAD.

Taken, sworn and interpreted before me this 26th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 36. Ramsewak, 26th February 1946, Examination.

No. 36.

EVIDENCE of Ramsewak.

35th P.W. RAMSEWAK f/n Mahabir—Sworn.

I live at Sabeto and am a labourer aged 17 years—I know of Latchmi Prasad—he was killed. I heard on a Sunday before Christmas last. On the day before the Sunday I was at Saweni. I had gone to Nanku's place to get a rooster. I arrived there at 5 p.m. I saw Shiusharan f/n Panchu there—he stayed there the whole night and left the following morning at 9 a.m. I also stayed the night and the next morning. I accompanied him to Sabeto. There were also the members of Nanku's family there— I heard about the murder at about 11 a.m. at Sabeto. Shiusharan was with me.

Sharma : No Questions.

(Sgd.) RAMSEWAK in Nagri.

Taken, sworn and interpreted before me this 26th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 37. Walli Mohammed (recalled), 26th February 1946, Examination.

No. 37.

EVIDENCE of Walli Mohammed (Recalled).

36th P.W. WALLI MOHAMMED—Sworn.

Corporal No. 479 Fiji Police stationed at C.I.D. Suva.

On 17.9.45 at Naboutini Village Ramsumer f/n Rambaran was called at 2.45 p.m. There he was questioned by Supt. Hooper and Sgt. Major Ahmed. Ex. Const. Hansil and I were present. I was instructed by Supt. Hooper to record Ramsumer's statement. There was no intimidation at any time. He made the statement on his own. It was taken in a bure in the village there were Fijians about Exhibit U is the statement. I read it over to Ramsumer he signed it. He appeared to understand it and he approved of its contents. The statement was completed at 2.45 p.m. On the strength of that statement Ramsumer's son Ramsaran was called I took his statement also. He was questioned by Supt. Hooper and Sgt. Ahmed in my presence. He was not saying anything and his father was called into the bure and then he started making the statement. I recorded the statement, he appeared to approve and understand it after it was read over to him. He signed it. Exhibit V is the statement. After he started the statement his father went outside. He was not intimidated in any way.

Sharma : No Questions.

(Sgd.) WALLI MOHAMMED.

Taken, sworn and interpreted before me this 26th day of February, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Abraham : That is all the evidence I can produce to-day. There may be another witness but would ask time to go through case thoroughly. Then may close. Ask 1 further adjournment for some time.

Adjourned to 4.3.46 at 9 a.m.

Both accused remanded in custody.

(Sgd.) J. BENNETT.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 37. Walli Mohammed (recalled), 26th February 1946, Examination, *continued.*

No. 38.

EVIDENCE of Chattar Singh.

No. 38. Chattar Singh, 4th March 1946, Examination.

Magistrate's Court, Lautoka.

Monday, 4th March, 1946.

Case No. 586/45.

Before J. BENNETT, Esq., C.M.

THE KING
V.
ALI MOHAMMED
and
WALLI MOHAMMED

Charge : Murder.

Both accused before the Court on remand.

Supt. Abraham for the prosecution.

T. R. Sharma for the accused Ali Mohammed.

Sharma : Stuart in Supreme Court, will watch client's interests until arrival.

37th P.W. CHATTAR SINGH f/n Pran Singh—Sworn.

I live at Loma Loma and am a driver for the Lautoka Transport Company aged 24 years. I knew Latchmi Prasad—he was killed. I heard on a Sunday. I heard that his body was found the same day.

I was driving the lorry on the Lautoka Votualevu service. That day I picked up Shiusharan f/n Panchu at Saweni and dropped him at Sabeto. I picked him up at 8.30 a.m. with another boy.

Not XXnd.

(Sgd.) CHATTAR SINGH.

Taken, sworn and interpreted before me this 4th day of March, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

In the Magistrate's Court, Lautoka.

Prosecution Evidence.

No. 39. Rambharose, 4th March 1946, Examination.

No. 39.

EVIDENCE of Rambharose.

38th P.W. RAMBHAROSE f/n Piru—Sworn.

I am a labourer and live at Sabeto. I am about 31 years old. I knew Latchmi Prasad. Someone killed him on a Saturday at night in September, or October last year. On the Saturday he was killed we were working together at Namaka. We finished work at 11.30 a.m. and went to our houses. Ram Kissun, myself, Ramesh and Latchmi Prasad went to Ali Mohammed's house, we arrived there about 12 noon. I played cards with Ramkissun, Ali Mohammed and Latchmi Prasad for an hour or an hour and a half. I did not see Latchmi Prasad again. I next saw Ali Mohammed on the following day Sunday morning he asked me to accompany him to the hills to get some rough timber. I did not then know that Latchmi Prasad was dead. Ali Mohammed did not mention it. I had no conversation with Ali Mohammed subsequently about the murder.

On the 12th September, 1945 when going to work with Ramesh, Ali Sher, and Ali Mohammed we had crossed the river and taken the turn near Ballu's house and arrived opposite Nathubhai's store Ballu called out to Ali Mohammed. Ballu was standing by his gate when he called and then he came forward. Ali Mohammed turned back and went to Ballu. We went on and did not hear conversation. Ali Mohammed came up to us in about 7 or 8 minutes time where we had waited for him. I asked him what it was all about and he said that Ballu the 2nd accused had asked him to give evidence on Ballu's behalf in connection with the murder of Latchmi Prasad. He said that he had told Ballu that he could not give false evidence. He did not go into details.

Not XXnd.

(Sgd.) RAMBHAROSE in Nagri script.

Taken, sworn and interpreted before me this 4th day of March, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 40. Jale Waisele, 4th March 1946, Examination.

No. 40.

EVIDENCE of Jale Waisele.

39th P.W. JALE WAISELE—Sworn.

I live and work at the A.T.C. Nadi Aerodrome. I am a native of Nakalou, Macuata, aged about 24 years. On Saturday the 8th September 1945 a Vanualevu man had a child born and we went according to custom to make a magiti. The child was born at Navoci. We hired a bus. It was painted green. I can recognise the driver. I had arranged for him

to pick us up at 8 p.m. at the A.T.C. Camp. About 7 p.m. the bus came to the camp left then empty and came back at 8 p.m.

Then myself, wife, Solmoni and John went in it to Navoci. He dropped us there and left. About 10 p.m. he came back to Navoci for us and took us back to the A.T.C. Camp. Some other Fijians in camp had an arrangement with him to pick them up at 10 p.m. It is a small bus.

Not XXnd.

(Sgd.) JALE WAISELE.

No. 40. Jale Waisele, 4th March 1946, Examination, *continued.*

Taken, sworn and interpreted before me this 4th day of March 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

No. 41.
EVIDENCE of Gurdial.

No. 41. Gurdial, 4th March 1946, Examination.

40th P.W. GURDIAL f/n Channan Singh—Sworn.

I live at Sabeto and am a school boy aged 12 or 13 years. I have heard of Latchmi Prasad. I heard he was killed. I heard it on a Sunday the day after Harnam Singh's Kattar. On the Saturday of the Kattar Vishnu Deo had come to my house to enquire after Ramchandar. He wanted Ramchandar to accompany him to the Kattar. He left my house then and went in the direction of Harnam Singh's house.

Not XXnd (Signed) GURDAYAL SINGH.

Taken, sworn and interpreted before me this 4th day of March, 1946 in the presence and hearing of the accused.

(Signed) J. BENNETT,
Acting C.M. Lautoka.

No. 42.
EVIDENCE of Ramasre.

No. 42. Ramasre, 4th March 1946. Examination.

41st P.W. RAMASRE f/n Shiudass—Sworn.

I live at Nadi and am a taxi driver, aged about 20–21 years. I drive taxi Number E71. I knew Latchmi Prasad. I heard that he was killed. I heard on a Sunday in September last year. I heard that he was killed the previous night. I know Dayaram f/n Ramsumer. He drives a private bus No. 312. I saw him that Saturday night the day before I heard about the murder at about 9.30 p.m. at a tralala at Nawaka. He was talking to some Fijians. It was after the pictures and I was waiting for passengers.

Not XXnd (Signed) RAMASRE.

Taken, sworn and interpreted before me this 4th day of March 1946 in the presence and hearing of the accused.

(Signed) J. BENNETT,
Acting C.M. Lautoka.

In the Magistrate's Court, Lautoka.

No. 43.

EVIDENCE of Bhagwandevi.

Stuart for the 2nd accused in Court.

Prosecution Evidence.

42nd P.W. BHAGWANDEVI f/n Ramsumer—Sworn.

No. 43. Bhagwandevi, 4th March 1946, Examination.

I live at Sabeto. I don't know my age. I have been living with the 2nd accused Walli Mohammed. I am not married to him. I know the 1st accused. Ali Mohammed he sometimes came to visit my husband.

To Court: When I say my husband I'm referring to Walli Mohammed. I knew Latchmi Prasad. He sometimes visited my house when my husband was at home. I heard that someone killed him. I heard on Sunday the same day that his body was found. The previous day I had gone to Harnam Singh's house about 11 or 12 in the morning. I returned to my parents house at about 1 a.m. My parents live a little distance away from my house. It might be a little further than the distance from here to the Supreme Court. My brother Dayaram brought me home in a lorry. My sister-in-law was also there with her small children and when we went there my brother asked me to stay the night.

(Corrected on being read over. See end of evidence.)

My husband expected me to return because I told him that I would return home if everything at Harnam Singh's was over early. I remember making a statement to the police on 14th September, 1945. The signature on the statement produced is mine. Exhibit W. The Corporal in Court. (Walli Mohammed) is the person who took my statement. I told the Corporal that I was returning home because my husband had asked me to return home if things were over early. On one occasion when I came to Lautoka to see my husband in Jail—I was late and came to town. I was picked up by the police in Lautoka. I was taken in the black Maria. They said they were taking me to see my husband. They took me back to Naboutini Village. They had some paper there and they asked me to sign on it. It was the 2nd day after husband's arrest. I made previous statement when my husband was arrested. They told me in Naboutini that they would beat me if I did not sign. There were a whole lot of police there. There were no other Indians present.

Exhibit W.

Court: The witness is clearly adverse.

To Abraham: My husband had no conversation with Ali Mohammed about murder. I did not tell the police anything about a conversation.

Sharma: Not XXnd.

Stuart:

Witness Volunteers: (Before evidence read over.)

After my husband was arrested the police took me to Naboutini Village; there they threatened me, slapped me, grabbed me by the neck and pushed me about.

Note: On evidence being read over witness states. "My brother did not ask me to stay the night at my father's home. I stayed there of my own wish."

(Sgd.) BHAGWANDEVI.

Taken, sworn and interpreted before me this 4th day of March, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

In the Magistrate's Court, Lautoka.

Prosecution Evidence

No. 44. Walli Mohammed, recalled, Examination.

No. 44.

EVIDENCE of Walli Mohammed, recalled.

43rd P.W. WALLI MOHAMMED—Sworn.

Corporal No. 479 Fiji Police stationed at C.I.D. Suva.

On 14.9.45 I took a statement Exhibit W from Bhagwandevi. (Statement read) This was read over to her and she approved and signed it. No form of intimidation was used. Supt. Hooper, Sgt. Major Ahmed and Ex Const. Hansil were present.

Sharma :

Stuart : Not XXnd

(Sgd.) WALLI MOHAMMED.

Taken, sworn and interpreted before me this 4th day of March, 1946 in the presence and hearing of the accused.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Abraham : That completes the police case.

No. 45. Statement of the accused, Ali Mohammed, 4th March 1946.

No. 45.

STATEMENT of the Accused—Ali Mohammed.

I do not wish to say anything just now.

(Signed) ALI MOHAMMED.

Sharma : The defence is reserved.

I certify that the above statement by the accused Ali Mohammed was taken in my presence and hearing and contains accurately the whole statement made by the said accused, Section 222 (1) and (2) of the Criminal Procedure Code having been first complied with.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Ali Mohammed is committed for trial at the next Sessions of the Supreme Court to be holden at Lautoka.

In the interim he is to be held for safe keeping at the Jail at Natabua.

Dated this 4th day of March, 1946.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

In the Magistrate's Court, Lautoka.

No. 46. Statement of the accused, Walli Mohammed, 4th March 1946.

No. 46.

STATEMENT of the Accused—Walli Mohammed.

I did not murder Latchmi Prasad.

I do not know anything about it.

(Signed) WALLI MOHAMMED.

Stuart: The defence is reserved.

The above statement by the accused Walli Mohammed was taken in my presence and hearing and contains accurately the whole statement made by the said accused, Section 222 (1) and (2) of the Criminal Procedure Code having been first complied with.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Walli Mohammed is committed for trial at the next Sessions of the Supreme Court to be holden at Lautoka.

In the interim he is to be held for safe keeping at the Jail at Natabua.

Dated this 4th day of March, 1946.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

In the Supreme Court.

No. 47. Proceedings 23rd and 24th July 1946.

No. 47.

PROCEEDINGS.

IN THE SUPREME COURT OF FIJI.
Criminal Jurisdiction.

No. 7 of 1946.

Criminal Circuit Court, Lautoka Sessions.

Tuesday, 23rd July, 1946.

THE KING
v.
WALLI MOHAMMED and
ALI MOHAMMED
} MURDER.

Information read.

Interpreter, C. A. John, Sworn.

Plea: Walli Mohammed: Not Guilty.
Ali Mohammed: Not Guilty.

Lautoka,
Wednesday, 24th July, 1946.

The Attorney-General for the Crown.

Mr. P. Rice, with him Mr. K. A. Stuart, for the first accused, Walli Mohammed.

Mr. Tulsi Ram Sharma, for the 2nd accused, Ali Mohammed.

Assessors Sworn :

Allman, Allured Edward
Rushton, John Samuel
Rice, William Vernon
De Veaux, Launcelot Augustus.

Attorney-General opens :

Attorney-General : May it please Your Honour, gentlemen assessors : On Sunday morning, 9th September, 1945, the body of a young Indian cultivator named Lachmi Prasad was found lying in some rough ground near the Malika Creek in the Sambeto Valley, about 2½ miles from his home which is further up the valley. The cause of death was all too clear. Terrible injuries had been inflicted about the head and neck of the deceased. One of these severed the main arteries of the neck, and it also severed the wind pipe. The second injury had sheered off the back of the deceased's skull. The third had cut through one of the bones of the forearm. There were in all five major injuries. A pool of blood was found under the head of the deceased and one hand was clutching some withered grass and earth. A sack, or portion of a sack, was found lying a little distance from the body. The Crown are unable to give any evidence as to what part in the proceedings this sack played.

The nature of the wounds, the position of the body, the place where the body was found, and the absence of any signs of struggle raise the presumption in the Crown's submission that this deceased was lured to this spot by some means of which we are ignorant and there butchered, all unsuspecting, without any opportunity of doing any act in self-defence. It is the submission of the Crown that the two accused persons, Walli Mohammed (also known as Ballu) and Ali Mohammed, either themselves alone or in company with others, murdered the deceased in the manner described.

In support of the Crown case the following facts will be proved. Firstly, as regards motive : at the end of 1944 the brother of Walli Mohammed, named Mangara, received a sentence of imprisonment from this Court for being in possession of a tommy gun. The information upon which that conviction was obtained was given to the police by the deceased Lachmi Prasad. Furthermore, witnesses will testify to the fact that it is common belief in the Sambeto Valley that this gun was planted by Lachmi Prasad on Mangara, the brother of Walli Mohammed. That, in the Crown's submission, constitutes the motive in so far as Walli Mohammed is concerned. With regard to Ali Mohammed, the Crown are not able to call any evidence to show any special motive, other than the fact that he was a great friend of Walli Mohammed.

Now both the accused in this case made a series of statements to the police : those statements are of very great importance. Each of the accused in those statements admit a certain part played by him in these proceedings. Each admits he was present at the time when the deceased was killed. Walli Mohammed in one statement names Shiusharan as the actual killer : in another statement Walli Mohammed names Ramsumer as the actual killer, and he names Ali Mohammed and Bishun Deo as being present. It is clear, therefore, that some of those statements, or all of them except one, must be false.

In the Supreme Court.

No. 47. Proceedings 23rd and 24th July 1946, *continued.*

Ali Mohammed, in one of his statements to the police, names Walli Mohammed as the person who did the actual killing, and he names three other men—Dayaram, Ramsaran and Bishun—as being present. The Crown is calling all these persons named by the accused as witnesses, and they will say they were not there and had no part in the killing of the deceased. We have also available a large body of witnesses who are prepared to give evidence to support their denials and provide alibis for these persons.

Of course, these statements made by the accused persons are statements made to the police: they are only evidence in so far as each accused admits the share that he took in the killing of the deceased or in the proceedings in which the deceased was killed. In no sense are the statements of either of the accused any evidence against any other person: nor are they evidence of the facts stated, other than that I have mentioned, namely, the part played by the accused in the proceedings. The Crown's submission as to this part of the case is that each of the accused has falsely endeavoured to implicate other persons in this crime, and we say that the inference from that is that these two accused are the guilty persons and they are merely trying to throw the guilt on other shoulders.

The deceased, Lachmi Prasad, was last seen alive, so far as the prosecution have been able to discover, at Walli Mohammed's compound on the Saturday evening about 6.30. Now in the first statement Walli Mohammed made to the police he denied that he had seen Lachmi Prasad that evening.

On the Sunday morning immediately following the night of the crime, Walli Mohammed was doing something which the witnesses will say was a very unusual thing for him to be doing on a Sunday morning—he was ploughing a piece of land in his compound. On the spot where he was ploughing, the police, guided there by Ali Mohammed, found pieces of freshly burnt or partially burnt clothing. The Crown's submission on these facts is that the accused Walli Mohammed was disposing of traces of the crime and that Ali Mohammed knew what he was doing.

On the 18th September Ali Mohammed showed to the police the spot where he (Ali) said the deceased was killed. And that spot was in fact the spot where the body was found. The significance of this—I do not wish to over-stress it, and it is not possible at this stage really to forecast what the significance is—we shall be in a better position when you have heard the evidence to appreciate the significance of that. And the same remarks apply to the next act, and that is that on the 11th September Walli Mohammed showed to the police the spot where he (Walli Mohammed) alleged the murder was committed, and that spot was close to the place where in fact the body was found.

On the facts I have outlined, the Crown will submit that the deceased was killed as a result of a deliberate plot, and the presence of the accused at the killing is only consistent with their guilt.

If it please Your Honour, I will call my first witness.

In the Supreme Court.

Prosecution Evidence.

No. 48.
J. W. Caldwell, 24th July 1946, Examination.

No. 48.

EVIDENCE of J. W. Caldwell.

JOHN WILLIAM CALDWELL—Sworn.

1. Are you a registered surveyor ?—Yes.

2. Stationed in Lautoka ?—Yes.

3. In December, 1945, did you prepare a plan of part of the Sambeto Valley ?—Yes.

4. Did you go to this place with Superintendent Abraham and Supt. Spencer and others ?—Yes.

10 5. And this plan is a correct representation to scale of that particular area of the Sambeto Valley ?—That is correct.

6. In this plan you have shown various houses with the names of the persons occupying the houses. Did you verify this from the people there ?—Yes. I verified each house from the occupant.

7. On this plan you have got the accused Walli Mohammed's compound near the concrete slab shown on the plan, and you have marked with a cross " Burnt Cloth Found." Will you tell the Court who showed you that spot ?—That spot was pointed out to me by Assistant Superintendent Spencer.

20 8. Superintendent Spencer showed you the spot where the burnt cloth was found ?—Yes.

9. Now, down near the Malika Creek you have marked two places with a cross—one " Body found " and the other " Sack found." Were you shown those places by Superintendent Spencer ?—Supt. Spencer showed me where the body was found and Police Constable Semessar showed me where the sack was found.

10. If you will look at the plan you will see in the bottom part of the plan there is a bridge near the Ivi Tree, and then to the south of that, running off to the west, there is a track. That track on my copy is broken
30 off and doesn't follow on to the place where the body was found. Is that correct ?—Yes. They were not joined in any way. The track faded away.

11. That is your signature on the left hand corner of the plan ?—That is my signature.

Rice : No questions.

Sharma : No questions.

No. 49.
Ramdhani, 24th July 1946, Examination.

No. 49.

EVIDENCE of Ramdhani.

RAMDHANI (f/n Akalu)—Sworn.

40 12. Now Ramdhani, I want to ask you some questions. I want you to tell the Court—do you remember last September cutting your finger with a cane knife ?—Yes.

13. Was that on a Sunday morning ?—Yes.

In the Supreme Court.

No. 49. Ramdhani, 24th July 1946, Examination, *continued.*

14. Will you tell the Court what happened on that Sunday morning after you cut your finger with a cane knife ?—I went to get some medicine for this cut on my finger. I saw a dead body on the way.

15. Did you know who it was ?—No, I did not recognise whose body it was.

16. Can you tell the Court whereabouts you saw the dead body ?—I started off from Votualevu, and this body was lying on Khisora's land.

17. Was it near the Malika Creek ?—Quite a distance from the Malika Creek.

18. How far ?—The distance would be, roughly, from where I am standing to Namoli Town.

The Court : 19. How far would that be—about half a mile ?

A.-G. : I think the witness is probably confused about the Malika Creek.

20. Do you know a house called Kattar's house ?—There is one Munia living on the other side of the creek. I don't know Kattar.

21. Was the body found lying near a track—a footpath ?—On the side of the path.

22. And where does the path go ?—To Sambeto or Votualevu.

23. Sambeto in one direction and Votualevu in the other direction ?—That is correct.

24. After you had seen the body there, what happened next ?—I went and informed one Bechu Prasad. Then after this conversation with Bechu Prasad he asked me to go and wait at the Sambeto Tanks. Bechu Prasad telephoned the Police. The Inspector of Police said " Ring up Lautoka as well and tell them I am on my way."

25. Did the Police arrive ?—Yes.

26. And did you show the Police the spot ?—Yes.

27. Was the body in the same position ?—Yes, it was in the same position as I left it.

28. Was the body injured ?—Yes, there were injuries.

29. Can you say what time it was in the morning when you saw the body ?—About 9 o'clock in the morning.

Cross-examination.

XXd. Rice : 30. Of course it was bright daylight ?—Yes.

31. Round about where the body was did you see any blood ?—I did not.

32. None at all ?—I didn't notice any.

XXd. Sharma : 33. Did you attend this man's funeral ?—No. I was working.

No. 50. J. H. Spencer, 24th July 1946, Examination.

No. 50.

EVIDENCE of J. H. Spencer.

JOHN HUGH SPENCER—Sworn.

Asst. Supt. Police, Nadi.

34. You are stationed at Nadi ?—Yes.

35. You came here for this investigation ?—I did.

36. Did you know Lachmi Prasad ?—I knew him.

37. Will you tell the Court about the incident in regard to the information given by Lachmi Prasad to the Police ?—On the 9th October,

1944, I paid him the sum of £10 because he had given the Police information which led to the retrieving of a Thomson sub-machine gun from underneath Mangara's house. Mangara was subsequently convicted for the possession of the sub-machine gun by this Court. After the conviction, Lachmi Prasad was paid a further £10 by me. A sum of £20 in all.

38. These are the receipts for the sums paid ?—Yes. On the 9th September, 1945—I must say before that that Mangara is a brother of the accused Walli Mohammed. On the 9th September I received a call from Sambeto. I went out there with Const. Ramcharitra, Const. Samesa and others. I was shown a place by the last witness where I found the body of the dead man whom I recognised to be Lachmi Prasad. He was lying on his back, with a deep gash in the throat, another gash at the reflex of the left elbow and another gash at the base of the skull at the back. These wounds looked as though they had been inflicted with a cutlass or some such instrument. Underneath, the place where the head was, there was a deep pool of blood which had saturated into the ground. Not very wide but deep. Rigor mortis had set in the body and it was lying in a slightly hunched position. About 12 feet due west of the body, across the track, I found some small spots of what I took to be blood on the ground. On the other side of the track. It is no more than a cart track.

39. Was there any analysis made of what you thought might be blood ?—So far as I know, there was not. It was in very minute quantities and it showed up only because the ground was dusty there and it would have been difficult to collect for analysis.

40. You cannot say it was definitely blood ?—No. Four or five feet from that I found another substance which I took to be blood on the ground. Meanwhile my man had been deployed a little earlier to see whether any exhibits could be found. About 12 o'clock I saw Const. Samesa coming from the direction of the Malika Creek. There is a crossing there, and he was carrying a sack in his hand. It was a wet sack. He took me along and showed me where he had found this sack. Just down by the Malika Creek.

41. And that is the place that is marked on the map ?—Yes.

The Court : 42. Did you examine the sack carefully ?—Yes.

43. Apart from its being wet, did you notice anything else ?—I noticed stains on the sack. I didn't notice anything else.

44. What colour ?—Dark brown. Could have been any colour.

A.-G. : 45. Did you cause the sack to be tested for blood ?—I did.

46. With what result ?—So far as I know, I didn't get the analysis back. I heard that the result was negative but I can't say of my own knowledge.

47. You didn't see anything else except for the stains ?—Except what I have mentioned. About 12.30 Inspector Pratap came from Lautoka and I handed over the investigation to him, and I loaded the body of Lachmi Prasad on to a truck and took it with me, accompanied by his brother Badri, to Lautoka mortuary. There at about 4.30 to 5 p.m. a post mortem was held and present were Dr. MacCauley and Native Medical Practitioner Bula. The body was identified by his brother Badri, and I caused a series of photographs to be taken by the town photographer. The body was placed outside the mortuary in the same position as I had originally found it, and these photographs are those

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Prosecution Evidence.

No. 50. J. H. Spencer, 24th July 1946, Examination, *continued.*

which were taken. When I say in the same position, I mean some of the photographs are in the same position.

48. These are the exhibits 1, 2, 3 and 4 ?—Yes. That is so. And Exhibit G was taken with a view to showing the gash in the back of the head. At the time, the accused was dressed in black shirt, white shorts and black belt with a jack-knife in the belt at the back. I took possession of those clothes. The body was handed over to Badri Prasad after the post mortem and it was put back on the truck again and the Police party returned to Sambeto and dropped the body at Lachmi's house and it was taken away for burial.

This is the sack given to me by Const. Samesa.

To Court : 49. Is that as it was at first ?—My recollection is that it was a complete sack. It may have been taken to pieces by the analyst, but to my recollection when I saw it it was a complete sack.

Exs. F.1, 2, 3, 4.

50. Those are the clothes ?—Yes.

Exhibit E.

Exhibit D.

51. Now, Supt. Spencer, did you make certain investigations in regard to the lorry ?—Yes.

52. Will you tell the Court about that ?—On the 10th September I took possession of lorry No. K.57. A passenger lorry, the property of Ramsumer Maharaj.

53. Did you take scrapings from the floor boards ?—I did. I took scrapings from inside the tonneau of the car, on the floor, and I sent them on the 25th September to Suva for test by the Government Analyst as to whether they were blood stains or not.

Exhibit G.

54. These are the scrapings ?—Yes.

55. As far as you know the result was negative ?—Yes, as far as I know. These were received back by Const. Manasa from Suva on the 24th November. On 18th September I was shown the place where the burnt cloth had been found. On 11th December I showed that place to Mr. Caldwell, the surveyor.

56. Do you remember who showed you this place —I cannot recall off hand. My impression is that it was Cpl. Walli Mohammed. It is my impression because he gave me that cloth late that evening. My memory is not absolutely clear on that point.

The Court : The Analyst is coming later, is he ?

A-G : Yes.

57. You gave the other exhibits to Const. Ramcharitra ?—Yes.

58. You showed the spot to Mr. Caldwell ?——

59. You showed the spot to Mr. Caldwell ?—Yes.

60. On the 10th September did you take a statement from Walli Mohammed ?—Yes. I took that statement through Const. Ramcharitra : he was the interpreter.

61. What time ?—At 11 a.m. on 10th September.

62. Did you record the statement yourself ?—Yes, through Const. Ramcharitra. Translated from Hindustani into English ; and then when the statement was finished it was translated back to Walli Mohammed from English to Hindustani in my presence and I was informed that he approved of it and understood it, and he signed it.

63. Was the accused in custody at that time ?—No.

64. Was the statement entirely voluntary ?—Entirely voluntary.

65. No pressure of any sort ?—No.

66. Was there a mistake on page 2 of the statement ?—Yes.

67. " Mohammed Ali " should read " Ali Mohammed " ?—Yes. That mistake is repeated at the bottom of the page, and again on page 3. It should be " Ali Mohammed."

Rice : May I suggest that the statement should be read by the witness now ?

(Statement read.)

XXd. Rice : 68. The two receipts that you put in ?—Yes.

69. You know, of course, that when information is given to the Police by some private person there is a rule of law whereby the name of that person need not be revealed ?—A rule of practice.

70. Were you present at the trial of Mangara ?—Yes.

71. Do you know whether the rule was enforced in that case or not ? —It was.

72. Was there any cross-examination tending to fix the identity of the informer without giving his name ?—There was.

73. And that would be, of course, by Mr. A. D. Patel, who appeared as counsel for Mangara ?—Yes.

74. And during the course of that cross-examination was anybody's name mentioned ?—Yes. The suggestion was made by Mr. A. D. Patel to the Police witness—I think it was Const. Tulsiram—that Ragunath was the informer in this case.

75. And counsel for the prosecution took objection and the question was disallowed ?—Yes, that is my recollection.

76. But Mr. Patel actually used the name of Ragunath ?—Yes.

77. Now I don't want myself to transgress the rule I have just referred to you, and I am not trying to do that, I can assure you. Without mentioning names, would I be right in thinking that this deceased man, Lachmi Prasad, gave information to the Police leading to proceedings being taken against a good many people ?—That would be incorrect. To me he gave only one information, the one I have just cited. I cannot speak for anyone else. He attempted to give me information later on.

78. To you ?—To me and to Mr. Hooper, about other people, yes.

To Court : 79. What did you say ?—I told him I was not interested in the information.

Rice : 80. Without hearing what he had to say ?—I heard what he had to say but told him I was not going to act on it.

81. Did he come to see you ?—He came to see me on several occasions and I saw him and listened to what he had to say about certain persons and after consultation with the Superintendent I decided I would have no more to do with this informer, and consequently when he came again to my detachment and tried to give information I refused to see him.

82. You told us that happened on several occasions. I wonder if you could place for the Court how many occasions ?—I am afraid I can't : it happened over a year and a half ago, and I ceased to have any dealings with this man Lachmi Prasad a matter of two months or so after the information he gave me about Mangara.

83. Approximately how many occasions could you say it was ?—He came to see me two or three times. I saw him two or three times, and I know he went to the station in addition to that.

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Prosecution Evidence.

No. 50. J. H. Spencer, 24th July 1946, Cross-examination, *continued.*

84. And the two or three times : would it be on each occasion about somebody different ? It was.

85. There is a little matter about names I want to clear up. It is just possible there may be some confusion. You remember telling us about the spot where the burnt cloth was found—that that spot was shown to you by Cpl. Walli Mohammed. I am only referring to that because my client's name happens to be Walli Mohammed ?—Yes. A police officer named Walli Mohammed.

86. Would you take the sack that has been exhibited ? When you identified that you said " I think it was a complete sack, not merely a piece of sacking " ?—Yes, my recollection is that it was a complete sack.

87. At present it is one single piece ?—Yes.

88. Are you quite clear on that ?—It was about the same size as this. The reason I recollect is that I looked inside to see whether there were any stains.

89. What you are telling me is this : you recollect it was a sack of those dimensions ?—Yes.

90. And if your recollection is correct we have not the whole exhibit before the Court ?—If my recollection is correct it would appear not.

91. According to your recollection, were there three sewn sides and one open ?—Yes, I think there were but I couldn't be sure about that.

92. And assuming your recollection to be correct, can you account for the fact that we have not got the rest of it here ?—No, I cannot.

93. And you are not prepared, I take it, absolutely to swear that that is the case ?—No, I am not.

Re-examination.

Re-Xd. : 94. About Lachmi Prasad, can you say on how many occasions he came to you to try and give information ?—I cannot state the names of the persons off hand.

95. Can you give any idea how many different occasions there were ? —My recollection is that he came to see me on at least two or three occasions.

96. And on none of those occasions did you act on his information ? —No.

97. Do you know this place well—Sambeto Valley ?—I have been here two years.

98. Can you tell the Court whether or not it was commonly known that Lachmi Prasad had informed the Police ?

Rice : Can we have common knowledge in connection with this question ?

A.-G. : I submit that it is perfectly good evidence if the Superintendent was here for two years : I asked him whether it was known generally that Lachmi Prasad was an informer.

The Court : I do not think it is admissible.

A.-G. : Your Honour rules against it ?

The Court : I cannot see that it is admissible.

To Court : 99. Did you see this truck on the 10th ?—Yes.

100. Did you examine it ?—Yes.

101. Did you notice anything about it ?—The reason it was taken in was that there were stains which we suspected to have been blood on the

floor, and there was evidence that it had been newly washed. In fact, it was no secret that it had been washed recently.

102. That was the 10th—Monday ?—Yes.

103. The body was found on the Sunday ?—Yes.

104. Was there evidence that it had been washed that day ?—The morning of the 10th—Monday.

105. What did you see ?—On the floor of the inside was it ?—Yes.

106. What did you see ?—Sprinklings of red substance in several places on the floor—in the woodwork, indicating that it had been washed over.

107. Were they stains or merely spots ?—Stains.

108. Big stains—little stains ?—Red stains.

109. How big ?—The biggest stain was certainly not beyond that size (indicates $1\frac{1}{2}''$ across). Also, there were no seats in the car: the seats had been taken out.

To Assessor (Mr. Rice): 110. I am not quite clear on the date you gave of finding the burnt cloth ?—18th.

111. And you showed the spot to Mr. Caldwell on the 11th ?—11th December.

No. 51.

EVIDENCE of Samesa Bainimua.

SEMASA BAINIMUA—Sworn.

Constable No. 526, stationed at Lautoka.

112. Did you take part in the investigation in this case ?—Yes.

113. Did you go to the place where the body was found ?—Yes.

114. And what did you do there ?—When we reached this place I was instructed to go around and make certain investigations, which I did. Into the guava bush and surroundings.

115. Did you find anything ?—Yes, I found a small sack.

116. Will you look at that ? Is that the sack you found ?—This is the one—the very piece of sack I saw.

117. Was it like that when you found it ?—It was like this, and the part that was touching the ground was wet—the bottom side of it—and the rest of the sacking was dry. This is the piece, and there is nothing missing.

118. The top of the sack was dry and the underneath of the sack was wet ?—Yes, that is correct.

119. What did you do with the sack ?—I took charge of this sack and handed it to Supt. Spencer.

120. Were you present when Mr. Caldwell, the surveyor, noted this place on his plan ?—Yes.

121. How far from the body was the sack found ?—40 to 50 paces away from the body.

122. Did you see anything else there of significance ?—That is the only piece of sack I found. I found nothing else.

In the Supreme Court.

Prosecution Evidence.

No. 51. Samesa Bainimua, 24th July 1946, Examination, *continued.*

Rice: No questions.

Sharma: No questions.

To Court: 123. Did you examine this piece of sacking ?—I did.

124. What did you think about it ?—I saw some red stains which I thought at the time were blood stains.

125. Were those on the wet part or on the dry part ?—On the wet part of the sack.

126. Was it wet blood ?—It was blood, but it was on the wet portion of the sack.

127. Did you smell it ?—No.

128. Wouldn't that have been the most sensible thing to do if you thought it was blood ?—I didn't smell it; I looked at it. It was red and I took it for granted that it was blood.

No. 52. Charlie Bula, 24th July 1946, Examination.

No. 52.

EVIDENCE of Charlie Bula.

CHARLIE BULA—Sworn.

129. You are a Native Medical Practitioner ?—Yes.

130. You work at the Lautoka Hospital ?—Yes.

131. On the 9th September did you receive certain instructions ?—Yes.

132. In regard to making a post mortem examination ?—Yes.

133. On whom was the post mortem taken ?—Lachmi Prasad.

134. Who ordered you to conduct the p.m. ?—Dr. MacCauley.

135. Who was present at the p.m. ?—Supt. Spencer and Inspector Caldwell.

136. Was the body identified in your presence ?—Yes.

137. By ?—Badri Prasad.

138. Was the body photographed ?—Yes.

A.-G.: I would ask Your Honour if the witness could refresh his memory from the notes of the post mortem made at the time.

The Court: Yes.

(*A.-G.*) 139. Have you a copy of the notes made by you at the time ? If you wish to refresh your memory you may do so. (Witness produces notes.) Will you give the Court as briefly as you can the result of your post mortem on this body ?—The body was clothed in a black shirt, white shorts and black belt suspended from which was a knife in a leather holster. The articles of clothing were stained with blood and were removed and handed over to Supt. Spencer. Rigor mortis was present but was beginning to pass off in the upper extremities. The left arm was stiffened out from the body, flexed at the elbow joint and upraised. The hand was closed tightly. The right arm was flexed at elbow and lay across the front and lower part of chest. The hand was closed tightly and was

grasping some withered grass and earth. These were given to Supt. Spencer. The left leg was extended straight with body and the right leg was flexed at the knee joint and rotated outwards. The eyes were open and the mouth was partially closed. The body exhibited six major wounds situated mainly about head and neck and left arm, and one small skin scratch in the left arm pit.

The wounds: 2 situated at back of neck and head, 2 in front and side of neck, 2 on left upper limb.

Wounds at back of head and neck: Of the 2 wounds on the back of head and neck one was large and the other was smaller: the larger one, which was incised and gaping, extended 1″ from the root of the left ear at the back and then obliquely across the back of the skull to within $1\frac{3}{4}$″ of the lobe of the right ear. The wound sheared off the back of the skull, cutting through the muscles of the neck to the vertebræal column. The greatest depth of this wound was $1\frac{1}{2}$″: its length was $4\frac{3}{4}$″. The smaller wound was also incised and gaping and parallel to and 2″ above the large wound. It measured 2″ in length, cutting through layers of scalp and outer table of scalp: depth $\frac{1}{2}$″.

Wounds on front of neck: Large incised gaping wound situated in upper part of left side of neck, extending from a point 2″ to the right of the point of the chin and across side of neck, following the line of the lower jaw to a point $2\frac{1}{2}$″ below the lobe of the left ear. In depth of this wound the upper part of the windpipe was notched and the muscles of the neck and the main blood vessels were severed. The length of the wound was 7″ and the depth $2\frac{1}{2}$″. Another smaller wound was situated at right and lower part of neck, running obliquely across the lower part of the right side of neck crossing the mid line 2″ above the sternal notch. The wound measured $4\frac{1}{2}$″ in length and $1\frac{1}{4}$″ in depth: it was gaping and had severed through muscles on side of neck and also the windpipe. Wounds on left upper limb: There were 2 wounds on left upper limb, one situated on back part of upper arm and the other at the elbow joint. The upper arm wound: large U-shaped wound with gaping edges situated on the back part of the left upper arm, half way between the left elbow joint and arm pit. The skin edge of wound measured $7\frac{1}{2}$ inches in length: depth $4\frac{1}{2}$″ passed obliquely through the muscles on back of arm. Elbow joint wound: situated at left elbow joint, incised and gaping, running through and opening into joint. The head of the ulnar was severed. There was a skin scratch $6\frac{3}{4}$″ long running through the left arm pit.

140. And the cause of death?—Shock and hæmorrhage.

141. You told the Court that the main blood vessels of the neck were completely severed: is that so?—Yes.

142. Can you give the Court any idea as to the time it would take for the blood to be drained from these wounds. I mean, obviously, if the main blood vessels were completely severed the bleeding would be very profuse, would it not?—Yes.

143. Can you give any idea as to how long that bleeding would go on for? a few seconds? a few minutes?—Up to half an hour.

144. You think he may have lived for half an hour after he received those wounds?—Yes.

145. Do you mean that the bleeding could have gone on for half an hour?—At the most.

146. Do you seriously think it possible that he could live for half an hour with those wounds?—No.

In the Supreme Court.

Prosecution Evidence.

No. 52. Charlie Bula, 24th July 1946, Examination, *continued.*

Cross-examination.

147. I want you to be quite clear on this. You described the wounds very carefully and very well and I want you to try, thinking about it very carefully, to tell the Court how long you think he could have lived after receiving those wounds and how long you think he could have gone on bleeding ?—I couldn't say the correct time, but I can say at the most about half an hour.

Rice : Continues to bleed ?

A.-G. : Yes.

148. What sort of instrument do you think the wounds were caused by ?—A sharp instrument.

XXd. Rice : 149. Can you tell us what time it was and what date it was when you first saw that body ?—On the 9th September.

150. At what time ?—4.30.

151. p.m. or a.m. ?—p.m.—Sunday.

152. Now I wonder if you could give us any idea how long, in your opinion, that body had been dead at the time you saw it. What would be your opinion of that ?—I should say under 24 hours.

153. Can you put it a bit more precisely than that ? If you can't, just say so. Can you make a more precise estimate, or not ?—I can only say that it was not more than 24 hours, but I cannot say how much less it was.

154. Would you be perfectly definite that it was more than one hour ago ?—Oh, yes.

155. Let us take the half of 24. Would you be equally perfectly definite that it would be more than 12 hours ?—It is difficult for me to say that.

156. Between what hours of the 24 would you be quite definite about —between 3 and 24—between 4 and 24 ?—It is so difficult for me to state that because of the blood. Owing to the climatic conditions the blood dries, and sometimes the blood is wet. So it is very difficult for me to state anything less than what I have already said.

157. You have said that the greatest time that body could have been dead would have been 24 hours ?—Yes.

158. Could you take the other end—could you give us the least time ? —Rigor mortis usually sets in after six hours. When I saw the body rigor mortis was passing off at the upper extremities, which would show that the least time would be 12 hours.

159. So that the least time would be 12 hours and the greatest 24 ? —That is just my guess.

160. That is your opinion ?—I would not say it is my opinion : it is my guess.

161. We would like your opinion now. Would you say it is your opinion that the least time that body was dead was 12 and the greatest 24 hours ?—It is very difficult for me to give an opinion on that.

162. The best you can tell us is what you have told us already ?— Yes.

163. I would like you to direct your attention to that arm wound you have told us about. The one that was $7\frac{1}{4}''$ in length and $4\frac{1}{2}''$ in depth ? —The wound in the arm, you say ?

164. Yes. It was the left arm, of course ?—Yes.

165. And that arm was upraised, I think you have told us ?—Yes (demonstrates).

166. And the wound was on the back of it ?—Yes, at the back.

167. This is the arm wound only. Would that tend to bleed a lot ?—It would bleed slowly. There were two wounds there. They would bleed slowly.

168. Would there be much blood come out of it ?—Yes, much blood could come out.

169. Would it be likely to is what I am asking you ?—The blood would be more if the injury was on this side of the arm (indicates front) but being on that side there would not be so much blood as there would be on this side.

170. Would there be a fair amount or just a little ?—There would be a fair amount.

171. Well, suppose the dead man, straight after he got that wound, was lying down on the ground with his arm as you showed us, would you expect there to be blood on the ground afterwards where his left arm was lying ?—There would be blood on the ground at the spot where his arm was.

172. And, of course, also (coming now to the head wound) there should also be blood on the ground where his head was lying ?—Yes, the blood would be there too.

173. Both places ?—Yes.

174. That arm wound, I take it, would bleed immediately the wound was inflicted ?—Yes, but slowly.

No. 53.

EVIDENCE of Ramcharitra.

No. 53. Ramcharitra, 24th July 1946, Examination.

RAMCHARITRA. Constable No. 605—Sworn.

Stationed at Nadi.

175. Did you take a statement from the accused Walli Mohammed ?—I did, on 9th September.

176. Was the statement made to you in Hindustani ?—Yes.

177. Did you write it down in English ?—Yes.

178. And read it back in Hindustani ?—Yes.

179. What time of the day did you take that statement ?—5 p.m.

180. Had the accused been arrested at this time ?—No.

181. Was the statement entirely voluntary ?—Yes.

182. Would you be so good as to read the statement out ?

(Statement put in and read.) Exhibit H.

183. Did you take a statement the same evening from Ali Mohammed ?—Yes.

184. Is that it ?—This is the statement.

185. What time did you take that statement ?—7.45 p.m.

In the Supreme Court.

Prosecution Evidence.

No. 53. Ramcharitra, 24th July 1946, Examination, *continued.*

186. Was the statement made in Hindustani ?—Yes.
187. And you recorded it in English ?—Yes.
188. Did you read it over to him ?—Yes.
189. Did he agree with it ?—Yes.
190. Was the statement entirely voluntary ?—Yes.
191. Will you read the statement out to the Court ?

(Statement put in and read.)

192. On 10th September did you interpret for Superintendent Spencer a statement made by Walli Mohammed ?—Yes.
193. Did you read it back to Walli Mohammed ?—Yes.
194. Is that the statement ?—Yes.
195. Was the statement entirely voluntary ?—Walli Mohammed agreed it was correct and signed it.

Exhibit K.

Exhibit L.

196. This is the statement that was read out by Supt. Spencer. (Put in.) Did you take some exhibits from Supt. Spencer to the Government Pathologist ?—Yes.
197. What were they ?—Burnt cloth, scrapings from lorry.
198. Anything else ? Did you take a sack ?—Yes.
199. Who did you hand them over to ?—Government Pathologist at Government Hospital, Suva.
200. Do you remember the date you took them to Suva ?—26th September.

Rice : No questions.

Sharma : No questions.

No. 54. Attar Singh, 24th July 1946, Examination.

No. 54.

EVIDENCE of Attar Singh.

ATTAR SINGH. Sergeant No. 305.—Sworn.

Stationed at Ba.

201. Did you take a statement from the accused Walli Mohammed on 10th September ?—Yes.
202. What time ?—7.30 p.m.
203. Was it given to you in Hindustani ?—Yes.
204. And you wrote it down in English ?—Yes.
205. Did you read it back ?—Yes.
206. Did he understand and agree with it ?—Yes.
207. Was the statement made without any pressure being brought to bear on him ?—Yes.
208. Is that the statement ?—Yes.
209. Would you be good enough to read it out to the Court ?

Exhibit M.

(Statement put in and read.)

210. Did you take a further statement from Walli Mohammed on 11th September ?—Yes.

211. Did you caution him in the usual manner ?—Yes.
212. At the time this statement was taken was Walli Mohammed under arrest ?—No.
213. Who was present when you took this statement ?—Supt. Hooper and Inspector Sell.
214. Was the statement made in Hindustani ?—Yes.
215. And recorded in English ?—Yes.
216. Did you read it back to him ?—Yes.
217. Did he approve of it ?—Yes.
218. Is that the statement ?—Yes.
219. Will you read the statement ?

(Statement put in and read.) Exhibit N.

12.55 p.m.—Adjourned.
2.15 p.m.—Resumed.

220. At 6.30 p.m. on the 12th September did you take another statement from the accused Walli Mohammed ?—Yes.
221. Did you caution him in the usual terms before taking his statement ?—Yes.
222. Was the accused under arrest at the time ?—No.
223. He made the statement in Hindustani ?—Yes.
224. And you recorded it in English ?—Yes.
225. Did you read it back to him ?—Yes.
226. Did he agree with it and sign it ?—Yes.
227. Was it made entirely voluntarily ?—Yes.
228. Do you remember who was present when this statement was taken ?—Supt. Hooper, Inspector Sell and Supt. Spencer.
229. Would you be so good as to read the statement out ?—

(Statement put in and read.) Exhibit O.

230. Did you also take a statement from the accused Ali Mohammed ? —Yes.
231. On the 12th September ?—Yes.
232. What time ?—At 1 o'clock.
233. Is this the statement ?—Yes.
234. Was that the first statement you had taken from him ?—Yes.
235. Was it taken in Hindustani ?—In English.
236. He spoke in Hindustani ?—Yes.
237. And you read it back to him ?—Yes.
238. And he approved and signed it ?—Yes.
239. Was the statement entirely voluntary ?—Yes.
240. Was anyone else present when you took this statement ?—Yes. Supt. Hooper and Inspector Sell.
241. Would you be so good as to read the statement out to the Court ?

(Put in and read.) Exhibit P.

242. Did he continue with the same statement later on in the day ? —Yes. 4.15 p.m.

(Reads second part of statement.)

In the Supreme Court.

No. 55.

EVIDENCE of Walli Mohammed.

Prosecution Evidence.

No. 55. Walli Mohammed, 24th July 1946, Examination.

WALLI MOHAMMED. Corporal No. 479. C.I.D.—Sworn.

243. Were you in this investigation ?—Yes.

244. Where are you stationed ?—At present at Naduruloulou, Rewa.

245. You assisted in the investigation of this case of Lachmi Prasad ?—Yes.

246. On the 17th September did you take a statement from the accused Ali Mohammed ?—I did.

247. Was the accused in custody at the time ?—No.

248. How was the statement taken ?—It was given in Hindustani.

249. You recorded it in English ?—Yes.

250. Was the statement voluntary ?—Yes.

251. What time did you take the statement ?—At 8.40 p.m.

252. Did you read the statement back to him and did he approve of it ?—Yes.

253. Who was present when the statement was taken ?—Supt. Hooper, Asst. Supt. Spencer, Sgt. Major Ahmed.

254. Will you read the statement out to the Court ?

Exhibit Q. (Statement put in and read.)

255. On the following day at 1 o'clock in the morning, did you take a further statement from Ali Mohammed ?—Yes.

256. Did you caution him in the usual terms before taking his statement ?—Yes.

257. Was he in custody at the time ?—No.

258. The statement was made in Hindustani ?—Yes.

259. You recorded it in English ?—Yes.

260. And you read it back to him in Hindustani ?—Yes.

261. Will you tell the Court how it was that you were taking statements at this hour in the morning ?—We were at Nadi Police Station at the time.

262. What were you doing at Nadi Police Station ?—We were making inquiries into this case.

263. Is that why you made the statement at 1 o'clock in the morning ?—Yes.

264. Who was present when this statement was taken ?—Supt. Hooper, Sgt. Major Ahmed, Const. Howsil.

Exhibit R. (Statement put in and read.)

265. In this statement the accused refers to " Ballu." Who is Ballu ?—Ballu is Walli Mohammed.

266. Is he known by that name ?—He is known as Ballu.

267. Now the statement you have just read out you recorded on the 17th September, is that correct ?—On the 18th September at 1 a.m.

268. Now on the same day did you go to a place near Walli Mohammed's house ?—Yes.

269. Who with ?—Supt. Hooper, Sgt. Major Ahmed ; Const. Howsil was there ; Const. Tara Singh was there.

270. Was Supt. Spencer there ?—No.

271. In your statement in the lower court you said that Supt. Spencer was there : was that a mistake ?—It was a mistake.

272. You are sure now he was not there ?—No, he was not there.

273. Why did you go to this place ?—We went to Ballu's land to find out the place where Ali Mohammed had seen the smoke—what had been burning there.

274. Did Ali Mohammed go with you ?—Yes.

275. Did he show you the place ?—Yes.

276. Will you describe to the Court what you found and—will you explain to the Court where Ali Mohammed showed you this place ?—Going into Walli Mohammed's land, it was the far end from the road.

277. How far from his house ?—This land adjoined his compound.

278. And what did you find ?—Searching round there we found some burnt clothing.

279. Who showed you this spot where the clothing was found ?—Ali Mohammed.

280. Did you mark the place where you found the clothing ?—Yes.

281. How ?—We put some stones there.

282. And what did you do with the pieces of burnt clothing ?—Picked them up and put them in a paper bag and returned them back to Mr. Spencer that evening.

283. At this place where you found these pieces of burnt clothing was the land ploughed ?—Yes.

284. Had it been recently ploughed, or had it been ploughed for a long time ?—It seemed to be recently ploughed.

285. Was Walli Mohammed there ?—No.

286. Well, after having seen this place what did you do then ?—Then Ali Mohammed took us to a place where the body was found.

287. Did you ask him to take you to the place where the body was found ?—No. He had mentioned in his statement that he would show the place where Lachmi Prasad was killed. He directed us.

288. He directed you to this place where he said the deceased had been killed ?—Yes.

289. And was this place the place where the body was in fact found ?—Sgt. Major Ahmed——

290. Do you yourself know where the body was found ?—No.

291. Were there any traces of the murder at this spot ?—There was some blood there.

292. What sort of blood ?—Just a patch of blood.

293. On the ground or in the grass, or where ?—On the ground.

294. You are quite sure it was blood ?—It seemed to be blood.

295. Did Ali Mohammed have any difficulty in arriving at this spot ? Did he go straight to it or look for it, or what happened ?—We went, and he took me to a track which runs through a dhall plantation, and going down the hill there was flat land, and there was a track running between this land, and just near the track he said " This is the place where Lachmi Prasad was killed," and then we searched round and found a patch of blood and then he said " This is the place where he was killed."

296. Was that the spot on the map marked as being the place where the body was found ? Is that where he took you ? If you can't read the map, say so ?—No, sir.

297. Can you say whether there was a telegraph pole near this place where the body was found ?—A telephone post—yes, there was.

In the Supreme Court.

Prosecution Evidence.

No. 55. Walli Mohammed, 24th July 1946, *continued.* Cross-examination.

XXd. Rice : 298. These two journeys you have described—one to a piece of ploughed land and the other to the place where you saw what you thought was blood : they both took place on the 18th September, didn't they ?—Yes.

299. And the accused, Walli Mohammed, I think had been arrested on the 12th, six days before ?—Yes.

300. And in fact he was in gaol, in custody awaiting his preliminary examination, on the 18th, the day you made these two journeys ?—Yes.

301. There is no doubt, then, that he was not present at either of those journeys ?—No.

302. He was in gaol in custody at the time ?—Yes.

303. And the whole thing was done behind his back—without his knowledge ?—Yes.

304. As a matter of fact—I don't know whether you know or not—did you know that some days before that time he had already been brought before the Court and remanded ?—I didn't know.

XXd. Sharma : 305. Now Corporal, when Ali Mohammed took you to Walli Mohammed's land, I think he said to you " This is the land where I saw the smoke coming from " ?—Yes.

306. And then he took you to a particular spot ?—No, we searched that land and found the burnt clothing there.

307. You found the particular spot where the burnt clothing was and the accused told you, " It was somewhere here I saw the smoke " ?—Yes.

308. Do you know, Corporal Walli Mohammed, that when the deceased's body was found the accused Ali Mohammed was one of the persons who helped the party who put him on the lorry ?—I wasn't there at the time : I don't know.

Re-Xn. : Nil.

No. 56. Shankar Pratap, 24th July 1946, Examination.

No. 56.

EVIDENCE of Shankar Pratap.

SHANKER PRATAP, Inspector of Police—Sworn.

309. Will you tell the Court the part you played in the investigation in this case, Inspector ? I think you first came in on the 12th September ?—Yes.

310. On that day did you charge and caution the accused Walli Mohammed ?—Yes. I arrested, charged and cautioned him.

311. What time ?—9 p.m.

312. Did you charge him with the murder of Lachmi Prasad ?—That is so.

313. And having done that, did he make a statement ?—Yes, he made a statement in Hindustani and I took it down in Nagari script.

314. Did you read it back to him ?—I read it back, he approved of it and signed it.

315. Is that the statement ?—Yes.

316. Would you read it out ?

Exhibit S. (Statement put in and read.)

317. Did you also charge and caution the second accused Ali Mohammed ?—Yes, I arrested, charged and cautioned the second accused.

318. On what day ?—19th September.

319. Did he make a statement ?—Yes.

320. Is that the statement ?—Yes.

321. Would you be good enough to read it out ?

(Statement put in and read.)

322. These two statements you took: were they made perfectly voluntarily ?—Yes.

323. No pressure brought to bear on either of the accused ?—No.

Rice: Mr. Interpreter, what is your version of the translation of that second to last sentence ?

Exhibit T.

Interpreter: " The statement of Ramsumer and Bishun that they have done the killing, that is what I know." " The statement about Ramsumer and Bishun " would be correct.

Rice: We finally arrive at this. " The statement concerning Ramsumer and Bishun that they have done the killing is the one I know."

Interpreter: Yes.

Rice: No questions.

Sharma: No questions.

Re-Xn.: Nil.

4 p.m.—Adjourned.

No. 57.

EVIDENCE of Manasa Mataki.

No. 57. Manasa Mataki, 25th July 1946, Examination.

9.30 a.m. Thursday, 25th July, 1946.

SECOND DAY.

MANASA MATAKI. Constable No. 461.—Sworn.
Stationed at Suva.

324. In November, 1945, did you receive certain exhibits from the Government Pathologist, Dr. Barnes ?—Yes.

325. Will you tell the Court what the exhibits were ?—Dr. Barnes handed me certain exhibits. I was given some large envelopes. I don't know what they contained.

326. Do you know what the numbers were ?—These are the ones.

Exhibits E, H, I.

327. What did you do with them ?—I took the exhibits to the Station at Suva. On the 24th November I brought these exhibits to Nadi and handed them over to Asst. Supt. Spencer.

In the Supreme Court.

No. 58.

EVIDENCE of B. F. Hooper.

Prosecution Evidence.

No. 58. B. F. Hooper, 25th July 1946, Examination.

BASIL FREDERICK HOOPER. Supt. of Police—Sworn.

328. You are a Superintendent, Fiji Police ?—Yes.

May it please Your Honour, this witness has not given evidence in the lower Court. Notice has been served. I don't know whether Your Honour has a copy ?

The Court : I have.

A.-G. : 329. I think you were in charge of the investigations in this case ?—Yes. When this alleged murder was committed I was then Superintendent of the Western District—in charge.

330. Did you conduct the investigations throughout ?—Not throughout. I assisted Inspector Sell whom I detailed.

331. I think you first saw the body at the hospital, is that correct ?—Yes, that was at 4 p.m. on the 9th September.

332. You were present during the post mortem examination ?—Yes.

333. On the night of the 10th September did the accused Walli Mohammed make a statement to you ?—Made one in my presence.

334. Did he make a statement to you direct—he made a certain request about—— ?—He made a request to Inspector Sell who communicated it to me in the presence of Walli Mohammed. He was very much afraid in view of the statement he had made and asked for Police protection. The best we could do for him—we asked if he would like to sleep at the Lautoka Police Station and he said he would. He came in with a Police party of which I was a member and was given a bed in the station.

335. That was on the night of the 10th September ?—Yes.

336. Now on the following day, 11th September, were you present when a statement was taken by Sgt. Major Attar Singh ?—Yes.

337. At what time was the statement made ?—Approximately 11 o'clock, I think.

338. A.m. or p.m. ?—A.m.

339. Was this statement made entirely voluntarily ?—Yes. He was cautioned first.

340. Can you assure the Court, Supt. Hooper, that no inducement was offered to this man to make a statement ?—None at all. As a matter of fact, from what I can recollect, this was a statement in which he was talking so fast that we couldn't write it down quickly enough.

341. Now, at the end of the statement did he make a communication to you as a result of which you went out on an expedition ?—Yes. I asked him if he would be willing to show the Police the place where Lachmi Prasad was killed, and he said he would, and that was recorded in the statement.

342. What took place then ?—As a result of that, in the afternoon of the same day, accompanied by Inspector Sell, Sgt. Attar Singh and other members of the Police party, I went in the Police lorry to Votualevu Road. There the lorry was stopped at the wooden bridge which is indicated, I understand, on the map.

343. Is that the bridge where, on the other side of the road, there is an Ivi tree marked ?—Yes.

344. That is the wooden bridge to which you refer?—Yes. The accused Walli Mohammed said to stop the lorry—indicated a spot on the eastern side of the bridge just as you approach it. Just along the approach to the bridge. The lorry was stopped as requested by the accused Walli Mohammed, and he said that that was where lorry K.57 stopped that night. He then indicated approximately the spot in the creek where Lachmi Prasad was killed. That would be on the northern side of the bridge—that is on the right hand side of the bridge, going towards Votualevu.

To Court: 345. Beyond the bridge?—No, in the creek. Where the lorry was stopped they got out and went down the bank to the creek.

346. Under the bridge?—Not under. Just about north.

A.-G.: 347. North-west, it would be.

To Court: 348. Beyond the bridge from the way you came?—Yes, towards the Ivi tree. It is marked there. Just in front of the Ivi tree on the creek. He said at the time Lachmi Prasad was killed there he was on the edge of the road just near the bank of the river. That is he himself —Walli Mohammed. He said that he was there when this thing happened. I looked around, made a thorough examination of the spot. There are large boulders in the creek which was not much more than a trickle flowing between large boulders. I could find no evidence of a struggle or signs of blood—nothing, as a matter of fact, to indicate in any way that such a crime had been committed at that spot. Walli Mohammed then took us in the lorry approximately 10 chains further on over the bridge; along the road about 4 or 5 chains and then to the right towards the creek—there is an old camp site there—4 or 5 chains to the right there towards the Malika Creek, which is marked there.

349. Was it along the track or south of the track?—No, north-west of the track. He said that was where the lorry stopped, the body was taken out of the lorry (the body, incidentally, was in a sack as he described in his statement) and the four other people had taken it in a north-westerly direction. The accused Walli Mohammed said he stood by the lorry, and he merely indicated the north-westerly direction in which he said the body was taken. He was unable to give us any more information than that. He showed us where he stood at the time and waited their return.

350. Now, Supt. Hooper, you have nothing further to tell us about that particular incident?—No.

351. On the following day, 12th September, were you present when a further statement was taken from Walli Mohammed by Sgt. Attar Singh?—Yes.

352. It is in evidence that the statement was taken at 6.35 p.m. on the 12th September by Attar Singh in your presence and that of Supt. Spencer?—Yes. Exhibit O.

353. Was the statement made after caution?—Yes.

354. The accused, I think, was not actually in custody at the time?—No, he was not.

355. Was any inducement of any sort offered to the accused to make this statement, or any statement?—No.

356. Was the accused Walli Mohammed arrested on the same day?—Yes, 9 p.m. on the same night.

357. Were you present when he was actually charged by Inspector Pratap?—Yes. I had Inspector Pratap do it so it might be recorded in his own language.

In the Supreme Court.

Prosecution Evidence.

No. 58.
B. F. Hooper, 25th July 1946, Examination, *continued.*

358. And did the accused make another statement after being cautioned ?—Yes.

359. Were you present when he made that statement ?—Yes.

360. And no inducement of any sort was offered to him ?—No.

361. Now I think, Supt. Hooper, you were present when certain other statements were taken from the other accused Ali Mohammed ?—Yes.

362. The first one is the statement that was taken on the 12th September at 1 p.m. by Attar Singh ?

To Court : 363. There was one on Sunday, the 9th, Exhibit K ?—I was not there.

A.G. : 364. I want to be quite clear on this point, because I notice in your statement you don't mention this statement. I want you to verify whether you were present or not ?—I was in the locality at the time. I can't say whether I was there during all of it. I know I was in the vicinity at the time.

365. That brings us to a statement taken by Cpl. Walli Mohammed from Ali Mohammed at 8.40 p.m. on the 17th. Supt. Spencer and S./M. Ahmed were there. Were you present when that statement was taken ?—Yes. That was at the Nadi Police Station.

Exhibit S.

Exhibit P.

Exhibit Q.

366. I think Cpl. Walli Mohammed actually took the statement ?—Yes.

367. Was the statement volunteered by the accused ?—He did not come along and say he wanted to make a statement. As a result of questioning he told us what was written down. He was asked to give an account of what happened that night and told that we wanted the truth from him, and very few questions were asked, actually.

368. This was the statement of 8.40 p.m. ?—Yes.

369. At that time was the accused in custody or not ?—No, he was not in custody.

370. Now, on the same night, or rather at 1 o'clock in the morning of the same night, another statement was made by Ali Mohammed ?—Yes.

371. Were you present at that statement also ?—Yes.

372. Can you explain how it was that this statement was taken at what appears to be a rather extraordinary hour ?—To me it is not extraordinary. In a case like this, when I deem it necessary I go right through the night—I continue investigations. If there is a convenient break I may retire, but I may go on for two days without sleeping. It has been my practice to do that in an important crime. If there is a convenient break we sleep, and if not we go right through. That is my policy in investigation. We left Nadi at 4 o'clock that morning, arrived at Lautoka 4.40, and we were back again at Nadi at 10.30 the next morning.

373. Was the accused still not in custody ?—No.

374. But he was cautioned ?—Yes.

375. I am still referring to the statement taken at 1 a.m.—1 a.m. to 3.15 a.m. Was this statement volunteered by Ali Mohammed ?—Yes. He indicated to us that he would tell the truth.

376. This particular statement then, I understand, was made not as a result of being questioned or offered any inducement ?—No inducement whatsoever.

377. Now, arising out of that statement, on the following morning did you go out with a party and make certain investigations ?—Yes.

378. Will you describe to the Court this incident ?—At 11.15 a.m. on the 18th the accused Ali Mohammed, Cpl. Walli Mohammed, S./M. Ahmed, Const. Howsil, Menga Singh, Tara Singh—in their presence the accused Ali Mohammed took us to a spot on the accused Walli Mohammed's land which adjoins his compound. That is also indicated on the map.

379. I think it is shown in the inset—the enlargement of Walli Mohammed's compound ?—Yes, it is a piece of land that adjoins the road. He took us to a spot on the far side of the field where it says on the map "Burnt cloth found." That part of the field had been freshly ploughed and Ali Mohammed walked round that area for some little while and then indicated a spot where quite a quantity of burnt ash was found. And he said that was the spot from which he had seen smoke rising on Sunday morning, 9th September. As I said before, that land was freshly ploughed ; some of the sods were turned up and quite a lot of ash was underneath the sods and also on top of it. Small fragments of burnt clothing were found, some underneath the sod and some on top. I instructed Cpl. Walli Mohammed to gather those and put them in a paper bag, and that was done in my presence.

380. Those are they ?—Yes. Similar to that. I then ordered a heap of stones to be put where that burnt cloth was found. That was also done in my presence. Exhibit I.

381. Can you give the Court any idea as to how much of this burnt cloth was there ? What was your impression on seeing it ? As you know, it is possible to find burnt cloth almost anywhere. What was your impression on seeing this cloth ?—My impression was that some garment had been burnt there and then a plough had gone over it. Fragments of ash and so forth were on top of the ploughed land. When you go over an ash heap of that sort with a plough you don't turn it all in. The friction of the furrow when it is turning over causes some of the ash to be blown over on to the ground alongside. I am speaking from actual experience of that.

To Court : 382. Was it just like this—black—when you saw it ? —No, not quite as black. There were fragments from which could be seen—there are some pieces of cloth there that are not quite burnt.

To Court : 383. Could you detect any colour in anything that was found ?—White, from what I can remember of it. There doesn't seem to be anything there now. Of course I don't know what process it has been through.

384. The analyst might be able to tell us what it was ?—Unfortunately, the analyst is out of the country—both the Government Pathologist, Dr. Barnes, and the Laboratory Superintendent.

A.-G. : 385. Will you describe in detail the exact position in which the burnt cloth was found ? Was it quite apart from any other heaps of rubbish and litter one can find round about Indian compounds ?—This was freshly ploughed and there was tall grass and weeds—right on the edge of the field ; I suppose about 3 or 4 yards from the edge of the field —and there was tall grass on the edge, also on the western side.

386. Was it anywhere near the place where household refuse was disposed of ?—No. It was quite isolated.

387. Now will you describe to us the next expedition you had in company with Ali Mohammed ?—He then took us along the Votualevu

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No. 58.
B. F. Hooper, 25th July 1946, Examination, *continued.*

road—myself, S/M Ahmed, Cpl. Walli Mohammed, Constable Howsil. Took us along the Votualevu Road to a spot approximately 10 chains past that wooden bridge which I have previously indicated in respect of Walli Mohammed, and then, where the track here turns right, going up towards the creek, took us there about 5 chains.

388. This is south of the bridge ?—Yes.

The Court : 389. There is a gap isn't there ?—He took us a little past there.

A.-G. : 390. Took you about 10 chains along the road, then turned right ?—Yes. About 4 or 5 chains, and then said " Stop the lorry," and said " This is about where the lorry did stop." And then he took us through an Urhur Dhall plantation, in a westerly direction. After going through that plantation you go on up a grassy hill and down the other side it opens out on to a large plain, about 100 acres. We went to about the middle of this grassy place : the accused Ali Mohammed stopped, he circled round several times in a small area and stopped at a place at which there was a dark substance which appeared to be blood and said, " This is where Lachmi Prasad was killed." S/M Ahmed said in the presence of the accused, that that was the spot where Lachmi Prasad was found. There was an iron telegraph pole quite close to the spot indicated. There was also a track quite close to the place indicated by Ali Mohammed : that is also shown on the plan.

391. Had you yourself, Superintendent, been to this spot before this occasion ?—Yes, I think I had.

392. Had you made an investigation at this spot ?—No. I was investigating another murder at the same time. We had two that same night.

393. Now, apart from the question as to whether Ali Mohammed was present at the time of the death, can you tell the Court whether, from your knowledge, Ali Mohammed went to this place on the Sunday morning before the body had been removed ?—No, I can't say.

394. Now, in these statements made by the accused a person called Shiusharan is referred to. Can you explain—in the course of these proceedings there are two gentlemen of that name mentioned. Can you elucidate the difficulty as to which one was referred to by the accused ?—One is Shiusharan father's name Panchu and one is a witness. His father's name is given there to differentiate him—his father's name is shown as Panchu.

395. When did you first see this sack that has been exhibited in Court ?—I saw it at the Nadi Police Station. Mr. Spencer showed it to me there.

396. Before it went to the analyst ?—Yes.

397. Do you remember what day ?—No. It was within a few days of the crime—that is how I remember it.

398. You saw the sack yesterday : that is how you remember it ?—Yes.

399. You understand that there is some doubt about the condition of the sack. Your recollection is that it was in this condition ?—Yes.

400. In fact, that it was not a sack at all ?—No. Because I remember commenting on it at the time.

401. Can you give the Court any information about the pool of blood that was found under the deceased's head ? Did you see it ?—Yes, I saw

it. It was more or less a rough triangle—in the shape of an equilateral triangle with sides about 18 inches long. That is approximate. When I saw it the blood was caked on top and flakey: there appeared to have been a considerable amount of blood there.

402. Did you also see the spots of blood which Superintendent Spencer referred to in his evidence as being what he thought might be blood?—He pointed that out to me: I disagreed with him. I looked closely at it and my opinion was that it was not blood. It looked like it, but I said at the time that that was a peculiarity of the grass that was there. It had red spots on the leaves. What gave the indication of blood—a trail of blood—was the coincidence that these spots were in a line, but I indicated to him other areas in the vicinity where these red spots were to be found in the leaves of the grass.

403. Were you concerned in the investigation of the Mangara case?—No. I was at Sigatoka at the time. Mr. Spencer rang me and I came straight up and inspected the area under Mangara's house where the gun was found. I directed him what to do in certain matters regarding it.

404. I want you to tell the Court if you know what connection, if any, Lachmi Prasad, the deceased, had in that case?—I was informed that he was the informer and that Mangara was a brother of the accused Walli Mohammed. Subsequently, in my nocturnal meanderings of the Sabeto Valley, which I did quite a lot of in connection with arms, I was informed that Lachmi Prasad was the informer.

405. Did he ever come and make a statement to you?—No.

406. Was this man Lachmi Prasad commonly used by the Police as an informer?—No.

407. Do you know of any other case in which he gave information to the Police which was acted upon?—No.

408. Do you know James Alfred Samuel, Laboratory Superintendent?—Yes.

409. Can you state whether he is now in the Colony or not?—He left Fiji by the last "Matua."

410. Do you know whether he is absent on leave?—He has left permanently. He was here merely relieving Mr. Perry-Johnson who was away on leave.

To Court: 411. He was a kind of locum tenens, was he?—Yes.

A.-G.: 412. Do you know whether Dr. Barnes, the senior pathologist, is in the territory?—I understand he is not. He proceeded on leave just before I did. I understand he is not back.

XXd. Rice: 413. I understand that the body of this deceased man, Lachmi Prasad, was removed to the Lautoka mortuary on the 9th September?—Yes. Cross-examination.

414. Did you see it before it was removed?—No. I was at Suva at the time and came round, and it was not until I got to Sigatoka on the way back that I heard there had been a murder, and I saw the body for the first time in the mortuary.

415. Could you tell me what police officers did see it before it was removed—in addition to Asst. Supt. Spencer—I think he has already told us that he did?—I think Inspector Pratap, Sergeant Major Ahmed and one or two others he took with him. If I recollect correctly they were there a few minutes before the body was removed. I cannot be sure on that point.

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Prosecution Evidence.

No. 58. B. F. Hooper, 25th July 1946, Cross-examination, *continued.*

416. Of course you have seen the compound of the accused Walli Mohammed, as you have already told us ?—Yes.

417. Whereabouts was the household refuse disposed of, did you notice ?—Well I didn't examine his compound very thoroughly, but there was a lot of rubbish in that compound furthest away from the road—south-east corner. From what I can recollect now there was a lot of rubbish there, along that fence. That is my recollection : it was nine months ago.

418. And the field next door—the one where the exhibits were found—wasn't there evidence of ploughing all over it ?—There was a small area there between the road and where the burnt cloth was and up to his compound.

419. Right up to the compound ?—From just near that concrete slab to a westerly direction, that was not ploughed.

420. I'll tell you what I have in mind. There were at least two witnesses in the lower court who told us that was the case, and one of them put it this way—he said he had seen Walli Mohammed ploughing for a week before that Sunday. The Sunday was the first day he had seen him ploughing at that particular place : he had started near his house and come to that place. Was there evidence of the truth of what that witness said ?—Yes. From his compound fence to the concrete slab.

421. The way this witness put it was : he started near his house and came to this place ?—No. He went round and round. That is the way they plough here.

422. How far away from that spot in the direction of the house did you see ploughing ?—I didn't measure it.

423. You can tell us approximately, Mr. Hooper. You know where you found that exhibit ?—You see the compound is enclosed by fence all round.

424. Going back from the house, how far was it ?—My recollection is that he had ploughed up to that fence which runs somewhere due north and south.

425. You mean the fence on the western side of his compound ?—Yes.

426. He had ploughed up to that ?—Yes. Quite close to where the burnt cloth was found—that is extending beyond the fence—and then up to about where that concrete slab is.

To Court : 427. Going round and round in circles ?—Yes.

428. Finishing up in the centre ?—Yes.

429. Was it fully ploughed ?—Yes. My recollection was that that area was. Then the field extends on up to that store. It is marked there " Natawa store." He had only taken that small area and ploughed that.

430. It wasn't ploughed much beyond the concrete slab ?—No.

Sharma : No questions.

To Court : 431. You say that on the 10th August Walli came to Inspector Sell and said he was very frightened and wanted police protection ?—Yes.

432. Did he say what he was frightened of ?—Yes. In view of his statements which he had just given to the police.

433. And in one of his statements—Ex. N—he said that five of them—he, the deceased, Ali, Shiusharan and Bishun Deo—went to see

Chillar's daughter. Do you know who Chillar's daughter is, or where Chillar is ?—Chillar's house is up beyond where the body was found. It is not marked here but my recollections of it are that it was up there by Kattar's—somewhere up there. Sergeant Attar Singh would know. My recollections are that it was somewhere up there : I couldn't swear that at all.

434. When Walli Mohammed was showing you where the deceased was killed I gather that the lorry went over the bridge, continued on the road for 10 chains, turned right, struck the track, continued along it 5 chains, then he stopped the lorry and said, " This is the spot where the lorry was stopped " ?—Yes.

435. And then he walked forward ?—We stopped the lorry and walked.

436. Until he came to the spot where he said the body had been ?—Yes.

437. That was a considerable distance, wasn't it ?—Yes.

438. According to the map it would be 30 chains ?—In a direct line. But it would be considerably more than that.

439. So you walked quite a distance ?—Yes.

440. When you say " freshly ploughed," talking about Walli Mohammed's field : ploughed within how many days of when you saw it ?—It would be within three or four days.

11.00 a.m.—Adjourned.

No. 59.
PROCEEDINGS.

No. 59.
Proceedings 25th July 1946.

11.10 a.m.—Resumed.

A.-G. : May it please Your Honour, I very much regret to inform Your Honour that the witness J. W. Samuel who analysed some of these exhibits, as has been explained by the last witness Supt. Hooper, has permanently left the Colony, and I have not succeeded in finding anyone who assisted him who could come and give evidence. If I do so I shall ask Your Honour's permission to call him. It is extremely unfortunate. Nobody can regret more than I do that he is not here. I understand that in the lower court the statement was made that he would not be in the Colony when the trial came on full opportunity was given, I understand (my learned friends will correct me if I am wrong)—full opportunity was given for cross-examination.

Stuart : That is not so.

A.-G. : My learned friend says that is not so. Apparently I was misinformed. There is nothing on the record to indicate it.

Rice : If Your Honour pleases, I very much appreciate the frank manner in which my learned friend has put this matter. I appreciate his difficulty and also his candidness in expressing it. At the same time,

In the Supreme Court.

Prosecution Evidence.

No. 59. Proceedings 25th July 1946, *continued.*

as the case comes within section 288 of the Criminal Procedure Code, I cannot object.

A.-G. : There are certain conditions laid down which must be satisfied before depositions can be read, and I think those conditions have been fulfilled. The first is that it should be the deposition of a witness who is proved at the trial by oath of a credible witness to be absent from the Colony ; that has been done. The deposition must purport to be signed by the magistrate before whom it purports to have been taken : that also has been done. So I would ask Your Honour's approval for me to read out the deposition and that it should form part of the record.

The Court : To that there is no objection, I understand ?,

Sharma : I have no objection, if Your Honour pleases.

JAMES ALFRED SAMUEL. Deposition read.

A.-G. : I would crave Your Honour's indulgence in this matter. I am in doubt as to the procedure in this Colony as to the actual certificate. I am in doubt as to whether the actual certificate of the analyst can be put in.

The Court : No. The witness takes the place of it.

Mr. Rice : Mr. Attorney, have you got the certificates there : if so might we peruse them ?

A.-G. : Certainly.

No. 60. Badri Prasad, 25th July 1946, Examination.

No. 60.

EVIDENCE of Badri Prasad.

BADRI PRASAD (f/n Bhullai)—Sworn.

Of Sabeto.

441. Are you any relation to Lachmi Prasad ?—No.

442. You knew him ?—Yes.

443. Did you see his body ?—Yes.

444. On Sunday, 9th September ?—Yes.

445. Did you identify the body to Supt. Spencer ?—No, I didn't. I never identified his body at all.

446. Did you not tell anybody who it was ?—I didn't tell the Inspector, but mention was made and I said " Yes, this is Lachmi Prasad's body."

447. When the Inspector was there ?—There were a number of people there. He was there. People were talking.

448. Where do you live ?—At Sabeto.

449. Do you live on the Votualevu Road ?—Yes.

450. Do you know this bridge over the Malika Creek ?—Where the Ivi tree is ?—Yes.

451. How far from that bridge do you live ?—Ten to fifteen chains away from that bridge, roughly guessing.

452. Do you know Nawab Ali's house ?—Yes.

453. Is he on the same side of the creek ?—It would be on the opposite of Nawab Ali's.

454. On the opposite side of the creek ?—We both live on this side of the creek. I live on the other side of the road.

455. Do you live on the other side of the bridge ?—Both of us live on this side of the bridge.

456. You live on the same side of the bridge as Nawab Ali ?—That is correct.

A.-G.: I see his house is marked on the plan—I had missed it.

457. You remember the night Lachmi Prasad was murdered ?—I do not know what day he was murdered. I simply heard on a Sunday that he was killed and I cannot say whether it was Thursday, Friday, Saturday or Sunday or what day.

458. You remember hearing on the Sunday that he was killed ?—Yes.

459. You spent the night of Saturday/Sunday in your house, did you ?—Yes.

460. Can you tell the Court whether, as far as you know, any motor-car passed your house down that road on the Saturday ?—I didn't hear any transport passing my house.

461. Had any transport passed your house when you were sleeping would you have heard it ?—Had I gone off to sleep I would not have heard it.

462. I take it you did sleep some time during that night ?—Yes.

XXd. Rice: 463. In the Lower Court you told us you went to sleep about 8.30 or 9 o'clock that night ?—Yes. Cross-examination.

464. So that after that time you wouldn't have heard transport if there was any ?—No.

465. You have said that you went to see this dead body which you recognised as the body of Lachmi Prasad ?—Yes, a lot of people went.

466. That would be on the Sunday morning, wouldn't it ?—It was somewhere between 12 and 1 on Sunday—something like that.

467. And how came you to go there ?—There were a lot of people, quite a crowd, running in that direction and some shouting that Lachmi Prasad was murdered and they found the body, and the police were there and people were following, so I followed the crowd.

468. Were you there when the body was taken away by the police party ?—Yes, there was a crowd of people there and I was one of them.

469. That is just what I am coming to—the crowd of people. At that time, when the body was taken away, can you give some idea of how many people in the district you saw round about there ?—Quite a number of people in the neighbourhood.

470. You can say just a large number ?—Well, I didn t count. Twenty, thirty, forty.

471. All people whom you knew, I suppose ?—Some of them I recognised, and others were from different settlements.

472. Some from your settlement and some from neighbouring settlements ?—That is correct.

XXd. Sharma: 473. Did you see this man there (indicates Ali Mohammed) ?—No, I didn't see this man.

474. He might have been there without you seeing him ?—That could be possible.

In the Supreme Court.

Prosecution Evidence.

No. 60. Badri Prasad, 25th July 1946, *continued.* Re-examination.

Re-Xd.: 475. Did you see either of the accused there ?—There were several people there : I didn't notice. They may have been there and I didn't see them.

To Court: 476. You knew Lachmi Prasad, did you ?—Yes. He lived a distance from me but I knew him.

477. Had he a brother Badri ?—Yes.

No. 61.

EVIDENCE of Nawab Ali.

No. 61. Nawab Ali, 25th July 1946, Examination.

NAWAB ALI (f/n Hasan Dhin)—Sworn.

478. Will you tell the Court where you live ?—Sabeto.

479. Whereabouts ?—Further away from the school—the Sabeto School.

480. Do you live opposite the house of Badri Prasad ?—I live near Badri Prasad's house.

481. On the opposite side of the road ?—Yes.

482. How far from the road ?—Roughly two chains away from the road.

483. Now do you remember on a Sunday hearing that Lachmi Prasad had been killed ?—Yes.

484. On the preceding Saturday night were you in your house all night ?—I was at home.

485. Did you hear any transport passing along the road ?—I did not hear.

486. Would you have heard it if it had ?—If I had not gone off to sleep, yes, I would have.

487. You mean if you had been asleep you wouldn't have heard it ? —Yes.

Cross-examination.

XXd. Rice: 488. And you told us, Nawab, in the Lower Court, that you went to sleep about 8 or 9 o'clock ?—Yes, that is right.

Sharma: No questions.

No. 62. Proceedings 25th July 1946.

No. 62.

PROCEEDINGS.

A.-G.: If Your Honour pleases, I have a submission to make to Your Honour with regard to the next witness whom I was proposing to put in the box, and that is the police witness in the Lower Court, Ramnarayan f/n Balkhandi. The question on which I should be very grateful for Your Honour's ruling is the admissibility of the evidence of this witness. I would ask Your Honour to hear argument on that subject in the absence of the assessors.

Assessors retire.

The question, Your Honour, in regard to this statement is this. This statement, if it is evidence at all, can only be evidence as to the behaviour and state of mind of the accused Ali at the relevant time—

that is, two or three days after the murder. It does, I submit, show that at that date he was considering concocting or agreeing to some story to account for this murder : that is the very furthest to which the evidentiary value of this statement can be pushed. In so far as it implicates the second accused, Walli, subject to Your Honour's ruling, I think it is not evidence at all and may possibly cause some prejudice. My own submission, Your Honour, and it probably will not make Your Honour's task any easier, is that I do not wish to press for the admission of this statement. The admissibility is so slight and the point it would prove is I think not of sufficient importance to justify dragging in the whole statement as it stands ; but I should be grateful if Your Honour would hear my learned friend on the point and give a ruling accordingly.

Rice : Again, with thanks and with all respect, I wish to adopt the submissions of the learned Attorney-General. There can, of course, be no doubt, sir, that what this man says (which I presume Your Honour has read from the depositions) is not evidence against my client and so far as it has any admissibility at all as against the other accused it could not possibly go further than what the learned Attorney-General says, and I submit, in fact, that it does not quite go that far—that, in short, it is irrelevant as against Mr. Sharma's client. Therefore, I submit, with all respect, that it should be excluded. In deciding that question, sir, Your Honour I suggest will not overlook the serious effect this might have upon the lay minds of assessors. This, looked at from my client's point of view, despite the utmost warning that could be given to them that they must disregard it as against my client, it is the sort of thing that could not fail—perhaps unconsciously, but still it could not fail—to register in a lay mind and to act adversely. Whereas, if it has any relevancy at all, its relevancy and its admissibility can only be as against Mr. Sharma's client.

Sharma : If Your Honour pleases, I agree entirely with my learned friends when they state that this evidence, if it can affect anybody at all, would affect my client and could have nothing to do with my learned friend's client, the first accused. Your Honour would note, Sir, that in the statement marked Exhibit P my client has told the same thing as he told this 17th witness, quite fully as it is now before the Court, and I would submit to Your Honour that the evidence be admitted because I feel, Sir, that it takes place a day or two after the murder and someone puts a proposition to my client over which my client is perturbed and he consults a person in immediate authority over him, asking him what his position should be. So, if the Court believe the truth of his story it may to some extent show the excuse of my client, if I may put it that way. I cannot go any further than that.

The Court : Actually, from your point of view, it only goes to corroborate what he himself has said in one of his statements : that is the most you can make out of it.

Sharma : Yes.

The Court : I think this is what is called " self-serving evidence " and is not admissible as far as your client is concerned. He may go around to five or six different people before his arrest and tell a different story as to what happened. Do you mean to say you can call those 5 or 6 people to give evidence as to what he was saying ?

In the Supreme Court.

Prosecution Evidence.

No. 62. Proceedings 25th July 1946, *continued.*

Sharma : No, I could not.

The Court : I do not think it is admissible evidence against the accused Walli, and I do not think it is admissible at all in favour of your client. And its practical value is absolutely nil from the point of view of either accused because it is superseded by the statements they have made. So I hold the statement inadmissible.

Rice : May I point out that on page 32 of the depositions there is a witness Rambharose, the second paragraph of whose evidence seems to be in the same position, and I think it might save time by drawing attention to it now.

The Court : I don't suppose you object to leaving that out, Mr. Attorney ? I see that I have already marked it myself.

A.-G. : No, Your Honour. I don't want to make any submission. It is in the same category.

The Court : Very well.

No. 63. Shiusharan, son of Panchu, 25th July 1946, Examination.

No. 63.

EVIDENCE of Shiusharan, son of Panchu.

SHIUSHARAN (f/n Panchu) of Sabeto—Sworn

489. What is your occupation ?—Labourer.

490. Did you know Lachmi Prasad ?—I knew him.

491. Do you remember the Sunday when you heard that he was killed ?—Yes.

492. Did you go and see the body ?—I did. The police were there and I was there too.

493. And a lot of other people ?—Yes.

494. Did you see either of the accused there ?—No, I did not see them there.

495. Now I want you to tell the Court what you were doing on the Saturday evening and Saturday night ?—That Saturday night I was here at Saweni in the district of Lautoka.

496. When did you go there ?—About three or 3.30 in the afternoon of that Saturday.

497. You went to Saweni ?—Yes.

498. And who did you see there ?—I visited my sister.

499. What is her name ?—Sukham.

500. Was anyone else there ?—Well, I met a number of persons on the road, but not at the house.

501. Did you see anybody called Ramsewak there ?—Yes, later on in the evening he came to the house.

502. What time did he come ?—After I arrived at my sister's, a little while afterwards, I went off to sleep ; he came then and I cannot say what time it was.

503. He was there when you woke up ?—Yes.

504. Did you see anybody else there ?—My sisters, the daughters of my sister, and Ramsewak.

505. Who is Nanku ?—He is my brother-in-law, but he was at work.
506. Did you see him ?—Yes, when he arrived home I saw him.
507. What time did he arrive home ?—After sunset in the evening.
508. Who does this house belong to ?—It is Nanku's house.
509. Were you there all night ?—Yes.
510. What time did you leave in the morning ?—You mean from Nanku's house ?
511. Yes ?—About 8 or 8.30.
512. Where did you go ?—On to the main road.
513. What did you do then ?—Waited for this service bus—lorry.
514. Yes ?—A little while afterwards a lorry arrived and we got on that lorry and went to Sabeto.
515. Who was driving that lorry ?—Chatturpal.
516. How far is Saweni from Sabeto ?—About six or seven miles. roughly.
517. Half an hour's drive in the bus ?—Yes.
518. Shiusharan, did you have any hand in the killing of Lachmi Prasad ?—Nothing whatsoever.
519. If anyone says you did, it is a lie ?—He is telling lies. I don't know anything about it. I was here in Saweni that night.

Cross-examination.

XXd. Rice : 520. Of course you gave evidence in the Lower Court in this case, didn't you ?—Yes.
521. That is, when the Police prosecuted at the preliminary inquiry ? —That is correct. I stated exactly what I am stating now.
522. I am not suggesting anything else. And prior to that evidence I suppose somebody from the Police interviewed you and took a statement of what you were going to say ?—That is so.
523. Well now, you have told us about your movements on the Saturday ?—Yes.
524. Using that Saturday as a yard-stick, so to speak, can you tell us when it was you first gave a statement to the Police of what your evidence was going to be ?—You mean after that Saturday ?
525. Yes, of course ?—I think it was 3 or 4 days after that Saturday.
526. Could you place the exact day for us ?—No, I cannot. I cannot recollect the day.
527. Now what you think is that it was the Tuesday or the Wednesday of the following week ?—Something like that, but I can't remember.
528. Are you quite sure that it was one day in the following week ?— It was within that week.
529. Did you only give that one statement, or more than one ?— That was the only one. They took down my statement and they called me at the preliminary inquiry and I repeated what I have said now.
530. Just the one statement was taken down before ?—Yes.

XXd. Sharma : 531. You have said you went to see the body that Sunday morning ?—Yes.
532. And you have also told the Court that there were a lot of people there ?—Yes.
533. Can you say about how many people would be there that morning ?—About 20 to 25. I didn't count. There was no need for me to count.
534. Did you recognise any of these people ?—Yes, I did.

In the Supreme Court.

Prosecution Evidence.

No. 63. Shiusharan, son of Panchu, 25th July 1946, Cross-examination, *continued.*

535. About how many would you have recognised ?—I saw Ramjattan there.

536. I don't want the names ?—About 4 or 5.

537. Now this last witness Badri Prasad (f/n Bhullai)—did you see him ?—Yes, he was there already.

538. And did you see the accused Ali Mohammed ?—No, I didn't see him.

539. He might have been there without you seeing him ?—I don't know : I didn't see him.

540. But you cannot say definitely that he was not there ?—I didn't take any notice whether he was there or whether he was not.

Re-Xn. : Nil.

No. 64. Ramsewak, 25th July 1946, Examination.

No. 64.

EVIDENCE of Ramsewak.

RAMSEWAK (f/n Mahabir)—Sworn.

541. Where do you live ?—At Sabeto.

542. Do you remember hearing about the killing of Lachmi Prasad ?—Yes.

543. Was it on the Sunday when you heard about it ?—Yes.

544. Where were you when you heard about it ?—Near Gokaran Master's house in Sabeto.

545. What time did you arrive in Sabeto on that Sunday morning ?—About 11 o'clock.

546. Where did you come from ?—I went from Saweni in Lautoka.

547. You arrived in Sabeto from Saweni on Sunday morning, is that it ?—Yes. I left Saweni to go to Sabeto at 11 o'clock.

548. Who were you with ?—Shiusharan.

549. You mean the last witness ?—Yes.

550. He came with you from Saweni ?—Yes.

551. Had he spent the night with you ?—Yes.

552. Whose house ?—Nanku's house.

553. What time did he arrive there ?—About 5 o'clock.

554. Did he spend the night there ?—Yes.

555. How did you come in to Sabeto on Sunday morning ?—Travelled by bus.

556. Who drove the bus ?—Chatturpal.

Rice : No questions.

Sharma : No questions.

No. 65.

EVIDENCE of Dayaram.

DAYARAM (f/n Ramsumer)—Sworn.

557. What is your job ?—Mechanic and drive a lorry.

558. How many lorries have you got ?—You mean now ?

559. At the time of the death of Lachmi Prasad of which you have probably heard ?—I had two lorries then.

560. What were their numbers ?—K.66 and 312.

561. Whose lorry was K.57 ?—It belonged to my father.

562. Do you live at your father's place ?—In the same compound. Separate houses.

563. And your father's lorry and your lorries are all there together ?—Within the same compound, yes. They are all parked in the same compound.

564. Whereabouts is this compound ?—Sabeto.

565. Do you live in the same compound with Ramsumer ?—Yes.

566. And Ramsaran ?—Ramsaran also lives there.

567. All together ?—Yes.

568. The first accused, Walli Mohammed, is he a relation of yours ?—Yes.

569. And he is your brother-in-law ?—Yes.

570. Is he married to your sister Bhagwandevi ?—He is not married.

571. They are living together and have children ?—Yes.

572. When did you hear about the death of Lachmi Prasad ?—9th September.

573. What day ?—Sunday, about 3.30 in the afternoon, I heard about it.

574. Will you tell the Court what you were doing on Saturday evening ? I don't want to know what you did early in the morning—just what you were going on Saturday evening about tea time ?—About 7 o'clock in the evening I took my lorry and went to this A.T.C. Camp.

575. Where ?—Namaka.

576. Is that near Nadi ?—Yes.

577. How far from Nadi ?—About 4 miles.

578. Which side ?—On the Lautoka side of Nadi.

579. And you were there at 7.30 in the evening ?—About that : roughly 7 o'clock.

580. You went to the A.T.C. Camp ?—Yes.

581. Well, what did you do ? How long did you stay in Nadi ?—Just a short time. I brought two Fijians from Nadi. I met a Fijian—I forget his name—Charlie Wesely, or something : he is here somewhere. I met him. He asked me to come at 8 o'clock and drive him to a place called Nakavu at Nadi. I returned to Nadi.

To Court : 582. When you went to the camp did you take anybody with you ?—I came from Nadi Town to A.T.C. Camp.

583. With anybody ?—Two Fijian girls.

A.-G. : 584. What happened after that ?—Bringing these Fijian girls I drove them to A.T.C. Camp, met this Fijian who asked me to come back at 8 o'clock. I went back to Nadi town.

In the Supreme Court.

Prosecution Evidence.

No. 65. Dayaram, 25th July 1946, Examination, *continued.*

585. Do you mean you went back to Nadi Town from the A.T.C. Camp ?—Yes.

586. Where is the A.T.C. Camp ?—At Namaka.

587. You went back to Nadi and what did you do then ?—I parked my lorry near Lee On's store near Nadi town. Went to Ramjan's garage and sat there with one Hakim a son of Ramjan. I sat there for some small time—about 25 minutes or so. After that I went to the picture show, then attended the show for about half an hour, then came back to the A.T.C. Camp. This Fijian had asked me to come and pick him up. I got him at the A.T.C. : taking him I went back to Navoci, near Nadi town.

588. Where did you go from there ?—Then from there on to town.

589. Where did you go from Nadi town and when ?—I remained there near the picture show for about an hour or so.

590. You must have left Nadi some time since then ?—I had to pick this Fijian up again at 10 o'clock, and I was just waiting at the pictures for 10 o'clock, and then after that I was to go back.

591. What happened at 10 o'clock ?—Slightly before 10 p.m. I came away and picked this man up at Navoci, waited there for some time while they got ready. I brought them on the lorry and dropped them at the A.T.C.

592. What time was it then ?—It must have been past 10 p.m.

593. And where did you go from there ?—I met two more Fijians.

594. Where did you go from there ?—I went to a native dance at Nawaka.

595. And what time did you leave the native dance ?—About 11.30.

596. You left the native dance at 11.30—where did you go ?—I went to Harnam Singh's house at Sabeto.

597. Were you alone ?—Yes.

598. What time did you get to Harnam Singh's ?—Twelve or past twelve midnight. I didn't have a watch or anything to go by.

599. Did you go straight from Nawaka to Harnam Singh's ?—Yes.

600. There were a lot of people at Harnam Singh's ?—Yes.

601. What were they doing ?—At the time I arrived there there was singing going on there.

602. Were they holding some sort of festival ?—There was reading of Hindu sacred scriptures at Harnam Singh's.

603. Did you see your father's army lorry there ?—I did.

604. Did you see your brother Ramsaran—was he there ?—Yes.

605. And Bishun Deo ?—Yes.

606. What time did you leave ?—About 1.30, I should say, roughly.

607. And where did you go ?—I went home from there, straight.

608. Did you pass anybody on the way ?—No.

609. Was your father there when you arrived ?—Yes.

610. What is your father's name ?—Ramsumer.

611. Was he asleep ?—Yes.

612. Did you see either of the two accused that night ?—No, I didn't.

613. Did you see Lachmi Prasad ?—No.

614. Did you have anything to do with this murder ?—No, I had nothing to do with it. I do not know anything about it.

615. Now tell me some more about this lorry K.57. Was it in use at the time ?—No.

616. What was its condition on this Saturday ?—I don't know about the condition at night but during the day it was jacked up. It had been so for some time past : it was inside the garage.

617. Jacked up ?—Yes, there were blocks underneath it and all four wheels were jacked up.

618. Were there any tyres on it ?—I don't recollect that very clearly. There were two tyres I believe were punctured. But it was up on the jack : raised from the ground.

619. What I am asking you is whether there were tyres on the wheels ? —No, there were no tyres on the wheels.

620. Were there any tyres there ?—They may have been in the garage, I don't know.

621. Do you know whether that lorry was used on the Saturday night ?—I cannot say, but the morning of the Sunday I saw they were trying to fit tyres on to that lorry.

622. Who ?—My father and my younger brother.

623. That is Ramsumer and who ?—Shiusharan.

624. You saw your father Ramsumer and your brother Shiusharan ? —Yes.

625. And what were they doing ?—I noticed they were taking the wheels off. There were no tyres on the wheels. They were trying to take it out and clean it up. They said they were going to fit tyres on it and get it passed for service.

626. Were they washing it ?—Not at that time, no.

627. Do you know whether it was washed ?—Yes. I heard about it but I didn't see it. Later in the evening of that Sunday it was washed.

628. But you don't know about that ?—No.

629. Did your father consult you about this lorry, or did he not ?— No.

630. On the Sunday morning when you first saw the lorry was it still on the blocks or was it off the blocks ?—It was still upon the blocks.

631. On the Sunday morning ?—Yes.

Cross-examination.

XXd. Rice : 632. Of course you knew Lachmi Prasad ?—Yes.

633. And I think you heard about his death from a Fijian called Mika ? —Yes.

634. Would that be on the Sunday morning, 9th September ?— Yes.

635. Where were you when Mika told you about it ?—This was about 3.30 in the afternoon.

636. Why did you tell me just now that it was in the morning ?— In the afternoon.

637. I just want to know why you said first of all it was in the morning ? —The Fijian met me in the afternoon : it was in the afternoon he saw me.

638. Still you haven't answered my question ?—The Fijian didn't come to me and say this : I was going along in the lorry—met the Fijian.

639. I will come to that. I simply want to know why, when I asked you the question in a plain straightforward way, you said it was in the morning ?—I didn't notice the word morning.

640. That was a mistake—all right. Where were you when Mika told you about it ?—Near Walli Mohammed's house.

641. And that was in the afternoon ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 65. Dayaram, 25th July 1946, Cross-examination, *continued.*

642. About what time ?—3.30, 4 o'clock, just guessing the time.

643. And that is the first you heard of the fact that Lachmi Prasad was dead, is that right or not ?—I had come from Nadi, and that was the time I heard about it.

644. When Mika told you about it, that is the first you heard about it ?—Yes, that is correct.

645. But prior to that you saw the body passing your place on a lorry ?—No, I wasn't at home. I was coming from Nadi. The lorry did pass me but I didn't see the body. It couldn't be seen.

646. Come along, witness, let us have this quite clear. The lorry passed you before your conversation with Mika ?—Yes.

647. And you didn't see the body on it ?—No.

648. And you didn't know that it was carrying a dead body ?—Well, I hadn't heard the man was murdered. How was I to know there was a body in the lorry ?

649. Did you or did you not know that that lorry was carrying a dead body ?—I didn't know.

650. That is not what you told the Court in the lower court, is it. Because you said this to the magistrate : " I didn't go to see his body : I saw it passing on the lorry." Is that what you said ?—At that time I didn't know it was a dead body.

651. But you told the Magistrate you did, didn't you ?—No, I don't think that is what I said.

652. Well you are recorded as having said that : would that be wrong ?—I came to know later that the body was in the lorry because of the fact that Mika had told me afterwards that Lachmi Prasad was murdered. So at the time it passed me I didn't know but I learned of it later.

653. And only from Mika ?—Yes.

654. Did you sleep at your own home on the night of Saturday ?—Yes.

655. And what time did you get up, roughly, in the morning ?—Six o'clock, I think, roughly.

656. And you want me to believe that until 3 or 4 o'clock that afternoon you didn't hear a word about Lachmi Prasad's end ?—I didn't hear. I left the house at 7.30 and went away to Nadi town.

657. And where did you have your lunch ?—At the hotel in the town.

658. Got back home about what time ?—That is what I am saying. 3.30 in the afternoon.

659. Would it be about that time that you met Mika ?—Yes.

660. When you met Mika were you on foot or in a vehicle, or just how were you going ?—I was driving the lorry.

661. Which particular lorry was that ?—No. 312.

662. Anybody else besides you aboard ?—No passengers aboard.

663. Any cargo ?—No cargo.

664. A vacant lorry, just with you in it ?—I was coming back from Naboutini hospital at the time with the lorry.

665. Why had you gone up there ?—I had taken the Fijian and dropped him there.

666. Just the one Fijian ?—Yes, and some of his stuff—he had some goods with him.

667. Where did he engage you ?—Nadi town.

668. What time ?—Nearly 3 o'clock.

669. And up until that time were you just parked on the stand, or something ?—Yes, I remained in town the whole day.

670. What would you charge a Fijian for the trip ?—15/-.

671. Did he pay you ?—Yes.

672. In cash ?—Yes.

673. Before you started the journey ?—When I brought him to Naboutini—when he got off the lorry—he paid me.

674. Did he give you the exact amount or did you have to give him change ?—Exact money.

675. How was it made up ?—10/- note and 5/- note.

676. You said he had some things ?—Yes.

677. What was the nature of them ?—Some of his personal carpentering tools and something wrapped in a mat.

678. What was that ?—I don't know what was wrapped in the mat.

679. Do you know why he was going from Nadi to Naboutini ?—He works at Naboutini.

680. Where does he live ?—I don't know.

681. What is his name ?—I don't know.

682. Did he speak to Mika ?—No. I met Mika on my return.

683. Well, it amounts to this. You didn't go to see Lachmi Prasad's body before it was shifted and you didn't know anything about his having been killed, or that he was dead, until you met Mika in the afternoon of the Sunday ?—Yes.

684. I think you have already told us something about the garage arrangements as between your vehicles and your father's : they are all in the same garage, are they ?—I said they are all in the same compound.

685. Are they all in the same garage ?—The garage is only big enough for one lorry.

686. The others, they are left overnight out in the open ?—Yes.

687. Which one is it that is put in the garage ?—K.57. It was jacked up for a long time.

688. How many keys are there—ignition keys—to K.57 ?—I have never used that lorry.

689. But you would know, living there ?—My father does his business apart from me. I don't know his affairs and he doesn't know mine.

690. I am not interested in your business affairs : I am interested in the ignition keys of K.57 ?—I don't know how many ignition keys he used.

691. Have you ever driven the vehicle ?—I have never driven it.

692. Never in your life ?—I have never driven it.

693. Have you ever noticed, when it was in this garage jacked up, whether the ignition key was in it or out of it ?—I didn't enter that garage to see, so I don't know whether it was in it or out.

694. Was the garage locked up too ?—The door is open, but I didn't enter the garage.

695. Come. The garage is in your compound and you are telling me that you have never been inside it. Is that what you want the Court to believe ?—I may have gone in but I didn't go in on that day to see the key.

696. I am not talking about that day. Do you want us to believe you have never been in ? I am asking you whether on any day you have ever seen it it had its ignition key in it ?—I didn't notice.

In the Supreme Court.

Prosecution Evidence.

No. 65. Dayaram, 25th July 1946, Cross-examination, *continued.*

697. And you swear that you have never driven it in your life ?—When I was a small boy I may have. I don't know anything about this key. It is changed every six months. Two lorries have different keys. When I was living with my father I may have driven this K.57—when I was small.

698. From whom did you get the ignition key ?—My father.

699. How many did he give you ?—Had he given me a key he would only give me one.

700. Only the one ?—He might have given me one.

701. Do you know whether he took it off a ring or where he got it from ?—I don't remember. From 1941 I have lived apart from my father.

702. But in the same compound ?—At that time I was only living with him for about four months.

703. Where do you live now ?—I live at Nadi town for the last eight months.

704. You still garage your vehicles there, though, don't you ?—I keep it near my house at Nadi town, for work.

705. In September of last year you were living in your father's compound and you were then garaging your vehicles in that compound : is that right ?—That is right.

706. And when did that state of affairs start ? When did you first start living and garaging vehicles there ?—I wasn't living with my father but in the same compound, four months before that September.

707. And when did you cease to live there and go to Nadi ?—Towards the end of October I left and went to Nadi.

708. And you have been in Nadi ever since ?—Yes.

709. Now I think you told my learned friend that the vehicle was washed. I am talking about K.57 now. Whereabouts was it washed ?—I don't know.

710. Why ? You were there.

A.-G. : He said to his own knowledge he didn't know about the washing of the lorry.

Rice : 711. What time did the washing take place ?—I don't know.

712. How did you find out that it had been washed ?—At the time the police party arrived and the lorry was outside the garage. My younger brother informed the police that that lorry was washed. That is how I came to know it was washed.

713. That is the first time you knew about it ?—Yes.

714. And what date was that ?—I believe that was on the Monday.

715. The Monday after Lachmi was killed ?—Yes.

716. And about what time on the Monday did you come to have knowledge that the thing had been washed ?—10 or 11 o'clock on that day.

717. In the morning ?—Yes.

718. And you are solemnly telling me that up until that time you had no idea whatsoever that K.57 had been washed ? That is up until 10 or 11 on Monday morning ?—Yes.

719. But you couldn't fail to have seen the effect of it, could you ? You would have noticed that it had been washed ?—I didn't go near the lorry. How am I to know that it was washed ?

1 p.m. Adjourned.

2.15 p.m. Resumed.

720. You are a married man, I presume ?—Yes.

721. How long have you been married ?—Roughly about six years now.

722. And straight after you were married where did you make your matrimonial home ?—For some time I was with my father.

723. Straight after you were married you lived with your father ?—That's right.

724. In the same house ?—For some time, yes.

725. And your wife, of course ?—Yes.

726. And how long would that be, roughly ?—For about six months.

727. And then you went away ?—Yes.

728. Where ?—To a place called Togo, in Nadi District.

729. Did you have a house there ?—Yes.

730. Farm with it ?—No, I was working then on wages; casual labourer at the Camp.

731. But your wife didn't live at the camp, did she ?—I was living with my father-in-law and mother-in-law—that is, my wife's parents.

732. And how long did that state of affairs last ?—Two years.

733. And at the end of the two years, where did you go to live ?—Then I bought land at Sabeto.

734. Very far from your father's place ?—Roughly about 3 miles away from my father.

735. And how long did you live on that block ?—One year.

736. And then where did you go to ?—Then I sold this land and went to live elsewhere.

737. And where was that land ?—That was my brother-in-law Walli Mohammed's land.

738. Not this man in the dock ?—Yes.

739. For how long ?—At that time it belonged to my father. These people bought it afterwards.

740. When you lived on it it was your father's land ?—Yes.

741. And how long were you living there ?—Nine months or so.

742. And then where did you move to ?—From there I came for about four months to my father's compound.

743. And left in October—that is the month after Lachmi Prasad was killed ?—Yes, that's right. Some time in October or November.

744. You are living now in a house in Nadi ?—Yes.

745. Have you ever lived in the house in Nadi before ?—No. I pay rent there.

746. Was there any particular reason why you left your father's place in October ?—Yes.

747. What was the trouble ?—My driving licence was taken away from me and I owned two lorries and there was no driver here and all my business was at Nadi town, and therefore I went to live in the town and engaged driver to drive my lorries and I myself was working as a motor mechanic.

748. For whom ?—For myself.

749. You have a garage there ?—Open air.

750. You take in other people's business in the mechanic line or just look after your own cars ?—I take on other people's jobs as well.

751. And you do it in the open air ?—That's right.

752. And that is the only reason why you left your father's compound in October ?—That is so.

Sharma : No questions.

In the Supreme Court.

No. 66.

EVIDENCE of Lal Singh.

Prosecution Evidence.

No. 66. Lal Singh, 25th July 1946, Examination.

LAL SINGH—Sergeant—No. 214.—Sworn.

753. Do you know Dayaram father's name Ramsumer ?—I do.

754. Do you remember the Saturday night when Lachmi Prasad was killed ?—Yes, I remember it.

755. On that Saturday evening did you see Dayaram ?—I did.

756. Will you tell the Court where you saw him and at what time ?—At the picture show; the theatre at Nadi. I was on special duty there on that evening. He drove bus No. 312 which he owns. Coming from towards Morris Hedstrom's branch store, he parked near the Nadi theatre and there were some soldiers in that bus.

757. What time ?—The pictures had started, and I take it it was a few minutes after eight—about 10 minutes after eight.

Rice : No questions.

Cross-examination.

XXd. Sharma : 758. You know the accused, do you not ?—I do.

759. On the Sunday after the deceased was killed I think you were on the spot where the body was found ?—I was.

760. I think you saw the second accused there—this man Ali Mohammed—before the body was moved ?—I didn't see him on this spot where the body was found but I saw him at 8 o'clock near the overseer's quarters.

761. My instructions are that before the body was removed to Lautoka you called Rambharose and asked him a few questions and then you called my client, while the body was there, and asked him a few questions ?—I don't remember. I may have but I have no recollection of that. I do recollect this : that I saw him later in the evening.

762. Those are my instructions. I——I remember this definitely : that I saw him that night.

763. Do you remember talking to Rambharose while the body was there ?—I had spoken to several persons that morning and I cannot say for certain whether I spoke to Rambharose or not.

764. And you say you may have spoken to the accused though you don't recollect it ?—Well, I don't remember, but I know this definitely —that I saw him in the evening.

765. Isn't it a fact that when the body was removed from the scene where it was found, and taken to Lautoka, the second accused, Ali Mohammed, came with that body to the hospital ?—That I cannot say.

766. You admit seeing him that evening ?—I did.

767. Do you know Sergeant that when you saw him that evening he was returning from Lautoka after having delivered that body at Lautoka ?—Yes, I knew that.

To Court : 768. How did you know that ?—Because of the fact that he was on the same lorry that had brought the body to the mortuary, and when that lorry returned he was in that very same lorry and I got him off that lorry.

769. You saw him going back in that lorry ?—Yes.

Sharma : 770. It was Const. Ramcharitra and yourself who got him off that lorry and took him to one Murgessan's house and conducted certain investigations ?—Yes. That house is close to the overseer's house at Sabeto.

Re-Xd. : 771. You say you saw Ali Mohammed get off this lorry ? —Yes.

772. Do you know of your own knowledge when he got on the lorry ? —That I don't know.

772A. Can you tell the Court at what time of the day you stopped this lorry with Ali Mohammed on it ?—I stopped this lorry during the night. It was not daytime at all : it was night.

773. On Sunday night ?—After eight o'clock on Sunday night.

No. 67.

EVIDENCE of Ramasre.

RAMASRE f/n Shiudas)—Sworn.

774. Do you remember hearing on Sunday of the death of Lachmi Prasad ?—Yes.

775. On the Saturday evening before that where were you ?—I was driving a taxi in the town.

776. Did you go to Nawaka ?—Yes, there was a native dance there during the night and I had gone there.

777. Did you see Dayaram father's name Ramsumer there or not ? —Yes, after the pictures were over I went to this native dance at Nawaka and I saw Dayaram's lorry parked there and I saw Dayaram talking to some Fijians.

778. About what time would that be ?—After the pictures—about 9.30 or 10 o'clock at night.

XXd. Rice : 779. Did you go to the pictures ?—No, I was waiting for some jobs outside.

780. Outside the picture show ?—Yes.

781. You were sitting in your taxi, I suppose, there ?—First of all I was in Nadi town : I parked the car in the usual Nadi stand, and then, close to the time when the picture was about to finish, I came over to the theatre and stayed there for a while waiting for passengers.

782. What time would you say you parked outside the pictures ?— I think I got there before the pictures were over.

783. And prior to that had you been parked all the evening in Nadi township ?—I was doing my jobs, going here and there, going to Namaka and back.

784. What jobs did you have that night, say from about 7.30 onwards ? —I believe I brought some Fijians from the A.T.C. Camp to the town ; I

In the Supreme Court.

Prosecution Evidence.

No. 67. Ramasre, 25th July 1946, Cross-examination, *continued.*

I believe I took some passengers to Vuniasi. I can't remember all of them. I was plying for hire.

785. Most of the time you were parked, were you ?—That is correct. I would be parked for a while then I would get a job, and so on.

786. We are talking about from 7.30 onwards ?—Yes.

787. And the first you saw of Dayaram was when the pictures were over ?—Yes, at this native dance—taralala.

788. And of course you know Dayaram owns a taxi too ?—He owns a private lorry—it wasn't a taxi that he had. He is not allowed to take passengers about. He cannot ply for hire. It is for his own private use.

789. But he has two vehicles ?—That is the only one I know. He has no cars plying for hire.

790. Hasn't he got two vehicles ?—He had two lorries, one V.12 and one a 1½ ton cargo lorry. They were private.

791. And you say he cannot take any outside work at all ?—Yes, without the police knowing. Doing it under-hand.

792. Lawfully, I mean ?—Lawfully, no.

793. And was that position the same last September ?—Yes.

794. That night did you happen to see either of those vehicles anywhere ?—The only time I saw that lorry that night was at this taralala. When I took my car and reversed there and turned round I had to go close to this lorry and park there, and I saw this man.

795. Do you happen to know who the driver was ?—Yes.

796. Who was it ?—Dayaram. I saw him actually talking to some Sabeto Fijian boys.

797. He was seated in the lorry ?—No, he was not in the lorry; he was outside the lorry talking to the Fijians.

798. He wasn't dancing or anything like that ?—The native dance was being held on the slope down below.

799. That is at Nawaka, and that is where you saw Dayaram with the vehicle ?—Yes.

800. You didn't, however, see the vehicle in Nadi town ?—No.

801. Or outside the picture show ?—Well, I arrived at the picture show about 15 minutes to nine; I didn't see the lorry there at all.

802. You arrived at the picture show at what time ?—About 15 minutes before the pictures finish. Something like that.

803. You know Nadi town well, of course. From the taxi stand there, where you were parked between 7.30 and the time the pictures were about to close, from there to the picture show wouldn't be more than about three or four hundred yards ?—That's right.

804. And it is in the same street, except that you go round a bit of a bend to the left ?—That's right.

No. 68.

EVIDENCE of Jale Waisele.

No. 68. Jale Waisele, 25th July 1946, Examination.

JALE WAISELE—Sworn.

805. Do you remember a Saturday—8th September last year, at Navoci, going to some ceremony connected with the birth of a child ?—I remember.

806. What time did you go to Navoci ?—A bus came down to the A.T.C. Camp about 7 o'clock ; that is, where I was. Then I requested him that he come back and take me at 8 o'clock.

807. What did he do after that ?—I took that bus and went on it to Navoci.

808. How did you get back from Navoci ?—When we got off at Navoci I requested the driver to call again at about 10 o'clock and bring me back to A.T.C. Camp.

809. And did he do so ?—He did.

810. Was it the same driver ?—Yes.

811. Do you know the driver's name ?—I don't know his name.

812. Is this the man ?—Yes (identifies Dayaram).

813. Are you quite sure ?—I am certain.

No. 69.

EVIDENCE of Ramsumer.

No. 69. Ramsumer, 25th July 1946, Examination.

RAMSUMER (f/n Rambaran)—Sworn.

814. Is Dayaram your son ?—Yes.

815. You own some motor-cars, I believe ?—Yes.

816. What numbers are they ?—K.57, 287 and 1937.

817. Tell the Court something about K.57. Was it in use last September ?—No, it was not.

818. What was the matter with it ?—For two or three years it had no tyres and it was in the garage.

819. In what condition was it in the garage ?—Blocked up.

820. When did you take it off the blocks ?—About 8 or 9 o'clock on the morning of Sunday.

821. Until that time on Sunday morning had that car been on blocks for some weeks ?—That is so ; for some years, not for some weeks.

822. On Sunday morning you started to take it down ?—Yes.

823. For what purpose ?—On Friday the people who controlled the bus transport service—a European—came and told me that I was to take that lorry off the blocks and put it into service. I told him I had no tyres and he said " You can use any kind of tyres."

824. Who was the European ?—Bertie Thomas, I think his name is—I am not sure.

825. So you took the lorry off the blocks on the Sunday ?—Yes.

826. And what else did you do ?—Pumped up the tyres. Then took it down to the river to clean it and wash it.

In the Supreme Court.

Prosecution Evidence.

No. 69. Ramsumer, 25th July 1946, Examination, *continued.*

827. Where did you take it to wash it ?—Sabeto River.

828. Whereabouts ?—30 to 35 chains away from my house.

829. On the main road ?—Yes, from the main road you branch off into the river.

830. The place where you washed the lorry : was it close to the main road ?—Yes, about a chain away from the main road.

831. Could it be seen from the main road ?—Yes.

832. What time of the day was it ?—I should say about 11 o'clock, roughly guessing the time.

833. Who helped you to wash it ?—Myself and Shiusharan.

834. Anybody else ?—No.

835. Now Ramsumer, how did you spend Saturday night—the night before Lachmi Prasad was killed ?—I was at home, at my own house, but I don't know anything about the murder.

836. Did you go out that evening at all ?—No.

837. Did you family go out ?—The family had gone to attend this feast at Harnam Singh's. I was alone at the house.

838. What time did they come back from the feast ?—One son came back about 7.30 in the night : Ramsaran. And Shiusharan also came.

839. What time ?—7 or 7.30.

840. What did they do when they got home ?—They brought some food for me and Shiusharan was not well : he went and lay down : and Ramsaran took a lamp and went back again.

841. To the party ?—Yes.

842. What time did Ramsaran come back again ?—About 8 o'clock in the morning of the next day.

843. That is Ramsaran ?—Yes.

844. He came back at 8 o'clock on the Sunday morning ?—Yes.

845. Do you know where he had been ?—I don't know where he was, but he had gone with the lorry.

846. Did you see Bishun Deo that night ?—Not during the night but in the afternoon of the Saturday, at 3 o'clock, and when he was there on the afternoon of the Saturday I requested him to come the following day, Sunday, to help me pump up the tyres. Then I told him " We will clean up the lorry and make some seats in it."

847. About this party at Harnam Singh's : you didn't go yourself ? —I did not. I was alone at home.

848. Did your son Dayaram go ?—Dayaram was at Nadi and I couldn't say what time he attended the party or what time he got to the party.

849. Can you say what time he got back from the party ?—About 12.30 or 1 o'clock in the night.

850. Were you asleep when he got back ?—Yes.

851. Did you wake up when your son got back ?—Yes, he blew his horn, I got up and opened the gate.

852. Some time after the murder did you pick up Ali Mohammed in your lorry on one occasion ?—Yes.

853. I think on that occasion you were going to Walli Mohammed's house to get his effects—goods and chattels ?—Yes.

854. And Ali Mohammed got on to the lorry near your house ?— That's right.

855. Where did he sit ?—We were sitting in the front : he was sitting at the back.

856. Did you have some conversation with Ali Mohammed on the subject of the murder of Lachmi Prasad ?—No conversation.

857. Did Ali Mohammed say something to you about having made a mistake ?—No, he didn't say anything to me. He was sitting at the rear, and all he travelled was about 30 chains, and after a distance of 30 chains he got off.

858. Do you remember making a statement to Corporal Walli Mohammed ?—Yes, they took down several statements. I don't know what they wrote and what they didn't write. I don't know what the police took down.

859. Didn't he read out to you what he had written ?—Nothing whatsoever.

A.-G. : I would ask Your Honour's approval to lead this witness. He has made a statement which is recorded here, to Corporal Walli Mohammed, which is entirely at variance with his present evidence. and I wish to draw his attention to the statement.

The Court : Very well.

A.-G. : 860. I will remind you that you are on oath in this Court ? —Yes.

861. And, whatever you have said or have not said before, you must now tell the truth ?—I am telling the truth.

862. I will now read to you part of the statement that Cpl. Walli Mohammed has recorded here as having been made by you to him : " As I was coming out of my gate we met Ali Mohammed going along the road towards Ballu's house. I stopped the lorry and picked him up. Ramsaran was driving. On the way I asked him ' What troubles you people have done ? ' He said, 'What can I do Mahajan, I have now made a mistake.' I said, ' When you people have made a mistake why should you people blame me ?' He said, ' I have not blamed you.' I told him, ' When you have done a mistake you should suffer and why pull me into it also ? ' Then Ali Mohammed said that he had made a mistake. He also said, ' We have killed him while we were drunk.' When we reached Nathubhai's store which is close to Ballu's house Ali Mohammed got off." Now did you make that statement to Cpl. Walli Mohammed, or did you not ?—I did not make that statement. Had I made that statement I would have told the Magistrate at the preliminary inquiry. Exhibit U.

863. If Cpl. Walli Mohammed comes here and takes an oath and says that he recorded this statement as made by you, is he telling a lie ?—He may lie.

864. I put it to you that you are not telling the truth now ?—I have told the truth in the lower court and I am repeating that I am telling the truth here, and I do not wish to tell any lies.

865. Is that your signature ?—Yes. I was assaulted and beaten and made to sign.

866. Who beat you ?—Cpl. Walli Mohammed. I would not sign. He beat me again, and then I signed it.

867. Who else was there when he beat you ?—One or two other police were there : no one else.

868. Can you tell me the name of any person that was there ?— There was a policeman from Suva named Tara Singh, and another Mohammedan.

In the Supreme Court.

Prosecution Evidence.

No. 69. Ramsumer, 25th July 1946, Examination, *continued.*

Cross-examination.

869. Did you report the fact that you had been beaten, to a District Officer or to a doctor ?—Yes, yes, I reported to my lawyer at Mr. Rice's office that I had been threatened and my signature got under duress.

870. Did you report to Mr. Rice that you were beaten ?—Mr. Rice was not there, but there was another person there and to him I said that I was beaten and made to sign.

871. Who was that ?—His clerk, Surya Deo.

XXd. Rice : 872. What day did you hear Lachmi Prasad was killed ?—On Sunday.

873. That is the day after ?—Yes.

874. What time ?—About 12 or 1 o'clock.

875. As late as that ?—Yes.

876. Who told you ?—After the body was taken away there was a boy called Mahabir : he came and told us.

877. You didn't hear about it until after his body was taken away ?—I didn't hear until then. I had not gone anywhere.

878. According to the evidence, the body was taken away considerably after 12 or 1 o'clock ?—Immediately after the body was taken away.

879. Did you see the lorry on which it went ?—Yes. It was a cargo lorry from Nandi.

880. And could you tell that it was carrying a body ?—There was something on it, but I couldn't say that it was a body being taken.

881. At all events, that lorry had passed before you knew that Lachmi was dead ?—I didn't know before then that Lachmi was killed.

882. And you were home when the lorry passed, and saw it, did you ?—Yes.

883. Who was it that told you that Lachmi was dead ?—Mahabir.

884. Where does he live ?—He lives beside or close to the late Lachmi Prasad's house.

885. Do you happen to know how he found out about it ? Did he go and see the body or anything like that ?—He was bringing a horse from close to the place where the body was. He came along that way and came and told me about it.

886. Do you know what many people from your district—one witness has told us as many as 20, 30 or 40 people—went down and saw the body ?—They may have, but the fact is that his body was found about 2 or $2\frac{1}{2}$ miles away from my house, and I didn't leave my compound and go anywhere.

887. But if I understand the evidence correctly, people from all over the district went there ?—That is so—it is possible—but I didn't know anything about it.

888. Didn't you know for instance, that there were police through there that day, and in force ?—No. I didn't leave home at all. I was at the house all the time. I didn't hear a word about it.

889–90. It is not quite right to say that you didn't leave the house at all, because on your own saying you did go down to the river to wash that lorry ?—That is about the only time I went, when I took this lorry out and came back and wiped it and cleaned it.

891. And that, I think you said, was about 8 or 9 in the morning ?—Oh, no, about 11 o'clock.

892. About what time did you wash it ?—About 11 or 11.30.

893. How long did the washing take ?—About half an hour.

894. You washed it in the Sabeto River about a couple of chains off the main road there : would that be right ?—Yes.

895. In full view of anybody who might be passing ?—Oh, yes, full view : people could see me from the road.

896. And under those circumstances you didn't hear a word about this extraordinary occurrence, that had happened in the district ?—I didn't know anything about it. When he came and told us then we knew that this had happened.

897. While you were washing it did you notice anybody passing that way ?—No.

898. What day was it that you were told by the Government official that you were going to get a licence in respect of the lorry ?—Friday.

899. That is two days before ?—Yes.

900. What were you doing on the Saturday ?—I had no tyres, so I went to Nadi to obtain tyres.

901. Well that didn't take all day, did it ?—Got home 1 o'clock. At 3 o'clock the family left for the feast.

902. The family being away I should have thought that would have been a good opportunity to do the washing—on Saturday afternoon—wouldn't it ?—Alone I couldn't do it. I had to fix up four tyres.

903. Was there any particular reason why you picked on Sunday ?—Well I had to have seats made in it, so therefore I got to work on Sunday.

904. Had you made arrangements for working on the seats ?—Yes.

905. Who was to do that job ?—Bishun Deo.

906. Does he keep a garage or something, or is he a body builder ?—He is a carpenter.

907. And where was he going to do the seats, at your place or his ?—He had thought he would start on it on Monday.

908. Where—at your place or at his place ?—At my place.

909. And what arrangements did you make with him ?—I told him to come along and have my seats fixed up because the transport control officer had promised me a service.

910. And what did he say ?—He agreed and said, " I will come and make the seats for you."

911. What day did you tell him that ?—On Saturday I had told him to come the following day, Sunday, to help me fix the tyres, then after I had had the lorry washed and all that he helped fill air into the tyres—that is Bishun Deo helped. (Correction.) After the tyres were fixed and air pumped in, then it was washed.

912. And Bishun, did he help with the washing too ?—No, but he towed the lorry.

913. Down to the river ?—It went all right from the house to the river but I couldn't get it to start again in the river, so he towed it from the river back to the house.

914. So he was present during the washing ?—No.

915. How did he tow it back ?—Bishun Deo was at my house. My son took the lorry and Bishun Deo accompanied him, and together they towed it back to the house.

916. You say he was not present during the washing but he towed it back. Did he go away or something ?—Bishun Deo was at the house and drove the truck to the river.

In the Supreme Court.

Prosecution Evidence.

No. 69. Ramsumer, 25th July 1946, Cross-examination, *continued.*

917. You say that during the washing he was not there ?—He didn't come to the river with us. When we got stuck in the river and couldn't move my son went home and brought Bishun Deo with the lorry.

918. And all the time Bishun Deo was at your house ?—Yes, he was at home all the time.

919. Why did he come to see you that morning ?—I had called him.

920. What for ?—To help me fix the tyres.

921. That morning ?—That Sunday morning, yes, at 8 o'clock he arrived.

922. Did you send a message along to him or go yourself ?—I had informed him on Saturday.

923. What time on Saturday —3 o'clock.

924. Whereabouts ?—At my house.

925. What was he at your house for ?—He was riding a bicycle, going along the road. I called him and told him.

926. You were not expecting him : you just saw him accidentally ? —Yes.

927. After those events on the Sunday Bishun was to start making the seats on Monday morning ?—Yes.

928. What time was he going to start that job ?—He said, " I will be able to start about 10 or 11. I have some work to do and I will start at 10 or 11 on Monday.

929. And did he come at 10 or 11 ?—Yes, and at that time the police were there.

930. What time did the police come ?—About 9.30 or 10.

931. And they took the lorry away as an exhibit, didn't they ?—Not at that time, no, I had the spring out and was fixing it up at the time.

932. When was the lorry taken away as an exhibit by the police ?— Monday evening, about six o'clock.

933. Nevertheless they did pay you a visit early in the morning of the Monday ?—Yes.

934. And along came Bishun according to his appointment at 10 or 11 ?—Yes, he did, but I told him that the police have come and seen the lorry and I don't want you to do any work now.

935. You didn't know at that time that the police were going to take the lorry away, did you ?—When they came in the morning they told me they were going to take the lorry away. They said, " Put the spring back again : we are going to take the lorry away."

936. Which particular police officer ?—A Ba policeman.

937. And that is why you stopped Bishun from doing his work ? —Yes.

938. How far from you does he live, roughly ?—About a mile, or a bit less than a mile.

939. That would be as the crow flies, wouldn't it ?—As the crow flies it would be much nearer. There is a bend and a turn (demonstrates).

940. That is only your estimate, of course. We can get it from the plan by fixing it this way. Up to the north here there is a plot marked " Ramadar's houses (parent of Vishnu Deo)." That is where he lives isn't it ?—Yes. He is Ramadar's son.

941. Well, he arrived at 10 or 11 on this Monday. What time did he go home ?—He went away immediately on a bicycle.

942. Did he—back home ?—Yes.

943. When did you next see him ?—I didn't see him. The police took the lorry away in the evening.

944. Didn't you see him at all after that—I don't mean that Monday—I mean any time ?—While he was passing on the way.

945. Now that lorry K.57 : What make is it ?—Charabanc.

946. But is it a Ford, Chev., or what ?—Fargo.

947. Did you buy it new or second-hand ?—Second-hand. It is an old one.

948. What model is it ?—1937–1938.

949. When you bought it how many ignition keys did you get ?—Only one.

950. Have you ever had another one run off ?—No.

951. Still only got the one key ?—The key was broken in that ignition. Now we have a separate switch made for the ignition.

952. You mean you follow the old method of joining up two wires that are on the vehicle itself ?—We made a switch. We have another switch altogether.

953. I am afraid I don't quite follow you. Do you mean a fixed switch ?—It will be just exactly as you say. The two wires are made into a switch by mechanics.

954. So that if anyone wanted to steal that lorry he wouldn't have to get a key or anything : all he would have to do would be to join up those two wires ?—Well, it hasn't happened so far. It has never happened like that yet.

955. I am not suggesting it has happened. But if a thief did come along that is all he would have to do ?—Oh, yes, it could be driven away. It is only V8s that you can't start without the key. All the rest of the lorries you can.

956. How long has the lorry been in that condition ?—It broke inside the key hole of the ignition switch.

957. Has your son Dayaram ever driven that vehicle ?—I think for a long time he hasn't driven that lorry.

958. Has he every driven it ?—To my recollection, no. For three years it was on blocks.

959. But prior to that three years, can't you remember whether he has ever driven it or not ?—He may have, just near the compound or near the house, here and there, but he didn't go any further.

960. You don't remember too well ?—No. It is such a long time ago it happened.

XXd. Sharma : 961. You have told the Court that a few days after the murder you gave Ali Mohammed a ride in your lorry ?—Yes.

962. Now what type of lorry was this—passenger or cargo ?—Cargo. No. 287.

963. And your son Ramsaran was driving it ?—Yes.

964. And you were sitting next to him ?—Yes.

965. And the accused Ali Mohammed, when you asked him to get on your lorry, he sat at the back, didn't he ?—At the rear, yes.

966. Now, there is a hood to this lorry, isn't there ?—To the driver's part, yes.

967. And isn't there an opening from the driver's seat towards the back ?—Yes, there is a glass window, but it is broken now.

In the Supreme Court.

Prosecution Evidence.

No. 69. Ramsumer, 25th July 1946, Cross-examination, *continued.*

968. But at the time when you gave this accused a ride was the glass intact or was it broken ?—The glass was intact.

969. Could you tell the Court where exactly on the lorry the accused Ali Mohammed sat ?—If this is the front of the lorry, he was sitting at the back (demonstrates).

970. You mean right at the far end of the lorry ?—Yes.

971. With his feet dangling, I suppose ?—No. He gathered his legs up. I told him he can't hang his legs like that.

972. Which way was he facing—towards you or away from you ?—To the side.

973. So that if you were to talk to him you would have to come out of the cabin, lean over and shout at him ?—Yes. It is very difficult.

974. Did you have any conversation with him on that lorry ?—No, nothing whatsoever.

975. And if there had been any conversation under those circumstances, I am sure your son, the driver, would have heard it ?—Yes, that's right.

976. Now, a statement was put to you just now ?—Yes.

977. The contents of that statement were read out to you ?—Yes.

978. And the contents were correct ?—No, not correct.

979. You gave evidence on oath on that point in the Lower Court ?—Yes.

980. Now this is what you said : " About a week after the murder Ali Mohammed boarded my lorry near my house. Ramsaran was driving. There was no one else on it. Ali Mohammed did not say anything to me as he boarded the lorry but he got down at Lallubhai's store. I was then going to Walli Mohammed's house to get his effects. He did not say anything. I did not talk to him at all during the trip—we were in front he was behind. I never had a conversation with him in my bus at any time " ?—Yes.

981. That is the evidence you gave on oath in the Magistrate's Court ?—Yes.

982. Is that correct ?—Yes.

983. And that is the evidence you are giving in this Court on oath ?—Yes.

984. How far was it this man travelled with you on your lorry that day ?—At the most about 30 chains.

Re-examination.

Re-Xd. : 985. I want to be quite clear about this lorry on which you gave Ali Mohammed a lift ?—Yes.

986. You say your son Ramsaran was driving ?—Yes.

987. And you sat next to him ?—Yes.

988. And you told the Court that Ali Mohammed got in the back of the lorry ?—Yes.

989. Do you say that it was impossible for anyone sitting in front with the driver to talk to anybody sitting in the back ?—Not on that lorry. No.

990. It is not possible ?—It is not possible in that lorry. The door of the cab is closed and you have got to open the door and come out to talk.

991. What is the number of that lorry ?—287.

992. I suggest to you that Ali Mohammed was not sitting in the back of the car, but sat in the front with you ?—No.

993. If your son says he did then he is telling a lie, is he ?—He may be telling lies.

To Assessor (Mr. Rice): 994. On the night of the Saturday you say your son Ramsaran drove away in a lorry ?—Yes.

995. What lorry was that ?—1937.

996. Is that a charabanc, or what ?—A cargo lorry : army truck.

997. And your charabanc K.57 : you say you didn't start it until Sunday morning ?—Yes.

998. It hadn't been moved for about three years ?—That is so.

999. Where did you get the battery for it ?—Used the battery of the other lorry.

To Court: 1000. You said you went to Nadi to get some tyres ?—Yes.

1001. Did you get any ?—I was able to get three old tyres.

1002. Where did you get them all from ?—Ramodh.

1003. That was three tyres. What did you do for the fourth ?—I had one old one with me. I used that.

No. 70.

EVIDENCE of Ramsaran.

RAMSARAN (f/n Ramsumer)—Sworn.

1004. Are you the son of the last witness ?—Yes.

1005. Do you know the two accused ?—Yes.

1006. Is one of the accused your brother-in-law ?—Yes.

1007. Did you know Lachmi Prasad ?—Yes.

1008. Was he a friend of yours ?—Just a village brother. Not blood relation, but we regarded him as a brother.

1009. Do you remember the occasion when Lachmi Prasad was killed ?—Not very much.

1010. You remember hearing about it ?—Yes.

1011. When did you hear about it ?—On Sunday.

1012. What were you doing on the Saturday evening preceding that Sunday ?—I had gone to attend this reading of the Holy Scriptures.

1013. Where ?—At Harnam Singh's house.

1014. What time did you go there ?—I had gone there during the day about 1 o'clock or 12 o'clock or so.

1015. In the course of the evening did Harnam Singh ask you to do anything for him ?—Yes.

1016. What did he ask you to do ?—A benzine light went out and he asked me to repair it for him.

1017. What did you do ?—We repaired the benzine light.

1018. Were you at Harnam Singh's the whole night or did you go home ?—I couldn't fix it up so he said " Go home and get another one," and so I left for home and fetched another one.

1019. You did that ?—Yes.

1020. Who was at home ?—Father was at home.

1021. Anybody else ?—I didn't see anybody else.

In the Supreme Court.

Prosecution Evidence.

No. 70. Ramsaran, 25th and 26th July 1946, Examination, *continued.*

1022. Where was Shiusharan ?—He went with me to the house.

1023. Did he stay there ?—He remained at home.

1024. And what did you do ?—I got the benzine light and came back.

1025. What time did you get back to Harnam Singh's ?—About 7.30.

1026. And how long did you stay there ?—Until about 12 or 1 o'clock in the night.

1027. Did you see your brother Dayaram during this period ?—I did.

1028. What time did you see him ?—About 11 or 11.30.

1029. What time did you leave the kartar ?—I left about 12 or 1 o'clock.

1030. When you left about 12 or 1 o'clock where was your brother Dayaram ?—He was getting ready to go home.

1031. You went home ahead of him, did you ?—I didn't go to my house.

1032. Where did you go ?—I went to my brother-in-law's.

1033. Who ?—Rajbal.

1034. Who did you see there ?—I saw Rajbal, my brother-in-law, there.

1035. And what about Bishun Deo ? Did you see him ?—I had brought him along on the lorry, but he got off on the road.

1036. Did he get off near his own house ?—No, a long distance away : he got off on the main road.

1037. Why didn't you take him home ?—It would mean going out of my way : I was going to my brother-in-law's house and he was going to the other side.

1038. Where does your brother-in-law live ?—Near the Sabeto native village.

1039. Now you went to Rajbal's house ?—Yes.

1040. Who was there besides Rajbal ?—No one else.

1041. Just the two of you ?—I believe there was a youngster there too, a small child.

1042. And what did you do next morning ?—I was there until morning, and then at dawn I went home.

1043. What did you do when you got home ?—Preparations were being made to put tyres on the lorry.

1044. Yes ?—Then the tyres were put on the lorry : pushed the lorry to get it started, and I remained at home. Father took the lorry down to the river to wash it.

1045. Who went with your father ?—My younger brother, Shiusharan.

1046. Did you stay at home ?—I did.

1047. On the Sunday morning when you saw them starting work on the lorry, where was the lorry—still in the garage, or where was it ?—It was inside the garage.

1048. Was it on blocks or was it on the ground ?—It was on blocks.

1049. Do you know anything about the killing of Lachmi Prasad ?—No.

1050. Do any of your family know anything about it ?—I don't know anything about it.

1051. Do you remember being with your father in lorry No. 287, some time a few days after the murder ? Your father was going to Walli Mohammed's place to pick up some things ?—Yes.

1052. And on the way you picked up Ali Mohammed ?—Yes.

1053. You remember that ?—Yes.

1054. Now did your father have a conversation with Ali Mohammed ?—No.

1055. Can you tell the Court where Ali Mohammed sat in the lorry ?—At the rear : at the back.

1056. Are you quite sure ?—Yes.

1057. Do you remember making a statement to Cpl. Walli Mohammed ?—Yes.

1058. Now it is my duty to submit to you that you told Cpl. Walli Mohammed something entirely different ?—No.

1059. This statement you made to Walli Mohammed was made on the 17th September at 4 o'clock ?—Yes, I remember the statement being written.

1060. You now say that there was no conversation between your father and Ali Mohammed ?—Yes. They didn't have a conversation at all.

1061. And you say that Ali Mohammed sat in the back of the car ?—Yes.

A.-G. : I will ask Your Honour's permission to ask this witness leading questions in connection with the statement he made to the Police which is at variance with his present evidence.

The Court : I think at that point we might adjourn.

4 p.m.—Adjourned.

9.30 a.m. Friday, 26th July, 1946.

THIRD DAY.

A.-G. : Yesterday, when the Court adjourned, I was putting questions to this witness relating to statements which he is alleged to have made to Cpl. Walli Mohammed. I would ask Your Honour's permission to lead the witness and treat him as hostile in view of his denials relating to that statement.

The Court : Yes.

A.-G. : 1062. Did you make a statement on the 17th September at 4 o'clock in the evening to Cpl. Walli Mohammed ?—Yes.

1063. I will read out to you portion of that alleged statement which you have denied. I want you to throw your mind back to that occasion and remember and tell the Court what you said, whether you said this or not : " At about 4 p.m. I returned to my father's house. My father asked me to come with him on the lorry to bring the goods from my sister's house. I came with him on the lorry C.287. I was driving. As we came out of our gate we met Ali Mohammed walking on the road in the direction towards Walli Mohammed. I stopped the lorry and picked up Ali Mohammed. He sat alongside of my father in the front. On the way Ali Mohammed asked me where is Dayaram. I replied ' He is gone to Nandi.' When my father asked Ali Mohammed ' What troubles you people have done ? ' he replied ' What can I do Mahajan : I have made a mistake.' He said ' They have made a mistake while they were drunk.' My father said ' Ali Mohammed you have made a mistake : why blame me

Exhibit V.

In the Supreme Court.

Prosecution Evidence.

No. 70. Ramsaran, 25th and 26th July 1946, Examination, *continued.*

into it also ?' He said 'I have not put you into trouble.' I didn't hear Ali Mohammed telling my father the name of the person who was with him." Now that is the statement which Cpl. Walli Mohammed has sworn that you made to him on the 17th September ?—I did not make that statement, and at the time I was taken there they scolded me and threatened me and for about half an hour they kept questioning me. Mr. Hooper said, " If you do not tell the truth you will get a hiding," and showed me the boot, and Supt. Hooper went outside and Walli Mohammed said, " Look, your father has made a statement like this, and you had better tell the truth." I said, " I don't know anything about this. Ali Mohammed was sitting in the rear of the lorry. What am I to say ? " He put this statement in front of me and said, " Look, your father has made a statement like this and you also better say the same thing and you will be let off." I said, " All right, please yourself."

1064. Do you remember, you first of all refused to say anything to Cpl. Walli Mohammed : is that correct ?—Yes, to the very end I kept on saying it. I said, " I do not know."

1065. Did Supt. Hooper or Cpl. Walli Mohammed then call your father into the room where you were ?—Yes.

1066. And did your father tell you to make a statement and tell the truth ?—Yes, he did.

1067. And as a result of your father telling you to tell the truth I submit to you that you made this statement that I have read out ?—No, at that time I didn't say anything and they put my father outside. Howsil was there. Then he said, " Your father is telling a lot of lies." Then they put my father outside and Supt. Hooper went out and Walli Mohammed said, " Your father has made a statement like this, and told me what my father had said. I said, " I don't know anything about it," and he wrote it down and I signed it.

1068. Do you read English ?—Not enough to be able to read this.

1069. I submit that you are not now telling the truth ?—I am telling the truth.

1070. I submit also to you that you are not also telling the truth when you say that Supt. Hooper threatened you ?—Yes. He said, " I will boot you if you do not tell the truth."

Rice : We have no questions.

Cross-examination.

XXd. Sharma : 1071. You now say that the contents of the statement that had been put to you is not correct ?—I didn't say those things.

1072. Do you remember giving evidence in the Lower Court ?—Yes.

1073. Do you remember saying before the Magistrate on oath : " On the second trip we gave accused Ali Mohammed a lift " ?—Yes.

1074. " He asked me where Dayaram was and I told him at Nadi. I had no other conversation with him. As far as I can remember my father had no conversation with him. I did not hear anything between them." When you gave that evidence on oath before the Magistrate in the Court below were you telling the truth ?—Yes, I was.

1075. And you are saying the same thing on oath in this Court ?—Yes.

1076. Now, Ramsaran, this conversation you had about Dayaram with Ali Mohammed : when exactly did you have it ?—After he boarded

the lorry and at the most he might have travelled about six chains from the point where he got on the lorry. It was then he asked me.

1077. Now you say on oath in this Court that as far as you can remember there was no conversation between Ali Mohammed and your father ?—Yes.

No. 71.

EVIDENCE of Bhagwandevi.

BHAGWANDEVI (f/n Ramsumer)—Sworn.

1078. What is your relationship with Walli Mohammed ?—He is my husband.

1079. Are you properly married to him ?—No, not lawfully.

1080. How long have you been living with him as his wife ?—About six years now.

1081. Do you know the other accused, Ali Mohammed ?—Yes.

1082. On what sort of terms are your husband and Ali Mohammed ?—I do not know on what terms, but he comes occasionally to my house and they both go to work together.

1083. Do you remember one Sunday hearing of the death of Lachmi Prasad ?—Yes.

1084. On the Saturday preceding that Sunday, did you go to Harnam Singh's katar ?—Yes.

1085. Did your husband go ?—No.

1086. Was he invited to go ?—Yes.

1087. Why didn't he go ?—I told him of my intention to go to the feast so he said he would stay home and look after the house.

1088. What time did you return from Harnam Singh's ?—I returned during the night, stayed with my parents, and then the next morning I went back at 7 o'clock.

1089. Stayed at Ramsumer's house ?—Yes.

1090. Who brought you home from Harnam Singh's ?—All the family—my sister-in-law and little children, and my brother : we all came together.

1091. And who brought you back ?—My brother, Dayaram.

1092. Do you remember about ten days before Lachmi Prasad was killed overhearing a conversation between your husband and Ali Mohammed ?—No.

1093. Do you not remember a conversation between them on the subject of Lachmi Prasad ?—No.

Rice : I am going to ask leave to discuss the admissibility of what is about to follow, in the absence of the gentlemen assessors.

Assessors retire.

My submission is this in a nutshell : that before a statement not on oath can be put to a witness and the witness thus cross-examined on it, the presiding judge must be satisfied that the witness is hostile, and that means, if Your Honour pleases, hostile in demeanour. I further submit, sir, that the fact that a witness goes back on his or her previous evidence

In the Supreme Court.

Prosecution Evidence.

No. 71. Bhagwandevi, 26th July 1946, Examination, *continued.*

is well established not in itself to be evidence of hostility. The true test, Sir, is hostility of demeanour, and I suggest, Sir, that, despite the close relationship in fact, though not in law, between this witness and my client, there is nothing in her demeanour from which it might be held that she is hostile. Unfortunately, Sir, I didn't anticipate this point cropping up, and I didn't bring into Court the authorities, but a very short adjournment would produce them if Your Honour desires to see them.

A.-G.: I agree with my learned friend that there is nothing in the demeanour in this Court on the part of this witness to show that she is hostile, but I submit that my learned friend is not correct when he says that it is only a question of demeanour. The point, in my submission, Your Honour, in regard to the question of hostility is, where a witness, having previously made a certain statement, subsequently, when put into the box, denies having made it and gives evidence which is in direct contradiction of a statement previously made—when that event occurs, Your Honour, in my submission the witness is hostile. I think, subject to Your Honour's ruling, that the proper course for the prosecution to take in such cases is to put the statement to the witness so that the whole matter can be thrashed out and be before the Court. May I read to Your Honour from Philipson's Law of Evidence, 8th Edition, on page 464 : "Since the fact of calling a witness is supposed to . . . and he must be asked whether or not he made such statement." "A witness is considered adverse only when . . . merely contradicts his proof." And then there are a lot of cases quoted in brackets, and, after quoting the case of *R.* v. *Williams*: "where 'adverse' was considered to include the latter condition as well."

My submission, Your Honour, is that this witness is not now telling the truth and in that sense is hostile.

(31st Ed. Archbold, pp. 473, 474.)

There is one aspect of this matter, Your Honour, to which I feel it my duty to draw your attention. Apparently, as I read the law, it is a matter entirely for Your Honour's discretion as to whether this is allowed or not. This question, if I may make so bold as to remark, is not a matter which is entirely for Your Honour. In a case where a witness has given evidence which is contrary to the case being put up, it is necessary for the prosecutor to discredit the witness. In this case this witness has not, up to date, said anything in this Court which in any way goes against the Crown case. The effect of discrediting her now will merely be to get on to the record a statement she made previously. We submit that this statement she first makes is a true one, but we have no means of proving that, and if the statement goes in it is merely evidence that the witness is unreliable. Your Honour will correct me if I have mis-stated the point, but that is the position as I see it.

Rice: I want to thank my learned friend for his very frank statement at the conclusion of his submissions, and it will be found in the 31st Edition of Archbold, p. 474, in the paragraph beginning: "Where permission is given by the judge" that that paragraph is exactly in accordance with the last submission my friend made, particularly at the part where it says: "Where permission is given by the judge . . . render the evidence of the witness negligible."

Arising out of that and out of my friend's submission of the same matter—perhaps in rather different words but still in exactly the same

matter—the position would be this: as my friend has said, this witness has so far given no evidence either for or against either side. The only effect, therefore, of reading a statement which she has made and which presumably, as we know from the depositions, does in some measure favour the Crown, the only effect could be in lay minds to substitute the unsworn statement for the sworn testimony in the box, and that is exactly what the authorities tell us must not be done.

Upon the question of demeanour in its relation to hostility, I would refer to the previous page of Archbold—473—under the sub-heading of " Hostile witness." The text is: " By section 3 of the Criminal Procedure Act . . . whether or not he has made such statement." And then, noting some of the authorities upon it, the text proceeds: " To be inconsistent within the meaning of the section the statement need not be directly or absolutely at variance." And particularly, where Greenough *v.* Eccles is cited: " The word ' adverse ' in this section means ' hostile,' and not merely ' unfavourable.' "

The Court: I am not concerned at the moment with the effect of the evidence. I think that what I have to be satisfied of before I allow the witness to be treated as hostile is that she bears a hostile animus to the party calling her and so does not give her evidence fairly and with a desire to tell the truth to the Court. And in this case I think that the witness does bear a hostile animus and is not giving her evidence fairly, and therefore I shall permit her to be cross-examined and the previous statement put to her.

A.-G.: 1094. Did you make a statement to Cpl. Walli Mohammed at Nandi on 14th September, 1945?—I did not make any statement.

1095. Well now I must tell you that Cpl. Walli Mohammed, in the presence of other people, has sworn, and will swear again, that you made a statement to him, and a long statement, which you signed on the 14th September?—Yes, I did sign it: this is my signature. But I was threatened and beaten to obtain that signature and I was told I would be locked up in the lock-up.

1096. Did you complain to anybody about this treatment?—I did. I went to Nandi District and the clerk there told me that the officers were very busy and I could come again some other time.

1097. And you didn't come another time?—No.

1098. I am suggesting to you that you made this statement entirely voluntarily, and I am going to read it out to you to remind you what you said?—I did not make that statement.

1099. Well listen to the statement which we say you made, and it may be recalled to your mind perhaps. " Ali Mohammed and Ballu are great friends. They have been the closest of friends for the last few months. About 10 to 12 days before Lachmi Prasad's death . . ." (reads to end of statement. Depositions, page 187). Now this statement that I have just read out to you is certified by Cpl. Walli Mohammed as having been made of your own free will to him?—That is not true. Exhibit W.

1100. Do you deny that you made any of this?—I did not make anything that is in that statement.

1101. I suggest to you that you are not telling the truth to the Court?—No. I am not telling any lies.

In the Supreme Court.

Prosecution Evidence.

No. 71. Bhagwandevi, 26th July 1946, Examination, *continued.*

Cross-examination.

1102. Can you tell the Court at all what relationships were between Lachmi Prasad and your husband ?—They were very good friends.

1103. Always ?—Yes, always, because Lachmi Prasad is related to him.

1104. I suggest to you that they were very bad friends ?—No. I don't know about that occasion.

XXd. Rice : 1105. Now to-day you have given evidence on oath in the witness box, haven't you ?—Yes.

1106. What is your religion ?—Hindu.

1107. And were you properly sworn on the Ramaiya before you gave this evidence ?—Yes.

1108. And was the oath you took, as demonstrated there by Mr. Interpreter, binding on your conscience according to your religion ?—Yes.

1109. In your evidence in that witness box to-day, since you took that oath, have you told any lies ?—No.

1110. Everything you have said in that box to-day is true, is it ?—The whole truth and nothing but the truth.

1111. And there is no truth in that written statement which has been read out ?—There is no truth whatsoever in it.

1112. That is untrue ?—Yes.

1113. Now was any pressure brought to bear on you by the police in order to get you to sign it ?—Yes.

1114. Tell us about the pressure that was brought to bear. What was done ?—First of all they said : " Sign this," and I refused to sign it.

1115. How did you come to go to the Police at all ? Did they ask you to come there or not ?—I came here to visit my husband at the Natabua Gaol.

1116. And what happened ?—There was no time : I could not see him, so I came down to Namoli Town.

1117. And what happened there ?—When I arrived in the town the Police got hold of me and they took me away.

1118. Do you know which particular policeman it was that got hold of you ?—Well there were so many of them I couldn't make them out.

1119. Could you recognise any of them ?—Yes, I would be able to recognise them.

1120. What nationality were they ?—Some Indian policemen and European officers.

1121. Took you away ?—They took me to Naboutini Village.

1122. In a vehicle ?—Yes.

1123. What sort of a vehicle ?—Black Maria.

1124. And was there anybody in that Black Maria except you and the Police ?—Harnam Singh.

1125. Anybody else ?—No. And my little child.

1126. Did you tell the police that you didn't want to go to Naboutini Village ?—Yes, I did.

1127. And still they took you ?—I asked them where they were taking me and they said, " We will take you to your husband."

1128. Did they take you to your husband ?—No, they didn't turn there : they went straight on.

1129. Where to ?—Naboutini.

1130. I think you told us you were in Lautoka when they picked you up in the Black Maria ?—Yes.

1131. And Naboutini Village is up in the Sabeto District, miles away ?—Yes.

1132. And when you got to Naboutini Village what happened then ?—Harnam Singh was told to get off near my parents' place, and they took me alone further.

1133. What happened when you got to Naboutini Village ?—There is a large house there : they all entered this house and took me inside.

1134. What happened then ?—Then the paper was produced and I was asked to put my signature on it.

1135. Is that the paper that was read out to you by my learned friend the Attorney-General ?—I don't remember now.

1136. Did you put your signature on the paper ?—Yes, they said, " If you don't sign this we will take you and lock you up and give you a good hiding."

1137. And did you sign it ?—They beat me first and got me by the throat and pushed me around and said, " Sign it."

1138. And did you only sign the one paper that day ?—Yes.

1139. And you maintain that you didn't know what was in the paper ?—That's right.

XXd. Sharma : 1140. Prior to the death of Lachmi Prasad, did you ever hear Ali Mohammed and your husband discussing the deceased in connection with a gun ?—No.

The Court : Would you repeat the question ?

Sharma : (Repeats question.) If it is not clear I will put it " in connection with the planting of a gun."

The Court : Are you talking about Mangara's gun ?

Sharma : You will remember that in the statement she has just denied——

The Court : She mentions a gun.

Sharma : The gun that was planted on Walli Mohammed's premises. That is the gun I am referring to.

The Court : " Did she ever hear Ali Mohammed tell her husband that Lachmi Prasad was going to plant a gun on his premises ? " That is what you want to ask her, isn't it ?

Sharma : 1141. Did you ever hear Ali Mohammed tell your husband that Lachmi Prasad was going to plant a gun on your husband's premises ?—No. Never heard it.

Re-Xd. : 1142. Can you bring anybody before this Court or before anybody in authority who can support your allegations of being beaten ?—There were no other Indians there. Re-examination.

1143. You know there is a District Officer in every district here ?—Yes, I know that.

1144. Why did you not go to him ?—I went on one occasion and the clerk of the court told me I couldn't see him just then.

1145. You didn't do anything more about it ?—Then I didn't get a chance a second time. I have a small child who is always ill and I couldn't get a chance.

1146. I submit to you that it is not true that you were threatened and beaten ?—No, it is true. I was beaten.

In the Supreme Court.

No. 72.

EVIDENCE of Walli Mohammed, recalled.

Prosecution Evidence.

A.-G.: I propose now to recall Cpl. Walli Mohammed who recorded these statements.

No. 72. Walli Mohammed (recalled), 26th July 1946, Examination.

Rice: As to that, in so far as my client is concerned, is there really anything to contradict? We know the purpose of putting in the statement is simply to discredit her. But is there anything to discredit? She has given no evidence one way or the other.

The Court: It is to prove the statement which has been given.

Rice: Its contents, with respect, and the evidence—— 10

The Court: That is another matter.

WALLI MOHAMMED—Corporal—Recalled.

1147. I want to ask you some questions about some statements that have been recorded, and will you be very careful in your answers. The first statement to which I wish to refer you is a statement made by Ramsumer on the 17th September. Will you look at that statement. Do you remember taking that statement?—Yes.

1148. Now the allegation has been made that the statement was made under duress: that is to say Ramsumer, who made the statement was threatened and ill-treated and thereby forced to sign the statement. 20 Is that true?—No.

1149. Will you tell the Court the circumstances under which the statement was taken and who was present at the time?—He was brought to Naboutini Village where he was being questioned, and on questioning he made that statement. Supt. Hooper was present, S/M Ahmed, Const. Howsil and another constable whom I don't remember.

1150. Who did you say was present?—Supt. Hooper.

1151. Who else?—S/M Ahmed.

1152. Anyone else?—Constable Howsil.

1153. Was the witness ill-treated in any way?—No. 30

1154. This is what the witness alleges. That he was forced to sign the statement. That you said to him sign the statement or you would wipe him out, or words to that effect, and that you threatened him and that the statement he made was untrue and he only signed it because of the threats?—No. He signed it willingly.

1155. He also says you beat him?—No.

1156. Do you positively deny all these allegations?—They are untrue.

1157. Now the next statement is a statement taken by you from Ramsumer's son, Ramsaran, on the 17th September at Nadi at 4 p.m. Will you look at that. Will you tell the Court the circumstances under 40
Exhibit V. which that statement was taken?

The Court: 1158. That was also taken at Naboutini?—Yes.

A.-G.: 1159. Who was present?—Supt. Hooper, S/M Ahmed, Const. Howsil.

1160. Now this witness alleges that he was threatened by Supt. Hooper who said he would hit him unless he made the statement, is that true? —No.

1161. Was Supt. Hooper there ?—He was there, but didn't say anything to him.

1162. He further says Supt. Hooper threatened to give him the boot. Was any such expression used by anybody ?—No.

1163. Did you threaten to take him away and lock him up ?—No.

1164. Do you remember recording the statement ?—Yes.

1165. Was it recorded perfectly voluntarily ?—Yes.

1166. Do you remember whether at first the witness was unwilling to make the statement ?—I remember that he was unwilling to make a statement and then his father, who had made a statement before him, was called in, and his father told him to tell the truth as to what had happened on the 15th. Then he made the statement. Ramsaran was brought in after his father had made his statement.

1167. Now the third statement is a statement made to you by Bhagwandevi, the wife of Walli Mohammed, at Naboutini on the 14th September ?—Yes, this statement was taken at Naboutini Village on the 14th September.

1168. Now this witness denies having made that statement practically in toto, and she says she signed it under duress ?—No such thing happened. She made it herself.

1169. She says she was pushed about and threatened and as a result of that treatment she signed that statement ?—No such thing.

1170. Tell the Court the circumstances in which this statement was taken ?—She was questioned and then she made the statement.

1171. Was she brought to the police station or did she come voluntarily ?—I don't quite remember how she came to Naboutini Village : she must have been called by a constable to Naboutini Village.

1172. Were any threats made to her to induce her to make the statement ?—No.

1173. And you swear the statement was made as you recorded it ?—Yes.

1174. You appreciate the importance of the evidence you are giving ?—Yes.

1175. And you are quite satisfied of the truth that this statement was made and you recorded it properly ?—Yes.

1176. Was Supt. Hooper there, in regard to this statement ?—Yes.

1177. At all three statements ?—Yes.

XXd. Rice : 1178. Were you at Naboutini village all that day ?—Yes.

1179. The whole day ?—Yes.

1180. And did you see anything of a police van, commonly known as the Black Maria ?—Yes. We were travelling by it.

1181. I am asking you about you personally : you travelled in it ?—Yes. Went from Lautoka to Naboutini.

1182. What time ?—Some time in the morning.

1183. You didn't go in the afternoon round about the time this woman came to Naboutini ?—No.

1184. Who was in the van then ?—Supt. Hooper was there also.

1185. In the van at the time the woman was brought in ?—I don't remember.

1186. I wish you would try and rake up your memory on that subject because I am very interested in the people who were in the van at that

In the Supreme Court.

Prosecution Evidence.

No. 72. Walli Mohammed (recalled), 26th July 1946, Cross-examination. *continued.*

time. We will put it this way. I suggest you know perfectly that the woman was brought to Naboutini Village in the police van ?—She might have been brought in the police van but I don't remember who brought her.

1187. Don't you know perfectly well she was brought in it ?—No.

1188. Your father is S/M Ahmed ?—Yes.

1189. And he was doing a lot of travelling in that van that day, wasn't he ?—Yes.

1190. And I suggest to you that you know perfectly well that he and other officers picked up this woman in Lautoka and took her to Naboutini when she was in Lautoka on other business ?—I don't remember if it was that day.

1191. I suggest you know perfectly well she was brought to Naboutini in the police van ?—I don't remember that. But she was one day taken from Lautoka police station to Naboutini village in the morning.

1192. You don't remember whether this particular day she was taken from Lautoka in the police van ?—I don't remember.

1193. You don't even partly remember ?—No.

1194. I suggest you also know perfectly well that she was in Lautoka to see her husband who was in custody awaiting trial ?—I don't remember.

1195. But you are not prepared to deny that was the case ?—I don't deny it. I don't remember.

1196. I suggest you know perfectly well also that she didn't want to go in the police van ?—No.

1197. What do you mean by that "No." That you don't know or that that was not the case ?—I don't know.

1198. And you are again not prepared to deny it ?—I can't deny it: I don't remember.

1199. You don't seem to have much knowledge of the matters I'm driving at. Can you rake your memory and tell me which police officers were travelling in that police van at the time this woman made her statement ?—We went by this van—Supt. Hooper, S/M Ahmed.

1200. I think you told me that was in the morning ?—Yes, but we stayed at Naboutini village.

1201. Can you tell me any of the police officers that travelled in the van that day ?—I don't know.

1202. You can't tell me ?—No.

1203. I suggest you know perfectly well. Your father S/M Ahmed was one of them. I am asking you about officers who travelled in the van. I suggest you know perfectly well that your father S/M Ahmed was one of the officers travelling in the van that afternoon ?—I don't remember.

1204. And you can't tell me now of a single one ?—At the time the statement was made S/M Ahmed was there.

1205. I am interested in people who travelled in that van; and you can't tell me a single officer who travelled in that van that afternoon ?—I don't remember.

1206. Not even the driver ?—The driver was there, but I don't remember.

1207. Did the same driver drive the van on every occasion ?—Yes.

1208. What was his name ?—Const. Rasul.

1209. And where is he stationed now ?—At Lautoka.

1210. So Constable Rasul could tell us who the officers were who travelled in the van ?—He may be able to tell you, but I don't know.

1211. You told us he was always in the van ?—He is the driver of the police van.

1212. That is his regular job ?—Yes.

1213. And finally, you can't tell us a single thing about the circumstances in which the woman was brought to Naboutini ?—No.

Sharma : No questions.

No. 72. Walli Mohammed (recalled), 26th July 1946, Cross-examination, *continued.*

To Court : 1214. Was this van going backwards and forwards from Lautoka to Naboutini ?—Once we left in the morning and it goes and stays out there and when we want people it goes out and brings those people to Naboutini village.

1215. Did it go out again the next day ?—Yes.

1216. And so on every day for a number of days ?—Yes.

1217. This statement of Ramsumer's was taken on the 17th ?—Yes.

1218. Had you taken a statement from him before ?—No, so far as I remember I didn't take another statement from him. He may have made another statement but I don't remember taking it down.

1219. Well, who questioned him ?—Supt. Hooper was one of those who questioned him ; so did S/M Ahmed ; and I also put some questions to him.

1220. The evidence that he gave relates to something that happened after the murder ?—Yes.

1221. Who put the questions that elicited those replies ?—Supt. Hooper, so far as I remember.

No. 73.

EVIDENCE of B. F. Hooper, recalled.

No. 73. B. F. Hooper (recalled), 26th July 1946, Examination.

A.-G. : With Your Honour's permission, I should like to recall Supt. Hooper who was present during the taking of the three statements of the witnesses that have been referred to and against whom allegations have been made.

The Court : Very well.

BASIL FREDERICK HOOPER, Supt. of Police—Recalled.

1222. I think you were in Court when the allegations were made in regard to the illegal method adopted in the taking of certain statements ?—Yes.

1223. I think you were not in Court during the evidence of Walli Mohammed ?—No, I was out.

1224. There are three statements to which I would direct your attention. The first one is a statement made by Ramsumer Maharaj on the 17th September at 2.45 p.m. This is the statement. You will probably recollect the occasion on which it was taken ?—Yes. It was taken in Naboutini village.

1225. I understand you were present ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 73. B. F. Hooper (recalled), 26th July 1946, Examination, *continued.*

1226. The allegation of Ramsumer is that you, in the words of the witness "threatened to give the boot" to the witness unless he made a statement and signed it, and that he only signed it as a result of the threats made by you and Cpl. Walli Mohammed ?—That is not so.

1227. You remember the occasion when the statement was made ?—Yes.

1228. And you positively assert that no such measures were taken ?—No.

1229. Will you describe the circumstances under which this statement was taken ?—It was purely a voluntary statement as far as he was concerned. He was brought in and questioned and he elicited this information himself. What he said was recorded in an open bure which we were using as an office in this Fijian village. We had the windows and doors open and the people whose bure we had were outside in an open shelter, just outside the door. This is where all our statements were taken.

1230. Were you there when the witness signed the statement ?—Yes.

1231. It is not true that he was threatened by anybody ?—No.

1232. Now that brings me to the statement of Ramsaran on the 17th. Similar allegations were made in regard to the methods adopted ?—This was taken the same afternoon. After Ramsumer made his statement we sent for Ramsaran to see what his story was. Ramsaran said that no such conversation took place in the lorry, so the father, who was outside —we kept him ; we didn't want them to get into conversation one with the other before seeing Ramsaran and checking up on it. We communicated to the father that his son said no conversation took place and he was thoroughly annoyed and came into the bure and told his son to tell the truth and referred to that conversation that had occurred, when the three of them were sitting in front of the lorry on the occasion when they went to get the accused Walli Mahommed's goods.

1233. And after that did he make a statement ?—Yes.

1234. He was not threatened in any way by you or anyone else present ?—No ; and I don't remember Ramsumer telling Ramsaran what the conversation was : he didn't go so far as that even.

1235. Now the third statement is the statement of Bhagwandevi, the reputed wife of Walli Mahommed. Were you also present at the taking of that statement ? I am not clear whether you were present or not : I think Cpl. Walli Mahommed said you were present ?—There were two statements procured from her.

1236. She made a statement when her husband was arrested ?—Before. On the 10th. This was taken after the arrest of her husband.

1237. Do you remember whether you were present when this statement was taken ?—Yes.

1238. You were ?—Yes.

1239. The same allegations were made. This woman says she was threatened, pushed about, and that she complained that she had been ill-treated. What do you say about that ?—A pack of lies.

1240. She made the statement entirely voluntarily ?—Yes. She was questioned.

1241. And was she willing to talk or reluctant to talk ?—She was fairly reluctant in her answers. Appeared not to want to say very much. What she did say was taken down.

1242. And no threats of any kind were made to her ?—No.

1243. Is it customary, Supt. Hooper, to convey people whom the police wish to interrogate in the Black Maria ?—Yes.

1244. It is used for that purpose commonly, is it ?—Yes, that is so. We go round and collect witnesses in the van. It is not a Black Maria, it is an ordinary van. It is not the Black Maria that is known in other countries. The Black Maria is black, and it is like a meat van, covered in completely with a door at the back end of which you can't see out.

1245. This is not that sort of lorry ?—This is a half-ton truck really with a body at the back with open sides. The Black Maria is like a closed-in meat van. You don't know who is inside and you can't see out.

XXd. Rice : 1246. Where were you when this woman was brought to Naboutini village ?—I can't remember.

1247. I wish you would try. You seem to remember the taking of these statements very well. Try and remember, will you ?—No. I was there at Naboutini.

1248. You went in the van ?—Yes.

1249. Can you tell me who was in the van ?—No.

1250. Can you tell me any of the police officers that were travelling in it that afternoon ?—No.

1251. Not one ?—No.

1252. And you were superintending the case ?—Yes.

1253. I hate to suggest this to you, but I don't think you are trying to remember this ?—This is a matter of some months ago.

1254. Excepting for the taking of the statements ?—That is a thing one does remember ; but as to who was travelling in the police van when the thing was going backwards and forwards all the time, no person would be expected to and no person could.

1255. Are you really trying to recollect what I am asking you ?—I know what you want, but I am afraid I can't tell you.

1256. You can't even tell me who the driver was ?—No. We had several drivers—Const. Rasul Buksh was driving it, Singh was driving it.

1257. You cannot give this Court any information as to the circumstances under which the woman was brought in ?—No.

1258. Can you refer this Court to any police officer who can ?—Yes, I may.

1259. Who ?—We could inquire from the drivers.

1260. Am I right in saying that at this moment you cannot give this Court a single piece of information as to who was with the woman when she was brought in and who brought her in ?—No.

1261. Can you tell me who issued the instructions for her to be brought in ?—That I can't say.

1262. Were you present during the whole time her statement was taken ?—Yes.

1263. Who else was there ?—S./M. Ahmed was there ; Cpl. Walli Mohammed of course recorded the statement ; and if I can remember, Const. Howsil was there. I am not sure if Const. Tara Singh was there or not.

1264. Can you remember whether S./M. Ahmed came in with the woman or not ?—No.

1265. Do you remember whether Walli Mohammed came in with the woman or not ?—No.

In the Supreme Court.

Prosecution Evidence.

No. 73. B. F. Hooper (recalled), 26th July 1946, Cross-examination, *continued.*

1266. Howsil ?—No.

1267. Or Tara Singh ?—No.

1268. You said she was reluctant. I would like you, if you would, to give us the conversation from which you deduced her reluctance—what you or one of your officers said and what she replied which led you to believe that she was reluctant in her answers ?—I say she was reluctant in all her answers. She would hesitate for a long time and hang her head.

1269. She gave you answers very often that you didn't expect ?—What she said was written down.

1270. She gave you answers very often that you didn't expect ?—I can't understand you.

1271. It is perfectly clear surely : she often gave you answers that you didn't expect and didn't write down ?—That is not so.

1272. Who questioned her ?—S./M. Ahmed, as far as I can remember, did most of the questioning ; also Cpl. Walli.

1273. Who else ?—That is all I can remember.

1274. Did you put any questions ?—I probably did.

1275. Surely you must remember. You know the circumstances of this statement so well ?—I probably did put one or two questions, but what they were or anything like that I can't say.

1276. I am asking you whether you put any ?—I probably did.

1277. Can you say for certain or not ?—No.

1278. The only ones you can say with any certainty did are who ?—S./M. Ahmed and Cpl. Walli Mohammed.

1279. Coming back again to this reluctance of hers. Did anybody tell her that she need not make a statement unless she wanted to ?—I don't think so.

1280. Aren't you quite sure that nobody did ?—I couldn't say : I don't remember that at all.

1281. But you certainly don't think so ?—I don't think so. She was not privileged in any way.

1282. If somebody is sent for for the purpose of getting a statement and that somebody tells the policeman who comes along to get him or her that he or she doesn't want to go and make a statement, what happens ?—That is just a hypothetical case. Would you repeat the question again ?

1283. If someone is sent for by the police for the purposes of making a statement and that——

A.-G. : This question is an entirely hypothetical question. It is not connected in any way with this witness.

The Court : Yes.

Rice : 1284. If you do not know anything about the circumstances of this woman's statement, we will leave it at that.

To Court : 1285. Do you know the circumstances under which the father, Ramsumer, was sent for ?—Yes.

1286. He didn't speak about the murder but about a conversation that happened 5 days afterwards ?—Yes.

1287. Would you tell me whether you had previous knowledge of this conversation ?—Something cropped up and we sent for him—I remember that but what it was I don't remember. From what I can remember, we sent for him and asked him something and he elicited this information.

1288. That is as far as you remember. You didn't have previous information ?—Not concerning this conversation, no.

1289. That is as far as you remember ?—Yes.

No. 74.

EVIDENCE of Nanku.

No. 74. Nanku, 26th July 1946, Examination.

NANKU (f/n Guptar) of Saweni—Sworn.

1290. What is your occupation ?—Cultivator.
1291. Did you know Lachmi Prasad ?—I don't know him.
1292. You heard about him being killed ?—Yes.
1293. I want to ask you about the Saturday prior to his death ?—Yes.
1294. Do you know a man called Shiusharan father's name Panchu ?—Yes.
1295. Did he come to your house ?—Yes.
1296. When ?—I was cane-cutting, and after work when I went home at 7 or 7.30 he was at home.
1297. Who else was at home ?—There was a boy called Ramsewak, and Shiusharan was there.
1298. What time did Shiusharan leave ?—Roughly about 9 o'clock the next day. Both of them left—Ramsewak and Shiusharan.
1299. Was Shiusharan at your house all that night ?—Yes he was.

Rice : No questions.

Sharma : No questions.

To Court : 1300. When did you hear of the death of Lachmi Prasad ?—On Wednesday.
1301. And what is this day you have been talking about ?—The Saturday.
1302. The Saturday before ?—Yes.

No. 75.

EVIDENCE of Chattar Singh.

No. 75. Chattar Singh, 26th July 1946. Examination.

CHATTAR SINGH (f/n Pran Singh)—Sworn.

1303. Did you know Lachmi Prasad ?—Yes.
1304. When did you hear about his death ?—On the Sunday.
1305. On that Sunday morning did you go out in your lorry ?—Yes.
1306. And did you pick up anyone at Saweni ?—Yes.
1307. Who ?—Shiusharan.
1308. Father's name ?—I don't know his father's name.
1309. You picked up Shiusharan at Saweni, and where did you take him to ?—Sabeto.
1310. What time was it ?—About 8.30 they boarded my lorry.
1311. On Sunday morning ?—Yes.
1312. Was he with anybody ?—Another boy.
1313. You don't know his name ?—No.

Rice : No questions.

Sharma : No questions.

In the Supreme Court.

Prosecution Evidence.

No. 76. Rajbali, 26th July 1946, Examination.

No. 76.

EVIDENCE of Rajbali.

RAJBALI (f/n Achhaibar Maharaj)—Sworn.

1314. Do you know Ramsumer ?—Yes.

1315. What relation are you to him ?—He is my father-in-law.

1316. When did you hear about the death of Lachmi Prasad ?—On Monday.

1317. On the Saturday night before that Monday were you at home ?—Yes.

1318. Where were your wife and family ?—There was a reading of the Hindu Holy Book at Harnam Singh's and they had gone to attend that.

1319. Did anybody go and visit you that night ?—Yes.

1320. Who ?—Ramsaran.

1321. What time ?—Round about 12 or 1 o'clock.

1322. How long did he stay ?—After 12 midnight he stayed there the rest of the night.

1323. What time did he leave ?—Round about 7 o'clock in the morning he left.

1324. Does he make a practice of going and sleeping at your place ?—Occasionally he does, yes.

1325. And when did your family get back ?—They came back in the morning.

1326. What time did Ramsaran leave your house ?—Roughly 7 a.m. the next day.

Rice : No questions.

Sharma : No questions.

To Court : 1327. Who brought your family back to your house ?—No one : they came of their own accord. They walked back home.

1328. Whereabouts do you live ?—On this side of the Sabeto Village.

1329. Near the Koroyaca Village ?—I know it by the name of Sabeto.

1330. Is it near Harnam Singh's ?—Harnam Singh would be about 20 to 25 chains away on the other side of the village. I am on this side of the village.

1331. Anywhere near the tramline ?—The main line or the branch line ?

1332. The branch line ?—It is quite close to my house.

No. 77. Bishun Deo, 26th July 1946, Examination.

No. 77.

EVIDENCE of Bishun Deo.

BISHUN DEO (f/n Ramadhar)—Sworn.

1333. What is your job ?—I am a carpenter.

1334. Who do you work for ?—I used to be with the Mosquito Control people for some time doing odd jobs for them, but recently I have been employed by one Golkaran who is a contractor.

1335. Who were you working with last September ?—I was working for the Mosquito Control.

1336. Did you know Lachmi Prasad ?—I knew him.

1337. When did you first hear about his death ?—I believe about 2 or 3 o'clock on Sunday.

1338. On the Saturday evening prior to that Sunday will you tell the Court what you were doing ?—Friday my employer told me that I had to come to Lautoka. In the morning I came with him to Lautoka.

1339. From Sabeto where you live ?—Yes. I got on the truck on the main road.

1340. On Saturday ?—Yes.

1341. Yes ?—Remained here for some time getting cement and other things, loaded the cement and other things and left about 12 or 1 o'clock to go to the Mosquito Control office.

1342. Where ?—At Namaka.

1343. Who did you see there at the office ?—There was no one at the office.

1344. You went from Lautoka to the Namaka office ?—Yes.

1345. What did you do there ?—We unloaded the cargo—cement and other things—and my employer, myself and the clerk went to Nadi town.

1346. What time did you get to Nadi ?—Round about 1 or 2 p.m.

1347. And what time did you leave Nadi ?—Then about 3 or 3.30 (until then I remained in Nadi) I got Babu's service bus and came to Sabeto.

1348. Alone ?—I had a friend of mine, Ramchandar. We both came together.

1349. You got back to Sabeto round about 4 o'clock, you said, I think ?—Round about that, yes.

1350. And what did you do then ?—Ramchandar asked me if I was invited at Harnam Singh's : I told him I was. Then Ramchandar suggested we go to this invitation. I informed him that I was going home to have a bath and change and then I would go to this feast. I came home, had a bath and had my meal. I went up to Ramchandar's house : I didn't see him there. There was Gurdayal and another man by the name of Thakur.

1351. Who is Gurdayal—a friend of yours ?—Gurdayal is a son of Chanan, and Chanan is a person who lives with Ramchandar.

1352. Anybody else ?—No.

1353. Did you go to Harnam Singh's house ?—Yes.

1354. What time ?—Immediately then I asked these boys and they told me he was not there.

1355. What time did you get there ?—Towards dusk. Getting dark.

1356. Who did you see there when you arrived ?—There was quite a crowd there when I arrived. Ramchandar, Ramharak, Jagdeo, Ramsewak, Amlikh, Sharda, officiating priest, and several others.

1357. Did you see Ramsumer there ?—No.

1358. Did you see his son there ?—Yes.

1359. Which son ?—Ramsaran.

1360. Did you see Shiusharan ?—Yes.

1361. Did you stay at the kattar the whole time ?—After the reading of the Hindu scriptures there was a meal, and then singing. Towards 12 or 1.

1362. Went home at 12 or 1 a.m. ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 77. Bishun Deo, 26th July 1946, Examination, *continued.*

1363. Was there some trouble with the lamps during this festival ?—Yes, even at the time I arrived there there was some trouble about lighting the lamps because it was getting dark and the lamps could not be lit.

1364. What was done about the lamps ?—Harnam Singh told me and Ramharak to fix the lamp. Ramchandar, Ramharak and myself tried our best to get it going. It would not light very well. Then Harnam Singh suggested to Ramsaran that he go and bring his own lamp. Then Ramsaran went to fetch the lamp.

1365. Who went with him, do you know ?—I believe Ramsaran and his younger brother, Shiusharan went.

1366. How did they go, do you know ?—I noticed they got on an army truck and went by that.

1367. Did you see Dayaram that evening ?—He arrived about 12 or 12.30 midnight.

1368. Then soon after that did you leave ?—Yes.

1369. How did you go ?—I got on to this army lorry of Ramsaran's which was going to his house.

1370. Who was driving it ?—Ramsaran.

1371. Who else was in it ?—Only myself and Ramsaran—no one else.

1372. Where did you get off the truck ?—I got off on the main road and then he took the branch road that goes towards the village.

1373. What did you do when you got off the truck ?—I had a benzine light with me. Taking the lamp I went straight home.

1374. Whereabouts is your home ?—Close to the creek.

1375. Is it anywhere near the Queen's Road ?—No, it would not be near the Queen's Road.

1376. How long did it take you to get home from the place where you got off the lorry ?—Ten or 15 minutes' walk.

1377. And when you arrived home was there anybody there ?—I got home and woke my father and mother.

1378. Who is your father ?—Ramadhar.

1379. Who let you in ?—Well I can't very well say, but when I got in both were awake so one of them must have let me in.

1380. What did you do when you got in ?—Mother then asked me to have something to eat. I told them that I had something to eat at Harnam Singh's feast.

1381. What did you do then ?—Went and lay down.

1382. Did you stay there until the morning ?—Yes.

1383. Now, we are talking about Saturday night ?—Yes.

1384. On Sunday morning, what did you do ?—Went to Ramsumer's house.

1385. Why did you go there ?—On the night of the previous Saturday Ramsumer had told me that there was some body building to be done—seats to be fixed up in a lorry.

1386. What sort of lorry ?—Fargo truck—charabanc.

1387. What time did you get to Ramsumer's house ?—About 8 or 9 o'clock in the morning.

1388. Who did you see there ?—I saw Ramsumer, Bishna and Ramsaran.

1389. Did you see Shiusharan ?—Yes.

1390. You saw him ?—Yes. They were fixing a tyre.

1391. Was Shiusharan helping to fix the tyres ?—No, Shiusharan was not helping fix the tyres : he was on the other side of the house.

1392. What was the number of this lorry ?—K.57.

1393. On that Sunday morning when you arrived did you go straight to the lorry ?—Yes. They were near the lorry.

1394. In what condition was the lorry ?—There were no tyres on the wheels of this lorry and it was on blocks.

1395. Did you see them take it off the blocks ?—I did.

1396. What did you do after you arrived ?—Helped fix these tyres and put them on the lorry, and the lorry was started : then Ramsumer and his son Shiusharan took the lorry away. I was asked to remain behind and they said, " When we come back you can help us fix the seat." The lorry went away then I believe it didn't start in the water. The son came and told us that the lorry was in the water, so Ramsaran and I took another lorry and we towed it back home. That is all.

1397. What happened when you towed the lorry back home ?—Towed it back and it was stopped in the compound. While we were in the river there was one Totaram passing along the way and he said to us " Someone has killed Lachmi Prasad and thrown him away."

1398. Yes ?—Then we towed the lorry back home, and I was curious to see this Lachmi Prasad. Then I met several people on the road and they told me that Lachmi Prasad's body was taken away by the Black Maria to the Lautoka hospital.

1399. Yes ?—So I was not able to go to Lachmi Prasad's place, so I went back home.

1400. I don't understand why you couldn't go on with your job of mending the seat of the lorry ?—When I had gone with this man to fetch the lorry from the river and heard about this man's unfortunate death, the lorry was towed back home and I wanted to go and see the dead man, and therefore I didn't begin the work on this lorry. I left the compound and went.

1401. Where did you go to ?—As soon as I got on to the road and was going in the direction of Lachmi Prasad's house several people met me and they told me what had happened, and when I heard from them the body was taken I came back home.

1402. Your own home ?—Yes.

1403. What time would that be ?—I should say about 2 o'clock or thereabouts.

1404. You didn't worry any more about mending the seat of the lorry ?—No.

1405. Now tell me this, Bishun Deo : why was it necessary to wash the lorry before you mended the seat ? I should have thought it would be the other way round ?—It was very dirty ; it was being used as a hen roost, and chickens had made a mess in it, and it was too dirty to do any work in it so it had to be washed.

1406. Were the chickens still in it when the tyres were put on ?—They had been there but they were not there at the time the tyres were fixed.

1407. When you arrived, were the tyres actually on or off ?—Two were on and two they were still mending.

1408. Now, Bishun Deo, on this Saturday—you have told the Court what you were doing all evening and during the night ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 77. Bishun Deo, 26th July 1946, Examination, *continued.* Cross-examination.

1409. Did you see either of the two accused persons on Saturday evening ?—I didn't see them.

1410. Did you see Lachmi Prasad that Saturday evening ?—No.

1411. Did you have any part in the killing of Lachmi Prasad ?—No.

XXd. Rice : 1412. You say you are a carpenter ?—Yes.

1413. Is that your only occupation ?—That is the only job I have been doing for the last five years.

1414. And you do odd jobs on your own ? I suppose you don't work for some employer ?—That is correct. I work for others.

1415. What I mean is, are you an employee or do you take jobs from people ?—Anything I am capable of doing as a small odd job I would be able to take on myself. Other things I work for others.

1416. You were working for the Mosquito Control in September, 1945 ? —Yes.

1417. When did you cease to work for them ?—Round about October, I think. Towards the end of September, or October.

1418. And you worked for the Mosquito Control : how many days of the week did that take up ?—We were only asked to work five days : they took us on for five days a week.

1419. That is to say, excluding the whole of Saturday and Sunday ? —That's right.

1420. Now this job about the seats of the lorry you were going to do for Ramsumer ?—Yes.

1421. Was it to make seats or to repair existing ones ?—There were no seats on it : we had to make new ones.

1422. And who was it that asked you to do that job—Ramsumer himself ?—Yes, Ramsumer himself did tell me about this, about 5 days previous to that occasion, but Ramsaran told me on Saturday.

1423. Five days previous to which occasion ?—From that Sunday, the day I visited his compound.

1424. Monday or Tuesday of that week ?—Previous to that Sunday.

1425. In short, the Monday or Tuesday before Lachmi Prasad was killed ?—That's right.

1426. And did he tell you that at his place or at your place ?—On the way.

1427. Did you meet him by appointment or accidentally ?—He was going on a lorry, and I was returning from work, and we met along the road.

1428. And then he told you he had some brand new seats for this lorry ?—Yes.

1429. Did he say how many seats ?—He said there were two seats to be made on the lorry on each side of it at the back. He said " I have the necessary timber : you come and have a look and make suggestions as to what the seats are going to be like."

1430. He had the timber ?—Yes. He said, " I have some timber and if that is not sufficient after you have seen it we will get some more."

1431. And did you tell him you would come and estimate the job ? —Yes.

1432. Did you tell him when you would come ?—I was not able to tell him definitely when I would be there. I said either Saturday or Sunday, as I was working on week days.

1433. You did say that you would be there either on the following Saturday or Sunday ?—I did.

1434. Then a bit later on—I think it was on Friday you said—Ramsaran mentioned the matter again ?—On Saturday.

1435. I beg your pardon. What part of Saturday ?—Saturday night.

1436. And where were you and Ramsaran when he mentioned this job again ?—At Harnam Singh's katar.

1437. Was he just reminding you you had to come, or giving some other instructions about it ?—He told me, "Come to-morrow: you will have to fix those seats up."

1438. That is all he said about it ?—Yes.

1439. And I suppose you said, "Yes, I will come," or something like that ?—Yes.

1440. The next day—that is Sunday—when you went up there, did you take anything with you ?—I didn't have to take any tools because Ramsumer owns some tools.

1441. You knew that ?—Yes.

1442. Quite sufficient for your purposes ?—Yes, and if I found that those tools were insufficient I could easily go back home and bring my own.

1443. And what time was it again, roughly, that you arrived at Ramsumer's ?—About 8 or 9.

1444. And I suppose you had a look at the timber ?—I wasn't able to see this timber at all because they were busy engaged with the tyres, so I was with them.

1445. Am I to understand you didn't see the timber at any stage of the business ?—I did not.

1446. Never ?—I saw the lorry but I didn't see any extra timber lying about.

1447. And you have never seen the timber to this day ?—No.

1448. How was that ?—Well nothing further happened. I didn't have to go and ask him where the timber was or anything like that, because I had to start working for the Mosquito Control on the Monday morning. And this lorry was not there either : it was taken away to Nadi.

1449. But that was not for some time afterwards ?—Well, I was working for the Mosquito Control : I couldn't take on any jobs.

1450. You were not working for Mosquito Control all day that Sunday. You went along to estimate this job and advise Ramsumer whether there was sufficient timber, and you were some considerable time at his place, and you never even saw what timber he had ?—When I arrived there they were mending the tyres, and then they took the lorry away to wash and I was hoping that when they came back we would get on to this seat making.

1451. Who was doing the tyres ?—Bishna, myself, Ramsaran and Ramsumer.

1452. You were, of course, actually inside the garage ?—Right in front of the garage. The door was open. Right in front of the doorway of the garage.

1453. And you didn't even see any timber lying about ?—Well, he may have kept it somewhere else.

1454. What time was it roughly you heard that Lachmi Prasad had been killed ?—About 2 or 2.30.

1455. In the afternoon ?—Yes.

1456. You were then at Ramsumer's place ?—No, we were at the river.

In the Supreme Court.

Prosecution Evidence.

No. 77. Bishun Deo, 26th July 1946, Cross-examination, *continued.*

1457. But that is only a very short distance from Ramsumer's place ?—Very short distance from the house.

1458. You had not been home to your own house from the time you left it early in the morning ?—Yes. I was at Ramsumer's from the time I arrived until then.

1459. Did you have a midday meal, by the way, at Ramsumer's place ?—I didn't have a midday meal at all there.

1460. Well you heard down at the river about the death : that was while the washing of the lorry was going on, was it ?—It was when I had gone with the other lorry to tow this lorry back. It was then we heard about Lachmi's death.

1461. You heard from a man called Totaram ?—Yes.

1462. Where did he come from ?—He was going across the river to the other side.

1463. From which direction had he come, do you remember ?—He came from the direction of the school and he was going towards the hill on the other side of the river.

1464. Do you know where Gajraj Singh lives ?—Yes.

1464A. Well, the school from Ramsumer's house would be in the same direction as is Gajraj Singh's house ?—Yes. From Ramsumer's the school would be in the same direction as Gajraj Singh's.

1465. That is to say, Totaram came from the direction of Queen's Road ?—That is correct. The school, then Gajraj Singh's house, then Ramsumer's.

To Court : 1466. Do you know the turn to Ramadhar's house ?—Ramadhar's house is my house.

1467. Is the school between that turning and Gajraj Singh's house ?—I cannot visualize it that way.

1468. Is it on the main Sabeto road ?—Yes. The school is to one side of it.

1469. If you were going to it how would you go from your house ?—There are two or three tracks from my house to the school.

Rice : 1470. I was asking you about this man Totaram who you say was coming from the direction of Queen's Road ?—Yes.

1471. Was he going on foot, or what ?—He was walking.

1472. This was round about 2 o'clock ?—I have no idea what time : I am making a guess. It was about 2 or 3 o'clock.

1473. Do you happen to remember what he said ?—He said, " Somebody has cut up Lachmi Prasad and thrown his body in Kasira's land." Those were his exact words as far as I can remember.

1474. Did anybody in your party ask how he found out about that ?—I did and others with me.

1475. What did he tell you ?—He didn't mention the name of the person he heard it from : he just said, " I have just heard it myself."

1476. Did he say he saw the body ?—No, he said he had heard about it.

1477. Did he say how long ago he had heard about it, or anything like that ?—He said, " I was coming along the road and I heard it from some people. Just now."

1478. And I think you said in your evidence-in-chief you thought you would like to go and see the body yourself ?—Yes.

1479. And you found out how it had already been taken away ?—Yes.

1480. Who told you that ?—Six or seven persons who had been to this body and were returning from that spot.

1481. Did they come by while Totaram was still there ?—No. This was after the lorry was towed back into the owner's place and I was going back home. On my way back home to my own house.

1482. Six or seven people said they had been up there and it was taken away ?—That is correct.

1483. I wonder if you could tell me who any of those were ? Were any of them neighbours of yours ?—I have forgotten now the names of those persons.

1484. Could you tell me the locality in which they live ?—They are all from Sabeto settlement.

1485. And more or less neighbours of yours ?—All living in the neighbourhood.

1486. And they had actually been up to see the body ?—Yes.

1487. Doesn't it strike you as remarkable that six or seven of your neighbours had heard about this occurrence sufficiently early to go and see the body, yet you did not hear a thing about it until after the body was taken away ?—I hadn't heard anything at all until I heard it from the mouth of Totaram.

1488. You don't think there is anything strange in that ?—Well, it was not noised abroad until then to my knowledge. It was only then I came to know about it.

1489. Just a word or two again about these seats. Ramsumer told you he wanted them on the Monday or Tuesday of the week before Lachmi Prasad was killed ?—That is so.

1490. Did he say why he suddenly wanted seats in that lorry that had lain for so long ?—He said that he had received five tyres from the Government and that he was to run that bus as a service bus between Sabeto and Nadi and he was so informed by the Transport Control officer.

1491. You are quite sure that was on the Monday or Tuesday ?—Yes. I am definite it was four or five days before that Sunday.

1492. You told us that at Ramsumer's house there was a man named Bishna ?—Yes.

1493. Who is he ?—He is a Punjabi living at a place called Yaloka.

1494. Where is Yaloko ?—The other side of the Sabeto River.

1495. The other side from your house ?—All lands on the other side of the Sabeto River are known as Yaloko Settlement.

1496. Just pay attention to me for a moment here. These two accused people live on opposite sides of the Sabeto River, don't they ?—That way, the second accused will be on the Sabeto side of the river and Walli Mohammed on the Yaloka side of the river.

1497. And this man Bishna lives on the Walli Mohammed side ?—On the same side but two miles away from the accused's house.

1498. Do you know what Bishna was doing there that Sunday ?—He was pumping up the tyres when I arrived.

1499. Do you know for what purpose he had come, living a couple of miles away ?—I don't know.

1500. Didn't you find out during the whole of your stay there ?—I didn't make inquiries.

1501. Have you seen him at Ramsumer's house before ?—I have not seen him before.

In the Supreme Court.

Prosecution Evidence.

No. 77. Bishun Deo, 26th July 1946, Cross-examination, *continued.*

1502. And you have frequently been to Ramsumer's house ?—Occasionally I have been to Ramsumer's house.

1503. And you cannot tell us a single thing about the purpose of Bishna's visit that day ?—That I don't know.

1504. Where does Totaram live—the man who told you about the death ?—You see the Naboutini village ? It is slightly further on from that village.

1505. On that Monday or Tuesday when you were engaged to make the seats, you are quite confident, are you, that Ramsumer told you he had a service for that lorry ?—Yes.

1506. I am only asking you because, according to the note we have of his evidence, Ramsumer said he didn't get that service until the following Friday ?—That I cannot explain.

1507. Did he ask you to do anything else besides come and fix up the seats ?—He only asked me to make the seats.

1508. Did you meet him at all on the Saturday, the day Lachmi was killed ?—No.

1509. Are you sure about that ?—I am certain he didn't meet me on Saturday.

1510. I am only asking you for this reason : that he said in his evidence that on Saturday he asked you to come along to his place and asked you to fix up the tyres. Have you any recollection of that ?—He didn't tell me on Saturday.

1511. And you are quite confident you didn't see him on the Saturday ?—I am quite confident he didn't tell me on Saturday.

Sharma : No questions.

To Court : 1512. You say Ramsaran took you home from Harnam Singh's ?—To the main road, not to my house.

1513. Where did he drop you ?—Between Ali Hasan and Akbar Ali's houses.

1514. And then he went in which direction ?—Then I went in the direction of the school and on to my house.

1515. And what did Ramsaran do ?—He turned and went in the opposite direction—the left. I went towards the right.

1516. When Ramsaran stopped his lorry to let you get down were you facing the school ?—No, it was facing the opposite direction, towards the Sabeto tanks—facing towards Queen's Road.

Which end of the map is that ?

Rice : The western side.

No. 78. Ramadhar, 26th July 1946, Examination.

No. 78.

EVIDENCE of Ramadhar.

RAMADHAR (f/n Paltan)—Sworn.

1517. Have you a son named Bishun Deo ?—Yes.

1518. He lives at home with you ?—Yes.

1519. You remember hearing about Lachmi Prasad's death ?—I did.

1520. What day was it when you heard about it ? Was it on Sunday ?—Sunday, that's right.

1521. Now on the Saturday evening preceding that Sunday what was your son doing ?—He was working.

1522. What time did he come home ?—Twelve or ten, or something like that. He came during the night.

1523. Where had he been ?—He had gone to work.

1524. When he came back at 12 o'clock midnight where did he come from ?—He came and knocked and called out and I opened the door and I said, " Where have you been ? " and he said, " I have come from Harnam Singh's feast."

1525. What time was this ?—Twelve or 10 o'clock. I haven't a watch in the house or a clock.

1526. After letting him in what did you do ?—I then asked him to have something to eat. He said, " I have already had my meal." He didn't have a meal. I said, " Why won't you have something to eat ? " and he said, " I have just had a stomachfull at the bandara."

1527. Then did you lock the house up ?—Yes.

1528. The next morning when you got up did you unlock the house ?—Yes.

1529. Was your boy still there ?—Yes, on the bed sleeping.

Cross-examination.

XXd. Rice : 1530. You heard about Lachmi Prasad's death on the Sunday ?—Yes.

1531. Did you know Lachmi Prasad by any chance ?—Yes. He is a boy and I am an old man and he lives far away from me, but I know him. He is quite a distance from my house.

1532. Do you happen to remember what part of the day it was on Sunday when you happened to hear about it ?—I haven't a watch or a clock. I am just making a guess. One o'clock—2 o'clock maybe—something like that.

1533. You think it was in the afternoon ?—Yes.

1534. Were you at home when you heard about it ?—Yes, I was at home doing some odd work.

1535. Who told you ?—It was noised abroad down there. Several people talking, and one said Lachmi Prasad was dead and I heard it. I don't know where I heard it from.

1536. You overheard somebody else talking about it ?—Yes.

1537. Everybody was talking about it ?—Yes.

1538. I suppose you didn't have any visitors to your house that day ?—No.

1539. Who were these people you heard talking about it : were they neighbours of yours ?—Yes, they all live round the neighbourhood.

1540. Have you got any neighbours round about your place ?—The whole settlement.

1541. And when you did hear about it your son Bishun Deo was still away from home, was he ?—He was not at home.

1542. He was down at Ramsumer's place ?—Well, I don't know where he was but he was not at home.

Sharma : No questions.

To Court : 1543. On Saturday night your son Bishun Deo was at home ?—Yes.

1544. And the previous night ?—At home.

In the Supreme Court.

Prosecution Evidence.

No. 78. Ramadhar, 26th July 1946, Cross-examination, *continued.*

1545. And the previous night—Thursday ?—He works at the camp and he sleeps at home every night.

1546. Who was he working for ?—At the camp there is a European officer he works for. I don't know which European officer he works for.

1547. What time did he leave home on Saturday morning ?—About 5 or 6 o'clock. He goes to work every day.

1548. And when does he come back ?—You mean in the evening ?

1549. Yes ?—That Saturday he came back about 10, 11, 12 o'clock midnight.

1550. He didn't come back before ?—No. He said after work he went straight on to this feast.

1 p.m.—Adjourned.

2.15 p.m.—Resumed.

No. 79. Harnam Singh, 26th July 1946, Examination.

No. 79.

EVIDENCE of Harnam Singh.

HARNAM SINGH (f/n Amoh Singh)—Sworn.

1551. Where do you live, Harnam Singh ?—Sabeto.

1552. Whereabouts is your house ?—A place where one Kalidas used to live.

1553. Is it at the end of a track leading to the main Sabeto road ?—That is correct.

1554. Did you know Lachmi Prasad ?—I knew him.

1555. Do you remember hearing about his death ?—Yes.

1556. When did you hear about his death ?—On Sunday.

1557. Now on the Saturday night preceding that Sunday had you a feast at your house ?—Yes.

1558. When did you arrange to have this feast ?—First my wife made a vow that she would have a reading of the holy scriptures at the house and she kept on asking when it would be suitable. This was several days before.

1559. You had arranged to have it several days before ?—Yes.

1560. Did you invite Lachmi Prasad ?—Yes.

1561. Did he come ?—No.

1562. Did you invite the second accused Walli Mohammed ?—Yes.

1563. Did he come ?—No.

1564. Did his family come ?—Yes, his wife and his children arrived.

1565. Did you invite the other accused, Ali Mohammed ?—No, I didn't invite Ali Mohammed.

1566. What time did the people start to arrive at your feast ?—From 5 p.m. onwards they started coming.

1567. The first one I think came in a lorry ?—Yes.

1568. Who was driving the lorry, do you know ?—Ramsaran.

1569. I think you are related to Ramsaran ?—Yes.

1570. What relationship ?—He is a brother of my wife.

1571. Did Ramsumer himself come ?—No.

1572. Did Dayaram come ?—He came during the night, after midnight—1 o'clock or so.

1573. How did he arrive ?—He came in a lorry.

1574. Do you remember if Shiusharan was there ?—Yes.

1575. Do you know what time he came ?—He came in the first lorry with Ramsaran and others.

1576. That is Shiusharan, the brother of Ramsaran ?—Yes.

1577. Tell His Honour who else was there ?—In the settlement I had invited a number of persons and quite a crowd had gathered.

1578. Do you know about how many were there ?—Roughly about fifty, and there were more coming and going.

1579. You knew them all, I suppose ?—Yes, they were invited to come.

1580. Was Bishun Deo there ?—Yes.

1581. Do you know what time he came ?—About 8 or 9 o'clock. I saw him at that time. I don't know what time he actually arrived.

1582. Do you know what time he went ?—I saw him go back in Ramsaran's lorry after 12 midnight.

1583. I believe something went wrong with the lighting arrangements ? —Yes.

1584. Did you ask somebody to go and fetch another lamp ?—Yes, I remember requesting Ramsaran. I said " There is a lamp at home : what about going and fetching it ? "

1585. Do you remember about what time that would be ?—About 10 o'clock or so : 10.30 or 11.

1586. Can you remember what time Ramsaran left ?—About midnight : 12 or 1 a.m. : I have no clock at home. I am just guessing the time.

1587. Did Ramsaran leave with anyone else ?—Someone with him. Bishun Deo I believe. I have a vague idea that Rajpal may have been in the lorry too.

1588. So you think that Bishun Deo went back with him ?—Yes.

1589. You are quite certain about that ?—What is this—to get the lamp, or when they left ?

1590. They went to fetch the lamp about 9 o'clock, I think ?—Between 9 and 10, yes.

1591. Now you know Dayaram ?—Yes.

1592. Did he come to the party ?—Yes, he came about 1 o'clock : he came afterwards, actually—after the reading of the scriptures. Past midnight.

1593. Did he take his wife and sister away ?—Yes, he went back to his house. Some of the guests remained at my house : others went away.

1594. How did Dayaram leave ?—He took the lorry he came on.

1595. Do you know anything about the relationship that existed between Lachmi Prasad and the accused Walli Mohammed ?—They were friendly—both working together in the one place—and they are also related.

1696. Do you know Mangara, Walli Mohammed's brother ?—Yes : he is the elder brother of Walli Mohammed.

1597. Do you know he was sent to prison ?—Yes.

1598. Do you know anything about that case ?—I do remember that there was arms or something found under Mangara's house and for that he was convicted and sent to prison.

In the Supreme Court.

Prosecution Evidence.

No. 79. Harnam Singh, 26th July 1946, Examination, *continued.*

1599. Do you know who gave the information to the police ?—There was one Ragunath mentioned. Ragunath was the person that informed the police.

1600. Do you know Ragunath ?—Yes, I know his father well. I know the boy.

1601. Was Ragunath a friend of Lachmi Prasad ?—I don't know whether he was his friend or not because they live a fair distance away from my place.

1602. Do you know Totaram ?—Yes.

1603. Is he a friend of Lachmi Prasad ?—Yes, they live quite close to each other. Neighbours almost.

1604. Were you present when a conversation took place between S/M Ahmed and Walli Mohammed ?—Yes.

1605. Can you remember when it was ?—This is after the murder when Sergeant Attar Singh and S/M Ahmed had gone to Walli Mohammed's house. I spoke to Walli Mohammed on that occasion and I told him, " Why don't you state the truth if you know anything about this murder ? " Then he said, " I swear upon my child that I did not do this thing."

1606. That is all that happened, is it ?—That is all I said to the accused.

1607. That is all the accused said ?—That is all the conversation.

1608. Do you know anyone by the name of Ramnarain ?—There are two Ramnarain's. Which one are you referring to ?

1609. Is there a man called Ramnarain who is Lachmi Prasad's brother-in-law ?—Yes. Lachmi Prasad's sister's brother: that is Ramnarain : I know him.

1610. Was he at your party ?—Yes.

1611. Now these people you have mentioned to us—Bishun Deo, Ramsaran and Dayaram, Shiusharan. Were they at your party all the time except for the occasion when they went off to get the lamp ?

The Court : There are two Shiusharans : which are you referring to ?

(*A.-G.*) : 1612. How many Shiusharans were at the party ?—Two.

1613. Who were they ?—One is Panchu's son and the other one is Ramsumer's son. Both Shiusharans were at the party. I now correct that by saying I know both Shiusharans : Shiusharan, Ramsumer's son, was at the party.

1614. Not the other one ?—I didn't see him at the party.

1615. Bishun Deo, except for the time he went away for the lamp, was he there all the time until he went finally ?—Yes.

1616. And Shiusharan ?—Yes.

1617. And Ramsaran ?—Yes.

1618. Was Dayaram there ?—He came at 1 a.m. He lives at Nadi.

Cross-examination.

XXd. Rice : 1619. You say you had a short talk with the accused at his house, and S/M Ahmed was there ?—Yes.

1620. That was after the killing ?—Yes.

1621. Do you happen to remember which particular day it was ?—I forget now actually what day it was.

1622. It would be a few days, or perhaps only one day, after that killing, would it ?—It was from one to three days.

1623. And how did you come to go up to Walli Mohammed's house ?—I happened to be at my father-in-law's place—Ramsumer—and from

there the Police took me on and I went with the Police to Walli Mohammed's place.

1624. When you say "took you on" you mean in the lorry ?—Yes, took me in the police van.

1625. S/M Ahmed went up too ?—He accompanied us in that same van.

1626. Did he say anything about a Crown witness, or anything of that kind ?—You mean me to be made a Crown witness ?

1627. Anybody ?—This accused Ballu (Walli Mohammed) was addressed by S/M Ahmed. S/M Ahmed spoke to the accused Walli Mohammed and said, "If you tell the truth we will make you a Crown witness and save you—get you out of the trouble."

1628. You heard that ?—Yes. He was speaking right in front of me.

1629. And in reply to that what did the accused Walli Mahommed say ?—Walli Mahommed said, "I have a very dear child, a son. I will take my oath on that child that I do not know anything about this affair."

1630. Do you know that woman, the wife of Walli Mahommed, Bhagwandevi ?—Yes.

1631. Were you in a police lorry one day when she was taken to Naboutini Village ?—Yes.

1632. When would that be ?—I believe about a week after the murder.

1633. Where was she picked up ? Were you on the lorry when she was picked up ?—I believe she was at Ramsumer's when she was asked to come on the lorry.

1634. At Ramsumer's house ?—I got on at Ramsumer's house, and she was already in the police van when I got on at Ramsumer's.

1635. She got on before you ?—She was already there.

1636. And you got aboard at Ramsumer's, and then from Ramsumer's where did the lorry go to ?—No. I have made a mistake.

1637. What is it ?—Now I remember. I came by another lorry to Lautoka. Then from Lautoka I went with the police.

1638. At Lautoka you got on to the police lorry ?—Yes.

1639. And was the woman Bhagwan Devi already aboard the police lorry or not ?—She was aboard.

1640. You don't know anything about the circumstances under which she was taken aboard ?—Well, I couldn't say. The police were making inquiries and investigations at the time and she was probably asked to come.

1641. She was already aboard the lorry when you got on ?—When I got on the lorry she was already aboard.

XXd. Sharma : 1642. How long have you known the accused Walli Mahommed ?—Ten or eleven years.

1643. And the accused Ali Mohammed ?—The same number of years.

1644. And the deceased Lachmi Prasad, how long did you know him ? —About eight years.

1645. Could you tell the Court on what terms Walli Mohammed and Ali Mahommed were to your knowledge ?—They were quite all right. They were working together, living in the same settlement.

1646. So they were good friends, you might say ?—Yes, they were quite friendly in one place.

In the Supreme Court.

Prosecution Evidence.

No. 79. Harnam Singh, 26th July 1946, Cross-examination, *continued.*

1647. On what terms were Ali Mahommed and the deceased Lachmi Prasad, to your knowledge ?—They were very friendly together in the same place. They used to work in the one gang.

1648. Having known these three individuals for so long, do you know whether Ali Mohammed was more friendly to Walli Mohammed or Lachmi Prasad ?—I didn't move around with them : as far as I know there was equal friendship between the three : He liked them both on equal terms.

1649. And do you know for how long they worked together in that place ?—Six or seven months.

1650. And before that, did they work together ?—Well, the houses are not very far off. Even before they were living in the same settlement Ali Mahommed and Walli Mahommed were close to each other, and a slight distance away was Lachmi Prasad on a hill.

Re-examination.

Re-Xd. : 1651. This conversation between S/M Ahmed and Walli Mahommed : did you say it took place at Walli Mahommed's house ?—Yes, at Walli Mahommed's house.

1652. And was anyone else there ?—Well, Walli Mahommed and I. Sgt. Attar Singh was there.

1653. Any other police officer ?—There was one more : I just can't recollect who it was.

1654. Do you know whether any statement was taken down by any police officers there and then ?—To my recollection, Attar Singh was taking down some sort of statement, and so was Inspector Sell. I am not sure whether Inspector Sell took a statement, but Attar Singh was taking a statement.

1655. I think you told the Court you couldn't say what day it was this took place ?—No, I can't.

1656. You can't say whether it was the Monday, Tuesday or Wednesday ?—I can't.

1657. Can you say whether it was before or after Walli Mahommed had been arrested ?—He was arrested.

1658. He had been arrested ?—Oh, yes. He was arrested and was being taken to and fro while the investigations were going on.

1659. And Inspector Sell was there ?—I cannot be certain on that point, but I have a vague recollection that I did see him round about. Attar Singh, Mr. Sell, Dulab Singh, I believe. So many times the police came to my house and went back, I cannot actually fix the time.

To Court : 1659A. When did you hear of the murder ?—On Sunday, the day following the murder.

1660. About what time of the day ?—I think between 12 and 1 midday.

1661. Did you go and see the body ?—I did not go.

No. 80.

EVIDENCE of Shardanand.

SHARDANAND (f/n Pundit Deodatt)—Sworn.

1662. Are you a pundit ?—I am not a registered marriage officer, but I am a Brahmin by caste.

1663. You were officiating at Harnam Singh's party ?—Yes. A meeting.

1664. When was this ?—A Saturday evening : I forget the date.

1665. Was it the Saturday before Lachmi Prasad was killed ?—I heard of his death on Sunday. The Saturday I mean was just the day prior to that Sunday.

1666. Do you live at Naboutini ?—Yes.

1667. And you know a lot of people in the Sabeto Valley ?—Yes.

1668. When you went to the katar at Harnam Singh's house, what time did you get there ?—I had gone there about 4 or 4.30. I didn't see a clock or anything.

1669. Who was there when you arrived ?—Harnam Singh was there, Ramsumer's sons Ramsaran and Shiusharan, and another Punjabi boy by the name of Bhikar and another Punjabi whose name I don't know.

1670. How long did the party last ?—I commenced the reading of the Scriptures about 6.30. I carried on for 3 hours.

1671. And what happened then ?—Dinner was served after that—presentation of the food ; people prepared yangona and I drank some too, and singing went on, and I took part in the singing.

1672. Who helped to hand the food round ?—Before the meal was served there was this prasad or handing round of sweets to the people listening to the Scriptures, immediately after the reading of the holy book, and that was given out by Ramsaran and Shiusharan and Bishun Deo. There were some others too, but these three I recollect.

1673. What time did you go home ?—I am only roughly guessing my time : I left about 11.30 or 12. Thereabouts.

1674. Was there anybody still there at the party when you left ?—Ramsaran, Shiusharan, Dayaram, Bishun and several others.

1675. Who was the last person to arrive at the party ?—Dayaram.

1676. What time did he come ?—He arrived about ten minutes before I left the place.

1677. You went straight home, did you ?—Lachmi Prasad's brother-in-law, Ramnarain, and myself, we both left the place together.

1678. You both have your home in Naboutini ?—Yes.

1679. On your way home did you see Ramasaran's lorry ?—When we got on the Sabeto main road Ramsaran's lorry came behind us. The lorry came to where we were standing. We got out of the road, stood to one side, the lorry stopped, there were people sitting in it, but they were all in the front seat. There was conversing for a few minutes and then the lorry went on towards the Sabeto Tanks, and we went in the opposite direction, towards Naboutini.

1680. And you went straight home after that ?—Yes.

1681. What did you do the next Sunday morning ?—I got up on Sunday morning, and then, after having released the cattle, I came down under a mango tree, sat down with some book and started reading.

In the Supreme Court.

Prosecution Evidence.

No. 80. Shardanand, 26th July 1946, Examination, *continued.*

1682. Did you go and see Walli Mahommed that morning ?—You mean Ballu ?

1683. Yes ?—I was seated under this mango tree when Ballu called out to me and asked me to come over, so I went over.

1684. And while you were there did you hear about anything ? —Ballu told me that he had a very bad stomach ache the previous night and felt very ill, so I suggested " Why don't you have a little Fiji grog : it might cure your headache."

1685. Did you hear about the death of Lachmi Prasad ?—I was there when Ballu's wife brought and served Ballu with food. Ballu had his meal and went away. He had gone when my brother's son arrived : I heard from him.

1686. Who is your brother's son ?—Kishabdatt. A small boy—a child. He said, " Somebody has murdered Lachmi Prasad."

1687. What time was this ?—From 9 to 11 o'clock.

Cross-examination.

XXd. Rice : 1688. Kishabdatt : did you say he was your brother's son ?—My elder brother's son, yes. A boy about 9 or 10 years old.

1689. I think you have said that you went to see Lachmi Prasad's body ?

A.-G. : He didn't say that.

Rice : 1690. Well you did as a matter of fact, didn't you ?—Yes, when it was noised abroad I did go. Several people went—quite a crowd of us went.

1691. Roughly what time did you get there ?—Maybe 12 or 1, guessing the time by the sun.

1692. Was there a big crowd of people there when you arrived ?—Yes, the police were there and quite a number of people in the settlement were there.

1693. I suppose it would not be too much exaggeration to say that there may have been forty people from the settlement there ?—There may have been more or may be less.

1694. One could say approximately 40 ?—Yes, I would say roughly, not having counted them.

XXd. Sharma : 1695. When you were near the body that morning did you see the accused Ali Mahommed anywhere there ?—Yes, I saw him there.

1696. And how long did you remain near the body ?—Quite a long time. We couldn't get anywhere near the body because the Inspector of Police wouldn't allow us to go near the body. So we were at some distance from it for a long time.

1697. Were you there when the body was removed from there ?—Yes.

1698. How was the body removed ? What was the means of conveyance ?—The people who were near the police helped to pick the body up, place it on the lorry. I believe there was a tarpaulin covering it. Took it away in the van.

1699. A van or cargo lorry ?—A cargo lorry belonging to one Ramjan of Nandi.

1700. Did you happen to know any of the people, apart from the Police, who helped to lift the body on to the lorry ?—I forget now. I can't remember very clearly as to who were there.

1701. Do you know whether the accused Ali Mahommed helped to lift the body ?—I cannot remember. I heard in the evening that he was one of the party.

1702. Did you see the lorry leave the locality ?—Yes.

1703. Did any person other than the police travel with this body on the lorry ?—Yes.

1704. Did you recognise any of the persons who travelled with this body ?—I may be able to mention two or three names but not all of them.

1705. Who ?—Maharaj Din ; Totaram ; and several others were with the body.

1706. You are quite sure that Totaram was one of the persons who travelled with the body ?—Yes, and several others besides Totaram.

1707. Do you know whether Ali Mahommed travelled on that lorry ? —I heard it in the evening.

1708. You didn't see him, did you ?—I didn't take particular notice as to who all were on the lorry : there were so many of those persons on the lorry. This accused may have been there : I didn't take particular notice.

1709. Can you say what particular time the lorry moved away from the locality with the body ?—It is very hard to say now ; it happened so long ago ; it might have been 2 p.m. or 1 p.m. or round about that time.

1710. You can't say whether it was before or after noon ?—It is just a conjecture on my part. It may have been after 12 noon.

1711. You say roughly about 1 or 2, is that it ?—Roughly about 1 or 2 o'clock.

1712. What happened to you after the body was removed ?—I came back home.

1713. And did you see Totaram again that evening ?—In the evening went to Murli Maharaj, the father of the deceased, and it was there that several of those persons said that Ali Mahommed was on the lorry and the police asked him to come off. Several people said that.

1714. How long had you known the accused Walli Mahommed ?— I have known him for the last 5 or 6 years.

1715. I suppose you know him well ?—Yes.

1716. And how long have you known the accused Ali Mahommed ?— $2\frac{1}{2}$ to 3 years.

1717. You have known him well also ?—Yes.

1718. And the deceased Lachmi Prasad, how long did you know him prior to his death ?—I have known him since 1941.

1719. I think you came into very frequent contact with these three persons through the library you had there ?—It was not in my charge. I was not the librarian or anything like that, but people used to come and borrow books from that library and I am also a member of the library.

1720. And it was through this library that you used to come into constant contact with these three persons ?—Even then, they live in the same settlement, and I knew them well.

1721. Can you tell the Court on what terms the accused Ali Mahommed and Walli Mahommed are to your knowledge ?—Well, I have told you that I know these persons well, but I am not as you might say their companion or on visiting terms. Had I been a real companion or something like that, I would be able to say how they got on.

1722. You are not in a position to tell the Court how they got on with each other, is that it ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 80. Shardanand, 26th July 1946, Cross-examination, *continued.*

To Court : 1723. Whereabouts do you live ?—Quite close to Naboutini Village. Half a mile away from the deceased's house, roughly.

1724. On that Sunday what time did you get to Walli's house ?—Roughly about 9 or 10. I was sitting down under this mango tree and he called me.

1725. What was Walli doing ?—He was sitting down under a tree near the house.

1726. Anybody else there ?—Not at the time I arrived but about five minutes after my arrival his wife brought his food for him.

1727. When you saw Ramsumer's army lorry on Saturday night it passed and stopped and then turned off to the left and you went off to the right : where did the lorry seem to be heading for ?—It was going towards Queen's Road, Sabeto tanks.

1728. On the main Sabeto road ?—That is correct. On the Sabeto main road.

1729. Whereabouts was it that the lorry stopped before it went towards the tanks ?—When you leave Harnam Singh's house, there is a track coming from his house on to the main Sabeto road. As soon as you come to the junction, the turning where this track joins the main road —the main Sabeto road—it was just at that junction. I turned towards the road, the lorry stopped at the junction for a few minutes and then headed to the left.

1730. Where does the road from Harnam Singh's hit the main Sabeto road ?—There are several houses there in a line.

1731. Do you know Gajraj Singh's house ?—No, it would be at a distance away from there.

1732. Do you know Ramodhar's house ?—I know the house.

1733. You know the track that leads through it ?—Yes, I know the track.

1734. Is it anywhere about there ?—No, that would be further away. This is still this side, before you get to Ramodhar's track.

1735. Nearer the tanks ?—The best way I can explain it is there is an overseer's house there, and further away from the overseer's there is a line of houses. This track comes from Harnam Singh's close to this line of houses, and it is just at that junction the lorry stopped for a few minutes and went towards the tanks and I went the other way : that would be the other side of the overseer's house.

No. 81. Rambharose, 26th July 1946, Examination.

No. 81.

EVIDENCE of Rambharose.

RAMBHAROSE (f/n Piru)—Sworn

1736. Where do you live ?—Sabeto.

1737. Do you know Lachmi Prasad ?—Yes.

1738. Was he a friend of yours ?—Yes.

1739. Do you remember hearing about his death ?—Yes.

1740. On the Saturday preceding the Sunday on which he was killed were you working together ?—Yes.

1741. Where ?—We were together at Namaka and then we left for home together.

1742. In the middle of the day did you meet someone ?—Myself, Ramesh, Ramkissun and Lachmi Prasad all met together. We came to Ali Mahommed's house.

1743. What time ?—Twelve mid-day.

1744. And what did you do there ?—We came and sat down there for a short time and had a game of cards.

1745. For how long did you play cards ?—About an hour or an hour and a half.

1746. And then what happened ?—Then we each one went to his respective home.

1747. Do you remember what time it was ?—One or 1.30.

1748. On Sunday morning, the following morning, when did you hear about Lachmi Prasad's death ?—About 1 o'clock.

1749. Where were you ?—At Ali Mahommed's.

1750. Had you seen Ali Mahommed before on that Sunday morning ?—I had.

1751. What time ?—About 10 o'clock.

1752. Where ?—He came to my house.

1753. Ali Mahommed came to your house at 10 o'clock ?—Yes.

1754. On Sunday morning ?—Yes.

1755. What did you do ?—He said, " Let us go to the hills to get some timber."

1756. Did you go ?—No.

1757. Did Ali Mahommed go ?—He didn't go.

1758. What did you do ?—Myself, Ali Mahommed, Totaram and Ramesh, we all came back to Ali Mahommed's house. It was a festival day for the Mahommedans.

1759. Are you talking about the Sunday or the Saturday ?—I am talking about the Sunday.

1760. Who was it that came to Ali Mahommed's house ?—Myself, Ali Mahommed, Totaram, Ramesh, four of us.

1761. What did you do there ?—For some time we sat down and played some cards, and then there was this ceremonial nectar, and we all partook of it.

1762. How long did you stay at Ali Mahommed's ?—Two hours, I believe, roughly.

1763. What was the time when you went there ?—About 11 or 11.30, I should say.

1764. And when did you leave ?—When we heard there that Lachmi Prasad was murdered, then we all got up and went from there.

1765. Where did you go ?— We came down to the Sabeto School and we made inquiries near the School and we were told the people were all heading towards Votualevu River : then we all went in the direction of Votualevu.

1766. Did you go and see the body ?—Yes.

1767. Was Ali Mahommed with you ?—Yes.

1768. The body was still there, was it ?—Yes.

XXd. Rice : 1769. Would you explain as clearly as you can exactly where you live ?—From Ali Mahommed's house, my house is about 50 to 60 chains in the direction of the hills.

Cross-examination.

1770. That would be ?—Towards the north.

1771. When you want to get to the Sabeto road do you pass the track on which Ali Mahommed's house fronts ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 81. Rambharose, 26th July 1946, Cross-examination, *continued.*

XXd. Sharma : 1772. Referring to the Sunday after the murder : when you were at Ali Mahommed's house that morning was Ali Mahommed's step-father there, Mathura ?—Yes.

1773. What was he doing ?—He was tying up the cattle.

1774. Where did you hear that Lachmi Prasad was killed ?—I heard it at Ali Mahommed's house.

1775. Who told you ?—The elder brother of Lachmi Prasad, deceased.

1776. Did he come to the house and tell you ?—Yes.

1777. What is his name ?—Badri Prasad.

1778. You have told the Court that when you heard Lachmi Prasad had been killed you " went to see the body " ?—Yes.

1779. Who went ?—Myself, Ali Mahommed, Totaram, Ramesh, Ramnarain, Badri Prasad, Chandulal.

1780. Did you go straight to the body or did you have any difficulty in finding the locality where the body lay ?—First of all we heard it was near the school, so we went near the school : then when we got near the school we got information that it was somewhere near the river near Votualevu, so we headed towards that direction.

1781. And you eventually got to the body ?—Then when we got closer to the place we noticed the police lorry was standing by on the hill and a number of persons about the place.

1782. And a lot of people had got there before you ?—Yes.

1783. Including the police ?—Yes.

1784. When you were trying to find the locality where you saw the body did Totaram do anything ?—Totaram was with us.

1785. Was anyone in the company doing anything unusual ?—Nothing that I know of.

1786. While you were looking for the locality did you meet anyone ?—There were a lot of people near the body.

1787. On the way ?—We were looking for this place, we came to the school, we then got information from the school it was somewhere round that side (indicates) and we headed for the place.

1788. Did you have to ask anybody ?—We did.

1789. Whom did you ask ?—We asked another Lachmi Prasad—Brijmohan's son.

1790. Who asked him ?—I did.

1791. Did Totaram do anything ?—Ali Mohammed was there and Totaram slightly this side (indicates) of Ali Mohammed, and I went on this side (indicates) to ask the question.

1792. Did you have to ask anyone else before you got to the locality ?—Didn't ask anybody else.

1793. Did anyone of the company that was travelling with you to the locality ask anyone ?—Well, I don't know. Somebody may have asked someone : I couldn't say about that.

1794. You got to the body, and I suppose you remained there until the body was removed ?—Yes.

1795. And in fact you travelled with the body to Lautoka on the same lorry ?—That's right.

1796. Now will you tell the Court who was on that lorry, other than police officers ?—I was on the lorry, Ali Mahommed, Samsunder, Ramlal, Maharaj Din, Badri Prasad.

1797. Totaram ?—That's right, Totaram.

1798. Can you give the court an approximate idea as to the time the lorry left the locality with the body ?—About 3.30 or 4 o'clock.

1799. Can you tell the Court what time it was when you got the body to Lautoka ?—About 4.30 or 5.

1800. And did you go back to Sabeto that evening ?—Yes.

1801. How did you go ?—The same lorry that brought the body.

1802. And who all went ?—The same number of persons that had come from the other end.

1803. What time was it when you got to the body, do you remember ? —About 2 or 2.30 when we arrived near the body. Only guessing the time : I have no clock or watch to go by.

1804. On the way to the locality did you see one Bishun Deo ?—I did not see him.

1805. Now Totaram was with you all the time from the time you got to the body until you got back to Sabeto that evening ?—Yes.

1806. And the first you, Totaram and your companions heard about Lachmi Prasad's demise was at Ali Mahommed's house ?—First of all, he, of course, came to know—Murli Maharaj's son. When Badri Prasad came and told us that was the first we had heard.

1807. At Ali Mahommed's house ?—Yes.

1808. And before that Totaram did not tell you he knew that Lachmi Prasad had been killed ?—No, he did not.

1809. And from the time you got the information of Lachmi Prasad's death you and Totaram and these other persons stayed together until you got back to Sabeto that evening after disposing of the body at the hospital here ?—That is correct.

1810. From the time you heard of Lachmi Prasad's death at Ali Mahommed's house to the time you went back to Sabeto, did you see Bishun Deo anywhere ?—I didn't meet Bishun Deo.

1811. During that period do you know whether Totaram and Bishun Deo had met each other ?—No.

1812. You know this boy I am referring to who has given evidence in this Court ?—I know the one you mean.

1813. You know Walli Mahommed and Ali Mahommed rather well, do you not ?—I know them.

1814. And you also knew the deceased Lachmi Prasad ?—Well, we work together in one place.

1815. And as a matter of fact all of you were good companions, were you not ?—Yes, that is correct.

1816. Now on what terms was Walli Mahommed with Ali Mohammed during the period you have know him ?—They were quite friendly. But there was some unfriendliness——

1817. I would rather not have that said because it does not concern my client. How did these two persons get on with each other ?—Very well.

1818. On what terms were Ali and the deceased ?—Very friendly.

1819. How long have you known these three—the two accused and the deceased ?—I have known them for the last 16 or 17 years. The whole three of them.

1820. And I suppose all of you grew up together, more or less ?—That's true.

In the Supreme Court.

Prosecution Evidence.

No. 81. Rambharose, 26th July 1946, *continued*, Re-examination.

Re-Xd.: 1821. You have just told the Court that Ali Mahommed and Lachmi Prasad were very great friends ?—That is so.

1821A. Have they always been friends ?—Always.

1822. Can you tell us anything about Walli Mahommed and Lachmi Prasad ?—There was some——

Rice: If Your Honour pleases, does this arise out of my cross-examination ?

The Court: You may cross-examine him again if you like.

A.-G.: It arises out of Mr. Sharma's cross-examination.

Rice: It certainly doesn't arise out of mine.

A.-G.: 1823. Can you tell us anything about Walli Mahommed and Lachmi Prasad ?—I have only heard that there was some unfriendliness.

1824. Do you know of your own knowledge ?—I saw that they were not talking to each other for some time.

1825. Do you know why ?—His brother got into trouble about a gun being planted at his house and there was talk about Lachmi Prasad, and so on.

The Court: Do you want to ask any questions, Mr. Rice ?

Rice: 1826. Do you know this of your own knowledge ?—Only this I know : that they were not talking with each other. They were not on speaking terms for some time. The deceased wouldn't visit your client and your client wouldn't visit him.

1827. At any rate you know nothing about that of your own knowledge ?—Yes.

To Court: 1828. You say on Saturday you and the deceased and others played cards at Ali Mahommed's house up until 1.30 ?—Yes.

1829. And then you went to your respective homes ?—Yes.

1830. What did you do the rest of the day ?—I remained at home the rest of the day.

1831. Didn't go anywhere at all ?—Didn't go anywhere at all.

1832. Did anybody come to you ?—Yes, Ramkissun came to my place.

1833. And how long did he stay ?—He remained at home until 1.30 a.m. conversing and talking about one thing and another.

1834. Didn't go to the party at Harnam Singh's ?—I wasn't invited, so I didn't go.

1835. Did you know it was going on ?—I had heard.

No. 82. Ramnarain, 26th July 1946, Examination.

No. 82.

EVIDENCE of Ramnarain.

RAMNARAIN (f/n Bermadin)—Sworn.

1836. Are you any relation to Lachmi Prasad ?—He was my brother-in-law—my wife's brother.

1837. Do you remember when he was killed ?—I heard it on Sunday.

1838. Did you see him on the Saturday ?—Yes.

1839. Where ?—At Ballu's house.

1840. Is that Walli Mahommed ?—Yes. The first accused.

1841. At what time ?—About 6 p.m.

1842. What were you doing there ?—There was Ballu there, Lachmi Prasad and two others. I recognised these two well : the first accused and Lachmi Prasad. The other two I did not because their faces were away from me : they were not facing me.

1843. What were you doing at the time ?—I was going to Harnam Singh's house on a bicycle.

1844. You were passing along the road ?—Yes.

1845. Are you quite sure that your recollection is correct that you saw Lachmi Prasad and Walli Mahommed ?—Yes, I am certain of that fact.

1846. What were they doing ?—I believe they were playing cards.

1847. And from there where did you go ?—I went straight on to Harnam Singh's.

1848. You had been asked to the party ?—Yes.

1849. There were a lot of people there when you arrived ?—Yes, there were.

1850. What time did you get there ?—About 6.30 p.m.

1851. You went straight there on your bicycle ?—Yes, rode up to the house.

1852. Will you tell the Court some of the people there when you arrived—from the Sabeto settlement ?—Ramharakh, and his son Charana, Bishun Deo, Ramsaran, Samobagh. These are the ones I know by name.

1853. Do you know Ramsumer's sons ?—Yes.

1854. Were they there ?—Well, only Ramsaran.

1855. You only saw Ramsaran ?—Yes.

1856. You didn't see Shiusharan ?—No.

1857. Do you remember two people going away to get a lamp ?—Yes.

1858. Who ?—Ramsaran and Bishun Deo.

1859. Did you see Dayaram there ?—Yes.

1860. What time did he arrive ?—About 11 p.m. or 11.30.

1861. When did you leave ?—After twenty minutes of Dayaram's arrival. He came on his bus.

1862. Did you go home on your bicycle ?—Pundit Shardanand and I went together.

1863. Did you go on your bicycle ?—Yes.

1864. And he was on his bicycle ?—Yes. We both rode on our bicycles.

1865. When you got to the main Sabeto road did a lorry go by ?—Yes.

1866. Whose lorry ?—Ramsumer's army lorry.

1867. Where did it go ?—It came along the track on to this junction and got on to the main Sabeto road and stopped there just for a few minutes and then headed towards the Sabeto tanks—Queen's Road—to the left.

1868. Do you know the two accused well ?—I know them.

1869. How long have you known them ?—I have known Ballu for a long time. The second accused I knew for a shorter time than the other one.

1870. Are the two accused friendly with each other ?—As long as I have known them they appeared to be friendly.

1871. Do you know anything about relations between the deceased Lachmi Prasad and the accused Ali Mahommed ?—Very friendly.

In the Supreme Court.

Prosecution Evidence.

No. 82. Ramnarain, 26th July 1946, Examination, *continued.*

1872. Very friendly ?—Yes.

1873. Have they always been friendly ?—As long as we were working together : before they were working with me I don't know. Ever since they have been working with me they were very friendly.

1874. Where were they working with you ?—At the aerodrome.

1875. What about the relations between Walli Mohammed and Lachmi Prasad ?—When they were working together they were very friendly.

1876. Have they always been friendly ?—I don't know how they got on before they were working together.

1877. And how long had they been working together ?—Lachmi Prasad and I commenced working and worked for 9 or 10 months, and a little while afterwards Ballu, the first accused, joined us too.

1878. How long ago now is it since Ballu joined you in your work ?—Six months after. I had worked for six months and then Ballu joined.

1879. So you are talking about the last four months ?—Yes.

1880. Do you know anything about the relations between Walli Mohammed and Lachmi Prasad before that time ?—Well, I never used to see them together, so I cannot say.

Cross-examination.

Xxd. Rice : 1881. Tell me as near as you can exactly where you live ?—About a chain from the deceased's house.

1882. As a matter of fact, in your evidence in the lower court you said that you were a brother-in-law of the deceased Lachmi Prasad ? —Lachmi Prasad is my wife's brother.

1883. Finally I want to clear up one thing I wasn't sure about in your examination-in-chief. Am I to understand that about four months before Lachmi Prasad's death you and Lachmi Prasad and Walli Mahommed worked together ?—That's right.

4 p.m.—Adjourned.

No. 83. Mika Nasila, 29th July 1946, Examination.

No. 83.

EVIDENCE of Mika Nasila.

9.30 a.m., Monday, 29th July, 1946.

FOURTH DAY.

MIKA NASILA—Sworn.

1884. Where do you live ?—At Sabeto.

1885. Do you know the deceased, Lachmi Prasad ?—Yes.

1886. And you know the two accused ?—I know both the accused.

1887. You remember hearing about Lachmi Prasad's death ?—I heard about his death.

1888. When did you hear about his death ?—On the Sunday.

1889. Now the day before that—Saturday ?—Yes.

1890. Did you go to Naboutini in the evening ?—I did.

1891. On horseback, I think ?—Yes.

1892. Did you see either of the accused on your way to Naboutini ? —No.

1893. Did you see Lachmi Prasad ?—I did.

1894. Tell the Court where you saw him and when ?—I was on the main road and I saw the deceased cross the river : came up and met me on the bank. He greeted me and I greeted him.

1895. How near to the house of the two accused was this ?—Roughly about 2 chains from the house of the accused.

1896. Which accused ?—The first accused.

1897. When you saw him was he opposite the house of Walli Mahommed ?—Not exactly opposite, but almost opposite.

1898. And I think you said this was about 5 o'clock in the evening ? —That is correct.

1899. Then you went along to Naboutini ?—I did.

1900. When you came back did you see Lachmi Prasad again ? —Yes, about 6.30 I saw Lachmi Prasad at the house of the accused.

1901. Which accused ?—Ballu.

1902. What was he doing ?—I noticed that Lachmi Prasad was standing, with several other Indians sitting in the doorway. But I saw Lachmi Prasad standing.

1903. You didn't see either of the two accused ?—No, I didn't.

To Court : 1904. Was he standing beside the group or some distance from it ?—Just about a yard away from the party that was sitting down. Lachmi Prasad was standing.

1905. Did you recognize any of the other Indians sitting down ? —No, I don't know who they were.

Rice : No questions.

Sharma : No questions.

No. 84.

EVIDENCE of Ramkrishna.

RAMKRISHNA (f/n Mangal)—Sworn.

1906. Where do you live ?—Sabeto.

1907. What is your job ?—Schoolteacher.

1908. Where do you teach : what school ?—The Sabeto Indian School.

1909. Did you know Lachmi Prasad, the deceased ?—I knew him.

1910. And do you know the two accused ?—Yes, I know them both.

1911. Do you remember the day when Lachmi Prasad's body was found ?—Yes, I remember.

1912. I want you to tell the Court what you were doing on Saturday afternoon prior to that Sunday ?—We were playing cards.

1913. Where ?—At Ali Mahommed's house.

1914. What time?—About 12 noon when we commenced playing cards.

1915. When you say " we " whom do you mean ?—Rambharose, Ali Mahommed, Lachmi Prasad and myself. The fifth was Ramesh watching us playing. He watched for about 15 minutes and then went away.

1916. You say you started playing about 12 noon ; how long did you go on ?—Roughly until about 1.30 p.m.

In the Supreme Court.

Prosecution Evidence.

No. 84. Ramkrishna, 29th July 1946, Examination, *continued.*

1917. Are you sure it was 1.30 p.m. ?—No, I wouldn't be certain on that, but roughly guessing the time it would be about that.

1918. When you left Ali Mahommed's place where did you go ?—I went home.

1919. Did you go in the direction of Walli Mahommed's house ?—No, I went towards my own house.

1920. On that Saturday we are talking about, after you had been playing cards did you see a man named Mahommed Ali ?—From a distance, yes : I didn't go quite close to him.

1921. After you had seen Mahommed Ali, did you see the accused Walli Mahommed ?—Yes.

1922. Where did you see him ?—I saw him about 2½–3 chains away from Ali Mahommed's house.

1923. What time was this ?—It would be after 4 p.m.

1924. Where were you when you saw him ?—I was looking for the first accused Walli Mahommed.

1925. Where were you when you saw him ?—I was on the bank of the creek.

1926. Is that the creek that crosses the Sabeto road ?—That is correct.

To Court : 1927. Saw him where ?—I was in this direction (left hand) near the river, and he was about 2½ chains on this side of Ali Mahommed's house (right hand).

A.-G. : 1928. Was he between Ali Mahommed's house and the main road when you saw him ?—Yes, he was between the road and Ali Mahommed's house, but he was not close to the road. 2½ chains from the house, between the road and the house.

1929. What did he appear to be doing ?—He was going in that direction.

1930. What direction ?—Towards the south.

1931. Did he appear to be coming from Ali Mahommed's house, or not ?—Well, I couldn't say exactly where he was coming from, but I saw him at a distance from the house.

1932. Then I think you followed him ?—Yes, I did.

1933. And did you go to your own house with Ballu ?—Yes, to my house.

1934. Did you make some agreement with Ballu about some work to be done ?—Yes. There was an arrangement with Father and Ballu that he would come and put in some posts.

1935. When ?—Sunday.

1936. What time ?—In the morning.

1937. You heard this arrangement made between your father and Ballu ?—A portion of it I heard. The arrangement about these posts : and then I went to get tea and left them talking together.

1938. After that, what time did Ballu leave ?—Round about 5 p.m.

1939. What did you do then ?—I remained at home for another 15 minutes and then went to call my sister's husband : that was because Ballu said that if we had some more persons the work could be done much easier and quicker.

1940. Then how did you spend Saturday evening ?—I remained for some time at my sister's husband's house and played cards over there.

1941. How long did you play cards for ?—We played until about 1 or 1.30 a.m.

1942. Well, the following morning did you go to see Ballu ?—Yes ; having waited for some time at the house in the morning and he didn't turn up, I then went to call him.

1943. What was he doing ?—When I arrived there I noticed these bullocks were standing to one side and he was speaking to one Gajraj Singh.

1944. What was he doing with the bulls ?—Well, they were yoked to the plough, and it appeared he was ploughing.

1945. Did you speak to Walli Mahommed ?—I spoke to him.

1946. Did you ask him about the posts ?—I did. He said : " I am very busy just now : I am engaged but I will come later on."

1947. Did it occur to you that it would be odd that Walli Mahommed should be ploughing on a Sunday morning ?—There is nothing strange about that because in settlements people usually plough on Sunday morning.

1948. They plough on Sunday morning ?—Yes.

1949. They don't regard Sunday as a day of rest ?—No, not out in the settlements. They feel that is the only day they have to do some work for themselves, so they do it.

1950. You mean they rest six days a week and work one ?—They work the whole of the six days, plus the seventh too.

1951. Can you tell the Court whether it was the usual thing for Walli Mahommed to plough on Sunday ?—Well there is nothing strange in that because I have seen him on several occasions about ploughing on a Sunday.

1952. Did he say he would put in the posts when he finished the job he was on ?—He did.

1953. Will you tell the Court when you first heard about Lachmi Prasad's death that Sunday morning ? I want you to tell the Court when you first heard it ?—The very first intimation I received was at 1.30 or 2 o'clock.

1954. Who told you ?—Mahangu's son, Jhagaru.

1955. Did you go and see the body ?—I did.

1956. What time did you go to see the body ?—I couldn't get there in time. It was 3.30 or so. They had already put the body on the lorry and all I could see was just part of his legs.

1957. You saw the lorry going off ?—No, it was standing, but they had already placed the body on the lorry.

1958. Was either of the two accused there at the time ?—Yes.

1959. Ali Mahommed ?—He was on the lorry.

1960. Who else was on the lorry ?—Shiamsundar, Badri Prasad.

To Court : 1961. The deceased's brother ?—Yes.

A.-G. : 1962. Then did you go to see Ali Mahommed's wife ?—I did.

1963. What did you go there for ?—It was because of a request made by Ali Mahommed, the second accused, who asked me to inform his wife that he was going with the body to Lautoka.

1964. Later on in the week did you have a conversation with Ali Mahommed ?—Yes.

In the Supreme Court.

Prosecution Evidence.

No. 84. Ramkrishna, 29th July 1946, Examination, *continued.*

1965. What was the nature of that conversation ?—His daughter had lost a book in school so he came along to me and said " Will you be kind enough to make a search for the book at school."

1966. The conversation I am referring to was when he said something to you about the evidence that was given to-day about seeing him in Ballu's house ?—No, he didn't say anything else to me. Nothing at all in connection with the present case before the Court.

1967. Did he complain to you that people were saying that you said you had seen him ?—Yes, that is so. He said this : that people were talking, that I had said that Ballu, the first accused, was seen at Ali Mahommed's house. Then I said in reply——

1968. When ?—On the Saturday—the day I followed Ballu to tell him about this post. I did not tell anyone that I had seen Ballu at Ali Mahommed's.

1969. Have you known the accused for a long time ?—I have.

1970. And did you know Lachmi Prasad ?—I knew him.

1971. Can you tell the Court anything about the relationships that existed between Walli Mahommed and Lachmi Prasad ?—They used to go to work together. Apart from that I cannot say how they got on together.

1972. Who used to work together ?—The accused and Lachmi Prasad —the accused Walli Mahommed.

1973. Do you know anything about before they went to work together ? —Well, I have seen them together on many occasions : they would come together and go together.

1974. Before that time did you know anything about their relationships ?—Well, before that I wasn't there at all. I was at Momi school.

Rice : No questions.

Sharma : No questions.

To Assessor : (Mr. Rice) : 1975. The witness has said that he didn't tell anybody about having seen Ali Mahommed with Walli Mahommed on the Saturday evening. What was his reason for not telling anybody about it ?

The Court : Actually, I don't think it was true. As far as we know Walli was not at the house—Walli was not at Ali Mahommed's house on the Saturday.

A.-G. : I think the only evidence we have so far on that subject is the evidence given by this witness that he saw Walli Mahommed coming from somewhere near Ali Mahommed's house.

No. 85. Gajraj Singh, 29th July 1946, Examination.

No. 85.

EVIDENCE of Gajraj Singh.

GAJRAJ SINGH (f/n Santok Singh)—Sworn.

1976. Where do you live ?—At Sabeto.

1977. You run a lorry ?—Yes.

1978. Where ?—On the Sabeto/Naboutini road.

1979. You remember the Sunday on which Lachmi Prasad's body was found ?—Yes.

1980. On that Sunday did you pick up Ballu's wife on the road ? —Yes.

1981. Where did you take her to ?—To Ballu's house.

1982. And what was Ballu doing ?—He was ploughing.

1983. Was there anything peculiar about that ?—Nothing strange about that.

1984. Did you comment on the fact that he was ploughing on the Sunday ?—I said something jokingly. I said " Look, a person works for six days : he should have a rest on a Sunday."

1985. Did you go down that road every Sunday ?—Yes : sometimes to the store, sometimes up to Ballu's house.

1986. Had you ever seen him ploughing on a Sunday before ?—Not when I have been there. When I had been on previous occasions I had not seen him ploughing.

1987. Did you know the deceased Lachmi Prasad well ?—Yes, I knew him well.

1988. Did you know a man called Totaram ?—Yes.

1989. Do you know Ragunath ?—I do.

1990. Were those three persons great friends ?—Yes.

1991. How long have you known the two accused ?—For about eight or nine years.

1992. Can you tell the Court anything about relationships between Walli Mahommed and Lachmi Prasad ?—They were friends as far as I knew. They used to work together.

1993. Had they always been friends ?—Some time ago I had heard that they had their differences.

1994. Do you know of your own knowledge that they had differences ? —I am only telling you as I heard.

1995. Do you know what the differences were about ?

The Court : It would only be what he had heard.

Rice : If he is going to be asked what the differences were about, that presupposes the evidence of differences, and we have no evidence of that. I think this is an objection I made on the first day and Your Honour upheld it on the same point.

The Court : I don't think the point is really of very great importance because the accused's statement says that he had been on bad terms with this man but that for four or five months they had been friends.

A.-G. : Very good, Sir.

Rice : No questions.

Cross-examination.

Sharma : 1996. About a week or a week and a half before this Sunday, did you have a conversation with Lachmi Prasad and Walli Mahommed about tyres ?—I did.

1997. What was the conversation ?

The Court : 1998. Was this about a week before the Sunday you have been telling about ?—Yes.

1999. Were they both present ?—On the road. Both were present—Lachmi Prasad and Ali Mahommed.

In the Supreme Court.

Prosecution Evidence.

No. 85. Gajaraj Singh, 29th July 1946, Cross-examination, *continued.*

Sharma: 2000. What was the conversation ?—Lachmi Prasad was speaking and Ali Mahommed was standing beside him, and Lachmi Prasad said, " I have some army tyres with me. If you need tyres tell me." I said, " All right, I will let you know later."

2001. I think you made an appointment with them for the Friday prior to this Sunday to which you are referring, to meet them with regard to these tyres ?—That is correct.

2002. And did you keep that appointment ?—They were sitting on the track near my house. I came with the lorry.

2003. About what time ?—Towards dusk—just getting dark. The timing gear of my lorry was broken. I met Ali Mahommed and Lachmi Prasad and said, " I won't be able to see you now as I have to go away in a hurry."

2004. Who was it ?—Ali Mahommed and Lachmi Prasad. I took an American owned car and towed my lorry. Those two then left, saying " All right, we will see you later."

To Court: 2005. Did you speak to Ballu after you had had this conversation with Lachmi Prasad and Ali Mahommed ?—Yes.

2006. What did you say to Ballu ?—I asked Ballu, " I have spoken to Ali Mahommed and Lachmi Prasad about some tyres: do you know what kind of tyres they are offering me ? " Walli Mahommed said, " I don't know."

2007. Is that all that was said ?—Yes, in that respect only that much.

No. 86. Shiusharan, son of Ramsumer, 29th July 1946. Examination.

No. 86.

EVIDENCE of Shiusharan, son of Ramsumer.

SHIUSHARAN (f/n Ramsumer)—Sworn.

2008. Where do you live ?—I live with my father at Sabeto.

2009. I think the accused Walli Mahommed is related to you ?—He is not related to me.

2010. Is the wife of the accused Walli Mahommed related to you ?—Yes. My sister.

2011. You mean she is not legally married to him: is that what you mean ?—I don't know who Walli Mahommed is.

2012. What is your sister's name ?—Bhagwandevi.

2013. Do you remember the Sunday on which Lachmi Prasad was killed ?—Yes.

2014. On the Saturday evening prior to that Sunday did you go to Harnam Singh's party ?—Yes.

2015 What time did you leave the party ?—6 or 6.30.

2016. Where did you go ?—Came home.

2017. What did you do ?—I brought some food.

2018. For whom ?—For my father.

2019. Was your father alone ?—Yes.

2020. What did you do after that ?—I went and lay down to sleep.

2021. Didn't you go back to the party ?—No.

2022. Why not ?—I had some boils, and it was very painful.

2023. The rest of the family were at the party were they ?—Yes.

2024. During the night did any of the family come home for any purpose ?—I don't know.

2025. You slept all night ?—Yes.

2026. Who did you come back from the party with ?—I went with Ramsaran, my brother.

2027. Did he go straight back to the party ?—Yes. He took the light and returned.

2028. Why did he take a light ?—There was no light at the party and they took this light.

2029. Who else was with you and Ramsaran ?—I don't know who he was, but he was sitting in the lorry at the rear.

2030. You say when you got home you went to bed after giving the food to your father ?—Yes.

2031. Did you hear the family return from the party ?—I saw them in the morning.

2032. What time did your mother get back from the party ?—Eight o'clock in the morning.

2033. Did somebody else arrive at your house about 9 o'clock ?—Yes.

2034. Who ?—Bishun Deo.

2035. What were you doing when he arrived ?—Fixing up tyres for the lorry.

2036. What were you doing yourself ?—I was doing nothing—just standing there.

2037. Who was fixing the tyres ?—After Bishun Deo's arrival my father, myself and Bishun Deo started fixing the tyres.

2038. How many tyres ?—Three tyres.

2039. Why only three ?—There was one old tyre on it.

2040. One old tyre already on it ?—Yes, already on the lorry.

2041. And three new ones were being put on ?—It was the old tyre again being repaired and put back.

2042. When you first went out and saw the lorry on that Sunday morning, whereabouts was the lorry ?—It was jacked up.

2043. How long had it been jacked up ?—More than a year or so.

2044. In what way was it jacked up ?—Three wheels were on blocks.

2045. Did somebody take the lorry to be washed ?—Yes.

2046. What was the idea of washing the lorry on Sunday morning ?—We had to make some seats for it. That is why.

2047. Who took the lorry away ?—My father and I.

2048. Who else ?—Only two of us.

2049. I think you said some seats were to be put in the lorry ?—Yes.

2050. By whom ?—Bishun Deo.

2051. Did he put the seats in ?—No.

2052. Why not ?—The police took the lorry away.

2053. Did they take the lorry that day, Sunday ?—No, after it was washed. Monday they took the lorry away.

2054. Why weren't the seats put in on Sunday ?—Bishun Deo went away to his house.

2055. Why didn't he do the job ?—Well, while we were making the spring he went away home.

XXd. Rice : 2056. When did you first hear about the death of Lachmi Prasad ?—On Sunday. Cross-examination.

2057. What time ?—About 12 or 1 o'clock.

In the Supreme Court.

Prosecution Evidence.

No. 86. Shiusharan, son of Ramsumer, 29th July 1946, Cross-examination, *continued.*

2058. Where were you at the time ?—At home.

2059. Inside your house, or in your compound, or where ?—In the courtyard—compound.

2060. And from whom did you hear it ?—I forget the man's name. I don't know the man's name.

2061. Did you know the man prior to that time he told you about it ?—I know him by sight, yes.

2062. Where does he live ?—Round Naboutini side.

2063. And was he passing along the road ?—He came to our house and told us.

2064. What did he come for—just for that purpose ?—Yes, just for that purpose.

2065. Who else was there when you were with this man whose name you have forgotten when he told you about it ?—Father was there. My brother Ramsaran was there. No one else, as far as I can remember.

2066. I wonder whether you could tell us whether that was the first your father and your brother Ramsaran had heard about it ?—That was the first time.

2067. Well, you all got the news at the same time from some man who lives up Naboutini way and whose name you don't remember?— Maybe my brother and father heard earlier than I did, but this is the time I heard from this man.

2068. I asked you that question just now and you told me that was the first they had heard of it too ?—They may have heard it earlier than I did, but I don't know.

2069. What you meant just now was that that was the first you heard about it ?—They may have heard it earlier than I did.

2070. That is not the answer to my question. What was it made you say just now, if that is the case, that that was the first they heard about it ? —That is because they happened to be there when I was and that is why I said we heard all together.

2071. You were in their company on the Sunday morning ?—Yes.

2072. And during the whole of that morning up until the time this unknown man spoke to you, neither your father nor your brother Ramsaran had said anything to you about it ?—That is so.

2073. So that if they did hear about it they didn't tell you anything about it ?—They didn't tell me.

2074. Now when you did hear this news that Lachmi Prasad was dead, had you washed the lorry then or not ?—I think we had washed the lorry then.

2075. Could you be certain about that point ?—It was washed.

2076. And back in your compound, I suppose ?—Yes.

2077. Was Bishun Deo at your place at the time you heard the news of the death ?—No, I don't think he was there at the time.

2078. Had he gone ?—Yes.

2079. And the principal purpose for which Bishun Deo came along was about the seats, was it ? Or was there any other reason ?—I only know that he was asked to come and make seats : if there was something else to be done I wouldn't know about it.

2080. And do you know what sort of material he was going to make the seats out of ?—He would have used some timber.

2081. Was the timber there ?—Yes.

2082. Where ?—It was in the garage.

2083. Actually in the garage ?—Yes.

2084. Lying on the floor, or leaning against the wall, or what ?—Placed on the cross bars.

2085. Overhead on rafters ?—Yes.

2086. When was the timber put there up on the rafters, do you know ?—A long time ago.

2087. Roughly how long ?—About two or three months ago.

2088. And from whom was it bought ?—That house which was later used as a garage had flooring. The flooring was pulled out and placed on the top.

2089. You were going to use old flooring ?—That is correct.

2090. Had there been quite sufficient good stuff amongst it to make the seats out of ?—Yes.

2091. And did Bishun Deo have a look at the timber he was to work with ?—That I don't know.

2092. But he came there for that purpose, didn't he ?—He may have seen it, but I don't know.

2093. You were with him, weren't you ?—I was there at home, but I don't know whether he did see the timber or whether he didn't.

2094. What was he doing during the time he was at your place ?—He helped in fixing the tyres.

2095. And that job being done, what then ?—He helped pushing the lorry to start it.

2096. Yes ?—Then after that I went away to the river.

2097. And the whole time Bishun was there you didn't hear him mention a word about the question of timber—is that right or not ?—I don't know.

2098. You must know whether that is correct or not. I am asking you whether you heard him mention a word about timber the whole time he was there ?—He may have when I was at the river ; I don't know.

2099. He didn't mention it in your presence ?—No.

2100. Nor in your presence did you even see him look at it ?—Yes, that's right.

2101. The whole of that day, Sunday, nobody took that timber or any piece of it down off those rafters ?—No one.

2102. Didn't he say whether he would return some other time and make the seats ?—I don't know.

2103. Did you see him on the Monday, the following day ?—No.

2104. Not at all ? I don't mean necessarily at your place : anywhere at all ?—No.

2105. And from that day to this has the timber still remained on the rafters ?—No. It has been used—a bullock cart made out of it.

2106. Who made that ?—Father made it.

2107. When ?—Just a few days back. About three or four months ago.

2108. And your father made that himself ?—Yes.

2109. Not Bishun Deo ?—No, not Bishun Deo.

2110. Of course, we well know the police took that lorry K.57 away, didn't they ?—That is so.

2111. They wanted it as an exhibit. And do you know whether you or anybody else in your family told the police that Bishun Deo was

In the Supreme Court.

Prosecution Evidence.

No. 86. Shiusharan, son of Ramsumer, 29th July 1946, Cross-examination, *continued.*

Re-examination.

going to make seats for the lorry ?—I didn't, and I don't know about the others.

2112. Can you tell me whether that timber that was put on the rafters was ever shown to any police officer during the course of the investigation ?—I didn't show it to the police and don't know whether anybody else did.

2113. And it remained there until three months ago ?—Yes.

2114. And from the Sunday after Lachmi's death until about 3 months ago nobody took it down from the rafters at all ?—That is so.

Sharma : No questions.

Re-xd. : 2115. When did you first hear about this arrangement for the seats to be put in this lorry ?—The day we had to wash this lorry.

2116. Was that the first you ever heard about it ?—That was the first I had heard about it.

2117. Where did you say these timbers were ?—On the rafters overhead, inside the garage.

2118. Could they be easily seen by anybody ?—Yes.

2119. Are you quite clear in your recollection about this timber up in the rafters ?—Yes, quite clear on that.

2120. Do you remember the police coming and looking for timber ?—I don't know.

2121. Do you remember the police coming and looking for timber ?—No, I don't know about that.

2122. Do you know Sergeant Attar Singh ?—No, I do not.

To Court : 2123. You say your mother came back from Harnam Singh's party at 8 o'clock in the morning ?—Yes.

2124. How did she come ?—Walked.

2125. By herself ?—I think she was alone.

2126. She didn't come back with Dayaram ?—No.

2127. Who did come back with Dayaram ?—My sisters.

2128. Which sisters ?—I don't know their names.

2129. Dayaram's wife ?—Yes.

2130. What about Ramsaran ?—He has no wife.

2131. Not married ?—He was but he has left his wife.

2132. At that time ?—He didn't have a wife at that time.

2133. Why didn't your mother come back with Dayaram ?—I don't know.

2134. You say K.57 was on blocks ?—That is so.

2135. Was it only three wheels that were jacked up or all four ?—All four.

2136. And there were no tyres on any of the four wheels ?—One wheel had a tyre on but they were all raised up on blocks.

2137. They had not had tyres on for a long time ?—Yes.

2138. And where did the three tyres they put on come from ?—Father had brought them from somewhere.

2139. When was that ?—He had then recently obtained them from somewhere. I don't know where he had got them from.

2140. How many days or weeks or months before that Sunday ?—About a week or so prior to that Sunday.

2141. Don't know where he got them from ?—I don't know where he got them from.

2142. Did he bring all three together at one time ?—First of all he brought one and then I saw him bring two tyres together.

2143. Second-hand tyres, were they ?—Yes.

2144. You don't know where he got them from ?—I don't know.

2145. When he got the first one where did he put it when he got home —in the house or in the garage ?—In the garage.

2146. And the other two ?—Also in the garage.

2147. You came back from the party on Saturday night with your brother Ramsaran ?—Yes.

2148. What lorry did you use ?—Army truck : had no number on it at the time.

2149. Afterwards it had 1937 ?—That is so.

2150. And there was a third person ?—I think there was one more passenger sitting at the back.

2151. Why was he sitting in the back ? Wasn't there room for all three of them in front ?—There was room. I don't know why he went and sat in the back.

2152. Anyhow, you all came to your father's house ?—Yes.

2153. And you got out with the food ?—Yes.

2154. And Ramsaran got out to get the lamp ?—Yes.

2155. And what did the third person do ?—He did nothing.

2156. Did he stay in the truck ?—Yes.

2157. And when Ramsaran drove off again to go back to the party that person was still in the truck with him, was he ?—I didn't take notice of that : I went inside the house.

2158. How long did Ramsaran stay at home before he went back with the lamp ?—He went straight off : didn't wait at all.

A.-G. : May I suggest another question to Your Honour. Would you ask the witness whether he knows the timber was removed from the rafters after this Sunday ? I have evidence which I can call that the police did look for timber and didn't find any. The importance is whether it was removed from the rafters soon after the Sunday.

Rice : If Your Honour pleases, I am not going to object in any way to this application.

To Court : 2159. There was some timber up in the rafters ?—Yes.

2160. And it was later made into a bullock cart ?—Yes.

2161. From the Sunday we are talking of, did it remain up in the rafters until it was taken down for the bullock cart, or was it brought down before ?—It was not removed until the bullock cart was made.

No. 87.

EVIDENCE *of* Totaram.

TOTARAM—Sworn.

A.-G. : This witness did not give evidence in the Lower Court.

2162. Were you a friend of the deceased, Lachmi Prasad ?—Yes.

2163. And I think you also knew a man called Ragunath ?—I know him.

2164. You and Lachmi Prasad were great friends, were you not ?—Well as all friends are—companions.

In the Supreme Court.

Prosecution Evidence.

No. 87. Totaram, 29th July 1946, Examination, *continued.*

2165. How long have you known the two accused ?—I know them for a long time.

2166. How many years ?—I should say over twelve or thirteen years.

2167. Do you know anything about the relationship between the accused Walli Mahommed and the deceased, your friend Lachmi Prasad ? —Similar to my friendship with Lachmi Prasad, so was the friendship that existed with Ali Mahommed and Walli Mahommed, because as far as I know they were all good friends.

2168. Both the accused ?—Yes.

2169. Do you of your own knowledge know whether at any time they were not good friends ?—I have never seen them unfriendly.

2170. Did you know a man called Mangara ?—Yes, I knew Mangara.

2171. Do you remember about his case ?—Yes.

2172. Do you know whether Lachmi Prasad was in any way implicated in that case or had anything to do with it ?—No.

2173. Do you remember the Sunday morning when Lachmi Prasad's body was found ?—Yes.

2174. Where were you that morning ?—I was at my own house.

2175. Did you see the accused Ali Mahommed that morning ?— Yes.

2175A. Did he ask you anything ?—No.

2176. Did you speak to him ?—He called me and I went up to him. I went to Lachmi Prasad's house at 7 o'clock in the morning. I had gone there to have a haircut. I sat there for a while at Lachmi Prasad's house. I asked the father where Lachmi Prasad was and the father said, " He left home at 2 o'clock yesterday and hasn't returned yet." Then Ali Mahommed, the second accused, blew a whistle and I went up to him. Ali Mahommed asked me where Lachmi Prasad had gone to. I said, " I have just been asking his father and his father says he went away at 2 o'clock in the afternoon and has not returned yet." Ali Mahommed then said, " Look here, Lachmi Prasad promised to help me get some wood, timber posts, and he has now not turned up and he has let me down very badly." Then Ali Mahommed said, " Well, I am going now to cut some wood," and said, " How about you also coming to help me cut this firewood ? " I said, " To-day being Sunday we will have a rest. I will help you cut firewood another day." Ali Mahommed agreed to that. Then we started playing cards at Rambharose's house. Played cards until 10 a.m. Then Ali Mahommed suggested that we go and play cards at his house. Then we were playing cards at his house until 1 o'clock. Mathura, who is an uncle of Ali Mahommed, shouted out, " Someone has killed Lachmi Prasad near the school." We left playing cards and ran near the school.

2177. Which school ?—The Sabeto Indian school.

2178. The one on the main road ?—Yes.

2179. Near Gajraj Singh's house ?—Yes.

To Court : 2180. Did you stop in the middle of the game ?—Yes.

A.-G. : 2181. Did Ali Mahommed run with you ?—Yes, he did.

2182. What happened when you got near the school ?—We started looking round. We couldn't see Lachmi Prasad or anyone anywhere there.

2183. Yes ?—Then Ali Mahommed suggested they might have meant the Votualevu school.

2184. Where is the Votualevu school ?—Votualevu is about a mile and a half from Sabeto.

2185. Is it down the road past Badri Prasad's house ?—Yes.

2186. Who suggested it might be there ?—Ali Mahommed.

2187. Was there any other school it might have been except those two—the one you were at and the Votualevu school ?—Only those two schools there.

2188. What happened then ?—Then I saw four or five people going in the direction of Votualevu, and we ran behind them, following them. Then further on ahead we noticed that several people were sitting down there.

2189. Yes ?—And there we saw Lachmi Prasad on the road.

2190. What did you do after that ? Did you see the body taken away ?—Yes.

2191. Who went with the body ?—No, I didn't.

2192. Who went with the body ?—Two or three men.

2193. Did you see either of the accused there ?—I saw Ali Mahommed.

2194. Did he go off with the body ?—Yes.

2195. Did you see the other accused there ?—No.

2196. After the body had gone did you tell anybody else about this ?—No.

2197. Did you happen to go anywhere near Ramsumer's house after this Sunday ?—I didn't go to the house but I came along that way.

2198. Did you see anybody there ?—No.

2199. You didn't say anything to anybody about it ?—I didn't speak to anybody.

XXd. Rice : 2200. You know, of course, Ramsumer and his family ? —Yes.

2201. Have you known them for a long time ?—Yes.

2202. Ever been to their house ?—Yes, when there used to be feasts or a party at his house.

2203. You were not unfriendly with him ?—No.

2204. They keep some lorries there, of course, don't they ?—Yes.

2205. Four, I think it is ?—Three or four.

2206. You know that garage that is in their compound ?—Yes.

2207. Have you ever been inside it ?—No.

2208. Well, I suppose of course you knew that there was a lorry there that was jacked up for some time on blocks ?—I haven't seen it.

2209. Did you know there was such a lorry ?—I know the lorry existed. There was one in there but I don't know how it was kept.

2210. Did you happen to see that lorry being washed in the Sabeto River the Sunday morning after Lachmi died ?—No, I didn't.

2211. You are quite sure about that ?—Yes.

2212. Do you know Bishun Deo ? He is the son of Ramadhar ?—I know him.

2213. You are quite sure you didn't see him washing or helping to wash any vehicle at all that Sunday morning ?—No, I didn't.

2214. Well, I want to tell you this. Bishun Deo, in his evidence, said that that Sunday morning he was helping to wash a lorry in the river and

In the Supreme Court.

Prosecution Evidence.

No. 87. Totaram, 29th July 1946, Cross-examination, *continued.*

you came along and told him about the death of Lachmi Prasad. Would that be wrong ?—I didn't say it and I didn't go near.

2215. Did you see that man that Sunday morning ?—I did not see them.

2216. Did you see them that Sunday ?—I did not.

2217. Can you suggest to the Court any possible reason why Bishun Deo should have said a thing like that on oath in that witness box ?—Well, there are two persons with the same name. There is another boy also called Totaram in that settlement.

2218. Where does he live ?—He is Ragunath's son.

2219. Totaram, the son of Ragunath, is he married ?—No.

2220. How old would he be, roughly ?—A boy of about 16 or 17.

2221. And lives at his parents' place ?—Yes.

2222. Where does Ragunath, his father, live ?—At Naboutini.

2223. Beyond Ramkishur's store ?—Yes.

2224. You would have to go past that store to get to it, of course ?—That is so.

2225. Roughly how far past the store ?—A quarter of a mile further on.

2226. A quarter of a mile beyond which store ?—Ramkishur's store, on the east of the plan.

2227. And the only thing you can suggest is that if Bishun Deo said that, he was confusing you with Totaram, father's name Ragunath ?—It is possible.

2228. At all events, you are quite confident it was not you, and you didn't see him that Sunday ?—That is so.

2229. By the way, just one further point or two about your namesake Totaram. What is his occupation—what work does he do ?—He is a student at the school.

2230. At the age of sixteen ?—This is only a conjecture on my part.

2231. What school does he go to ?—Sabeto.

2232. So that, nearly speaking, Sunday for him would be a day of rest ?—That is so.

2233. Did you happen to see him that Sunday ?—No, I did not.

2234. You didn't see him amongst the crowd of people that were down viewing the body, or anything like that ?—I did not see him there.

2235. Nor did you see him as you were going down to view the body, or coming back ?—Neither going up nor coming back.

2236. And you know him quite well ?—I know him.

2237. Had you seen him you would probably have remembered it ?—That is so.

XXd. Sharma : 2238. Isn't it a fact that you were one of the persons who came with the body to Lautoka on the lorry ?—No.

2239. Isn't it true that you, Rambharose, Ali Mahommed and several others were on that lorry ?—There was Shiamsundar, my elder brother, Ramlal, Rambharose and the accused Ali Mahommed, I remember clearly were on the lorry, but I did not accompany them.

2240. Do you know whether this other Totaram, the son of Ragunath, travelled on that lorry that day ?—No, he did not.

In the Supreme Court.

Prosecution Evidence.

No. 88. Tulsiram, 29th July 1946. Examination.

No. 88.

EVIDENCE of Tulsiram.

TULSIRAM (f/n Raghubir)—Sworn.

2241. Where do you live ?—Sabeto.

2242. Do you live anywhere near Walli Mahommed ?—Yes.

2243. Do you remember the Sunday when Lachmi Prasad's body was found ?—Yes.

2244. On that Sunday morning how were you employed ?—I was ploughing.

2245. And do you know what Walli Mahommed was doing ?—He was also ploughing.

2246. Had you seen him ploughing before that Sunday ?—Yes.

2247. For how many days ?—He had been ploughing for a week.

2248. Was he ploughing the Sunday before ?—No, not the Sunday before.

2249. Does he usually plough on Sundays ?—My house is not in view from where he ploughs, so I cannot say.

2250. How did you manage to see him ploughing on that Sunday morning ?—On that particular day I was ploughing on top of a hill. From there the view was clear and I could see him.

Rice : No questions.

Sharma : No questions.

To Court : 2251. Whereabouts was he ploughing ?—On the slope near his house.

2252. Do you know the concrete slab on Walli Mahommed's ground ?—Yes.

2253. The place where there used to be some bathrooms ?—I didn't know about that, but I do know about the place where there is cement and it is made in such a way they used to repair lorries.

2254. The troops used to repair their lorries ?—Yes, before.

2255. Was he ploughing anywhere near that ?—Quite a distance from that place.

2256. Was he ploughing on the side where the Sabeto tanks are or on the side of Naboutini Village ?—On the tanks side of the house.

2257. And how far would it be from his compound ?—About 2 chains from his fencing.

2258. About what time was it ?—7 or 8 o'clock.

No. 89. Kattar, 29th July 1946. Examination.

No. 89.

EVIDENCE of Kattar.

KATTAR (f/n Budhai)—Sworn.

2259. Do you remember hearing about the death of Lachmi Prasad ?—I heard it.

2260. In September last year ?—Yes.

2261. At that time had you any daughters living in your house ?—Yes.

2262. How old were they ?—One aged 12 and another aged 10.

In the Supreme Court.

Prosecution Evidence.

No. 89. Kattar, 29th July 1946, Examination, *continued.*

2263. Do you know a man named Bishun Deo ?—No.

2264. Had you any reason to suppose about this time that anybody had designs upon your daughters ?—For two years before that occasion there were some people who had their eyes on my daughter.

2265. Who were they ?—There was one Bhagoti Prasad who eloped with one of my daughters and he is living in Tunalia.

2266. What about the other daughters ?—Nothing about the other two that were home. The other affair was fixed up : she is happily married and settled down.

Rice : No questions.

Sharma : No questions.

A.-G. : With Your Honour's permission I should like to recall Sgt. Attar Singh in connection with the point about the timber in the garage.

No. 90. Attar Singh (recalled), 29th July 1946. Examination.

No. 90.

EVIDENCE of Attar Singh, recalled.

ATTAR SINGH, Sergeant No. 305—Recalled.

2267. In connection with the investigations in this case, did you pay a visit to Ramsumer's house ?—Yes.

2268. And did you make inquiries with regard to the suggestion that some repairs were to be made to the lorry K.57 ?—Yes.

2269. Will you explain those circumstances ?—At about between 10 o'clock and 11 o'clock on 10th September last year Supt. Hooper, Inspector Sell, myself and police party proceeded to Ramsumer's house. We saw lorry K.57 outside the tin garage. Between the tin house and the tin garage. We examined K.57 inside and outside for bloodstains, etc. ; after that we went in the garage, saw some timber lying inside the tin garage.

2270. What were these timbers ?—They were 4″ x 4″ this length (extends both arms).

2271. Did you look in the rafters ?—Yes, we looked everywhere and at last Inspector Sell found this long board for seat. Plank. There was no timber on the rafters.

2272. Did you ask anybody to show you timber or whether they had any timber ?—We examined everywhere.

2273. Did you ask anybody ?—No.

2274. You didn't ask anybody whether there was any timber there ? —No.

2275. Why were you looking for timber ?—There were no seats in K.57.

2276. You were looking for the seat in K.57 ?—Yes.

2277. You were not looking for timber ?—Yes.

Cross-examination.

XXd. Rice : 2278. I didn't quite get it clear. You said you saw some timber lying in the garage ?—Yes.

2279. I didn't quite get it clear where you saw it lying ?—In the garage.

2280. Whereabouts ? I presume there is an open front door to the garage ?—Yes.

2281. As you walk in that, where was the timber ?—In the door, in the front. The door is here, the garage is here, and we saw the timber lying this way.

2282. That would be the back of the garage ?—Yes.

2283. Parallel with the back wall ?—Yes.

2284. How much timber ?—There was a heap about this high (indicates 1½ ft—2 ft.). They were 4″ x 4″. Posts, not flat.

2285. Most unsuitable for making lorry seats out of ?—Yes. On top of the timber we saw a flat seat.

2286. You are telling us that you actually saw a lorry seat there ?—Yes, a wooden seat.

2287. It had its iron handles, etc. ?—No, only this plank.

2288. No board at the back ?—No.

2289. How did you recognize it as a lorry seat ?—It had been taken out of the lorry, and it was cracked on one side.

2290. You know what floor boards are like ?—Yes.

2291. Did you see any sign of flooring boards there anywhere ?—No.

2292. None whatever ?—No.

2293. You have told us about seeing what was clearly a seat out of K.57 and you have also told us that you made a further examination of that lorry K.57. Was there one seat left in it or not ?—One seat was in the lorry.

2294. A good seat—useable ?—Yes.

2295. Quite all right ?—Yes.

2296. What about the one taken out ?—Was that in fit condition to be put back again ?—If they put nails at both ends.

2297. It was all right. The timber wasn't rotten or anything like that ?—Yes.

Sharma : No questions.

A.-G. : The witness who gave his evidence on page 33 in the Lower Court—Gurdayal (f/n Channan Singh) is unable to attend the Court owing to sickness, so I do not propose to call him.

No. 91.

EVIDENCE of Daniel Prasad.

DANIEL PRASAD. Corporal No. 393—Sworn.

2298. Where are you stationed ?—At Nadi.

2299. I think you took part in the investigation of this crime ?—Yes.

A.-G. : I offer this witness for cross-examination.

Rice : No questions.

Sharma : No questions.

A.-G. : I call Ramnarain.

The Court : Isn't that the one we had the argument about ?

A.-G. : I suggest he be put into the box in case either of my learned friends wishes to ask him questions. I have no questions to ask.

In the Supreme Court.

Prosecution Evidence.

No. 92. Ramnarain, 29th July 1946, Examination.

No. 92.

EVIDENCE of Ramnarain.

RAMNARAIN (f/n Balkundi)—Sworn.

Rice: No questions.

Sharma: 2300. You knew the deceased Lachmi Prasad ?—Yes.

2301. Are you related to him in any way ?—Yes.

2302. Is it relationship by repute only or blood relationship ?—My wife's brother's son is married to my sister.

To Court: 2303. A connection—not a relation. Connected by marriage ?—Yes.

Sharma: 2304. You know these two accused ?—Yes.

2305. How long have you known the two accused ?—We grew up together. Twenty to twenty-five years, I should say. We were all born in the same settlement. We grew up together.

2306. For how long had you known the deceased Lachmi Prasad ?—All grew up together.

2307. And I think you were the sirdar over these three persons—the deceased and the two accused—when they were working for the Quartermaster in the Army ?—That is correct.

2308. On what sort of terms were the two accused ?—They were very friendly, working together in the one place. All used to talk together, were on speaking terms. As far as I know they were quite friendly.

2309. And on what terms were Ali Mahommed and Lachmi Prasad ?—During work I have noticed they were very friendly.

2310. During this period of 20 to 25 years when you grew up together and worked together: on what terms were Ali Mahommed and Lachmi Prasad ?—They were friendly. They used to meet occasionally. For some time Ali Mahommed left the district and went to Lautoka but when he came back they were quite friendly.

2311. So to your knowledge there was no enmity between Ali Mahommed and Lachmi Prasad ?—To my knowledge no enmity at all.

Re-examination.

Re-Xd.: 2312. Can you say from your own knowledge whether at any time there was enmity between Walli Mahommed and Lachmi Prasad ?

Rice: Does this arise out of the cross-examination: I don't think it arises out of the cross-examination.

The Court: If it is new matter it may be re-examined on.

Witness: There was some difference between Lachmi Prasad and the accused Walli Mahommed.

2313. Do you know what it was about ?—They had planted a gun in Walli Mahommed's brother's house and there was some trouble over that.

2314. How do you know that ?—This is how I came to know. It was all talked about in that settlement, and apart from that, at the place where they used to work I have heard Walli Mahommed say that it was Lachmi Prasad's people who planted a gun on his brother Mangara's house and had him caught.

To Court: 2315. You actually heard Walli Mahommed say that ?—Yes, in conversation that was heard, at work; and apart from that all the settlement was talking about it.

A.-G.: I am not quite clear as to which of the accused it was who told him this.

The Court: 2316. He heard Walli Mahommed accusing the deceased of having planted a gun ?—Walli Mahommed in a conversation at work said that these people had got his brother into trouble.

XXd. Rice: 2317. When did you hear that conversation ?—At work and also in the settlement.

2318. I said when ?—At the time when we were working for the Army.

2319. Last week—or the week before ?—I have forgotten now the day and the date.

2320. Give us some idea how long ago ?—Roughly about two years ago. I am guessing. It would be two years or more.

2321. Who else was present, do you remember ?—About 30 or 35 of us in a gang. It was during one of the conversations in that gang.

2322. I suppose Mangara was convicted, or something of that kind ? —That was during the time he was sentenced.

2323. Just after he was sentenced ?—After he was convicted and sentenced, yes.

2324. And that is the only time you have heard Walli Mahommed speak about it ?—Well, the conversation round about the settlement was that these were the people.

2325. That is the only time you have heard Walli Mahommed speak about it, is it ?—Yes, it was just during that time.

2326. You were with both the deceased Lachmi and Walli Mahommed and Ali Mahommed for what period ?—Nine months, I believe.

2327. They were all working together ?—No, Ballu joined later on.

2328. For what period were you and these two accused and the deceased Lachmi Prasad working together ?—Working there for some time and then he was put off and then he came back again : four or five months with these two accused and then——

2329. Weren't you working together simultaneously for a period ?— Four or five months since the return of Lachmi Prasad.

2330. And that period you speak about—4 or 5 months—would have ended at the time Lachmi was killed ?—That is correct.

A.-G.: I would read out the statements of the accused in the Lower Court.

Ali Mahommed, after having been warned in accordance with sec. 222 of the Criminal Procedure Code, stated : " I do not wish to say anything just now."

Walli Mahommed : " I did not murder Lachmi Prasad. I do not know anything about it."

That concludes my case.

Rice: I do not propose to call evidence.

Sharma: I do not propose to call the accused nor any witnesses on his behalf.

A.-G.: May it please Your Honour, under sec. 149 of the Criminal Procedure Code, when the Attorney-General or Solicitor-General appear for the Crown they have the right of postponing their address until after the addresses of counsel, and I propose, in accordance with that section, to exercise that right.

2.00—Rice's closing address.

3.50 p.m.—Adjourned.

In the Supreme Court.

No. 93. Summing-up, 30th July 1946.

No. 93.

SUMMING-UP.

The Court: Gentlemen assessors: As has been said before, this is not an easy case, if only for the fact that you have had forty witnesses called before you and a number of statements have been put in and read, many of which are of the greatest importance. We are fortunate in having had the assistance of the learned Attorney-General, who has submitted the view of the Crown, if I may say so, with respect, with great ability, and we are fortunate too in that each accused in this case has had the advantage of the assistance of experienced and learned counsel who have said on behalf of their respective clients everything which could be said in their favour.

Before dealing with the case of each accused, I want to consider certain aspects of this case in a general sort of way. And the first aspect is the one of motive. It is perfectly true that the prosecution, if they have sufficient other evidence, are not bound to prove the motive for a crime, but it certainly does strengthen their case considerably I think if they are able to show by clear and unmistakeable evidence what the motive was. The Attorney-General, when he opened, said that in the submission of the Crown the motive was the enmity between the accused Walli Mohammed and the deceased Lachmi Prasad, owing to Lachmi having given information to the police as a result of which Mangara, Walli's brother, was convicted of having arms in his possession; and in his closing address the Attorney-General has again submitted that that is really the motive for the crime, and that is no doubt one of the things which you will consider.

Now as to that, Mangara was convicted on the 5th December, 1944, and this crime took place on the 8th September, 1945—after an interval of about nine months. Whether, at the time that Mangara was convicted, he knew, or his family knew (Walli included) that it was Lachmi, the deceased, who had given information seems doubtful, because when Mangara was being tried it was suggested by his counsel, presumably on Mangara's instructions, that the person who had given the information was a man called Ragunath. But it seems that if Mangara and Walli and their family did not know at the trial that it was Lachmi who had given the information, they found it out afterwards, because Walli himself says in his statement Exhibit J: "He" (that is, referring to Lachmi Prasad) "was my enemy when my brother Mangara was arrested for having arms with him. We were not on speaking terms for about 3 or 4 months then." On the other hand, it does appear from the evidence that that state of enmity, on the face of things at any rate, ceased to exist some five or six months before this crime took place. It seems clear from the evidence we have heard that these persons, Walli and Lachmi included, were all working in the same gang at the camp and were on very good terms, constantly in and out of each other's houses, and so on. What was in their hearts we cannot say. It is suggested on behalf of the Crown that this intimacy which was resumed was only on the face of it and that the real enmity was still in existence just below the surface and that Walli was only waiting for an opportunity to have his revenge. That motive, if it were the motive, does not involve Ali, except in so far as (I think it is admitted) Ali and Walli were on very good terms. That may seem to be a somewhat inadequate motive for a man to take part in such a desperate crime as this.

There are suggestions throughout the evidence of other motives which I should like to mention to you. First of all there is that statement of Walli's wife, Bhagwandevi, which she made to the police and which she afterwards denied that she had made. Both counsel, the Attorney-General and Mr. Rice, have said what is perfectly true about that statement—that it is not evidence at all because it was subsequently contradicted, and the Court is not at liberty to substitute for her sworn statement (that is the denial that she made the statement) the statement that she did give to the police. And there is another reason really for ignoring that statement of hers altogether, and that is because of its contents. In effect, it said this: that some days before the murder Ali Mohammed was trying to cause trouble between Walli and the deceased: he was coming to Walli and saying that Lachmi was going to plant a gun in his house, just as he had done in the case of Mangara, and then in a later part of her statement she said that Lachmi Prasad, the deceased, was complaining to her husband Walli against Ali Mohammed, saying that he had stolen £20 to £25 from his father's house and deposited it with Ali, and that he had also lent a gun to Ali and Ali wouldn't return the money or the gun; and she said that her husband Walli had spoken to Ali about this, and Ali said he would not return the things. Well, you will observe that these are reasons why there should be enmity between Ali and the deceased but not reasons why there should be enmity between Walli and the deceased, and there is the suggestion behind it that you would expect from the wife of Walli, something that shields her husband at the expense of Ali; so, as I say, on the question of motive I suggest that that statement of Walli's wife should be entirely ignored.

Then Walli, in his statement Exhibit N, has given a reason for the murder. He said that the reason was the deceased's friendship with Ramsumer's daughters, Muni and Chukhi. They would be his sisters-in-law, the daughters of Ramsumer, his father-in-law. And he said that Ali Mohammed and Bishun Deo and Shiusharan were also friendly with these girls and that was the reason. Well, there is no means of knowing whether there is any truth in that or not.

And Ali has also given a reason for the murder, but he has put the reason in the mouth of Walli, and that is in his statement Exhibit R. He says Walli told him that the reasons for the murder were, first of all, Mangara and the gun, secondly because the deceased had burned down his father-in-law's house (that would be Ramsumer: we do not know anything about that), and the third reason was that the deceased was after Walli's wife. Of course, what Ali says Walli told him is not evidence against Walli; and you will notice also that this is another case where Ali is really saying, in effect "Walli had reasons to commit this crime but I had none."

And the last subject in connection with motive I should like to mention (it comes out in some of the statements) is the question of the tyres. Gajraj Singh says that some days before the crime Ali and the deceased had spoken to him and told him that they had some second-hand tyres for sale and if he wanted any he should come to them, and Gajraj mentioned this conversation to Walli and Walli said he knew nothing about the matter. Then Ali says in his statement Exhibit R (and of course, as has been so frequently mentioned in counsel's speeches, this is not evidence against Walli; this is merely evidence against Ali) he says

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first of all that Walli and the deceased had given some tyres to Ramsumer, Walli's father-in-law, and that he (Ali) and the deceased, on the Friday, the day before the murder, went to Ramsumer's house to collect the money, but Ransumer was not there and they arranged that Ali should come back the next day if he did not go to work, and collect the money. And then, on the Saturday morning, according to Ali, Walli tells him, "Come and get the tyres with me late at night, about 11 or 12 p.m." and Walli says he will consult with the deceased as to the time they should go. And then, at 4 or 4.30 in the afternoon the deceased goes to Ali's house and asks him whether Walli has spoken about the tyres. I should like to read you a passage from Ali's statement Exhibit R: this is talking of the Saturday, when Ali says he goes to Ballu's house to borrow an axe. "As I sat down at Ballu's house I saw Lachmi come to Ballu's house. When Lachmi arrived I said to Ballu 'Let us play cards.' Lachmi replied 'I will not play cards, as he will miss his chance.' It was getting dark. Then Ballu said to me 'Ali Mohammed let us go and bring the tyres.' Ballu said that he had called Mohammed Jaduri, and when he comes then we will go. I told them if he comes late I am not going. I then told Lachmi and Ballu that I am going home, and I will wait till 8 p.m. and if they are ready then call me, or else after 8 p.m. I am not going. I went home . . . " and then he says what he did—had a meal, and so on and then he went to sleep, and then he continues, "At about 1 a.m. Dayaram and Ramsaran came. Ramsaran called me by my name. I woke up and opened the door and saw Ramsaran and Dayaram. I saw them by the flash light, they were wearing khaki shirt and khaki shorts. Ramsaran told me that Ballu and Lachmi have called me and to come. I asked them where they are, he replied at home. I told them it was over night and how can I leave the house. They said we have a lorry and we won't be long. We have a lorry. Dayaram said I will give you some money when I will sell the tyres. Then I come with Dayaram and Ramsaran to Dayaram's house." (That, I gather, is Ramsumer's compound.) "In Dayaram's compound in the house which is close to the road, Lachmi and Bishnu were sitting. We went to this house and sat there also. Shortly Ballu arrived: Ballu said Ali Mohammed you drink liquor also. I told him I will not drink liquor now and if we get drunk and go there and if the guards catches us we will not be able to run away. Dayaram then said what is liquor, you can drink when you come back. Ballu then said now let us go. Lachmi got up quickly and said let us go. When Lachmi put his step out of the house he fell down, he was very drunk. I said you people gave Lachmi that much liquor and made him so drunk, and how will he be able to find out the tyres. We will get caught. Bishnu, Ramsaran and Ballu helped Lachmi and got him in the back of the army truck. Dayaram and I sat in the front. Dayaram was driving the lorry. We came to the road near Nathu Bhai's store which goes to Votualevu, we went on this road, and came to a wooden bridge, passing the bridge about 10 chains or more. Dayaram turned the lorry on the right and drove on this track. They took the lorry on this track for about one and half chain and the lorry stopped. There Ballu said let us get off now and from here is the straight road to the place where the tyres are." That seems to point (I don't know what you will think of it) to the fact that an expedition was on foot to steal tyres from the camp, and possibly those are the tyres Ali and the others were going to

supply to Gajraj Singh. It is possible—highly unlikely I think in view of the statements of the accused subsequently—that this might have been a genuine enterprise to steal tyres by a party of which Lachmi and the two accused were members and of which there may have been other members as well: it is possible that this was a genuine expedition with no thought of murder in the hearts of the people who went, or, on the other hand, it may have been that it was the manner in which the deceased was decoyed to the spot where he was subsequently murdered.

I will deal with that point again. It has been mentioned by Mr. Sharma this morning and I have made a note of it, and I shall come to it later on.

That is in brief all the evidence that I have been able to find in these proceedings on the subject of motive.

And then, as to the reason why this party set out various suggestions are made in the evidence. There is, first of all, this question of tyres, which I have dealt with: another suggestion that has been made is that they were going for Kattar's daughter or Chillar's daughter. Kattar and Chillar apparently live fairly close together in the vicinity of the spot where the body was found. Then, Walli says in his statement Exhibit N that he was told by other members of the party that the reason they were going was to get a goat. And then in his next statement, Exhibit O, Walli says that the reason they went was to get Kattar's daughter for Bishun Deo. There are four reasons which have been put forward at different times as to why they set out.

Then, with regard to the times—what time did this take place? what time did they set out? what time did they come back?—Walli, in his statement Exhibit M, says, in the first part, that the four of them left (that is, excluding himself) at between 6.30 and 7 o'clock in the evening and they returned at 12.30 or 1 o'clock at night and they told him what they had done. Then, you will remember, in the course of this same statement he changes his story and says it was not four that went out, it was five, himself included; and he says he reached home after the affair at 9 or 9.30. Then he gives quite a different version in Exhibit N. He says that they went to Ramsumer's house at 8 o'clock in the evening. That was preliminary to getting the lorry and going off. Then, in his next statement Exhibit O, he changes the time: he says they went to Ramsumer's house and puts it at 6.30 p.m., and he says they reached home after the event at from 8 to 8.30.

Ali, who only makes one statement on the subject, says they set out at 1 o'clock in the morning.

So there is a good deal of contradiction about the time at which this affair took place: and there is no other evidence on that beyond what is contained in these statements.

And then there is the question of how many were there in the party. It is quite possible that there may have been only three: these two accused and Lachmi. Then, on the other hand, there may have been more. On this subject Walli says (Exhibit M) that four persons went out—the deceased, Ali, Bishun Deo, Shiusharan (father's name Panchu)—not to be confused with Shiusharan the son of Ramsumer. Then he changes and says the party went out with himself, making five. Then, in Exhibit N,

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he makes the party six—the original four, himself and Ramsumer—that is his father-in-law. In Exhibit O he cuts out two of the six—leaves out Ali, leaves out Shiusharan—and says only four went, and they were himself, the deceased, Bishun Deo and Ramsumer.

Ali, in his last statement Exhibit R, also puts the party at six, and he agrees with Walli as to four of them, that is to say, the deceased, Ali, Walli and Bishun Deo, but the other two he mentions are different and have never been mentioned by Walli. They are Ramsaran and Dayaram, both the sons of Ramsumer and brothers-in-law of Walli.

So that you will probably come to the conclusion that the evidence as to what the party consisted of is not conclusive. With regard, for example, to Shiusharan (f/n Panchu) he appears to have a good alibi. He was the man who, according to the evidence, went to his brother-in-law, Nanku, and was there the whole of Saturday night, and that is supported by Nanku and by the boy who was with him, who was also at the house that night—Ramsewak—and by the driver of the bus that carried them back to Sabeto in the morning—Chattar Singh.

Ramsumer seems to me (I don't know what you think about him) unlikely to have formed one of the party because of his age. He is a generation older than the others and he has sons of his own. If anything of that kind was afoot to which he was a party, I should be inclined to think—but you may differ from me—that one of his sons would have gone and not he. But that is, of course, pure speculation.

Then, Dayaram seems to have an alibi—at any rate for the earlier part of the night. Sergeant Lal Singh says he saw him outside the pictures at Nadi at 8 o'clock and Ramasre says he saw him at the Fijian dance between 9.30 and 10, and Harnam Singh and other people who were at the party say that he came late, about midnight, and collected his relatives and took them home. So that he seems, up to midnight, at any rate, or soon after, to have an alibi.

So that leaves Ramsaran and Bishun Deo. Ramsaran is a brother-in-law of Walli and may have had something to do with the question of tyres. With regard to Bishun Deo, it is true that both Ali and Walli mention him : on the other hand, there doesn't seem to be any motive why Bishun Deo should want to join in an affair of this kind. He doesn't seem to have had any enmity against the deceased—not so far as the evidence goes, at any rate. But the fact remains that Ramsaran and Bishun Deo were in Ramsaran's army lorry late that night and that there was nobody else with them.

And that leads to the question of whether or not a lorry was used. The evidence on that subject is Walli's statement, Exhibit M, that the five went on foot. The distance seems to have been 2½ to 3 miles, it was night time and of course there was the return journey, and if they were really going to steal tyres one would think they would want something to bring them back in. When Walli changes his statement (Exhibit N) he says that Ramsumer drove them in K.57, and he repeats that in Exhibit O. Ali, in Exhibit R, says that Dayaram drove the army truck : that truck was not numbered at the time but has since been numbered 1937.

So there again I suggest the evidence is not really conclusive. Walli says that the truck was K.57. Ali says it was 1937. According to the

evidence, K.57 appears to have been on blocks on that Saturday night. Assistant Superintendent Spencer saw it on the 10th, the Monday after the murder, after it had been washed, and he saw a number of red spots on the floor, the largest no bigger than 1½" in diameter, which he thought was blood, but that has not been proved—the analyst was not able to say it was blood—and even if the lorry had been used for transport of the body as Walli says, unless the washing was completely successful, you would, I think, expect to find the stains much larger than what amounts to a number of spots the largest not bigger than 1½" in diameter.

And again, it is only Walli who says that the body was put in the truck. Ali says it was left where it lay, and on the whole that seems to be the more likely. There were two witnesses who lived on the road to this wooden bridge who said they did not hear any traffic at the important time, but their evidence does not seem to be of any importance because if they had been asleep—and they both went to sleep early—they would be unlikely to hear any traffic if there had been any. It is not necessary to come to a conclusion on this subject, but the probabilities seem to be that if a truck was used—and I think it is inconclusive whether it was used or not—it was in all probability the army lorry 1937 and not K.57.

And finally, there is the question of the sack. The Attorney-General has dealt with that faithfully. It is clear that if a sack were used, as stated in one of Walli's statements, it was not the sack that was produced. It is much too small to have contained a body, and of course it is not a sack at all—it is merely a piece of sacking—one side of a sack—so one can get no help at all from that sack, and it seems to be the case that it had nothing to do whatsoever with the crime.

Then I should just like to refer to the evidence of Ramsumer and Ramsaran who changed the statements they had previously made to the police. As in the case of Walli's wife, as those statements were denied they are negligible and should be ignored, for the same reasons that Walli's wife's statement to the police should be ignored. And, in any case, the statements are highly suspect, apart from the fact that they have been denied, because the persons speaking are the father-in-law and brother-in-law of Walli, and what they are saying is that Ali was a party to the crime : putting the blame on Ali, which we should naturally expect them to do to shield their relative Walli. In any case, no notice should be taken of those statements.

Though the reason or motive may be obscure—although there may not be sufficient evidence to show either the reason the party had for setting out, or how many the party consisted of, or whether or not a lorry was used, nevertheless you will no doubt be satisfied that the deceased was murdered and the case for the prosecution is that these two accused, either alone or with others, formed a common intention to murder Lachmi Prasad and did murder him. And if that is the case—that they set out with the intention—both of them—of murdering the deceased—it is immaterial who struck the fatal blows. If, for example, the party were these two accused and say two or three others and they all had that intention and that was the object of the journey—to murder Lachmi—it doesn't matter which struck the blow—whether it was these two accused or some other member or members of the party. The act of one in furtherance of the

In the Supreme Court.

No. 93. Summing-up, 30th July 1946, *continued.*

common intention to murder is the act of them all. That is only common sense after all, and it is also the law. It was suggested (and it is a suggestion that should be considered) by Mr. Sharma this morning that it is possible that these people set out to steal tyres and had a quarrel on the way and that in that way the deceased lost his life. If you take that view, or if you think there is any possibility that that may be true, then the accused ought to be acquitted because there would then be the absence of that common intention to murder, and what happened would be the crime of the person who struck the blows, and there is no evidence in this case, apart from what the accused themselves say, as to who did strike the blows. The suggestion was made by Mr. Sharma and it is necessary for you to come to a decision on that. If you think there is any room for thinking that that possibility did occur, then, as I say, these two accused should be acquitted.

The burden of proving the guilt of each of the accused is upon the Crown. The Crown must satisfy you beyond reasonable doubt that one or other or both of them committed this murder. If you have any doubt on the subject they are entitled to the benefit of the doubt and your verdict should be one of acquittal.

Then once again I must stress, as has been stressed by all counsel who have addressed you, that the evidence or the statements of one accused are only evidence against him : they are not evidence against his co-accused or anybody mentioned in the statement. Thus the things that Ali has said about Ali you can accept or not as you like, but you do not accept anything he says about Walli : and vice versa.

Now in coming to your decision the case of each accused should be considered separately because the evidence against them is different in each case, consisting, as it does in the main, of their own statements which, as I say, are evidence against them but not evidence against their co-accused.

Dealing first with the case of Walli, you have his statements, and I daresay you would like when you retire to take these statements away with you and have them for reference in case you should wish to refer to them. Briefly, the statements of Walli are as follows. There is, first of all, Exhibit J made at 5 p.m. on Sunday, the Sunday following the Saturday. He says that he saw the deceased in the morning when he was going to work, that he did not come to his house at night. Ali Mohammed came at 5 o'clock and stayed until 8. That was his first statement.

Then at 11 a.m. on Monday (Exhibit L) he says that first of all Ali came to his house for the axe and while he was there the deceased arrived. This would be about 4 o'clock in the afternoon and the deceased went away at twilight, indicating that he was going after either Kattar's daughter or Chillar's daughter, and Ali remained for 2½ hours and then he went and he (Walli) was at home for the remainder of the night.

In his next statement (Exhibit M) made at 7.30 p.m. the same day as the previous statement he first of all says that about 4.30 p.m. Ali Mohammed and the deceased, who were at his house, went away and came back with Shiusharan (father's name Panchu) and Bishun Deo. Between 6.30 and 7 o'clock all four went away. Between 12.30 and 1 a.m. they returned without the deceased and told him of the murder. Then in the same statement he changes and he says that it was not four of them that

went but it was four and himself as well, making five in all, and that they went to see Chillar's daughter, and the murder took place: Shiusharan cut the deceased's throat with a clasp knife: he ran away and reached home at 9 or 9.30.

Then the next statement, Exhibit N, is rather different. He says that the five of them (himself, Ali, the deceased, Shiusharan and Bishun Deo) went to Ramsumer's house, arriving at 8 o'clock in the evening. They got in lorry K.57, Ramsumer driving. Bishun Deo and Shiusharan said they were going to kill a goat. The lorry stopped on this side of the wooden bridge and the murder was committed by Shiusharan with a cane knife. It was a clasp knife the time before: this time it is a cane knife. Then he says Bishun Deo came back to the lorry for a sack, they put the body in the sack, put the sack in the lorry and drove ten or twelve chains to an old camp site and dumped the body.

And then, finally, in statement Exhibit O, he gives another version, but on this occasion he leaves out Shiusharan and Ali and he says there were only four—himself, the deceased, Bishun Deo and Ramsumer—and on this occasion Ramsumer committed the murder with a cane knife. And he again says that they went in the lorry and Bishun Deo came back for the sack.

That is a summary of Walli's statements.

Then there is the evidence as to the fact that Walli was ploughing on the Sunday morning, although, as has been pointed out, according to one witness, he had promised to go and put in posts for a neighbour. What Ali Mohammed said about that (he said, you know, that Walli was burning the clothes that were worn by the murderers) is not evidence against Walli, but what is evidence against him is that he was ploughing that Sunday morning and, presumably where he was ploughing, some days later on a search being made, the police having received certain information, the charred remains of material which had been burned first and then ploughed over were found. That material has been referred to as clothing but I do not think that there is enough in what has been produced here to satisfy you or anybody else what exactly it was that was burned. It may have been clothing or it may, as has been suggested, have been a sheet or a blanket or something of that kind. But there was something that had been burned and something that had been afterwards ploughed over, because, if you will remember, Superintendent Hooper said that some of this burnt material that was collected was found on the surface and some was under the clods. Perhaps that is not very conclusive, but it is something at any rate that needs an explanation, but no explanation has been forthcoming.

Then there is the evidence as regards Walli that he offered to show the police the scene of the murder, and the police went with him and he took them to a spot where he said that the murder had been committed. I will read you what Superintendent Hooper says about that: "The accused Walli said he would show the police where the deceased was killed, and that afternoon I and other police officers went in the police lorry to the Votualevu road. We stopped at the wooden bridge on the accused's direction. He then indicated a spot on the eastern approach to the bridge where he said lorry K.57 stopped. Then he showed a spot in the creek just in front of the Ivi tree and said deceased had been killed there.

In the Supreme Court.

No. 93. Summing-up, 30th July 1946, *continued.*

He said that he (Walli) was then on the edge of the road at the top of the bank leading down to the creek. I examined the spot on the creek indicated by the accused. The creek was not much more than a trickle flowing between large boulders and I could find no signs of the crime having been committed there. He then took us 10 chains further on—that is 5 chains on the road and then turned right towards the creek for another 5 chains. He said the lorry had stopped there and the body in a sack taken out and four persons had taken it in a north-west direction. He had stayed by the lorry and could give no other information." Well, it rather seems that in that statement that he would direct the police to the scene of the crime and in what he did subsequently, he was merely bamboozling the police, because in Superintendent Hooper's view there was nothing at the spot which he pointed out to indicate that the murder had been committed there; and it would seem that the probability is on the evidence that the murder took place at the spot where the body was found. I shall mention that later but it has been dealt with fully by the Attorney-General.

Well, that is the evidence against Walli: principally almost entirely—his statements, the evidence, for what it is worth, of his ploughing on the Sunday morning when he should have been elsewhere, of the finding of burnt material on his land for which he has offered no explanation.

Now, coming to the case of Ali, there are again his statements (not so numerous as in the case of Walli) and I should like to give you very briefly what those statements contain.

As to his first statement, made on Sunday at 7.45 in the evening (Exhibit K) he says that at 12 noon the deceased Lachmi, Ram Bharose, Ramesh and Ram Kishun came to his house and played cards until 1.30 when they separated. And that seems to have been the case: we have had it in other evidence too. At 4 o'clock in the evening the deceased came to his house and went away again. At 4.15 he went to Walli's house to borrow an axe and he saw the deceased sitting on the river bank. Walli was not at his house but he met him opposite Ramsarup's store and together they went to Walli's house. And that also seems to have been the fact, because Walli also mentions the same thing—that he met Ali opposite the store and together they went to Walli's house. Then, Ali says, the deceased arrived and they sat together for some time but they didn't play cards, and then at six o'clock in the evening he and the deceased went away.

Then there is his next statement (Exhibit P) which was on the Wednesday at 1 o'clock: this is more a statement with regard to what Walli had said: he was being asked about what Walli had said in some of his statements. He says: " I did not ask Walli to come to Ramsumer's house. I did not see Bishun Deo or Shiusharan on the Saturday at all." That is practically all the important part of his statement on Wednesday.

And then on Monday (that is nine days following the murder—17th September—Exhibit Q) he gives what we might call an alibi for himself—he was at his house drinking yaqona with his father-in-law, and that kind of thing—which incidentally he repeats in his statement Exhibit R, a large part of which has been read to you at various times during counsels' addresses, and I read quite a large part too. But first of all in statement Exhibit R he leads off with quite a long passage dealing

with the events of Friday which we are not concerned with. Then, coming to Saturday, he says again that he went to Walli's house to borrow an axe, and when he went he saw the deceased sitting on the river bank. Then he accounted for his later movements in the same way as he had previously accounted for them—that he was at his house drinking yaqona with his father-in-law.

Then he comes to the important part and he says that at 1 o'clock in the morning Dayaram and Ramsaran came and said that Walli and the deceased wanted him : they went to Dayaram's house : the deceased and Bishun Deo were there and Walli came later and they all set out on this expedition for tyres. That is the part I have already read to you. And he says, as you will have heard, that the deceased was drunk. And then he says the murder takes place, and he puts the person who struck the blows as Walli : and he says that an arrangement was made that Walli was to burn the clothes. And he gives the reason for the killing and he puts all the blame on Walli.

Now apart from his statements, in which, as in the case of Walli, he admits that he was there when the crime took place, he says that the scene of the murder was the place where the body was found. You may think that the place where the body was found was really the scene of the murder for the reasons which the Attorney-General has advanced, viz. :—that there was no sign of a struggle ; a strong point perhaps, the attitude of the body which you have seen in the photographs ; and the pool of blood. Mr. Rice has pointed out that according to the evidence that pool of blood was under the head of the victim and it doesn't account for the blood which would have flowed from the arm. Well, there seems to have been, according to Superintendent Hooper's evidence, a lot of blood there. It may be, as the Attorney-General suggested, that the blood from the arm and the blood from the head joined forces and left one pretty large pool of blood. There doesn't seem any particular reason why, assuming that the man was struck down where Walli says he was, they should go to the trouble of carrying the body all that distance, getting themselves covered with blood in the process. Also, if the body had been struck down in one place and carried to another place, one wouldn't expect to find, I should suggest, much blood at the place where it was finally dumped, because, with wounds such as were inflicted on that body, the blood would have emptied itself out very quickly indeed. I think the N.M.P. said something about half an hour, but with all due respect to him I should think that body would have been empty of blood, or practically empty of blood, with those wounds, in very much less time than half an hour. And also (I don't know whether there is much in this) wherever he was struck down there must have been a big pool of blood—nobody, I suppose, would wish to dispute that—and if a pool of blood were seen in that locality one would think that the police would have been informed and would have been able to go out and see it.

I should say, with regard to pointing out the scene of the murder, that if the murder did not take place where the body was found then Ali never pointed out the scene at all. Because undoubtedly the place he pointed out was the place where the body was found, and he knew that before because he had gone there and seen it lying there himself.

The other evidence is his statement that he had seen something on Walli's land on the Sunday morning and that he knew what Walli was

In the Supreme Court.

No. 93. Summing-up, 30th July 1946, *continued.*

doing: he was burning the clothing worn by the murderers the night before. It is merely his statement. The fire might have been quite an innocent one, although it is said to have taken place a considerable distance from the compound, and Ali may have just seized on his knowledge that there had been a fire there to round off his statement that there had been a murder and as to how the clothes of the murderers had been got rid of.

That is in brief the case against the two accused.

Now for the defence. You will have noticed, no doubt, that neither of them has made a statement from the dock or gone into the witness box and given evidence. They may adopt one or other of these two courses at their trial or they may, as they have done, remain silent. Since last September—that is now ten months ago—they have been in prison, and apart from their formal denial in the Magistrate's Court neither has said a word since about this case. In the words of the old-fashioned proclamation that is used at these trials, they "now stand at the bar for their deliverance." If these two persons were innocent persons, would you not expect them, especially in view of all the contradictory statements they have made, to take this, their last, opportunity of explaining to you fully all they know about the murder? As it is, they have left their defence to their counsel—very able counsel admittedly—who have said for them whatever is possible. They have pointed out that, although in their statements the accused admit having been present when Lachmi was murdered, their statements do not confess (it is quite true—they do not) that they took part in the crime. They say, in effect, that they had no share in it and their participation was entirely innocent. And it has been said on their behalf too that the reason they have made all these contradictory statements is that they knew they were probably the last persons seen with the deceased on Saturday evening and that for that reason they would be suspected, and that frightened them (this applies more particularly to Walli than to Ali)—it frightened Walli and he told a lie—being frightened. And then one lie led to another, and so on. Well, Walli is not a child; he is not a youth of fifteen or sixteen who might be expected to be frightened and to tell lies on that account. As you see, he is a man of probably not less than twenty-five or so, and you will consider whether that is an explanation for his contradictory statements, which undoubtedly contain a great many lies, or whether the real reason for those contradictory statements is a knowledge of his guilt.

And finally, it is said on their behalf that the evidence is not conclusive. And that is a point which you will have to determine. The evidence is certainly not conclusive as to many features of the crime—the features I dealt with at the beginning—but the evidence is conclusive that Lachmi was murdered, and the question you have to decide is whether it is also conclusive that these two persons took part in the crime. And in considering that question—the all-important question—you will no doubt ask yourselves whether it is conceivable that these two persons, if they had been innocent, would have made all the contradictory statements they have done, and you will also ask yourselves the question whether it is conceivable that these two persons, if innocent, would not have taken the opportunity which they have had of either giving a statement from the dock or going into the witness box and giving evidence. Does not that imply—is it not a fair inference—that they did not make a statement

No. 93. Summing-up, 30th July 1946, *continued.*

and they did not give evidence because they were afraid of making matters worse ?

Finally, will you consider the case of each accused separately. Take his various statements and ask yourselves the question whether the inference from those statements, coupled with his silence to-day, is not irresistible that he is a guilty person. If you feel that that question should be answered in the affirmative, then you will find him guilty, but if you are in doubt at all the accused is entitled to the benefit of the doubt and he should be found not guilty.

Will you please consider your verdict.

No. 94.

No. 94.

DECLARATION verifying Transcript of Shorthand Notes, 4th October 1946.

[*Not printed.*]

No. 95.

No. 95. Extracts from Judge's Notes, 29th and 30th July 1946.

EXTRACTS from Judge's Notes.

Rice and Sharma : Neither accused is calling evidence.

A.-G. : S. 149 C.P.C. I propose to reply after the defence.

Adjourned to 2 o'clock.

2.00 Rice's closing address.

(1) Nobody obliged to make a statement to Police.

(2) If they do, they are not bound to speak truth.

(3) Such statements are not on oath.

(4) Nobody can be convicted on statements made to Police unless there is ample corroboration except perhaps if statement contains a clear confession of guilt.

(A) Accused Walli must have known he was under suspicion when he gave his first statement because he knew he was one of the persons who was seen with deceased on Saturday evening.

He is frightened and stupidly to protect himself, he tells a lie and from that lie proceed all the other lies in his statements.

(B) Pity we do not know who were the persons sitting in Walli's compound when deceased was there who were seen by Mika Naseli (P.W. 33).

In the Supreme Court.

No. 95. Extracts from Judge's Notes, 29th and 30th July 1946. *continued.*

(C) Nothing in any of Walli's statements which were not known to all the neighbourhood.

(D) Reads Ex. M.

(E) Statements "silly and idiotic."

(F) No blood under the arm.

(G) Confession of innocent presence, not guilty participation.

(H) Wills—Circumstantial Evidence, 6th Ed., p. 118. Cockle 198.

3.50 Adjourned to 30–7–46.

C. R. W. S.,
C.J.
29–7–46.

Tuesday, 30th July, 1946.

FIFTH DAY.

9.34 Sharma's closing address.

10.5 The Attorney-General's closing address.

Deceased was lured to spot where body was found and then killed.

Motive : Walli—Mangara.
Ali—friendship for Walli.

Opportunity.

Conduct of accused before and after commission of crime.

Statements show that both accused were present at time of crime, although much in the statements is obviously false.

Presence plus contradictory statements only consistent with guilt.

10.45 Court adjourns.

10.55 Summing-up.

12.15 Assessors retire.

12.55 Assessors return—opinion both guilty unanimous.
Verdict—Guilty.

Allocutus : *Walli :* I did not do this murder and I do not know anything about it.

Ali : I did not do this murder.

Sentence : Death.

(Sgd.) C. R. W. SETON,
C.J.
30–7–46.

No. 96.

JUDGMENT.

In the Supreme Court.

No. 96. Judgment, 30th July 1946.

IN THE SUPREME COURT OF FIJI.
Criminal Jurisdiction.

No. 7 of 46.

REX

v.

WALLI MOHAMMED and ALI MOHAMMED

MURDER.

JUDGMENT.

The evidence in regard to several aspects of this case is inconclusive. I do not think that the motive has been clearly established nor have many details relating to the commission of the crime. For example: at what place were the fatal wounds inflicted and at what time? Were there others present in addition to the two accused and the deceased? Was a lorry used to carry the murderers and their victim to the scene of the murder or to carry the body after the murder had been committed to the spot where it was subsequently found? By means of what pretext was the victim induced to go with his murderers?

On behalf of the Crown it was suggested that the motive was the enmity which the accused Walli bore for the deceased on account of the latter having given the Police the information which resulted in Mangara, Walli's brother, being sent to prison for two years and three months on being convicted of the possession of arms. This admittedly had caused a breach between the deceased and Walli but the quarrel had been made up —on the surface at any rate—four or five months before the deceased was murdered and, in any case, the accused, Ali, was not involved in it except in so far as he appears to have been a particular friend of Walli's. Since Mangara was still in prison it is unlikely that the accused Walli had really forgiven the deceased for his share in putting him there and it may be that this operated on Walli's mind to some extent but I suspect that both he and the accused, Ali, had other causes of complaint against the deceased, some of which were hinted at in the evidence although not established.

There seems, however, to be no doubt but that the two accused, probably in conjunction with other persons, had determined to kill the deceased and that the murder was the result of a pre-arranged plan. Possibly the pretext under which they induced the deceased to go with them was that they were going to a neighbouring camp to steal tyres. Having got him to the place agreed upon, he appears to have been dispatched almost before he had time to realise what was happening.

Both the accused have in their statements to the Police confessed to having been present when the murder was committed but have denied having had any share in it. The statements of Walli contradict each other and the statement of Ali does not agree with any one of Walli's and it was made only after he had given three other statements in none of which was

In the Supreme Court.

No. 96. Judgment, 30th July 1946, *continued.*

his presence at the scene of the crime mentioned. At the trial, the fact that the accused had made these statements was not challenged and it was not suggested that they had been made otherwise than voluntarily. No attempt was made to explain them for neither of the accused made any statement from the dock or elected to go into the witness box and give evidence.

In my view, the statements of the accused are totally inconsistent with their innocence; on the contrary, the only conclusion possible from them coupled with the silence of the accused at their trial is that they took part in the murder of the deceased.

Mr. Sharma, who appeared for the accused Ali, has suggested that a party of which the accused and the deceased were members may have set out to steal tyres; that the deceased may have had a quarrel with a member of the party, other than either of the two accused, and that the deceased may have met his death at the hands of that member in which case the accused would have no responsibility for the deceased's death. This, of course, is possible but, if it were the case, why should not the accused have said so, either in their statements to the Police or at their trial?

I agree with the unanimous opinion of the Assessors and find both accused guilty of murder as charged.

(Sgd.) C. R. W. SETON,
Chief Justice.

Lautoka.

30th July, 1946.

In the Privy Council.

No. 97. Order in Council granting special leave to appeal to His Majesty in Council, 10th March 1947.

No. 97.

ORDER IN COUNCIL granting special leave to appeal to His Majesty in Council.

AT THE COURT OF SAINT JAMES.

The 10th day of March, 1947.

Present

HIS ROYAL HIGHNESS THE DUKE OF GLOUCESTER
VISCOUNT LASCELLES

LORD PRIVY SEAL — LORD PETHICK-LAWRENCE
VISCOUNT MOUNTBATTEN OF BURMA — MR. SECRETARY CREECH JONES
MR. SECRETARY NOEL-BAKER

L.S.

WHEREAS His Majesty, in pursuance of the Regency Acts, 1937 and 1943, was pleased, by Letters Patent dated the 24th day of January, 1947, to delegate and grant unto His Royal Highness The Duke of Gloucester, K.G., K.T., K.P., G.M.B., G.C.M.G., G.C.V.O., Her Royal Highness The Princess Royal, G.C.V.O., G.B.E., C.I., and Viscount Lascelles, or any two of them, as Counsellors of State, full power and authority during the period of

No. 97. Order in Council granting special leave to appeal to His Majesty in Council, 10th March 1947, *continued.*

His Majesty's absence from the United Kingdom to summon and hold on His Majesty's behalf His Privy Council and to signify thereat His Majesty's approval of any matter or thing to which His Majesty's approval in Council is required :

AND WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 17th day of February 1947 in the words following viz. :—

" WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of (1) Wali Mohammed (2) Ali Mohammed in the matter of an Appeal from the Supreme Court of Fiji between the Petitioners Appellants and Your Majesty Respondent setting forth (amongst other matters) : that this is an application for special leave to appeal from a Judgment and sentence of the Supreme Court of Fiji : that the Petitioners were tried in the Criminal Circuit Court Lautoka Sessions Fiji for the murder of one Lachmi Prasad and were convicted and on the 30th July 1946 were sentenced to death : that it is submitted that the motives alleged by the prosecution were insufficient and that the evidence in regard to several aspects of the case were inconclusive : And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment and sentence of the Supreme Court dated the 30th July 1946 and for such further or other Order as to Your Majesty in Council may seem fit :

" THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Judgment of the Supreme Court of Fiji dated the 30th day of July 1946 :

" And Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioners upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal."

NOW, THEREFORE, His Royal Highness the Duke of Gloucester and Viscount Lascelles being authorised thereto by the said Letters Patent, have taken the said Report into consideration and do hereby, by and with the advice of His Majesty's Privy Council, on His Majesty's behalf approve thereof and order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of the Colony of Fiji for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

Exhibits.

EXHIBITS.

J.
Statement of Walli Mohammed, 9th September 1945.

Exhibit " J " STATEMENT of Walli Mohammed.

Sabeto,

9th September, 1945.

Name : Walli Mohammed alias Ballu f/n Shiu Nath.

Address : Sabeto, Nadi.

Occupation : Labourer and Cultivator.

I do state as follows : Yesterday in the morning I met Latchmi Prasad near my house when he was going to work. We both were working in Air Base. But I am not going to work since one week for I am doing ploughing in my land. Lachmi Prasad did not come to my house last night. Lachmi Prasad did not come to my house in the evening. We were not playing cards last night.

About 5 p.m. Ali Mohammed came at my house. I first met him near my house on the road while I was coming from Sharda's house. We both were sitting down talking until 8 p.m. then he went away. My wife were not at home. Until Ali Mohammed was here no one came at my house. I was not playing cards with Ali Mohammed. If anyone say Lachmi Prasad was playing cards with me last night is telling lie.

Lachmi Prasad and I were friends. He was my enemy when my brother Mangara was arrested for having arms with him. We were not on speaking terms for about 3 or 4 months then. Totaram is on speaking terms with me. I am working in Air Base since 5–6 months.

(Sgd.) WALLI MOHAMMED.

I certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) RAM CHARITRA. 5 p.m.

K.
Statement of Ali Mohammed, 9th September 1945.

Exhibit " K " STATEMENT of Ali Mohammed.

Sabeto, Nadi.

9th September, 1945.

Name : Ali Mohammed f/n Bhagu Sai.

Address : Wailoko, Nadi.

Occupation : Labourer c/– U.S. Namaka.

I do state as follows : I am a family man with wife and children. I work as labourer at U.S. Air Base. Yesterday I was at home I did not go to work because our festival " Eed ". Yesterday about 12 m.d. Lachmi Prasad, Ram Bharos and Ramesh came, I was sleeping in the house then Ram Kishun was also with them. I heard talking outside, then I woke

up they all asked me to come outside, so I came out. One of them said, I don't remember who, that there is no shade, where shall we sit, so I had bamboo shed but it also no good. So we all sat inside the house, started playing cards. So we played cards for about 1 hour, then Ramesh said I did not take my lunch at work and I am hungry, and I want to go home, then he left. Little later Lachmi said we had better stop playing, and must go home. So they all left, it was about 1.30 p.m. I was then working at my place. About 4 p.m. Lachmi Prasad again came to my house and I was still working. He was wearing black shirt out of his pants and white short pants. I said "Have tea," he said "I already eat and let's go to the store." I said "I am not going I am tired." So he started walking towards the store. He went as far as river gate then he disappeared he have gone in the river to on main road. I did not see him where he has gone. About 15 minutes later I left home to go to Ballu's house to get an axe (borrow). As I crossed the river I saw Lachmi Prasad was sitting on the river bank. I asked him what are you doing here, he said I want to relieve myself, I left him there and started walking towards Ballu's house. When I reached Ballu's gate I saw his house was closed. So I made up my mind to go to Ramsarup's store to buy Fiji tobacco. As I went near the Naboutini road I saw Ram Kissun was coming he asked me where are you going and I said to the store. I then passed him. As I came along the road and came opposite to Ramsarup's store, I saw Ballu coming from the direction of Masimasi. I told him I am after you. He said I been that side, he mentioned the name but I have forgotten I said I want to borrow your axe, he said the handle is broken. So I return with him to his house, sat down talking. We sat for about 2–3 minutes then Lachmi Prasad arrived. I said Let's play cards now. Lachmi Prasad said I am not playing I am going down meaning towards the school. He said if I don't go down I will miss my chance. So I said if you are not playing I am going home, so I stood up and walked and Lachmi Prasad followed me. I then turned towards my house and Lachmi Prasad walked further. I don't know where he has gone. We did not play card there. We all were sitting outside the house it was about 6 p.m. I saw Ram Narain was riding bike towards Sabeto while we were sitting down. I asked Lachmi what chance you going to miss. He did not answer it.

(Signed in Hindi) ALI MOHAMMED.

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that person appeared to understand its contents and to approve of them.

(Sgd.) P.C. 605 RAM CHARITRA.

7.45 p.m.

This is the statement marked Exhibit "K" Statement of Ali Mohammed referred to in the evidence of Const. Ram Charitra.

Dated this 15th day of February, 1946.

(Sgd.) J. BENNETT,

Acting C.M. Lautoka.

Exhibits.

L. Statement of Walli Mohammed, 10th September 1945.

Exhibit " L " STATEMENT of Walli Mohammed.

Nadi Station,
Nadi Province.

10th September, 1946.

Name : Walli Mohammed alias Ballu f/n Shiu Nath.

Address : Naboutini, Sabeto, Nadi.

Occupation : Labourer and cultivator.

I wish to add further to the statement I gave to P.C. Ram Charitra yesterday. I worked last at the U.S. Base on Monday and Tuesday last. I took leave from the Sirdar, Ram Narain for the purpose of ploughing my land. When I met Lachmi Prasad in the morning it was about 7 a.m. Lachmi Prasad was walking to work. He was alone but two Indians Ram Bharos and Ramesh were walking one behind the other. Ram Bharos was about 3 chains ahead of Lachmi Prasad and Ramesh was about 1½ chains ahead of Lachmi Prasad. I told P.C. Ram Charitra yesterday that Lachmi Prasad did not come to my house on the night of Saturday, September 8th : but this is incorrect. I left my house at about 5 p.m. and I went to Sharda f/n Koko Maharaj's house. I met Shada's wife there. Shada was not there. I went to borrow a book as Shada is the agent for a library in Nadi. I did not get the book so I returned back to my house without it. I got back to my house at about 5.45 p.m. or 5.50 p.m. I met Ali Mohammed opposite to Ram Sarup's store and we walked back to my house together. When we reached my house there was no one at my house. My wife had gone to Harnam Singh's place and my children also. Ali Mohammed borrowed an axe from me. He had asked me for this when I met him at Ram Sarup's store. I told him my axe handle was broken. Then we both came to my house. When Ali Mohammed and I got to my house there was no one else there. We both sat down outside the house in the compound. We sat there for about 5 minutes then Lachmi Prasad came from the direction of the river. He was dressed in black shirt with white shorts with belt and dagger. The shirt was tucked into the pants. He came and sat down with us. I asked him where he was going. First he laughed and said " I am going over there," pointing in the general direction of Bhagoti Prasad's house. I asked him if it was necessary to go there. He said " Yes." He said " You know where I am going." I thought he meant by that he was going to see his girl friend. About a month ago Lachmi Prasad told me he had girl friends in Kathar's daughter and Chilar's daughter. Thinking he meant there I did not pursue the matter further. I don't know where Kathar lives but I know Chilar's house in Votualevu. Chilar lives about 2 to 2½ miles away from my house. I have heard that Lachmi's body was found in the direction of Chilar's house. Ali Mohammed was there and he said " Let's play cards." Then Lachmi Prasad said " If I play I'll miss a good chance." Ali Mohammed could hear this conversation as he was sitting with us. We did not play cards. I started to go into my kitchen to cook tea and Lachmi got up and walked away from my compound. This was after six. It was twilight, one could see a man for a distance of about 3 chains quite clearly. Ali Mohammed was still sitting when Lachmi Prasad got up and went. I last saw Lachmi walking towards the

store of the Bombay. One could get to Chilar's or Katha's house in the direction in which I last saw Lachmi walking. I did not see anyone join Lachmi Prasad after he left my house. Ali Mohammed remained at my house for about two or two and a half hours after Lachmi Prasad left. It would have been a little after eight when Ali Mohammed left. It was very dark when he left. During this two and a half hours or so we were just both smoking and talking. During that time no other person joined us. My wife and child did not come back during that time either. I am quite sure of these statements. Ali Mohammed just inquired where Lachmi Prasad had gone. But I did not answer him. Ali Mohammed asked about my family and I told him they had gone to Harnam Singh's party. Ali Mohammed asked if there was any news of Mangara and then I told him that November the 1st was visiting day and I was going to visit him. We did not discuss the matter of the informer. My family suspected Ragunath and I remember a cross-examination in the Supreme Court by my advocate A. D. Patel as to whether or not Ragunath was the informer. Both Ragunath and Lachmi were on speaking terms. Both Lachmi and Ragunath were friendly in the days when my brother's gun was found and it could have been either of these who planted the gun and gave the information to the police. Ali Mohammed left my house following the same direction as Lachmi Prasad had taken. Ali Mohammed did not have any meal with me. I had my meal alone after Ali Mohammed had gone away. After my meal I went to bed. My wife and children returned from Harnam Singh's party on Sunday morning about 7.15 a.m.

No one came to my house between the time when I had my evening meal and the next morning when my wife and children arrived. I heard nothing during the night.

(Sgd.) WALLI MOHAMMED.

I hereby certify that I have taken down this statement in the English language through P.C. Ram Charitra as interpreter and that this statement has been read over to the person whose name is affixed hereto and that such person appears to understand the contents and to approve of them and to make any correction he may wish.

(Sgd.) JOHN H. SPENCER,
Asst. Supt. Nadi Detachment.
11 a.m. 10th Sept., 1945.

Exhibit "M" STATEMENT of Walli Mohammed.

Sabeto, Nadi.
10th September, 1945.

Name : Walli Mohammed f/n Shiu Nath.
Address : Naboutini, Sabeto, Nadi.
Occupation : Labourer and Cultivator.

I wish to make further statement.

While Ali Mohammed and I were talking about the axe on the Government Road, we then went to my house.

About 5 or 10 minutes later Lachmi Prasad arrived and sat down. I asked him why you have come today. He replied saying he was going

Exhibits.

M. Statement of Walli Mohammed, 10th September 1945, *continued.*

there and pointed towards the Votualevu. Ali Mohammed and Lachmi Prasad then left my compound, and after a short while they returned with Shiu Sharan f/n Panchu, Bishun Deo f/n Ramadhar. I saw them when I came out of my kitchen. One of them shouted up my name. It was dark. Bishun Deo and Ali Mohammed and I walked towards each other. Ali Mohammed asked me if I would go with them. I said that I could not go as there was nobody at my house. Bishun Deo caught my hand and said, " Come on." I said I would not go with them. Ali Mohammed took me aside and told me that they had all come to your house and we want to go in on that direction and if you tell anyone it will be wrong. I said that's your wish, I am not coming. All four then went away. All this time Shiu Sharan and Lachmi Prasad were about half a chain away. All four of them went away. It was about 6.30 and 7 p.m. when they left. I had my food and went to sleep.

About 12.30 or 1 a.m. Ali Mohammed, Bishun Deo, Shiu Sharan came to my house and woke me up. I came outside, I saw three of them. I asked them where is Lachmi Prasad.

Bishun Deo took a revolver from his pocket showed it to me and said " Here is Lachmi Prasad." I became very frightened.

Ali Mohammed and Shiu Sharan then said " We will do the same thing to you as we did to Lachmi Prasad if you talk about this thing."

Ali Mohammed said it first then Shiu Sharan after him. Shiu Sharan showed me a clasp knife. I said nothing. I said why you have frightened to me and I clasp my hand and said I would not say anything about them.

The knife was opened in Shiu Sharan's hand. He struck it against his hand saying " If you talk we will cut you just like we cut Lachmi and threw him in the creek."

I was very frightened and said nothing. They then went away. I shut my door and went to sleep.

This is a true statement. I was very frightened before that is why I gave false statement before to the police.

I now further wish to tell the truth of what happened on Saturday night.

Ali Mohammed came first at about 6 p.m. Lachmi Prasad about 5 minutes later. Both of them told me that they were going to see Chilar's daughter and asked me to come with them. I said I could not go as there was no one at my house. They asked me again to come and said we would come quickly. Ali Mohammed stayed with me and Lachmi Prasad left the compound. In about 10 minutes he returned with Shiu Sharan and Bishun Deo. Bishun Deo caught my hand and said " Come with us. We will return quickly." I then closed the door of my house and went with them. Ali Mohammed also came. We went towards Votualevu. It was dark then. Lachmi Prasad was in front then Ali Mohammed then Bishun Deo, then myself and last of all Shiu Sharan. None of us had lights. Then we went down the path to the creek. When about 3–4 paces from the water Shiu Sharan ran past me from behind and caught Lachmi Prasad with both hands from the back around his chest and threw him down to the right. Soon he fell down Bishun Deo ran and sat on his chest and pushed his both hands down. Ali Mohammed placed his hands on Lachmi Prasad's face, pressing him down. Shiu Sharan then cut Lachmi Prasad's

Exhibits.

M. Statement of Walli Mohammed, 10th September 1945, *continued.*

throat with his clasp knife. I then ran away. I heard Lachmi Prasad making noises in his throat. I ran straight to my house. Opened the door and went inside. It was about 9 and 9.30 p.m. when I reached home. I had my food and lay down at my house. About half an hour later Bishun Deo, Ali Mohammed and Shiu Sharan came to my house. They called me outside and I went. I was not asleep. Bishun Deo and Shiu Sharan both asked me why I ran away. I told them, " You all did not tell me you were going out for that sort of work." Bishun Deo then took out a pistol and Shiu Sharan a pocket knife which they showed to me. Both said " If you tell anyone of what happened we will do the same to you as we did to Lachmi Prasad." I clasp my hands and said that I would not tell anybody. They all three went away. I went into my house and went to sleep.

I was very frightened and that is why I have not told the truth until now. I did not know that they were going to did that sort of thing.

(Signed in Hindi) WALLI MOHAMMED.

7.30 p.m.

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) Sgt. ATTAR SINGH.

N. Statement of Walli Mohammed, 11th September 1945.

Exhibit " N " STATEMENT of Walli Mohammed.

Naboutini Nadi.

11th September, 1945.

Name : Walli Mohammed f/n Shiunath.

Address : Sabeto, Nadi.

Occupation : Labourer and Cultivator.

Having been cautioned by Sgt. Attar Singh hereby states as follows :—

Lachmi Prasad used to visit my father-in-law Ramsumer. On Saturday morning last I was ploughing my land, about 4 chains away from my house. I saw Lachmi Prasad going to work at about 6.30 a.m. Lachmi Prasad asked me if I was not going to work. I said No I taken leave from work. I am working in the air base at Namaka. He went away towards Namaka where he works. About 10 a.m. I stopped ploughing and remained at my house.

About 11 or 11.30 a.m. my wife and children went to Harnam Singh's house in an army lorry owned by Ramsumer and driven by his son Ramsaran. Soon after they left I went fishing with Bhagouti Prasad, Mohammed Ali, Sankat Ali and Newan Ali. They had called me from the river which is near my house. We fished till about 3 p.m. and then returned to my house alone. I remained at home for about half an hour and then left to bring my bulls which were grazing on the bank of the river. I brought the bulls home and tied them up, and after a while I walked on the main road towards the Base Training Depot. On the way where the lorries turn I met Wazid Ali. We stood and talked for a little while and

Exhibits.

N.
Statement of Walli Mohammed, 11th September 1945, *continued.*

returned towards my house. I saw Ali Mohammed on the bend near Ramsarup's house. He said that he had gone to see me about an axe. I told him the handle of my axe was broken. He said that is all right and we both went to my house. I did not ask him to come but he went along in talking towards my house. It was about the sunset then. He sat down at the house outside, and asked me where my children had gone. I told him they had gone to a Kattar at Harnam Singh's house. Just then Lachmi Prasad arrived at my house from the direction of the river. He sat down with us. Lachmi Prasad was wearing a black shirt and a white shorts, Lachmi Prasad asked me to come at Baba (Ramsumer Maharaj) house. I told him that I could not go as there was nobody at my house. He did not say why he wanted me to go there and I did not ask him. Lachmi Prasad then asked Ali Mohammed to go with him. Ali Mohammed then asked me to accompany him. I said I could not go as there was nobody at my house. Both of them then said that we would return quickly. It was about 6.30 p.m. then and one could recognise a person at about one chain. At that time Bishun Deo f/n Ramadhar and Shiu Sharan f/n Panchu both of Sabeto came from the Government Road from the direction of their houses into my compound. They came to us. Bishun Deo told me to come to Ramsumer's who was calling me. I asked him if he wanted me for any work. He said he only wanted to see me. I said there was no one at my house and I could not go. Lachmi Prasad, Ali Mohammed and Shiu Sharan then said " Come on we will come back quickly." I again said that there was nobody at my house. Bishun Deo and Shou Sharan said " Come on, see what he wants." I locked up the house and went with them. We did not meet anybody or any lorry on the way. We walked. It was about 8 p.m. when we arrived at Ramsumer's house.

On arrival at Ramsumer's house I asked Ramsumer why he wanted to see me. He said " Wait a little while, I got some work for you." We met Ramsumer in his compound. I did not see anyone else in the vicinity.

Bishun Deo, Shiu Sharan, Ali Mohammed, and Ramsumer went together about 8 or 9 paces away from Lachmi Prasad and I and had a conversation for about two minutes. I was unable to hear. Lachmi Prasad was a few paces to the left of me. He was about 5 or 6 paces away from the others. Ramsumer called Lachmi Prasad over to them. They had a conversation which I did not hear. About one minute or so Bishun Deo said " Come on let us all get in the lorry No. K.57." In the front seat sat Shiu Sharan, Bishun Deo and Ramsumer, the rest of us sat in the back of the seat at the back. Ramsumer then drove the lorry in the direction of my house. I did not ask where we were going but thought we were going to my house. When the lorry was turned towards Nathu's store I said, " Baba, stop the lorry." He stopped it. I got out and went to him I asked him why he had called me. He said sit in the lorry we come back in a little while. I said there was no one at my house and I wanted to return. Ali Mohammed asked me to get in and we would come back quickly. I got in the lorry again. Bishun Deo and Shiu Sharan said " We are going to kill a goat and bring him in." We then went off on the Votualevu Road. We went about 3 miles along the road towards Votualevu from my house. The lorry stopped on this side of a wooden bridge over a big creek. The three of them in the front seat got off and told us to come

with them. Bishun Deo and Shiu Sharan pointed out the way to the right. We got out the back seat. Bishun Deo lead the way followed by Shiu Sharan, then Lachmi Prasad, then Ramsumer, then Ali Mohammed, then myself. I see a cane knife in Shiu Sharan's hand. Bishun Deo, Shiu Sharan, Ramsumer and Lachmi Prasad entered the water while I was still about half a chain away from them and still on the bank of the creek, which is high ground, I saw Shiu Sharan turn around and strike Lachmi Prasad with the cane knife on the back of the neck. At this time Lachmi Prasad was only about one pace from Shiu Sharan on his right side. Lachmi Prasad shouted " Ah ! " I then ran away from there towards the lorry. I could hear the sound of chopping with a knife. About a minute later Bishun Deo came running up the lorry and took a sack which was lying in the front of the lorry, he said nothing to me. We did not speak. I only heard Lachmi Prasad called out once. They all returned carrying the sack out of which I could see a pair of legs hanging. I did not see them putting the body in the sack. They put the body still in the sack in the back of the lorry. Bishun Deo and Shiu Sharan got in the back of the lorry with me. Ali Mohammed sat in with Ramsumer in the front. We drove on about 10–12 chains to an old camp site turn the lorry and stopped it. When they brought the body to the lorry from the creek I saw a cane knife in Ramsumer's hand. When the lorry was stopped, Ramsumer told us to take up the body. The four of them took the body out. I was standing close by. I did not touch the body or help them in any way. They put the body on the ground. Ramsumer told them to lift it up again as he wanted to take it further. They lift it up and Ramsumer told me to help. I told him that I would not touch the body. He then said : " If you tell anybody about this, we will do the same to you as we did to Lachmi Prasad." The four of them then lift the sack each taking one corner, and went inland. I did not go with them. After half an hour they returned without the body. I had walked to the Votualevu Government Road. They came to me in the lorry. I did not see any of them with the sack, I got in the back of the lorry and dropped me off near Nathu's store which is near my house. There was no conversation in the lorry on the way. They then returned towards Ramsumer's house and I went to my house.

The reason for the killing of Lachmi Prasad was his friendship with Ramsumer's two daughters. One of them is called Muni and the other one Chukhi. Muni is now married to a Punjabi at Togo, Nadi and Chukhi is married to an Indian at Nadroga.

Ali Mohammed, Bishun Deo and Shiu Sharan also had friendship with these two girls.

The other statements I gave to police are not correct as I was frightened having been threatened that I would be treated the same as Lachmi Prasad. I am willing to show the place where Lachmi Prasad was murdered and the direction in which his body was later taken.

All of this statement is true.

(Sgd.) WALLI MOHAMMED.
(In Hindi.)

I hereby certify that I have taken the statement in the presence of Supt. Hooper and Inspector Sell after which I have read and explained the contents of this documents to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) ATTAR SINGH.

Exhibits.

O.
Statement of Walli Mohammed, 12th September 1945.

Exhibit " O " STATEMENT of Walli Mohammed.

Naboutini, Nadi.

6.35 p.m. 12th September, 1945.

Name : Walli Mohammed f/n Shiu Nath.

Address : Sabeto Nadi.

Occupation : Labourer and Cultivator.

Having been cautioned by Sgt. Attar Singh states as follows :

At about 5.30 p.m. last Saturday Ali Mohammed came to my house to borrow an axe.

About 5 or 10 minutes later Lachmi Prasad arrived at my house and sat down. Lachmi Prasad asked me to come with him to Baba's house. I said I could not go as there was nobody at my house. Only the (3) three of us were present. Ali Mohammed and Lachmi Prasad then left my compound in the direction of Ramsumer's house. In about 20 minutes' time Bishun Deo came to my house alone from the direction of Ramsumer's house. He called out to me and I asked him what he wanted. He told me that Baba wanted me. I told him that there was no one at my house, and I could not go. He said that it was an important that I should go. We then walked to Ramsumer's house. It was about 6.30 p.m. On the road I asked Bishun Deo what I was wanted for. He said he did not know, that what Baba knew. We reached Ramsumer's house. Ramsumer and Lachmi Prasad were seated outside Ramsumer's house near the garage. I asked Ramsumer why he wanted to see me. He said that he had some work. I said " What sort of work." He then took me aside. Bishun Deo joined us. Bishun Deo said " Let us go to Kartar's house." I asked Ramsumer if this was true and he said " Yes." I said " What for ? " Ramsumer said to get Kartar's daughter for Bishun Deo. I asked him who would go. He told me that Bishun Deo, Lachmi Prasad, myself and he. I asked him how we would bring her. He said we would bring her in the lorry. He pointed to K57. We all sat in the lorry. Bishun Deo, Lachmi Prasad and Ramsumer sat on the front and I sat on the back. Ramsumer then drove the lorry on to the Votualevu Road, to the spot about a chain or a chain and a half from the place where the body was later found. Ramsumer stopped the lorry. We all got off the lorry. Ramsumer had a cane knife in his hand. Ramsumer said " Come on." We started to walk towards Kartar's house. Bishun Deo and Lachmi Prasad walked side by side about a pace apart. Ramsumer was about 3 or 4 paces behind. I was to one side a little behind Ramsumer. We had gone about a chain or a chain and a half when Ramsumer struck Lachmi on the back of the neck with the cane knife. Lachmi Prasad fell forward saying " Ah." Ramsumer then struck him again with the knife somewhere in the throat. He kept on striking. Lachmi Prasad fell down on the ground. Ramsumer then told me to get the sack from the lorry. Bishun Deo ran and brought the sack ; I did not do anything. I said nothing to Bishun Deo and Lachmi Prasad. I can't say how big the sack was as it was folded up, and took it towards where the body was lying.

I did not see what they did with the sack as I went off towards the lorry and walked past the lorry. I walked along the road we had come and in about 15 minutes' time the lorry arrived. It was near the Har Har dhall plantation. The lorry stopped. It was being driven by Bishun

Exhibits.

O.
Statement of Walli Mohammed, 12th September 1945, *continued.*

Deo, Ramsumer was seated beside him. Ramsumer asked me why I ran away. I told him that he had said we were going to get Kartar's daughter and they had done this thing. I went and sat on the back of the lorry. There was nothing in the back of the lorry. I saw the cane knife still in Ramsumer's hand. I got off the lorry at the back of Nathu's store about 4 chains away. I showed the police the place yesterday. The lorry was driven on towards Ramsumer's house. I went home. It was about 8 or 8.30 p.m. when I reached home. The lights of the lorry were dim not bright. I had a meal and went to sleep.

We had gone there with the intention of abducting Kartar's daughter for Bishun Deo. I did not see the cane knife when we first left the house. When we stopped the lorry I saw Ramsumer take it out from under the front seat.

When I got in the lorry at the Har Har dhall field there was no conversation, when we got near the cement bridge Ramsumer said " You are my son-in-law, you must not say anything to anyone about this. If anyone gets to know about this from you, you will be killed also." I said it is no business of mine to tell anybody.

This is a true statement, my other statements I made because I was frightened from Ramsumer. I am not frightened now. I have thought it over.

(Sgd.) WALLI MOHAMMED (in Hindi).

I hereby certify that I have taken this statement in the presence of Supt. Hooper and Inspector Sell and A.S.OP. Spencer after which I have read and explained the contents to Walli Mohammed, and that such person appeared to understand its contents and to approve of them, he was asked if he wished to make any alterations but declined to do so.

(Sgd.) Sgt. ATTAR SINGH.
6.35 p.m.

Exhibit " P " STATEMENT of Ali Mohammed.

P.
Statement of Ali Mohammed, 12th September 1945.

Naboutini, Nadi.
12th September, 1945.

Name : Ali Mohammed f/n Bagu Sai.
Address : Wailoko, Sabeto, Nadi.
Occupation : Labourer, U.S. Camp.

At about 6 p.m. last Saturday the 8th I was at Ballu's house when Lachmi Prasad arrived there. Only Ballu and I were together before Lachmi Prasad arrived. Lachmi Prasad came from the direction of the river opposite his house, Lachmi Prasad was wearing white shorts and a black shirt. Lachmi Prasad came to his own accord to Ballu's house. Ballu said where are you going. Lachmi Prasad said " I am out for a stroll." I said " Let's play cards." Lachmi Prasad said " No, I don't want to play cards. I will miss my chance to-day." I said what is this chance. He said that he would not tell me. Ballu was present when this talk took place. I then walked out from the compound followed by Lachmi Prasad 5–6 paces. No further conversation took place between

Exhibits.

P.
Statement of Ali Mohammed, 12th September 1945, *continued.*

Lachmi and I. I went towards my house across the river and Lachmi Prasad went along the Government Road. I did not hear Lachmi Prasad ask Ballu to come to Ramsumer's house. Lachmi Prasad did not ask me to come to Ramsumer's house. I did not ask Ballu to come with us to Ramsumer's house. Lachmi Prasad and I did not tell Ballu that we would come back quickly from Ramsumer's house. Ballu's house is about 20 chains away from my house. It was important to get the axe that evening. Gulam Mohammed lives about 10 chains away from me, he had an axe I did not ask him for his axe nor did I ask anybody else. On Saturday last I did not go to Ramsumer's house. I did not see Bishun Deo at all on Saturday nor Shiu Sharan.

(Sgd.) ALI MOHAMMED (in Hindi).

1 p.m.

12.9.45. 2.40 p.m. Ali Mohammed further states as follows :—

At about 7 o'clock this morning on my way to work accompanied by Rambharos and Ramesh and Ali Sher I saw Ballu coming from the direction of his house. We had reached Nathu's store then I heard Ballu calling out. Rambharos turned round and told us that Ballu was calling us. I turned back and went to see Ballu. The others did not come with me. I asked Ballu how he was. He replied "I am in a bad state, everybody is putting the blame on me and I want to get out of it, I want to say something to you, will you listen ?" I said I will listen. He said alright, you give witness for me. I said in what connection have I given evidence. He said I am begging you to help me. He then said "Can you say that Bishun Deo and Shiu Sharan told you that they were sitting at my house, that you were sitting at Ballu's house and Bishun Deo and Shiu Sharan came there, then Bishun Deo and Shiu Sharan asked you and I to go for a walk to Baba's house, and that we went with them. When we got as far as Nathu's Bhai's store we saw Ramsumer coming in his lorry from his house and turned towards the Votualevu Road. Then I stopped the lorry and asked Ramsumer where he was going. Ramsumer said we will all go as far as Votualevu and get some goat meat from there. Lachmi Prasad was already in the lorry and we all got in. Then we went to Votualevu road where we stopped the lorry and went to get the goat meat. Then Bishun Deo and Shiu Sharan were striking Lachmi Prasad with the knife and you and I were about two chains away. Then my Baba said that if we told anyone we would also cut with the knife. This is the evidence I want you to give for me. If you say this for me I will get off. I did not do this work. If you give this evidence for me I will get out of it." I replied I will not give false witness. If I go to Court I have to swear on the Quran and I do not wish to give false evidence. It is getting late I want to go to work. He then said "Will you or will you not give evidence about what I have told you ?" As I was walking away he said "Alright the police will catch you and take you to Police station and you must say what I have just told you to say." I said "When I heard what you told me I told you no and I again say no." I then went away to work. On my way near Nathu's store a number of Indians who work with me met me and asked me what Ballu and I been talking about. I told Rambharos that Ballu had wanted me to give false evidence, from me. The other Indians were Ramesh and Ali Sher. Our work lorry had arrived and we went to work.

Exhibits.

P.
Statement of Ali Mohammed, 12th September 1945, *continued.*

After the roll call was taken by the Sirdar Ram Narain f/n Balkhand he asked me about Ballu. I then took him aside and told him the whole conversation I had with Ballu this morning. He told me that Ballu is a bad man and if I give false evidence I would not get away with it. It is up to you whether you give false evidence or not. I told him you are my sirdar I have told you everything I told him that if the police came for me to-day I will tell them what I have told you.

(Sgd.) ALI MOHAMMED.
(In Hindi.)

Exhibit "S" STATEMENT of Walli Mohammed.

S.
Statement of Walli Mohammed, 12th September 1945.

(Translation.)

12th September, 1945.

Name : Walli Mohammed f/n Shiunath (alias Ballu).
Address : Naboutini, Sabeto, Nadi.
Occupation : Cultivator.

After having been charged with murder of Lachmi Prasad and having been cautioned by Inspector Shankar Pratap, I am giving my statement :

I did not kill. Whatever was there I have given in my statement. I have told everything in the statement which I made to-day. Statement belonging to Ramsumar and Bishun that they have done the killing is the one I know.

That is all I have to say.

(Sgd.) WALLI MOHAMMED.

Exhibit "W" STATEMENT of Bhagwan Devi.

W.
Statement of Bhagwan Devi, 14th September 1945.

Naboutini Village,
Nadi Province.

14th day of September, 1945.

Name : Bhagwan Devi w/o Walli Mohammed.
Address : Naboutini, Nadi.
Occupation : Domestic.

Ali Mohammed and Ballu are great friends. They have been the closest of friends for the last few months. About 10 to 12 days before Lachmi Prasad's death Ali Mohammed told my husband that Lachmi Prasad was saying that he (Lachmi Prasad) would put a gun in my husband's house. I was present and I heard this, they had come to our house together after work and I had served them with tea. My husband told Ali Mohammed that he did not believe it, Ali Mohammed hit his foot with his hand telling my husband that he must believe it. My husband said "I will not believe Lachmi Prasad and I have been very friendly for a long time." Ali Mohammed then said "Alright do not believe it you will go the same way as Mangra." My husband said "I do not believe it, let us see what happens," Ali Mohammed went away after this.

Exhibits.

W.
Statement of Bhagwan Devi, 14th September 1945, *continued.*

The next day Ali Mohammed came to my house with my husband, Ali Mohammed had a brown paper bag in his hand ; the outside of the bag was grease and I asked Ali Mohammed have you had any food to-day, he said no this is not food this is something else. After Ali Mohammed left, my husband came to me and told me that Ali Mohammed wanted to cause trouble between him and Lachmi Prasad and trying to make him believe that Lachmi Prasad would put a gun at the house. He further told me that because he did not believe Ali Mohammed and Ali Mohammed had shown him some grease to try and make him believe. I told my husband to let them plant it the same thing had happened to Govind and Budhram, the Government would take the thing and let him go like Govind and Budhram. My husband agreed with me.

A few days later Lachmi Prasad came to my house, he and my husband had a long talk about their work I did not hear what they talked. After he left I asked my husband what he and Lachmi were talking for such a long time. My husband told me that Lachmi Prasad had told him that he had stolen between £20 to £25 from his father's house and was keeping the money at Ali Mohammed's house, and that Ali Mohammed would not now give the money to Lachmi Prasad and was putting him off from day to day. My husband further told me that Lachmi Prasad told him that Ali Mohammed wanted to borrow Lachmi's gun and some bullets as his calf had been stolen and he wanted to frighten people so that it would not happen again. Lachmi Prasad had further told my husband that he had given the gun to Ali Mohammed who would not return it and he wanted my husband to try and get it back for him. That's all he told me that day. I saw my husband going towards the river. On his return he told me that he had met Ali Mohammed and asked him to return Lachmi thing. Ali Mohammed had then told him that he would not return the thing and to see what I am going to do to him. My husband told him that is your wish you can do what you like with Lachmi Prasad. That's all he said to me.

Last Friday 7/9/45 evening my husband told me that he would not have his food and he was going to Ali Mohammed's house as he had killed a fowl and had some liquor and had invited me to come I would not let him go.

The next morning Ali Mohammed came to our house about 8 o'clock. My husband was home. He had a talk with my husband which I did not hear. After Ali Mohammed had left in about 10 or 15 minutes time my husband told me that Ali Mohammed wanted to know why he did not come to his house the previous night. My husband had told him that he was very frightened to go out since Mangara went to gaol.

When I left for the Bhandara on Saturday at Harnam Singh's house my husband told me to come back early the next morning.

(Sgd.) BHAGWAN DEVI

(in Hindi).

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) WALLI MOHAMMED. Cpl. 479.

This is the exhibit marked " W " statement of Bhagwan Devi referred to in the evidence of Bhagwan Devi.

Dated this 4th day of March, 1946.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Exhibits.

W.
Statement of Bhagwan Devi, 14th September 1945, *continued.*

Exhibit " Q " STATEMENT of Ali Mohammed.

Q.
Statement of Ali Mohammed, 17th September 1945.

Nadi Police Station,
Nadi Province.

17th September, 1945.

Name : Ali Mohammed.

Address : Waliloko, Nadi.

Occupation : Labourer.

On Saturday the 8th September, 1945 at about sunset I left Ballu's house and walked to the main road. Lachmi Prasad followed a few paces behind me. I did not speak to him. As I crossed the road to go to my house I saw Lachmi Prasad going towards the Nathu Bhair's store. On the way to my house I chased a horse away from my brother's cane. When I got home only my wife and 2 daughters were home. When I go home I sat down for a while, I then pounded some yangona and made it up, I then called Mathura, my stepfather, who lives a few yards away in the same compound. We sat and drank yangona in my house short while later my mother came and sat down she did not drink yangona. My wife was also present. Short while later about 7.30 p.m. my brother Din Mohammed arrived Din Mohammed told me that you can have the bullocks tomorrow to pull your firewood I told Din Mohammed that tomorrow is the Ead festival if I wake up early in the morning I will use them, or else I will not use them if I wake up late. After this my brother Din Mohammed left he did not drink yangona.

My stepfather and I drank yangona up till 8.30 p.m. or 9 p.m. and then my father went to his house. After my stepfather left I had my evening meal. I had dhall and rice to eat. I had my meal and then my wife had her meal after me. After our meals were over I went to sleep.

I know Ram Krishan very well he is a teacher at Sabeto School. I did not go to his house on last Friday the 14th day of September, 1945 at dusk. Have not been to his house for 2 or 3 months. The last time I spoke with Ram Krishan about 2 months ago.

One day last week. I forget the day, Ram Bharos Ramesh and I were going home after work. On the way Ram Bharos called out to Ram Krishan and told him to come to my house and meet him. Shortly Ram Krishan came to my house and we sat down beside my mother's house, I told my daughter to bring tea for us all. Ram Bharos told Ram Krishan not to go to Ballu's house now, if you go at Ballu's store

Exhibits.

Q. Statement of Ali Mohammed, 17th September 1945.

you will get into trouble also. Ram Krishan replied that he does not go now a days. After a while later Ram Bharos left. Before he left he told Ram Krishan that is why I called you. When Ram Bharos left I told Ram Krishan that I am going to my brother's house and you can sit here if you like, he said I won't sit and I am going home and he left.

On Saturday the 8th September, 1945, at about 5.30 p.m. I was in my house shaving when Ram Krishan spoke to me from the track about half a chain away. Ram Krishan asked me if I would come with him to Ram Bharos' house to play cards. I replied him I am not going. Nothing else was said. Ram Krishan then went on. Ram Krishan was alone.

On Saturday the 8th September, 1945, Ballu did not come to my house at any time. I did not told Ram Krishan at any time that if any body asks you about seeing Ballu at my house on Saturday the 8th of September, 1945, for him to say that he did not see Ballu on this occasion. I know Ram Sumar Maharaj and his son Ram Saran. They live about a half a mile from me.

Last Saturday 15th of September I was walking towards my house and when opposite Ram Sumer's house Ram Sumer's lorry came out of his compound. Ram Saran was driving and Ram Sumer was sitting at the back. Ram Saran stopped the lorry and asked me if I was going home I said yes I then got into the lorry and sat alongside of Ram Saran in the front. I got off the lorry opposite Nathu Bhai's store which is close to my house. The only conversation on the way was Ram Saran asked me where I was coming from and I told him from Nadi. I did not speak to Ram Sumar. Ram Sumar did not ask me about any troubles. I did not told Ram Sumar that I have made a mistake. When I got on to the lorry opposite Ram Sumar's house one boy called Shiu Prashad was on the road on the horse track.

Ballu is my best friend. I used to visit Ballu's house once or twice within 2 or 3 weeks.

I know Lachmi Prasad, who was killed. I did not owe him any money.

(Sgd.) ALI MOHAMMED (In Hindi).

I hereby certify that I have wrote this statement in the presence of Supt. Hooper, Asst. Supt. Spencer and S.M. Ahmad and read it over in Hindustani to the person whose name is annexed and that such person appears to understand its contents and to approve of them.

(Sgd.) WALLI MOHAMMED Cpl.

Exhibits.

U.
Statement of Ramsumar, 17th September 1945.

Exhibit " U " STATEMENT of Ram Sumar.

Naboutini Village,
Nadi Province.
17th day of September, 1945.

Name : Ram Sumar Maharaj f/n Ram Baran.
Address : Sabeto, Nadi.
Occupation : Cultivator and Driver.

On last Friday evening 14/9/45 my daughter Bhagwan Devi who was living with Walli Mohammed up to the time of his arrest. Walli Mohammed and Bhawan Devi are not married but have been living together for the past 4 or 5 years. Walli Mohammed is a Musalam and I am a Hindu.

On last Friday night my daughter Bhawan Devi asked me to bring her things from her house to mine because she was frightened to live alone.

On Saturday at about 1 p.m. I left my house with my son Shiusaran in my lorry C.287 and brought one load to my house. At about 4 p.m. I made the next trip with my son Ramsaran because there was some bags of rice to be lifted on to the lorry. Ramsaran is bigger and older than Shiusharan.

As I was coming out of my gate we met Ali Mohammed on the road going towards Ballu's house. I stopped the lorry and picked him up. Ramsaran was driving the lorry and Ali Mohammed sat alongside of me in the front. On the way I asked him, " What troubles you peoples have done." He said, " What can I do Maharaj, I have now made a mistake." I said " When you people have made a mistake why should you people blame me," he said I have not blamed you. I told him when you have done a mistake you should suffer and why pull me into it also, why not leave me. When Ali Mohammed said that he had made a mistake he also said that we have kill him while he was drunk. When we reached Nathu Bhai's store which is close to Ballu's house Ali Mohammed got off there I did not see where he went, to the house, or to the store.

On last Wednesday afternoon Hanam Singh was at my house, he told me while talking to me he asked me what the police were at my house for I told him that they were making enquiries about the murder, he then said it is a good thing, that I have held this Katha on that day otherwise I would have been into the trouble.

(Signed) RAMSUMAR (in Hindi).

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appears to understand its contents and to approve of them.

(Sgd.) WALLI MOHAMMED Cpl. 479.
2.45 p.m.

This is the exhibit marked " U "—statement of Ramsumer referred to in the evidence of Ramsumer.

Dated this 4th day of March, 1946.

(Sgd.) J. BENNETT,
Acting C.M. Lautoka.

Exhibits.

V.
Statement of Ramsaran, 17th September 1945.

Exhibit " V " STATEMENT of Ramsaran.

Naboutini Village,
Nadi Province.

17th day of September, 1945.

Name : Ramsaran.

Address : Sabeto, Nadi.

Occupation : Cultivator.

On Friday night 14.9.45 I was home I heard my sister who was living with Walli Mohammed telling my father to bring all her things from her house to our house.

On Saturday 18.9.45 at about 1 p.m. I went to Wailoko I returned at about 4 p.m. to my house. My father asked me to come with him on the lorry to bring the things from my sister's house : I came with him on the lorry C287 I was driving, as we came out of the gate we met Ali Mohammed walking on the road in the direction towards Walli Mohammed's house I stopped the lorry and picked Ali Mohammed, he sat alongside of my father in the front.

On the way Ali Mohammed asked me where is Dayaram, I replied he is gone to Nadi. Then my father asked Ali Mohammed what troubles you people have done. He replied " what can I do Maharaj I have made a mistake, he said they have made a mistake while they were drunk." My father said to Ali Mohammed " you have made a mistake why blame me into it also," he said I have not put you into trouble. I did not heard Ali Mohammed telling my father the name of the person who was with him. When we reached opposite Nathu Bhai's store Ali Mohammed asked to stop the lorry he got off the lorry there, and I came to Walli Mohammed's house. I did not see where he went to, to his house or the store.

(Sgd.) RAMSARAN.

I hereby certify that I have read and explained the contents of this document to the person whose name is annexed and that such person appears to understand its contents and to approve of them.

(Sgd.) WALLI MOHAMMED.

Cpl. 479.

Exhibit " R " STATEMENT of Ali Mohammed.

Exhibits.

R. Statement of Ali Mohammed, 18th September 1945.

Nadi Police Station,
Nadi Province.

18th September, 1945.

Name : Ali Mohammed.

Address : Wailoko, Nadi.

Occupation : Labourer.

After having been cautioned by Cpl. Walli Mohammed do states :

On Friday the day before Lachmi Prasad was killed Ram Bharos, Lachmi Prasad, Ali Sher, Ramesh and I returned from work in the afternoon to our homes. About 4.30 p.m. Lachmi Prasad came to my house. He asked me to come with him to Ram Sumar's place. I asked him what we were going there for. Lachmi Prasad told me that Ballu and I have bought and gave Ram Sumer some tyres, and he has not yet paid me for them, and I will ask him for the money to-day. About 5 p.m. Lachmi and I went to Ram Sumar's place. When we reached near Ram Thulla's house on the Government Road there we met Sarda, Sarda said to us are you people going to pay the library money ? Lachmi said he don't get good books to read and he is paying for nothing. Then Sarda asked me are you going to stick to this library or are you going to leave it also. I told him that I have not enough time to talk to him and I will see him later. Lachmi Prasad also said to Sarda as I did. Then we went towards Ram Sumar's house. When we reached Ram Sumar's house, Lachmi told me to wait and he will go and ask if Ram Sumar is paying him the money or returning him back the tyres. I told him I am waiting for him at the gate and for him to go and find out. In Ram Sumar's compound I saw Bishun standing near the well.

Lachmi called Bishan and asked him is Dayaram home, Bishun replied yes. Then Lachmi Prasad went to Dayaram. Ramsaran and Dayaram were fixing the lorry. Bishun who was then standing near me said I am going to get my book. About 5 or 10 minutes later Bishun and Lachmi came to me on the road. I asked Lachmi if he got the money and he replied his father is not home and he had hidden the tyres somewhere and when he returns he will let me know. Lachmi then said to Ramsaran I am going further ahead and by his return his father might come back. Lachmi then said to me let us go to Garjraj Singh's house as he had some business there. Latchmi Bishun and I went and sat on the road near Garaj Singh's house. Bishun said to Lachmi if you want to sell your boots I will take it. Lachmi said I want 10/- for it, Bishun said I will give you 8/- and Lachmi agreed. He gave him 6/- and said that he will give 2/- to-morrow. Lachmi gave the boots to Bishun and Bishun went away. Then Garjraj Singh tied his army lorry on to the passenger lorry and was pulling it, as it would not start. The army lorry won't start. When the army lorry started then Garjraj returned back home. Garjraj stopped the lorry on the road and spoke with Lachmi. After they finished talking then Lachmi and I returned back home. When we reached Ram Sumar's house, Lachmi said let me go and see if Ramsumar has returned. Lachmi called out and asked Ramsaran has your father returned. Ramsaran replied my

Exhibits.

R. Statement of Ali Mohammed, 18th September 1945, *continued.*

father has not yet returned and he called Lachmi in. Lachmi and Ramsaran talked for a while which I do not know, after that Dayaram, Ramsaran and Lachmi came to the main road. Ramsaran told Lachmi you tell the price of the tyres and when my father will come I will tell him and see what he thinks about. Lachmi told Ramsaran the price was £2.10.0 each. Lachmi then told Ramsaran if Ali Mohammed did not go to work tomorrow he will come and you give him the money or the tyres. Ramsaran asked me when I will come. I replied at 10 a.m. After this Lachmi and I went towards Nathu Bhai's store. When we reached Nathu Bhai's store Lachmi and I went into the store. In the store I bought 2/– sugar 3 pence cloves 3 pence ilaichi, 1 pound sultana, then we left the store and walked towards Ballu's house. Little this side of Ballu's house I went towards my house and Lachmi walked on the road. On Saturday morning I woke at daybreak. I dig holes in the ground until 9 a.m. After 9 a.m. I took the milk for Nathu Bhai. When I reached Ballu's house Ballu called me from his house, I replied then to him I will come after giving the milk to Nathu Bhai. Ballu said no you come here with the milk and I will send the milk to Nathu Bhai by my daughter. I then went to Ballu's house, Ballu sent the milk by his daughter. I asked Ballu why he had called me. Ballu replied I want you to come and get the tyres with me. I asked him what time we will go, he replied late at night, about 11 or 12 p.m. I told him that my wife is very frightened and I can't come as also one of my calf has been stolen. Ballu then said I will tell you in the evening what time we will go. Ballu said I have told Lachmi Prasad and he is coming in the evening and we will decide what time we will go and then I will let you know. Then I returned back home. Then at 12 noon, Rambharos, Ramesh, Lachmi Prasad and teacher Ram Krishun came to my house. I was sleeping then, I woke up and went outside and saw these people, and asked what is the matter. They told me that they wanted to play cards. I called them in the house. They all came. Lachmi Prasad, Rambhros, Ramkishun and I played cards. Ramesh was watching the game. Just before the game was over Lachmi said that Ballu called him and I asked what for, he replied that I have to go somewhere far. I told Lachmi that I also have to go a long way. Lachmi did not say anything. Ramesh then left. Ramkishun, Rambharos and Lachmi left my house. At about 1 or 1.30 p.m. I started to dig holes. About 4 or 4.30 p.m. Lachmi again came to my house. I asked him if he will drink tea and he replied no, and he asked me if I will go with him to the store. I told him no. He then asked me if Ballu had said to me something about the tyres and I told him yes, if you people will go early then I will come, or else no I am not coming. He then said I am going towards the store and he will meet Ballu and fix the time and then he will let me know later. About 5 p.m. I went to Ballu's house to borrow an axe. When I came down in the river I saw Lachmi Prasad was sitting besides the river. I asked him what he was sitting there for, he replied I want to relieve myself. I told him that I am going to Ballu's house and you carry on. At Ballu's house I saw the doors of his house were closed. I then went towards Ramsarup's store to pay Ramsarup 1/6 which I owed him. On the way I met Ballu. I asked him where he had been to; he replied to Butur's house, I said to him let us go home as I wanted to borrow his axe. Ballu said that the handle of the axe was broken and it is no good. Ballu and I came to Ballu's house. As I sat down at Ballu's

house, I saw Lachmi came to Ballu's house. When Lachmi arrived I said to Ballu let us play cards. Lachmi replied I will not play cards as he will miss his chance. It was getting dark. Then Ballu said to me " Ali Mohammed let us go and bring the tyres." Ballu said that he had called Mohammed Jahuri, and when he comes then we will go. I told him if he comes late I am not going. I then told Lachmi and Ballu that I am going home and I will wait till 8 p.m. and if they are ready then call me or else after 8 p.m. I am not going. I went home and sat down for a while and pounded some yangona and made it and called my stepfather and we both drank. While we were drinking yangona my brother Din Mohammed came and he told me if I want the bullocks in the morning I can have them. I told him if I woke up early then I will use the bullocks or else not. After this my brother left. We drank yangona till 8 or 8.30 p.m. after the yangona was finished my father went to his house and I had my meal. After meal I went to sleep.

At about 1 a.m. Dayaram and Ramsaran came. Ramsaran called me by my name and I woke up and opened the door and saw Ramsaran and Dayaram. I saw them by the flash light, they were wearing khaki shirt and khaki shorts, Ramsaran told me that Ballu and Lachmi have called me and to come. I asked them where they are he replied at home. I told them it was over night and how can I leave the house. They said we have a lorry and we won't be long as we have a lorry. Dayaram said I will give you some money when I will sell the tyres. Then I came with Dayaram and Ramsaran to Dayaram's house. In Dayaram's compound, in the house which is close to the road, Lachmi and Bishnu were sitting. We went in this house and sat there also. Shortly Ballu arrived. Ballu said Ali Mohammed you drink liquor also. I told him I will not drink liquor now and if we get drunk and go there and if the guards catches us we will not be able to run away. Dayaram then said " What is liquor " you can drink when you come back. Ballu then said now let us go. Lachmi got up quickly and said let us go. When Lachmi put his step out of the house he fell down, he was very drunk. I said you people gave Lachmi that much liquor and made him so drunk and how will he be able to find out the tyres. We will get caught. Bishun, Ramsaran and Ballu helped Lachmi and got him in the back of the army truck. Dayaram and I sat in the front. Dayaram was driving the lorry. We came to the road near Nathu's store which goes to Votualevu, we went on this road and came to a wooden bridge, passing the bridge about 10 chains or more Dayaram turned the lorry on the right and drove on this track. They took the lorry on this track for about one and a half chains and the lorry stopped. There Ballu said let us get off and from here in the straight road is the place where the tyres are. Lachmi could not walk. Dayaram, Ramsaran and Ballu held him and took him to the place where the para grass is. Dayaram held one hand of Lachmi and Ballu the other hand and Ramsaran walking behind them. Bishun and I were walking behind them. When we went about 10 or 12 chains from the lorry Lachmi vomited. When Lachmi was vomiting then Ballu said what are we looking at now I asked what happened to Lachmi and then Dayaram replied to me keep quiet, and see what is happening. Lachmi fell on the ground and then vomited. Whilst Lachmi was on the ground Ballu struck him on the throat with the cane knife. When I saw him striking the first blow I ran a chain behind. Bishun followed me. Then Ramsaran came.

Exhibits.

R. Statement of Ali Mohammed, 18th September 1945, *continued.*

When Ramsaran came to me I said to him you people have killed Lachmi to-day. Ramsaran said to me not to say a word now. Shortly afterwards Ballu and Dayaram came running to where we were. Ballu said if you people want to say this anywhere tell me now. I promised that I would not tell this to anybody. Ballu asked Bishun and Bishun said that I will not say even I get killed. From there we came to the lorry. We all came in the lorry. Dayaram was driving. I stopped the lorry at Ram Thula's house. I told Ballu that I was frightened and to take me up to my house. Ballu told Bishun and Ramsaran to take me and leave me near the river. On the way to the river I heard Bishun asking Ramsaran what they were going to do with Dayaram and Ballu's clothings on which there is blood. Ramsaran said we will burn them. Give all the clothings to Ballu and he will burn them. The knife throw it in the river or hide it in swamp. Ramsaran said to Bishun let us leave Ali Mohammed at the river then we will see about the rest. I then went away home. The next morning I saw a lot of smoke on the land he was ploughing. I can show the police where Lachmi Prasad was killed. On the next morning I met Ballu in the creek near my house and asked him the reason of killing Lachmi Prasad, Ballu told me Lachmi put my brother in gaol, and burnt my father-in-law's house and had been after my wife also. He told me not to tell anyone about it or else I will be killed. This is the true statement. My previous statement contains some errors.

(Sgd.) ALI MOHAMMED (in Hindi).

I hereby certify that I have taken down this statement in the presence of Supt. Hooper, S.M. Ahmed and P.C. Howsil and read it over in Hindustani to the person whose name is annexed and that such person appeared to understand its contents and to approve of them.

(Sgd.) WALLI Cpl.

3.15 a.m.

T. Statement of Ali Mohammed, 19th September 1945.

Exhibit "T" STATEMENT of Ali Mohammed.

(Translation.)

19th September, 1945.

Name : Ali Mohammed f/n Bhagusai.

Address : Wailoko, Sabeto, Nadi.

Occupation : Cultivator.

After having been charged with the murder of Lachmi Prasad and cautioned by Inspector Shankar Pratap, I give my statement :

Whatever I had to say I have given in my statement I have nothing further to say than what I have given in my statement to the Police. I have told everything in the statement I gave yesterday 18th September.

I have nothing further to say than this.

(Sgd.) ALI MOHAMMED.
