

TEAM CODE:

**SURANA AND SURANA NATIONAL TRIAL ADVOCACY MOOT
COURT COMPETITION**

3RD - 5TH SEPTEMBER, 2016

**BEFORE
THE HONORABLE COURT OF SESSIONS, MAVADA
S.C. No. 101 of 2016**

MEMORANDUM FOR PROSECUTION

In the Matter of

State of Jagutar..... Prosecution

vs.

Abhishek, Angad & Dushyant..... Accused/Defense

**MEMORIAL SUBMITTED BY
COUNSELS FOR THE PROSECUTION**

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LIST OF ABBREVIATION

A.I.R	:	All India Reporters
All	:	Allahabad High Court
Anr	:	Another
AP	:	Andra Pradesh
B.P.C	:	Bharat Penal Code
Bom.	:	Bombay
BomLR	:	Bombay Law Reporter
Cal	:	Calcutta High Court
CrI.A	:	Criminal Appeal
Cr.Pc	:	Criminal Procedure Code
Cr.L.J	:	Criminal Law Journal
PW	:	Prosecution Witness
DW	:	Defense Witness
ECC	:	Essential Commodities Cases
Edn.	:	Edition
GLR	:	Gujarat Law Reporter
Guj	:	Gujarat
Hon'able	:	Honorable
KLJ	:	Kerala Law Journal
Mad	:	Madras
MO	:	Material Object
No.	:	Number
Ors.	:	Others

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p.	:	Page
Pat LJR	:	Patna Law Journal Reports
PH	:	Punjab & Haryana High Court
PW	:	Prosecution Witness
QB	:	Queen's Bench
r/w	:	Read with
SC	:	Supreme Court
SCC	:	Supreme Court Cases
SCR	:	Supreme Court Reporter
Sec.	:	Section
SLP	:	Special Leave Petition
Supp.	:	Supplementary
Tr & Coch	:	Travancore & Cochin
u/s	:	Under Section
v.	:	Versus
vol.	:	Volume
WB	:	West Bengal

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STATEMENT OF JURISDICTION

The counsels for defense, appearing on behalf of the accused, humbly submit this memorandum under Sec. 314 of the Code of Criminal Procedure, 1973. The memorandum sets forth the facts, contentions and arguments in the present case.

The counsel humbly submits that this Hon'ble Court has jurisdiction to try the instant matter under Sec. 177 read with Sec. 209 of the Code of Criminal Procedure, 1973.

Sec. 177: Ordinary place of inquiry and trial.

Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

Read With

Sec 209: Commitment of case to Court of Session when offence is triable exclusively by it.

When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall-

(a) commit, after complying with the provisions of section 207 or section 208, as the case may be, the case to the Court of Session, and subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;

(b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session.

STATEMENT OF FACTS

Lepat community is one of the minority communities in Rabet. People who belonged to this community have been carrying on a prolonged desire for the inclusion of their community in the OBC list to derive the benefits of reservation in government jobs and for admission in reputed educational institutions. This desire of Lepat community was exploited by some political parasites. Abhishek who is interested in politics identified this as the red carpet for his entry into politics, the initial step he took was to win the hearts of the students who belonged to Lepat community, who were quite a number in the presidency college, which he executed with the support of Angad, his best friend and Dushyant, a local political leader. Their evil plan got initial boost when Abhishek won the union election. Abhishek and Angad started to flaunt their pride outside the college also. Being in continuous protest against the government, was the suggestion which Abhishek was given by Dushyant, who knew the pulse of the politics. They thought this will keep them in limelight. Police torture was the easy method which Abhishek thought would gain him public support. For this he decided to continuously target Dinesh, who was the son of MLA which he dreamt will result in the police complaint and action against him which he can tag in the fame of police torture. Dinesh realizing this as a sensitive issue decided not to make any written complaint and in turn sought help from Mr. Chaudhary. Mr. Chaudhary with an aim to solve this issue warned Abhishek and Angad regarding this matter. After knowing about this Dushyant, who belongs to a party which has openly proclaimed “war” against police instigated Abhishek to attack them if necessary and offered him his full support. On April 7 2016, when Mr. Chaudhary saw Abhishek and Angad attacking Dinesh and Peter he interfered immediately in order to maintain public peace and to save those poor souls. Abhishek used this opportunity and threw a metal rod at Mr. Chaudhary which in turn resulted in his fatal death.

STATEMENT OF CHARGES

CHARGE I: Charges under section, 304 read with 34, 186 of Rabat Penal Code have been charged against Mr .Abhishek Lepat to which the accused has pleaded not guilty.

CHARGE II: Charges under section, 304 and 107 read with 34, 186 of Rabat Penal Code have been charged against Mr. Angad Lepat to which the accused has pleaded not guilty.

CHARGE III: Charges under section, 304 and 107 read with 34 of Rabat Penal Code have been charged against Mr. Dushyant to which the accused has pleaded not guilty.

SUMMARY OF ARGUMENTS

I. WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED FOR OFFENCES ALLEGED UNDER SECTION 304 OF RABAT PENAL CODE

1.1 The act of the accused resulted in the death of Mr. Amit Chaudhary.

1.2 Accused had full intention and knowledge that his act will result in death of Mr. Chaudhary.

1.3 The exception of private defence does not justify the act of the accused.

II. WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED UNDER SECTION 186 OF RPC.

2.1 Amit Chaudhary was under the performance of a public function.

2.2 Accused Mr. Abhishek and Mr. Angad are liable to be punished under section 186 as they have voluntarily obstructed Mr. Amit Chaudhary.

III. WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED UNDER SECTION 107 OF RPC.

3.1 There is active complicity on the part of the abettors, prior to the actual commencement of the crime.

3.2 The evidence is admissible and is enough to punish the accused for abetment.

IV. THE ACCUSED HAD COMMON INTENTION TO DO THE ALLEGED CRIME

ARGUMENTS ADVANCED

ISSUE 1**1. WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED FOR OFFENCES ALLEGED UNDER SECTION 304 OF RABAT PENAL CODE**

Where one person by doing an act causes the death of another person the approach of judiciary in that matter should be in the following manner;

- i) Relation between the act done by the accused and the death of the victim is to be analysed.
- ii) Then the court must consider whether the act of the accused amounts to culpable homicide.
- iii) When one of the two i.e., intention or knowledge is established then and only then S.300 comes into operation.

For the punishment under section 304 it is *sine qua non* that there must be a death of a person, that such death should be caused by the act of the accused and that the accused intended by such act to cause the death or cause such bodily injury as was likely to cause death¹. The prosecution humbly submits before this Hon'ble Court that the accused are liable for the offences punishable under Sec. 304 of Rabat Penal Code (hereinafter also referred as RPC).

1.1 THE ACT OF THE ACCUSED RESULTED IN THE DEATH OF Mr. AMIT CHAUDHARY.

According to Mayne², any act is said to cause death within the meaning of culpable homicide when the death results either from the act itself or from some consequences necessarily or

¹ *Alister Anthony Pareira v. State of Maharastra* 2012(2)SCC 648

² *Criminal Law of India*, 4th Edn P 469

SURANA AND SURANA NATIONAL TRIAL ADVOCACY MOOT COURT COMPETITION, 2016 naturally flowing from the act and reasonably contemplated as its result. It is to bore in mind that in proving a case of culpable homicide not amounting to murder it is not responsibility of the prosecution to address each and every hypothesis suggested by the accused however extravagant and fancy full it may be³. Instead the burden of prosecution confines itself to the level of reasonably proving that the act of the accused has lead to the fatal end of the victim.

It is humbly submitted before the Hon'ble Court that in the case at hand from the direct and circumstantial evidences presented before the Hon'ble Court it is clear and cogent that the act of the accused has directly contributed to the death of the victim. Further, it is submitted that an act will amount to culpable homicide if the accused expected the natural consequences of his act no matter whether he intended to kill or not⁴. In the present case it is crystal clear that the act of throwing iron rod at Mr.Chaudhary the accused expected its natural consequence⁵. Since the natural consequence⁶ of the act accused has resulted in the death of Mr.Chaudhary no matter whether he had intention or not he is guilty to be punished for culpable homicide not amounting to murder under section 304.

1.2 ACCUSED HAD FULL INTENTION AND KNOWLEDGE THAT HIS ACT WILL RESULT IN DEATH OF MR. CHAUDHARY.

Intent and knowledge as the ingredients in the section postulates the existence of a positive mental attitude and this mental condition is the special *mens rea* for the offence⁷. There are three species of *mens rea*

- i) an intention to cause death
- ii) an intention to cause a dangerous injury

³ *State of UP v. Ashok Kumar Sri Vasthava* AIR 1992 SC 840

⁴ *Chanda v State* 1980 Chandi LR (DEL)112

⁵ *Lachhiya v. State* 1980 All LJ 887

⁶ *Anbu Mani v. State of Tamil Nadu* 1980 LW(cr)19 SC

⁷ Nelson's Indian Penal Code 7th edn

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iii) Knowledge that death is likely to happen;

One or the other of the three species will constitute culpable homicide⁸. If the injury intentionally caused is likely to cause death even though not sufficient in the ordinary course of nature to cause death, it will amount to culpable homicide which is punishable under section 304⁹. The accused is placed in a loop which he cannot escape easily by creating stories as “the criminal liability is the strongest formal condemnation that society inflicts on someone”¹⁰.

The counsel humbly submits before the Hon’ble Court that the act of accused resulted in the death of Mr.Chaudhary and all the evidence and witness statements in the instant matter substantiate this argument. While using the iron rod and causing injury on the head of the deceased the accused should know that he is likely to cause the death of the deceased or he is likely to cause such injury which is likely to cause his death¹¹.The medical evidence also points out that the action done by Abhishek (hereinafter referred as PW1) has resulted in the death of the victim. When the medical evidence shows that the blow given by the accused on the head of the deceased, causing extensive injury resulting in fracture of skull, consequence of which the deceased died, it is humbly submitted the accused are ought to be convicted under S.304 part I¹². Intention in this context neither implies the existence of previous design nor assume a forethought nor it is necessary that the accused should have knowledge that the injury which he intends will be sufficient in the ordinary course of nature to cause death. The question of facts gets confined into two parts

- (i) was the bodily injury intended and
- (ii) was such bodily injury likely to cause death

⁸ *Public Prosecutor v. Somasundaram* 1959 Mad (325)

⁹ *Badri v. State*,1953 All 189

¹⁰ Andrew Ashworth, “*Criminal Justice and the Criminal Law*” in *Principles of Criminal Law* 1 (2009).

¹¹ *Lachhiya v. State* 1980 All LJ 887

¹² *Kantibhai Dalsukhbhai Patel v. State of Gujarat* 1980 UP cr LR (SC)16

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The inquiry as to intent is far less simple than that as to whether an act has been committed because one cannot look into a man's mind to see what was passing there at any given time. What he intends can only be judged of by what he does and that alone could guide the decision of the Hon'ble Court. It is a general rule in criminal law, and one founded on the common sense, that injuries are to presume a man to do what is the natural consequence of his act. The consequence is something so apparent as to leave no doubt of the intention.¹³ Motive is something which prompts a man to form an intention and knowledge, which merge into each other and mean the same thing more or less and intention can be presumed from the knowledge¹⁴. Thus the contributions from Angad and Dushyant in the death of Mr. Chaudhary no more remain hidden. Hence, it is humbly submitted that the accused are guilty for the offence of culpable homicide not amounting to murder.

1.3 THE EXCEPTION OF PRIVATE DEFENCE DOES NOT JUSTIFY THE ACT OF THE ACCUSED

Mens rea is considered as guilty intention¹⁵ which is proved or inferred from the acts of the accused. Nobody can enter into the mind of accused, intention has to be gathered from the weapon used, the part of the body chosen for assault and the nature of the injuries caused¹⁶. It is humbly submitted before the Hon'ble Court the acts done by the accused do not fall under the scope of private defence. The right of self defence, conferred by law or preserved by law, for an individual is a very narrow and circumscribed right and can be taken advantage of only when the circumstance fully justify the exercise of such a right¹⁷, and strictly subjected to the restriction

¹³ 1849 COX CC 55

¹⁴ *Basdev v State of PEPSU* AIR 1956 SC 488

¹⁵ *Commissioner of Income tax v Paranu Dass Raja Ram Beri*, AIR 1965 SC 722

¹⁶ *Singapagu Anjaiah v State of AP* (2010)9 SCC 799

¹⁷ *Dhanno Khan v State*, 1957 All 317

SURANA AND SURANA NATIONAL TRIAL ADVOCACY MOOT COURT COMPETITION, 2016 under Sec. 99. The right exists against the perpetrators of offence under this code¹⁸. A person, who seeks to be gifted with this defence, should be clean with his hands. It is the burden of the accused to prove that he has done the act in the ambit of self defence which otherwise would have been a crime. A plea of private defence cannot be based on surmises, and speculation. The accused must be under bona fide fear that death or grievous hurt would otherwise be the consequence if he did not defend.

The accused must be free from fault in bringing the encounter. In the case at hand the accused had totally failed to prove such a necessity. There must present an impending peril in life or great bodily harm real so as to create honest belief of an existing necessity. There must be no safe or nor reasonable mode of escape by retreat. There must have been a necessity for taking life¹⁹. Where the accused fails to make out a case of reasonable apprehension, he cannot claim right of private defence²⁰. It is humbly submitted before the Hon'ble Court that the accused had exceeded the right of private defence²¹ and this itself is enough for the conviction under 304 Part I. Thus it is humbly submitted before the Hon'ble Court that any plea of private defence in this case is solely with an intention to betray this Hon'ble Court. Hence, in the light of this above arguments it is submitted that "a miscarriage of justice which may arise from the acquittal of the guilty is not less than from a conviction of an innocent."

¹⁸ *Ganouri Lal Das v Queen- Empress*, ILR 16 Cal 206

¹⁹ *Balbir v State of Punjab* AIR 1956 Punj 332

²⁰ AIR 1992 SC 1694

²¹ 1976 SC 2273

ISSUE II**WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED UNDER SECTION 186 OF RPC**

It is most respectfully submitted before the Hon'ble Court that looking into the facts and circumstances of the present case and the conduct of the accused it is contended that Mr. Abhishek Lepat and Mr. Angad Lepat are liable to be punished under section 186 of RPC. The ingredients, which constitute the offence, are as follows;

- a) There should be an obstruction;
- b) The obstruction must should be caused by the accused;
- c) The obstruction must be voluntary;
- d) The obstruction should be of a public servant in discharge of his duty;

2.1 AMIT CHAUDHARY WAS UNDER THE PERFORMANCE OF A PUBLIC FUNCTION.

Public function is a function entrusted upon a person by the public authority for the benefit of the general public. When essential government functions are placed or allowed to be performed by a person they must be held to have undertaken public function²². But the authorization of a public servant to act need not be necessarily be of a formal nature²³. In the matter at hand it is well evident from the evidences and witness statements that the accused DW1 and DW2 has caused obstruction to Mr. Chaudhary in discharge of his public function. The functions discharged by a public servant are a public function if the performance of the function is within the jurisdiction which he as a public officer, possesses²⁴. If a public servant bona fide believes that he was discharging his public functions within the scope of his authority, even though he was mistaken as to the extent of his powers, an obstruction caused to him, would be punishable

²² *Lee telefilms ltd V Union of India*, 2005

²³ *R. v Abdullah*, ILR 21 All 499

²⁴ *Emperor v Shivadas Onkar Marwadi* ILR 21 All 499

SURANA AND SURANA NATIONAL TRIAL ADVOCACY MOOT COURT COMPETITION, 2016 under S.186²⁵. Mr. Chaudhary is a police officer and he was in performance of a public function. A true public officer is never off duty. He stands a step ahead of any other person in the society when public needs help. An emergency never arises after giving an invitation. If the act of the public servant, however irregular it may have been, done in good faith an offence under this section would be committed if he is obstructed²⁶. Mr. Chaudhary, as any other police officer is duty bound to maintain public tranquillity before it being tarnished. This made him intervene in a fight triggered by the accused. It was the moral obligation of a police officer which made him selflessly sacrifice his life to save two innocent lives.

2.2 ACCUSED Mr. ABHISHEK AND Mr. ANGAD ARE LIABLE TO BE PUNISHED UNDER SECTION 186 AS THEY HAVE VOLUNTARILY OBSTRUCTED Mr. AMIT CHAUDHARY.

Black's Law Dictionary defines Obstruction as the act of impeding or hindering something's interference with the orderly administration of law and justice. The word 'voluntarily' implies an intention. The gist of the offence under this section lies in the intention of the accused to cause interference with or prevention of the public servant's discharge of his duty²⁷. If in causing the obstruction, the accused acts intentionally then even means employed by him need not be taken into consideration²⁸. The word 'obstruct' connotes some overt act in the nature of violence or show of violence, it connotes some positive act which could deter the man obstructed from carrying out his intention²⁹. The gist of the offence lies in the intention of the accused to interfere with, or prevent, the public servant's discharge of his official functions³⁰. The real question is

²⁵ *Vayankatrav Shrinivas*, 1870 7 BHCR (Cr)50

²⁶ ILR 21 Mad 296

²⁷ *Emperor V Suleman Abba*

²⁸ *Nanhua V Emperor*, 1938 All 118: 39 CrLJ363

²⁹ *Prov. Govt. C.P and Berar V Balaram*, AIR 1939 Nagpur 139

³⁰ *Emperor V Sulaiman Abba* (1935 Bom24)

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whether the action or attitude of the person alleged to have obstructed the public servant in the performance of his public function was of such a nature as to obstruct, that is, to say prevent him carrying out of his duties which he had to discharge³¹ and all the evidence before the hon'ble court speaks it loud that the accused have obstructed Mr.Chaudhary in discharge of his duty.

In the case at hand Mr. Amit Chaudhary, who was striving out his best to maintain the tranquillity was deliberately obstructed by the accused. Their overt act was of such a nature as to obstruct Mr. Chaudhary to prevent him carrying out of his duties which he had to discharge. The obstruction towards a police officer needs to be taken in consideration with great importance as they are the “guards of peace” and obstruction caused to them would be fatal to the society. An obstruction to a public servant can be caused even by words of mouth³².Hence it is humbly contented before the Hon'ble Court that the act of accused was an actual resistance or obstruction put in the way of Mr. Chaudhary using criminal force beyond the limits of mere obstruction which strictly makes their acts an offence.

³¹ *Emperor V Tohfa and others* 1933 All HC

³² *State of Bihar V Ramanand Singh* 1966 BLJR 300

ISSUE III**WHETHER THE ACCUSED ARE LIABLE TO BE PUNISHED UNDER SECTION 107 OF RPC**

Accused Mr. Angad and Mr. Dushyant are liable to be punished under section 107 of RPC. All the circumstances are pointing towards nothing but the guilt of the accused. The accused had given a strong backup and full inspiration for Mr. Abhishek to commit the crime. Hence, it is humbly submitted before the Hon'ble Court that, the accused Mr. Angad and Mr. Dushyant are liable to be punished for the crime of abetment.

3.1 THERE IS ACTIVE COMPLICITY ON THE PART OF THE ABETTORS, PRIOR TO THE ACTUAL COMMENCEMENT OF THE CRIME.

There are four stages of a crime first the mental stage, second the preparatory stage, third the execution part and fourth the stage of concealment. An act of abetment may take place in one of the three ways instigation, conspiracy or intentional aid³³. In the offence of abetment the accused incites, urges, encourages, goads, solicits, counsels, procures and commands the principal offender to commit the crime. The Supreme Court has explained that 'instigation' is to "*goad, urge forward, provoke, incite, or encourage*" the doing of something³⁴. What, therefore, constitutes an offence of abetment is actual complicity which precedes the actual commission of the offence by the principal offender for the commission of the offence or through some word or action which instigates the commission of the offence³⁵.

³³ *Malan v State of Bombay*, 1960 Bom 393

³⁴ *Ramesh Kumar v State of Chhattisgarh*, (2001) 9 SCC 618

³⁵ *Kogga Pai*, 1970 Mad LJ (Cr) 379

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Intention is the direction of conduct towards the object chosen upon, considering the motives which suggest the choice³⁶. The intention is held to be continued and renewed as to all its members wherever and whenever any member of the conspiracy acts in furtherance of the common design³⁷. Thus it is humbly submitted before the Hon'ble Court that at the case at hand DW2 and DW3 had abetted in the crime committed by DW1. Angad and Dushyant, both are the people who can influence the decisions of DW1. In the instant case, it is clear and cogent that, the accused were having full knowledge about the offence to be committed by the principal offender. The law places abettor in a position prior to the principal offender and that is why, even a person who misrepresents, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is considered to instigate the doing of that act.

3.2 THE EVIDENCE IS ADMISSIBLE AND IS ENOUGH TO PUNISH THE ACCUSED FOR ABETMENT.

It is humbly submitted before the Hon'ble Court that the evidences provided by the prosecution are authentic and reliable. Like any other evidence, the proponent of digital evidence lays a proper foundation in the criminal legal system. It is important to stress that the electronic evidence is subject to the same rules of evidence, as the paper documents. In criminal prosecutions, evidences obtained from a computer is an evidences of a crime³⁸. The court has also stressed and made it clear that the reliability of technical evidence and the call records³⁹ are

³⁶ *Koppula Venkat Rao V State of A.P* (2004) 3 SCC 602

³⁷ *Stephen's General View of the Criminal Law*, 2nd Edn, p 69

³⁸ *Bivas Chatterjee, Characteristics of Evidence, Electronic Evidence,*

³⁹ *Shivananda V State* (2009)AIR Bom IL 670

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valuable evidence under section 65B of The Rabat Evidences Act in offences relating to a human body⁴⁰.

The information contained in the call records is generally stored in huge servers which cannot be easily moved and produced in the court. Printouts taken from the computers or servers by mechanical process also are enough to gain it the evidential status⁴¹. The printouts pertaining to the call details exhibited by the prosecution are of such regularity and continuity that it would be legitimate to draw a presumption that the system was functional and the output was produced by the regular use⁴². The digital evidence or the electronic evidence collected from the records of the personal computer of the accused in the occasion is a very accurate one and have a tremendous evidentiary value in the eyes of law. Without a strong support no man in the place of DW1 would have done such a crime. It is only through the active contribution from the part of DW2 and DW3 that DW1 has dared to attack a police officer. Hence it is humbly submitted before the Hon'ble Court that, if the intention behind the designing of this law has to be fulfilled both Angad and Dushyant must be punished for their evil contributions in the crime committed by Abhishek.

⁴⁰ *State V Lalaram* (2009) CrLJ 80

⁴¹ *State V Navjor Sandhu*

⁴² *SAR Gilani and others* AIR 2005 SC 3820

ISSUE IV**THE ACCUSED HAD COMMON INTENTION TO DO THE ALLEGED CRIME**

If the criminal act is done in furtherance of common intention, each person is liable for the result of such act. Once it is prove that the criminal act was done in furtherance of common intention of all, each person is liable for the criminal act as if it were done by him alone⁴³. Essential ingredient of S.34

- i) There must be a criminal act.
- ii) The criminal act done by several person
- iii) The act is done in furtherance of common intention of all.

Participation, in the commission of the offence, in furtherance of common intention invites its application⁴⁴.Accused along with the principal offender intended to do the offence prior to the commission of the offence. They have got inspired and incited by each other's presence. The case in which the ingredients are satisfied or established all accused will be liable for the said offence⁴⁵. Under the provision of S.34 the essence of the liability is to be found in the existence of a common intention animating from the accused leading to the commission of a criminal act in furtherance of such intention⁴⁶.Thus it is humbly submitted before the Hon'ble Court that from all the evidence produced, the prosecution has proved the common intention from the part of all the three accused to do the alleged crime.

⁴³ *Shyamal Ghosh v State of West Bengal* 2012 (6) SCALE 381

⁴⁴ *Momin v State of Maharashtra*, 1971 SC 885

⁴⁵ *Gurdatta Mal v State of UP*, 1965 SC 257

⁴⁶ *Chinta Pulla Reddy v State OF Andhra Pradesh* AIR 1993 SC 1899

LIST OF THE DEFENCE WITNESSES

WITNESS NO:	NAME
DW1	Abhishek
DW2	Angad
DW3	Dushyant
DW4	Taniya
DW5	Natasha

LIST OF DOCUMENTS

DOCUMENT NO.	DOCUMENT DESCRIPTION
Annexure1	First Information Report
Annexure2	Panchnama/Mahazar
Annexure3	Post Mortem Report
Annexure4	Forensic Report
Annexure5	Statement of Witnesses
Annexure6	Report of Investigating Officer

LIST OF MATERIAL OBJECTS

MATERIAL OBJECT NO.	DESCRIPTION
MO1	The holster carrying the gun of the victim
MO2	Metal Rod (weapon used to hit the victim)
MO3	Picture of the stump of the tree on the pavement
MO4	Internet browsing history print outs taken from the computer of the accused 1
MO5	Details of call logs between all the accused

APPENDIX

RELEVANT EXTRACTS OF THE INDIAN PENAL CODE, 1860**Sec.34. Acts done by several persons in furtherance of common intention**

When a criminal act is done by several persons in furtherance of the common intention of all, each of the persons is liable for that act in the same manner as if it were done by him alone.

Sec. 107. Abetment of a thing

A person abets the doing of a thing, who—

(First) — Instigates any person to do that thing; or

(Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.

Sec. 186. Obstructing public servant in discharge of public functions

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Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Sec. 299. Culpable homicide

Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Sec. 300. Murder

Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

(Secondly) —If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

(Thirdly) —If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

(Fourthly) —If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Sec.302. Punishment for murder

Whoever commits murder shall be punished with death, or [imprisonment for life], and shall also be liable to fine.

Sec.304. Punishment for culpable homicide not amounting to murder

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Whoever commits culpable homicide not amounting to murder shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

PRAYER

Wherefore, in the light of the facts stated, arguments advanced and authorities cited, it is most humbly prayed and implored before the Hon'ble Sessions Court, that it may be graciously pleased to adjudge and declare that:

1. The Accused be held guilty for the charges of culpable homicide not amounting murder u/s 304, r/w 34 of the R.P.C.
2. The Accused be held guilty of obstructing public servant u/s 186, r/w 34 of the R.P.C
3. The Accused be held guilty for the charge of abetment u/s 107, r/w 34 of the R.P.C.

Also, pass any other order that it may deem fit in the favour of the PROSECUTION to meet the ends of equity, justice and good conscience.

For this act of Kindness, the Prosecution shall duty bound forever pray.

Place: MAVADA

Sd/-

Dated: 4th September, 2016

Counsel for Prosecution