

**IN THE HIGH COURT OF JUDICATURE FOR THE PROVINCE OF
EAST PUNJAB AT SIMLA**

THE CROWN

versus

NATHURAM VINAYAK GODSE, ETC.,—Accused

JUDGMENT IN MAHATMA GANDHI MURDER CASE

REX

versus

1. NATHURAM V. GODSE	.... Hindu	37	Editor, 'Hindu Rashtra', Shaniwar Peth, Poona.	10
2. NARAYAN D. APTE	.... Hindu	34	Director, H. R. Prakan- shan, Ltd., 22, Budh- war Peth, Poona.	
3. VISHNU R. KARKARE	.... Hindu	37	Proprietor, L. & B. House, Pardeshi Ali, Ahmed- nagar.	
4. MADANLAL K. PAHWA	.... Hindu	20	(Punjabi Refugee), Visa- pur, Refugee Camp, Ahmednagar.	
5. SHANKAR KISTAYYA	.... Hindu	27	Domestic Servant (Yell- amma Peth, Sholapur) 300, Narayan Peth, Poona.	20
6. GOPAL V. GODSE	.... Hindd	27	Store-Keeper, M. T. S. S. Depot, Kirkee, Poona.	
7. VINAYAK D. SAVARKAR	Hindu	65	Landlord 'Savarkar Sadan', Shivaji Park Road, Bombay.	
8. DATTATRAYA S. PAR- CHURE	Hindu	49	Medical-Practitioner, Sta- tion Road, Gwalior.	30
9. GANGADHAR S. DAND- WATE.				
10. GANGADHAR JADHAV			(absconding) Gwalior.	
11. SURYADEO SHARMA				

(Approver)

DIGAMBAR R. BADGE Hindu 39 Proprietor, Shashtra
Bhandar, 300, Nar-
ayan Peth, Poona.

IN THE COURT OF THE SPECIAL JUDGE, RED-FORT, DELHI. 40

Present :—ATMA CHARAN, Esq., I.C.S., SPECIAL JUDGE.

THE MAHATMA GANDHI MURDER CASE

CHAPTER I

GENERAL REMARKS

The Court was constituted under notification No. 54/1/48-Political, Government of India, Ministry of Home Affairs, dated 4-5-48, u/s 10 and



11 of the Bombay Public Security Measures Act, 1947, as extended to the Province of Delhi, and the case was made over to the Court for trial under notification No. 54/1/48-Political, Government of India, Ministry of Home Affairs, dated 13-5-1948. The Court held its sittings in a hall on the upper storey of a building in the Red-Fort. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Digambar R. Badge, Madanlal K. Pahwa, Shankar Kistaya, Gopal V. Godse and Vinayak D. Savarkar, who were then at Bombay, and Dattatraya S. Parchure, who was then at Gwalior, were all brought to Delhi before the commencement of the trial, and were lodged 10 in the Red-Fort in a specially selected area, which was declared to be a 'prison' under notification No. 54/6/48-Political, Government of India, Ministry of Home Affairs, dated 15-5-1948.

The charge-sheet against the accused was submitted to the Court on 27-5-1948. A summary of the main prosecution evidence was furnished to the defence by the prosecution before the commencement of the trial before the Court. Digambar R. Badge was tendered a pardon on 21-6-1948. The prosecution filed the sanction of the District Magistrate, dated 18-5-1948, u/s 29 of the Indian Arms Act, the sanction of the Central Government, dated 26-5-1948, u/s 7 of the Explosive Substances 20 Act and the sanction of the Central Government, dated 18-6-1948, u/s 188 of the Cr. P. C., on 22-6-1948. The charges then were read out and explained to the accused. The accused pleaded 'not guilty' and 'claimed to be tried'.

Mr. C. K. Daphtary, Advocate-General of Bombay, appeared as Chief Public Prosecutor, and was assisted by Messrs. N. K. Petigara M. G. Vyavaharkar, J. C. Shah and Jwala Prasad.

The accused were represented as below :—

Nathuram V. Godse by Mr. V. V. Oak ;

Narayan D. Apte by Messrs. K. H. Mengle and G. K. Dua ;

30 Vishnu R. Karkare by Messrs. N. D. Dange and G. K. Dua ;

Madanlal K. Pahwa by Mr. B. Banerji ;

Shankar Kistaya by Mr. H. R. Mehta ;

Gopal V. Godse by Messrs. M. B. Maniar, P. L. Inamdar and G. K. Dua ;

Vinayak D. Savarkar by Messrs. L. B. Bhopatkar, Jumnadas Mehta, Ganpat Rai, K. L. Bhopatkar, B. Banerji, J. P. Mitter and N. P. Aiyer ;

Dattatraya S. Parchure by Messrs. P. L. Inamdar and S. N. Jauhari.

40 Shankar Kistaya had no means to engage a counsel, and Mr. H. R. Mehta with his consent was appointed by the Court to represent him as *amicus curie*.

Vishnu R. Karkare understands mainly *Marahti*, Shankar Kistaya understands mainly *Telegu* and a little *Hindustani*. Madanlal K. Pahwa understands mainly *Hindustani* and *Punjabi*. The witnesses forthcoming were from different linguistic areas, and were expected to give evidence in English, *Gujrati*, *Hindustani*, *Marahti* or *Punjabi*. The Court accordingly had to employ three interpreters—Mr. M. A. Navalakar for *Gujrati-cum-Marahti*, Miss M. Kamalamma for *Telegu* and Mr. M. R. 50 Handa for *Hindustani-cum-Punjabi*. Each question put to and each reply given by a witness had to be interpreted in English, *Gujrati*, *Hindustani*, *Marahti*, *Punjabi* and *Telegu*. All this took a considerable time of the Court.

Although u/s 13 (2) of the Bombay Public Security Measures Act as extended to the Province of Delhi only a memorandum of the substance of



the evidence was required to be recorded by the Court, but at the request of all the accused and their counsel and with the approval of the counsel for the prosecution a complete record of the evidence was maintained in English for the convenience of all concerned.

The Court made a local inspection of the Birla House in the presence of both the parties on 24-6-1948.

The recording of the prosecution evidence began on 24-6-1948 and continued till 6-11-1948. The prosecution produced in all 149 witnesses, and their evidence consists of 720 pages. The prosecution brought on the record of the case 404 documentary exhibits and 80 material exhibits, 10

The recording of the statements of the accused began on 8-11-48, and continued till 22-11-48, and their statements consist of 106 pages. All the accused except Shankar Kistayya filed written-statements, and their written statements consist of 297 pages. The defence through the prosecution witnesses brought on the record of the case 119 documentary exhibits. The accused were asked whether they meant to adduce evidence in defence. All of them declined to adduce any evidence either in rebuttal of the prosecution evidence or in support of the allegations made by them.

The hearing of the arguments began on 1-12-48 and continued till 30-12-48. Nathuram V. Godse argued his own case. Mr. P. R. Das of 20 Patna argued the case on behalf of Vinayak D. Savarkar.

CHAPTER II

INCIDENTS, INVESTIGATION AND ESTABLISHMENT OF THE COURT

On 20-1-48 Mahatma Gandhi was putting up at the Birla House, New Delhi. It was his usual practice to offer prayers in the evening. Members of the Public were free to attend his prayers. There is a platform behind the Birla House, where prayers used to be offered. On 20-1-48 at about 5.00 p.m. Mahatma Gandhi, as usual, proceeded to the prayer-platform and began offering prayers. At about 5.15 p.m. an explosion took place at a distance of about 150 yards from where he was offering 30 prayers. A number of persons rushed in the direction where the explosion had taken place. A young man was seen standing at some distance away from the scene of the explosion. The persons standing there were saying that he was the individual who had placed a 'bomb' there and had applied a match-stick to it. He was caught hold of then and there, and marched off to the main-gate of the Birla house and handed over to the Police. This person is said to be Madanlal K. Pahwa, accused No. 4. On a search being made of his person a live hand-grenade was recovered from the right-hand inside pocket of his coat. The F.I.R. in the case was lodged by Mr. K. N. Sahaney, Magistrate, 1st class, Karnal, who happened to be 40 present in the prayer-meeting and had rushed to the scene of the explosion. The F.I.R. was taken down under sections 4 and 5 of the Explosive Substances Act.

On 30-1-48, at about 5.00 p.m. Mahatma Gandhi, as usual, proceeded to the prayer-platform. He was accompanied by a number of persons. A large crowd was awaiting his arrival at the prayer-platform. Mahatma Gandhi climbed up the stairs of the prayer-platform. When he had gone 6-7 paces the crowd opened up into a lane to enable him to pass through. A person came out of the crowd into the lane in front of Mahatma Gandhi and fired three shots at point-blank range in quick succession at him with 50 a pistol. He was caught hold of then and there. This person is said to be Nathuram V. Godse, accused No. 1. Mahatma Gandhi fell down uttering the words 'Hei-Ram'. He was picked up, and taken to his room, in the Birla House. He, however, succumbed to the injuries sustained by him soon after he had been taken to his room. The F.I.R. in the case was lodged by Mr. Nandlal Mehta, who happened to be present at the time at the prayer-platform. The F.I.R. was taken down under section 302 of the I.P.C.



The investigation in regard to the explosion-incident was begun by the Delhi Police on 20-1-48. The investigation in regard to the murder incident was begun by the Delhi Police on 30-1-48. On 31-1-48, Mr. J. D. Nagarvala, Deputy Commissioner of Police, Bombay City, was appointed as Superintendent of Police, Delhi, in addition to his own duties, and the investigations in regard to the explosion-incident and the murder-incident were then taken up by him.

Digambar R. Badge (now approver) was arrested at Poona on 31-1-48, Dattatraya S. Parchure (accused No. 8) was kept as a detenu¹⁰ at Gwalior with effect from 3-2-48, and was shown as under arrest in the case with effect from 17-2-48. Gopal V. Godse (accused No. 6) was arrested at Uksan (Poona) on 5-2-48. Vinayak D. Savarkar (accused No. 7) was kept as a detenu with effect from 5-2-48, and was shown as under arrest in the case with effect from 11-3-48. Shankar Kistayya (accused No. 5) was arrested at Bombay on 6-2-48. Narayan D. Apte and Vishnu R. Karkare (accused Nos. 2 and 3) were arrested at Bombay on 14-2-48.

On 11-2-48, Shankar Kistayya led two 'panches' along with a police-party to a place just behind the Hindu Mahasabha Bhawan, New Delhi, and took out from one place a live hand-grenade, a gun-cotton-slab with fuse wire and 25 cartridges and from another place 2 live hand-grenades. They were lying buried there.

On 18-2-48, Dattatraya S. Parchure made a 'confession' before Mr. R. B. Atal, Magistrate 1st Class, Lashkar (Gwalior).

On 26-2-48 Narayan D. Apte took two 'panches' along with a police-party to a place behind the Hindu Mahasabha Bhawan, where he said they had tried out a pistol. A tree with four bullet-marks thereon was shown by him. The branches of the tree containing the bullet-marks were cut and taken possession of. Narayan D. Apte also pointed out a place from where he said the pistol had been fired. An empty cartridge case was found lying there, and was taken possession of.

On 27-2-48 Narayan D. Apte took two 'panches' along with a police-party to the house of Dattatraya S. Parchure at Gwalior. He led them to the back court yard, and pointed out a place where he said Nathuram V. Godse had tried out a pistol. A number of bullet-marks was found on the wall. A spent-bullet was found lying there, and was taken possession of.

Mr. Kishan Chand, Special Magistrate, 1st Class, Delhi, conducted identification-proceedings against Nathuram V. Godse on 7-2-48 and against Narayan D. Apte and Vishnu R. Karkare on 28-2-48.

Mr. Oscar H. Brown, Chief Presidency Magistrate, Bombay, conducted identification-proceedings against Nathuram V. Godse and Narayan D. Apte on 21-2-48, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 2-3-48, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambhr R. Badge on 16-3-48, against Nathuram V. Godse, Narayan D. Apte and Gopal V. Godse on 23-3-48, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge, on 24-3-48, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 30-3-48, against Nathuram V. Godse, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse, and Digambar R. Badge, on 31-3-48 and against Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge on 9-4-48.

The Bombay Public Security Measures Act was made applicable to the Province of Delhi, on 2-6-47 by the Central Government, u/s 7 of



the Delhi Laws Act (Central Act XIII of 1912), and came into force from 13-6-47. The Court was constituted on 4-5-48, u/ss 10 and 11 of the Bombay Public Security Measures Act as extended to the Province of Delhi, and was asked on 13-5-48, u/s 12 of the Act to try the case.

The Police submitted the charge-sheet on 27-5-48, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Digambar R. Badge (approver), Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse, Vinayak D. Savarkar and Dattatraya S. Parchure, u/ss 120-B, 109, 114 and 115 of the I.P.C., read with Section 302 of the I.P.C., u/ss 3, 4, 5 and 6 of the Explosive Substances Act, and u/s 19 of the Indian Arms Act. ¹⁰

Ordinance XIV of 1948 was passed by the Central Government on 14-6-1948, empowering courts constituted u/ss 10 & 11 of the Bombay Public Security Measures Act as extended to the Province of Delhi to tender a pardon to an accused. The counsel for the prosecution put in an application before the Court on 17-6-1948, that Digambar R. Badge be tendered a pardon. He was examined, and was tendered a pardon on 21-6-1948. Central Act LII of 1948, came into force on 8-9-1948, and repealed Ordinance XIV of 1948.

CHAPTER III

PROSECUTION VERSION OF THE STORY

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Nathuram V. Godse is the Editor and Narayan D. Apte the Manager of the Hindu Rashtra published from Poona. They are both Hindu Mahasabites, and are said to be close associates of each other and to have the same political outlook. Vishnu R Karkare is a resident of Ahmednagar. He is also a Hindu Mahasabite, and is said to have been known to Nathuram V. Godse and Narayan D. Apte for a considerable time and to have the same political outlook. Madanlal K. Pahwa is a refugee from the Punjab. He is said to have first come in contact with Vishnu R. Karkare and then through him with Nathuram V. Godse and Narayan D. Apte. Digambar R. Badge (approver) runs the Shashtra-Bhandar at Poona, and of late has been trafficking in arms, ammunition and explosives. He is also a Hindu Mahasabite. Shankar Kistayya is the servant of Digambar R. Badge. Gopal V. Godse is the brother of Nathuram V. Godse. Vinayak D. Savarkar requires no introduction. He is the ex-President of the Hindu Mahasabha, and resides at the Savarkar-Sadan, Bombay. Dattatraya S Parchure resides at Gwalior, and is said to be the leader of the Hindu Sabha at Gwalior. He is said to be a British subject domiciled in the 'Dominion of India'. ³⁰

The partition of the country took place on 15-8-1947, and 'India' was divided into the 'Dominion of Pakistan' and the 'Dominion of India'. ⁴⁰ The circumstances in which the Congress agreed to the partition of the country need not be mentioned here. The partition of the country into two dominions, it is said, was strongly felt by the accused or at least by some of them. They thought that had it not been for Mahatma Gandhi the country would never have been divided into two dominions. After the partition of the country what happened to the minority communities in the Dominion of Pakistan is well known and need not be mentioned here. Mahatma Gandhi did all what he could to restrain any sort of counter-attacks on the minority community in the Dominion of India. This act on the part of Mahatma Gandhi was also strongly felt by the accused or at least by some of them. Seeing how Mahatma Gandhi was striving to safeguard the interests of the members of the minority community in the Dominion of India, it is said, the accused entered into a 'conspiracy' and hatched a plot to end his life. The suggestion of the prosecution appears to be that Vinayak D. Savarkar is the person who got the deed done through Nathuram V. Godse and Narayan D. Apte. Nathuram V. Godse and Narayan D. Apte in turn enlisted the support of Vishnu R Karkare, Madanlal K Pahwa, Gopal V. Godse, Dattatraya S. Parchure and Digambar R. Badge and through Digambar R. Badge the support of his servant Shankar Kistayya. ⁵⁰ ⁶⁰



Vinayak D. Savarkar, however, throughout kept himself behind the scene.

On 10-1-1948, Digambar R. Badge met Nathuram V. Godse and Narayan D. Apte at the Hindu Rashtra Office at Poona, and agreed to supply them with two gun-cotton-slabs and five hand-grenades at the Hindu Mahasabha Office at Dadar (Bombay) on 14-1-1948.

One Dr. J. C. Jain is on the staff of the Ruia College, Bombay. Madanlal K. Pahwa had been knowing him for a number of months, and had first come in contact with him as a refugee. On or about 12-1-1948, Madanlal K. Pahwa came to the house of Dr. J. C. Jain, and had a long ¹⁰ conversation with him. During the course of the conversation he told him that he members of his party had plotted against the life of Mahatma Gandhi and that he had been entrusted with the work of throwing a bomb at the prayer-meeting of Mahatma Gandhi.

Nathuram V Godse at Poona effected nomination on his life-policy for a sum of Rs. 2,000 in favour of the wife of Narayan D. Apte on 13-1-1948 and on his another life-policy for a sum of Rs. 3000 in favour of the wife of Gopal V. Godse on 14-1-1948. Gopal V Godse put in an application for seven days' casual leave from 15-1-1948 till 21-1-1948 on 14-1-1948 at Kirkee (Poona). The application, however, was not allowed. ²⁰

On 14-1-1948 Digambar R. Badge and Shankar Kistayya proceeded with two gun-cotton-slabs and five hand-grenades with primers and detonators from Poona to Bombay, and met Nathuram V. Godse and Narayan D. Apte at the Hindu Mahasabha Office at Dadar. Nathuram V Godse and Narayan D. Apte told Digambar R. Badge that arrangements would have to be made for the keeping of the 'stuff'. They took him to the Savarkar-Sadan. Nathuram V. Godse and Narayan D. Apte entered the compound of the Savarkar-Sadan and left Digambar R Badge outside. They had with them the 'stuff' that had been brought by Digambar R Badge. They came out of the compound of the Savarkar-Sadan shortly ³⁰ afterwards with the 'stuff', and along with Digambar R Badge went back to the Hindu Mahasabha Office. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge along with Shankar Kistayya then proceeded to the house of one Dixitji Maharaj at Bhuleshwar. Dixitji Maharaj had gone off to sleep, and the 'stuff' was left in charge of a servant of his. They then came back to the Hindu Mahasabha Office. Narayan D. Apte through Nathuram V. Godse then paid a sum of Rs. 50 as travelling expenses to Digambar R Badge. Nathuram V. Godse and Narayan D. Apte went away telling Digambar R Badge that they would look him up the next morning. Digambar R Badge met Madanlal K. Pahwa in the Hindu ⁴⁰ Mahasabha Office. Madanlal K. Pahwa knew Digambar R. Badge from before, and asked him when he had come. Digambar R Badge enquired of Madanlal K. Pahwa where Vishnu R. Karkare was. He told him that he was at Thana and was expected there shortly.

On 15-1-1948 at about 7.20 a. m. Nathuram V Godse and Narayan D. Apte got two seats reserved in the names of 'D. N. Karmarkar' and 'S. Marathe' by the afternoon plane scheduled to leave Bombay for Delhi on 17-1-1948.

On 15-1-1948 at about 8.30 a. m. Nathuram V. Godse and Narayan D. Apte went to the Hindu Mahasabha Office and met Madanlal K. Pahwa, ⁵⁰ Shankar Kistayya and Digambar R. Badge. Madanlal K. Pahwa had not dressed up till then. Nathuram V. Godse and Narayan D. Apte then along with Digambar R. Badge and Shankar Kistayya proceeded to the Shivaji Printing Press and met Vishnu R. Karkare there. G. M. Joshi of Thana is the Proprietor of the Press. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Digambar R. Badge met G. M. Joshi. Shankar Kistayya was asked to sit down on the planks lying in front of the press and Digambar R. Badge was asked to wait outside the office of the press. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and



G. M. Joshi then entered the office and came out of the office after about half an hour. Nathuram V. Godse Narayan D Apte, Vishnu R. Karkara and Digambar R. Badge along with Shankar Kistayya then came back to the Hindu Mahasabha Office. Vishnu R. Karkara asked Madanlal K Pahwa to take his bedding and proceed with him, Narayan D. Apte then brought a car, and Nathuram V. Godse Narayan D Apte, Vishnu R. Karkara, Madanlal K Pahwa and Digambar R Badge proceeded therein to the house of Dixitji Maharaj. They entered the house of Dixitji Maharaj. The bedding of Madanlal K Pahwa was kept in the hall. Dixitji Maharaj was unwell and lying on a bed. The 'stuff' that 10 had been left in the house the previous evening was brought to the room of Dixitji Maharaj, and shown by Digambar R. Badge. After some coaversation the bag containing the 'stuff' was handed over by Narayan D. Apte to Vishnu R. Karkara. Narayan D Apte then asked Vishnu R. Karkara to leave along with Madanlal K Pahwa that evening for Delhi. Vishnu R. Karkara then handed over the bag containing the stuff' to Madanlal K. Pahwa. Vishnu R. Karkara and Madanlal K. Pahwa, thereafter left the house of Dixitji Maharaj.

Narayan D. Apte asked Dixitji Maharaj if he could procure a revolver or two for him. Dixitji Maharaj told him that he had no such 20 arms with him at the time and that he would do all what he could. Nathuram V. Gedse, Narayan D. Apte and Digambar R. Badge then came out of the house of Dixitji Maharaj and stood in the compound of the temple. Narayan D. Apte asked Digambar R. Badge if he was prepared to go along with them to Delhi, and said that Tatyaraao Savarkar (Vinayak D Savarkar) had decided that Gandhiji, Jawaharlal Nehru and Suhrawardy should be 'finished' and had entrusted the work to them, Digambar R. Badge agreed to accompany them for the purpose to Delhi but said that first he would like to go back to Poona to make arrangements regarding his house-hold affairs. Nathuram V. Godse thereon said 30 that he also had to go to Poona to meet his brother Gopal V. Godse, who had undertaken to procure a revolver, and to bring him down to Bombay for accompanying them to Delhi. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge then entered the taxi and proceeded back to the Hindu Mahasabha Office. Digambar R. Badge got down from the tax there. Narayan D. Apte asked Digambar R. Badge to meet him at the V. T. Ry. Station on the morning of 17-1-1948. Nathuram V. Godse and Narayan D. Apte then went away in the taxi.

On 16-1-1948 early in the morning Digambar R. Badge along with Shankar Kistayya came back to Poona. Digambar R Badge then depo- 40 sited the remaining 'stuff' lying with him at his house with one Ganpat S. Kharat (Amdar Kharat). Nathuram V. Godse went to see Digambar R. Badge twice at the Shashtra Bhandar, but did not find him there. Digambar R Badge thereafter went to the Hindu Rashtra Office, and met Nathuram V. Gedse. Nathuram V. Godse took out a small pistol, and asked Digambar R. Badge to get it exchanged for a big revolver. Digambar R. Badge had supplied a revolver to one Sharma, and exchanged the pistol for that revolver. Gopal V. Godse put in another application for seven days' easual leave from 17-1-1948 till 23-1-1948 at Kirkee (Poona). The application was granted this time. 50

On 17-1-48 in the morning Digambar along with Shankar Kistayya came back to Bombay. Shankar Kistayya got down at Dadar and Digambar R. Badge got down at the V. T. Ry. Station. Nathuram V. Godse and Narayan D. Apte met him there. Narayan D Apte suggested to Digambar R Badge that before proceeding to Delhi they should collect some money. Narayan D. Apte then engaged a taxi and proceeded therein along with Nathuram V. Godse and Digambar R. Badge to different places in Bombay. They succeeded in collecting money on different pretexts from Charandas Meghji, Ganpatrao B. Afjulpurkar and Mahadeo G. Kalc. During one of these visits from place to place Shankar Kistayya was picked up from the Hindu Mahasabha Office. Nathuram V. Godse then suggested that they should all go and take the last 'darshan' of Tatyaraao 60



Savarkar. They then proceeded to the Savarkar-Sadan. Shankar Kistayya was asked to wait outside the compound of the Savarkar-Sadan. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge entered the compound. Narayan D Apte asked Digambar R. Badge to wait in the room on the ground-floor. Nathuram V. Godse and Narayan D Apte went up to the first-floor and came down after 5-10 minutes. They were followed immediately by Tatyaraao Savarkar. Tatyaraao Savarkar told them 'yashasvi houn ya' (be successful and come). Nathuram V. Godse, Narayan D Apte and Digambar R. Badge along with Shankar Kistayya then got into the taxi. Narayan D Apte on the way said that Tatyaraao Savarkar had predicted that 'tatyaravani ase bhavishya kale ahe ki gandhi jichi sambhar varshe bharali-ata apale kam nischita honar yat kahi sanshaya nahi' (Gandhiji's hundred years were over—there was no doubt that their work would be successfully finished).

Nathuram V. Godse subsequently asked that he should be left at a taxi-stand and was left at a taxi-stand. Narayan D Apte and Digambar R. Badge along with Shankar Kistayya proceeded to the house of Dixitji Maharaj. Shankar Kistayya was left in the hall, while Narayan D Apte and Digambar R Badge went into the interior of the house. Narayan D Apte again asked Dixitji Maharaj for a revolver. Dixitji Maharaj showed him a small pistol but said that he would not hand it over unless he receive money for it. Narayan D Apte and Digambar R Badge along with Shankar Kistayya then proceeded to the Juhu Aerodrome and, then to the Santa Cruz Aerodrome. Narayan D Apte got down there, and handed over a sum of Rs. 350 to Digambar R Badge and asked him to leave along with Shankar Kistayya for Delhi that day by the evening train. Digambar R Badge along with Shankar Kistayya then proceeded in the taxi to Kurla and discharged the taxi there.

On 17-1-1948 at about noon Vishnu R Karkare and Madanlal K Pahwa reached Delhi. They proceeded to the Hindu Mahasabha Bhawan but could find no accommodation there. They then proceeded to the Sharif Hotel, and stayed there. Vishnu R Karkare stayed under the assumed name of 'B. M. Bias'. Nathuram V Godse and Narayan D Apte boarded the afternoon plane at the Santa Cruz Aerodrome and reached Delhi the same evening. They had travelled under the assumed names of 'D. N. Karmarkar' and 'S. Marathe'. They proceeded to the Marina Hotel, and stayed there under the assumed names of 'S. Deshpande' and 'M. Deshpande'.

On 19-1-1948 Gopal V Godse came to the Sharif Hotel and spent some hours there with Vishnu R Karkare and Madanlal K Pahwa. Vishnu R Karkare and Madanlal K Pahwa thereafter left the Sharif Hotel.

Digamber R Badge along with Shankar Kistayya left Bombay by the Punjab Mail on 18-1-1948, and reached Delhi in the evening of 19-1-1948. They proceeded to the Hindu Mahasabha Bhawan, and obtained accommodation there. They met Madanlal K Pahwa and Gopal V Godse there. Nathuram V Godse, Narayan D Apte and Vishnu R Karkare came soon thereafter to the Hindu Mahasabha Bhawan, and asked Digambar R Badge and Shankar Kistayya to sleep in the hall. Madanlal K Pahwa, Gopal V Godse and Digambar R Badge along with Shankar Kistayya then slept for the night in the hall.

On 20-1-1948 at about 8.30 a.m., Narayan D Apte and Vishnu R Karkare went to the Hindu Mahasabha Bhawan. Narayan D Apte then took Digambar R Badge along with Shankar Kistayya to the Birla House and showed them the prayer-platform of Mahatma Gandhi. He took measurements of the openings in a window with trellis-work there, and told them that through that opening a revolver shot could be fired and also a hand-grenade could be thrown from the room behind. He then showed them two places on either side of the back gate from where a gun-cotton-slab could be exploded to divert the attention of the people.



collected at the prayer-ground. He also pointed out to them the room behind the trellis-work and said that it was possible to enter that room posing as a photographer. They then came back to the Hindu Mahasabha Bhawan.

Narayan D Apte asked Gopal V Godse and Digambar R Badge to get their revolvers that they had brought and proceed to the *jungle* behind the Hindu Mahasabha Bhawan to try them out. Narayan D Apte, Gopal V Godse and Digambar R Badge along with Shankar Kistayya then proceeded to the *jungle* behind the Hindu Mahasabha Bhawan. The two revolvers were tried out there. They then all came back to the Hindu Mahasabha Bhawan. Vishnu R Karkare and Madanlal K Pahwa were there. Narayan D Apte asked Vishnu R Karkare to go ahead with Madanlal K Pahwa to the Marina Hotel. Narayan D Apte then asked Gopal V Godse that they should also proceed to the Marina Hotel with the bag containing the 'stuff'. They then all proceeded to the room of Nathuram V Godse and Narayan D Apte in the Marina Hotel.

Gopal V Godse began repairing his revolver in the room of Nathuram V Godse and Narayan D Apte. Narayan D Apte Vishnu R Karkare, Madanlal K Pahwa and Digambar R Badge then began fixing primers in gun-cotton-slabs and detonators in hand-grenades in the bath-room of Nathuram V Godse and Narayan D Apte. Nathuram V Godse and Shankar Kistayya were also present in the bath-room. Nathuram V Godse said 'Badge, this is our last effort—the work must be accomplished—see to it that everything is arranged properly'. They then all came back to the room. Gopal V Godse meanwhile had repaired his revolver. It was then decided amongst them as to who was to carry what. Duties were also assigned to them. Vishnu R Karkare, Madanlal K Pahwa, Shankar Kistayya, Gopal V Godse and Digambar R Badge were to carry one hand-grenade each. Shankar Kistayya and Digambar R Badge were also to carry one revolver each. Madanlal K Pahwa was also to carry a gun-cotton-slab. Madanlal K Pahwa were to explode the gun-cotton-slab near the back compound-wall of the Birla House on a signal being given by Narayan D Apte. Digambar R Badge was to shoot with the revolver and to throw the hand-grenade through the trellis-work on a signal being given by Nathuram V Godse. The others were to mix themselves up in the prayer-ground. The 'stuff' thereafter was distributed amongst them accordingly. Vishnu R Karkare and Madanlal K Pahwa first left the Marina Hotel for the Birla House. Narayan D Apte, Gopal V Godse and Digambar R Badge along with Shankar Kistayya then left the Marina Hotel for the Birla House. Nathuram V Godse said that he would follow them a little later. While getting out of the Marina Hotel Digambar R Badge told Shanker Kistayya that he was to throw his hand-grenade, on the person on whom he threw his hand-grenade, that he was to shoot at the person at whom he shot, that the person concerned was an old man known as 'Gandiji' and that he was to be finished.

Narayan D Apte engaged a taxi, and along with Digambar R Badge, Shankar Kistayya and Gopal V Godse proceeded therein first to the Hindu Mahasabha Bhawan and then to the back of the Birla House. Gopal V Godse left his bag in the cupboard of the hall of the Hindu Mahasabha Bhawan. They in due course met Madanlal K Pahwa, Vishnu R Karkare and Nathuram V Godse at the back of the Birla House. Narayan D Apte asked Madanlal K Pahwa '*tayyer hai kya*'. Madanlal K Pahwa said that he was ready, that he had placed the gun-cotton-slab and that it remained only to be ignited. Digambar R Badge was asked to enter the room behind the trellis-work. He, however, got frightened as he thought that, if he went into the room and something happened, he would get trapped in that room. Nathuram V Godse and Narayan D Apte pressed Digambar R Badge to enter the room but he refused to do so. He told them that rather than strike from inside the

one man...
grenade

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the room he would prefer to strike from the front. Digambar R. Badge then along with Shankar Kistayya proceeded to the taxi and left the two revolvers wrapped up in a towel therein. He also handed over his own hand-grenade to Shankar Kistayya. Digambar R. Badge along with Shankar Kistayya then went back where Nathuram V. Godse and others were standing. Narayan D. Apte asked Digambar R. Badge if he was ready. He told him that he was ready and started proceeding towards the prayer-ground along with Shankar Kistayya. 10 Narayan D. Apte then placed his hand at Madanlal K. Pahwa's back and said 'chalo'. Vishnu R. Karkare also followed Digambar R. Badge and Shankar Kistayya towards the prayer-ground.

Soon thereafter Nathuram V. Godse and Narayan D. Apte along with Gopal V. Godse proceeded to the taxi. They asked the driver to start the taxi and went away therein. Madanlal K. Pahwa meanwhile had exploded the gun-cotton-slab that he had placed on the back compound-wall. A large number of persons rushed towards the scene of the explosion, and caught hold of Madanlal K. Pahwa. Digambar R. Badge along with Shankar Kistayya on finding an opportunity left the prayer-platform, and came back in a tonga to the Hindu Mahasabha Bhawan. 20 Digambar R. Badge asked Shankar Kistayya to throw away the two hand-grenades behind the Hindu Mahasabha Bhawan. He also asked him to throw away the contents of the bag that Gopal V. Godse had left in the cupboard. This was done by Shankar Kistayya. Nathuram V. Godse and Narayan D. Apte meanwhile came to the Hindu Mahasabha Bhawan. Digambar R. Badge abused them. They then went away. Digambar R. Badge along with Shankar Kistayya then left Delhi for Poona the same evening. Nathuram V. Godse and Naranjan D. Apte also left Delhi for Bombay via Kanpur the same evening. Vishnu R. Karkare and Gopal V. Godse stayed for the night in the Frontier Hindu 30 Hotel, and left Delhi the next day.

On 23-1-1948, Narayan D. Apte with a friend came to the Arya Pathik Ashram, Bombay, and stayed there. They were allotted two beds in a general room containing eight beds. There was no two-bed room available at the time. Narayan D. Apte stayed under the assumed name of 'D Narayan'. Nathuram V. Godse and Narayan D. Apte got a two-bed room in the Elphinstone Annexe Hotel from 24-1-48. Nathuram V. Godse stayed there under the assumed name of 'N Vinayakrac'. Narayan D. Apte meanwhile had managed to get a two-bed room in the Arya Pathik Ashram, and spent the night between 40 24 and 25-1-1948, with a lady there. He then shifted to the Elphinstone Annexe Hotel. Nathuram V. Godse and Narayan D. Apte then stayed in the Elphinstone Annexe Hotel till 27-1-1948.

On 25-1-1948, in the morning Nathuram V. Godse and Narayan D. Apte went to the Air-India Office, and got two seats reserved in the names of 'D Narayanrao' and 'N Vinayakrao' by the plane scheduled to leave Bombay for Delhi in the morning of 27-1-1948. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse then met together at the house of G. M. Joshi of the Shivaji Printing Press at Thana, and had a talk amongst themselves.

50 On 26-1-48, in the morning Nathuram V. Godse and Narayan D. Apte met Dada Maharaj and also Dixitji Maharaj. They asked them to do something to get a revolver for them. Nathuram V. Godse that evening again met Dixitji Maharaj, and asked him if he had arranged a revolver for him. He replied that he had not.

On 27-1-1948, Nathuram V. Godse and Narayan D. Apte left Bombay for Delhi by the morning plane. They travelled under the assumed names of 'D Narayanrao' and 'N. Vinayakrao'. Nathuram V. Godse and Narayan D. Apte then left Delhi the same afternoon by train and reached Gwalior at about 10-30 p.m. They proceeded to the house of Dattatraya S. Parchure, and stayed for the night there.

60 On 28-1-1948, Nathuram V. Godse and Narayan D. Apte obtained an automatic pistol with the help of Dattatraya S. Parchure from one Jagdish Prasad Goyel. They then left Gwalior train for Delhi.



On 29-1-1948, Nathuram V. Godse engaged a retiring-room at the Delhi Main Railway Station under the assumed name of ' N Vinayakrao '. Narayan D. Apte and Vishnu R. Karkare were with Nathuram V. Godse at the Delhi Main Ry. Station on 29 and 30-1-1948.

On 30-1-1948, at about 5.00 p. m. Mahatma Gandhi, as usual, proceeded to the prayer-platform. He was accompanied by a number of persons. A large crowd was awaiting his arrival at the prayer-platform. Mahatma Gandhi climbed up the stairs of the prayer-platform. When he had gone 6-7 paces the crowd opened up into a lane to enable him to pass through. Nathuram V. Godse came out of the 10 crowd into the lane in front of Mahatma Gandhi, and fired three shots at point-blank range in quick succession at him with the automatic pistol brought from Gwalior. He was caught hold of then and there. Mahatma Gandhi succumbed to the injuries sustained by him soon thereafter.

CHAPTER IV

CHARGES FRAMED

On the prosecution version of the story the following charges were framed against the accused :—

I.—FIRSTLY

20.

That you—

NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, MADANLAL K. PAHWA, SHANKAR KISTAYYA, GOPAL V. GODSE, VINAYAK D. SAVARKAR AND DATTATRAYA S. PARCHUBE between December 1, 2947, and January 30, 1948, at Poona, Bombay, Delhi and other places agreed and conspired among and between yourselves and Digambar R. Budge who has been tendered a pardon, Gangadhar S. Dandwate, Gangadhar Jadhav and Suryadev Sharma, who along with others not known are absconding, to do or cause to be done an illegal act viz., to commit the murder of Mohandas 30 Karamchand Gandhi more popularly known as ' Mahatma Gandhi ' and that the same act viz., the murder of ' Mahatma Gandhi ' was done in pursuance of the said agreement and conspiracy at Delhi on January 30, 1948, and thereby committed an offence punishable under Section 12-0 B of the Indian Penal Code read with Section 302 of the Indian Penal Code and within the cognizance of the Court ;

II—SECONDLY

That in pursuance of the said agreement and conspiracy between January 10, 1948, and January, 20, 1948, you.

NATHURAM V. GODSE, NARAYAN D APTE, VISHNU R. KARKARE, MADANLAL, K PAHWA, SHANKAR KISTAYYA AND 40 GOPAL V. GODSE along with Digambar R. Badge—

A (1) transported without a licence to Delhi arms and ammunition viz., 2 revolvers with cartridges, in contravention of the provisions of Section 10 of the Indian Arms Act and thereby committed an offence punishable under Section 19(d) of the Indian Arms Act and within the cognizance of the Court ;

(2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 19 (d) of the Indian Arms Act read with Sections 109 and 114 of the Indian Penal Code, and within the cognizance of the Court. 50

B (1) at Delhi, had without a licence in your possession and under your control arms and ammunition, viz., 2 revolvers with cartridges, in contravention of the provisions of Sections 14 and 15 of the Indian Arms Act and thereby committed an offence punishable under



Section 19 (f) of the Indian Arms Act and within the cognizance of the Court ;

(2) at Delhi, abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 19 (f) of the Indian Arms Act read with Section 114 of the Indian Penal Code and within the cognizance of the Court ;

III—THIRDLY

That in pursuance of the said agreement and conspiracy between January 10, 1948, and January 20, 1948, at Delhi you

10 NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, MADANLAL K PAHWA. SHANKAR KISTAYYA and GOPAL V. GODSE along with Digambar R Badge—

A (1) had in your possession and under your control explosive substances, viz., 2 gun-cotton-slabs and 5 hand-grenades with detonators and wicks, with intent to endanger life by means thereof or to enable any other person to endanger life by means thereof and thereby committed an offence punishable under section 4(b) of the Explosive Substances Act and within the cognizance of the Court ;

20 (2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 4 (b) of the Explosive Substances Act read with Section 6 of the Act and within the cognizance of the Court ;

B (1) had in your possession and under your control explosive substances, viz., 2 gun-cotton-slabs and 5 hand-grenades with detonators and wicks, under such circumstances as to give rise to a reasonable suspicion that you did not have them in your possession or under your control for a lawful object and thereby committed an offence punishable under section 5 of the Explosive Substances Act and within the cognizance of the Court ,

30 (2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 5 of the Explosive Substances Act read with section 6 of the Act and within the cognizance of the Court ,

IV—FOURTHLY

That in pursuance of the said agreement and conspiracy on January 20, 1948, at the Birla House, Delhi, you

40 A (1) MADAN LAL K. PAHWA—Unlawfully and maliciously caused an explosive substance viz., a gun-cotton-slab, to explode, which explosion was of a nature likely to endanger life and to cause serious injury to property and thereby committed an offence punishable under Section 3 of the Explosive Substances Act and within the cognizance of the Court ,

(2) NATHURAM V GODSE, NARAYAN D APTE, VISHNU R KARKARE, SHANKAR KISTAYYA AND GOPAL V GODSE—along with Digambar R Badge

abetted Mandanlal K Pahwa in the commission of the above offence, and thereby committed an offence punishable under Section 3 of the Explosive Substances Act read with Section 6 of the Act and within the cognizance of Court ,

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V—FIFTHLY.

That in pursuance of the said agreement and conspiracy on January 20, 1948, at the Birla House, Delhi, you NATHURAM V GODSE, NARAYAN D APTE, VISHNU R KARKARE, MADANLAL K



PAHWA, SHANKAR KISTAYYA, GOPAL V GODSE AND VINAYAK D. SAVARKAR—along with Digambar R. Badge

abetted each other in the commission of an offence *viz.*, to commit the murder of 'Mahatma Gandhi' which offence is punishable with death or transportation for life and which offence was not committed in consequence of the abetment and thereby committed an offence punishable under Section 115 of the Indian Penal Code read with Section 302 of the Indian Penal Code and within the cognizance of the Code.

VI.—SIXTHLY

That in pursuance of the said agreement and conspiracy between 10 January 28, 1948, and January 30, 1948, you

A(1) NATHURAM V. GODSE AND NARAYAN D. APTE—brought without a licence from Gwalior to Delhi arms and ammunition, *viz.*, Automatic Pistol No. 606824 with cartridges, in contravention of the provisions of Section 6 of the Indian Arms Act and thereby committed an offence punishable under Section 19(c) of the Indian Arms Act and within the cognizance of the court;

(2) NATHURAM V. GODSE, NARAYAN D. APTE AND DATATRAYA S. PARCHURE—abetted each other in the commission of the above offence and thereby committed an offence punishable under 20 Section 19(c) of the Indian Arms Act read with Section 114 of the Indian Penal Code and within the cognizance of the Court;

B (1) NATHURAM V. GODSE—at Delhi, had in your possession and under your control arms and ammunition, *viz.*, Automatic Pistol No. 606824 with cartridges, in contravention of Sections 14 and 15 of the Indian Arms Act and thereby committed an offence punishable under Section 19 (f) of the Indian Arms Act and within the cognizance of the Court;

(2) NARAYAN D. APTE AND VISHNU R. KARKARE at Delhi, abetted each other in the commission of the above offence and thereby committed an offence punishable under section 19 (f) of the Indian Arms Act read with Section 114 of the Indian Penal Code and within the cognizance of the Court. 30

VII.—SEVENTHLY

That in pursuance of the said agreement and conspiracy on January 30, 1948, at the Birla House, Delhi, you **A (1) NATHURAM V. GODSE** did commit murder by intentionally and knowingly causing the death of 'Mahatma Gandhi' and thereby committed an offence punishable under Section 302 of the Indian Penal Code and within the cognizance of the Court; **(2) NARAYAN D. APTE AND VISHNU R. KARKARE** abetted Nathuram V. Godse in the commission of the above offence, which offence was committed in your presence, and thereby committed an offence punishable under Section 302 of the Indian Penal Code read with Section 114 of the Indian Penal Code and within the cognizance of the Court; **(3) MADANDAL K. PAHWA, SHANKAR KISTAYYA, GOPAL V. GODSE, VINAYAK D. SAVARKAR AND DATATRAYA S. PARCHURE** along with Digambar R. Badge abetted Nathuram V. Godse in the commission of the above offence and thereby committed an offence punishable under Section 302 of the Indian Penal Code read with Section 109 of the Indian Penal Code and within the 50 cognizance of the Court. The accused pleaded 'not guilty' and 'claimed to be tried'. Dattatraya S. Parchure further pleaded that he was a subject of the Gwalior State and that, as such, he was not amenable to the jurisdiction of the Court.



CHAPTER V

DEFENCE VERSION OF THE STORY

Nathuram V. Godse has filed a long written-statement, and in his statement states as below :

On 14-1-1948 he along with Narayan D. Apte came from Poona to Bombay. On 17-1-1948 he along with Narayan D. Apte and Digamber R. Badge visited various places in a taxi to collect money and collected money. He and Narayan D. Apte travelled by air from Bombay to Delhi under the assumed names of 'D. N. Karmarkar' and 'S. Marahte'. They stayed at the Marina Hotel at Delhi from 17-1-1948 till 20-1-1948. On 20-1-1948 in the morning he had a headache. Digambar R. Badge came to the Hotel. Narayan D. Apte and Digambar R. Badge had a talk between themselves about their going to the Birla House. He and Narayan D. Apte then left Delhi for Kanpur that night by the Express. They stayed for a day in the Kanpur Central Ry. Station Retiring-Room. They then left Kanpur for Bombay. They stayed in the Elphinstone Annex Hotel, Bombay, from 24-1-1948 till 27-1-1948. They then reserved two seats on 25-1-1948 by the plane scheduled to leave Bombay for Delhi in the morning of 27-1-1948 under the assumed names of 'D. Narayan rao' and 'N. Vinayakrao'. They travelled under those assumed names by the plane from Bombay to Delhi on 27-1-1948. They were at Gwalior on 28-1-1948, and met Dattatraya S. Parchure. On 29-1-1948, he stayed at the Delhi Main Ry. Station Retiring-Room under the assumed name of 'N. Vinayakrao'. On 30-1-1948 he did shoot Mahatma Gandhi dead with a pistol in the prayerground of the Birla House.

The case of Nathuram V. Godse appears to be that there was no 'conspiracy' between him and the other accused to commit the murder of Mahatma Gandhi and that what he did was his own individual action. His motive for having committed the murder as given in his written-statement was the partition of the country into the "Dominion of Pakistan" and the "Dominion of India" for which he had held Mahatma Gandhi to blame and the fact that Mahatma Gandhi had started on 13th January 1938, which according to him had been started by Mahatma Gandhi to coerce the Government of India to pay the sum of fifty-five crores of rupees to the Government of Pakistan.

Narayan D. Apte has also filed a written-statement, and in his statement states as below :—

He has been for a long time knowing Digambar R. Badge, who used to supply him with arms, ammunition and explosives. On 14-1-48 he along with Nathuram V. Godse came from Poona to Bombay. They met Digamber R. Badge in the Hindu Mahasabha Office at Dadar on 15-1-48. Digamber R. Badge asked them why they had come to Bombay. They told him that they intended to stage a demonstration at Delhi. He thereon asked them if he could also accompany them to Delhi. They told him that they had no objection to his accompanying them to Delhi. He told them that he would meet them on 17-1-48. On 15-1-48 he obtained two air-tickets from Bombay to Delhi from a certain individual whom he had met in the Air India Office. The tickets were in the names of "D. N. Karmarkar" and "S. Marahte", and were for the plane scheduled to leave Bombay for Delhi in the afternoon of 17-1-48. On 17-1-48 he and Nathuram V. Godse met Digambar R. Badge at the V. T. Ry. Station. Then they visited various places in a taxi to collect money and collected money. Then they travelled by air from Bombay to Delhi under the assumed names of 'D. N. Karmarkar' and 'S. Marahte'. They stayed at the Marina Hotel at Delhi from 17-1-48 till 20-1-48 under the assumed names of 'M. Deshpande' and 'S. Deshpande'. On 20-1-48 Digambar R. Badge came to see him and Nathuram V. Godse. He asked Digamber R. Badge to proceed to the Birla House that evening and meet him there so that it might be found



out if it was possible to stage a demonstration there that evening. He left for the Birla House at about 4.30 p. m. Digambar R. Badge and Shankar Kistayya met him as he came out of the Marina Hotel. He took them along with him in a private car to the Birla House. They got down from the car at the back of the Birla House. They then proceeded to the prayer-ground. When the prayers began, it was found out that the loud-speakers had failed. He accordingly thought that it was not a fit occasion to stage a demonstration at the Birla House. He and Shankar Kistayya then came back in the car to the Marina Hotel, and Digamber R. Badge stayed on at the Birla House. Digambar 10 R. Badge came to the Marina Hotel about half an hour later, and saw him. Digambar R. Badge told him that a refugee of the name of Madanlal K. Pahwa had been caught hold of at the Birla House in connection with an explosion that had taken place there. Digamber R. Badge further told him that he had sold some 'stuff' to that refugee—Madanlal K Pahwa. He told Nathuram V Godse what he had learnt from Digambar R Badge. They thereon decided to leave Delhi forthwith. They then left Delhi for Kanpur that night by the Express. They stayed for a day in the Kanpur Central Ry. Station Retiring-Room. They then stayed in the Aryapathik Ashram, Bombay from 23-1-48 till 24-1-48. He had registered his name as 'D. Narayan'. They shifted to the Elphinstone Annexe Hotel, and stayed there from 24-1-48 till 27-1-48. On 25-1-48 they reserved two seats by the plain scheduled to leave Bombay for Delhi in the afternoon of 27-1-48. They had reserved the seats under the assumed names of 'D. Narayanrao' and 'N. Vinayakrao'. On 27-1-48 they travelled by air from Bombay to Delhi under these assumed names. On 28-1-48 they were at Gwalior, and met Dattatraya S. Parchure. He then left for Bombay, and Nathuram V Godse for Delhi.

The case of Narayan D Apte appears to be that he along with Nathuram V Godse had come to Delhi on 17-1-48 with the 30 intention of staging a demonstration against the fast that Mahatma Gandhi had started on 13-1-48 with a view to coercing the Government of India to give the sum of fifty-five crores of rupees to the Government of Pakistan and that he along with Nathuram V Godse was at Gwalior on 28-1-48 with a view to obtaining some volunteers for the purpose from Dattatraya S. Parchure. His case further appears to be that on 30-1-48 he was at Bombay and not at Delhi.

Vishnu R. Karkare has also filed a written-statement, and in his statement states as below :

He along with Madanlal K. Pahwa left Bombay for Delhi by the night train on 15-1-48, and reached Delhi at about mid-day on 17-1-48. 40 They stayed at the Sharif Hotel from 17-1-48 till 19-1-48. He had stayed under the assumed name of 'B. M. Bias'.

The case of Vishnu R. Karkare appears to be that it was at the request of Madanlal K. Pahwa that he had come from Bombay to Delhi. Madanlal K. Pahwa had told him that his marriage was being arranged at Delhi and that it was also being contemplated by some refugees to take a deputation to Mahatma Gandhi at Delhi. His case further appears to be that on 30-1-48 he was at Bombay and not at Delhi.

Madanlal K. Pahwa has also filed a written-statement, and in his statement states as below : 50

He had come in contact with Dr. J. C. Jain in October, 1947, and used to sell his books on commission-basis. He heard on radio on 12-1-48 that Mahatma Gandhi was to start a fast to rehabilitate the Muslims of Delhi and to get the sum of fifty-five crores of rupees paid by the Government of India to the Government of Pakistan, and felt annoyed. He was approached by certain refugees, who told him that they wanted to



stage a demonstration before Mahatma Gandhi at Delhi against his fast. He told Vishnu R. Karkare that he intended to lead a deputation to Mahatma Gandhi, and asked him to accompany him to Delhi. He also asked Vishnu R. Karkare to accompany him to Delhi in connection with the arrangements of his marriage. He and Vishnu R. Karkare left Bombay for Delhi on 15-1-48, and reached Delhi at about mid-day on 17-1-48. They stayed at the Sharif Hotel at Delhi from 17-1-48 till 19-1-48. On 18-1-48 he came to know that Mahatma Gandhi had broken his fast after obtaining a promise that all his conditions would be fulfilled.

19 On 20-1-48 he met Digambar R. Badge in the refugee-camp. Digambar R. Badge told him that he had come to Delhi for the sale of arms, ammunition and explosives to the refugees and took him to the barracks where he was putting up. Digambar R. Badge had a large quantity of arms, ammunition and explosives, and handed over to him a gun-cotton-slab and a hand-grenade as samples. Digambar R. Badge told him that he and his co-workers were also thinking of staging a demonstration before Mahatma Gandhi in a day or two and that some of his co-workers were putting up in the Marina Hotel. It then struck him that it would be better to explode the gun-cotton-slab at a safe distance from Mahatma Gandhi, court arrest and tell Mahatma Gandhi thereafter as to what were the grievances of the refugees. He asked Vishnu R. Karkare to accompany him to the Birla House. Vishnu R. Karkare looked frightened, and told him that he would reach there a little later. He then proceeded armed with the gun-cotton-slab and the hand-grenade to the Birla House, and exploded the gun-cotton-slab.

The case of Madanlal K. Pahwa appears to be that he had come to Delhi with a view to taking a deputation before Mahatma Gandhi and also with a view to making arrangements for his marriage. He came across Digambar R. Badge in the refugee-camp. Digambar R. Badge handed over to him a gun-cotton-slab and a hand-grenade as samples. He exploded the gun-cotton-slab at a safe distance from where Mahatma Gandhi was sitting with a view to courting arrest and telling Mahatma Gandhi thereafter as to what were the grievances of the refugees.

Shankar Kistayya in his statement states as below :—

He is a servant of Digambar R. Badge. Narayan D. Apte and Vishnu R. Karkare now and then used to visit the Shastra Bhandar. On 14-1-1948 he and Digambar R. Badge came from Poona to Bombay. They had two gun-cotton-slabs and five hand-grenades with them, and proceeded to the Hindu Mahasabha Office at Dadar. Nathuram V. Godse and Narayan D. Apte came there, and took away Digambar R. Badge with them. They then came back, and proceeded along with him to the house of Dixitji Maharaj. The 'stuff' brought by them was left with a servant there. He and Digambar R. Badge then were left at the Hindu Mahasabha office, and met Madanlal K. Pahwa there. On 15-1-1948 they met Vishnu R. Karkare. They then left Bombay for Poona on the night of 15-1-1948. Nathuram V. Godse came to see Digambar R. Badge twice at Poona on 16. 1. 1948. He and Digambar R. Badge came back to Bombay on 17-1-1948. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge then took him in a car from place to place. He and Digambar R. Badge left Bombay for Delhi by the Punjab Mail on 18-1-1948. They reached Delhi on the night of 19. 1. 1948, and proceeded to Hindu Mahasabha Bhawan, New Delhi. They met Madanlal K. Pahwa and Gopal V. Godse there. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare also came there for some time a little later. On 20-1-1948 in the morning Narayan D. Apte took him and Digambar R. Badge to the Birla House. They then went to the back of the Birla House and then to the prayer platform. Narayan D. Apte took various measurements and pointed out a number of places. There was some talk between Narayan D. Apte and Digambar R. Badge. They then came back to the Hindu Mahasabha Bhawan. Narayan D. Apte then took him along with Digambar R. Badge and Gopal V. Godse to the back of the Hindu Mahasabha Bhawan. He carried the revolver of



Digamber R. Badge, Gopal V. Godse carried his own revolver. Narayan D. Apte then said that the two revolvers be tried out. The revolver of Gopal V. Godse did not work. He fired a shot, and the shot did not go very far. They then came back to the Hindu Mahasabha Bhawan. Narayan D. Apte then asked him along with Vishnu R. Karkare, Madanlal K. Pahwa, Gopal V. Godse and Digamber R. Badge to proceed to the Marina Hotel. Gopal V. Godse began repairing his revolver in the room of Nathuram V. Godse. Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa and Digamber R. Badge entered in an inner room and began cutting some wire and fixing it to something. There was then a distribution of arms and ammunition. ¹⁰ Digamber R. Badge handed him over a 'pistol' and a 'bomb' and asked him to keep them. He along with Narayan D. Apte, Gopal V. Godse, Digamber R. Badge then went in a car to the Hindu Mahasabha Bhawan and from there to the back of the Birla House. They met Madanlal K. Pahwa, Vishnu R. Karkare and Nathuram V. Godse there. There was some talk between Digamber R. Badge and those persons. After some time Digamber R. Badge asked him for his 'pistol' and left the two pistols wrapped up in a towel in the car. Digamber R. Badge handed over his 'bomb' to him and asked him to keep the two 'bombs' with him. He and Digamber R. Badge then ²⁰ proceeded to the prayer-ground. Some time later there was a loud sound and some smoke came. He then saw Madanlal K. Pahwa being led in custody. He and Digamber R. Badge then left the Birla House in a tonga for the Hindu Mahasabha Bhawan. Digamber R. Badge asked him there to throw away the two 'bombs' behind the Hindu Mahasabha Bhawan. Digamber R. Badge also asked him to throw away the contents of the bag lying in the cupboard. He complied with his instructions. He and Digamber R. Badge then left Delhi for Poona.

The case of Shankar Kistayya appears to be that what he did he did in obedience to the orders of his master Digamber R. Badge. He knew nothing about the 'conspiracy' and had not been told anything about it by anyone including Digamber R. Badge.

The arguments on behalf of Shankar Kistayya ended on 14-12-1948. On 29-12-1948 Shankar Kistayya filed an application retracting his statement made before the Court on 19.11.1948. He in his application writes to say that he had made the statement under the influence of the Police. Shankar Kistayya himself conducted part of the cross-examination of Digamber R. Badge. He was allowed to do so as his counsel had not been appointed by him but had been appointed at the expense of the Crown by the Court. The cross-examination as conducted by him fits in with the version of his story as stated by him in his statement before the Court. Neither the cross-examination as conducted by him nor his version of the story as stated by him in his statement goes to show that he wanted to implicate himself in any way whatsoever in regard to the charge of 'conspiracy'. The exculpatory statement made by him accordingly would have been of no advantage as against the other accused to the Police. There thus appears to be no reason to suppose that the statement was made by him under the influence of the Police. It appears to me not unlikely that ⁴⁰ the statement was retracted by him at the instance of the other accused or some of them. ⁵⁰

Gopal V. Godse has also filed a written-statement, and in his statement denies the allegations of the prosecution *in toto*. His case appears to be that he was at Uksan (Poona) from 17-1-1948 till 25-1-1948 and that thereafter he attended to his work in the Motor Transport Spares Sub-Depot at Kirkee (Poona). He admits that he is the brother of Nathuram V. Godse.

Vinayak D. Savarkar has also filed a written-statement, and in his statement denies the allegations of the prosecution *in toto*. His case appears to be that he had no control whatsoever over Nathuram V. Godse and Narayan D. Apte. ⁰⁶



Dattatraya S. Parchure has also filed a written statement, and in his statement states as below:—

On 28-1-1948, Nathuram V. Godse and Narayan D. Apte came to him and asked him for volunteers for purposes of staging a demonstration at Delhi. He flatly refused to send volunteers for any such purpose.

The contention of Dattatraya S. Parchure appears to be that he is a subject of the Gwalior State and that, as such, he is not amenable to the jurisdiction of the Court.

10 It is thus the common case of the parties that the motive for what took place at Delhi on 20-1-1948 and 30-1-1948 was a political one and had originated after the partition of the country into the 'Dominion of Pakistan' and the 'Dominion of India'. The accused or at least some of them strongly felt that had it not been for Mahatma Gandhi the country would have never been divided into the two dominions. Mahatma Gandhi again was held responsible for what had taken place to the minority community in the 'Dominion of Pakistan'. The feelings of the accused, or at least some of them subsequently got all the more intensified against Mahatma Gandhi when he started the fast on 18-1-1948.

20 The main difference that exists between the two versions of the story is that according to the prosecution because of this very motive the accused entered into a 'conspiracy' to commit the murder of Mahatma Gandhi and that according to the defence because of this very motive the accused entered into an 'agreement' just to stage a peaceful demonstration before Mahatma Gandhi. The material point accordingly that arises for consideration before the Court is whether the 'agreement' was to commit the murder of Mahatma Gandhi or just to stage a demonstration before Mahatma Gandhi.

30 CHAPTER VI—GENERAL LAW-POINTS RAISED.

Two main law-points have been raised on behalf of the defence. The first one is that the Court should have proceeded with the trial of the case in accordance with the procedure as laid down for the trial of a warrant case. The second one is that the trial is bad for misjoinder of charges as well as parties.

The case was tried under the provisions of the Bombay Public Security Measures Act as extended to the Province of Delhi.

Section 13 of the Act runs as below:—

(1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial.

(2) A Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

50 (2 A) A Special Judge trying an offence under this Act may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof. Any pardon so tendered shall, for the purposes of sections 339 and 339-A of the Code, be deemed to have been tendered under section 338 of the Code.

(3) In matters not coming within the scope of subsections (1) and (2), the provisions of the Code, in so far as they are not inconsistent



with the provisions of sections 10 to 20, shall apply to the proceedings of a Special Judge ; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Sessions.

The Special Court accordingly has to proceed with the trial of a case as if it were a Court of Session but could take cognizance of offences without the accused being committed for trial to the Court. The Police submitted the charge-sheet in the case direct to the Court under Section 13(1) of the Act. The question then that arose before the Court was whether it was to proceed with the trial of the case in accordance with the procedure as laid down for the trial of a warrant case or in accordance with the procedure as laid down for the trial of a sessions case. Section 13 (3) of the Act clearly lays down that in matters not coming within the scope of subsections (1) and (2), the provisions of the Code, in so far as they are not inconsistent with the provision of sections 10 to 20, shall apply to the proceedings of a Special Judge ; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session. There was thus no option but to have proceeded with the trial of the case in accordance with the provisions as laid down for the trial of a sessions case. The Court in view of the specific provisions as laid down under section 13 (3) of the Act could not have proceeded with the trial of the case in accordance with the provisions as laid down for the trial of a warrant case. The Act is more or less based on Ordinance II of 1942. Had the intention of the Legislature been that the Special Court should proceed with the trial of a case in accordance with the provisions as laid down for the trial of a warrant case, then it would have specifically laid down so as it did in the case of trials held before the Court of a Special Judge under Ordinance II of 1942. Further, the trial of the case as a warrant case would have meant also powers to 'discharge' an accused before the framing of the charge, which the Court certainly in no way possessed.

The charge in the case was framed by the Court on the basis of what was contained in the charge-sheet as submitted by the Police. It has been contended on behalf of the defence that the charge should have been framed only on the basis of the judicial evidence on the record of the case and not on the basis of what was contained in the charge-sheet as submitted by the Police. This, however, could not have been done as the trial of the case for the reasons given above could not have been proceeded with in accordance with the provisions as laid down for the trial of a warrant case. According to the prosecution as well as the defence in the Province of Bombay the trial of such cases is always held in accordance with the provisions as laid down for the trial of a sessions case and not in accordance with the provisions as laid down for the trial of a warrant case and the charge is always framed on the basis of what is contained in the charge-sheet submitted by the Police. No ruling is forthcoming to show that the procedure as adopted by the trial courts in the Province of Bombay has ever been criticised by the Bombay High Court. The case accordingly has been tried strictly in accordance with the provisions as laid down under section 13 (3) of the Act.

Now I take up the second law-point raised on behalf of the defence. The accused in the case stand charged with having entered into a 'conspiracy' at different places including Delhi, some of them with having committed various offences in pursuance thereof at Delhi and one of them with having committed the murder in pursuance thereof at Delhi. The contention on behalf of the defence is that the offence of 'conspiracy' after the various offences committed in pursuance thereof merged into the offences of 'abettment by conspiracy' and that the offence of 'conspiracy' and the offences of 'abettment by conspiracy' could not have been tried together. They in support of their contention mainly rely on I. L. R. 25 Madras 61. This is 1901 Privy Council ruling, and lays down that the various offences of 'abettment by conspiracy' could not

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be tried together. The prosecution, on the other hand, have drawn my attention to 39 Cr. L. J. 452. This is 1938 Privy Council ruling, and lays down that "whatever scope of connotation may be included in the words 'the same transaction', if several persons conspire to commit offences, and commit overt acts in pursuance of the conspiracy these acts are committed in the course of the same transaction, which embraces the conspiracy and the acts done under it". The facts of the case were that 'certain persons entered into a conspiracy at Calcutta, Howrah and 24-Parganas to commit theft of electric energy some of them in pursuance 10 thereof abetted the offence of theft and some of them in pursuance thereof committed the theft'. The Privy Council held that the offence of conspiracy to commit the theft, the various offences of abetment of theft and the offence of theft were 'committed' in the course of the same 'transaction' and could be tried together under the provisions of section 239 (d) of the Cr. P. C. The facts of the present case as alleged on behalf of the prosecution are similar. The accused are said to have entered into 'conspiracy' at Delhi, Bombay, Poona and other places to commit the murder of Mahatma Gandhi. Some of the accused in pursuance thereof are said to have committed various offences of 'abetment 20 by conspiracy' at Delhi. One of the accused in pursuance thereof is said to have committed the offence of murder at Delhi.

The offence of conspiracy in the present case is said to have spread between the period 1-12-1947 and 30-1-1948. Different individuals are said to have joined the conspiracy on different dates and at different places. The material question accordingly that arises for consideration is whether the conspiracy was completed the moment the first individual conveyed his intention to some individual or individuals or continued till recruitment of the last individual to the conspiracy was made. It does not appear necessary that all the individuals to a conspiracy must conspire at one and the same time and at one and the same place. 39 Cr. L. J. 452 shows that the conspirators in that case had conspired at in different districts and at different times. 16 Cr. L.J. 497 also shows likewise. 47 Cr. L. J. 460 (2) likewise lays down that..... difficulty sometimes arises by confusing overt acts committed in pursuance of a conspiracy with the conspiracy itself. When at some intermediate stage of a conspiracy a recruit is introduced and agrees to participate in a crime which is already in process of being planned, can it be said that the divulging of the plan to him or the invitation to him to join constitutes an overt act by the original conspirator; or that the mere agreement by the recruit 30 to participate constitutes an overt act by him? If the contention be accepted that a conspiracy is necessarily complete or concluded immediately A and B agree to the commission of an offence, then the subsequent agreement by C to participate, irrespective of how soon his agreement follows, would logically constitute C a conspirator in the same conspiracy. It seems to me there are grounds for saying that in certain circumstances, a conspiracy might be a continuing offence. Each case must be dependent on its own facts. It thus appears to me that a conspiracy in certain cases 40 may be a continuing offence.

Section 182 of the Cr. P. C. lays down that '.....where an offence 50 is a continuing one and continues to be committed in more local areas than one it may be inquired into or tried by a court having a jurisdiction over any of such local areas'. The accused in the present case are said to have entered into a 'conspiracy' at Delhi, Bombay, Poona and other places to commit the murder of Mahatma Gandhi. Some of them in pursuance thereof are said to have committed various offences of abetment by conspiracy at Delhi, and one of them in pursuance thereof is said to have committed the offence of murder at Delhi. 39 Cr. L. J. 452 further lays down the principle that the question of joinder of charges and parties is to be considered from the accusation and not from that of the eventual results, if otherwise. There is accordingly no reason to suppose that the trial has been bad for misjoinder of charges as well as parties.



It has been contended on behalf of Dattatraya S. Parchure that he is a subject of the Gwalior Government and that, as such, he is not amenable to the jurisdiction of the Court. The allegations of the prosecution are that Dattatraya S. Parchure is a British Subject domiciled in 'India', that at the instance of Nathuram V. Godse and Narayan D. Apte he got a pistol procured for the murder of *Mahatma* Gandhi on 28-1-1948 at Gwalior and that the murder of *Mahatma* Gandhi was committed therewith by Nathuram V. Godse on 30-1-1948 at Delhi. The prosecution have filed the sanction of the Central Government u/s 188 of the Cr. P. C. for the trial of Dattatraya S. Parchure at Delhi. The Court, in the circumstances, certainly has territorial jurisdiction to try Dattatraya S. Parchure in regard to the offences said to have been committed by him at Gwalior. The Court, of course, before giving any findings in regard to him would have to see whether he is, in fact, a British Subject domiciled in 'India'.¹⁰

It has then been contended on behalf of Dattatraya S. Parchure that he could not be tried along with the other accused in the same trial. It has already been held above that the offence of conspiracy, the various offences of abetment by conspiracy in pursuance thereof and the offence of murder in pursuance thereof formed part of one and the same transaction. Dattatraya S. Parchure, in the circumstances, could certainly have been tried along with the other accused in the same trial.²⁹

CHAPTER VII—DISCOVERIES AND RECOVERIES MADE AND THE NATURE OF THE ARTICLES SEIZED

Madanlal K. Pahwa after his arrest was taken to the P. S. Tughlak Road. He was sometime later taken to the P.S. Parliament Street at about 9-30 p. m. and interrogated there.

Typed Script
10-1-1948

S. O. Daswanda Singh (P. W. 116) and Sardar Jaswant Singh (P. W. 117) in consequence of the information given by him took him with his face covered to the Marina Hotel. Madanlal K. Pahwa pointed out Room No. 40 at the Marina Hotel. A search of the room was made, and a typed script was recovered from inside a drawer. Ex. P/25 is the typed script. A memo. relating to the recovery of the typed script was prepared. Ex. P/26 is the recovery memo. Ram Chander (P. W. 7) and C. Pacheco (P. W. 12) are the 'panch' witnesses in regard to the recovery of the typed script.

The contention on behalf of the defence is that this piece of evidence is inadmissible and does not come within the purview of section 27 of the Indian Evidence Act. They have in their contention cited 155 I. C. 6 which has subsequently been relied on in A. I. R. 1947 P. C. 67.

It may be pointed out that Room No. 40 is the room wherein Nathuram V. Godse and Narayan D. Apte had stayed at Delhi from 7-1-1948 till 20-1-1948. The evidence produced on behalf of the prosecution could not have been produced to show that Madanlal K. Pahwa pointed out the room wherein the other two accused had stayed at Delhi from 17-1-48 till 20-1-48. The evidence obviously was produced to show the discovery of the typed script at the instance of Madanlal K. Pahwa. The typed script is a statement issued to the Press by *Shri Ashutosh Lahiri*, General Secretary, All-India Hindu Mahasabha, and is in regard to the fast undertaken by *Mahatma* Gandhi and the seven-point programme of *Mahatma* Gandhi. The prosecution have not been able to show as to how they connect the typed script with the offence or offences as alleged against the accused. The evidence was allowed to come on the record of the case as it was thought then that it would be shown subsequently by the prosecution evidence. The recovery of the typed script, in the circumstances, is no 'discovery' of a relevant fact, i. e., a material object within the meaning of Section 27 of the Indian Evidence Act. The evidence to the effect accordingly is inadmissible and is altogether discarded for purposes of arriving at any conclusion one way or the other.



A hand-grenade is said to have been recovered from the person of Madanlal K. Pahwa at the time of his arrest. It was kept in the right-hand inside pocket of Hand-grenade 20-1-1948. his coat. Bhur Singh (P. W. 17), K. N.

Sahaney (P. W. 18) and Daswanda Singh (P. W. 116) are the witnesses in regard to the recovery of the hand-grenade from the person of Madanlal K. Pahwa. Ex. P/32 is the memo. relating to its recovery. Madanlal K. Pahwa in his statement admits the recovery of the hand-grenade at the time from his person.

The hand-grenade recovered was sent for analysis and report to 10 Dr. S. C. Roy (P. W. 21). Inspector of Explosives, North Circle, Agra. The hand-grenade had been made safe by removing the ignitor-set from therein. This is the evidence of Fgt. Sgt. Ram Chandra (P. W. 30). Ex. P/33 is the memo. in regard to these proceedings. Dr. S. C. Roy in his evidence says that he received two parcels duly sealed and found a hand-grenade in one and an ignitor-set in the other. The striker and the spring were not in their position, and had been released from the lever. He refitted the striker and the spring, and found the mechanism in order. He then took out the inner contents, and found them to be Barium Nitrate and Tri-Nitro-Toluene. The mixture is known as 'Baratol', and 20 is the usual filling of a hand-grenade of this type in the United Kingdom. 'Baratol' is a high-explosive. The mixture remaining after the analysis was destroyed by him as such mixtures being high explosives are never returned according to the standing instructions. Ex. 14 is the body of the hand-grenade in question. The hand-grenade is an anti-personnel ammunition, and could also be used for causing damage to property. The ignitor-set was of four seconds delay type, and was also destroyed by him. The markings on the ignitor-set showed that it had been assembled at the Kirkee Factory. Ex. P/50 is his report in the matter.

A woollen-coat is also said to have been recovered from the person 30 of Madanlal K. Pahwa at the time of his arrest on 20-1-48. Bhur Singh (P. W. 17), K. N. Sahaney (P. W. 18) and Daswanda Singh (P. W. 116) are the witnesses Woollen-Coat 20-1-1948.

in regard to the recovery of the coat from the person of Madanlal K. Pahwa. Ex. P/15 is the coat, and Ex. P/32 is the memo. relating to its recovery. Madanlal K. Pahwa in his statement denies the recovery of the coat at the time from his person. Not a single question in cross-examination was put to any of the witnesses produced on behalf of the prosecution even to suggest that no such coat had been recovered at the time from the person of Madanlal K. Pahwa. There is thus no reason as to 40 why the evidence to the effect be not relied on.

Nathuram V. Godse was caught hold of soon after he had fired three shots with a pistol at Mahatma Gandhi on 30-1-1948. His pistol was taken possession of 50 Pistols & Diary 30-1-1948. The pistol is Ex. 39. The magazine of the pistol was found to contain four live cartridges. A memo in regard to the recovery of the pistol and the four cartridges was prepared. Ex. P/68 is the recovery memo. A search then was made of the person of Nathuram V. Godse, and among other articles a diary was recovered. Ex. P/218 is the diary. A memo in regard to the recovery of the diary and the other articles recovered was prepared. Ex. P/64 is the recovery-memo. Nathuram V. Godse in his statement admits the recovery of his pistol with four cartridges and also the diary from his possession.

Two empty cartridge-cases and two spent bullets along with one blood-stained shoulder-flap were recovered from the spot where Mahatma Gandhi had been shot at. Ex. P/9 & P/10 are the two empty cartridge-cases, and Exs. P/11 & P/12 are the two spent-bullets. A memo in regard to recovery of these articles was prepared. Ex. P/31 is the recovery memo. The recovery of these articles has not been challenged on behalf 60 of the defence.



The remaining empty cartridge-case is said to have been subsequently recovered from inside the 'chadar' wrapped round the body of Mahatma Gandhi. This is the evidence of *Sardar* Gurbachan Singh (P.W. 82). Ex.P/55 is the empty cartridge-case. A memo in regard to its recovery was prepared sometime later. Ex.P/80 is the recovery memo.

Dr. D.N. Goyle (P.W 58) is the Director of the Scientific Laboratories, East Punjab Phillaur. The pistol, the four live-cartridges, the three empty cartridge-cases and the two spent-bullets were sent to him for examination and report. He examined the three spent-cartridges under a comparison microscope and found them to bear identically the same markings. He 10 fired two of the live-cartridges from the pistol. The markings of these cartridges were also found to be identically the same as the markings on the three empty cartridge-cases. He further took micro-photographs of the markings on the three spent cartridge-cases and of the cartridges fired by him. The markings were identically the same. He likewise examined the two spent-bullets and the bullets of the two cartridges that he had fired under the comparison, microscope, and found identically the same markings and the same striations on all these bullets. He then came to the conclusion that the three empty cartridge-cases and the two spent-bullets 20 had been fired from Ex. P/39. Ex. P/93 read with Ex. P/95 is his report in the matter.

A search of the room of Nathuram V. Godse at Poona was made on 31-1-1948, and some gelatinous matter is Gelignite 31-1-1948. said to have been recovered from therein. The evidence produced on behalf of the prosecution goes to show that the room had throughout been lying open. It could not thus be held that the article recovered from inside the room had been recovered from the possession of Nathuram V. Godse. No question in regard to the nature of the article recovered accordingly arises for 30 consideration before the Court.

A search was made of the house of Vinayak D Savarkar at Bombay on 31-1-1948. A number of files were recovered from therein and taken possession of. Some of the papers from the files have been brought on the record of the case on behalf of the prosecution as well as the defence. These papers are Exs. P/87—P/89, P/277—P/302 & D/22—D/101. A memo in regard to the recovery of the files was prepared. Ex. P/244 is the recovery-memo. Vinayak D. Savarkar, in his statement admits the recovery of these papers from his possession. 40

A Khaki canvas-bag is said to have been recovered from the possession of Gopal V Godse at the time of his arrest on 5-2-1948. Ex.54 is the bag. Charles A Pinto (P.W.135) in his evidence says that he arrested Gopal V. Godse on 5th February 1948 and recovered the bag from his possession. No memo in regard to the recovery of the bag was prepared. No witnesses in regard to the recovery of the bag are forthcoming. It could not accordingly be held just on the uncorroborated testimony of Charles A Pinto that the bag had, in fact, been recovered from the possession of Gopal V. Godse. 50

A search of the premises in possession of Namdev T. Nagmode (P. W 119) and Honaji G. Shelar (P. W. 120) of Poona was made on 9th February Explosives 1948 and a number of articles were recovered from their possession. Memos in regard to 9-2-1948. these recoveries were prepared. Exs. P/219 and P/252 are the recovery-memos.

The articles recovered were sent for examination and report to the Inspector of Explosives, West Circle, Bombay, and were examined by Mr. Y. S. Pranje, Asst. Inspector of Explosives. Exs. P/308 and P/313 are the reports of Mr. Y. S. Pranje and are endorsed by Mr. Shapur K. Bhavan-nagri (P. W. 132), Inspector of Explosives. Some of the articles were sent 60



for further examination to the Chemical Analyser to the Government of Bombay. Exs. P/307 and P/312 are his reports in the matter, and were allowed to come on the record of the case u/s 510 of the Cr. P. C. Mr. Y. S. Pranjpe could not be examined even on commission as he was lying very seriously ill at the time. On the basis of the evidence of Mr. Shapur K. Bhavanagri coupled with the reports of the Chemical Analyser to the Government of Bombay, in the circumstances, it may safely be inferred that the articles sent for analysis mainly consisted of gun-cotton-slabs and hand-grenades with primers and detonators.

10 The prosecution then have filed a set of photographs to show the nature of the articles recovered from the possession of Namdev T. Nagmode and Honaji G. Shelar. The photographs are Exs. 75-78, and have been proved by Mr. J. D. Nagarvala (P. W. 138) and Balkrishna R. Raje (P. W. 136). The photographs show that the articles recovered mainly consisted of gun-cotton-slabs and hand-grenades with primers and detonators. Exs. P/219 and P/252 also further go to show that the articles recovered mainly consisted of gun-cotton-slabs and hand-grenades with primers and detonators.

20 On 11th February, 1948, Shankar Kistayya took two *Panches* along with a police-party to the back of the Hindu Mahasabha Bhawan, New Delhi. Shankar Kistayya was putting on a

11-2-1948 "burqa" at the time. A number of articles were recovered from behind the Hindu Mahasabha Building at the instance of Shankar Kistayya. The articles mainly consisted of one gun cotton-slab and three hand-grenades and had been recovered from two different places. Memos in regard to the recoveries of the articles were prepared. Exs. P/41 and P/42 are the recovery memos. A site-plan to show the places from where the articles had been recovered was also prepared. Ex. P/44 is the plan.

30 There is nothing on the record of the case to show as to why the evidence in regard to the recovery of the articles at the instance of Shankar Kistayya be not relied on. It may be pointed out here that Shanker Kistayya in his statement admits the recovery of these articles at his instance on 11th February, 1948.

40 The gun-cotton-slab and the three hand-grenades were also sent for analysis and report to Mr. S. C. Roy. Mr. S. C. Roy (P. W. 21) in his evidence says that he received the gun-cotton-slabs and the three hand-grenades. He took out the inner contents of the hand-grenades and found them to be Barium Nitrate and Tri-Nitro-Toluene. Two of the hand-grenades appeared to have been manufactured in the United Kingdom and one of them appeared to have been filled in at Kirkee. The mixture remaining after the analysis was destroyed by him in accordance with the standing instructions. Exs. 28-30 are the bodies of the three hand-grenades. The three ignitor sets were of four seconds delay type. The gun-cotton-slab weighted one pound and was fitted with one ounce dry gun-cotton primer. It was a high explosive, and was a standard explosive for demolition purposes. It was also destroyed by him in accordance with the standing instructions. Ex. P/54 is his report in the matter.

50 Narain D. Apte took two "panches" along with a police party to a place behind the Hindu Mahasabha Bhawan, New Delhi, on 26-2-1948, where he said they had tried out a pistol. A tree with four bullet-marks thereon was shown by him. The branches of the tree containing the bullet-marks were cut and taken possession of by the police. Narayan D. Apte also pointed out a place from where the pistol had been fired and an empty cartridge-case was recovered from there. The three pieces of the wood are Exs. P/33-P/35. The empty cartridge-case is Ex. 32. Ex. 45 is the "panchnama" in regard to these proceedings.

60 The contention on behalf of the defence is that the evidence to the effect is inadmissible and does not come within the purview of section 27



of the Indian Evidence Act. The prosecution has not been able to show as to how they connect the bullet-marks and the empty cartridge-case with the offence or offences alleged as against Naryan D. Apte. The evidence to the effect would have been admissible only in case the discovery would have been in regard to a relevant fact, i. e., a material object connected with the offence or offences as alleged against the accused. The evidence to the effect, in the circumstances, is inadmissible and is altogether discarded for purposes of arriving at any conclusion one way or the other.

Naryan D Apte took two "panches" along with a police-party to the house of Dattatraya S. Parchure at ¹⁰ Gwalior. He led them to the back court-yard and pointed out a place from where he said Nathuram V Godse had tried out a pistol.

A number of bullet-marks were found on the wall. A spent-bullet was also recovered lying there. Ex. 50 is the spent-bullet. Ex. P/79 is the "panchnama" in regard to these proceedings.

The contention on behalf of the defence again is that the evidence to the effect is inadmissible and does not come within the purview of section 27 of the Indian Evidence Act. The prosecution has not been able to show as to how they connect the spent-bullet with the offence or ²⁰ offences alleged as against Narayan D. Apte. The evidence to the effect would have been admissible only in case the discovery would have been in regard to a relevant fact, i. e., a material object connected with the offence or offences as alleged against the accused. The evidence to the effect, in the circumstances, is inadmissible and is altogether discarded for purposes of arriving at any conclusion one way or the other.

Narayan D Apte had a trunk in his possession when he was kept in custody in the New C. I. D. Building Bombay. On receipt of a certain information Mr. J. D. Nagarvala got a search of the trunk made in ³⁰ the presence of two "panches" on 16-4-1948.

The trunk was locked, and was opened by Narayan D. Apte with a key that he had on his person. A pair of trousers was recovered from therein. Ex. 67 is the pair of trousers. A memo in regard to the recovery was made Ex. P/221 is the recovery memo.

The only point tried to be made out on behalf of the defence is that the pair of trousers had been planted in the trunk by the police and that the trunk was later placed in the room of Naryan D. Apte. However, there is nothing whatsoever on the record of the case to justify the inference that the pair of trousers had been planted in the trunk by ⁴⁶ the police. There is thus no reason as to why it should not be held that the pair of trousers had been recovered from the possession of Narayan D. Apte.

The coat (Ex. P/15) and the pair of trousers (Ex. 67) recovered from the possession of Naryan D. Apte are said to be of one and the same suit. Naryan G. Dabke (P.W.), 105, runs a tailoring concern at Poona under the name and style of "Dabke & Co." The sum total of his evidence is to the effect that he had sewn a suit for Narayan D. Apte at the end of 1946 and that Exh. 15 is the coat of that suit and Ex. 67 is the pair of trousers of that suit. He has also filed his Measurements-Book—⁵⁰ Exh. P/220. Narayan D. Apte in his statement admits that he did have a suit so sewn by Dabke and that Co and that Exh. 15 is the coat of that suit and Exh. 67 is the pair of trousers of that suit.

CHAPTER VIII

IDENTIFICATION PARADES

Mr. Kishan Chand, Special Magistrate, 1st Class, Delhi, conducted identification proceedings in the court-yard of the District Jail against



Nathuram V. Godse on 7-2-1948 and against Narayan D. Apte and Vishnu R. Karkare on 28-2-1948.

In the identification proceedings conducted on 7-2-1948 Nathuram V. Godse was mixed up with nine other undertrials picked up by Mr. Kishan Chand. He was asked to take up a position wherever he liked among those nine persons, and was also allowed to change his clothes if he wished. The witnesses who were to identify him were kept outside the outer gate of the jail from where the court-yard was not visible. The witnesses were called in one by one through the orderly-peon. As soon as a witness came the Magistrate took down his name and other particulars, and asked him to identify any person whom he recognised in the parade. After the identification he asked him as to in what connection he had identified that individual. After a witness had identified he was taken to a place from where he could not see the witnesses who were still to identify. There were no police officers present where the parade was held. The Magistrate dictated the memo in regard to the identification proceedings held to his typist, who typed the memo to his dictation then and there on a typewriter. The Magistrate signed the identification memo after he had gone through it and after he had satisfied himself that the memo had been correctly typed. Exh. P/164 is the identification memo.

In the identification-proceedings conducted on 28-2-1948 Narayan D. Apte and Vishnu R. Karkare were mixed up with twelve under-trials picked up by Mr. Kishan Chand. The same procedure and the same precautions were observed in this parade as were observed in the previous parade by Mr. Kishan Chand, Ex. P/165 is the identification-memo.

The result of the two identification proceedings was as below :

30 Nathuram V. Godse : he was correctly identified by Ram Chander (P. W. 7), Kaliram (P. W. 10), C. Pacheco (P. W. 12), Martin Thaddeus (P. W. 13), Surjit Singh (P. W. 14), Mst. Solochana (P. W. 15) and Chhotu Ram (P. W. 16).

Narayan D. Apte : he was correctly identified by Ram Chander (P. W. 7), Kaliram (P. W. 10), Surjit Singh (P. W. 14), Mst. Solochana (P. W. 15), Chhotu Ram (P. W. 16), Bhur Singh (P. W. 17) and Jannu (P. W. 28).

Vishnu R Karkare : he was correctly identified by Ram Singh (P. W. 4), Martin Thaddeus (P. W. 13), Chhotu Ram (P. W. 16), Bhur Singh (P. W. 17) and Jannu (P. W. 28).

40 The identification proceedings have been assailed on behalf of the defence mainly on two grounds—firstly, that similar bandages had not been tied round the head of Nathuram V. Godse and rounds the heads of some of the undertrials and, secondly, that no Maharastrians had been mixed up with Narayan D. Apte and Vishnu R. Karkare. The Magistrate in his evidence says that the head of Nathuram V. Godse was not bandaged but he had a piece of cloth tied round his head. Similar pieces of cloth was tied round the heads of 3-4 undertrials. Nathuram V. Godse in his statement says that he had a bandage tied round his head and that the Magistrate had asked that some of the persons in the parade should cover their heads with kerchiefs, towels, etc. About 3-4 persons did tie up kerchiefs and towels round their heads though there was a considerable difference between his bandage and the kerchiefs and the towels tied up by others. The Magistrate in his evidence says that the pieces of cloth tied round the head of Nathuram V. Godse and the heads of the other undertrials were similar. There is thus no reason to suppose that Nathuram V. Godse was identified at the time because of the piece of cloth that was tied round his head. The



Magistrate in his evidence further says that Narayan D. Apte and Vishnu R. Karkare did not look like Maharastrians and that he does not remember if any of the undertrials mixed up in the parade was a Maharastrian. No objection in regard to it was raised then by Nathuram V. Godse and Narayan D. Apte. Narayan D. Apte certainly does not look like a Maharastrian. Vishnu R. Karkare may to a certain extent look like a Maharastrian provided he puts on a typical Maharastrian dress. There is nothing on the record to justify the inference that Vishnu R. Karkare was at the time putting on a typical Maharastrian dress. The Magistrate in his evidence says that he had given an opportunity to the accused in the parade to change their dress, if they liked. There is thus no reason to suppose that Narayan D. Apte and Vishnu R. Karkare were identified at the time because of the fact that they were Maharastrians. ¹⁰

Mr. Oscar H. Brown, Chief Presidency Magistrate, Bombay, conducted the identification proceedings on the second floor of his court building against Nathuram V. Godse and Narayan D. Apte on 21-2-1948, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 2-3-1948, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 16-3-1948, against Nathuram V. Godse, Narayan D. Apte, and Gopal V. Godse on 23-3-1948, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 24-3-1948, against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 30-3-1948, against Nathuram V. Godse, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge on 31-3-1948 and against Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge on 9-4-1948. ²⁰

The Chief Presidency Magistrate in his evidence says that in the interests of the accused he used his Honorary Magistrates as '*panches*'. He sent one of the Honorary Magistrate to the C. I. D. Office where the accused were in custody. He instructed him to take custody of the accused and bring them to his court unaccompanied by any police officers. When the accused arrived he took them over in his own custody, and directed them to his chambers. The identifying witnesses were kept in the Registrar's Office, and remained in charge of another Honorary Magistrate. He then instructed the Magistrate not to allow any one to leave or enter that room without his permission. He himself went round different court rooms, and selected a number of persons sitting in those courts to form the parade. He then led those persons to the verandah of his Chambers, where the parade was to be held. He then asked the accused to take up a position wherever they liked among those in the parade. He told the accused that they were free to change their coats and head-gears with anyone in the parade or between themselves and that they were also free to change their places as they liked. He then cautioned the members of the parade not to give any hint in any way whatsoever to the identifying witnesses. He then left the place in charge of another Honorary Magistrate. He went to the Registrar's Office to bring in an identifying witness and conducted him into his Chambers. He then told the witness that he was to point out persons in the parade whom he knew or had seen before. After a witness had identified or had failed to identify any person he conducted him to the room adjoining his chambers. He then handed him over in custody of another Honorary Magistrate. There was no possibility whatsoever for a witness who had or had not identified to communicate in any way whatsoever with the witnesses who had still to identify. When a witness had identified a person he asked him as to what was the name of the person and in what connection he had identified him. After the identification-proceedings were over he brought all the accused, all the identifying-witnesses and all others forming the parade to his Chambers. He then drafted a '*panchnama*' in the presence of all those persons. He told them that he was going to draft ⁴⁰ ⁵⁰ ⁶⁰



the 'panchnama' and that in case there was any mistake in it they should draw his attention thereto forthwith. He repeated aloud each sentence as he wrote it. When he finished the 'panchnama' he again read it over to all those present in the Chamber. The various Honorary Magistrates had also been called in, and were present throughout in his chambers. Before signing the 'panchnama' he asked the accused if they desired him to put down anything more therein in connection with the identification-proceedings. He then signed the 'panchnama'. He also got the 'panchnama' signed by the Honorary Magistrates. The

10 'panchnama' was written by him in his own hand. No police officer was present in his Chambers or in the *verandah* or nearabout. The identifying-witnesses in the Registrar's Office could not have seen from that place the *verandah* where the parade had been formed. The names of the persons and the way they were generally dressed were mentioned in the 'panchnama'. He had picked up persons of the same general appearance, age and build as the accused to form the parade. This procedure was adopted in all the various parades conducted by him. The memos. in regard to the various identification proceedings are Exs. P./231—P./243.

The result of the various identification proceedings was as 20 below:—

Nathuram v. Godse.—He was correctly identified by Madhukar K. Kale (P. W. 50) and Miss L. Bainbridge (P. W. 71) on 21-2-1948, by Gobind V. Malekar (P. W. 64), Dada Maharaj (P. W. 69), Dixitji Maharaj (P. W. 77) and Aitappa K. Kotian (P. W. 80) on 2-3-1948, by Miss Shantabai B. Modak (P. W. 60) and Mahadeo G. Kale (P. W. 88) on 16-3-1948, by Shiva Pyarelal Dixit (P. W. 45), Anand Behari Lal (P. W. 46) and Mrs. Angelina Coleston (P. W. 47) on 23-3-1948, by Sundari Lal (P. W. 26) and Hari Kishan (P. W. 27) on 24-3-1948, by Gobind Ram (P. W. 11) on 30-3-1948, by Bhur Singh (P. W. 17) and Jannu (P. W. 28) on 31-3-1948, and by Ghariba (P. W. 43), Jumma (P. W. 44) and Ganpatrao B. Afjulpurkar (P. W. 73) on 9-4-1948.

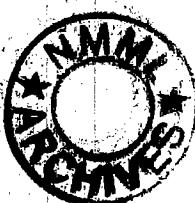
Narayan D. Apte.—He was correctly identified by Madhukar K. Kale (P. W. 50) and Miss L. Bainbridge (P. W. 71) on 21-2-1948, by Satyawan B. Rele (P. W. 59), Kashmirilal (P. W. 61), Gaya Prasad Dube (P. W. 63), Govind V. Malekar (P. W. 64), Dada Maharaj (P. W. 69), Charandas Meghji (P. W. 74), Dixitji Maharaj (P. W. 77), and Aitappa K. Kotian (P. W. 80), on 2-3-1948, by Miss Shantabai B. Modak (P. W. 60), Ramchandra M. Patankar (P. W. 87) and Mahadeo G. Kale (P. W. 88), on 16-3-1948, by Mrs. Angelina Coleston (P. W. 47) on 23-3-1948, by Mehar Singh (P. W. 9) on 24-3-1948, by Sundari Lal (P. W. 26) on 24-3-1948, and by Ghariba (P. W. 43) and Ganpatrao B. Afjulpurkar (P. W. 73) on 9-4-1948.

Vishnu R. Karkare.—He was correctly identified by Govind V. Malekar (P. W. 64), Dr. J. C. Jain (P. W. 67) and Charandas Meghji (P. W. 74) on 2-3-1948, by Shantaram A. Angchekar (P. W. 5) on 16-3-1948, by Ram Prakash (P. W. 19) on 24-3-1948, by Sundari Lal (P. W. 26) and Hari Kishan (P. W. 27) on 24-3-1948, and by Ram Lal (P. W. 2), Shanti Prakash (P. W. 3), Nainsingh (P. W. 8) and Govind Ram (P. W. 11) on 30-3-1948.

Madan Lal K. Pahwa.—He was correctly identified by Dr. J.C. Jain (P. W. 67) and Dixitji Maharaj (P. W. 77) on 2-3-1948, by Shantaram A. Angchekar (P. W. 5) on 16-3-1948, by Ram Lal (P. W. 2) on 30-3-1948, by Ram Singh (P. W. 4) and Bhur Singh (P. W. 17) on 31-3-1948.

Shankar Kistayya.—He was correctly identified by Aitappa K. Kotian (P. W. 80), on 2-3-1948, by Mehar Singh (P. W. 9) on 24-3-1948, and by Nainsingh (P. W. 8) and Chhotu Ram (P. W. 16) on 30-3-1948.

Gopal V. Godse.—He was correctly identified by Govind V. Malekar (P.W.64) on 2-3-1948, by Shantaram A. Angchekar (P.W. 5) on 16-3-1948, by Mehar Singh (P.W.9) and Ram Prakash (P.W. 19) on 24-3-1948, by



Ram Lal P.W. 2), Shanti Prakash (P.W. 3), Govind Ram (P.W. 11) and Surjit Singh (P.W. 14) on 30-3-1948, and by Bhur Singh (P.W. 17) on 31-3-1948.

No objection whatsoever has been made on behalf of the defence against the various identification proceedings conducted by Mr. Oscar H. Brown. The defence admit that the various identification proceedings conducted by him were very fair and could not have been better conducted. Their contention in general is that the witnesses from Delhi had been brought together in one compartment from Delhi to Bombay and that as such, they must have had an ample opportunity of exchanging notes in regard to the accused to be identified with one another while on their way and that the accused had throughout been kept in custody at Bombay in the New C.I.D. Building and that, as such, the Police had every opportunity of showing them to the witnesses from Delhi before the identification proceedings were conducted by the Chief Presidency Magistrate. 10

The subsequent identification proceedings were all conducted at Bombay, and the witnesses from Delhi had to be taken for the purpose from Delhi to Bombay. I see nothing wrong in the identifying-witnesses travelling together in one compartment from Delhi to Bombay. 20 Admittedly none of the identifying-witnesses personally knew from before the accused whom they were to identify. They could not have accordingly been in a position to have exchanged notes in regard to them with one another while on their way. Bringing the accused again and again from Bombay to Delhi certainly would have in no way been safe. No adverse inference thus could be drawn from the fact that the witnesses from Delhi travelled in one compartment from Delhi to Bombay.

It appears that at Bombay throughout the investigation of the case the accused remained in custody at the New C.I.D. Building under orders of the Chief Presidency Magistrate. This certainly he could have done under the powers vested on him u/s 70 (2) of the Bombay Act IV of 1902. There is nothing in the evidence of Mr. J. D. Nagarvala (P.W. 133) or any other witness to show that any of the witnesses from Delhi had been taken to the New C.I.D. Building and the accused shown to them. None of the witnesses from Delhi were put a single question in cross-examination by the defence even making a suggestion to them that they on their visit to Bombay ever been taken inside the New C.I.D. Building and the accused shown to them. There is thus no reason to suppose that the accused had been shown to the witness from Delhi while they were in custody in the New C.I.D. Building. 30

Nathuram V. Godse in his statement says that he had been shown to Surjit Singh (P.W. 14), Mst. Solochana (P.W. 15) and Chhoturam (P.W. 16) at the P.S. Tughlak Road and to Jannu (P.W. 28) and Madhukar K. Kale (P.W. 50) at Bombay. In regard to Surjit Singh he says that he saw him once near his cell gazing towards him. He asked him *Sardar Sahib* what do you want? He said 'nothing'. No such questions however, were put in cross-examination to Surjit Singh. Mst. Solochana and Chhoturam were just put a general question if they had been to the P.S. Tughlak Road. They were not put any direct question to suggest that they had a look at the face of Nathuram V. Godse at the P.S. Tughlak Road. Jannu and Madhukar K. Kale were not even cross-examined on behalf of Nathuram V. Godse. 50

It may be stated here that Nathuram V. Godse in his statement says that.....generally the police used to hang a blanket in front of my cell at the P.S. Tughlak Road. Whenever officers of the rank of inspector or above came the blanket used to be rolled up half or full. It used to be rolled down as soon as they went away. Instructions had been issued to the officers on duty that the blanket was to be kept rolled down throughout. The cell was very small. I once requested the officer on duty to remove the blanket a bit for purposes of ventilation of the cell. He refused to do so. 60



Narayan D. Apte in his statement before the Court says that he had been shown to Mehar Singh (P. W. 9) and Sujit Singh (P.W. 14) at the P. S. Tughlak Road, to Sundari Lal (P.W. 26) and Jannu (P.W. 28) at the Delhi Main Ry. Station and to Madhukar K. Kale (P.W. 50) at Bombay.

Vishnu R. Karkare in his statement says that he had been shown to Jannu (P.W. 28) at the P. S. Tughlak Road on 26-2-1948 and to the other witnesses from Delhi at the P. S. Tughlak Road, the Delhi Main Ry. Station and the New C.I.D. Building at Bombay.

10 Mehar Singh in his cross-examination denies having seen Narayan D. Apte at the P. S. Tughlak Road, *Sardar* Jaswant Singh (P.W. 117) in his evidence says that Narayan D. Apte was not even at Delhi when Mehar Singh was called for getting his statement recorded at the P. S. Tughlak Road. No question was put in cross-examination to Surjit Singh to suggest that he had been shown to Narayan D. Apte at the P. S. Tughlak Road. No question was put to Jannu on behalf of Vishnu R. Karkare to suggest that he had been shown to Vishnu R. Karkare at the P. S. Tughlak Road. Charles A. Pinto (P.W. 135) in his evidence says that Narayan D. Apte and Vishnu R. Karkare in consequence of a 20 certain information given by them were taken in 'purdah' to the Ishwardas Ballabhdas Refreshment Room at the Delhi Main Ry. Station at about mid-day on 29-2-1948. Mr. Kishan Chand (P.W. 92) had accompanied the two accused at the time. There is nothing in the cross-examination of any of these two witnesses to suggest that these two persons had been shown to Sundari Lal and Jannu or any witnesses from Delhi at the Delhi Main Ry. Station. Jannu, as a matter of fact, in his cross-examination on behalf of Narayan D. Apte was asked if Narayan D. Apte had been shown to him at the P. S. Tughlak Road and not at the Delhi Main Ry. Station. Madhukar K. Kale was put no question in cross-30 examination on behalf of Narayan D. Apte to suggest that Narayan D. Apte had been shown to him at Bombay.

It has then been contended on behalf of Narayan D. Apte that they had been pointed out to the witnesses from Delhi by Sardar Jaswant Singh while they were being taken upstairs to the Chief Presidency Magistrate's Court for purposes of identification proceedings on 24-3-1948. Mr. Oscar H. Brown (P.W. 114) in his evidence says that on 24-3-1948 while he had gone to the Registrar's Office to fetch a witness he saw a Punjabi Police Officer in that room. The Police Officer was turned out of 40 that room and sent downstairs. He in his evidence further says that the accused could not have seen the Police Officer in the Registrar's Office and that the entrance hall, his chambers, the verandah behind his Chambers or the place where the parade had been formed are not visible from the Registrar's Office. There is thus no reason to suppose that the accused had been pointed out to the witnesses from Delhi by Sardar Jaswant Singh while they were being taken upstairs to the Chief Presidency Magistrate's Court for purposes of identification proceedings on 24-3-1948.

Shankar Kistayya in his statement has nothing to say against his identification by Aitappa K. Kotian, Mehar Singh, Nainsingh and 50 Chhoturam.

Gopal V. Godse in his statement says that he had been shown to each identifying-witness in the New C.I.D. Building at Bombay and that he had specially been shown to Mehar Sidgh (P.W. 9) and Bhur Singh (P.W. 17), who had been brought there in uniform. No such questions were put in cross-examination to any of the Bombay Police Officers or to any of the witnesses produced on behalf of the prosecution including Bhur Singh and Mehar Singh.

It appears that the photographs of the accused after the identification proceedings were over were taken by the Police on 12-5-1948. Their photographs were also taken in court by the Press on 27-5-1948. It has, as such, been contended on behalf of Gopal V. Godse that no weight should



be attached to the evidence of the various prosecution witnesses pointing them out in court as they must have had every opportunity of seeing their photographs before coming to the Court.

The photographs were taken by the Police under the powers vested on them u/s 4 of Central Act, XXXIII of 1920, as amended by Bombay Act, IV of 1935. There is no law in India prohibiting the taking of photographs of the accused till the end of their trial. The contention on behalf of the accused would have certainly carried some weight had no identification proceedings been conducted earlier. As a matter of fact, no weight whatsoever is ever attached to the pointing 10 out of an accused by a witness for the first time in court, when no identification proceedings have been conducted against him earlier. The reason for this is obvious for there may be cases wherein there might be only one accused or wherein there might be some accused with peculiar physical characteristics of their own.

The prosecution witnesses in the present case pointed out the accused in court, and in their evidence stated that they had also identified them in the various identification proceedings. The fact that the prosecution witnesses did so identify the accused in the various identification proceedings is admitted on behalf of the defence and is not in dispute. This certainly goes to show that the prosecution witnesses 20 did know the faces of the accused at the time of the identification proceedings. If the prosecution witnesses could identify the accused at that time, then there is no reason to suppose that they identified the accused in court on the basis of their photographs and not on the basis of how they had identified them in the various identification proceedings.

Even if a witness is unable to point out the accused at the trial, there is a way in which his previous statement can be brought on the record of the case. The method is to elicit at the trial a statement 30 from the witness that he identified certain persons in the identification proceedings and that the persons whom he there identified, were the persons whom he had seen taking part in the crime. If the witness swears to this, then it is open to establish by other evidence the identity of the accused whom the witness had identified in the identification proceedings. It has been held in an Oudh Case (29 Cr. L.J. 129), which has been followed by the Lahore High Court (29 Cr. L.J. 366), that, if a witness states at an identification parade that he identifies a certain person as having taken part in the crime, it is permissible to 40 produce evidence at the trial that the witness identified that person, if he failed to identify him in court. The Lahore High Court has gone a step further and has ruled that, even if a witness says in court that he does not see in the dock the person who was seen by him committing the crime, it is permissible to produce evidence that the witness did identify the accused at the identification-parade as the person whom he had seen committing the offence. The prosecution witnesses in the present case, as stated above, not only pointed out the accused in court but in their evidence stated that they had also identified them in the various identification proceedings. 50

The identification proceedings in the case were conducted on 7-2-1948, 21-2-1948, 28-2-1948, 2-3-1948, 16-3-1948, 23-3-1948, 24-3-1948, 30-3-1948, 31-3-1948, and 9-4-1948. It has, as such, been contended on behalf of the defence that no weight should be attached to the various identification proceedings as some of them were conducted as late as 9-4-1948. The various identification proceedings were finished within about two months and a half of the various occurrences. The witnesses were from different Provinces and different States. It could not, in the circumstances, be said that there was any substantial delay in regard to any of the identification proceedings conducted. 60

There is accordingly no reason as to why implicit reliance should not be placed on the identification proceedings



conducted by Mr. Kishan Chand on 7-2-1948 and 28-2-1948 and the identification proceedings conducted by Mr. Oscar H. Brown on 21-2-1948, 2-3-1948, 16-3-1948, 23-3-1948, 24-3-1948, 30-3-1948, 31-3-1948 and 9-4-1948.

CHAPTER IX—DISPUTED HAND-WRITINGS OF THE ACCUSED.

The prosecution have produced a large number of documents said to be in the hand of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa and Gopal V. Godse. The specimens of handwriting of the accused accordingly were taken in the presence of 10 'panches' to establish the fact that the handwritings in dispute were in their hands. Bhalchand A. Haldipur (P. W. 128) in his evidence says that the specimens of handwriting were taken on more than one occasion, and were taken in the presence of two 'panches' and Mr. J. D. Nagarvala. On each occasion first two 'panches' were brought to the room of Mr. J. D. Nagarvala. They were then told that specimens of handwriting of certain persons would be taken and they were to witness the proceedings. The accused thereafter were called in one by one. The 'panches' asked the accused as to what his name was. The accused then was given clean sheets of paper, and was asked to write thereon to his dictation. Exs. P/152 20 P/178, P/179, P/180, P/204-P/206, P/208 and P/230 are the specimens of, handwritings of Nathuram V. Godse, Exs. P/153, P/181-P/183, P/201-P/203 P/209 and P/231 are the specimens of hand-writing of Narayan D. Apte, Exs. P/154, P/175-P/177, P/198-P/200, P/210 and P/232 are the specimens of handwriting of Vishnu R. Karkare, Exs. P/155, P/161, P/172-P/174, P/193-P/197 and P/215 are the specimens of handwriting of Madanlal K. Pahwa and Exs. P/156, P/162, P/184-P/186, P/188-P/192 and P/216 are the specimens of handwriting of Gopal V. Godse. Exs. P/157, P/163, P/187, P/207, P/211, P/217 and P/233 are the 'panchnamas' in regard to these proceedings. N. Y. Deulkar (P. W. 123) in his evidence says that he also 30 took likewise on one occasion the specimens of handwriting of Nathuram V. Godse. Exs. P/254-P/256 are the specimens of handwriting of Nathuram V. Godse. Ex. P/253 is the 'panchnama' in regard to these proceedings.

These facts are clear from the evidence of Bhalchand A. Haldipur, Yashwant S. Borkar (P. W. 90), Vinaykumar S. Pradhan (P. W. 91), Dattatraya R. Kate (P. W. 100), Alcantara P. Periera (P. W. 101), Sitaram Y. Surve (P. W. 102) and Frank Rebello (P. W. 112) and N. Y. Deulkar and Shankar G. Ghadge (P. W. 122), Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa and Gopal V. Godse admit these facts.

40 The handwritings in dispute are Exs. P/2 (*Hindi*), P/2 (English), P/15, P/37, P/38, P/72, P/90, P/100 (first line), P/100 (second line), P/101, P/104, P/107, P/110, P/112, (P/113), P/114, P/128, P/129, P/132, P/133 P/277-P/298, P/323 and P/324. Thakurdas J. Gajjar (P. W. 134) is the Handwriting Expert and Balkrishna R. Raje (P. W. 136) is the Photographic Expert. Thakurdas J. Gajjar in his evidence says that the photographs and the enlargements were taken of the various disputed documents as well as provable documents. The general writing characteristic such as slant, spacing, sizing, alignment, curves, movements and pressure, etc., in the two sets of documents were then compared with each other. The 50 photographs and the enlargements had been taken of the various handwritings under his personal supervision by Balkrishna R. Raje. He came to the conclusion that Exs. P/72, P/104, P/128, P/129, P/323, P/324, P/277-P/293 and P/296-P/298 were in the hand of Nathuram V. Godse, that Exs. P/15, P/100 (first line), P/101, P/107, P/110, P/112 (P/113), P/114, P/128, P/129, P/294-P/298 were in the hand of Narayan D. Apte, that Exs. P/2 (*Hindi*), P/38, P/90 and P/100 (second line) were in the hand of Vishnu R. Karkare, that Ex. P/2 (English) was in the hand of Madanlal K. Pahwa and that Exs. P/37, P/132 and P/133 were in the hand of Gopal V. Godse.



Except Exs. P/37, P/38, P/90 and P/100 (second line) all the other handwritings in dispute are admitted by the accused concerned to be in their hands. The only point raised on behalf of the defence is that the specimens of handwriting amount to statements of the accused u/s 162 of the Cr. P. C. and thus should not have been allowed to come on the record of the case. Whatever be the evidentiary value of such specimens of handwriting they could certainly in no way amount to statements of the accused u/s 162 of the Cr. P. C. Moreover, the contents on behalf of the defence loses all force as now all the handwritings in dispute except four stand admitted by the accused concerned to be in their hands. The handwritings that remain in dispute are Exhibits P/37, P/38, P/90 and P/100 (second line). However, it is no use entering into the merits or the demerits of these four handwritings in dispute as no inference one way or the other is being drawn on the basis thereof otherwise.

CHAPTER X—MOVEMENTS AND CONDUCT OF THE ACCUSED TILL 19-1-1948.

Sometime in November, 1947, Narayan D. Apte met Digambar R. Badge at Yerandawane (Poona), and asked him for some arms and ammunition. Digambar R. Badge told him that he had no such 'stuff' at the time with him and that he would arrange for the supply a little later. He arranged for the 'stuff', and informed that Narayan D. Apte as to what he had arranged. Narayan D. Apte said that persons of the party had gone out and that after their return they would purchase the 'stuff'. Narayan D. Apte went to the Shashtra Bhandar sometime in the last week of December, 1947, and enquired of Digambar R. Badge whether the 'stuff' was ready with him. On being informed by him that it was ready he told Digambar R. Badge that it would be collected by Vishnu R. Karkare in about 2-3 days' time. On 9th January, 1948, at about 6-30 p. m. Narayan D. Apte went to see Digambar R. Badge, and told him that Vishnu R. Karkare and some other person would be coming that evening and be shown the 'stuff'. At about 8-30 p. m. Vishnu R. Karkare along with three persons went to the Shashtra Bhandar. Vishnu R. Karkare introduced those persons to Digambar R. Badge, and one of them was Madanlal K. Pahwa. Digambar R. Badge showed them the 'stuff', which consisted of gun-cotton-slabs, hand-grenades, etc. They then went away. On 10th January, 1948, at about 10-00 a. m. Narayan D. Apte came to the Shashtra Bhandar and took Digambar R. Badge with him to the Hindu Rashta Office. Narayan D. Apte asked Digambar R. Badge to supply them with two revolvers, two gun-cotton-slabs and five hand-grenades. Digambar R. Badge told him that he had no revolvers but he could supply them with gun-cotton-slabs and hand-grenades. Narayan D. Apte asked him to supply them with two gun-cotton-slabs and five hand-grenades and told him that the delivery of the 'stuff' be made at Bombay. Narayan D. Apte thereafter asked Nathuram V. Godse to come out, and told him that Digambar R. Badge was willing to hand over the 'stuff' and that their work was complete. Narayan D. Apte and Nathuram V. Godse then asked Digambar R. Badge that he should see that the 'stuff' reached the Hindu Mahasabha Office at Dadar (Bombay) positively by the evening of 14-1-1948.

This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Madanlal K. Pahwa in their statements deny these facts *on toto*. This portion of the evidence will be taken up for discussion later.

Dr. J. C. Jain is on the staff of the Ruia College at Bombay, and is, Professor of Ardhmagadhi and Hindi. His evidence is to the effect that he has been knowing Madanlal K. Pahwa, who had come in contact with him as a refugee and whom he had helped monetarily. At about the end of the first week of January, 1948, Madanlal K. Pahwa accompanied by

10-13-1-1948

Bombay.



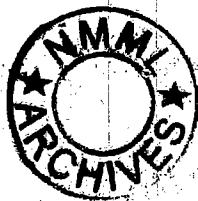
Vishnu R. Karkare came to see him. Madanlal K. Pahwa introduced Vishnu R. Karkare to him as a 'seth' from Ahmednagar. About 2-3 days later sometime in the afternoon he met Madanlal K. Pahwa near the Plaza Cinema. Madanlal K. Pahwa said that he wanted to have a talk with him and accompanied him to his house. He told Madanlal K. Pahwa that he was a bit tired at the time, and asked Madanlal K. Pahwa to come to his place a little later. Madanlal K. Pahwa then came to see him the same evening at about 8.00 p.m. Angad Singh (P. W. 72) was present at the time. Madanlal K. Pahwa then began narrating to 10 him his exploits at Ahmednagar. Madanlal K. Pahwa told him that he had formed a party at Ahmednagar, that Vishnu R. Karkare was financing that party and that the party was collecting arms and ammunition. Madanlal K. Pahwa then gave him some details about the work done by his party. Angad Singh at this time went away. Madanlal K. Pahwa thereafter told him that his party had plotted against the life of some leader. He asked Madanlal K. Pahwa the name of the leader whose life had been plotted against. Madanlal K. Pahwa at first appeared reluctant to give the name. Madanlal K. Pahwa then mentioned the name of Mahatma Gandhi and said that 20 he had been entrusted with the work of throwing a 'bomb' at the prayer-meeting of Mahatma Gandhi to create confusion and that, in the confusion so caused, Mahatma Gandhi was to be overpowered by the members of his party. He told Madanlal K. Pahwa that he should not behave like a foolish child, and had a long talk with him trying to dissuade him from what he said he intended to do. Madanlal K. Pahwa then left his house and went away. He did not take the story as told by Madanlal K. Pahwa seriously as the refugees of the locality were at the time in the habit of abusing Mahatma Gandhi and the Congress. A day later he happened to be visited by Angad Singh. He told Angad 30 Singh as to what he had been told by Madanlal K. Pahwa. Angad Singh also advised him not to take the matter seriously. A couple of days later Madanlal K. Pahwa again came to see him. He asked Madanlal K. Pahwa if he had thought over the advice that he had given him. Madanlal K. Pahwa told him that he was under his obligation, that he considered him like his father and that in case he did not listen to his advice he would be doomed.

Madanlal K. Pahwa in his statement admits his acquaintance with Dr. J. C. Jain. He, however, says that he had not come in contact with Dr. J. C. Jain after December 1947. Vishnu R. Karkare 40 in his statement denies having come in contact at all with Dr. J. C. Jain. This portion of the evidence will be taken up for discussion later.

Nathuram V Godse effected nomination on his life-policy for a sum of Rs. 2,000 in favour of Mrs. Champutai, wife of Narayan D. Apte on 18-1-48 at Poona. Ex. P/129 is the life-policy, and the nomination therein has been attested by Narayan D. Apte. These facts are clear from the evidence of Shridhar N. Vaidya (P. W. 70) and Thakurdas J. Gajjar (P. W. 134). Nathuram V Godse and Narayan D Apte in their statements admits these facts.

50 Nathuram V. Godse effected nomination on his life-policy for a sum of Rs. 3,000 in favour of Mrs. Sindhutai, wife of Gopal V. Godse on 14-1-48 at Poona. Ex. P/128 is the life-policy, and the nomination therein has been attested by Narayan D. Apte. These facts are clear also from the evidence of Shridhar N. Vaidya and Thakurdas J. Gajjar. Nathuram V Godse and Narayan D Apte in their statements also admit these facts.

Gopal V Godse was working at the M. T. T. Sub-Depot at Kirkee (Poona) in January 48. He put in an application for seven days' casual leave on 14-1-48 from 15-1-48 till 21-1-48. The application is Ex. P/132. The leave asked for was not granted as he was to



appear before a Board of Officers on 16-1-48. These facts are clear from the evidence of Leslie V. Punde (P. W. 75) and Taakundas J Gajjar (P. W. 134). Gopal V. Godse in his statement admits these facts.

Nathuram V. Godse and Narayan D. Apte came by the evening train from Poona to Bombay on 14-1-48, and got down at Dadar at about 7.15 p.m. One Miss Shantabai B. Modak (P. W. 60) had travelled in the same compartment with them and gave them a lift in her brother's car and dropped them in front of the Savarkar-Sadan. These facts are clear ¹⁰ from the evidence of Miss Shantabai B. Modak. Nathuram V. Godse and Narayan D. Apte in their statements admit these facts.

Digambar R. Badge and Shankar Kistayya also came by the evening train from Poona to Bombay on 14-1-48, and also got down at Dadar at about 7.15 p.m. They proceeded to the Hindu Mahasabha Office at Dadar. They had with them two gun-cotton-slabs and five hand-grenades (along with primers and detonators in a *khaki* canvass-bag. About half an hour later Narayan D. Apte and Nathuram V. Godse came to the Hindu Mahasabha Office, and met Digambar R. Badge. Narayan D. Apte along with Nathuram V. Godse then took Digambar R. Badge to the Savarkar-Sadan saying ²⁸ that arrangements will have to be made for keeping the 'stuff.' Digambar R. Badge had the bag containing the 'stuff' with him. Narayan D. Apte and Nathuram V. Godse then went inside leaving Digambar R. Badge standing outside the Savarkar-Sadan. Narayan D. Apte and Nathuram V. Godse came back 5—10 minutes later. They then came back to the Hindu Mahasabha Office. Shankar Kistayya was called, and all of them then proceeded in a car to the house of Dixitji Maharaj (P. W. 77) at Bhuleshwar. They got down from the car and went inside. Dixitji Maharaj was sleeping at the time. The bag containing the 'stuff' was left with a servant of Dixitji Maharaj. They then came back to the Hindu ³⁰ Mahasabha Office. Digambar R. Badge and Shankar Kistayya got down there. Narayan D. Apte paid a certain sum of money to Nathuram V. Godse. Nathuram V. Godse paid a sum of Rs. 50 to Digambar R. Badge saying that it was the sum towards their travelling expenses. Narayan D. Apte asked Digambar R. Badge to sleep in the Hindu Mahasabha Office, and said that he would look him up the next morning. Digambar R. Badge and Shankar Kistayya entered the Hindu Mahasabha Office and met Madanlal K. Pahwa. Digambar R. Badge asked Madanlal K. Pahwa as to where Vishnu R. Karkare was. Madanlal K. Pahwa said that he had gone to Thana and might be coming back that evening or the next morning. ⁴⁰

This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte and Madanlal K. Pahwa in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

On 15-1-48 at about 7.20 a.m. Nathuram V. Godse and Narayan D. Apte got two seats reserved by the afternoon plane scheduled to leave Bombay for Delhi on 17-1-48. The seats had been reserved in the names of 'D. N. Karmarkar' and 'S. Marahate.' These facts are clear from the evidence of P. Jayraman ⁵⁰ (P. W. 126) and from the air-tickets, Exs. P/260 and P/261 and the reservation-slip, Ex. P/262.

Narayan D. Apte in his statement says that he did go to the Air India Office on 15-1-48 to get two seats reserved from Bombay to Delhi for 17-1-48. He met a person there, who had two tickets for 17-1-48 and wanted to get those tickets cancelled. He purchased the two tickets from that person. The address of the two passengers as given in the reservation-slip is 'Room No. 6, Sea-Green Hotel.' According to his own statement he himself along with Nathuram V. Godse was putting up at the

15-1-48
Bombay



Sea-Green Hotel. There is thus no reason to suppose that the two seats had not been booked under assumed names.

Narayan D. Apte and Nathuram V. Godse went to the Hindu Mahasabha Office at about 8-30 a.m., and took Digambar R. Badge and Shankar Kistayya to the Shivaji Printing Press. They met Vishnu R. Karkare and G. M. Joshi at the Press. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare along with G. M. Joshi entered the office, and remained there for about an hour. They then came out of the office. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Shankar Kistayya and Digambar

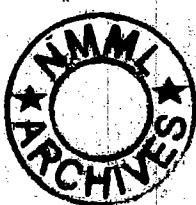
10 R. Badge then came to the Hindu Mahasabha Office. Vishnu R. Karkare asked Madanlal K. Pahwa to take his bedding and proceed with them. Narayan D. Apte brought a car. Narayan D. Apte, Nathuram V. Godse, Vishnu R. Karkare, Madanlal K. Pahwa and Digambar R. Badge then entered the car and proceeded to the house of Dixitji Maharaj. Madanlal K. Pahwa left his bedding in the hall, and all of them then proceeded into the interior of the house.

This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Madanlal K. Pahwa in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa and Digambar R. Badge met Dixitji Maharaj. He was lying unwell in a room. Digambar R. Badge asked Dixitji Maharaj to get the bag that had been left at his house the previous evening. After an hour or so the bag was produced before them. Digambar R. Badge opened the bag, and showed the 'stuff' contained therein. Digambar R. Badge thereafter closed the bag and handed it over to Narayan D. Apte. Narayan D. Apte handed it over to Vishnu R. Karkare. Narayan D. Apte then asked Vishnu R. Karkare to leave along with Madanlal K. Pahwa for Delhi that evening by the Frontier or the Punjab Mail. Vishnu R. Karkare handed over the bag to Madanlal K. Pahwa, and asked him to tie it up in his bedding. Vishnu R. Karkare and Madanlal K. Pahwa then left the place and went away. When these two persons had gone away Narayan D. Apte told Dixitji Maharaj that they were proceeding on some important mission, and asked him to give him a revolver or two. Dixitji Maharaj stated that that he had no revolvers. Narayan D. Apte then asked Dixitji Maharaj to do all what he could to obtain a revolver for him. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge then came out of the house of Dixitji Maharaj.

40 This is the evidence of Digambar R. Badge and Dixitji Maharaj. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Madanlal K. Pahwa in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

When Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge came out of the house, they stood in the compound of the temple of Dixitji Maharaj. Narayan D. Apte asked Digambar R. Badge if he was prepared to go with them to Delhi. Digambar R. Badge asked what was the work at Delhi. Narayan D. Apte then told Digambar R. Badge that Tatyarao Savarkar (Vinayak D. Savarkar) had decided that Gandhiji, Jawaharlal Nehru and Suhrawardy should be 'finished' and had entrusted that work to them. He further told him that for that purpose he should accompany them to Delhi and that they would meet his travelling expenses. Digambar R. Badge said that he was willing to proceed to Delhi but could not do so immediately as he would have to go back to Poona to make arrangements regarding his household affairs. Nathuram V. Godse thereon said that he also wanted to go to Poona to meet his brother Gopal V. Godse, who had undertaken to make arrangements for procuring a revolver, and bring him down to Bombay for accompanying them to Delhi. All three of them then



came out of the compound of the temple, and got into the car. They came back to the Hindu Mahasabha Office. Digambar R. Badge got down there. Narayan D. Apte asked Digambar R. Badge to meet him at the V. T. Ry. Station on the morning of 17-1-48. Narayan D. Apte and Nathuram V. Godse then went away. Madanlal K. Pahwa met Digambar R. Badge in front of the Hindu Mahasabha Office at about 6-30 p.m., and told him that they had missed the train and that Vishnu R. Karkare was waiting at the V. T. Ry. Staion.

This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte and Madanlal K. Pahwa in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later. ¹⁰

About two days after his last visit Madanlal K. Pahwa again saw Dr. J. C. Jain and told him that he was leaving for Delhi as he had some work there and would see him again on his return from Delhi.

This is the evidence of Dr. J. C. Jain. Madanlal K. Pahwa in his statement denies this fact *in toto*. This portion of the evidence will be taken up for discussion later.

Digambar R. Badge and Shankar Kistayya came back to Poona on the morning of 16-1-48. Digambar R. Badge saw Ganpat S. Kharat ²⁰

¹⁶⁻¹⁻⁴⁸ and left the 'stuff' still in his possession with him as he was proceeding to Delhi. Shankar Kistayya told Digambar R. Badge on his return that Nathuram V. Godse had called at his house twice. Digambar R. Badge then went to see Nathuram V. Godse at the Hindu Rashtra Office. Nathuram V. Godse asked Digambar R. Badge if he was ready to proceed to Delhi. Digambar R. Badge replied that he was. Nathuram V. Godse took out a small pistol, and asked him to get it exchanged for a big revolver. Digambar R. Badge got the pistol exchanged with a revolver that he had sold to one Sharma. Digambar R. Badge along with Shankar Kistayya left that night for Bombay. ³⁰

This is the evidence of Digambar R. Badge and Ganpat S. Kharat. Nathuram V. Godse in his statement altogether denies being at Poona on 16-1-48. The nature of the articles deposited with Ganpat S. Kharat has already been discussed earlier. The remaining portion of the evidence will be taken up for discussion later.

Gopal V. Godse presented another application for seven days' casual leave on 16-1-48 from 17-1-48 till 23-1-48. ¹⁶⁻¹⁻⁴⁸ The application is Ex. P/183. The leave asked for was granted this time. These facts are clear from the evidence of Leslie V. Punde (P. W. 75) and Thakurdas J. Gajjar (P. W. 134). Gopal V. Godse in his statement admits these facts. ⁴⁰

Digambar R. Badge and Shankar Kistayya reached Bombay on the morning of 17-1-48. Shankar Kistayya got down at Dadar and Digambar R. Badge at the V. T. Ry. Station. ¹⁷⁻¹⁻⁴⁸ Shankar Kistayya had with him the revolver of Sharma, and proceeded to the Hindu Mahasabha Office at Dadar. Digambar R. Badge got down at the V. T. Ry. Station, and met Nathuram V. Godse and Narayan D. Apte. Narayan D. Apte suggested to Digambar R. Badge that before proceedings to Delhi they should collect some money. Narayan D. Apte engaged a taxi, and they all then proceeded therein to various places for the purpose. They visited Charandas Meghji (P. W. 74), Ganpatrao B. Afzulpurkar (P. W. 73) and Mahadeo G. Kale (P. W. 86), and collected a sum of Rs. 1,000 from Charandas Meghji towards the affairs of the Hyderabad State Congress, a sum of Rs. 100 from Ganpatrao B. Afzulpurkar also towards the affairs of the Hyderabad State Congress and a sum of Rs. 1,000 from Mahadeo G. Kale towards the Hindu Rashtra Prakashan Ltd. ⁵⁰



This is the evidence of Digambar R Badge, Charandas Meghji, Ganpatrao B Afzulpurkar and Mahadeo G. Kale. Nathuram V. Godse and Narayan D. Apte in their statements admit having picked up Digambar R. Badge from the V. T. Ry. Station and having visited Charandas Meghji, Ganpatrao B. Afzulpurkar and Mahadeo G. Kale for collecting money. They, however, say that they had collected a sum of Rs. 100 from Ganpatrao B. Afzulpurkar towards the affairs of the Hyderabad State Congress and a sum of Rs. 1,000 from Mahadeo G. Kale towards the Hindu Rashtra Prakashan Ltd. This portion of the evidence and its significance will be taken up for discussion later.

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During one of these visits from place to place Shankar Kistayya was picked up from the Hindu Mahasabha Office. Nathuram V. Godse then suggested that they should all go and take the last 'darshan' of Tatya rao Savarkar. They then proceeded to the Savarkar-Sadan. Shankar Kistayya was asked to wait outside the compound of the Savarkar-Sadan. Nathuram V. Godse, Narayan D. Apte and Digambar R Badge entered the compound. Narayan D. Apte asked Digambar R. Badge to wait in the room on the ground-floor. Nathuram V. Godse and Narayan D. Apte went up to the first-floor and came down after 5-10 minutes. They were followed 20 immediately by Tatya rao Savarkar. Tatya rao Savarkar told them '*yashasvi houn ya*' (be successful and come). Nathuram V. Godse, Narayan D. Apte and Digambar R Badge along with Shankar Kistayya then got into the taxi. Narayan D. Apte on the way said that Tatya rao Savarkar had predicted that '*tatyaravari ase bhavishya kale ki gandhijichi sambhar varse bharali—ata apale kam nishchita honar yat kahi sanshya nahi*' (Gandhiji's hundred years were over—there was no doubt that their work would be successfully finished).

This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte and Vinayak D. Savarkar in their statements deny these 30 facts *in toto*. This portion of the evidence will be taken up for discussion later.

Nathuram V. Godse a little later asked that he should be left at a taxi-stand, and was left at a taxi-stand. Narayan D. Apte and Digambar R. Badge along with Shankar Kistayya then proceeded to the house of Dixitji Maharaj. Shankar Kistayya was made to sit in the hall, and Narayan D. Apte and Digambar R. Badge went into the interior of the house and met Dixitji Maharaj. Narayan D. Apte asked Dixitji Maharaj for a revolver. Dixitji Maharaj thereon showed him a small pistol and said that he would not part with it unless he received money for it. Narayan D. Apte thereon 40 told Dixitji Maharaj that Dada Maharaj had promised him a revolver and that, as such, he should hand over that pistol to him. Dixitji Maharaj refused to do so. Narayan D. Apte and Digambar R. Badge then left the house of Dixitji Maharaj.

This is the evidence of Digambar R. Badge. Narayan D. Apte in his statement denies the evidence to the effect *in toto*. This portion of the evidence will be taken up for discussion later.

Narayan D. Apte along with Digambar R. Badge and Shankar Kistayya proceeded in the taxi to the Juhu Aerodrome and learnt that the plane for Delhi left from the Santa Cruz Aerodrome. They then proceeded to the Santa Cruz Aerodrome. Narayan D. Apte got down at the Santa Cruz 50 Aerodrome and handed over a sum of Rs. 350 to Digambar R. Badge asking Digambar R. Badge to leave for Delhi along with Sahankar Kistayya the same evening. Digambar R. Badge and Shankar Kistayya then proceeded in the taxi to Kurla, and discharged the taxi after paying the driver a sum of Rs. 55-10-0.

This is the evidence of Digambar R. Badge. Narayan D. Apte in his statement denies these facts. He, however, admits having been so dropped at the Santa Cruz Aerodrome. This portion of the evidence will be taken up for discussion later.

It may be mentioned here that in regard to the various visits said to have been made by Nathuram V. Godse and Narayan D. Apte along with Digambar R. Badge as referred to above there is also the evidence of Aitappa K. Kotian (P. W. 80). He is the driver of the taxi in which these various visits are said to have been made. His evidence in regard to the various visits made will also be taken up for discussion later.

Nathuram V. Godse and Narayan D. Apte took the afternoon plane from the Santa Cruz Aerodrome for Delhi.

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Ahmednagar. They travelled under these assumed names of 'D. N. Karmarkar' and 'S. Marahte'. Dada 10 Maharaj (P. W. 69) also travelled by the same plane, and got down at Ahmedabad. While walking from the plane to the Aerodrome Office Dada Maharaj had a talk with Narayan D. Apte and told him 'you had talked a lot but it does not appear that anything had been done'. Narayan D. Apte replied 'when we do the work then you would know'. Nathuram V. Godse and Narayan D. Apte reached Delhi and stayed at the Marina Hotel.

This is the evidence of Dada Maharaj. Nathuram V. Godse and Narayan D. Apte in their statements admit having so travelled under such assumed names from Bombay to Delhi and having stayed in the Marina 20 Hotel on 17th January, 1948. They further admit that Dada Maharaj had also travelled in the plane from Bombay to Ahmedabad. They, however, deny any such talk as referred to above having taken place between Narayan D. Apte and Dada Maharaj. This portion of the evidence will be taken up for discussion later.

Vishnu R. Karkare and Madanlal K. Pahwa left Bombay for Delhi by the night train on 15th January, 1948 and reached Delhi at about mid-day on 17th January, 1948. The train was about six hours late. One

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Shantaram A. Angchekar (P. W. 5) was in their compartment, and had 30 travelled from Bombay to Delhi. He had a talk with Vishnu R. Karkare, and was introduced by Vishnu R. Karkare to Madanlal K. Pahwa at the Delhi Main Railway Station. Vishnu R. Karkare, Madanlal K. Pahwa and Shantaram A. Angchekar proceeded in a tonga from the Railway Station to the Hindu Mahasabha Bhawan, but could find no accommodation there. They then tried Birla Mandir but also could find no accommodation there. They then proceeded to the Chandni Chowk, and stayed in the Sharif Hotel.

This is the evidence of Shantaram A. Angchekar. The fact that Shantaram A. Angchekar did travel with him in his compartment to 40 Delhi is admitted in his statement by Vishnu R. Karkare. The fact that Shantaram A. Angchekar was introduced to him by Vishnu R. Karkare at the Delhi Main Railway Station is admitted in his statement by Madanlal K. Pahwa. Vishnu R. Karkare and Madanlal K. Pahwa, however, deny having first tried for accommodation at the Hindu Mahasabha Bhawan or at the Birla Mandir. They say that they along with Shantaram A. Angchekar had gone direct from the Railway Station to the Sharif Hotel. There is, however, nothing on the record of the case to show as to why the evidence of Shantaram A. Angchekar to the effect be not relied on.

17-1-1948 Vishnu R. Karkare, Madanlal K. Pahwa and Shantaram A. Angchekar stayed together in the Sharif Hotel in Room No. 2 from 17th January, 1948 till 50 19th January, 1948. Vishnu R. Karkare stayed under the assumed name of 'B. M. Bias'. The name 'B. M. Bias' had been put down in the Visitors Register in Hindi by Vishnu R. Karkare and in English by Madanlal K. Pahwa. Ex. P/2 is the entry to the effect. These facts are clear from the evidence of Shantaram A. Angchekar (P. W. 5), Ram Lal Dutt (P. W. 2), Shanti Prakash (P. W. 3), Ram Singh (P. W. 4) and Thakurdas J. Gajjar (P. W. 134). Vishnu R. Karkare and Madanlal 60 K. Pahwa in their statements admit these facts.



Shantaram A. Angchekar, Ram Lal Dutt and Shanti Prakash in their evidence further say that a person came to the hotel to see Vishnu R. Karkare and Madanlal K. Pahwa on 19th January, 1948 and that that person was Gopal V. Godse. Vishnu R. Karkare and Madanlal K. Pahwa in their statements deny this fact. This portion of the evidence will be taken up for discussion later.

10 Nathuram V. Godse and Narayan D. Apte stayed in the Marina Hotel under the assumed names of 'S. Deshpande' and 'M. Deshpande' from 17th January, 1948, till 20th January, 1948. Ex. P/15 is the entry to the effect. This is the evidence of Ram Chander (P. W. 7), Kaliram (P. W. 10), C. Pacheco (P. W. 12), Gobind Ram (P. W. 11), Martin Thaddeus (P. W. 13) and Thakurdas J. Gajjar (P. W. 134). Nathuram V. Godse and Narayan D. Apte in their statements admit having so stayed under such assumed names in the Marina Hotel from 17th January, 1948, till 20th January, 1948.

20 Digambar R. Badge and Shankar Kistayya arrived at the Delhi Main Railway Station on 19th January, 1948 at about 9-30 p.m. No one met them at the Railway Station. They took a tonga, and proceeded to the Hindu Mahasabha Bhawan at New Delhi. They were directed there to the hall behind the office. They entered the hall and saw Madanlal K. Pahwa and one more person there. Madanlal K. Pahwa told Digambar R. Badge that that person was the brother of Nathuram V. Godse and that his name was Gopal V. Godse. Narayan D. Apte, Nathuram V. Godse and Vishnu R. Karkare then came there soon thereafter. Narayan D. Apte and Nathuram V. Godse said that they had been to the Railway Station to meet them but did not find them there, and asked them to sleep in the hall. Narayan D. Apte, Nathuram V. Godse and Vishnu R. Karkare then went away. Digambar R. Badge and Shankar Kistayya along with Madanlal K. Pahwa and Gopal V. Godse slept for the night in the hall.

30 This is the evidence of Digambar R. Badge. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa and Gopal V. Godse in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

40 An urgent trunk-call was booked from Delhi 8024 to Bombay 60201 to 'Damle' or 'Kassa' at 9-20 a.m. on 19th January, 1948. Delhi 8024 refers to the 'Secretary, Hindu Mahasabha' and Bombay 60201 to 'Vinayak D. Savarkar'. The call was ineffective as neither of the persons was available at the other end. This is the evidence of Sardari Lal (P. W. 40), Miss Balwant Kaur (P. W. 41), Miss V. Furness (P. W. 42) and S. R. Sahgal (P. W. 93) as supported by Exs. P/59, P/70 and P/71. On the evidence as it stands no relevant inference whatsoever could possibly be drawn.

CHAPTER XI—MOVEMENTS AND CONDUCT OF THE ACCUSED ON 20-1-1948

Narayan D. Apte and Vishnu R. Karkare came to the Hindu Mahasabha Bhawan on 20-1-1948 at about 8.30 a.m. Narayan D. Apte asked Digambar R. Badge and Shankar Kistayya to accompany them to the Birla House. They proceeded in a car to the main gate of the Birla House, and got down there. The gate-keeper stopped them from entering the Birla House, and asked them where they wanted to go. Narayan D. Apte 50 said that he wanted to see the Secretary. He wrote down something on a piece of paper, and handed it over to him. The gate-keeper then took the piece of paper and went in. A little later a stoutish gentleman dressed up in a black suit came out of the Birla House. Narayan D. Apte pointed out that gentleman and said 'this is that Suhrawardy'. They then left the place, and proceeded towards the back of the Birla House by taking the road that passes by its side. They entered the back-gate, passed the



' chawl ' and proceeded to the prayer-platform where Mahatma Gandhi used to hold his prayers. Narayan D. Apte showed Digambar R. Badge a window with trellis-work behind where Mahatma Gandhi used to sit. Narayan D. Apte took the measurements of the openings in the trellis-work of the window with a piece of string, and said that through that opening a revolver shot could be fired and also a hand-grenade could be thrown. They then came back to the ' chawl ' and came out of the back-gate. Narayan D. Apte then pointed out one place on either side of the gate and said that one gun-cotton-slab could be exploded from each place to divert the attention of those at the prayer-ground. They again entered the back-gate, and stood in front of the ' chawl '. Narayan D. Apte then pointed out a room and said that that was the room of which he had already pointed out the trellis-work. He said that it was possible to enter the room posing as a photographer. They then left the Birla House, and came back to the Hindu Mahasabha Bhawan. Narayan D. Apte then went away saying that he would come back a little later. 10

This is the evidence of Digambar R. Badge. These facts are denied on behalf of the defence *in toto*, and will be taken up for discussion later. 20

Narayan D. Apte came back 20—25 minutes later to the Hindu Mahasabha Bhawan, and said that they should proceed to the jungle to try out the two revolvers that had been brought by Gopal V. Godse and Digambar R. Badge. Narayan D. Apte, Gopal V. Godse and Digambar R. Badge along with Shankar Kistayya then proceeded to the jungle behind the Hindu Mahasabha Bhawan. One revolver was carried by Gopal V. Godse and one by Shankar Kistayya. On reaching the jungle Narayan D. Apte asked Gopal V. Godse to take out his revolver. The revolver was taken out, and on pressing the ' catch the revolver chamber did not come out. Narayan D. Apte thereafter asked Digamber R. Badge to take out his revolver. Shankar Kistayya took out the revolver. Narayan D. Apte took the revolver, and put four cartridges therein. He then asked Shankar Kistayya to shoot 30 at a tree with it. Shankar Kistayya fired a shot, but the shot did not reach the tree but fell down in between. Narayan D. Apte said that that revolver would be of no use. Gopal V. Godse thereon said that he would repair his own revolver. Gopal V. Godse asked Shankar Kistayya to go back to the Hindu Mahasabha Bhawan and bring a bottle of oil and a pen-knife from his bag. Shankar Kistayya fetched the bottle of oil and the pen-knife. They then moved a bit and sat down. Gopal V. Godse began repairing his revolver. While Gopal V. Godse was repairing his revolver three forest-guards happened to come that way. One of the forest-guards was Mehar Singh. He asked them as to what they were doing there. They had 40 seen the forest-guards coming towards them, and had hidden the two revolvers under the *shawl* which they had spread out to sit on. Gopal V. Godse spoke to the forest-guards something in *Punjabi*. The forest-guards appeared to be satisfied and went away. They then came back to the Hindu Mahasabha Bhawan.

This is the evidence of Digambar R. Badge and Mehar Singh (P. W. 9). These facts are denied on behalf of the defence *in toto*, and will be taken up for discussion later. 50

Narayan D. Apte, Gopal V. Godse, Shankar Kistayya and Digambar R. Badge met Vishnu R. Karkare and Madanlal K. Pahwa in the Hindu Mahasabha Bhawan. Narayan D. Apte asked Vishnu R. Karkare to go ahead with Madanlal K. Pahwa to the Marina Hotel. He then asked Gopal V. Godse that they should also proceed to the Marina Hotel with the canvas-bag containing the ' stuff'. Narayan D. Apte, Gopal V. Godse, Shankar Kistayya and Digambar R. Badge then proceeded to the Marina Hotel. Gopal V. Godse carried the canvas-bag containing the ' stuff ' and also his own bag. They found Nathuram V. Godse lying on a bed in his room. Digambar R. Badge and Shankar Kistayya then proceeded to take their meals in the hotel-restaurant. When they returned after taking their



meals they found Gopal V. Godse repairing his revolver. Narayan D. Apte, Vishnu R. Karkare, Madanla K. Pahwa and Digambar R. Badge then entered the bath-room and began fixing primers in the gun-cotton-slabs and detonators in the hand-grenades. Nathuram V. Godse and Shankar Kistayya also entered the bath-room, and stood there. Nathuram V. Godse told Digambar R. Badge, 'Digambar R. Badge—this is our last effort—the work must be accomplished—see to it that everything is arranged properly'. After the gun-cotton-slabs and the hand-grenades had been fitted they all came back to the room. Gopal V. Godse meanwhile had repaired his 10 revolver.

This is the evidence of Digambar R. Badge. These facts are denied on behalf of the defence *in toto*, and will be taken up for discussion later.

Narayan D. Apte said that they should decide as to what article should be carried by whom. Narayan D. Apte suggested that Madanlal K. Pahwa should have one gun-cotton-slab and one hand-grenade. Shankar Kistayya should have one gun-cotton-slab and one hand-grenade. Nathuram V. Godse, Gopal V. Godse and Vishnu R. Karkare should have one hand-grenade each. He and Digambar R. Badge should have one revolver each. Digambar R. Badge suggested that one gun-cotton-slab was enough to create 20 commotion by explosion, and asked why two gun-cotton-slabs were required for the purpose. Digambar R. Badge then suggested that Madanlal K. Pahwa should be given one gun-cotton-slab and one hand-grenade, that Gopal V. Godse and Vishnu R. Karkare should be given one hand-grenade each and that he himself and Shankar Kistayya should be given one hand-grenade and one revolver each. He further suggested that Narayan D. Apte and Nathuram V. Godse should remain there to give signals. This suggestion was accepted. Vishnu R. Karkare then suggested that as soon as Madanlal K. Pahwa exploded the gun-cotton-slab all of them should simultaneously shoot and throw the hand-grenades at Mahatma Gandhi. 30 Narayan D. Apte said that Madanlal K. Pahwa should explode the gun-cotton-slab near the wall and that Digambar R. Badge should shoot and throw the hand-grenade through the trellis-work of the window of the room. Narayan D. Apte then said that he would stand and give signals to Madanlal K. Pahwa and that Nathuram V. Godse would stand and give signals to Digambar R. Badge. The others would mix themselves up with those in the prayer-ground. Narayan D. Apte then suggested that they should assume false names. Nathuram V. Godse assumed the name of 'Deshpande', Vishnu R. Karkare that of 'Bias', Narayan D. Apte that of 'Karmarkar', Shankar Kistayya that of 'Tukaram' and Digambar R. Badge that of 'Bandopant'. It was also decided that they should change their clothes. 40 Nathuram V. Godse put on a half-sleeve shirt and shorts of a khaki colour like that in the Military. Narayan D. Apte put on a coat and trousers of a dark blue colour like that in the Air-Force. Vishnu R. Karkare put on a dhoti, a Nehru-shirt and a Gandhi-cap. Madanlal K. Pahwa put on a coat and trousers. Gopal V. Godse put on a shirt, a coat and shorts. Shankar Kistayya put on a shirt, a coat and a cap. Vishnu R. Karkare painted false moustaches and darkened his eye-brows, and also put on a red-mark on his forehead. Narayan D. Apte thereafter distributed the 'stuff' accordingly. Digambar R. Badge put the revolver and the hand-grenade 50 handed over to him in the canvass-bag wherein the 'stuff' had been brought from the Hindu Mahasabha Bhawan to the Marina Hotel.

This is the evidence of Digambar R. Badge. These facts are denied on behalf of the defence *in toto*, and will be taken up for discussion later.

Vishnu R. Karkare and Madanlal K. Pahwa were first to leave the Marina Hotel for the Birla House. Narayan D. Apte, Gopal V. Godse, Shankar Kistayya and Digambar R. Badge then left the Marina Hotel for the Birla House. Nathuram V. Godse told them that he would follow them about 15-20 minutes later. While Narayan D. Apte, Gopal V. Godse, Shankar Kistayya and Digambar R. Badge were getting out of the Marina Hotel,



Digambar R. Badge told Shankar Kistayya that he was to throw his hand-grenade on the person at whom he threw his hand-grenade, that he was to shoot at the person whom he shot at, that the person concerned was an old man known as Gandhiji and that that person was to be 'finished'.

This is the evidence of Digambar R. Badge. These facts are denied on behalf of the defence *in totot*, and will be taken up for discussion later.

Narayan D. Apte, Gopal V. Godse, Shankar Kistayya and Digambar R. Badge then took the taxi of Surjit Singh (P. W. 14) from near the Regal Cinema, and proceeded therein first to the Hindu Mahasabha Bhawan. The taxi was engaged by Narayan D. Apte. Gopal V. Godse and Digambar R. Badge got down from the taxi at the Hindu Mahasabha Bhawan, and proceeded to the hall in that building. Gopal V. Godse left his own bag in the cupboard. They all then proceeded in the taxi to the back of the Birla House. The taxi was stopped there, and all of them got out. They met first Madanlal K. Pahwa, and proceeded towards the back-gate leading to the 'chawal'. Narayan D. Apte asked Madanlal K. Pahwa '*tayiar hai kya?*' Madanlal K. Pahwa said that he was ready, that he had placed the gun-cotton-slab and that it remained only to be ignited. Vishnu R. Karkare in the meantime came there from towards the prayer-ground, and proceeded towards the room the trellis-work of which had been pointed out in the morning by Narayan D. Apte to Digambar R. Badge. Vishnu R. Karkare had a talk with the occupant of that room Chhotu Ram (P. W. 16). He then came towards where Narayan D. Apte and others were standing, and told Narayan D. Apte that he had made arrangements with the occupant of that room to allow someone to enter that room to take photographs. Nathuram V. Godse in the meantime also arrived there. Digambar R. Badge felt frightened to enter the room as he saw two persons standing and a one-eyed man sitting near that room. He thought that if he went into the room and something happened he would be trapped inside the room. Nathuram V. Godse told Digambar R. Badge that he should not get frightened as arrangements had been made for all of them to escape. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare went on pressing Digambar R. Badge to enter that room but to no purpose. Digambar R. Badge told them that rather than strike from inside the room he would prefer to strike from the front where Mahatma Gandhi sat. Nathuram V. Godse and Narayan D. Apte accepted his suggestion. Digambar R. Badge then signalled to Shankar Kistayya and proceeded along with him to the taxi. Digambar R. Badge took out his revolver, and asked Shankar Kistayya to hand over his revolver. He wrapped up the two revolvers in a towel, kept them in the bag and left the bag in the taxi. Digambar R. Badge then handed over his hand-grenade to Shankar Kistayya and asked him not to do anything with the hand-grenade till he gave word. They then proceeded towards where Narayan D. Apte and others were standing. Narayan D. Apte asked Digambar R. Badge if he was ready. Digambar R. Badge told Narayan D. Apte that he was ready and started moving towards the prayer-ground. Shankar Kistayya followed Digambar R. Badge. Digambar R. Badge then saw Narayan D. Apte placing his hand at the back of Madanlal K. Pahwa and heard him saying "chalo". Digambar R. Badge thereafter saw Madanlal K. Pahwa proceeding towards the place where the gun-cotton-slab had been placed. Vishnu R. Karkare also followed Digambar R. Badge and Shankar Kistayya to the prayer-ground.

Mahatma Gandhi had already come to the prayer-platform. A large crowd was sitting there. Digambar R. Badge stood towards the right of Mahatma Gandhi. Vishnu R. Karkare and Shankar Kistayya stood towards the right of Digambar R. Badge. About 3-4 minutes later there was a big explosion at the back of the Birla House. Nathuram V. Godse along with 2-3 persons at this time came to the waiting taxi and got therein. They asked Surjit Singh 'start the car—start the car'. Surjit Singh started the taxi immediately. On hearing the sound of the explosion a number of persons rushed from the prayer-platform towards where the explosion had



taken place. Madanlal K. Pahwa was seen standing at some distance away from the scene of the explosion. The persons standing there were saying that he was the individual who had placed a 'bomb' there and had applied a match-stick to it. He was caught hold of. About 5-6 minutes later Digambar R. Badge saw Madanlal K. Pahwa being led in custody towards the tent at the main-gate of the Birla House. He then saw some persons leaving the prayer-platform. He signalled to Shankar Kistayya, and both of them slipped away from the Birla House.

This is the evidence of Digambar R. Badge, Surjit Singh (P. W. 14),
 10 Sm. Sulochna (P. W. 15), Chhotu Ram (P. W. 16), Bhoor Singh (P. W. 17),
 Sgt. Ram Chander (P. W. 30), Rattan Singh (P. W. 34) and Mr. K. N.
 Sahaney (P. W. 18).

Narayan D. Apte in his statement states as below :—

.....On 20-1-1948 at about 4.30 p.m. I left for the Birla House. Nathuram Godse had headache at the time and was in bed. I never took a taxi. As a matter of fact a private car was throughout at our disposal during our stay at Delhi from 17-1-1948 till 20-1-1948. Badge and Shankar met me as I came out of the Marina Hotel. I took them along with me in the private car to the Birla House. We got down from the car at the 20 back of the Birla House. We then proceeded to the prayer-ground. There were still 5—10 minutes for the prayers to begin. None of the volunteers with whom we had fixed up had arrived there till then. When the prayer began, it was found out that the loud-speakers had failed. Soon thereafter some of the volunteers with whom we had fixed up arrived there. Nathuram Godse was lying in bed at the Marina Hotel. I accordingly thought that it was not fit occasion to stage a demonstration at the Birla House. Shankar and I then came back in the car to the Marina Hotel. Badge stayed on at the Birla House.

Vishnu R. Karkare in his written-statement says as below :—

30On the 20th of January, 1948 about the time of our noon-meals, Madanlal told me that on that day, in the evening, the Hindu-refugees had decided to stage a peaceful demonstration before Gandhiji, in the prayers of Gandhi. But, I told Madanlal that I was afraid of my identity being known, and so I would alone go to the place at the time as may be told by Madanlal, and that Madanlal and other Hindu-refugees should go ahead and that I was not willing to accompany them. Later on, at about 1 p.m. after we had taken our noon-meals Madanlal told me that he was going to Hindu-refugees in connection with the work of the said peaceful demonstration and that I should remain present on that day at 4.30 in the 40 evening at the prayer place of Gandhiji in the Birla House, and accordingly I agreed to remain present in the Birla House, and Madanlal then went away. Later on, I rested for a while at the house of the said relation of Madanlal, and at about quarter past four, I hired a tonga and started for Birla House. But, as I was new to Delhi and was not familiar with the places at Delhi, I wrongly told the *Tongawala* to take me to Birla Mandir instead of to Birla House, and accordingly the *Tongawala* took me to Birla Mandir and when there my mistake was noticed and so I asked the *Tongawala* to drive me to Birla House from Birla Mandir. At that time it was about 5 p.m., and when the *Tongawala* took me to Birla House, it was 50 about half past five, and when the tonga went near Birla House, I learnt about the bomb-explosion and the arrest of Madanlal. I therefore became terrified and so, I returned by the same tonga and then I left for Muttra at night from the old Delhi Station.

Madanlal K. Pahwa in his statement states as below :—

.....On 18th January, 1948, at about 1.00 p.m. I came to know that Mahatma Gandhi had broken his fast after obtaining a promise that all his conditions would be fulfilled. I got greatly agitated in mind. I



then went to the Urdu Park and heard the speech of *Maulana Abdul Kalam Azad*. I then came to know that *Pandit Jawaharlal Nehru* and *Jai Prakash Narain* were to deliver speeches at the Sabzi-Mandi. I took *Angchekar* with me and proceeded there. I protested against the speech of *Jai Prakash Narain* and wanted to give a reply. *Pandit Jawaharlal Nehru* thereafter began delivering his speech. I also protested against his speech. The plain-clothes police-men then reprimanded me and turned me out from there. I then proceeded from there to the refugee-camp. There I learnt that some people had already done a propaganda for staging a demonstration before *Mahatma Gandhi*. *Mahatma Gandhi* had not attended the prayers till 19th January 1948. He had not been attending the prayers during those days because of weakness. On 20th January, 1948 I came to know in the morning that *Mahatma Gandhi* would be attending the prayers that evening. I had heard this in the Sabzi Mandi. I then proceeded to the refugee-camp. I met *Badge* there. He told me that he had come to Delhi for sale of arms and explosives to the refugees. He then took me to the barracks where he was putting up. He opened a huge trunk containing arms, ammunition and explosives. He had 20-25 hand-grenades, 17-18 gun-cotton-slabs and an unlimited supply of small pistols and revolvers and some steel-jackets and sword-sticks. He then handed me over a gun-cotton-slab and a hand-grenade as samples for sale to the refugees. During the course of conversation *Badge* told me that he and his co-workers were also thinking of staging a demonstration before *Mahatma Gandhi* in a day or two. He further told me that some of his co-workers were putting up in a corner-room on the first-floor of the Marina Hotel. I then proceeded to the house where I was putting up. It struck me that it would be better to explode a gun-cotton-slab at a safe distance from *Mahatma Gandhi* and to court arrest thereafter and to tell *Mahatma Gandhi* thereafter as to what were the grievances of the refugees. I, however, did not tell *Karkare* as to what I had thought of doing at the Birla House. I just asked *Karkare* to accompany me to the Birla House. *Karkare* looked frightened. He told me that he would reach Birla House a little later..... I did proceed to the Birla House but proceeded there from the Subzi Mandi. I did have a gun-cotton-slab and a hand-grenade on my person..... *Badge* had given me the gun-cotton-slab and the hand-grenade fully assembled and ready for action..... I did explode the gun-cotton-slab obtained from *Badge* at the spot. As a result of the explosion part of the walls did get damaged. I was arrested on the spot. I had selected the spot as it was at a safe distance from the crowd and from *Mahatma Gandhi*.....

40

Nathuram V. Godse in his statement denies his presence at the time at the Birla House. *Gopal V. Godse* in his statement denied his presence at the time even at Delhi. *Shankar Kistayya* in his statement admits the various facts as alleged on behalf of the prosecution except the fact of anything having been told about the conspiracy by *Digambar R. Badge*. This portion of the evidence will be taken up for discussion later.

Madanlal K. Pahwa after his arrest was taken to the police-tent at the main-gate of the Birla House. On a search being made a live hand-grenade besides certain other articles was recovered from the right-hand inside pocket of his coat. Mr. K. N. Sahaney (P. W. 18) made a written-report in regard to the explosion-incident to the Police. Ex. P/35 is the written-report. Ex. P/247 is the F. I. R. prepared on the basis thereof by the Police. The evidence produced on behalf of the prosecution in regard to the recovery of the hand-grenade and the coat from the person of *Madanlal K. Pahwa* has already been discussed earlier. This other portion of the evidence is not in dispute on behalf of the defence before the Court.

Shankar Kistayya and *Digambar R. Badge* came back in a tonga from the Birla House to the Hindu Mahasabha Bhawan. *Digambar R. Badge*



asked Shankar Kistayya to throw away the two hand-grenades. Shankar Kistayya hid them behind the Hindu Mahasabha Bhawan. Digambar R. Badge then asked Shankar Kistayya also to throw away the contents of the bag of Gopal V. Godse. Shanker Kistayya also hid the contents thereof behind the Hindu Mahasabha Bhawan. Nathuram V. Godse and Narayan D. Apte meanwhile came to the Hindu Mahasabha Bhawan to see Digambar R. Badge. Digambar R. Badge abused them and asked them to go away. Digambar R. Badge and Shankar Kistayya then left Delhi for Poona by the night train.

10. This is the evidence of Digambar R. Badge. These facts are denied on behalf of the defence *in toto*. The evidence produced on behalf of the prosecution in regard to the subsequent recovery of the 'articles' said to have been hidden behind the Hindu Mahasabha Bhawan has already been discussed earlier. The other portion of the evidence will be taken up for discussion later.

Nathuram V. Godse and Narayan D. Apte also left Delhi for Bombay *via* Kanpur the same night. This portion of the evidence is not in dispute on behalf of the defence before the Court. Narayan D. Apte in his statement says that after his return to the Marina Hotel Digambar R. Badge came there about half an hour later to see them. Digambar R. Badge looked terribly frightened and told him that a refugee of the name of Madanlal K. Pahwa had been caught hold of at the Birla House in connection with an explosion-incident that had taken place there. Digambar R. Badge further told him that he had sold some 'stuff' to that refugee—Madanlal K. Pahwa. He and Nathuram V. Godse then decided to leave Delhi forthwith. They thought that Madanlal K. Pahwa would give out the name of Digambar R. Badge. Digambar R. Badge then would give out their names as they three had come for staging a demonstration at Delhi. This portion of the evidence will be taken up for discussion later.

30. Vishnu R. Karkare and Gopal V. Godse spent the night at the Frontier Hindu Hotel. Vishnu R. Karkare stayed under the assumed name of 'G. M. Joshi' in Room No. 2, and Gopal V. Godse under the assumed name of 'Rajogopalam' in Room No. 4.

This is the evidence of Ram Prakash (P. W. 19) and Thakurdas J. Gajjar (P. W. 134). Vishnu R. Karkare in his statement says that he had left Delhi for Mathura the same evening. Gopal V. Godse in his statement says that he was not even at Delhi. This portion of the evidence will be taken up for discussion later.

CHAPTER XII—MOVEMENTS AND CONDUCT OF THE ACCUSED TILL 30-1-1948

40. Dr. J. C. Jain (P. W. 67) read the report in regard to the explosion-incident at the Birla House and the arrest of 'Madanlal' in that connection in the Times of India at Bombay on 21-1-1948. He contacted the Hon'ble Premier Mr. B. G. Kher and saw him by appointment in the Secretariat at about 4.00 p.m. The Hon'ble Home Minister Mr. Morarji Desai (P. W. 78) was also present at the time. He told them that he had read in the newspaper about the explosion-incident and also the name of the person who had been arrested in that connection and that he had personal knowledge of various matters relating to that person. He told them he knew Madanlal K. Pahwa, who had come in contact with him as a refugee and whom he had helped monetarily. He further told them that Madanlal K. Pahwa had left Bombay for Delhi only about 3-4 days before the explosion-incident and that Madanlal K. Pahwa had told him that he (Madanlal K. Pahwa) and his friends had decided to take the life of Mahatma Gandhi. He then gave them various details in regard

21-1-1948

Bombay



to the 'conspiracy' and the reasons as to why he had not reported them the matter earlier. He also gave them in that connection the name of Vishnu R. Karkare. The Hon'ble Mr. Morarji Desai asked Mr. J. D. Nagarvala (P. W. 133) of the Intelligence Branch to see him that day. The Hon'ble Mr. Desai met Mr. J. D. Nagarvala at about 8.15 p.m. at the Bombay Central Ry. Station, told him as to what he had learnt from Dr. J. C. Jain without giving him his name, and asked him to find out as to who were the persons involved in the plot, if any, and to arrest Vishnu R. Karkare.

This is the evidence of Dr. J. C. Jain (P. W. 67), Angad Singh (P. W. 72), the Hon'ble Mr. Morarji Desai (P. W. 78) and Mr. J. D. Nagarvala (P. W. 133). The evidence of the Hon'ble Mr. Morarji Desai in regard to what he had been told by Dr. J. C. Jain has been assailed on behalf of the defence on the ground that it does not come within the four corners of Section 157 of the Indian Evidence Act. This portion of the evidence will be taken up for discussion later.

Nathuram V. Godse and Narayan D. Apte reached Kanpur on the morning of 21-1-1948. They reserved a retiring-room for themselves at the Kanpur Central Ry. Station. Nathuram V. Godse filled in the Reservation-Register. Ex. P/72 20 is the entry to the effect in the Reservation-Register. Nathuram V. Godse and Narayan D. Apte left the retiring-room at about 11.20 a.m. on 22-1-48.

This is the evidence of Shiv Pyarelal Dixit (P. W. 45), Anand Beharilal Saxsena (P. W. 46), Mrs. Angelina Coleston (P. W. 47) and Thakurdas J. Gajjar (P. W. 134). Nathuram V. Godse and Narayan D. Apte in their statements admit their having so stayed at the Kanpur Central Ry. Station.

Gopal V. Godse went to the house of Pandurang V. Godbole at Poona about 8—10 days before 30-1-1948 at 9.30—10.00 p.m., and told him that he wanted 30 to keep with him a revolver with some cartridges. He agreed to keep the 'article' with him for a few days. Pandurang V. Godbole came to know of the assassination of Mahatma Gandhi by Nathuram V. Godse on 30-1-1948. He got frightened and nervous. His friend Govind V. Kale happened to come to his house. He had a talk with Govind V. Kale over the matter, and it was decided that the 'article' should be thrown away. He told Govind V. Kale that he had no courage to go out and do so. Govind V. Kale thereon said that he would do it for him and asked for the 'article' from him. Govind V. Kale threw away the cartridges on 8-4-1948 and the revolver 40 on 7-2-1948.

This is the evidence of Pandurang V. Godbole (P. W. 85) and Govind V. Kale (P. W. 88). Gopal V. Godse in his statement denies having handed over any such 'article' for being thrown away to Pandurang V. Godbole. The revolver so thrown away is not forthcoming. It cannot accordingly be said that the revolver so thrown away was one of the two revolvers that are said to have been brought to Delhi. No inferences one way or the other in the circumstances could possibly be drawn on the basis of the revolver so thrown away.

Narayan D. Apte along with a 'friend' came to the Aryapathik Ashram, Bombay, and stayed there on the night between 23-24-1-1948. They were allotted two beds in a general room containing eight beds. There was no two-bed room available at the time. Narayan D. Apte stayed under the assumed name of 'D. Narayan'. Ex. P/109 is the entry to the effect in the Visitors-Register. Nathuram V. Godse and Narayan D. Apte got a two-bed room in the



Elphinstone Annexe Hotel from 24-1-1948. Nathuram V. Godse stayed under the assumed name of 'N. Vinayakrao.' Ex. P/104 is the entry to the effect in the Visitors-Register. Narayan D. Apte meanwhile had managed to get a two-bed room in the Aryapathik Asharam, and spent the night between 24 and 25-1-1948 with a lady there. Ex. P/110 is the entry in regard to the reservation of a two bed room in the Visitors-Register. He then shifted to the Elphinstone Annexe Hotel. Nathuram V. Godse and Narayan D. Apte then stayed in the Elphinstone Annexe Hotel till 27-1-1948.

10 This is the evidence of Gaya Prasad Dube (P. W. 63), Kashmirilal (P. W. 61), Govind V. Malekar (P. W. 64) and Thakurdas J. Gajjar (P. W. 134). This portion of the evidence is not in dispute on behalf of the defence before the Court.

Govind V. Malekar (P. W. 64) in his evidence further says that Gopal V. Godse during the period had once come at about 9-00 p.m. to the Elphinstone Annexe Hotel to visit Nathuram V. Godse and Narayan D. Apte. He is not sure of the date or the day of the week on which the visitor had so come to the Hotel to see them. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

11 Nathuram V. Godse and Narayan D. Apte went to the Air India Office on the morning of 25th January, 1948, and got two seats reserved in the names of 'D. Narayan' and 'N. Vinayakrao' by the plane scheduled to leave Bombay for Delhi on the morning of 27th January, 1948. Ex. P/265 and P/266 are the two tickets and Ex. P/264 is the reservation-slip issued in this connection in the names of 'D. Narayan' and 'N. Vinayakrao'.

12 This is the evidence of Panchapagesa Jayraman (P. W. 126). Nathuram V. Godse and Narayan D. Apte in their statements admit having so reserved the seats for themselves by the plane scheduled to leave Bombay for Delhi on the morning of 27th January, 1948, under the assumed names of 'D. Narayan' and 'N. Vinayakrao.'

13 G. M. Joshi is the proprietor of the Shivaji Printing Press at Dadar, and resides at Thana. Vasant G. Joshi (P. W. 79) is his son. Vishnu R. Karkare reached the house of G. M. Joshi at about 5-30 a.m. on 25th January, 1948. There was then some talk between Vishnu R. Karkare and G. M. Joshi. G. M. Joshi wrote down something on a piece of paper and asked his son to despatch that message from the Central Telegraph Office at Bombay. Vasant G. Joshi came to Bombay, reproduced the message on a telegraph-form and handed it over at the counter of the Central Telegraph Office. Ex. P/134 is the telegraph-form. Gopal V. Godse came to the house of G. M. Joshi at about 4-00 p.m. Nathuram V. Godse and Narayan D. Apte also came to the house of G. M. Joshi at about 9-00 p.m. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse then sat down together and had some talk. Nathuram V. Godse and Narayan D. Apte left the house of G. M. Joshi about half an hour later. Gopal V. Godse also left for Poona. Vishnu R. Karkare left the place the next day.

14 This is the evidence of Vasant G. Joshi (P. W. 79). Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse in their statements deny these facts *in toto*. This portion of the evidence will be taken up for discussion later.

15 Nathuram V. Godse and Narayan D. Apte went to see Dada Maharaj as well as Dixitji Maharaj on the morning of 26-1-1948, Bombay. They asked Dada Maharaj to hand them over a revolver as asked for previously and, if not, at least to pay them the price of one. Dada Maharaj



asked them as to why they particularly wanted a revolver. They told him that he would see as to what they were going to do with it. He refused to hand them over a revolver. Nathuram V. Godse and Narayan D. Apte also asked for a revolver from Dixitji Maharaj, and told him that they wanted a revolver as it would be unsafe to travel without one beyond Delhi. He told them that his health did not permit him to help them in the matter. They then insisted that he must do something in getting a revolver procured by the evening. They told him that Dada Maharaj had promised them a revolver. During the course of the conversation Narayan D. Apte took a revolver from Nathuram V. Godse and showed it to him. Narayan D. Apte told him that the price of the revolver was Rs. 325 and that they wanted one more revolver. He, however, put them off. Nathuram V. Godse again approached Dixitji Maharaj that evening in the meeting held in regard to the affairs of the Jaisalmer State, and asked him if he had made any arrangement about the 'thing'. Dixitji Maharaj told him that he had made no arrangement. 10

This is the evidence of Dada Maharaj (P. W. 69) and Dixitji Maharaj (P. W. 77). Nathuram V. Godse and Narayan D. Apte in their statements admit their visit to Dada Maharaj and Dixitji Maharaj on the morning of 26th January, 1948. They deny their having asked for a revolver from them. 20 Nathuram V. Godse also admits having met Dixitji Maharaj in the meeting held in regard to the affairs of the Jaisalmer State in the evening of 26th January, 1948. He denies having asked for a revolver from Dixitji Maharaj. This portion of the evidence will be taken up for discussion later.

Nathuram V. Godse and Narayan D. Apte left Bombay for Delhi by the morning plane on 27th January, 1948.
 27-1-1948
 Delhi They travelled under the assumed names of 'D. Narayanrao' and 'N. Vinayakrao'.

This is the evidence of Miss L. Bainbridge (P. W. 71) and M. K. Nerurkar (P.W. 125). Nathuram V. Godse and Narayan D. Apte in their statements admit these facts. 30

Nathuram V. Godse and Narayan D. Apte reached Gwalior from Delhi by the G. T. Express at about 10-30 p.m. on 27th January, 1948.
 27-1-1948
 Gwalior They went in a tonga from the Railway Station to the house of Dattatraya S. Parchure and were dropped there.

This is the evidence of Madhusudan G. Golvalkar (P. W. 84), Ghariba (P. W. 43) and Jumma (P. W. 44). Nathuram V. Godse and Narayan D. Apte in their statements admit their having gone from Delhi to Gwalior. They say that they reached Gwalior on the morning of 28th January, 1948. 40 Dattatraya S. Parchure in his statement denies Nathuram V. Godse and Narayan D. Apte having come to his house on 27th January, 1948. This portion of the evidence will be taken up for discussion later.

Jagdish Prasad Goel (P. W. 39) visited the dispensary of Dattatraya S. Parchure at about 10-30 a.m. on 28th January, 1948.
 28-1-1948
 Gwalior He had been summoned there a little earlier by a servant of Dattatraya S. Parchure. He did not find Dattatraya S. Parchure. He met Nathuram V. Godse and Narayan D. Apte.

Madhukar K. Kale (P. W. 50) happened to go to the house of Dattatraya S. Parchure that day at about 12-30 p.m. He had gone there with a view to finding out what steps the Hindu Sabha was going to take as the power had been entrusted by His Highness to the Congress on 24th January, 1948. He saw Dattatraya S. Parchure sitting on an easy-chair in the hall. There were three more persons in the hall, and one of them was Gangadhar S. Dandwate (absconder). He did not know who the other



two persons were, and subsequently learnt that they were Nathuram V. Godse and Narayan D. Apte. Nathuram V. Godse and Narayan D. Apte had country-made revolvers in their hands, and were trying their triggers but could not do so. They then asked Gangadhar S. Dandwate to arrange for a pistol for them. Gangadhar S. Dandwate said that the two revolvers were in a serviceable condition and that he could show them how to press their triggers. Gangadhar S. Dandwate then took Nathuram V. Godse and Narayan D. Apte to the courtyard. He also accompanied them there. Gangadhar S. Dandwate got a cartridge from Nathuram V. Godse and Narayan D. Apte, loaded one revolver and fired it in the sky. Nathuram V. Godse and Narayan D. Apte thereafter again tried to fire the revolver after reloading it, but could not succeed. They asked Gangadhar S. Dandwate to get them a good revolver. They then said that they were in a hurry to get a revolver as their party had already left and they were to leave by 2-30—3-00 p.m. train. Gangadhar S. Dandwate said that he could arrange for a revolver by evening and that they could leave by the night train. Nathuram V. Godse and Narayan D. Apte agreed to stay till evening. They all then proceeded to the upper storey of the house of Dattatraya S. Parchure. Gangadhar S. Dandwate suggested to Dattatraya S. Parchure that he should hand over his pistol to Nathuram V. Godse and Narayan D. Apte. Dattatraya S. Parchure said that he was not such a fool as to hand over his pistol to them.

Gangadhar S. Dandwate (absconder) went to Jagdish Prasad Goel that day at about 9-00 p.m., and told him that a pistol was required by Nathuram V. Godse and asked him to sell his pistol to him for a sum of Rs. 500. Jagdish Prasad Goel handed over his pistol to him with seven rounds of ammunition in it. Ex. P/39 is that pistol. Gangadhar S. Dandwate again went to Jagdish Prasad Goel that day at about 10-00 p.m., and handed over to him a country-made revolver and a sum of Rs. 300.

30 Jagdish Prasad Goel refused to accept the offer, and asked him either to pay him a sum of Rs. 500 or to hand him back his pistol.

This is the evidence of Madhukar K. Kale (P. W. 50) and Jagdish Prasad Goel (P. W. 39). Nathuram V. Godse and Narayan D. Apte in their statements admit having been at the house of Dattatraya S. Parchure on 28th January, 1948. They deny their having tried out a revolver at the house of Dattatraya S. Parchure, or having procured a pistol at Gwalior. Dattatraya S. Parchure in his statement admits Nathuram V. Godse and Narayan D. Apte being at his house on 28th January, 1948. He denies Nathuram V. Godse and Narayan D. Apte trying out a revolver at his house or he having procured a pistol for Nathuram V. Godse and Narayan D. Apte from Jagdish Prasad Goel.

Nathuram V. Godse in his written statement says that they had been to the house of Dattatraya S. Parchure to collect volunteers for staging a demonstration at the prayer-meeting of Mahatma Gandhi and not for procuring a pistol. He further says in his written statement that he had obtained the pistol, Ex. 39 from a refugee at Delhi and not from Jagdish Prasad Goel at Gwalior.

Narayan D. Apte in his statement says that 'I did not see Madhukar K. Kale at the house of Dattatraya S. Parchure. We had no revolvers with us when we went to the house of Dattatraya S. Parchure. I did not at all see Jagdish Prasad Goel at Gwalior. It is an absurdity on the part of the prosecution to suggest that Nathuram V. Godse and I had gone to Gwalior to procure a pistol. As a matter of fact we were in a position to have procured a revolver or a pistol, if required, at Bombay or Poona. Volunteers for staging a demonstration at Delhi were not forthcoming in sufficient numbers at Bombay. We were short of funds. We were very keen that a demonstration be staged at Delhi as early as possible as we expected that we might be arrested in connection with the explosion-incident that had taken place at the Birla House on 20th January, 1948. We had



read in the newspapers that the police had already raided the Marina Hotel. We accordingly decided at Bombay that we should procure volunteers through Dattatraya S. Parchure, who had already staged a demonstration at Gwalior on or about 24th January, 1948. It was for these reasons that Nathuram V. Godse and I had proceeded to Gwalior on 27th January, 1948.'

These portions of the evidence will be taken up for discussion later.

Sundari Lal (P. W. 26) was the clerk in charge of the booking office at the Delhi Main Railway Station at mid-day on 29th January, 1948. His evidence is to 10
29-30-1-1948 ; Delhi.

the effect that Nathuram V. Godse came to him and asked him for the reservation of a retiring-room. No retiring-room was vacant at the time. He asked Nathuram V. Godse to come a little later as a retiringroom was to fall vacant by then. Nathuram V. Godse along with Narayan D. Apte then went to the booking office at about 1-00 p.m. A retiring -room had fallen vacant by then. He allotted Nathuram V. Godse Room No. 6. Nathuram V. Godse got the room reserved in the name of 'N. Vinayakrao'. Ex. P/61 is the counter-foil of the retiring-room ticket issued to Nathuram V. Godse.

Hari Kishan (P. W. 27) is the bearer of the retiring-rooms at the 20 Delhi Main Railway Station. His evidence is to the effect that Nathuram V. Godse along with two persons had stayed in Room No. 6 on 29th January, 1948 and 30th January, 1948. Vishnu R. Karkare was one of these two persons. Nathuram V. Godse gave him some clothes for getting washed, and he got them washed through Jannu. Nathuram V. Godse and his two companions left Room No. 6 at about 1-30 p.m. on 30th January, 1948.

Jannu (P. W. 28) is the boot-polisher at the Delhi Main Railway Station. His evidence is to the effect that three persons had stayed in Room No. 6 at the Delhi Main Railway Station on 29th and 30th January, 30 1948. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare were those three persons. He polished the shoes of Nathuram V. Godse. He also got some clothes of Nathuram V. Godse washed, and was paid a sum of Rs. 2 by Hari Kishan.

Sundari Lal (P. W. 26) in his evidence further says that Nathuram V. Godse along with Narayan D. Apte came to him on 30th January, 1948 and asked for an extension of time. He told Nathuram V. Godse that no extension of time could be given without the permission of the Station Superintendent. Nathuram V. Godse and Narayan D. Apte then went away. He did not receive the key and so he went to the retiringroom to see whether it had been vacated or not. He saw Nathuram V. Godse and Narayan D. Apte sitting and Vishnu R. Karkare standing in the retiring-room. He asked Nathuram V. Godse to vacate the room as the time had expired. Nathuram V. Godse asked Vishnu R. Karkare to tie up the bedding. He came back after the luggage had been taken out of the retiring-room.

This is the evidence of Sundari Lal (P. W. 26), Hari Kishen (P. W. 27) and Jannu (P. W. 28). Nathuram V. Godse admits having stayed under such assumed name in the retiring-room at the Delhi Main Railway Station on 29th and 30 th January, 1948. Narayan D. Apte and Vishnu R. Karkare in their statements deny being at Delhi on 29th and 30th January, 50 1948. This portion of the evidence will be taken up for discussion later.

Jagannath Singh (P. W. 53) visited Dattatraya S. Parchure at his 30-1-1948 ; Gwalior house at about 11-00 a.m. on 30th January, 1948. He had gone there with a view to discussing with him to make a joint demand for a share in the Ministry. Dattatraya S. Parchure told him that something



was going to be completed in about a week and that he would thereafter discuss what steps were to be taken to get a share in the Ministry.

This is the evidence of Jagannath Singh (P. W. 53). Dattatraya S. Parchure in his statement denies the fact *in toto*. This portion of the evidence will be taken up for discussion later.

CHAPTER XIII

MURDER OF MAHATMA GANDHI.

On 30th January, 1948, a little after 5-00 p.m. Mahatma Gandhi began his last walk from his room to the prayer-ground. Gurbachan Singh (P. W. 82) used to attend on Mahatma Gandhi, and told him that he was a little late that day. Mahatma Gandhi laughingly replied that those who were late received punishment. Saying this he started walking quickly towards the prayer-ground. Gurbachan Singh was detained for a few minutes talking to someone, and after the talk hurried towards the prayer-ground. He saw Mahatma Gandhi walking towards the prayer-ground and resting his hands on the shoulders of *Sm. Ava Ben* and *Sm. Manu Ben*. Whenever Mahatma Gandhi used to go to the prayer-ground normally there used to be one or two men in front of him to clear the passage and one or two men behind him. Gurbachan Singh caught up Mahatma Gandhi when he was climbing up the steps leading to the prayer-platform. It happened that day that there was no one of the party in front of Mahatma Gandhi. Mahatma Gandhi went up the steps. There was a big crowd waiting for him on the prayer-platform. Gurbachan Singh tried to get in front of Mahatma Gandhi but could not do so. When Mahatma Gandhi had gone 6—7 paces from the steps, the crowd opened up into a lane to enable him to pass through. When Mahatma Gandhi had gone about three paces into the opening made by the crowd, he folded his hands to the crowd according to his usual practice. Nathuram V. Godse stepped out of the crowd into the lane, took his pistol between his two hands, folded his hands and bowed his head before Mahatma Gandhi. He then fired at Mahatma Gandhi. A. S.-I. Amarnath (P. W. 31) was at the time at a distance of about three paces from Mahatma Gandhi. He heard the shot, and rushed forward. He caught hold of Nathuram V. Godse. Some more persons thereafter also caught hold of Nathuram V. Godse. But three shots had already been fired in quick succession by then at Mahatma Gandhi by Nathuram V. Godse. Mahatma Gandhi uttered the words "*Hei Ram*" and fell down with folded hands on the ground. He was picked up, and carried to his room. He, however, succumbed to the injuries sustained by him soon after he had been taken to his room.

40 This is the evidence of Sardar Gurbachan Singh (P. W. 82), A. S.-I. Amarnath (P. W. 31), Nandlal Mehta (P. W. 32), F. C. Ratan Singh (P. W. 34) and H. C. Dharam Singh (P. W. 37). The pistol that Nathuram V. Godse had in his hand was snatched away and was taken possession of by the Police. Ex. 39 is the pistol. Four live-cartridges were found to be contained in the magazine of the pistol, and were also taken possession of by the Police. The evidence in regard to the recovery of the pistol and the four live-cartridges and their nature has already been discussed earlier.

Sardar Jaswant Singh found F. C. Ratan Singh guarding the prayer platform. He took in possession two empty cartridge-cases, two spent-bullets and one blood-stained shoulder-flap, which were lying there on the prayer-platform. The evidence in regard to the recovery of the two empty cartridge-cases and the two spent-bullets and their nature has already been discussed earlier.

Sardar Jaswant Singh prepared the injury-report and the inquest-report on the body of Mahatma Gandhi. Ex. P/68 is the injury-report and Ex. P/66 is the inquest-report. Nathuram V. Godse in the meantime



had been taken to the P. S. Parliament Street. *Sardar* Jaswant Singh then also proceeded there. Nathuram V. Godse was found to have had some injuries on his person. These injuries are said to have been caused to him after his arrest with a 'khurpa' by Raghunath Naik (P. W. 76). *Sardar* Jaswant Singh had these injuries medically examined.

Col. B. L. Taneja (P. W. 38), Additional Civil Surgeon, Irwin Hospital, New Delhi, examined the body of Mahatma Gandhi at 8-30 a.m. on 31st January, 1948. The injuries found by him were as below :—

- (1) Punctured wound oval in shape $\frac{1}{4}'' \times \frac{1}{6}''$ size penetrating in nature on the right side of the chest in the fourth intercostal space 1" above the nipple and 4" from the mid-line. There was no evidence of any exit wound in connection with this injury. The wound was dangerous to life and possibly inflicted by a shot from a pistol —a dangerous weapon.
- (2) and (3) Punctured wounds oval in shape $\frac{1}{4}'' \times \frac{1}{6}''$ in size penetrating in nature on the right side of xiphisternum in the seventh intercostal space 1" to the right of the mid-line. Direction of the wound was obliquely downward and outwards making an exit wound oval in shape $\frac{1}{3}'' \times \frac{1}{4}''$ in size situated $2\frac{1}{2}''$ above the right iliac-crest and 2" to the right of the spinal column. The wounds were dangerous to life, and possibly inflicted by a shot from a pistol—a dangerous weapon.
- (4) and (5) Punctured wounds oval in shape $\frac{1}{4}'' \times \frac{1}{6}''$ in size penetrating in nature on the right side of the abdomen $2\frac{1}{2}''$ above the umbilicus and $3\frac{1}{2}''$ to the right of the mid-line. The direction of the wound was obliquely downwards and inwards making an exit wound oval in shape $\frac{1}{3}'' \times \frac{1}{4}''$ in size situated 1" above the right iliac-crest and 2" to the right of the spinal column. The wound was dangerous to life, and possibly inflicted by a shot from a pistol—a dangerous weapon.

Col. B. L. Taneja in his evidence says that the cause of death, in his opinion, was shock due to internal haemorrhage caused by the above-mentioned injuries inflicted by bullets fired from a pistol and that the wounds, in his opinion, were such as were likely to cause death or were such as would have in the ordinary course of nature caused the death of Mahatma Gandhi. Ex. P/69 is his report in the matter.

The witnesses produced on behalf of the prosecution in regard to the actual shooting-incident have not been cross-examined on behalf of the defence. Mr. V. V. Oak, counsel for Nathuram V. Godse at the conclusion of the examination-in-chief of the first witness in regard to that incident stated that his client did not want any questions in cross-examination to be put to the prosecution witnesses relating to the incident at the Birla House on 30th January, 1948. Nathuram V. Godse himself stated that it was his wish that no questions be put in cross-examination to the prosecution witnesses relating to the incident at the Birla House on 30th January, 1948.

Nathuram V. Godse in his statement in regard to the shooting-incident states as below :—

'Yes, it is a fact that I did fire shots at Mahatma Gandhi with the pistol—Ex. 39. The story as told by the various eye-witnesses up to the stage when Mahatma Gandhi stepped up the prayer-ground is correct. I jumped out, and came in front of Mahatma Gandhi. My idea was to shoot at him twice at point-blank range so that none else might get injured. I bowed to him with the pistol between my two palms. I had removed the safety-catch when I had taken out the pistol from inside my bush-coat



pocket. I think I fired twice. I, however, learnt that I had fired thrice. After I had fired the shots there was a lull throughout for about a minute. I had also got excited. I then shouted 'Police—Police—come'. Amarnath then came and caught hold of me from behind. Soon thereafter a constable also caught hold of me. Some member of the public at the time removed away the pistol from my hand. A large number of persons thereafter caught hold of me. The 'mali' gave me no hit on the back of my head with his 'khurpa'. It was a gentleman who had struck me on the back of my head with his stick. When he had given me 2-3 blows with his stick, then blood began coming out of my head. I told him that I was not going to offer resistance even if he happened to break my skull. I had already done what I wanted to do. The Police tried to take me away from the crowd. I then saw the person who had my pistol in his hand. The way how he was handling the pistol gave me the impression that he knew nothing about it. I told him to keep the safety-catch in position otherwise he might kill himself or injure someone in the crowd. He thereon told me that he was going to shoot me with the pistol. I told him that I did not mind if he shot me dead and that what I had told him was in his own interest. Amarnath thereon said that what I was saying was correct.

20 The Police thereafter took possession of the pistol. The story of Sardar Gurbachan Singh that he caught hold of my arms is false. Mahatma Gandhi must have died as a result of the injuries inflicted on him by the shots fired by me at him from the pistol—Ex. 39.'

There is thus no denying the fact that Nathuram V. Godse did intentionally fire three shots with an automatic pistol at point-blank range in quick succession at Mahatma Gandhi and caused his death thereby.

CHAPTER XIV

MOVEMENTS AND CONDUCT OF THE ACCUSED TILL THEIR ARREST

30 Madhukar K. Kale (P. W. 50) in his evidence says that he met Dattatraya S. Parchure at about 6.00 p.m. on 30-1-1948 ; Gwalior 30th January, 1948 in front of the Maratha Boarding House. He told Dattatraya S. Parchure that it had been heard on radio that Mahatma Gandhi was dead. Dattatraya S. Parchure thereon enquired of him whether Mahatma Gandhi had died or had been murdered. He said that the news received was that of his death and that it was not clear whether he had died or had been murdered. They then came to the dispensary of Dattatraya S. Parchure. Madhukar B. Khire (P. W. 51) also came to the dispensary of Dattatraya S. Parchure. A rumour in the meantime became afloat that Mahatma Gandhi had been assassinated. Madhukar K. Kale then left for his house. Madhukar B. Khire told Dattatraya S. Parchure that on account of the assassination it would not be possible for them to continue opposing the principles held by Mahatma Gandhi. Dattatraya S. Parchure thereon asked if he wanted his wife to be offered to Mahatma Gandhi. He asked Dattatraya S. Parchure as to who would have committed the murder of Mahatma Gandhi. Dattatraya S. Parchure said that the person who would have committed the murder must have been one like them.

50 Dattatraya S. Parchure and Madhukar B. Khire proceeded to the Rajput Boarding House. Ram Dayal Singh (P. W. 52) was called. Dattatraya S. Parchure told Ram Dayal Singh that he had completed his work, that Ram Dayal Singh was to complete the rest of the work and that their movement must end in success. Jagannath Singh (P. W. 53) also happened to be there. Ram Dayal Singh in his evidence says that Dattatraya S. Parchure had also said that a good deed had been done, that the opponent of the *Hindu* religion had been killed, that the person who had killed Mahatma Gandhi was their own man, that the throwing of the 'bomb' some days back was also the work of their man, that the pistol had been sent from Gwalior and that the person had come from the



south and had gone via Gwalior. Jagannath Singh in his evidence says that Dattatraya S. Parchure had also said that Mahatma Gandhi was a traitor to the *Hindu* religion and was an 'Avatar' of Aurangzeb, that the assailant was his own man and had come from the south, that that person had taken a pistol from Gwalior and that the person who had thrown the 'bomb' was also a person from Gwalior. Dattatraya S. Parchure was asked to go away and he went away. Madhukar B. Khire accompanied Dattatraya S. Parchure to his residence. Some sweets were brought there, and distributed.

This is the evidence of Madhukar K. Kale (P. W. 50), Madhukar B. Khire (P. W. 51), Ram Dayal Singh (P. W. 52) and Jagannath Singh (P. W. 53). Dattatraya S. Parchure in his statement denies these facts *in otio*. This portion of the evidence will be taken up for discussion later.¹⁰

Narayan D. Apte stayed at the Sea-Green Hotel (North), Bombay, from 2nd February, 1948 till 3rd February, 1948 under the assumed name of 'D. Narayanrao'.
2-3-2-1948; Bombay Ex. P/100 (first line) and Exhibit P/101 are the entries to the effect in his hand. This is the evidence of Satyawan B. Rele (P. W. 59) and Thakurdas J. Gajjar (P. W. 134). Narayan D. Apte ²⁰ in his statement admits these facts.

The evidence of Satyawan B. Rele is also to the effect that Narayan D. Apte expected a 'friend' to stay with him in his room but that friend did not turn up before him. The entry in regard to the expected stay of this person is signed as 'V. Krishnaji' in the Visitors-Register, and is Ex. P/100 (second-line). Thakurdas J. Gajjar in his evidence says that the signature in Ex. P/100 (second-line) is in the hand of Vishnu R. Karkare. Vishnu R. Karkare in his statement denies having signed the Visitors-Register or having stayed at the Sea-Green Hotel (North). There is nothing on the record of the case otherwise to show when and by whom ³⁰ the signature in question was made. No inference one way or the other in the circumstances, could possibly be drawn just on the uncorroborated testimony of the Hand-writing-Expert.

Narayan D. Apte and Vishnu R. Karkare stayed in Room No. 5 of the Elphinstone Annexe Hotel from 3rd February, 1948 till 5th February, 1948.
3-5-2-1948; Bombay.

Narayan D. Apte had taken a two-bed room, and had stayed under the assumed name of 'D. Narayanrao'. Ex. P/107 is the entry to the effect in the Visitors-Register. Kashmirilal (P. W. 61) is the proprietor and Govind V. Malekar (P. W. 64) is a bearer of the hotel. ⁴⁰ Kashmirilal received a message on phone on 5th February, 1948, and enquired of Govind V. Malekar who had been staying in Room No. 6 on 24th January, 1948. Narayan D. Apte ad Vishnu R. Karkare happened to be standing at the time in the doorway of their room nearby. Govind V. Malekar told Kashmirilal that one of the two passengers who were putting up in Room No. 5 at the time looked like one who had been staying in Room No. 6 on 24th January, 1948. Narayan D. Apte and Vishnu R. Karkare soon thereafter left the hotel and went away.

This is the evidence of Kashmirilal (P. W. 61), Govind V. Malekar (P. W. 64) and Thakurdas J. Gajjar (P. W. 134). Narayan D. Apte in his statement admits having so stayed in the hotel under the assumed name of 'D. Narayanrao' from 3rd February, 1948 till 5th February, 1948. However, he denies Vishnu R. Karkare having stayed with him. Vishnu R. Karkare in his statement denies having stayed at the hotel. This portion of the evidence will be taken up for discussion later.⁵⁰

Narayan D. Apte and Vishnu R. Karkare stayed at the house of G. M. Joshi at Thana from 5th February, 1948 till 13th February, 1948 with a break of two days. This is the evidence of Vasant G. Joshi (P. W. 79). Narayan D. Apte in his statement admits having so stayed



at the house of G. M. Joshi at Thana. He, however, says that Vishnu R. Karkare did not stay but came 2-4 times during the period to the house of G. M. Joshi at Thana. Vishnu R. Karkare in his statement denies having so stayed at the house of G. M. Joshi at Thana. He, however, admits having gone a few times during the period to see G. M. Joshi at Thana. This portion of the evidence will be taken up for discussion later.

Narayan D. Apte and Vishnu R. Karkare stayed under the assumed names of 'R. Bishnu' and 'N. Kashinath' in

13-14-2-1948
Bombay

the Pyrkes Apollo Hotel, Bombay, from 13th

February, 1948, till 14th February, 1948. Ex.

10 P/112 is the entry to the effect in the Visitors-Register. This is the evidence of Candido Pinto (P. W. 65) and Thakurdas J. Gajjar (P. W. 134). Narayan D. Apte and Vishnu R. Karkare in their statements admit having so stayed under such assumed names in the Pyrkes Apollo Hotel from 13th February, 1948, till 14th February, 1948.

20 Narayan D. Apte and Vishnu R. Karkare were arrested at the Pyrkes Apollo Hotel on 14th February, 1948. A number of articles were recovered at the time from their possession, and were seized by the Police. The evidence in regard to the recovery of the various articles will be taken up for discussion later.

CHAPTER XV

EVIDENCE RE THE ASSASSINATION PLOT NARRATED TO JAIN

The witnesses produced on behalf of the prosecution in regard to the assassination plot said to have been narrated to Dr. J. C. Jain by Madanlal K. Pahwa on or about 12th January, 1948, are Dr. J. C. Jain (P. W. 67), Angad Singh (P. W. 72) and the Hon'ble Mr. Morarji Desai (P. W. 78).

30 The evidence of Dr. J. C. Jain and the Hon'ble Mr. Morarji Desai has already been mentioned earlier. Angad Singh is a business-man and has been knowing Dr. J. C. Jain for about two years. Angad Singh in his evidence corroborates Dr. J. C. Jain in regard to what he himself heard from Madanlal K. Pahwa at the house of Dr. J. C. Jain and what he heard subsequently from Dr. J. C. Jain in respect of what Madanlal K. Pahwa had told about the assassination plot to Dr. J. C. Jain.

The main point taken up on behalf of the defence as against the evidence of the Hon'ble Mr. Morarji Desai is that it does not come within the four corners of section 157 of the Indian Evidence Act and that as such, it should not have been allowed to come on the record of the case.

Section 157 of the Indian Evidence Act runs as below :—

40 'In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.'

50 Madanlal K. Pahwa is said to have made the statement in regard to the plot to Dr. J. C. Jain on or about 12th January, 1948. Dr. J. C. Jain made the statement in regard to the plot before the Hon'ble Mr. Morarji Desai on 21st January, 1948. The contention, as such, on behalf of the defence is that 'a period of more than a week' could not be held to be 'at or about the time when the fact took place'. The contention on behalf of the defence appears to be alt ogether without weight for section 157 of the Indian Evidence Act just imposes the condition that the former statement should have been made either (a) at or about the time when the fact took place, or (b) before any authority legally competent to investigate



the fact. The Hon'ble Mr. Morarji Desai is the Home Minister of the Bombay Government, and the Police, the Crimes and the Investigation of Crimes fall within his portfolio. His evidence goes to show that it was on the basis of what he had been told by Dr. J. C. Jain that he had started the 'enquiry' in regard thereto. The evidence of the Hon'ble Mr. Morarji Desai, in the circumstances, is certainly admissible under section 157 of the Indian Evidence Act.

It has been contended on behalf of the defence that what Dr. J. C. Jain told the Hon'ble Mr. Morarji Desai in regard to the plot he had told just on the basis of what he had read in the newspapers on 21st January, 1948. Neither the evidence of Dr. J. C. Jain nor that of the Hon'ble Mr. Morarji Desai support this contention on behalf of the defence. It is clear from the evidence of the Hon'ble Mr. Morarji Desai and that of Mr. J. D. Nagarvala (P. W. 133) that the 'enquiry' in regard to the 'plot' had been initially started by them on the basis of what Dr. J. C. Jain had told the Hon'ble Mr. Morarji Desai on 21st January, 1948.

Dr. J. C. Jain is a highly educated person. He is a Ph. D. from the Bombay University, and is Professor of *Ardhamagadhi* and *Hindi* in the Ruia College at Bombay. The only point tried to be suggested on behalf of the defence as against him is that on coming to know of the name of Madanlal K. Pahwa in connection with the explosion-incident at Delhi he tried to win the favour of high Government Officers by telling them a yarn in connection with Madanlal K. Pahwa so that he might not himself be prosecuted later along with Madanlal K. Pahwa. This appears to be a far-fetched suggestion on behalf of the defence. A man of his simplicity could have foreseen no such thing. He had taken pity on Madanlal K. Pahwa as he was a refugee, and had just helped him monetarily. There is nothing whatsoever on the record of the case to show that he had ever entered into any shady transaction with any one or with Madanlal K. Pahwa. The frantic way in which he tried to approach the high Government Officers one after the other clearly goes to show his keenness to report what had come to his knowledge rather than an attempt on his part to win their favour.

It has been then contended on behalf of the defence that at least an F.I.R. in regard to the charge as preferred by Dr. J.C. Jain should have been prepared by the Police. No doubt, it would have been quite in accordance with the law if an F.I.R. in regard thereto had been prepared by the police. Mr. J. D. Nagarvala belongs to the Intelligence Branch of the C. I. D. and not to the City Police. Government at times do make a number of *quasi-judicial* enquiries through the Police. Mr. J. D. Nagarvala, it appears, took the matter as one of such *quasi-judicial* enquiries.

Dr. J. C. Jain in his evidence has not been able to give the dates specifically in regard to the various events that took place in the first fortnight of January, 1948. His evidence is that Madanlal K. Pahwa came to him at about the end of the first week of January, 1948, when he introduced Vishnu R. Karkare to him as a 'seth' from Ahmednagar. Madanlal K. Pahwa then came to him 2-3 days later, when he narrated him the plot. Madanlal K. Pahwa then came to him a couple of days later, when he told him that he had accepted his advice. Madanlal K. Pahwa then came to him a day or two later, when he told him that he was leaving for Delhi. Madanlal K. Pahwa admittedly left Bombay for Delhi on 15th January, 1948. Madanlal K. Pahwa accordingly should have met Dr. J. C. Jain on or about 10th January, 1948, when he introduced Vishnu R. Karkare to him as a 'seth' from Ahmednagar. Dr. J. C. Jain in his evidence says that by the words 'the end of the first week of a month' he means the 6th or the 7th of a month. The Calendar for 1948 shows that 3rd January, 1948 and 10th January, 1948, were Saturdays. Dr. J. C. Jain by the words 'at about the end of the first week of January, 1948', in the circumstances, would have certainly meant about 10th January, 1948 and not 6th/7th January, 1948.



There is thus no reason as to why implicit reliance be not placed on the evidence of Dr. J. C. Jain, Angad Singh and the Hon'ble Mr. Morarji Desai.

CHAPTER XVI

EVIDENCE RE. THE EFFORTS MADE TO COLLECT ARMS AND MONEY

The witnesses produced on behalf of the prosecution in regard to the efforts said to have been made to collect arms and money by Nathuram V. Godse and Narayan D. Apte are Digambar R. Badge (P. W. 57), Dixitji Maharaj (P. W. 77), Dada Maharaj (P. W. 69), Charandas Meghji (P. W. 74), Ganpatrao B. Afjulpurkar (P. W. 73), Mahadeo G. Kale (P. W. 86) and ¹⁰Aitappa K. Kotian (P. W. 80).

Digambar R. Badge in his evidence says that during their visit to the house of Dixitji Maharaj on 15-1-1948 the contents of the bag were placed back in the bag in the presence of Dixitji Maharaj. He handed over the bag to Narayan D. Apte. Narayan D. Apte handed over the bag to Vishnu R. Karkare, and asked him to leave along with Madanlal K. Pahwa for Delhi by the Frontier or the Punjab Mail. Vishnu R. Karkare handed over the bag to Madanlal K. Pahwa. Vishnu R. Karkare and Madanlal K. Pahwa then left the place and went away.

Dixitji Maharaj in his evidence refers to no such incident though ²⁰he admits the presence of Vishnu R. Karkare and Madanlal K. Pahwa along with others at his house.

Digambar R. Badge in his evidence then says that after Vishnu R. Karkare and Madanlal K. Pahwa had gone away Narayan D. Apte told Dixitji Maharaj that they were proceeding on some important mission and that he should give him a revolver or two. Dixitji Maharaj said that he had no revolvers and that he had a pistol of his own which he could not give. Narayan D. Apte asked Dixitji Maharaj to do all what he could to obtain a revolver for him. He, Nathuram V. Godse and Narayan D. Apte then left his house. He and Narayan D. Apte then saw Dixitji Maharaj at about noon on 17-1-1948. Narayan D. Apte asked Dixitji Maharaj for a ³⁰revolver. Dixitji Maharaj then showed a pistol to Narayan D. Apte and said that he would not hand over that pistol unless he received money for it. Narayan D. Apte said to Dixitji Maharaj that Dada Maharaj had promised a revolver to him and that as such, he should hand over that revolver to him. Dixitji Maharaj, however, did not hand over the revolver. He and Narayan D. Apte left the house of Dixitji Maharaj. He then saw Dixitji Maharaj all alone on 18-1-1948, and showed him a revolver and asked him to pay him at least the price thereof.

Dixitji Maharaj in his evidence says that first of all Nathuram V. Godse, Vishnu R. Karkare and Madanlal K. Pahwa left his room. He then asked ⁴⁰Digambar R. Badge and Narayan D. Apte as to what was the object of their coming to his house and exhibiting those things in his room. They told him that they were going on an important mission and asked him for a revolver or a pistol. They, however, did not tell him as to what that important mission was. As they started to leave his room he asked Digambar R. Badge to stay on. Digambar R. Badge then told him that he would come back to him after some time. Digambar R. Badge then came back to him a few minutes later, and told him that he would tell him that evening on what mission they were proceeding. Digambar R. Badge then ⁵⁰saw him that evening or the next morning or there might have been a difference of a day or two between the two visits and showed him a revolver, and asked him to pay him at least the price thereof. Digambar R. Badge told him that they had collected arms and ammunition worth about Rs. 30,40,000 and that they were proceeding to Kashmir to use those 'things' against the raiders and do the sabotage. He told Digambar R.



Badge that he could not help them. He then saw Narayan D. Apte along with Nathuram V. Godse on the morning of 26-1-1948. He had already come to know by then that they had proceeded to Kashmir. He accordingly asked them as to how they had managed to come back from Kashmir so soon. They told him that they had purchased arms and ammunition worth Rs. 30,40,000 for sending to Kashmir. They had despatched half of the 'stuff' beyond Delhi and had come back to arrange for the despatch of the remaining half. They asked him for a revolver, and said that it would be unsafe to travel without one beyond Delhi. He told them that he could not help them in the matter. They then insisted that he must do something in getting a revolver procured for them by the evening and told him that Dada Maharaj had promised a revolver to them. Narayan D. Apte then showed him a revolver and said that they wanted one more revolver.

There are thus two main contradictions in the evidence of Digambar R. Badge and that of Dixitji Maharaj. No doubt, the evidence of Dixitji Maharaj in regard to sequence of events is a little confused. This is clear from the fact that he has not been able to give specific dates in regard to any incident. He fixed time in regard to a particular incident by giving the number of days that had elapsed in connection with some other incident. The reason for this appears to be that he was unwell at the time and had been confined to bed for about a fortnight. On the main issue and the main points, however, Dixitji Maharaj materially corroborates Digambar R. Badge.

Dixitji Maharaj is the younger brother of Dada Maharaj, who is the religious-head of the Pushtimarg-Vaishnavas sect at Bombay. The income of their family amounts to about 2½-3 lacs of rupees per year. The income of Dixitji Maharaj alone from his personal offerings amounts to Rs. 2,000, —4,000 per mensem.

The evidence of Dixitji Maharaj and Dada Maharaj goes to show that they had been obtaining arms, ammunition and explosives for a number of months and had been passing them on for purposes of the affairs of the Hyderabad State Congress. The contention, as such, on behalf of the defence is that no reliance should be placed on their evidence as their evidence does not amount to more than that of an 'accomplice'. There is nothing whatsoever on the record of the case to justify the inference that they had had any hand in regard to the offence or offences connected with the murder of Mahatma Gandhi. Nathuram V. Godse in his statement says that Dixitji Maharaj and Dada Maharaj gave evidence against him because they did not appreciate the assassination of Mahatma Gandhi. A person who was connected with some other offence or offences and not with the offence or offences under enquiry or trial could not be held to be an 'accomplice' in regard to the offence or offences under enquiry or trial. No doubt, Dixitji Maharaj and Dada Maharaj admittedly had been dealing in arms, ammunition and explosives in connection with the affairs of the Hyderabad State. This fact, in my opinion, goes to strengthen the prosecution version of the story that Nathuram V. Godse and Narayan D. Apte did visit Dixitji Maharaj and Dada Maharaj with a view to obtaining a pistol or a revolver from them. If they wanted a pistol or a revolver they could not have gone to a person who was above board in all respects with a view to obtaining a pistol or a revolver from him.

Charandas Meghji in his evidence says that at about 8.30 a.m. on 17-1-1948 Digambar R. Badge along with two persons came to his house. Digambar R. Badge introduced them as 'Godse' and 'Apte' of the Hindu Rashtra. Narayan D. Apte then started a conversation with him in regard to the activities of the Hyderabad State Congress, and told him that he would hear about a miracle within about eight days. He further told him that they had planned everything and wanted some monetary help for the purpose. Narayan D. Apte asked him for a sum of Rs. 5,000. He asked him to come that day a little later. The same day when he came down



after lunch he found Narayan D. Apte waiting for him. He told him that he had no money at the time. Narayan D. Apte asked him if he could pay him a loan of Rs. 5,000. He told him that it was not the practice of his factory to advance loans. Narayan D. Apte then implored him for at least some money. He then paid a sum of Rs. 1,000 as donation to Narayan D. Apte.

Nathuram V. Godse and Narayan D. Apte in their statements admit having visited Charandas Meghji. They deny having asked for or having collected any money from Charandas Meghji. There appears to be no reason to suppose that Nathuram V. Godse and Narayan D. Apte would have visited Charandas Meghji on more than one occasion for a purpose other than the purpose for which they had visited the various places that day.

It has already been mentioned earlier that Nathuram V. Godse and Narayan D. Apte in their statements admit having collected a sum of Rs. 100 towards the affairs of the Hyderabad State Congress and a sum of Rs. 1,000 from Mahadeo G. Kale towards the Hindu Rashtra Prakashan Ltd. on 17-1-1948.

Aitappa K. Kotian (P. W. 80) is the driver of the taxi in which the various visits are said to have been made by Nathuram V. Godse and Narayan D. Apte along with Digambar R. Badge and Shankar Kistayya on 17-1-1948. Nathuram V. Godse and Narayan D. Apte in their statements admit having visited along with Digambar R. Badge various places in a taxi to collect money on 17-1-1948. They do not specifically say that it was not the taxi of Aitappa K. Kotian in which they had so gone from place to place to collect money. They just say that they do not remember the number of the taxi or the face of the taxi-driver.

The only ground on which the evidence of Aitappa K. Kotian is challenged on behalf of the defence is that he is a taxi-driver and that, as such, he is amenable to the pressure of the Police. The fact that Aitappa K. Kotian is a taxi-driver by profession does not necessarily mean that he is amenable to the pressure of the Police.

Aitappa K. Kotian correctly picked up Nathuram V. Godse, Narayan D. Apte, Shankar Kistayya and Digambar R. Badge in the identification proceedings and made no mistake.

There is thus no reason as to why implicit reliance be not placed on the evidence of Digambar R. Badge, Dixitji Maharaj, Dada Maharaj and Charandas Meghji. The evidence of Ganpatrao B. Afjulpurkar and Mahadeo G. Kale is not in dispute, and stands admitted by Nathuram V. Godse and Narayan D. Apte.

EVIDENCE RE. WHAT TOOK PLACE AT DELHI TILL 20-1-1948.

The prosecution have filed the Bill-Book, the carbon-duplicates of the Credit-Vouchers and the Day-Sheets of the Marina Hotel. The relevant entries therein are Exs. P/17—P/24. The perusal

Marina Hotel
17-20-1-1948

of these documents goes to show that one peg of whisky was supplied on 17-1-1948, two pegs of whisky were supplied on 18-1-1948 and three extra teas were supplied on 20-1-1948 to the occupants of Room No. 40, i.e., Nathuram V. Godse and Narayan D. Apte.

Govindram is a bearer at the Marina Hotel. His evidence is to the effect that three days before the explosion-incident he had seen Vishnu R. Karkare, Gopal V. Godse and Digambar R. Badge in the room of Nathuram V. Godse and Narayan D. Apte and that he had supplied in that room one



peg of whisky that day and two pegs of whisky the next day, which were consumed by Vishnu R. Karkare. Martin Thaddeus (P. W. 13) is a clerk at the Marina Hotel. His evidence is to the effect that during the period in question Vishnu R. Karkare had once come to the hotel to see Nathuram V. Godse. Nainsingh (P. W. 8) is the head-bearer at the Marina Hotel. His evidence is to the effect that during the period in question Vishnu R. Karkare and Shankar Kistayya had once taken tea in Room No. 40. He had served three extra teas that day in Room No. 40.

Gopal V. Godse was at Kirkee (Poona), and took leave from his office from 17-1-1948 till 23-1-1948. He could not accordingly have reached Delhi before the morning of 18-1-1948 unless he came by plane from Bombay to Delhi. This is clear from the G. I. P. Time-Table in force then. There is nothing on the record of the case to suggest that he came by plane from Bombay to Delhi. Digambar R. Badge along with Shankar Kistayya reached Delhi in the evening of 19-1-1948. Gopal V. Godse and Digambar R. Badge, in the circumstances, could not have been seen by Govindram three days before the explosion-incident in the room of Nathuram V. Godse and Narayan D. Apte. Vishnu R. Karkare reached Delhi at about noon on 17-1-1948. He could accordingly have been seen by Govindram three days before the explosion-incident in the room of Nathuram V. Godse and Narayan D. Apte. No doubt, Govindram appears to be a bit confused in regard to the date when he says he saw Gopal V. Godse and Digambar R. Badge along with Nathuram V. Godse and Narayan D. Apte in the Marina Hotel. On this basis alone his evidence could not possibly be discarded altogether.

The evidence of Govindram then is challenged on behalf of the defence on the ground that his statement was recorded about two months after the explosion-incident by the Police. The Police had to examine a large number of witnesses in the case. The witnesses belonged to different Provinces and different States, and their examination could not have possibly been concluded by the Police within a few weeks. The delay of about two months in examining Govindram, in the circumstances, does not appear to be of much consequence.

Govindram correctly picked up Vishnu R. Karkare, Gopal V. Godse and Digambar R. Badge in the identification-proceedings and made no mistakes. Martin Thaddeus also correctly picked up Vishnu R. Karkare in the identification-proceedings and made no mistakes. Nainsingh correctly picked up Vishnu R. Karkare and Shankar Kistayya, and made just one mistake.

There is thus no reason as to why implicit reliance should not be placed on the evidence of Nainsingh, Govindram and Martin Thaddeus. The evidence of these witnesses clearly goes to establish the association of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Gopal V. Godse and Digamber R. Badge during the period at the Marina Hotel.

Ram Lal Dutt (P. W. 2) and Shanti Prakash (P. W. 3) are partners in the Sharif Hotel at Delhi. The sum total of their evidence is to the effect that Vishnu R. Karkare, Madanlal K. Pahwa and Shantaram A. Angchekar (P. W. 5) came and stayed in their hotel from 17-1-1948 till 19-1-1948. Vishnu R. Karkare stayed under the assumed name of 'B. M. Bias'. Ram Lal Dutt in his evidence says that on 19-1-1948 Gopal V. Godse came enquiring as to in what room Madanlal K. Pahwa was staying. He had him sent to his room. Shanti Prakash in his evidence says that on 19-1-1948 Vishnu R. Karkare came to the office along with Gopal V. Godse, and told him that he would be leaving his room a little later. He was allowed to do so on payment of some extra charge.

Shantaram A. Angchekar (P. W. 5) admittedly was putting up during the period with Vishnu R. Karkare and Madanlal K. Pahwa in the



same room in the Sharif Hotel. His evidence is to the effect he is a refugee and had come to Delhi to get his name registered at the Transfer-Bureau. He proceeded to the Transfer-Bureau on 19-1-1948. On his return from there he found Gopal V. Godse sitting with Vishnu R. Karkare and Madanlal K. Pahwa in their room.

The evidence of Ram Lal Dutt and Shanti Prakash is challenged on behalf of the defence on the ground that Ram Lal Dutt says that it was Madanlal K. Pahwa who had come for the extension of time, while Shanti Prakash says that it was Vishnu R. Karkare who had come for 10 the extension of time. It is just possible that these two persons for the extension of time might have come just one after the other or both together. The discrepancy, if at all, is a minor one and, in my opinion, not of much consequence.

The evidence of Shantaram A. Angchekar then is challenged on behalf of the defence on the ground that his statement was recorded about six weeks after the explosion-incident by the Police. The name of Shantaram A. Angchekar as put down in the Visitors-Registers' (Ex. P/2) was read as 'Angchari'. There was accordingly some delay in getting him traced. He was traced at Sawantwadi on 4-3-1948. He came to Bombay on 8-3-1948, 20 and his statement was recorded the same day by Mr. J. D. Nagarvala (P. W. 133). The delay of about six weeks in examining Shantaram A. Angchekar, in the circumstances, does not appear to be of much consequence.

Ramlal Dutt, Shanti Prakash and Shantaram A. Angchekar correctly picked up Gopal V. Godse in the identification-proceedings and made no mistakes.

There is thus no reason as to why implicit reliance should not be placed on the evidence of Ram Lal Dutt, Shanti Prakash and Shantaram 30 A. Angchekar. The evidence of these witnesses clearly goes to establish the association of Vishnu R. Karkare, Madanlal K. Pahwa and Gopal V. Godse at the time at the Shariff Hotel.

Mehar Singh (P. W. 9) is a Forest-Guard under the Central Public Works Department at New Delhi. His evidence is to the effect that on the Target Practice 20-1-1948 day of the explosion-incident at about 11.00 a.m. he along with two other Forest-Guards was on a beat. He came across Narayan D. Apte, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge at a distance of about three furlongs behind the Hindu Mahasabha Bhawan. 40 He asked them why they were walking there. They replied that they were tourists and were strolling about.

The evidence of Mehar Singh is challenged on behalf of the defence on the ground that he had been examined about six weeks after the explosion-incident by the Police. It has already been stated above that the witnesses belonged to different Provinces and different States and their examination could not have possibly been concluded within a few weeks. The delay of about six weeks in examining Mehar Singh, in the circumstances, does not appear to be of much consequence.

Mehar Singh picked up Narayan D. Apte, Shankar Kistayya, Gopal 50 V. Godse and Digambar R. Badge in the identification-proceedings and made no mistakes.

There is thus no reason as to why implicit reliance should not be placed on the evidence of Mehar Singh. The evidence of the witness goes to establish the association of Narayan D. Apte, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge at the time in the jungle behind the Hindu Mahasabha Bhawan.



Surjit Singh (P. W. 14) is a taxi-driver. His evidence is to the effect that on 20-1-1948 at about 4-4.15 p.m. he was waiting at the taxi-stand near the Regal Cinema. He picked up four persons from there. They were Narayan D. Apte, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge. He took those persons first near the Birla Mandir. The persons got down from the taxi there. They then came back, and he was asked to take the taxi to the back of the Birla House by Narayan D. Apte. Digambar R. Badge was occupying the front seat and the other three persons the back seat. The passengers got down there and proceeded towards the servants-quarters of the Birla House. They met 2-3 persons in the way and began talking to them. He then left the taxi and proceeded to the prayer-ground. He came back to the taxi after 15—20 minutes. Soon thereafter the passengers also came back to the taxi. Digambar R. Badge, who had sat on the front seat, did not come back and in his place some other person came and sat on the front seat. This person was Nathuram V. Godse. The passengers asked him 'start the car, start the car'. He started the car immediately. He then heard the sound of an explosion either just before or just after starting the taxi. On his way back he had 3-4 persons in his taxi and dropped them at the Connaught Place. 20

Sm. Solochana (P. W. 15) resides at a short distance from the back of the Birla House. Her evidence is to the effect that on the day of the explosion-incident at about 5.00 p.m. she came to the back of the Birla House to fetch her son who had gone to play there. She saw a 'moongia' coloured car coming and stopping on the other side of the circular space in front of the servants-quarters. The passengers sitting therein got down from the other side of the car and came out from behind the car. They met 2-3 persons. They then all entered the gate leading to the Birla House. They were talking among themselves. One of the persons had a talk with Chhoturam (P. W. 16), who was sitting in front of his quarters at the time. 30 She then saw a person going to the place where the 'bomb' exploded later. He had come from towards where the car was standing. He placed a 'bomb' there and lighted it with a match-stick. She saw sparks coming out of the string attached to the 'bomb'. After the explosion of the 'bomb' a number of persons collected there. The persons who had come from towards the prayer-ground enquired of her as to what had happened. She pointed them out the person who had placed the 'bomb' there and had lighted it. He was caught hold of then and there. Madanlal K. Pahwa is the person who had so exploded the 'bomb'. Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge were among the persons who had come 40 in the car, and were talking with Madanlal K. Pahwa.

Chhoturam (P. W. 16) is a car-cleaner and lives in the servants-quarters of the Birla House. His evidence is to the effect that on the day a little before the explosion incident he was sitting on a 'takhat' in front of his room. Bhur Singh at the time was standing at some distance from him. He saw a car coming that way and stopping opposite the circular-space. The car was of 'moongia' colour. Four persons got down from the other side of the car, walked behind the car and met 3-4 persons. They then began talking among themselves and came in front of his quarters. They were in groups of two or three. They made two or three rounds in front of his quarters. One of them came to him and began talking to him. That person asked him to allow him to take a photograph 50 of Mahatma Gandhi through the lattice-work in his room. He asked him as to what he would get by taking a photograph through the lattice-work. That person again pressed him to allow him to take a photograph through the lattice-work and tried to offer him some money. That person had a bag in his hand, which appeared to contain something heavy. That person felt disappointed, and went back to his companions. One of those persons then proceeded towards the place, where the explosion took place later. He heard the explosion soon thereafter, and hurried to the place of the explosion. When the 'bomb' exploded the persons, who were standing



at the gate, had hurried towards the car. *Sm. Solochna* was standing at the place where the explosion-incident had taken place, and pointed out a person and said that it was he who had set fire to something which he had placed there. That person was caught hold of then and there, and is Madanlal K. Pahwa. Vishnu R. Karkare is the person who had asked him to allow him to take a photograph of Mahatma Gandhi. Nathuram V. Godse, Narayan D. Apte and Shankar Kistayya are the persons who were seen walking in front of the servants-quarters along with others.

10 Bhur Singh (P. W. 17) is a watch-man and lives in the servants-quarters of the Birla House. His evidence is to the effect that on 20-1-1948 a little before the prayer time he was standing in front of his room. Chhoturam was sitting on a 'takhat' at the time. A car came and stopped on the other side of the circular-space. About 3-4 persons got down from the car. About 2-3 persons were standing in the circular-space. They all then began talking among themselves, passed in front of him and proceeded towards the prayer-ground. About 5-6 minutes later first 3-4 persons came back and then 2-3 persons came back. One of them proceeded towards Chhoturam, and asked him if he could take a photograph of Mahatma Gandhi from inside his room. Chhoturam did not allow him to do so. That person then tried to offer some money to Chhoturam. That person had a bag in his hand, and after the talk proceeded towards where his other companions were standing at the time. He then entered his room, put on his uniform and proceeded to the prayer-ground. About 4-5 minutes later he heard the explosion of a 'bomb'. He rushed to the scene of the explosion. *Sm. Solochana* was there, and told him that a person had placed something at that place and had ignited it with a match-stick. She then pointed out that person and that person was caught hold of then and there.

20 The person so arrested was Madanlal K. Pahwa. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Gopal V. Godse and Digambar R. Badge were the persons, whom he had seen strolling in front of his quarters and talking among themselves.

Surjit Singh came first in contact with the Police on 4-2-1948. *Sardar Jaswant Singh* (P. W. 117) required a taxi on 4-2-1948, and sent for a taxi. Surjit Singh came with the taxi. The taxi was of "moongiya" colour, and had a "jungla" on its top. *Sardar Jaswant Singh* thereon asked if he was at the Birla House on the day of the explosion-incident, and thereafter recorded his statement. It is clear from the other evidence on the record of the case that the police were already on the look out for a 40 "moongiya" coloured car with a "jungla" at its top.

The number of the taxi of Surjit Singh is PBF 671. The F. I. R. lodged in regard to the explosion-incident shows that the persons present at the scene of the explosion were at the time saying that Madan Lal K. Pahwa had alighted from a car in which there were three more persons. "Manohar Singh" had given the number of the car as DLH 9435. The contention, as such, on behalf of the defence is that the car that had come at the back of the Birla House was DLH 9435 and not PBF 671. Manohar Singh is no witness in the case. His statement as given in the 50 F. I. R., in the circumstances, is inadmissible and no inference one way or the other could be drawn on the basis thereof. The fact that it was the taxi of Surjit Singh that had been taken to the back of the Birla House on the day of the explosion-incident is clear not only from the evidence of Surjit Singh but also from the evidence of *Sm. Solochana* and Chhoturam.

The evidence of *Sm. Solochana*, Chhoturam and Bhur Singh is challenged on behalf of the defence mainly on the ground of contradictions. *Sm. Solochana* in her evidence says that the person who had a talk with Chhoturam had got down from the car, that the act of placing the "bomb" and lighting it with a match-stick took place without any interval and that Nathuram V. Godse had come in the car. Chhoturam 60 in his evidence says that Nathuram V. Godse and Madanlal K. Pahwa had got down from the car. Bhur Singh in his evidence says that he



had stated before the police that the person whom he had seen having a talk with Chhoturam was a thin-built man and had a wheatish complexion.

The discrepancies in the statements of *Sm.* Solochana, Chhoturam and Bhur Singh, in my opinion, are not of much consequence and no adverse inference on the basis thereof could be drawn by the court. After all, it must be realised that none of the witnesses at the time suspected any foul-play. None of them accordingly could have kept an eye on the persons from the moment they got down from the taxi and till the moment they left the place and went away in the taxi. The witnesses would 10 have tried to recollect only after the bomb explosion-incident whom they had seen and what they had heard them saying prior to the explosion-incident at the back of the Birla House. The presence of *Sm.* Solochana at the spot is not denied on behalf of the defence. The fact that Chhoturam and Bhur Singh reside in the servants-quarters of the Birla House is also not denied on behalf of the defence. It may also be mentioned here that the statement of *Sm.* Solochana, Chhoturam and Bhur Singh were recorded almost just after the explosion-incident at the Birla House.

The evidence on behalf of the prosecution shows that the persons 20 got down from the other side of the car, proceeded to the back of the car and then came out to the circular-space. There were some persons already standing in the circular-space from before. These facts might have given impression to the witnesses that the persons who came out of the car and the persons who were already standing in the circular-space from before had all come out of the car.

Surjit Singh correctly picked up Nathuram V. Godse, Narayan D. Apte, Gopal V. Godse and Digambar R. Badge in the identification-proceedings and made no mistakes. *Sm.* Solochana correctly picked up Nathuram V. Godse, Narayan D. Apte and Digambar R. Badge in the 30 identification-proceedings and made no mistakes. Chhoturam correctly picked up Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Shankar Kistayya, and made two mistakes. Bhur Singh correctly picked up Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Gopal V. Godse and Digambar R. Badge and made no mistakes.

There is thus no reason as to why implicit reliance should not be placed on the evidence of Surjit Singh, *Sm.* Solochana, Chhoturam and Bhur Singh. The evidence of these witnesses clearly goes to establish the association of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Digambar R. Badge at the time at the Birla House.

Ram Prakash (P. W. 19) is the manager of the Hindu Frontier Hotel at Delhi. His evidence is to the effect that two persons came and stayed in the hotel under the names of 'Gopalam', and 'G. M. Joshi' on 21-1-1948 and that those persons are Gopal V. Godse and Vishnu R. Karkare. Exs. P/37 & P/38 are said to be the entries in their hand in the Visitors Register. Exs. P/37 and P/38 show that 'Gopalam' had come at 4-00 p.m. and 'G. M. Joshi' at 8-30 p.m. If it is taken for granted just for arguments' sake that 'Gopalam' is no person other than Gopal V. Godse, then in view of the other evidence on behalf of the prosecution on the record of the case, he could not possibly have been at the Hindu Frontier Hotel at about 4-00 p.m. The distance between the Marina Hotel and the Hindu Frontier Hotel is about 3-4 miles. If Gopal V. Godse went to the Hindu Frontier Hotel after the explosion-incident, then he could not have been there before 6-30 p.m.

Ram Prakash correctly identified Vishnu R. Karkare and Gopal V. Godse in the identification proceedings and made no mistakes. If any reliance is to be placed on identification by him, then it would simply 60 mean that Gopal V. Godse went to the Hindu Frontier Hotel after the explosion-incident and obtained a room there sometime after 6-30 p.m.



It thus appears to me not very unlikely that Ram Prakash at the instance of Gopal V. Godse put down the time of his arrival at the hotel wrongly. Ram Prakash is not prepared to come out with the real truth. No inference one way or the other, in the circumstances, could possibly be drawn on the evidence of such a witness.

CHAPTER XVIII

EVIDENCE RE : WHAT TOOK PLACE AT BOMBAY TILL 27-1-1948.

Nathuram V. Godse and Narayan D. Apte got a two-bed room reserved in the Elphinstone Annex Hotel, Bombay

Bombay 24-25-1-1948 from 24-1-1948 till 27-1-1948. This portion of the evidence is not in dispute, and also stands admitted in their statements by Nathuram V. Godse and Narayan D. Apte. Govinda V. Malekar (P. W. 64) is a bearer in the Hotel. His evidence is to the effect that Gopal V. Godse had once come at about 9-00 p.m. to see Nathuram V. Godse and Narayan D. Apte. The visitor had probably come on 25-1-1948, and had not come on 26-1-1948. The other evidence produced on behalf of the prosecution, which will be discussed later, goes to show that Nathuram V. Godse and Narayan D. Apte and Vishnu R. Karkare along with Gopal V. Godse were at Thana on 25-1-1948 at about 9-00 p.m.

20 It accordingly appears to me that Gopal V. Godse, if he visited Nathuram V. Godse and Narayan D. Apte in the Elphinstone Annex Hotel, must have visited them on 24-1-1948.

Gopal V. Godse was on leave till 23-1-1948 and rejoined his duty at Kirkee (Poona) on 26-1-1948 as 24-1-1948 was a holiday and 25-1-1948 was a Sunday. This is clear from the evidence of Leslie V. Pounde (P.W. 75).

Govinda V. Melaker correctly identified Nathuram V. Godse, Narayan D. Apte and Gopal V. Godse in the identification proceedings and made no mistakes.

30 There is thus no reason as to why implicit reliance be not placed on the evidence of Govinda V. Malekar. The evidence of the witness clearly goes to establish the association of Nathuram V. Godse, Narayan D. Apte and Gopal V. Godse at Bombay on 24-1-1948.

G.M. Joshi is the proprietor of the Shivaji Printing Press at Dadar, and resides at Thana. Vasant G. Joshi (P.W. 79) is his son. His evidence is to the effect that Vishnu R. Karkare came to his house on 25-1-1948 at about 5-30 a.m. There was then some talk between Vishnu R. Karkare and G.M. Joshi. G.M. Joshi wrote down something on a piece of paper, and asked him to despatch that message from the Central Telegraph Office at Bombay. He came to Bombay, reproduced the message on a telegraph form and handed it over at the counter of the Central Telegraph Office. Ex.P/134 is the telegraph-form. Gopal V. Godse came to his house at about 4.00 p.m. Nathuram V. Godse and Narayan D. Apte also came to his house at about 9.00 p.m. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse then sat down together and had some talk. Nathuram V. Godse and Narayan D. Apte left his house about half an hour later. Gopal V. Godse also left for Poona. Vishnu R. Karkare left his house the next day.

40 50 G.M. Joshi was cited as a witness on behalf of the prosecution, and was ultimately not produced. It has, as such, been contended on behalf of the defence that no reliance should be placed on the evidence of Vasant G. Joshi. It is admitted by Narayan D. Apte that he did stay with G.M. Joshi from 5-2-1948 till 13-2-1948 with a break of 2-3 days. It is also admitted by Vishnu R. Karkare that he did visit G.M. Joshi on 2-4 occasions during the period between 5 and 13-2-1948. The reason for non-production of G.M. Joshi as a witness on behalf of the prosecution, in the circumstances, is quite obvious and in no way adversely affects the prosecution case.



It has then been contended on behalf of the defence that Gopal V. Godse had not been put up for identification by Vasant G. Joshi. The evidence of Vasant G. Joshi is to the effect that he knows Gopal V. Godse by name from before. There is nothing in his cross-examination or otherwise to suggest that he did not know Gopal V. Godse by name from before and had, if at all, come in contact with him for the first time on 25-1-1948. A person who is known to another person by name from before is certainly not to be put up for identification by that person.

There is thus no reason as to why implicit reliance be not placed on the evidence of Vasant G. Joshi. The evidence of the witness clearly goes to establish the association of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse at the time at Thana. 10

The evidence of Dada Maharaj (P.W.69) is to the effect that

Bombay Nathuram V. Godse and Narayan D. Apte came to see him on the morning of 26-1-1948. They asked him to hand them over a revolver as asked for previously and, if not, at least to pay them the price of one. He asked them why they particularly wanted a revolver. They told him that he would see as to what they were going to do with it. He refused to hand them over a revolver.
26-1-1948

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The evidence of Dixitji Maharaj (P.W. 77) is to the effect that Nathuram V. Godse and Narayan D. Apte came to see him on the morning of 26-1-1948. They asked him for a revolver and told him that they wanted a revolver as it would be unsafe to travel without one beyond Delhi. He told them that his health did not permit him to help them in the matter. They then insisted that he must do something in getting a revolver procured by the evening. They told him that Dada Maharaj had promised them a revolver. During the course of the conversation Narayan D. Apte took a revolver from Nathuram V. Godse and showed it to him. Narayan D. Apte told him that the price of the revolver was Rs. 325/- and that they wanted one more revolver. He, however, put them off. His evidence is further to the effect that Nathuram V. Godse again approached him that evening in the meeting held in regard to the affairs of the Jaiselmer State, and asked him if he had made any arrangements about the thing. Dixitji Maharaj told him that he had made no arrangements.

Nathuram V. Godse and Narayan D. Apte in their statements admit having visited Dada Maharaj and Dixitji Maharaj on the morning of 26-1-48. Nathuram V. Godse also admits having met Dixitji Maharaj in the meeting held in regard to the affairs of the Jaisalmer State, in the evening of 26-1-48. No doubt, the evidence of Dada Maharaj and Dixitji Maharaj to the effect stands un-corroborated. But in view of what has already been stated in regard to the other portion of their evidence, there appears to be no reason as to why implicit reliance be also not placed on their evidence to the effect.

It is thus clear that Nathuram V. Godse and Narayan D. Apte were still in search of a revolver on 26-1-48.

CHAPTER XIX

EVIDENCE RE. THE PRESENCE OF APTE AND KARKARE AT DELHI.

Sundari Lal (P. W. 26) was the clerk in charge of the booking-office 50 at the Delhi Main Ry. Station at mid-day on 29-1-48. His evidence is to the effect that Nathuram V. Godse came to him and asked him for the reservation of a retiring room. No retiring-room was vacant at the time. He asked Nathuram V. Godse to come a little later as a retiring-room was to fall vacant by then. Nathuram V. Godse along with Narayan D. Apte then went to the booking-office at about 1 p. m. A retiring-room



had fallen vacant by then. He allotted Nathuram V. Godse Room No. 6. Nathuram V. Godse got the room reserved in the name of 'N. Vinayakrao'. Ex. P/61 is the counter-foil of the retiring-room ticket issued to Nathuram V. Godse.

His evidence is further to the effect that Nathuram V. Godse along with Narayan D. Apte came to him on 30-1-48 and asked for an extension of time. He told Nathuram V. Godse that no extension of time could be given without the permission of the Station Superintendent. Nathuram V. Godse and Narayan D. Apte then went away. He did not receive the ¹⁰ key and so he went to the retiring-room to see whether it had been vacated or not. He saw Nathuram V. Godse and Narayan D. Apte sitting and Vishnu R. Karkare standing in the retiring-room. He asked Nathuram V. Godse to vacate the room as the time had expired. Nathuram V. Godse asked Vishnu R. Karkare to tie up the bedding. He came back after the luggage had been taken out of the retiring-room.

Hari Kishan (P. W. 27), is the bearer of the retiring-room at the Delhi Main Ry. Station. His evidence is to the effect that Nathuram V. Godse along with two persons had stayed in Room No. 6 on 29-1-48 and 30-1-48. Vishnu R. Karkare was one of these two persons. Nathuram ²⁰ V. Godse gave him some clothes for getting washed, and he got them washed through Jannu. Nathuram V. Godse and his two companions left Room No. 6 at about 1-30 p.m. on 30-1-48.

Jannu (P. W. 28), is the boot-polisher at the Delhi Main Ry. Station. His evidence is to the effect that three persons had stayed in Room No. 6 at the Delhi Main Ry. Station on 29 and 30-1-48. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare were those three persons. He polished the shoes of Nathuram V. Godse. He also got some clothes of Nathuram V. Godse washed, and was paid a sum of Rs. 2 by Hari Kishan.

The evidence of Sundari Lal is challenged on behalf of the defence ³⁰ mainly on the grounds that the reservation-receipt (Ex. P/61), shows the reservation of the room only in the name of one person and not in the name of two or more persons and that Sundari Lal could not have gone to the retiring-room to see whether it had been vacated or not being in charge at the counter at the time. The evidence of Hari Kishan and Jannu is challenged on behalf of the defence mainly on the ground that they are bearer and boot-polisher respectively and could not have possibly remembered the faces of the persons whom they had served after a lapse of some time.

The evidence of Sundari Lal goes to show that if a two-bed retiring-room is reserved for one person even two persons could stay in it without any extra charge. It is thus quite understandable why the name of only one person was put down in the reservation-receipt. There is nothing on the record of the case to justify the inference that Sundari Lal had left his counter un-attended to when he went to the retiring-room to see whether it had been vacated or not. The fact that Hari Kishan and Jannu are bearer and boot-polisher respectively does not necessarily mean that they have weak memory.

In the various identification-proceedings held Sundari Lal correctly identified Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare, ⁵⁰ Hari Kishan correctly identified Nathuram V. Godse and Vishnu R. Karkare and Jannu correctly identified Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare. Sundari Lal and Jannu made no mistakes, while Hari Kishan made one mistake.

Narayan D. Apte in his statement says that he left Gwalior direct for Bombay and did not come back with Nathuram V. Godse at Delhi. He reached Bombay on the morning of 30th January, 1948. He left his luggage in the Cloak-Room at the V. T. Ry. Station, and spent the day at



the Refugee-Camp. He went back to the V. T. Ry. Station at about 9-15 p. m., and learnt that Mahatma Gandhi had been assassinated by Nathuram V. Godse. He met Vishnu R. Karkare at the V. T. Ry. Station on the morning of 31st January, 1948. He then proceeded to see and consult Mr. Jamandas Mehta. He got down at the Grant Road Ry. Station, and met one Miss Monorma Salvi near the Telegraph-office. He asked her to despatch a telegram to the effect 'Secretary Hindu Mahasabha Delhi—arriving Delhi to arrange Godses Defence.' She wrote the telegram and despatched it in his presence. He took the telegram-receipt from her. He thereafter saw some counsel other than Mr. Jamnadas Mehta¹⁰ and then Mr. Jamnadas Mehta.

Vishnu R. Karkare in his statement says that he met Narayan D. Apte at the V. T. Ry. Station on 31st February, 1948. He then came to know that Mahatma Gandhi had been assassinated by Nathuram V. Godse. Narayan D. Apte appeared nervous, and he also felt nervous. There was a rumour afloat that the *Brahmins*, specially those belonging to the Hindu Mahasabha, were behind the assassination of Mahatma Gandhi. He was a worker of the Hindu Mahasabha, and so he had felt nervous. Narayan D. Apte told him that he was going to a Post-Office to despatch a telegram and consult his *pleader* how Nathuram V. Godse²⁰ should be helped.

Narayan D. Apte and Vishnu R. Karkare were arrested by the Police at the Pyrkes Apollo Hotel, Bombay, on 14th February, 1948, by Bhalchand A. Halidpur (P. W. 128). A search was made of the person of the two individuals and their room and a number of articles were recovered. Machael P. Carey (P. W. 66) and John P. Freitas (P. W. 68) are the 'panches' in regard to the search. Ex. P/117 and Ex. P/125 are the 'panchnamas'. Narayan D. Apte and Vishnu R. Karkare in their statements admit the recovery of the articles as mentioned therein from their possession at the time.³⁰

Exs. D/5-D/9 are some of the articles so recovered, and have been brought on record of the case at the instance of Narayan D. Apte and Vishnu R. Karkare to show that they could not have been at Delhi on 30th January, 1948. Exs. D/5, D/6, D/8 and D/9 are Bombay suburban railway-tickets, dated 30th January, 1948, and 31st January, 1948. Ex. D/7 is a telegram-receipt, dated 31st January, 1948, issued from the Grant Road, Telegraph Office (Bombay). The contention, as such, on behalf of the defence is that the possession of these tickets and this receipt by Narayan D. Apte and Vishnu R. Karkare goes to show that Narayan D. Apte and Vishnu R. Karkare were at Bombay on 30th January, 1948, and 40 31st January, 1948 and could not have been at Delhi on 30th January, 1948.

The mere fact that certain tickets bearing certain dates were recovered from the possession of the accused by itself in no way goes to show that the accused themselves had travelled under those tickets. One could always easily manage to collect subsequently such one-day or two day old tickets. The prosecution, on the other hand, have produced sufficient evidence to show that some of these tickets had even been collected by the authorities concerned at the destination and their numbers entered in the register kept for the purpose. Ramanlal N. Desai (P. W. 94),⁵⁰ Nathuram Agarwal (P. W. 97) and Lawrence Mendas (P. W. 98) are on the staff of the B. B. and C. I. Ry. and the G. I. P. Ry. They in their evidence say how they are required to maintain the 'Daily Reports of the Tickets Collected' and that Ex. D/5 is shown in Ex. P/166 as having been collected at the Villa Parle Ry. Station between the hours 12.00 and 16.00 on 30-1-1948 and that Ex. D/8 is shown in Ex. P/170 as having been collected at Dadar Ry. Station between the hours 14.00 and 24.00 on 31-1-1948.

The statement of Narayan D. Apte in regard to the possession of the telegram-receipt has already been given earlier. The telegram-receipt⁶⁰ is said to have been obtained by Narain D. Apte from Miss Manorma



Salvi at Bombay on 31-1-1948. On the mere production of the telegram receipt no inferences one way or the other could possibly be drawn as to what were the contents of the telegram despatched, who had despatched the telegram, what were the circumstances under which the telegram had been despatched and whether the telegram had been despatched in the presence of Narayan D. Apte.

Miss Manorma Salvi was examined u/s 164 of the Cr. P. C. before a Magistrate, and was cited as a witness on behalf of the prosecution. She, however, was not produced as a witness on behalf of the prosecution 10 on the ground that she would not dispose the truth as she was on terms of intimacy with Narayan D. Apte. If Narayan D. Apte wanted to rely on her evidence for his *alibi*, then he should have produced her as a witness on his behalf before the Court.

The recovery of the various tickets relating to the relevant period and the recovery of the telegram-receipt also relating to the relevant period from the possession of the accused accordingly establishes nothing. If it establishes anything at all, then it establishes guilty knowledge on the part of Narayan D. Apte and Vishnu R. Karkare.

Narayan D. Apte then has filed in Court through his counsel a 20 letter, an envelope and a photo. These are Exs. P/115—P/117. Narayan D. Apte in his statement says that he was at Poona from 8-2-1948 till 10-2-1948. He had a look at his correspondence and came across an envelope, Ex. D/116. He opened the envelope and found a letter and a photo therein, Exs. D/115 and D/117. The letter and the envelope were in the hand of Nathuram V. Godse. The post-mark on the envelope was 'Delhi, 30-1-1948'. He thought Exs. D/115—D/117 were precious to him, and kept them in his personal custody. Before proceeding to the Pyrkes Apollo Hotel on 13-2-1948 he deposited—Exs. D/115—D/117 with a friend of his at Bombay with instructions that those documents when required 30 be handed over to him. He says in his written-statement that these documents were later handed over under his instructions to his counsel for purposes of his defence.

Exs. D/115—D/117 have been brought on the record of the case on behalf of the defence through Thakurdas J. Gajjar (P. W. 134). The contention on behalf of the defence, as such, is that the posting of the envelope containing the letter and the photo by Nathuram V. Godse at Delhi on 30-1-1948 goes to show that Narayan D. Apte could not have been at Delhi on 30-1-1948.

Even if it be taken for granted just for arguments' sake that the 40 letter and the envelope are in the hand of Nathuram V. Godse, then this fact by itself in no way would mean that it was this letter that had been posted in the envelope on 30-1-1948. The envelope is addressed to 'Daily Hindu Rashtra, Post Box No. 503, Lakhshmi Road, Poona, No. 2.' The letter is addressed personally to Narayan D. Apte. It does not stand to reason that a letter of the nature would have been posted in an envelope bearing the name of the office and not bearing the personal name of Narayan D. Apte. Even if it be again taken just for arguments' sake that the letter had been posted in the envelope at Delhi on 30-1-1948, then there was nothing to have prevented Narayan D. Apte from getting an 50 *alibi* for himself created by having such a letter posted through Nathuram V. Godse at Delhi on 30-1-1948.

It appears to me more likely that Nathuram V. Godse posted a letter in an envelope in connection with some official dealings to the *Daily Hindu Rashtra* on 30-1-48. Ex. D/116 is that envelope. A letter was subsequently obtained by Narayan D. Apte from Nathuram V. Godse, while in custody through the connivance of someone, and passed on to a friend again through the connivance of someone. It may be mentioned here that Mr. J. D. Nagarvala (P. W. 133) in his evidence says that one Lance Naik Kadam was suspended for being an intermediary between the accused and



the outsiders. Lance Naik Kadam was found carrying Apte's letter to Miss Manorama Salvi. Ex. D/115 appears to be a letter obtained and passed on thus. The perusal of the letter shows that it has been written more for purposes of establishing the *alibi* of Narayan D. Apte than for anything else. On 30-1-48, Nathuram V. Godse could not have visualised what the prosecution case would be and what the defence should be. His attention that day would have all throughout been directed towards what he was going to do that evening at the Birla House.

The mere production of the letter, the envelope and photo accordingly establishes nothing.

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There is thus no reason as to why implicit reliance be not placed on the evidence of Sundari Lal, Hari Kishan and Jannu. The evidence of these witnesses clearly goes to establish the presence of Narayan D. Apte and Vishnu R. Narkare along with Nathuram V. Godse at the Delhi Main Ry. Station on 29 and 30-1-48.

CHAPTER XX

EVIDENCE *re.* WHAT TOOK PLACE AT BOMBAY AFTER 30-1-48

Narayan D. Apte took a two-bed room in the Elphinstone Annexe Hotel, Bombay, from 3-2-48 till 5-2-48. He stayed under the assumed name of 'D. Narayanrao'. Ex. 20. 3-5-2-48. P/107 is the entry to the effect in the Visitors-Register. These facts are not in dispute and also stand admitted in his statement by Narayan D. Apte.

Kashmirilal is the proprietor and Govinda V. Malekar (P.W. 64) is a bearer of the Elphinstone Annexe Hotel. Kashmiri Lal (P.W. 61) in his evidence says that he received a message on phone on 5-2-48, enquiring as to who had stayed in room No. 6 of his hotel on 24-1-48. He consulted his register and also enquired of Govinda V. Malekar as to who had stayed in room No. 6 on 24-1-48. Govinda V. Malekar told him that one of the two persons who were putting up in room No. 5 at the time 30 looked like one who had stayed in room No. 6 on 24-1-48. The two persons putting up in room No. 5 then happened to be present in the gallery at the time. One of them came up to him and asked him as to what the matter was. He told him that it did not concern him. The two persons soon thereafter left the Hotel and went away. Govinda V. Malekar in his evidence fully corroborates Kashmirilal, and further says that the two persons who were putting up in Room No. 5 then were Narayan D. Apte and Vishnu R. Karkare.

Kashmirilal correctly identified Narayan D. Apte in the identification proceedings and made no mistakes. Govinda V. Malekar correctly 40 identified Narayan D. Apte and Vishnu R. Karkare in the identification-proceedings and made no mistakes. Not a single question in cross-examination has been put to Kashmirilal. The evidence of Govinda V. Malekar is challenged just on the ground that he could not have possibly remembered the faces of the various guests that had put up at his hotel from time to time. This is no ground on which his evidence could be discarded, when he has been able to identify Narayan D. Apte and Vishnu R. Karkare in the identification-proceedings held before a Magistrate.

There is thus no reason as to why implicit reliance be not placed 60 on the evidence of Kashmirilal and Govinda V. Malekar.

Narayan D. Apte stayed at the house of G. M. Joshi at Thana from Thana, 5-2-48 till 13-2-48, with a break of two days. This 5-13-2-48. fact is not in dispute, and also stands admitted in his statement by Narayan D. Apte.



Vasant G. Joshi (P. W. 79) is the son of G. M. Joshi, and his evidence is to the effect that both Narayan D. Apte and Vishnu R. Karkare had stayed at his house from 5-2-1948 till 13-1-1948, 13-2-48 (*sic.*) with a break of two days. Vishnu R. Karkare in his statement denies having so stayed at the house of G. M. Joshi at Thana. He, however, admits having gone a few times during the period to see G. M. Joshi at Thana. The evidence of Vasant G. Joshi has already been relied on in connection with another incident earlier. There accordingly appears to be no reason as to why his evidence in regard to this very incident 10 be also not relied on.

There is thus no reason as to why implicit reliance be not placed on the evidence of Vasant G. Joshi.

CHAPTER XXI

EVIDENCE *et. al.* WHAT TOOK PLACE AT GWALIOR

Ghariba (P. W. 43) and Jumma (P. W. 44), ply tongas on hire at Gwalior, and the sum total of their evidence is that they picked up Nathuram V. Godse and Narayan D. Apte from the Gwalior Ry. Station on 27-1-1948 at about 11-30 p.m. and dropped them at the house of Dattatraya S. Parchure. Madhusudan 20 G. Golvalkar (P. W. 84) is a Booking Clerk at the Gwalior Ry. Station, and in his evidence says that on 27-1-1948, Delhi-Mardas Express reached Gwalior at 22-38 hours and the Bombay-Amritsar Express reached Gwalior at 23-50 hours. Nathuram V. Godse and Narayan D. Apte in their statements admit having gone from Delhi to Gwalior but on 28-1-1948. Dattatraya S. Parchure in his statement denies Nathuram V. Godse and Narayan D. Apte having come to his house on 27-1-1948.

Madhusudan G. Golvalkar gave his evidence on the basis of the entries in the register maintained at the Station showing the actual time of arrival of different trains at the station. His evidence is assailed on behalf of the defence on the ground that the person who made the 30 entries in question was not produced as a witness. The register is an official book, and the evidence in regard to the entries therein is certainly admissible u/s 35 and 114 of the Indian Evidence Act. Ghariba and Jumma accordingly must have picked up the persons who had come by the Delhi Madras Express.

The evidence of Ghariba and Jumma is assailed on behalf of the defence on the ground that they had casually come in contact with Shankarrao R. Mandlik (P. W. 131). There is nothing on the record of the case to justify the inference that they had casually come in contact with him. Shankarrao R. Mandlik in his evidence gives a clear explanation of the circumstances in which he had come in contact with Ghariba 40 and Jumma at the Gwalior Ry. Station on 6-2-1948.

Ghariba correctly picked up Nathuram V. Godse and Narayan D. Apte and Jumma correctly picked up Nathuram V. Godse in the identification-proceedings. Ghariba made no mistakes, and Jumma made one mistake.

There is thus no reason as to why the evidence of Madhusudan G. Golvalkar, Ghariba and Jumma be not relied on. The evidence of these witnesses clearly goes to establish that Nathuram V. Godse and Narayan D. Apte went to the house of Dattatraya S. Parchure on 27-1-1948.

Jagdish Prasad Goel (P. W. 39) in his evidence says that he 50 visited the dispensary of Dattatraya S. Parchure on 28-1-1948 at about Gwalior 10-30 a.m. He had been summoned there a little 28-1-1948. earlier by a servant of Dattatraya S. Parchure. He did not meet Dattatraya S. Parchure but met Nathuram V. Godse and Narayan D. Apte.



Madhukar K. Kale (P. W. 50) in his evidence says that he happened to go to the house of Dattatraya S. Parchure that day at about 12-30 p.m. He had gone there with a view to finding out what steps the Hindu Sabha was going to take as the power had been entrusted by His Highness to the Congress on 24-1-1948. He saw Dattatraya S. Parchure sitting on an easy-chair in the hall. There were three more persons in the hall, and one of them was Gangadhar S. Dandwate (absconder). He did not know who the other two persons were, and subsequently learnt that they were Nathuram V. Godse and Narayan D. Apte. Nathuram V. Godse and Narayan D. Apte had country-made revolvers in their hands, 10 and were trying to press their triggers but could not do so. They then asked Gangadhar S. Dandwate to arrange for a pistol for them. Gangadhar S. Dandwate said that the two revolvers were in a serviceable condition and that he could show them how to press their triggers. Gangadhar S. Dandwate then took Nathuram V. Godse and Narayan D. Apte to the courtyard. He also accompanied them there. Gangadhar S. Dandwate got a cartridge from Nathuram V. Godse and Narayan D. Apte, loaded one revolver and fired it in the sky. Nathuram V. Godse and Narayan D. Apte thereafter again tried to fire the revolver after reloading it, but could not succeed. They asked Gangadhar S. Dandwate to get them a good revolver. They then said that they were in a hurry to get a revolver as their party 20 had already left and they were to leave by 2:30-3:00 p.m. train. Gangadhar S. Dandwate said that he could arrange for a revolver by evening and that they could leave by the night train. Nathuram V. Godse and Narayan D. Apte agreed to stay till evening. They all then proceeded to the upper-storey of the house of Dattatraya S. Parchure. Gangadhar S. Dandwate suggested to Dattatraya S. Parchure that he should hand over his pistol to Nathuram V. Godse and Narayan D. Apte. Dattatraya S. Parchure said that he was not such a fool as to hand over his pistol to 30 them.

Jagdish Prasad Goel in his evidence further says that Gangadhar S. Dandwate came to him that day at about 9:00 p.m. and told him that a pistol was required by Nathuram V. Godse and asked him to sell his pistol to him for a sum of Rs. 500. He handed over his pistol to him with seven rounds of ammunition in it. Ex. 39 is that pistol. Gangadhar S. Dandwate came to him that day again at about 10:00 p.m. and handed over to him a country-made revolver and a sum of Rs. 300. He refused to accept the offer, and asked him either to pay him a sum of Rs. 500 or to hand him back his pistol.

The evidence of Madhukar K. Kale and Jagdish Prasad Goel is 40 assailed on behalf of the defence on the ground that both these persons had been kept under detention for a long time and that, as such, no reliance should be placed on their evidence. It has then been contended on behalf of the defence that Madhukar K. Kale was on no good terms with Dattatraya S. Parchure as he had been turned out by him from the Hindu Rashtra Sena and that, as such, there was no reason why he should have dropped in casually at the house of Dattatraya S. Parchure on 28-1-1948.

Madhukar K. Kale in his evidence says that he had been detained in custody at the P. S. Gird from 3-2-1948 till 11-3-1948. During this 50 period he had once been taken to Bombay. The fact that Madhukar K. Kale had been kept under detention on suspicion for some time by itself is of no great importance when there is nothing on the record of the case otherwise to show that when he gave evidence in court he still continued to be under detention.

Jagdish Prasad Goel in his evidence says that he ran away by the back door when the Police came to his house on 3-2-1948 and remained absconding till 11-4-1948. He was arrested at Jhansi on 11-4-1948, and was kept under detention till 6-5-1948. He stayed at Bombay till 16-6-1948, and at the Red-Fort, Delhi, till he gave his evidence in court. 60 His evidence clearly goes to show that he had remained under detention only till 6-5-1948. There is nothing on the record of the case otherwise



to justify the inference that he had remained under detention any time after 6-5-1948. The fact that he stayed at the Red-Fort when he came to give evidence also appears to be of no great importance when the evidence on the record of the case otherwise in no way goes to show that his stay at the Red-Fort amounted to detention in any way whatsoever.

There is thus no reason to suppose that Madhukar K. Kale and Jagdish Prasad Goel have deposed in court because of the influence of the Police.

Madhukar K. Kale in his evidence says that he dropped in at the 10 house of Dattatraya S. Parchure on 28-1-1948 on his way to the Bank. He wanted to enquire of him what steps the Hindu Sabha was going to take as the power had been entrusted to the Congress by His Highness on 24-1-48 in spite of the agreement arrived at to the contrary between Hindu Sabha and His Highness. He in his evidence further says that he had been asked by Dattatraya S. Parchure to leave the Hindu Rashtrya Sena as he had already joined the State Service. There is thus no reason to suppose that the relations between the two were at the time in any way uncordial.

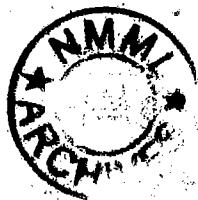
Madhukar K. Kale correctly picked up Nathuram V. Godse and 20 Narayan D. Apte in the identification-proceedings and made no mistakes.

There is thus no reason as to why the evidence of Madhukar K. Kale and Jagdish Prasad Goel be not relied on. The evidence of these witnesses clearly goes to establish that Dattatraya S. Parchure got a pistol procured for Nathuram V. Godse and Narayan D. Apte through Gangadhar S. Dandwate (absconder).

Jagannath Singh (P. W. 53) in his evidence says that he visited Dattatraya S. Parchure at his house on 30-1-48 at about 11-00 a. m. He had gone there with a view to discussing with him to make a joint demand for a share in the Ministry. Dattatraya S. Parchure told him that something was going to be completed in about a week and that he would thereafter discuss what steps were to be taken to get a share in the Ministry.

Madhukar K. Kale (P. W. 50) in his evidence says that he met Dattatraya S. Parchure at about 6-00 p. m. on 30-1-48 in front of the Maratha Boarding House. He told Dattatraya S. Parchure that it had been heard on radio that Mahatma Gandhi was dead. Dattatraya S. Parchure thereon enquired of him whether Mahatma Gandhi had died or had been murdered. He said that the news received was that of his death and that it was not clear whether he had died or had been murdered. 40 They then came to the dispensary of Dattatraya S. Parchure. Madhukar B. Khire (P. W. 51) also came to the dispensary of Dattatraya S. Parchure. A rumour in the meantime became afloat that Mahatma Gandhi had been assassinated. He then left for his house.

Madhukar B. Khire (P. W. 51) in his evidence says that he proceeded to the dispensary of Dattatraya S. Parchure on 30-1-48 at about 6-00 p. m. He told Dattatraya S. Parchure that on account of the assassination it would not be possible for them to continue opposing the principles held by Mahatma Gandhi. Dattatraya S. Parchure thereon asked him if 50 he wanted his wife to be offered to Mahatma Gandhi. He asked Dattatraya S. Parchure as to who would have committed the murder of Mahatma Gandhi. Dattatraya S. Parchure said that the person who would have committed the murder must have been one like them. He and Dattatraya S. Parchure then proceeded to the Rajput Boarding House. Ram Dayal Singh was called. Dattatraya S. Parchure told Ram Dayal Singh that he had completed his work, that Ram Dayal Singh was to complete the rest of the work and that their movement must end in success. He then accompanied Dattatraya S. Parchure to his residence. Some sweets were brought and distributed at the residence of Dattatraya S. Parchure.



Ram Dayal Singh (P. W. 52) in his evidence says that he was present at the time at the Rajput Boarding House. Dattatraya S. Parchure came there, and just blurted out 'a good deed has been done'. Dattatraya S. Parchure further said that the opponent of the Hindu religion had been killed, that the person who had killed Mahatma Gandhi was their own man, that throwing of the 'bomb' some days back was also the work of their man, that the pistol had been sent from Gwalior and that the person had come from the south and had gone via Gwalior.

Jagannath Singh (P. W. 53) in his evidence says that he was also present at the time at the Rajput Boarding House. Dattatraya S. Parchure came there, and said that one of his work had been completed. Dattatraya S. Parchure further said that Mahatma Gandhi was a traitor to the Hindu religion and was an 'avatar' of Aurangzeb, that the assailant was his own man and had come from the south, that that person had taken a pistol from Gwalior and that the person who had thrown the 'bomb' was also a person from Gwalior.

It is thus clear that these witnesses or at least some of them have certainly tried to exaggerate the matter in their own way against Dattatraya S. Parchure. It may, any way, be safely inferred from the sum total of their evidence that Dattatraya S. Parchure was expecting something sensational that day, on hearing of the news of assassination became over jubilant, blurted out something and distributed sweets at his residence.

CHAPTER XXII

EVIDENCE RE. THE CONFESSION OF PARCHURE

The case against Dattatraya S. Parchure rests not only on the evidence of Ghariba, Jumma, Madhukar K. Kale, Jagdish Prasad Goel, Jagannath Singh, Madhukar B. Khire and Ram Dayal Singh but also on the 'confession' said to have been made by him before Mr. R. B. Atal (P. W. 66), Magistrate, 1st Class, Gwalior, on 18-2-48. The confession is Ex. P/86.

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Mr. R. B. Atal belongs to the Judicial Service of the Gwalior State. The Executive and the Judiciary stand separated in the Gwalior State. Mr. R. B. Atal was City Sub-Judge, Lashkar, on 17-9-1947, and was appointed Special Magistrate, 1st Class, u/r 2 (13) of the Gwalior Civil and Criminal Courts' Regulations, Smt. 1989, to try and decide all offences committed in Lashkar, Gwalior and Morar and punishable under the Maintenance of Public Order Ordinance No. 1/Smt. 2004 and the Communal Disturbances Prevention Ordinance No. 2/Smt. 2004. The notification to the effect is on the record of the case, and is Ex. P. 81.

Mr. Dinkar P. Patil Thorat (P. W. 108), Senior Superintendent of Police, Gwalior, in his evidence says that the Greater Gwalior comprises of Lashkar, Gwalior and Morar, that the Greater Gwalior had been declared a communally disturbed area, that the Fort falls within the jurisdiction of the Greater Gwalior and that Dattatraya S. Parchure after apprehension had been kept at the Fort. Shankarrao R. Mandlik (P. W. 131) in his evidence says that the Fort is within the jurisdiction of the P. S. Gwalior. Mr. R. B. Atal in his evidence says that the Fort is under the territorial jurisdiction of the 'Qasba' Gwalior Courts.

Section 389 of the Gwalior State Criminal Procedure Code lay down as below :—

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'When a person, to whom the provisions of Scindia's Articles of War do not apply, commits an offence within the limits of the Military lines, the police shall investigate and the Court shall make inquiry into

and try the case in accordance with the provisions contained in this Code'.

There is thus no reason to suppose that the Fort for purposes of criminal jurisdiction is not under the territorial jurisdiction of the 'Qasba' Gwalior Courts. The defence have filed a copy of the Gwalior Government Gazette, dated 29-12-1917, defining the boundaries of the Gwalior Municipal Committee. It is Ex. D/119. I fail to see the significance of the notification for the boundaries of a municipality have nothing to do with the boundaries of the territorial jurisdiction of a court. Mr. R. B. Atal had been appointed a Magistrate, 1st Class, not only for Gwalior ¹⁰ but also for Lashkar and Morar comprising the Greater Gwalior. He, in the circumstances, certainly had territorial jurisdiction over the Fort.

Dattatraya S. Parchure admittedly after apprehension had been detained as a detenu in the Fort. He had been detained there under military-custody not under police-custody. The Police — not even the Magistrate — had free access to the Fort, and had to obtain orders from the Fort Commander in case they wanted to have an interview with Dattatraya S. Parchure. This clear from the evidence of Mr. Dinker P. Patil Thorat and Mr. R. B. Atal.

The defence have drawn my attention to Article 7 (12) of the ²⁰ Scindia's Articles of War, Smt. 1973, and say that according to that 'military-custody' means 'under arrest' or 'under detention'. The case of the prosecution themselves is that Dattatraya S. Parchure 'had been detained' under 'military-custody' as a detenu. I fail to see what advantage the defence seek to obtain by the Article. The only inference that could be drawn from the detention of Dattatraya S. Parchure in the Fort is that though he was at the time under detention he was in no way under police custody.

Section 26 of the Indian Evidence Act lays down as below :

'No confession made by any person whilst he is in the custody ³⁰ of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as 'against such person'.

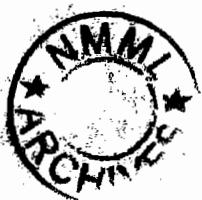
The various rulings cited on behalf of the prosecution as well as the defence clearly go to show that a 'confession' made by any person is admissible in evidence, if made in the immediate presence of a Magistrate of a State. Such confessions have throughout been held to be admissible in evidence as extra-judicial confessions.

The only points tried to made out on behalf of the defence against the evidence of the Magistrate are that he should have given his evidence orally in regard to what he had been told by Dattatraya S. ⁴⁰ Parchure and the confession should not have been allowed to come on the record of the case. The defence in this connection has drawn my attention to A. I. R. 1933 Lahore 716.

The relevant portion of the ruling is as below :

'.....If the defects cannot be remedied under the provisions of S. 533 of the Criminal Procedure Code the document cannot be admitted in evidence against the accused person but the magistrate may still give evidence as to the confession made before him and the document in that case may still be used under S. 159, Evidence Act.....

Further S. 160, Evidence Act, allows a Magistrate to testify to facts mentioned in his memorandum, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document. The illustration to this section is as follows : A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered. In this case also he may be cross-examined on the memorandum under the provisions of S. 161, Evidence Act. The distinction between S. 159 and 160



Evidence Act, is stated at p. 1032 of Woodroffe and Amir Ali's ninth edition of the Law of Evidence. When the witness after reference to the memorandum finds his memory so refreshed that he can testify recollection independently of the memorandum, there is no reason or necessity for the introduction of the paper or writing itself and it is not admissible. But another rule prevails when the witness cannot testify to the existing knowledge of the fact independently of the memorandum, but can testify that, at or about the time the writing was made, he knew of its contents and of their truth or accuracy. This is the case contemplated by S. 160, Evidence Act. In such a case both the testimony of the witness and the contents of the memorandum are admissible, the two being the equivalent of a present positive statement of the witness affirming the truth of the memorandum.....

It may be stated here that the above ruling was given in regard to the admissibility of a 'confession' which was otherwise defective and thus inadmissible in evidence. No such defects have been pointed out in regard to the present confession on behalf of the defence so as to make it inadmissible in evidence.

A. I. R. 1932 Lahore 367 lays down that '..... The Criminal Procedure Code deals with procedure and applies only to British 20 India and not to Native States. If a confession, is made outside British India therefore, all that has to be seen is that there is nothing against the substantive law or natural law to vitiate it

The person who recorded the confession in the present case has been produced as a witness on behalf of the prosecution. There is thus no reason as to why the confession be not held admissible.

Mr. R.B. Atal in his evidence says that Mr. Dinkar P. Patil Thorat handed over to him a note for recording the confession of Dattatraya S. Parchure on 17-2-1948. Ex. P/85 is the note. He asked him that the accused be produced before him the next morning. Mr. 30 Dinkar P. Patil Thorat told him that if the accused was brought to court there might be a big demonstration. Mr. Dinkar P. Patil Thorat then came to see him the next morning, and asked him to record the confession of the accused in the Fort. He agreed to it as he wanted to avoid a demonstration in front of the court-building. He then along with Mr. Dinkar P. Patil Thorat and some other Police-officers proceeded to the Fort. Major Chhatrey was picked up on their way to the cell of the accused. The car was stopped under the cell in which the accused was confined. The cells are at a higher level than the road. He and Major Chhatrey then climbed up the steps and went to the cell in which 40 the accused was confined. No other person had accompanied them to the cell. There was military-sentry standing in front of the cell of the accused. He entered the cell, and asked the accused if it was correct that he wanted to make a confession. The accused said 'yes'. He then took the accused to the back verandah of the cell, and asked Major Chhatrey to have a table and two chairs placed in that verandah. He also asked Major Chhatrey to depute two military men for purposes of safety on the other side. The military-men were posted at the back compound-wall at a distance of about 50 yards from where they were at the time. Major Chhatrey then went back to the 50 car. He and the accused were left alone in the verandah.

Mr. R. B. Atal then further says in his evidence that he then tried his best to make the accused understand the significance of the provisions of Section 164 of the Code of Criminal Procedure equivalent to the provisions of Section 136 of the Gwalior Code of Criminal Procedure. This took him a good one hour. He also made it clear to the accused that in case he made a confession his conviction was certain. He also told him that there was no provision in law under which he could be forced to make a confession. The accused even after that persisted in making a confession. When he found that the accused voluntarily wanted to 60



make a confession he asked him what he had to say. The accused then took about 45 minutes in telling him what he wanted to say. After hearing what the accused had to say he again persuaded him not to make a confession. He gave the accused half an hour or so again to think-over whether he wanted to make a confession. He then put certain questions to the accused and took down those questions and his replies thereto. He thereafter recorded the 'confession' of the accused *Verbatim*. He had given a choice to the accused to make his statement either in 10 English or in *Hindi*. The accused preferred English. He accordingly took down his 'confession' in English. While the accused was making his confession he put no questions to him. He had just asked the accused to narrate his statement according to the sequence of time. After the statement had been recorded by him he read it over to the accused. He also passed on the confession to him to read it and to sign it. The accused read the confession and thereafter signed every page of it. He thereafter gave the necessary certificate. He then handed back the accused to the custody of Major Chhatrey. There was no police-officer present at the time the confession was recorded. There was no police-officer within sight or within hearing 20 at the time the confession was recorded. The portion of the road on which the car was standing was not visible from the cell or the verandah outside the cell. Ex. P/86 is the 'confession' so recorded by him.

The main portion of the 'confession' runs as below :—

' I know Nathuram Godse since 1941. I knew him in connection with the 'Hindu Rashtra Dal'. I had known Mr. N. R. Godse's name since 1939. I had been to Poona and Bombay to have talks with the workers of the Hindu Rashtra Dal as regards amalgamating the two organizations, namely, the Hindu Rashtra Dal and the Hindu Rashtra Sena. At Poona I met Mr. Nathu Ram Godse and had discussions with him on the subject. We did not come to any agreement. Since then, I was not on good terms with him. On the night of the 27th January, 1948, at about 11 at night, when I had just gone to bed my eldest son, Nilkant came to my room and told me that two guests have come I told my son to open the door and let them come in and I shall come down immediately, I came down-stairs and to my surprise I found the two guests to be Mr. Nathuram Godse and Mr. Narain Rao Apte. I asked them how it is that you have come without any previous intimation. My surprise was due to the fact that I did not expect Nathu Ram Godse 30 at my house. Nathu Ram Godse said that he has come for some special purpose. On the night of the 27th January, 1948, Mr. Godse and Apte told me the purpose for which they had come to me. Mr. Godse and Apte said that we are going to do some terrible feat before the 2nd February 1948. That terrible feat was the killing plan of Gandhiji at Delhi. Then he showed me one revolver which he had brought with him, and told me to try to get a better revolver from someone at Gwalior. The trigger of the revolver that Mr. Godse and Apte brought with them was rather hard. He had about 5-6 rounds of ammunition 40 with him. I told him that I have one pistol with me which I cannot under any circumstances part to anyone else. I told him on the night of 27th January, 1948, that I will try, if possible, to get one revolver or pistol tomorrow, I offered Mr. Godse and Apte tea which Godse refused and then I went and slept upstairs.

On the morning of the 28th January, 1948, I told Godse and Apte that I will call one of my workers and you have a talk with him regarding your requirements. I sent my son Nilkant Parchure and Roopa, my body-guard, to fetch Nanna Dandvate from Chatri Bazar. They both came back and said that he is not to be found. When I went to my patients and to my dispensary at Patankar Bazar. I returned home from 50 my dispensary at 12 noon and I saw Nanna Dandvate along with Godse and Apte on the ground floor of my house. I had told Godse and Apte that in case Dandvate comes to my house during my absence, they



can take ?) (talk to him in confidence. I had told Godse and Apte that Dandvate is a man of my confidence and he will help them in their mission. During my absence Godse and Apte had talked to Dandvate about procuring a better and reliable arm for them. When I returned home from my dispensary on the afternoon of the 28th I found all of them examining one country-made revolver. I went upstairs to take off my clothes etc. Godse, Apte and Dandvate took a trial of the country-made revolver in the left hand compound of my house. I heard one fire only. I was not with them when they were having a trial. Godse and Apte did not approve of the country-made revolver. The revolver was not properly working. The revolver was then returned to Dandvate. Godse 10 and Apte said that they are going by mail and a revolver should be arranged before that time. I said I do not think it is possible to arrange a revolver and you can go if you want to, whereupon they said that they can stay on till today night. We all dined together. After food, we had a talk on current political development. During the talk, both of them (Godse and Apte) said that Madanlal who had thrown a bomb at Delhi near the Prarthana Hall knows you. I said that I had never met nor heard of Madanlal.

In the evening Dandvate came to my house with a pistol with him, 20 From where he brought the pistol I do not know. This was an automatic pistol. Dandvate brought about 11-12 rounds of automatic pistol. Godse and Apte saw this automatic pistol and approved of it. Dandvate said that the price of this automatic pistol is Rs. 500. Nanna Apte paid Rs. 300 to Dandvate and promised to pay the rest later on. Godse and Apte examined the automatic arrangement of the pistol brought by Dandvate and approved of this pistol. At 10.30 p.m. on the 28th January, 1948, Dandvate got a tonga and Godse and Apte left my house for the Railway Station. After Godse and Apte had gone to the Railway Station, I went to my bedroom and slept. 30 Dandvate also went to his house. Next day, i.e., on the 29th January, 1948, I mentioned to my elder brother Krishna Rao Parchure who is an Investment Secretary, Finance Department, that two gentlemen had come to me with a plan to kill Gandhiji at Delhi. I told him that I had arranged a pistol for them to kill Gandhiji at Delhi. He was shocked to hear this and said why you have bothered yourself in this affair.

Mr. Madhukar Kale told me on the 30th January, 1948, at 6 p. m. as I was going to my dispensary on foot that some one had told him that news on radio has come about Gandhiji's murder. I went to my dispensary and after 15 minutes I closed the dispensary and returned home. I gave one rupee to my servant Ropa, to bring sweets from the bazar. 10—15 members of my *sena* were at my house then. I distributed the sweets to them. I don't know whether the revolver that Godse and Apte brought with them remained with Godse and Apte or was given to Dandvate.....

Dattatraya S. Parchure in his statement in regard to the 'confession' says as below :—

Major Chhatrey accompanied by 2-3 police-officers and Mr. R. B. Atal came to his cell. Major Chhatrey then went away. Mr. R. B. Atal took out six sheets of white paper with something written thereon. He was made to sign those sheets. He did not know what was written on those sheets. Those are the last six sheets of the 'confession'. There was thereafter some talk between N. Y. Dulekar (P. W. 123) and Mr. R. B. Atal. Mr. R. B. Atal then put down something on a sheet of brown paper. That is now the first sheet of the 'confession'. He did not know what was written on the various sheets of paper, and only signed them in the circumstances as given by him in his written statement. 60

Dattatraya S. Parchure in his written-statement says that he was detained in a solitary cell in the Fort and was made to undergo



considerable mental and physical discomfort. The police-officers behaved very rudely, and no medical aid was given to him for a number of days though he was suffering from pain in his joints and was running a temperature. The Indian Union Police-Officers then began paying him visits in his cell. Deulkar began giving him threats and advice. The advice was to sign a certain statement that had already been prepared for him. Deulkar suggested to him that if he signed the statement by saying that he wanted to make his position and that of his associates clear that would save him and would also serve their purpose.

10 He was later told that the Morar Cantonment Magistrate Mr. Pandit had declined to sign the 'statement' and that some other arrangement would have to be made. Deulkar and 3-4 other police-officers came to him the next morning. Mr. R. B. Atal was also with them. The Fort Commander left these persons in his cell and went away. He was lying in bed and was running a temperature, and requested Mr. R. B. Atal to be quick in doing whatever he wanted to do. Mr. R. B. Atal unceremoniously produced some 6-7 sheets of paper closely and neatly written from his 'basta', and asked him to sign the same. He signed all those papers wherever he was asked to sign. Mr. R. B. Atal 20 then in consultation with Deulkar took out a printed form from his 'basta', wrote down something thereon and asked him to sign. He likewise signed that paper as well. Mr. R. B. Atal had put no question to him.

Mr. Dinkar P. Patil Thorat and N. Y. Deulkar are the Police-Officers who had seen Dattatraya S. Parchure in the Fort during the period between 16-2-48 and 18-2-48. The only questions put to these witnesses in cross-examination on behalf of the defence were just to show that Dattatraya S. Parchure at the time was not well and was running a temperature. Not a single question in cross-examination 30 was put to any one of them to show that they had, in any way whatsoever, threatened him or induced him to sign a statement prepared from before. Even Mr. R. B. Atal was not put a single question in cross-examination on behalf of the defence to show that he had obtained the signatures of Dattatraya S. Parchure on a previously prepared statement. Had there been any truth in the allegations as now made out by Dattatraya S. Parchure in his statement or written statement surely some such suggestions would have been made to these witnesses during the course of their cross-examination. There is thus no reason to hold that the 'confession' had already been prepared from before and that the 40 signatures of Dattatraya S. Parchure were obtained thereon later by Mr. R. B. Atal.

No doubt, certain questions were put to these witnesses to suggest that Dattatraya S. Parchure at the time was not well and was running a temperature. The witnesses deny it *in toto*. The evidence on the record of the case goes to show that the accused had been brought from his cell and the interview to the police-officers with him had been allowed in the dispensary room. It accordingly appears to me not unlikely that the defence have tried to take advantage of this fact by just making out that the accused at the time was lying unwell and was running a temperature. Mr. R. B. Atal in his cross-examination says that he was in the company of the accused in all for about three hours and had ample opportunity during that time to observe the state of his mind and body and that the accused did not complain to him that he was running a temperature. Had the state of mind and body of the accused not been normal at the time or if he had been running a temperature the Magistrate would not have failed to have noticed those facts. There is thus no reason to suppose that the accused was not well and was running a temperature at the time his 'confession' was recorded.

60 The contention then on behalf of the defence is that the last six pages of the 'confession' were prepared first and the first page thereof was prepared later. Mr. R. B. Atal in his evidence altogether denies this.



The basis of the contention on behalf of the defence, in my opinion, appears to be that the first sheet is on brown paper with a printed head-note while the last six sheets are on white paper. Such brown sheets could not have been used throughout because of the head note thereon.

Dattatraya S. Parchure is a highly educated man, and is an M.B.B.S. The precautions observed by M. R. B. Atal in recording his confession were in no way different to the precautions observed in recording the confession by a Dominion Magistrate. He recorded the confession after fully convincing himself that it was being made voluntarily and not because of any inducement, threat or promise and that too only ¹⁰ after fully warning the accused of the consequences that might ensue to him later because of his confession. There is thus no reason as to why reliance should not be placed on the 'confession' of Dattatraya S. Parchure.

CHAPTER XXIII

EVIDENCE Re : THE NATIONALITY OF PARCHURE

The allegations on behalf of the prosecution against Dattatraya S. Parchure are that on 28-1-1948 at Gwalior he got a pistol procured for Nathuram V. Godse and Narayan D. Apte through Gangadhar S. Dandwate for getting the murder of Mahatma Gandhi committed therewith and that on 30-1-1948 at Delhi the murder of Mahatma Gandhi was committed there ²⁰ with by Nathuram V. Godse.

The contention on behalf of the defence is that Dattatraya S. Parchure is a subject of the Gwalior Government and that, as such, he is not amenable to the jurisdiction of the Court. The contention on behalf of the prosecution, on the other hand, is that Dattatraya S. Parchure is a 'British subject domiciled in India' and that, as such, he is amenable to the jurisdiction of the Court. The prosecution on the opening day of the trial of the case filed sanction of the Central Government as required u/s 188 of the Code of Criminal Procedure. The question accordingly that arises for consideration is whether Dattatraya S. Parchure is a 'British ³⁰ subject domiciled in India', or not.

Section 188 of the Code of Criminal Procedure as amended by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, now stand as below:

'When a British subject domiciled in India commits an offence at any place without and beyond the limits of the Provinces, or when any British subject commits an offence in an Acceding State,
..... he may be dealt with in respect of such offence as if it had been committed at any place within the Provinces at which he may be found: 40

Provided that notwithstanding anything in any of the preceding sections of this chapter, no charge as to any such offence shall be inquired into in the Provinces unless..... the Provincial Government (certifies).....

The prosecution have led a mass of documentary evidence and also some oral evidence to show that Dattatraya S. Parchure is a 'British subject domiciled in India'.

The British Nationality and Status of Aliens Act, 1914, which has also been made applicable to India, runs as below:

Section 1—(1) The following persons shall be deemed to be ⁵⁰ natural-born British subject, namely :

- (a) any person born within His Majesty's dominions and allegiance; and



(b) any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfills any of the following conditions that is to say, if either—

(i) his father was born within His Majesty's allegiance ;.....

Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by 10 treaty, capitulation, grant, usage, sufferance or other lawful means, His Majesty exercises jurisdiction over British subjects.....

The prosecution have led evidence to show that the father of Dattatraya S. Parchure was Sadashiva Gopal Parchure, that Sadashiva Gopal Parchure was a British subject having been born within his Majesty's dominions and allegiance i. e., at Poona, and that Sadashiva Gopal Parchure at the time of Dattatraya S. Parchure's birth was a British subject.

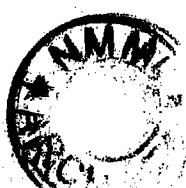
The prosecution evidence on the question of the nationality was produced in two lots. The prosecution first produced Surya Narayan Vyas (P. W. 124), Digambor V. Mhaskar, (P. W. 127), Major D. M. Jall, (P. W. 140) and Ram Prasad, (P. W. 143), and documents, Ext. P./257, P./258, P./270, P/271, P./350, P./350-A., P./351, P./351-A., P./352, P./353 and P./354.

Surya Narain Vyas, is the son of Narayanji Vyas, whose clerk was Behari Lal. Both Narayanji Vyas and Behari Lal are dead. Surya Narayan Vyas in his evidence say that in about 1921, one Sadashiva G. Parchure came to his father and wanted to know his future. His father asked him to bring his horoscope for the purpose. 30 He brought the horoscope—Ex. P/257. On instructions from his father he made a copy of the 'kundali' in a note-book kept by him for the purpose. Ex. P/258 is the copy of the 'kundali'. The horoscope is in the hand of Behari Lal, who died about 30 years ago.

Even if it be taken for granted just for arguments' sake that the horoscope and the 'kundali' are admissible in evidence, then the maximum inference that could be drawn on the basis thereof is that Sadashiva G. Parchure was born on 'Jeth shukla 5, 1916 S', i.e., sometime in 1859—1860 A. D. This fact is proved also by the other evidence on the record of the case, and is not denied on behalf of the 40 defence.

The prosecution want me also to draw the inference that Sadashiva G. Parchure was born at Poona, and for that purpose rely on Sec. 32(5) and (6) of the Indian Evidence Act. They have in this connection drawn my attention to the Law of Evidence by Woodroffe and Ameer Ali (Ed. 1941)—page 354, which lays down in the bottom-note as below :—

'.....it was at one time a moot point in English law whether evidence as to date and place of birth was admissible even in 'pedigree cases', but the weight of opinion was in favour of 50 its admissibility, and this view has been adopted by the framers of the (I.E.) Act, i.e. (Section 32, illus. (1) (m); Bepin V. Sreedam, 13-C., 42 (1886); Ram V. Jogeshwar, 20-C., 758 (1893); Oriental Life Assurance Co., V. Narasimha 25 M., 183, 209, 210 (1901), the words "relates to the existence of relationship" being wide enough to cover statements as to the commencement of relationship in point of time and as to the locality when it commenced or existed.....'



The only difference thus that exists between English Law and Indian Law is that such hearsay evidence according to English Law must be confined to such facts as are immediately connected with the question of pedigree while according to Indian Law such hearsay evidence is admissible on any issue provided they relate to a fact relevant to the case. Both English Law and Indian Law lay down that the terms 'matters of pedigree are confined primarily to issues involving family succession (testate or intestate), relationship and legitimacy; and secondly to those particular incidents of family history 'which are immediately connected with, and required for the proof of, such issues e. g., the birth, marriage and death 10 of members of the family, with the respective dates and places of those events; age celibacy, issue or failure of issue, as well, probably, as occupation, residence and similar incidents of domestic history necessary to identify individuals.....'. Such hearsay evidence is certainly not admissible for proving the fact as to where a person was born. 27 Cr. L. J. 1304 appears to be in support of this view.

The most important piece of evidence to show the place of birth of Sadashiva G. Parchure that the prosecution have produced is that of Digambar V. Mhaskar. He is a clerk in the office of the Director of Public Instructions, Bombay Province. He in his evidence says that 20 there was a Government College at Poona known as the Deccan College and that it closed down at the end of the year 1933-44. The records of that college then were transferred to the D.P.I. Office.

Digambar V. Mhaskar produced the Deccan College Students Register for 1865-1890. Ex. P/270 is the register. Ex. P/271 is the relevant entry therein, and is to the effect that one Sadashiva G. Parchure was the son of one Gopal K. Parchure and was a native of Poona and that Gopal K. Parchure was a pensioner at Poona. The question accordingly that arises for consideration is whether the entry to the effect in the register is admissible and, if so, what inference could be 30 drawn on the basis thereof.

Digambar V. Mhaskar, of course, has no personal knowledge in regard to the entries in the register. The register bears no signature. The contention, as such, on behalf of the defence is that no presumption and no inference thereon could be drawn u/s 32(2) and 90 of the Indian Evidence Act.

A.I.R. 1936 Lahore 104 lays down that 'a presumption of genuineness attaches to the entries in ancient school registers coming from proper custody'. However, it is not clear from the report of the case whether the entries were signed by or were purported to be in the hand 40 of any particular person nor does the report mention the provision under which the presumption of genuineness was raised. Even if it be taken for granted just for arguments' sake that Sec. 90 of the Indian Evidence Act was inapplicable, the genuineness of the entry could be presumed u/s 114 of the Indian Evidence Act as the entry did not require any proof by reason of Sec. 35 of the Indian Evidence Act. There is no reason to suppose that the entry in question had not been made by a public servant in the discharge of his official duties in the official register. It is thus clear that that Sadashiva G. Parchure was a native of Poona and that his father Gopal K. Parchure was a pensioner at Poona.

The prosecution then have produced in evidence certified copies of two public documents—Exs. P/353 and P/354. Ex. P/353 is the certified copy of the Poona City Municipal Death Register, and shows that one Gopal K. Parchure was a pensioner and died at Poona on 21-7-1894. Ex. P/354 is the certified copy of the Poona City Municipal Khasra, and shows that a certain house was first recorded in the name of one Gopal K. Parchure and then in the name of Narhar B. Parchure and Mahadeo B. Parchure.



The prosecution then have produced in evidence the issue of the 'Jayajee Pratap', dated 3-5-23. Ex. P/352 is the issue. The paper was formerly owned by the Gwalior Government, and is now owned by the Madhyabharat Government. There is an article in the issue on the life of Sadashiva G. Parchure, who was in the employ of the Gwalior Government and died at Gwalior in 1923. The person at whose instance the article was published has not been produced as a witness. The only presumption accordingly that could be drawn is that a certain article appeared in a certain paper on a certain date. The presumption of genuineness 10 of the paper is certainly in no way equivalent to proof of facts reported therein. A statement of a fact contained in a paper is merely hearsay and consequently inadmissible in evidence unless the maker of the statement appears in court and deposes to have perceived the fact reported. The fact that the paper was first owned by the Gwalior Government and now by the Madhyabharat Government is of no consequence.

The prosecution then have produced two original documents in 'Mundi' along with their certified transliterations in Marathi from the Commissioner's Office at Poona. Exs. P/350 and P/351 are the two documents in 'Mandi', and Exs. P/350A and P/351A are their certified 20 transliterations in Marathi. These are certainly public documents within the meaning of Sec. 74 of the Indian Evidence Act.

Ex. P/350 and P/351 are the statements of one Gopal K. Parchure and one Trimbuk K. Parchure, respectively, made before Lt. C. J. Griffith Asst. Inam Commissioner, Northern Division, Poona, on 20-8-1855 and signed by them. The statements, it appears, were recorded in proceedings in regard to the correction of certain revenue papers by the Asst. Inam Commissioner. The presumption accordingly is that the two documents are genuine and that the statements as contained therein were made by one Gopal K. Parchure and one Trimbuk K. Parchure. The two statements give a certain pedigree. The pedigree thus becomes admissible u/s 30 32(6) of the Indian Evidence Act. The pedigree-table shows that Gopal K. Parchure was the brother of Trimbuk K. Parchure, that their father was Krishna A. Parchure and that their grand-father was Anan(t) Parchure.

It appears that a search of the house of Dattatraya S. Parchure was made at Gwalior at about the end of October 1948, and a number of documents were taken possession of by the Police. The prosecution then produced some more evidence to show that Sadashiva G. Parchure, father of Dattatraya S. Parchure, and his ancestors had property at Poona and belonged to Poona.

40 Shyam Bahadur (P. W. 147) is one of the two search-witnesses, and in his evidence says that the search had been duly conducted in the presence of the adult members of the family of Dattatraya S. Parchure and that a number of documents were taken possession of by the Police. Exs. P/373, P/385 and P/403 are the 'panchnamas' in regard to these proceedings. Exs. P/361, P/374-P/384, and P/386-P/402 are some of the papers so taken possession of and produced in court.

50 Keshav V. Bhajekar (P. W. 146) and Virendra Singh (P. W. 149) fully corroborate Shyam Bahadur. The fact that these papers had been so taken possession of from his house has not been seriously contested on behalf of Dattatraya S. Parchure before the Court. Dattatraya S. Parchure in his statement just says that these papers had not been recovered from his possession and might have been recovered from the possession of his brother. Dattatraya S. Parchure in his written-statement admits that he lives jointly with his brothers. There is thus no reason to suppose that these papers had not been recovered from the house of Dattatraya S. Parchure.

Ex. P/361 is the B.A. Diploma granted to Sadashiva G. Parchure by the Bombay University on 19-1-1886. Ex. P/374 is the 'sanad', dated 18-11-1899, granted by the Secretary of State in Council to Trimbak Bhikaji 60 and Vishnu Balwant Parchure awarding them certain land in District Ratnagiri. Exs. P/376, P/379-P/384 and P/398 are notices of the assessment.



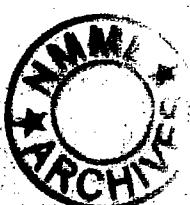
of income-tax for the years 1861—1869 from the Collecting Officer Poona to Gopal K. Parchure, Sadasiva Peth, Poona. Ex.P/377 is the horoscope of Sadashiva G. Parchure, and Ex.P/377A is an endorsement thereon. Ex.P/389 is the certified copy of the order, dated 13-6-1878, passed on the application, dated 31-1-1878, by the District Judge, Poona. Ex.P/390 is the succession-certificate granted to Trimbak K. Parchure on 12-5-1865 by the Civil Judge, Satara. Ex.P/391 is the Matriculation Certificate granted on the 15-12-1879 to Sadashiva G. Parchure and bears the signature of Sadashiva G. Parchure. Ex.P/392 is the certificate of Qualification granted on 22-10-1877 to Sadashiva G. Parchure at the Poona Examination 10 and bears the signature of Sadashiva G. Parchure, and Ex.P/402 is the biography of the life of Sadashiva G. Parchure, and Ex.P/402A is an endorsement thereon.

Major D.M. Jall (P.W. 140) resides at Gwalior. He was formerly in the Gwalior State Service, and retired in 1929. He in his evidence says that he first came in contact with Sadashiva G. Parchure, father of Dattatraya S. Parchure, in 1895. He used to meet him often and knows his hand. Exs.P/377A, P/402 & P/402A are in the hand or bear the initials of Sadashiva G. Parchure. 'Sado' was the short name of Sadashiva G. Parchure. 20

Exs.P/376, P/379-P/384 & P/393 are public documents, and the contents thereof are admissible in evidence without proof. The perusal of these documents clearly goes to show that Gopal K. Parchure had some property at Poona. These documents have been recovered from the house of Dattatraya S. Parchure. There is thus no reason to suppose that these documents refer to some Gopal K. Parchure other than the grandfather of Dattatraya S. Parchure. Ex.P/374 is the 'sanad' granted to Trimbak Bhikaji and Vishnu B. Parchure. It is a public document, and is admissible in evidence without proof. Ex.P/389 is the certified copy of an order passed by the District Judge, Poona. Ex.P/390 is the succession-30 certificate granted to Trimbak K. Parchure by the Civil Judge, Satara. These are public documents, and are admissible in evidence without proof. Exs.P/374, P/389, & P/390 were recovered from the house of Dattatraya S. Parchure. There is thus no reason to suppose that Trimbak Parchure as mentioned in Ex.P/374 was someone other than Trimbak Parchure as mentioned in Exs.P/389 & P/390. It may, in the circumstances safely be inferred that the ancestors of Sadashiva G. Parchure, father of Dattatraya S. Parchure, had property in Districts Ratnagiri, Satara and Poona.

The prosecution have also produced various Calendars and the Results of the University of Bombay to show that one Sadashiva G. Parchure, had throughout received his education at Poona. Exs.P/355—P/360 are these documents. They are public documents, and the contents thereof are admissible in evidence without proof. The perusal of these documents clearly goes to show that that Sadashiva G. Parchure passed the Matriculation Examination from the Poona High School in 1879, passed the previous Examination from the Deccan College in 1880, passed the First B.A. Examination from the Deccan College in 1884 and passed the Second B.A. Examination from the Deccan College in 1885. The Matriculation Certificate (Ex.P/391) and the B.A. Diploma (Ex.P/361) are certainly those that must have been issued to that Sadashiva G. Parchure who is referred to in Ex.P/355—P/360. There is thus no reason to suppose that Sadashiva G. Parchure as mentioned in Ex.P/355—P/360 was someone other than the father of Dattatraya S. Parchure. There is thus also no reason to suppose that Sadashiva G. Parchure as mentioned in Ex. P/271 was someone other than the father of Dattatraya S. Parchure. These facts clearly go to establish that Sadashiva G. Parchure, father of Dattatraya S. Parchure, had throughout received his education at Poona and was a native of Poona. 50

Ex. P/377 is the horoscope of Sadashiva G. Parchure, and bears the endorsement 'horoscope of Sadashiva Gopal Parchure, Head Master, New English School, Ahmedabad—1888'. Major D.M. Jall in his evidence says that the endorsement to the effect is in the hand of Sadashiva G. 60



Parchure. The endorsement, in my opinion, amounts to a statement of Sadashiva G. Parchure that the horoscope is his] Ex. P/402 is the biography of Sadashiva G. Parchure and bears the initials of 'S. G. P'. Major D. M. Jall in his evidence further says that the initials thereon are those of Sadashiva G. Parchure. The only portion of the contents of the horoscope and the biography that could be held admissible is the portion that relates to the pedigree and the date of birth of Sadashiva G. Parchure. The pedigree and the date of birth as given therein correspond with the pedigree and the date of birth as given in Exs. P/257, P/350, P/251, and P/389. There is thus no reason to suppose that Sadashiva G. Parchure as mentioned in Exs. P/350 and P/351 was someone other than the father of Dattatraya S. Parchure.

It is thus clear from the evidence produced on behalf of the prosecution that Dattatraya S. Parchure and his predecessors-in-interest belonged to Poona and had ancestral property in the Bombay Province and that his father Sadashiva G. Parchure was a native of Poona and had throughout obtained his education at Poona.

Under section 1 (1) (b) (i) of the British Nationality and Status of Aliens Act Dattatraya S. Parchure would be a British subject if his father Sadashiva G. Parchure at the time of birth of the Dattatraya S. Parchure was a British subject and was born within his Majesty's 'allegiance'.

Foote's Private International Law (Ed. 1925) on page 7 observes as below:—

30 'Born out of His Majesty's Dominions—By the Act of 1772 (13 Geo. 3, c. 21), a child born out of the British dominion whose father or whose grandfather was born within those dominions was deemed to be a natural born British subject provided that his father at the time of his death had not ceased to be a British subject. By the Act of 1914, however, this privilege was taken away from grandchildren born after the 1st January, 1915, outside the British dominions. Such children were not British subjects unless their father had been born within the British dominions, with the exception of those children born in a place where by treaty, capitulation, etc., His Majesty exercised jurisdiction over British subjects.....'

It stands established that Sadashiva G. Parchure was a native of Poona, had throughout been educated at Poona and had ancestral property in Bombay Province. Dattatraya S. Parchure in 40 his statement or written-statement nowhere even alleges that originally his father or his ancestors belonged to some place other than Poona or that his father was born at a place outside the 'allegiance' of His Majesty. It could, in the circumstances, be safely held that in the ordinary course of natural events Sadashiva G. Parchure was a British subject and was born within the 'allegiance' of His Majesty.

50 The point that now arises for consideration is whether before the birth of Dattatraya S. Parchure Sadashiva G. Parchure had renounced his nationality or whether Dattatraya S. Parchure on attaining majority has renounced his nationality. The question accordingly that arises for consideration is whether a British subject could renounce his nationality and take up the nationality of an Indian State. No such law on the subject has been produced by either of the parties before the Court. Even if it be taken for granted just for arguments' sake that one could do so then it has to be seen whether Sadashiva G. Parchure before the birth of Dattatraya S. Parchure had renounced his British nationality or whether Dattatraya S. Parchure on



attaining majority has renounced his nationality. There is not an iota of evidence on the record of the case in regard thereto on behalf of Dattatraya S. Parchure.

Section 13 of the British Nationality and Status of Aliens Act lays down as below -

'A British subject who, when in any foreign State and not under disability, by obtaining a certificate of naturalization or by any other voluntary and formal act, becomes naturalized therein, shall thence forth be deemed to have ceased to be a British subject'.

10

No such certificate of naturalization is forthcoming on behalf of Dattatraya S. Parchure. It has been contended on behalf of Dattatraya S. Parchure that Sadashiva G. Parchure had offered 'nazar' to His Highness the Maharaja of Gwalior and that by virtue of that act he had become a subject of the Gwalior State and had ceased to be a British subject. However, there is nothing on the record of the case to show that Sadashiva G. Parchure had ever offered 'nazar' at any time to His Highness the Maharaja of Gwalior. No doubt, Major D. M. Jall in his evidence says that Sadashiva G. Parchure during the period of his stay in Gwalior State must have offered 'nazar' to His Highness the Maharaja of Gwalior. The words 'must have offered nazar' are certainly in no way equivalent to 'had offered nazar'.

It has then been contended on behalf of Dattatraya S. Parchure that Section 188 of the Code of Criminal Procedure as amended by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, goes much beyond the scope of what it previously was and that, as such, it is *ultra vires*.

Section 188 of the Code of Criminal Procedure previously stood as below -

'When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of the British India... - - - - -' 30

Section 188 of the Code of Criminal Procedure now stands as below.

'When a British subject domiciled in India commits an offence at any place without and beyond the limits of the Provinces. - - - - -'

The words 'Native Indian subject of Her Majesty' and 'British India' thus have been substituted for 'British subject domiciled in India' and 'Provinces'. There is no dispute about the words 'British India' having been substituted for the word 'Provinces'. The dispute is about the words 'Native Indian subject of Her Majesty' having been substituted for the words 'British subject domiciled in India'. It does not appear to me that the words 'British subject domiciled in India' go in any way beyond the scope of the words 'Native Indian subjects of Her Majesty'. What obviously has been done in the Adaptation Order is that the word 'native' has been dropped altogether. A 'Native Indian subject of Her Majesty' refers to no one other than a 'British subject who is of Indian domicile'. Dattatraya S. Parchure certainly does not claim himself to be not of Indian domicile.

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It thus stands established that Dattatraya S. Parchure at the time of his birth was a British subject and still continues to be a British subject under the law in force at the time of his birth and the law in force now.



CHAPTER XXIV

ANALYSES OF THE EVIDENCE OF THE APPROVER

Digamber R. Badge was first produced before the Court on 27-5-1948. He had no counsel, and was asked if he wanted a counsel to be engaged on his behalf at the expense of the Crown. He stated that he did not want a counsel but wanted to make a true statement of the facts. His statement, however, was at that stage not recorded by the Court. He then had interviews twice with Mr. J. D. Nagarvala. Ordinance XIV of 1948 was passed by the Central Government on 14-6-1948 10 empowering courts constituted u/s 10 and 11 of the Bombay Public Security Measures Act as extended to the Province of Delhi to tender a pardon to an accused. The counsel for the prosecution put in an application before the Court on 17-6-1948 that Digamber R. Badge be tendered a pardon. Digamber R. Badge was examined in due course, and was tendered a pardon by the Court on 21-6-1948.

It has been argued on behalf of the defence that the proceedings in regard to the tender of pardon were invalid as those proceedings had been conducted without notice to the accused and in their absence. The contention, in my opinion, carries no weight whatsoever. The granting 20 of a pardon is a matter between the approver and the Court. There is no provision in law that notice must be given to the other accused or that the other accused must be heard on an application for the grant of a pardon.

It has then been argued on behalf of the defence that the Court had no powers to have tendered a pardon to an accused as the case had not been received after commitment as required u/s 338 of the Code of Criminal Procedure. Section 13 (3) of the Bombay Public Security Measures Act as extended to the Province of Delhi clearly lays down that in matters not coming within the scope of sub-section (1) and (2) 30 the provisions of the Code, in so far as they are not inconsistent with the provisions of Sections 10 to 20 shall apply to the proceedings of a Special Judge; and for the purpose of the said provision, the Court of the Special Judge shall be deemed to be a Court of Session. Section 338 of the Code of Criminal Procedure lays down that 'at any time after commitment, but before judgment is passed, the Court to which the commitment is made may..... tender..... a pardon..... The words at any time after commitment' and 'before judgment is passed', in my opinion, refer to stage at which the Court of Session may tender a pardon to an accused, and in the present 40 case just mean that the Special Court may tender a pardon to an accused but only after it has taken cognizance of the case u/s 13 (1) of the Bombay Public Security Measures Act as extended to the Province of Delhi. The matter, however, has now been put beyond any doubt by Ordinance XIV of 1948 and Central Act LII of 1948.

It has then been contended on behalf of the defence that the approver should have been called first to give his evidence before the other witnesses. The prosecution in the present case first led the evidence in regard to what took place at Delhi on 20-1-1948 and 30-1-1948. They led the evidence of the approver thereafter. They then led the evidence in regard to what took place at Bombay from 14-1-1948 till 17-1-1948. No doubt it would have been better if the prosecution had produced the approver first and led the evidence in regard to what took place at Delhi on 20-1-1948 thereafter. However, there is nothing in law which obliges the prosecution to call witnesses in any particular order. The accused in the present case had been supplied with a summary of evidence of the main prosecution witnesses. There is thus no reason to suppose that the accused have in any way whatsoever been prejudiced by not calling the approver first to give his evidence.



It is now practically a rule of law that an approver must be corroborated both as to the *corpus delicti* and as to the identity of the accused, though corroboration need not be on all the details of the crime nor is it necessary that the corroborative evidence should itself be sufficient for conviction. The nature and the extent of the corroboration required depends upon and varies with the circumstances of each case, particularly the nature of the offence charged, the character and the antecedents of the approver and the degree of suspicion attaching to his evidence, the circumstances in which the approver makes his statement and his motive to implicate the accused falsely.

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The examination and the cross-examination of the approver went on from 20-7-1948 till 30-7-1948. He was cross-examined for nearly seven days. There was thus an ample opportunity to observe his demeanour and the manner of his giving evidence. He gave his version of the facts in a direct and straightforward manner. He did not evade cross-examination or attempt to evade or fence with any question. It would not have been possible for anyone to have given evidence so unfalteringly stretching over such a long period and with such particularity in regard to the facts which had never taken place. It is difficult to conceive of anyone memorizing so long and so detailed a story if altogether without foundation.

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The evidence of the approver may conveniently be divided into three groups—firstly, the evidence that stands fully corroborated, secondly, the evidence that stands generally corroborated and, thirdly, the evidence that does not stand corroborated in regard to the identity of certain accused.

The approver's evidence that stands fully corroborated has already been discussed earlier.

Now I take up the approver's evidence that stands generally corroborated.

30

The approver in his evidence says that he dealt in arms, ammunition and explosives at the time and that Vishnu R. Karkare and Madanlal K. Pahwa along with two more individuals came to inspect the explosives at his house on 9-1-48. He was called to the Hindu Rashtra Office on 10-1-48, when he agreed to supply Nathuram V. Godse and Narayan D. Apte with two gun-cotton-slabs and five hand-grenades at the Hindu Mahasabha Office at Dadar on 14-1-48.

It has been argued on behalf of the defence that the individuals who are said to have accompanied Vishnu R. Karkare and Madanlal K. Pahwa to the house of the approver on 9-1-48 could at least have been produced in corroboration of the approver's story. The evidence produced on behalf of the prosecution goes to show that every effort was made to trace them but they could not be traced. Even if they had appeared as witnesses it is doubtful if their evidence would have amounted to more than that of accomplices.

40

The approver in his evidence says that he was asked by Narayan D. Apte in the compound of the temple of Dixitji Maharaj also to proceed along with them to Delhi as it had been decided that Mahatma Gandhi be 'finished'. He agreed to do so. He along with Shankar Kistayya proceeded to Delhi and stayed in the Hindu Mahasabha Bhawan along with Madanlal K. Pahwa and Gopal V. Godse from 19-1-48 till 20-1-48.

50

It has been argued on behalf of the defence that at least some one should have been produced from the Hindu Mahasabha Bhawan in corroboration of the approver's story. The prosecution could have produced no such person in evidence in view of their allegations as against the Hindu Mahasabha.



The approver in his evidence says that Narayan D. Apte took him along with Shankar Kistayya on 20-1-48 to the Birla House and showed him the prayer-platform, the window with trellis-work behind it and the servants' quarters.

It has then been argued on behalf of the defence that at least the gate-keeper and some servant living in the quarters should have been produced in corroboration of the approver's story. It is just possible that the gate-keeper and the servants living in the quarters might not have taken any serious notice of the visit of these persons that day to the Birla House. However, it quite stands to reason that Narayan D. Apte would have shown the prayer-platform and the surrounding locality to the approver before proceeding for the intended object to that place. He could not have just asked the approver to enter the room unless he had explained to him first how the matter stood and what was intended to be done there.

The approver in his evidence says that in the Marina Hotel on 20-1-48 they fixed primers to the gun-cotton-slabs and detonators to the hand-grenades, discussed the plan and distributed the 'stuff' among them. Of course, no direct corroborative evidence to the effect could possibly have been produced on behalf of the prosecution. However, there is an illuminating piece of indirect corroborative evidence to the effect on behalf of the prosecution. The evidence of Nain Singh (P. W. 8), as supported by Exs. P./17 and P./24 goes to show that three extra teas had been ordered and supplied that day in Room No. 40.

It is a well-known principle in the estimation of evidence that the earlier events may be construed in the light of the subsequent ones. The approver's story as given above fits in fully with the events that took place subsequently and stands corroborated otherwise by independent evidence. There is thus no reason as to why reliance be not placed on the approver's evidence that stands generally corroborated.

80. Now I take up the approver's evidence that does not stand corroborated in regard to the identity of a certain accused—Vinayak D. Savarkar:

The approver in his evidence says that on 14-1-48 Nathuram V. Godse and Narayan D. Apte took him from the Hindu Mahasabha Office at Dadar to the Savarkar-Sadan saying that arrangements will have to be made for keeping the 'stuff'. He had the bag containing the 'stuff' with him. Nathuram V. Godse and Narayan D. Apte then went inside leaving him standing outside the Savarkar-Sadan. Nathuram V. Godse and Narayan D. Apte came back 5—10 minutes later with the bag containing the 'stuff'. The approver then says that on 15-1-48 in the compound of the temple of Dixitji Maharaj Narayan D. Apte told him that Tatyaraao Savarkar had decided that Gandhiji should be 'finished' and had entrusted that work to them. The approver then says that on 17-1-48 Nathuram V. Godse suggested that they should all go and take the last 'darshan' of Tatyaraao Savarkar. They then proceeded to the Savarkar-Sadan. Narayan D. Apte asked him to wait in the room on the ground-floor. Nathuram V. Godse and Narayan D. Apte went up to the first-floor and came down after 5—10 minutes. They were followed immediately by Tatyaraao Savarkar. Tatyaraao Savarkar addressed Nathuram V. Godse and Narayan D. Apte 'yashasvi houn ya' (be successful and come). Narayan D. Apte on their way back from Savarkar-Sadan said that Tatyaraao Savarkar had predicted 'tatyaravari ase bhavishya kale ahe ki gandhi jichi sambhar varshe bharali—ata apale kam nischita honar yat kahi sanshya nahi' (Gandhiji's hundred years were over—there was no doubt that their work would be successfully finished).

The prosecution case against Vinayak D. Savarkar appears to rest just on the evidence of the approver and the approver alone. The contention on behalf of the prosecution is that part of the approver's story



as against Vinayak D. Savarkar to a certain extent stands corroborated by the evidence of Miss Shantabai B. Modak (P. W. 60) and Aitappa K. Kotian (P. W. 80). No doubt there is the evidence of Miss Shantabai B. Modak that Nathuram V. Godse and Narayan D. Apte got down in front of the Savarkar-Sadan on 14-1-48. The evidence to the effect, however, in no way goes to establish that Nathuram V. Godse and Narayan D. Apte had got down in front of the Savarkar-Sadan to visit Vinayak D. Savarkar. The evidence on the record of the case goes to show that not only Vinayak D. Savarkar but A. S. Bhide and Gajanan Damle also reside in the Savarkar-Sadan. No doubt there is also the evidence of Aitappa K.¹⁰ Kotian that Nathuram V. Godse, Narayan D. Apte and the approver got down at the Shivaji Park on 17-1-48. The evidence to the effect, however, is no corroboration of the approver's story in regard to what the approver says he heard Vinayak D. Savarkar addressing Nathuram V. Godse and Narayan D. Apte. The approver in his evidence says that he had just heard Vinayak D. Savarkar addressing Nathuram V. Godse and Narayan D. Apte 'yashasvi houn ya'. There is nothing on the record of the case to show as to what conversation had taken place just prior to 20 that on the first-floor between Nathuram V. Godse and Narayan D. Apte on the one hand and Vinayak D. Savarkar on the other. There is thus no reason to suppose that the remark said to have been addressed by Vinayak D. Savarkar to Nathuram V. Godse and Narayan D. Apte in the presence of the approver was in reference to the assassination plot against the life of Mahatma Gandhi.

It would thus be unsafe to base any conclusions on the approver's story given above as against Vinayak D. Savarkar.

CHAPTER XXV

CONSPIRACY IF MADE OUT AND AGAINST WHOM

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It has already been stated earlier that the case of the prosecution is that the accused entered into a conspiracy to commit the murder of Mahatma Gandhi. The findings arrived at above against them go to show that the accused proceeded to Delhi on different dates and by different routes so as to be there during the period between 17-1-48 and 19-1-48. Not more than two accused travelled together by the same route.

Prior to their departure for Delhi, Nathuram V. Godse and Narayan D. Apte had obtained two gun-cotton-slabs and five hand-grenades from Digambar R. Badge. Narayan D. Apte had approached Dixitji Maharaj for the supply of a revolver or two but to no purpose. Nathuram V. Godse had handed over a small pistol to Digambar R. Badge, and asked him to get it exchanged for a big revolver which was to be brought by him to Delhi. It had been also arranged that Gopal V. Godse would bring a revolver to Delhi. Nathuram V. Godse and Narayan D. Apte along with Digambar R. Badge had gone from place to place at Bombay to collect money on various pretexts and had so collected money. Nathuram V. Godse and Narayan D. Apte had travelled together from Bombay to Delhi by plane under the assumed names of "D. N. Karmarkar" and "S. Marathe". The accused stayed at three different places at Delhi. Nathuram V. Godse, Narayan D. Apte and Vishnu R. Karkare had stayed under the assumed names of "S. Deshpande", "M. Deshpande" and "B. M. Bias". The accused then met together at the Birla House at about the same time and just a little before the explosion-incident that occurred there.

After the arrest of Madanlal K. Pahwa all the remaining accused left Delhi that very day or the next day. Again not more than two accused travelled together by one route. Nathuram V. Godse and Narayan D. Apte stayed in hotels at Bombay under the assumed names "N. Vinayakrao" and "D. Narayan". Nathuram V. Godse, Narayan



D. Apte, Vishnu R. Karkare and Gopal V. Godse met together at the house of G. M. Joshi at Thana. Nathuram V. Godse and Narayan D. Apte approached Dada Maharaj and Dixitji Maharaj for the supply of a revolver. Nathuram V. Godse and Narayan D. Apte again travelled from Bombay to Delhi by plane under the assumed names of 'D. Narayanrao' and 'N. Vinayakrao'. They proceeded to Gwalior and got a pistol procured through Dattatraya S. Parchure. Nathuram V. Godse stayed in a retiring-room at the Delhi Main Ry. Station under the assumed name of 'N. Vinayakrao'. Narayan D. Apte and 10 Vishnu R. Karkare were with him. Nathuram V. Godse then proceeded to the Birla House, and shot Mahatma Gandhi dead with the pistol that had been brought from Gwalior.

The case of Nathuram V. Godse is that there was no 'conspiracy' between him and the other accused to commit the murder of Mahatma Gandhi and that what he did was his own individual action. The case of Narayan D. Apte is that he along with Nathuram V. Godse had come to Delhi on 17-1-48 with the intention of staging a demonstration against the fast that Mahatma Gandhi had started on 13-1-48, with a view to coercing the Government of India to give 55 crores of rupees to the Government 20 of Pakistan. The case of Vishnu R. Karkare is that it was at the request of Madanlal K. Pahwa that he along with Madanlal K. Pahwa had come to Delhi on 17-1-48. Madanlal K. Pahwa had told him that his marriage was being arranged and that it was also being contemplated by some refugees to take a deputation to Mahatma Gandhi. The case of Madanlal K. Pahwa is that he along with Vishnu R. Karkare had come to Delhi on 17-1-1948 with a view to taking a deputation before Mahatma Gandhi and also with a view to making arrangements for his marriage. Digambar R. Badge handed 30 over to him a gun-cotton-slab and a hand-grenade as samples in the refugee-camp at Delhi. He exploded the gun-cotton-slab at the Birla House with a view to courting arrest and telling Mahatma Gandhi thereafter as to what were the grievances of the refugees. The case of Shankar Kistayya is that what he did he did in obedience to the orders of his Master Digambar R. Badge. He knew nothing about the "conspiracy" and had not been told anything about it by anyone including Digambar R. Badge. The case of Gopal V. Godse is that he was on leave at Uksan (Poona) from 17-1-1948 till 25-1-1948. The case of Vinayak D. Savarkar is that he had no hand in the "conspiracy", if any, and had no control whatsoever over Nathuram V. Godse and Narayan D. Apte. The case of Dattarya S. Parchure is that Nathuram V. Godse and Narayan D. Apte had come to him with a view to obtaining volunteers for purpose of staging a demonstration at Delhi and not with a view to obtaining a pistol for committing the murder of Mahatma Gandhi. 40

Nethuram V. Godse and Narayan D. Apte in their statements give the same reason for their coming to Delhi on 17-1-48, and say that their intention was to stage a demonstration before Mahatma Gandhi.

There is no explanation forthcoming on behalf of the defence as to how during the relevant period Nathuram V. Godse happened to effect nomination on his life-policy for a sum of Rs. 2,000 in favour of the wife of Narayan D. Apte and on his other life-policy for a sum of Rs. 3,000 in favour of the wife of Gopal V. Godse.

It has been mentioned above that Nathuram V. Godse and Narayan D. Apte had travelled by plane under assumed names and had also stayed under assumed names at Delhi. The explanation in regard to the assumed names as given on behalf of the defence is that the pitch of the editorials in the "Hindu Rashtra" had been rising higher and higher before 16-1-48. The Bombay Government had held out a threat that, if in future any articles 60 in the paper tended to communal strifes or violence, they would not rest content with demanding further security but would prosecute



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Nathuram V. Godse and Narayan D. Apte. Nathuram V. Godse and Narayan D. Apte accordingly wanted to keep their identity concealed till they had staged the demonstration as intended before Mahatma Gandhi. The threat, if at all, was against the editorials in the paper and not against the staging of a peaceful demonstration. The Bombay Government would have in no way been interested in their movement from Bombay to Delhi and in their stay at Delhi. There was thus no reason for them to have assumed names in case their intention just was to stage a demonstration before Mahatma Gandhi.

There is then no explanation forthcoming on behalf of the defence as to how Nathuram V. Godse and Narayan D. Apte and other accused happened to meet together at the Birla House on 20-1-48 at about the same time and just a little before the explosion-incident that occurred there. There is also no explanation forthcoming on behalf of the defence as to how Nathuram V. Godse and Narayan D. Apte along with some other accused happened to leave the Birla House in a great hurry just at about the time when the explosion-incident took place there.

Vishnu R. Karkare and Madanlal K. Pahwa in their statements give the same reason for their coming to Delhi on 17-1-48, and say that the intention was to lead a deputation before Mahatma Gandhi and that they had come independently of Nathuram V. Godse and Narayan D. Apte.

It has been mentioned above that Vishnu R. Karkare had stayed under an assumed name at Delhi. The explanation in regard to the assumed name as given on behalf of the defence is that the Ahmednagar Police was after Vishnu R. Karkare and that, as such, he had stayed under an assumed name at Delhi. The Ahmednagar Police would have been in no way interested in his stay at Delhi. There was thus no reason for him to have assumed a name in case his intention was just to see the deputation that Madanlal K. Pahwa intended to lead before Mahatma Gandhi.

Madanlal K. Pahwa in his statement says that Digambar R. Badge had handed him over a gun-cotton-slab and a hand-grenade as samples for sale to the refugees at Delhi. The only question that was put to Digambar R. Badge in cross-examination on behalf of the defence was whether he had given one gun-cotton-slab and one hand-grenade to Madanlal K. Pahwa for selling them to the refugees at Delhi. Digambar R. Badge denied having done so. No questions in cross-examination in regard to the details as now given in his statement by Madanlal K. Pahwa were put to him. It does not at all stand to reason that a man of the type of Digambar R. Badge would have given a gun-cotton-slab and a hand-grenade altogether free of charge to Madanlal K. Pahwa, who according to the defence was not even known to him from before. Refugees like Madanlal K. Pahwa would have been present in thousands and thousands at the time at Delhi.

There is no explanation forthcoming on behalf of the defence as to how Vishnu R. Karkare and Madanlal K. Pahwa and the other accused happened to meet together at the Birla House on 20-1-1948, at about the same time and just a little before the explosion-incident that occurred there.

It has already been mentioned earlier that Ex. 15 is the coat and Ex. 67 is the pair of trousers of one and the same suit that belonged to Narayan D. Apte. The coat was recovered from the possession of Madanlal K. Pahwa on 20-1-48 and the pair of trousers was recovered from the possession of Narayan D. Apte on 16-4-48. The recovery of the coat from the possession of Madanlal K. Pahwa would not have been possible unless Narayan D. Apte and Madanlal K. Pahwa had been in association with each other on or about 20-1-48.



Madanlal K. Pahwa in his statement says that he exploded the gun-cotton-slab at the Birla House with a view to courting arrest and telling Mahatma Gandhi thereafter as to what were the grievances of the refugees. There is nothing whatsoever on the record of the case to show that any such effort had been made after his arrest by Madanlal K. Pahwa on 20-1-1948. Not a single question in cross-examination in regard thereto was put to any of the prosecution witnesses on behalf of Madanlal K. Pahwa. There is thus no reason to suppose that Madanlal K. Pahwa had exploded the gun-cotton-slab with a view to 10 courting arrest and telling Mahatma Gandhi thereafter as to what were the grievances of the refugees.

Shankar Kistayya in his statement says that he knew nothing about the 'conspiracy' and had not been told about it by any one including Digambar R. Badge. There is no reason to suppose that Digambar R. Badge and the other accused would have taken Shankar Kistayya along with them to the Birla House on 20-1-48 unless he had been told the purpose for which they were proceeding there. There is thus no reason to suppose that Shankar Kistayya knew nothing about the conspiracy and had not been told anything about 20 it by any one including Digamber R. Badge.

Gopal V. Godse in his statement says that he was on leave at Uksan (Poona) from 17-1-48 till 25-1-48. There is no explanation forthcoming on behalf of the defence as to how Gopal V. Godse happened to take practically half of his casual leave at the very beginning of the year. One does not usually consume practically half of one's casual leave at the very beginning of the year unless it be for some very pressing necessity. The reason for taking the leave of absence as given in the application is 'some important farm affairs'. It has not been shown on behalf of the defence as to what those 'some 30 important farm affairs' were. Of course, if the intention of Gopal V. Godse was to proceed to Delhi, he could not have mentioned that reason in his application for leave of absence.

It has been mentioned earlier that on a search being made of Nathuram V. Godse on 30-1-48, a diary was recovered from his person. Ex. P/218 is the diary, and the relevant entries therein are Exs. P/323 and P/324. The recovery of the diary and the entries as contained therein are not in dispute on behalf of the defence, and also stand admitted in his statement by Nathuram V. Godse.

Digambar R. Badge in his evidence says that on 15-1-48, after 40 he had agreed to proceed to Delhi he said that he would not proceed to Delhi immediately as he would have to go back to Poona to make arrangements regarding his household affairs. Nathuram V. Godse thereon said that he also wanted to go to Poona to meet his brother Gopal V. Godse, who had undertaken to make arrangement for procuring a revolver.

Ex. P/323 shows that Nathuram V. Godse had paid a sum of Rs. 250 to Gopal V. Godse on 14-1-1948 at Poona. Nathuram V. Godse in his statement admits having paid the sum to his brother. He, however, says that he had paid the sum to his brother as he had asked for it. If it was so, then the sum would have been paid out of the personal account of Nathuram V. Godse and not out of the joint account of Nathuram V. Godse and Narayan D. Apte. Ex. P/323 goes to show that Nathuram V. Godse and Narayan D. Apte had at their joint disposal a sum of Rs. 2,000 on 14-1-1948. A sum of Rs. 342 in all was spent out of the joint fund on 14-1-1948 leaving a balance of Rs. 1,658. This sum thereafter was divided into two lots of Rs. 829 each. There is thus no reason to suppose that the sum of Rs. 250 had been paid by Nathuram V. Godse to Gopal V. Godse towards his personal needs and not towards the common purpose of Nathuram V. Godse and Narayan D. Apte. 50 60



There is also no explanation forthcoming on behalf of the defence as to how Gopal V. Godse along with some other accused happened to leave the Birla House in a great hurry just at about the time when the explosion incident took place there.

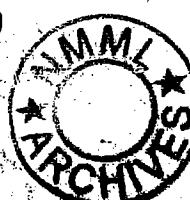
Vinayak D. Savarkar in his statement says that he had no hand in the 'conspiracy', if any, and had no control whatsoever over Nathuram V. Godse and Narayan D. Apte. It has been mentioned above that the prosecution case against Vinayak D. Savarkar rests just on the evidence of the approver and the approver alone. It has further been mentioned earlier that it would be unsafe to base any conclusions on 10 the evidence of the approver as against Vinayak D. Savarkar. There is thus no reason to suppose that Vinayak D. Savarkar had any hand in what took place at Delhi on 20-1-1948 and 30-1-1948.

Dattatraya S. Parchure in his statement says that Nathuram V. Godse and Narayan D. Apte had come to him with a view to obtaining volunteers for purposes of staging a demonstration at Delhi and not with a view to obtaining a pistol for committing the murder of Mahatma Gandhi. The evidence produced on behalf of the prosecution in the matter has already been fully discussed earlier, and need not be 20 reiterated.

It has been argued on behalf of the defence that one hand-grenade would have been sufficient to cause the death of Mahatma Gandhi and that there was no reason as to why five hand-grenades should have been taken for the purpose to the Birla House on 20-1-1948. My general impression from the evidence on the record of the case is that Nathuram V. Godse and Narayan D. Apte never really intended that all the five hand-grenades should be thrown at Mahatma Gandhi. Their real intention appears to have been to make Madanlal K. Pahwa explode the gun-cotton-slab and to make Digambar R. Badge enter the room 30 of Chhoturam and throw the hand-grenade through the opening in the trellis-work of the window at Mahatma Gandhi. Madanlal K. Pahwa was a Punjabi and Digambar R. Badge was a non-Brahmin in whom neither Nathuram V. Godse nor Narayan D. Apte could possibly have been very much interested. Their real intention then appears to have been to run away in the confusion after the explosion of the gun-cotton-slab and after the throwing of the hand-grenade. The explosion of the gun-cotton-slab was intended to be a signal to throw the hand-grenade. Digambar R. Badge on being asked to enter the room got frightened as he thought that, if he went into the room and something happened, he would get trapped inside the room. He refused to enter the room. Had the real intention been otherwise, then Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare or Gopal V. Godse would have entered the room and done the deed. There is thus no reason to suppose that all the five hand-grenades were really intended to be thrown at Mahatma Gandhi. 40

The facts thus found established lead to one conclusion and one conclusion only that there was a 'conspiracy' to commit the murder of Mahatma Gandhi and that among the conspirators were at least Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankur Kistayya, Gopal V. Godse and Dattatraya S. Parchure. 50

It has then been argued by Mr. P. R. Dass that after what took place at Delhi on 20-1-1948 the 'conspiracy', if there was one, came to an end and that the murder of Mahatma Gandhi by Nathuram V. Godse on 30-1-1948 was his individual act for which the other accused could not be held responsible in any way whatsoever. The offence of 'conspiracy' in substance is defined as an agreement between two or more persons to commit an offence. There is nothing on the record of the case to justify the inference that after the failure of their efforts on 60



20-1-1948 all the accused gave up the plot to commit the murder of Mahatma Gandhi. The evidence on the record of the case, as a matter of fact, goes to show that Nathuram V. Godse and Narayan D. Apte still continued to stay under assumed names at Bombay. Gopal V. Godse visited Nathuram V. Godse and Narayan D. Apte at Bombay. Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse met together at the house of G. M. Joshi at Thana. Nathuram V. Godse and Narayan D. Apte approached Dada Maharaj and Dixitji Maharaj for a revolver. Nathuram V. Godse and Narayan D. Apte travelled together under assumed names by plane from Bombay to Delhi. They proceeded to Gwalior and got a pistol procured through Dattatraya S. Parchure. Nathuram V. Godse stayed under an assumed name in a retiring-room at the Delhi Main Ry. Station. Narayan D. Apte and Vishnu R. Karkare were with him. Nathuram V. Godse then proceeded to the Birla House and shot Mahatma Gandhi dead with the pistol that had been brought from Gwalior.

These facts lead to one conclusion and one conclusion only that the same 'conspiracy' continued even after the failure of their efforts on 20-1-1948 and that in pursuance of that very conspiracy the murder of 20 Mahatma Gandhi was committed by Nathuram V. Godse.

There is no clear evidence forthcoming on behalf of the prosecution as to when the 'conspiracy' was first entered into and by whom and where. However, it may safely be inferred from the movements of the accused and their conduct that the 'conspiracy' was in existence at least on 9-1-1948 when Narayan D. Apte sent Vishnu R. Karkare and Madanlal K. Pahwa along with two more individuals to examine the 'stuff' at the house of Digambar R. Badge. Narayan D. Apte, Vishnu R. Karkare and Madanlal K. Pahwa must have been in the 'conspiracy' at that time. Nathuram V. Godse comes in the picture first on 10-1-1948 when he along with Narayan D. Apte asked Digambar R. Badge to be supplied with two gun-cotton-slabs and five hand-grenades. Nathuram V. Godse must have been in the 'conspiracy' at that time. Digambar R. Badge joined the 'conspiracy' on 15-1-1948 when he agreed to accompany Nathuram V. Godse and Narayan D. Apte to Delhi. Gopal V. Godse must have been in the 'conspiracy' on 14-1-1948 when he put in an application for seven days' casual leave. Shankar Kistayya joined the 'conspiracy' on 20-1-1948 when he was told by Digambar R. Badge the purpose of their visit to the Birla House. Dattatraya S. Parchure joined the 'conspiracy' on 27-1-1948 when he agreed to get a pistol procured for Nathuram V. Godse and Narayan D. Apte.

CHAPTER XXVI

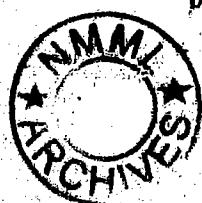
OFFENCES MADE OUT AND SENTENCES

Charge I runs as below :

'That you

NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, MADANLAL K. PAHWA, SHANKAR KISTAYYA, GOPAL V. GODSE, VINAYAK D. SAVARKAR AND DATTATRAYA S. PARCHURE

between December 1, 1947, and January 30, 1948, at Poona, 50 Bombay, Delhi and other places agreed and conspired among and between yourselves and Digambar R. Badge, who has been tendered a pardon, Gangadhar S. Dandwate, Gangadhar Jadhav and Suryadev Sharma, who along with others not known are absconding, to do or cause to be done an illegal act, viz., to commit the murder of Mohandas Karamchand Gandhi more popularly known as 'Mahatma Gandhi' and that the same act, viz., the murder of 'Mahatma Gandhi' was done in pursuance of the said agreement and conspiracy at Delhi on January 30, 1948, and thereby committed an offence punishable under



Section 120-B of the Indian Penal Code read with Section 302 of the Indian Penal Code and within the cognizance of the Court."

It has already been held established that there was a 'conspiracy' to commit the murder of Mahatma Gandhi, that the conspiracy was definitely in existence in the beginning of January, 1948 and continued till 30-1-1948. The 'conspiracy' took place at Poona, Bombay, Delhi and other places and that among the conspirators were at least Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Dattatraya S. Parchure along with Digambar R. Badge. These accused joined the 'conspiracy' at different places and ¹⁰ at different times. The offence of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Dattatraya S. Parchure, in the circumstances, clearly falls within the purview of section 120-B of the Indian Penal Code read with Section 302 of the Code.

Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Dattatraya S. Parchure thus are clearly 'guilty' under section 120-B of the Indian Penal Code read with Section 302 of the Code.

Charge II runs as below :—

'That in pursuance of the said agreement and conspiracy ²⁰ between January 10, 1948, and January 20, 1948, you

NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, MADANLAL K. PAHWA, SHANKAR KISTAYYA AND GOPAL V. GODSE along with Digambar R. Badge

A (1) transported without a licence to Delhi arms and ammunition, viz., 2 revolvers with cartridges, in contravention of the provisions of Section 10 of the Indian Arms Act ³⁰ and thereby committed an offence punishable under Section 19 (d) of the Indian Arms Act and within the cognizance of the Court ;

(2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 19 (d) of the Indian Arms Act read with Sections 109 and 114 of the Indian Penal Code, and within the cognizance of the Court ;

(B (1) at Delhi, had without a licence in your possession and under your control arms and ammunition, viz., 2 revolvers with cartridges, in contravention of the provisions of Sections 14 and 15 of the Indian Arms Act and thereby committed an offence punishable under Section 19 (f) of the Indian Arms Act and within the cognizance of the Court ; ⁴⁰

(2) at Delhi, abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 19 (f) of the Indian Arms Act read with Section 114 of the Indian Penal Code ⁵⁰ and within the cognizance of the Court.'

The two revolvers said to have been transported to Delhi and tried out in the jungle behind the Hindu Mahasabha Bhawan have not been recovered and have not been produced before the Court. It could not, in the circumstances, be held as to what was the real nature of the 'articles' so transported to Delhi and so tried out in the jungle behind the Hindu Mahasabha Bhawan. It would accordingly be unsafe to hold the charge



established as against Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse.

Charge III runs as below :

'That in pursuance of the said agreement and conspiracy between January 10, 1948, and January 20, 1948, at Delhi you NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R KARKARE, MADANLAL K. PAHWA, SHANKAR KISTAYYA AND GOPAL V. GODSE along with Digambar R. Badge

10 A (1) had in your possession and under your control explosive substances, viz., 2 gun-cotton-slabs and 5 hand-grenades with detonators and wicks, with intent to endanger life by means thereof or to enable any other person to endanger life by means thereof and thereby committed an offence punishable under Section 4 (b) of the Explosive Substances Act and within the cognizance of the Court ;

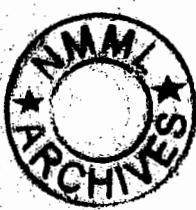
20 (2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 4 (b) of the Explosive Substances Act read with Section 6 of the Act and within the cognizance of the Court ;

B (1) had in your possession and under your control explosive substances, viz., 2 gun-cotton-slabs and 5 hand-grenades with detonators and wicks, under such circumstances as to give rise to a reasonable suspicion that you did not have them in your possession or under your control for a lawful object and thereby committed an offence punishable under Section 5 of the Explosive Substances Act and within the cognizance of the Court ;

30 (2) abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 5 of the Explosive Substances Act read with Section 6 of the Act and within the cognizance of the Court.'

One gun-cotton-slab and four hand-grenades out of the two gun-cotton-slabs and the five hand-grenades said to have been in possession of the accused at Delhi have been recovered, and the evidence in regard thereto led before the Court. Out of the explosives recovered one hand-grenade had been recovered from the possession of Madanlal K. Pahwa and one gun-cotton-slab and three hand-grenades had been recovered at the 40 instance of Shankar Kistayya from behind the Hindu Mahasabha Bhawan.

The findings arrived at above are that the accused were in possession of two gun-cotton-slabs and five hand-grenades at Delhi on 20-1-1948. One of the gun-cotton-slabs was exploded at the Birla House by Madanlal K. Pahwa. The subject matter of the charge in regard thereto is Charge IV. It has already been mentioned above that my general impression is that it was really intended to make Digambar R. Badge enter the room of Chhoturam and throw the hand-grenade in his possession through an opening in the trellis-work of the window therein at Mahatma Gandhi. Digambar R. Badge, however, could not be persuaded to enter the room. The offence of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse in regard to that hand-grenade, in the circumstances, clearly falls within the purview of Section



4 (b) of the Explosive Substances Act read with Section 6 of the Act and in regard to the remaining explosives clearly falls within the purview of Section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with Section 6 of the Act.

Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse thus are clearly ' guilty ' under section 4 (b) of the Explosive Substances Act read with Section 6 of the Act and under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with Section 6 of the Act.

Charge IV runs as below :—

' That in pursuance of the said agreement and conspiracy on¹⁰ January 20, 1948, at the Birla House, Delhi, you

A (1) **MADANLAL K. PAHWA** unlawfully and maliciously caused an explosive substance, viz., a gun-cotton-slab, to explode, which explosion was of a nature likely to endanger life and to cause serious injury to property and thereby committed an offence punishable under Section 3 of the Explosive Substances Act and within the cognizance of the Court;²⁰

(2) **NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, SHANKAR KISTAYYA AND GOPAL V. GODSE** along with Digambar R. Badge abetted Madanlal K. Pahwa in the commission of the above offence, and thereby committed an offence punishable under Section 3 of the Explosive Substances Act read with Section 6 of the Act and within the cognizance of the Court.'

The findings arrived at above are that Madanlal K. Pahwa exploded a gun-cotton-slab over the back compound wall of the Birla House on 20-1-1948. His act in doing so was certainly unlawful and malicious. The explosion was also of a nature likely to endanger life. In the circumstances³⁰ the offence of Madanlal K. Pahwa clearly falls within the purview of Section 3 of the Explosive Substances Act and the offence of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Shankar Kistayya and Gopal V. Godse under section 3 of the Explosive Substances Act read with Section 6 of the Act.

Thus Madanlal K. Pahwa is clearly ' guilty ' under section 3 of the Explosive Substances Act and Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Shankar Kistayya and Gopal V. Godse are clearly ' guilty ' under section 3 of the Explosive Substances Act read with Section 6 of the Act.

Charge V runs as below :—

' That in pursuance of the said agreement and conspiracy on⁴⁰ January 20, 1948, at the Birla House, Delhi, you **NATHURAM V. GODSE, NARAYAN D. APTE, VISHNU R. KARKARE, MADANLAL K. PAHWA, SHANKAR KISTAYYA, GOPAL V. GODSE AND VINAYAK D. SAVARKAR** along with Digambar R. Badge abetted each other in the commission of an offence viz., to commit the murder of ' Mahatma Gandhi, which offence is punishable with death or transportation for life and which offence was not committed in consequence of the abetment and thereby committed⁵⁰ an offence punishable under Section 115 of the Indian Penal Code read with Section 302 of the Indian Penal Code and within the cognizance of the Court.'



The findings arrived at above are that though an effort was made to commit the murder of Mahatma Gandhi at the Birla House on 20-1-1948 but it ultimately failed as Digambar R. Badge would not agree to enter the room of Chhoturam. The offence of Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse, in the circumstances, clearly falls within the purview of Section 115 of the Indian Penal Code read with Section 302 of the Code.

Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse thus are clearly ' guilty ' under section 115 of the Indian Penal Code read with Section 302 of the Code.

Charge VI runs as below :

' That in pursuance of the said agreement and conspiracy between January 28, 1948, and January 30, 1948, you

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A (1) NATHURAM V. GODSE AND NARAYAN D. APTE brought without a licence from Gwalior to Delhi arms and ammunition viz., Automatic Pistol No. 606824 with cartridges, in contravention of the provisions of Section 6 of the Indian Arms Act and thereby committed an offence punishable under Section 19 (c) of the Indian Arms Act and within the cognizance of the Court ;

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(2) NATHURAM V. GODSE, NARAYAN D. APTE AND DATTATRAYA S. PARCHURE abetted each other in the commission of the above offence and thereby committed an offence punishable under Section 19 (c) of the Indian Arms Act read with Section 114 of the Indian Penal Code and within the cognizance of the Court ;

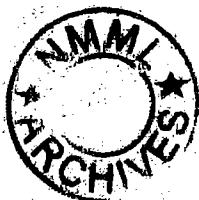
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B (1) NATHURAM V. GODSE at Delhi, had in your possession and under your control arms and ammunition, viz., Automatic Pistol No. 606824 with cartridges, in contravention of Sections 14 and 15 of the Indian Arms Act and thereby committed an offence punishable under Section 19 (f) of the Indian Arms Act and within the cognizance of the Court ;

(2) NARAYAN D APTE AND VISHNU R. KARKARE at Delhi, abetted each other in the commission of the above offence and thereby committed an offence punishable under section 19 (f) of the Indian Arms Act read with Section 114 of the Indian Penal Code and within the cognizance of the Court.'

The findings arrived at above are that Nathuram V. Godse and Narayan D. Apte brought without a licence from Gwalior to Delhi arms and ammunition, viz., Automatic Pistol No. 606824 with cartridges, during the period between 28th January, 1948 and 29th January, 1948. The offence of Nathuram V. Godse and Narayan D. Apte, in the circumstances, clearly falls within the purview of section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19(c) of the Indian Arms Act.

Whatever Dattatraya S. Parchure is said to have done in the matter he did from Gwalior. The Indian Arms Act extends to the whole of the Provinces of India, and does not stand extended extra-territorially. Dattatraya S. Parchure, in the circumstances, cannot be held liable for abetting the commission of the offence punishable under section 19(c) of the Indian Arms Act.



The findings arrived at further are that Nathuram V. Godse was in possession of Automatic Pistol No. 606824 with cartridges on 30th January, 1948 and that day Narayan D. Apte and Vishnu R. Karkare were along with Nathuram V. Godse at the Delhi Main Railway Station. In the circumstances the offence of Nathuram V. Godse clearly falls within the purview of section 19 (f) of the Indian Arms Act and the offence of Narayan D. Apte and Vishnu R. Karkare clearly falls within the purview of section 114 of the Indian Penal Code read with section 19 (f) of the Indian Arms Act.

Thus Nathuram V. Godse is clearly 'guilty' under section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian ¹⁰ Penal Code read with section 19(c) of the Indian Arms Act and under section 19(f) of the Indian Arms Act, Narayan D. Apte is clearly 'guilty' under section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19 (c) of the Indian Arms Act and under section 114 of the Indian Penal Code read with section 19(f) of the Indian Arms Act and Vishnu R. Karkare is clearly 'guilty' under section 114 of the Indian Penal Code read with section 19(f) of the Indian Arms Act.

Charge VII runs as below :—

'That in pursuance of the said agreement and conspiracy on 20 January 30, 1948, at the Birla House, Delhi, you

A (1) NATHURAM V. GODSE did commit murder by intentionally and knowingly causing the death of 'Mahatma Gandhi' and thereby committed an offence punishable under section 302 of the Indian Penal Code and within the cognizance of the Court ;

(2) NARAYAN D. APTE and VISHNU R. KARKARE abetted Nathuram V. Godse in the commission of the above offence, which offence was committed in your presence, and thereby committed an offence punishable under section 302 of the Indian ³⁰ Penal Code read with section 114 of the Indian ³⁰ Penal Code and within the cognizance of the Court ;

(3) MADANLAL K. PAHWA, SHANKAR KISTAYYA, GOPAL V. GODSE, VINAYAK D. SAVARKAR and DATTA-TRAYA S. PARCHURE along with Digambar R. Badge abetted Nathuram V. Godse in the commission of the above offence and thereby committed an offence punishable under section 302 of the Indian Penal Code read with section 109 of the Indian Penal Code and within the cognizance of the Court.'

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The findings arrived at above are that Nathuram V. Godse intentionally and knowingly caused the death of Mahatma Gandhi on 30th January, 1948. The offence of Nathuram V. Godse, in the circumstances, clearly falls within the purview of section 302 of the Indian Penal Code.

The presence of Narayan D. Apte and Vishnu R. Karkare at the time of the murder of Mahatma Gandhi at the Birla House has not been established on behalf of the prosecution. The only evidence forthcoming on their behalf is to the effect that Narayan D. Apte and Vishnu R. Karkare were along with Nathuram V. Godse at the Delhi Main Railway Station till about mid-day on 30th January, 1948. The offence of Narayan D. Apte and Vishnu R. Karkare, in the circumstances, clearly falls within the purview of section 109 of the Indian Penal Code read with section 802 of the Code.

The position of Madanlal K. Pahwa and Shankar Kistayya, however, stands altogether on a different footing. Madanlal K. Pahwa soon



after the explosion-incident had been arrested by the Police on 20th January, 1948, and was thereafter throughout in custody. The very evidence produced on behalf of the prosecution goes to show that Digambar R. Badge after what had taken place at the Birla House on 20th January, 1948, became disgusted, and came back along with Shankar Kistayya to the Hindu Mahasabha Bhawan. Digambar R. Badge asked Shankar Kistayya to throw away all the 'stuff' that they had in the room. Nathuram V. Godse and Narayan D. Apte then came to the Hindu Mahasabha Bhawan and asked him what had happened. Digambar R. Badge abused them, and asked them to get out. There was thereafter no communication whatsoever in regard to the 'conspiracy' between Digambar R. Badge and Shankar Kistayya on the one hand and Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse on the other. On these facts it may safely be inferred that Digambar R. Badge and Shankar Kistayya had completely disassociated themselves from the 'conspiracy' after what had taken place at the Birla House and that the 'conspiracy' *qua* them had come to an end on 20th January, 1948. Madanlal K. Pahwa and Shankar Kistayya, in the circumstances, cannot be held liable for abetting the commission of the offence punishable under section 302 of the Indian Penal Code.

There is nothing on the record of the case to justify the inference that Gopal V. Godse had dis-associated himself completely from the 'conspiracy' after the explosion-incident at the Birla House on 20th January, 1948. The evidence on the record of the case, on the other hand, goes to show that Gopal V. Godse had visited Nathuram V. Godse and Narayan D. Apte at Bombay on 24th January, 1948, and that Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare and Gopal V. Godse had met together at the house of G. M. Joshi at Thana on 25th January, 1948. Dattatraya S. Parchure joined the 'conspiracy' on 27th January, 1948, when he agreed to get a pistol procured for Nathuram V. Godse and Narayan D. Apte. The offence of Gopal V. Godse and Dattatraya S. Parchure, in the circumstances, clearly falls within the purview of section 109 of the Indian Penal Code read with section 302 of the Code.

It has already been held above that Dattatraya S. Parchure is a 'British subject domiciled in India'. Even if it be taken for granted just for arguments' sake that he is a subject of the Gwalior State, then still he is triable at Delhi in view of the fact that the offence of murder was completed at Delhi. 13 Cr. L. J. 426 and 29 Cr. L. J. 1089 are in support of this view.

Thus Nathuram V. Godse is clearly 'guilty' under section 302 of the Indian Penal Code and Narayan D. Apte, Vishnu R. Karkare, Gopal V. Godse and Dattatraya S. Parchure are clearly 'guilty' under section 109 of the Indian Penal Code read with section 302 of the Code.

NATHURAM V. GODSE accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with Section 19 (c) of the Indian Arms Act, (3) under section 19(f) of the Indian Arms Act, (4) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (5) under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, (6) under section 3 of the Explosive Substances Act read with section 6 of the Act, (7) under section 115 of the Indian Penal Code read with section 302 of the Code, and (8) under section 302 of the Indian Penal Code.

NARAYAN D. APTE accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19 (c) of the Indian Arms Act, (3)



under section 114 of the Indian Penal Code read with section 19 (f) of the Indian Arms Act, (4) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (5) under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, (6) under section 3 of the Explosive Substances Act read with section 6 of the Act, (7) under section 115 of the Indian Penal Code read with section 302 of the Code, and (8) under section 109 of the Indian Penal Code read with section 302 of the Code.

VISHNU R. KARKARE accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 114 of the Indian Penal Code read with section 19 (f) of the Indian Arms Act, (3) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (4) under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, (5) under section 3 of the Explosive Substances Act read with section 6 of the Act, (6) under section 115 of the Indian Penal Code read with section 302 of the Code and (7) under section 109 of the Indian Penal Code read with section 302 of the Code.

MADANLAL K. PAHWA accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, (4) under section 3 of the Explosive Substances Act and (5) under section 115 of the Indian Penal Code read with section 302 of the Code.

SHANKAR KISTAYYA accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (4) under section 3 of the Explosive Substances Act read with section 6 of the Act and (5) under section 115 of the Indian Penal Code read with section 302 of the Code.

GOPAL V. GODSE accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) under section 4 (l) of the Explosive Substances Act read with section 6 of the Act, (4) under section 3 of the Explosive Substances Act read with section 6 of the Act, (5) under section 115 of the Indian Penal Code read with section 302 of the Code and (6) under section 109 of the Indian Penal Code read with section 302 of the Code.

DATTATRAYA S. PARCHURE accordingly is 'guilty' (1) under section 120-B of the Indian Penal Code read with section 302 of the Code and (2) under section 109 of the Indian Penal Code read with section 302 of the Code.

The main offences established against the accused are under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 302 of the Indian Penal Code or under section 109 of the Indian Penal Code read with section 302 of the Code. The subsidiary offences established against the accused are under section 19 of the Indian Arms Act and under sections 3, 4(b) and 5 of the Explosive Substances Act

Chapter V-A comprising of section 120-A and 120-B was enacted by the Indian Criminal Law Amendment Act of 1913, and was enacted to assimilate the Indian to the English Criminal Law. According to the



English Criminal Law a conspiracy to commit felony merges in the felony, if committed. The contention, as such, on behalf of the defence is that the accused cannot be convicted under section 120-B of the Indian Penal Code read with section 302 of the Code as well as under section 109 of the Indian Penal Code read with section 302 of the Code.

Harrison in his Law of Conspiracy (Edition 1924) on page 73 lays down as below :—

If a conspiracy to commit a crime is actually carried out, the conspiracy is not merged in the crime, and it is technically possible for the accused to be indicted twice, once for the conspiracy and once for the crime (as explained by Lord Campbell in *O'Connell v. Reg.* (1844) 11 Cl. and F. 155), but this is discouraged by Judges as being unfair to the accused [see *R. v. Boulton* (1871) 12 Cox., 87]. This rule does not, however, apply to conspiracies to commit a felony, and if the agreement is carried out and the felony is actually committed, then the conspiracy is merged therein, by virtue of the statutes 14 and 15 Vict. c.100, s.12'.

No such law has been made applicable to India. The rulings, on the other hand, forthcoming on behalf of the prosecution go to show that the practice so far adopted by the courts in India has been to convict one both in regard to the offence of conspiracy as well as in regard to the offence of abetment by conspiracy but to pass the sentence in regard to the latter offence only. 35 Cr. L. J. 322 and 39 Cr. L. J. 452 clearly go to show that an accused could be convicted both for conspiracy and abetment of conspiracy but a separate sentence for conspiracy is not called for. The defence have drawn my attention to 39 Cr. L. J. 266 which lays down as below :—

Section 120-B, Penal Code, only applies where no offence has been actually committed and it is only in the latter rare cases where no crime has been committed in pursuance of a criminal conspiracy that sanction to initiate proceedings is necessary as some safeguard against frivolous prosecution. Where, however, the matter has gone beyond the stage of mere conspiracy and offences are alleged to have been actually committed in pursuance thereof, sections 120-A and 120-B are wholly irrelevant. Conspiracy is one form of abetment and where an offence is alleged to have been committed by more than two persons, such of them as actually took part in the commission should be charged with the substantive offence, while those who are alleged to have abetted it by conspiracy should be charged with the offence of abetment under section 109, Penal Code.

This is a single Judge ruling of the Madras High Court, while the ones cited on behalf of the prosecution are the Division Bench ruling of the 40 Lahore High Court and the ruling of the Privy Council. The Court is thus bound by 35 Cr. L. J. 322 and 39 Cr. L. J. 452.

Some of the accused have been held guilty under section 120-B of the Indian Penal Code read with section 302 of the Code and under section 115 of the Indian Penal Code read with section 302 of the Code, and some of the accused have been held guilty under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 109 of the Indian Penal Code read with section 302 of the Code. Separate sentences, in the circumstances, need not be passed under section 120-B of the Indian Penal Code read with section 302 of the Code wherein a person stands convicted under section 120-B of the Indian Penal Code read with section 302 of the Code as well as under section 109 of the Indian Penal Code read with section 302 of the Code. On the same principle, in my opinion, separate sentences also need not be passed wherein a person stands convicted under section 115 of the Indian Penal Code read with section 302 of the Code as well as under section 109 of the Indian Penal Code read



with section 302 of the Code. However, an altogether different position arises wherein a person stands convicted under section 120-B of the Indian Penal Code read with section 302 of the Code as well as under section 115 of the Indian Penal Code read with section 302 of the Code. The minimum punishment that could be awarded under section 120-B of the Indian Penal Code read with section 302 of the Code is 'transportation for life,' but the maximum punishment that could be awarded under section 115 of the Indian Penal Code read with section 302 of the Code, wherein no hurt is caused, is 'seven years'.

The act of Nathuram V. Godse in committing the murder of Mahatma ¹⁰ Gandhi was a deliberate and a calculated one. No extenuating circumstances have been pointed out nor could have been pointed out on his behalf. The only sentence, in the circumstances, that could be passed on him under section 302 of the Indian Penal Code is the sentence of death. The act of Narayan D. Apte in abetting the offence of the murder of Mahatma Gandhi is in no way less heinous. He throughout took the lead at each stage of the crime and at the most crucial moment either just ran away from the scene or just absented himself from the scene of the crime. Had it not been for his brain work the murder of Mahatma Gandhi probably would never have been committed. The only sentence, in the circumstances, ²⁰ that could be passed on him under section 109 of the Indian Penal Code read with section 302 of the Code is the sentence of death.

So far as Vishnu R. Karkare, Gopal V. Godse and Dattatraya S. Parchure are concerned, it would, in my opinion, meet the ends of justice if they are sentenced each to undergo transportation for life under section 109 of the Indian Penal Code read with section 302 of the Code. This is the minimum sentence awardable under section 109 of the Indian Penal Code read with section 302 of the Code.

Now the question is what sentences should be awarded to Madanlal ³⁰ K. Pahwa and Shankar Kistayya under section 120-B of the Indian Penal Code read with section 302 of the Code and under section 115 of the Indian Penal Code read with section 302 of the Code. It would, in my opinion, meet the ends of justice if they are sentenced each to undergo transportation for life under section 120-B of the Indian Penal Code read with section 302 of the Code. This is the minimum sentence awardable under section 120-B of the Indian Penal Code read with section 302 of the Code. There is nothing on the record of the case to show as to why a lenient view at all be taken in regard to the offence punishable under section 115 of the Indian Penal Code read with section 302 of the Code. Madanlal ⁴⁰ K. Pahwa and Shankar Kistayya, in the circumstances, should be sentenced each to undergo seven years' R. I. under section 115 of the Indian Penal Code read with section 302 of the Code.

Shankar Kistayya is the servant of Digambar R. Badge, whatever he did he did more or less in obedience to the orders of his Master Digambar R. Badge. Unless it was for Digambar R. Badge he would never have been approached by the other accused to join the conspiracy. Shankar Kistayya, in the circumstances, certainly deserves some leniency. I would accordingly recommend that his sentence of transportation for life under section 120-B of the Indian Penal Code read with section 302 of the Code may be commuted to seven years' R. I. under sections ⁵⁰ 401 and 402 of the Code of Criminal Procedure.

It would, in my opinion, meet the ends of justice if Nathuram V. Godse and Narayan D. Apte are sentenced each to undergo two years' R. I. under section 19 (c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19 (c) of the Indian Arms Act, if Nathuram V. Godse is sentenced to undergo two years' rigorous imprisonment under section 19 (f) of the Indian Arms Act and if Narayan D. Apte and Vishnu R. Karkare are sentenced each to



undergo two years' rigorous imprisonment under section 114 of the Indian Penal Code read with section 19 (f) of the Indian Arms Act.

It would, in my opinion, meet the ends of justice if Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya and Gopal V. Godse are sentenced each to undergo three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, five years' rigorous imprisonment under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, if Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Shankar Kistayya, Gopal V. Godse are sentenced each to undergo seven years' rigorous imprisonment under section 3 of the Explosive Substances Act read with section 6 of the Act and if Madanlal K. Pahwa is sentenced to undergo ten years' rigorous imprisonment under section 3 of the Explosive Substances Act.

Now the question is whether the sentences of death are subject to confirmation by the Hon'ble High Court. It has already been stated above that the trial of the case has been under the provisions of the Bombay Public Security Measures Act as extended to the Province of Delhi. Section 20 16 of the Act lays down that 'a Special Judge may pass any sentence authorised by law'. Section 19 of the Act lays down that 'the provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of sections 10 to 20, shall apply to all matters connected with, arising from, or consequent upon, trial by a Special Judge appointed under section 11'. Section 31 of the Code of Criminal Procedure lays down that 'a Sessions Judge..... may pass any sentence authorised by law; any sentence of death passed by any such judge shall be subject to confirmation by the High Court'. This provision of the Code thus is inconsistent with the provisions of section 16 of the Bombay Public Security Measures Act as extended to the Province of Delhi, which just lays down that 'a Special Judge may pass any sentence authorised by law'. A sentence of death passed by a Special Judge thus is not subject to confirmation by the High Court.

There is yet another way of looking at the matter. Section 18(3) of the Bombay Public Security Measures Act as extended to the Province of Delhi lays down that 'no Court shall....., save as herein otherwise provided, have jurisdiction of any kind in respect of proceedings of any Special Judge'. Section 18 (2) of the Act gives power to the High Court in respect of the proceedings of a Special Judge only under sections 423, 426, 427 and 428 of the Code of Criminal Procedure. Power to confirm a sentence of death under section 376 of the Code of Criminal Procedure is not there. Had a sentence of death been subject to confirmation such power would certainly have been there. No doubt, the marginal note against section 18 of the Act speaks of 'appeal, revision and confirmation', but the marginal note could not be referred to for purposes of construing the Act.

CHAPTER XXVII.

FINAL ORDER.

50 NATHURAM V. GODSE—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 19 (c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19(c) of the Indian Arms Act, under section 19 (f) of the Indian Arms Act, under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4(b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act read



with section 6 of the Act, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 302 of the Indian Penal Code, is convicted thereunder and is sentenced (1) to two years' rigorous imprisonment under section 19 (c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19(c) of the Indian Arms Act, (2) to two years' rigorous imprisonment under section 19(f) of the Indian Arms Act, (3) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (4) to five years' rigorous imprisonment under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (5) to seven years' rigorous imprisonment under section 3 of the Explosive Substances Act read with section 6 of the Act and (6) to death under section 302 of the Indian Penal Code—he is to be hanged by the neck till he is dead : the sentences of imprisonment shall run concurrently.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

NARAYAN D. APTE—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 19 (c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19(c) of the Indian Arms Act, under section 114 of the Indian Penal Code read with section 19 (f) of the Indian Arms Act, under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4(b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act read with section 6 of the Act, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 109 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced (1) to two years' rigorous imprisonment under section 19(c) of the Indian Arms Act or in the alternative under section 114 of the Indian Penal Code read with section 19(c) of the Indian Arms Act, (2) to two years' rigorous imprisonment under section 114 of the Indian Penal Code read with section 19(f) of the Indian Arms Act, (3) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (4) to five years' rigorous imprisonment under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, (5) to seven years' rigorous imprisonment under section 3 of the Explosive Substances Act read with section 6 of the Act and (6) to death under section 109 of the Indian Penal Code read with section 302 of the Code—he is to be hanged by the neck till he is dead; the sentences of imprisonment shall run concurrently.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

VISHNU R. KARKARE—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 114 of the Indian Penal Code read with section 19(f) of the Indian Arms Act, under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4(b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act read with section 6 of the Act, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 109 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced (1) to two years' rigorous imprisonment under section 114 of the Indian Penal Code read with section 19(f) of the Indian Arms Act, (2) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alter-



native under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) to five years' rigorous imprisonment under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (4) to seven years' rigorous imprisonment under section 8 of the Explosive Substances Act read with section 6 of the Act and (5) to transportation for life under section 109 of the Indian Penal Code read with section 302 of the Code : the sentences of imprisonment shall run concurrently and concurrent with the sentence of transportation for life.

He is found 'not guilty' of the remaining offences as specified in the charge and is acquitted thereunder.

10 MADANLAL K. PAHWA—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4(b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act and under section 115 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced (1) to transportation for life under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) to five years' rigorous imprisonment under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (4) to ten years' rigorous imprisonment under section 3 of the Explosive Substances Act and (5) to seven years' rigorous imprisonment under section 115 of the Indian Penal Code read with section 302 of the Code : the sentences of imprisonment shall run concurrently and concurrent with the sentence of transportation for life.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

SHANKAR KISTAYYA—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4(b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act read with section 6 of the Act and under section 115 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced (1) to transportation for life under section 120-B of the Indian Penal Code read with section 302 of the Code, (2) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (3) to five years' rigorous imprisonment under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (4) to seven years' rigorous imprisonment under section 3 of the Explosive Substances Act read with section 6 of the Act and (5) to seven years' rigorous imprisonment under section 115 of the Indian Penal Code read with section 302 of the Code with the recommendation that the sentence of transportation for life under section 120-B of the Indian Penal Code read with section 302 of the Code may be commuted to seven years' rigorous imprisonment under sections 401 and 402 of the Code of Criminal Procedure : the sentences of imprisonment shall run concurrently and concurrent with the sentence of transportation for life.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

6 GOPAL V. GODSE—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code, under section 5 of the Explosive Sub-



stances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, under section 4 (b) of the Explosive Substances Act read with section 6 of the Act, under section 3 of the Explosive Substances Act read with section 6 of the Act, under section 115 of the Indian Penal Code read with section 302 of the Code and under section 109 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced (1) to three years' rigorous imprisonment under section 5 of the Explosive Substances Act or in the alternative under section 5 of the Explosive Substances Act read with section 6 of the Act, (2) to five years' rigorous imprisonment under section 4(b) of the Explosive Substances Act read with section 6 of the Act, (3) to seven years' rigorous imprisonment under section 3 of the Explosive Substances Act read with section 6 of the Act and (4) to transportation for life under section 109 of the Indian Penal Code read with section 302 of the Code : the sentences of imprisonment shall run concurrently and concurrent with the sentence of transportation for life.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

DATTATRAYA S. PARCHURE—

He is found 'guilty' under section 120-B of the Indian Penal Code read with section 302 of the Code and under section 109 of the Indian Penal Code read with section 302 of the Code, is convicted thereunder and is sentenced to transportation for life under section 109 of the Indian Penal Code read with section 302 of the Code.

He is found 'not guilty' of the remaining offences as specified in the charge, and is acquitted thereunder.

VINAYAK D. SAVARKAR—

He is found 'not guilty' of the offences as specified in the charge, and is acquitted thereunder : he is in custody, and be released forthwith unless required otherwise.

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Digambar R. Badge has fulfilled the condition of his pardon, and be released from custody forthwith unless required otherwise.

Nathuram V. Godse, Narayan D. Apte, Vishnu R. Karkare, Madanlal K. Pahwa, Shankar Kistayya, Gopal V. Godse and Dattatraya S. Parchure are informed that, if they want to appeal from this order, they should do so within fifteen days from to-day. Copies of the judgment are ready and may be had on application just now.

I may bring to the notice of the Central Government the slackness of the Police in the investigation of the case during the period between 20th January, 1948 and 30th January, 1948. The Delhi Police had obtained a detailed statement from Madanlal K. Pahwa soon after his arrest on 20th January, 1948. The Bombay Police had also been reported the statement of Dr. J. C. Jain that he had made to the Hon'ble Mr. Morarji Desai on 21st January, 1948. The Delhi Police and the Bombay Police had contacted each other soon after these two statements had been made. Yet the Police miserably failed to derive any advantage from these two statements. Had the slightest keenness been shown in the investigation of the case at that stage the tragedy probably could have been averted.

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My thanks are due to the counsel for the prosecution as well as the counsel for the defence for the co-operation they showed throughout with the Court. Had it not been for their absolute co-operation the case of the nature could not have been disposed of in this time.

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My thanks are also due to the staff of the Court. They came from different districts in the United Provinces, and worked splendidly throughout their stay at Delhi.



All arms, ammunition and explosives and the articles connected therewith brought on the record of the case are confiscated to the Crown under section 517 of the Code of Criminal Procedure. Exs. 14, 28, 29 and 30 are the shells of the hand-grenades that had been distributed at the Marina Hotel on 20th January, 1948. Ex. 39 is the automatic pistol with which Mahatma Gandhi was shot dead on 30th January, 1948. Exs. 9, 10 and 55 are the empty cartridge-cases of the cartridges that had been fired at Mahatma Gandhi on 30th January, 1948. Exs. 11 and 12 are the spent-bullets that had passed right through the body of Mahatma Gandhi on 30th January, 1948. No action in regard thereto be taken without first consulting the Central Government. They may perhaps be required for the National Museum.

RED FORT, DELHI :
February 10, 1949.

ATMA CHARAN,
I.C.S.,
Judge, Special Court.

