



CHARGE SHEET
(Under Section 173 CrPC)

IN THE COURT OF SPECIAL JUDGE, NIA, GUWAHATI

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|----|--|--|
| 1. | Name of the Branch | NIA Branch office Guwahati |
| | FIR No year and date | RC-01/2015/NIA-Guw, Date 20/02/2015 |
| 2. | Final Report/Charge Sheet No. | 02/2015 (B) |
| 3. | Date | /08/2016 |
| 4. | Section of Law | 34,120(B), 121, 121(A), 122, 302, 307, 326 of the Indian Penal Code & Sections 25 (1-A), 27 of the Arms Act and Sections 16, 18, 19, 20 & 39 of the Unlawful Activities (Prevention) Act, 1967. |
| 5. | Type of Final Report | 2nd Supplementary Charge sheet |
| 6. | If Final Report Un - occurred/ false/mistake of fact/ Mistake of law /Non - cognizable / Civil nature | Not applicable |
| 7. | If charge-sheeted original / Supplementary | 2nd Supplementary Charge Sheet |
| 8. | Name of investigating officer | xxxxxxx Superintendent of Police, Chief Investigation officer, NIA branch office Guwahati |

| | | |
|-----------|---|---|
| 9. | Name of complainant / informant | XXXXXXXXXXXXXXXXXXXXX XXXXXXXXX Vill. Pakriguri PO/PS Serfanguri Dist Kokrajhar |
| 10 | Details of Properties / Articles / Documents recovered / seized during the investigation and relied upon | As per XXXXXXXXXXXXXXXX (enclosed) |

11. Particulars of accused person charge sheeted:

A-16

| | |
|---------------------------|---|
| Name | Sibiyari @ Sansuma @ Dawke Basumatary (hereinafter referred to as A-16) |
| Whether verified | Yes |
| Father's Name | Lt. Sabu Ram Basumatary |
| Age /Date of Birth | 22 |
| Sex | Male |
| Nationality | Indian |
| Passport No | N/A |
| Place of issue | N/A |
| Date of issue | N/A |
| Religion | Hindu |
| Occupation | Trained NDFB(S) cadre |

| | |
|--|---|
| Address (Present/Permanent) | Vill – Dhalkata, P.O – Nalkhamara P.S & Dist – Udalguri, Assam. |
| Whether verified | Yes |
| Provisional Criminal No. | N/A |
| Regular Criminal No. (if known) | N/A |
| Date of Arrest | 18/02/16 |
| Date of release on bail | N/A |
| Under Acts & Sections (of charge sheet) | 120(B), 121, 122, 302, 307, 326 read with 34 of the Indian Penal Code and Sections 16 (1) (a), 18 & 20 of the Unlawful Activities (Prevention) Act, 1967 |
| Name (s) of bailer/sureties and address | N/A |
| Previous convictions with case reference | N/A |
| Status of the accused | Arrested and presently in Judicial custody in central jail Guwahati, Assam. |

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

(i) **Particulars of Witnesses examined:** As per the list enclosed as xxxxxxxxxx

(ii) **List of Documents :** As per the list enclosed as xxxxxxxxxx

(iii) **List of Material objects :** As per the list enclosed as xxxxxxxxxx

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

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

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

- 16.1** This case was initially registered by Assam Police at Serfanguri Police Station (Kokrajhar District, Assam) under Sections 120(B), 121, 121 (A), 122, 302, 307, 326 read with 34 of the Indian Penal Code (hereinafter also called as “IPC”) and section 25(1A)/27 of Arms Act and 10/13 of the Unlawful Activities (Prevention) Act 1967 (hereinafter also called as “**UA(P) Act**”), against a group of *Songbijit faction of NDFB[National Democratic Front of Boroland ((NDFB(S) (Hereinafter also called as ‘**NDFB(S)**’)*, a proscribed terrorist organization as per UA (P) Act, 1967. The complainant xxxxxxxxxxxxxxxxxxxx reported that a group of NDFB(S) militants armed with sophisticated firearms came to his and nearby houses and started indiscriminate fire on 23/12/2014 at about 6.15 PM resulting in death and severe injuries to members of his own family and others.
- 16.2** The above mentioned FIR was re-registered *mutatis mutandis* out of the above mentioned Serfanguri PS case. The National Investigation Agency (hereinafter also called ‘NIA”) started this investigation in accordance with a Ministry of Home Affairs, Government of India’s (hereinafter called “MHA”) order no. F No. 11011/66/2014-IS.IV dated 16.02.2015. Sections 34 of the IPC, and Sections 16, 17, 18, 20 & 39 of Unlawful Activities (Prevention) Act, 1967 were added subsequently during the course of further investigation when additional facts and materials were collected.
- 16.3** The National Investigation Agency started the investigation from the inspection of the scene of crime, search of scene of crime, examination of eye witnesses as well as circumstantial witnesses and interrogation of surrendered as well as arrested NDFB(S) cadre in other cases by the local police. The role of accused A-16 came on record during the course of investigation as being a cadre of the NDFB(S) who conspired and carried out the killing of innocent xxxxxxxxx at village namely Pakriguri by firing

indiscriminately resulting into killing of 05 xxxxxxxx and injuring 04 others. This investigation has already submitted two charge sheets against a total of 14 (fourteen) accused persons in this case wherein the entire sequences of formation of conspiracy and its execution has been explained and substantiated from evidence. This squad (also named as a self-styled 'Serfanguri Platoon') of terrorist of which A-16 was a member was lead on that fateful day by Jagat Basumatary @ Jwblang (hereinafter called as 'DA-1') and Milan Mushahary @ Mithinga (hereinafter called as 'A1'). His involvement as members of this 'Serfanguri Platoon' which committed the massacre in Pakriguri was substantiated from variety of sources and credible and sufficient evidence has been collected.

17. Facts Disclosed During Investigation:

17.1 As also mentioned in the two separate Charge Sheets against a total of 14 (fourteen) accused persons submitted earlier on the same case in July, 2015 and March, 2016, during the month of December, 2014, senior leadership of NDFB (S) hatched a criminal conspiracy to commit a terrorist act to further continue their war against the Indian Union. The terrorist act presently the subject of this investigation was designed to cater a strong message to all ethnic communities of xxxxxxxx stock to desist from any xxxxxxxx agenda as perceived/suspected by the high leadership of NDFB(S). This terrorist act was a result of a highly irredentist and separatist ideology espoused by NDFB(S). It was surfaced during investigation that accused persons DA-1, DA-2, DA-3, A1, A-2, A-3, A-4, A-5, A-11, A-12, A-13, and A-16 most willingly took part in a gruesome act of massacre wherein they killed and maimed innocent civilians belonging to Pakriguri village.

17.2 As already extensively explained in the earlier charge sheets submitted in the matter, NDFB (S) is declared as a Terrorist Organization as per the schedule of Unlawful Activities (Prevention) Act, 1967, and mentioned at serial No. 12 of the (First) schedule in the aforementioned Act. The organisation is continuing in its chosen path of war with the Government of India. Its leaders have taken refuge in neighbouring countries in areas that are inaccessible and remote. This investigation has mounted relentless efforts to nab and prosecute those who directed a series of

massacres on the 23rd of December, 2016. As a result of this present investigation a total of 14 (fourteen) accused persons have been arrested and prosecuted as of now.

17.3 After completion of initial investigation, adequate evidences were collected against 10 arrested accused persons i.e. A-1 to A-10 and a Charge sheet was filed against all the 10 accused persons on 03rd of July, 2015 under appropriate sections of the IPC, Arms Act and UA(P) Act in this Hon'ble Court. Subsequently, during further investigation **A-11** (Amal Mushahary @ Aogoi) was arrested by Siliguri Police, West Bengal in connection with Kumargram P/S Case No. 291/13, subsequent to this **A-12** was arrested at Kokrajhar in connection with Kokrajhar P/S Case No. 845/2015 on 01/11/15. **A-13** (Jangsha Borgoyari @ Jeba) was arrested in a joint operation of NIA, Kokrajhar Police & CRPF on 17/12/2015 and the investigation was concluded against them and Supplementary Charge sheet was submitted in the Hon'ble Court of Special NIA Judge, Guwahati on the 14th of March 2016 by NIA. Since the investigation against the remaining absconding accused persons was to be continued and additional evidences against Charge sheeted accused required to be collected the permission so required was obtained from the Hon'ble Court u/s 173 (8) of CrPC for further investigation.

17.4 During further investigation visits were made in the houses of accused persons G. Bidai @ Bishnu Goyari @ Harenga Goyari @ Xyla (A-14), Binod Mushahary @ M Biban @ Batha (A-15), (A-16), Birmal Narzary @ Birkhw @ Sandaw (A-17) and Sangkhang Basumatary @ Saolen (A-19). But none of them were found available.

17.5 During further investigation, it was revealed that, the accused **Sibiyari** (A-16) was member of the squad under the command of B. Jwblang (DA-1) and Mithinga Mushahary (A-1), and was directly involved in the massacre as one of the assailants who executed the massacre. At the time of this heinous crime he was carrying an AK-56 rifle with sufficient live ammunition. Investigation has established that Mithinga Mushahary (A-1) along with A-16 and other co-accused reached the house of xxxxxxxxxxxx where they saw two children and a woman. Mithinga called them to come out but they entered inside the house made with mud wall due to obvious shock and fear. They both i.e. **Sibiyari** (A-16) and Mithinga Mushahary (A-1) started firing at the house where the persons entered and had bolted themselves from inside. After pumping about 25-30 rounds of fire from AK-56 rifle and HK-33 rifle. As a result of this indiscriminate fire xxxxxxxxxxxxxxxxxxxxxxxxxxx

xxxxxx son and Daughter-in-law of xxxxxxxxx died on the spot besides injuring two others namely xxxxxxxxx and her minor son. Thereafter, **Sibiyari** (A-16) along with his group attacked other houses and showered bullet indiscriminately for about 10 minutes, and then left the village from western side through the bank of Hel River via Podobil village and reached a nearby village called 'Gwjenpuri' at about 1900 hrs. The Arms used by **Sibiyari** (A-16) and others were buried in the nearby jungle before they fled away to different safe hide outs. The hidden arms and ammunition were later recovered on being led by Mithinga Mushahary (A-1) and Khwrai (A-2). On enquiring it was found that **Sibiyari** (A-16) was absconding since Pakriguri Incident, to evade arrest. Sufficient pressure was mounted by way of regular raids and searches in the suspected hide outs. It was gathered that the accused fled away to Chennai and engaged himself with security agency. It appears that A-16 came to know of the relentless efforts mounted by NIA and other security agencies. Ultimately the accused succumbed to the pressure mounted on him and surrendered before Ld. CJM, Udalguri on 04/02/16 and arrested in connection with Udalguri Ld. CJM Court GR Case No. 32/12 u/s 364/302/201/34 IPC. Accordingly, Production Warrant was obtained and the accused was produced before Hon'ble Spl. Judge NIA, Guwahati on 18/02/16 by Udalguri District Jail authority. Subsequently, the accused was shown arrested in the instant Case and remanded in Police custody for 12 days and then to Judicial Custody at Central Jail Guwahati.

17.6 Admission of Guilt and Subsequent Recording of Confessional Statement u/s 164 CrPC by A-16: - During custodial interrogation, the accused **Sibiyari** (A-16) admitted his guilt regarding his active involvement in the massacre at Pakriguri Village, along with other accused persons. The accused further volunteered to confess before any Court of Law. Since it was an important assertion with reference to the investigation of the case a decision was taken to proceed to a Judicial Magistrate as it is required in the extant statues. Accordingly, the accused was taken to Kokrajhar for verification of facts deposed by him in his statement. A Petition therefore was submitted in the Court of Hon'ble CJM, Kokrajhar for recording of Confessional Statement of **Sibiyari** (A-16) u/s 164 CrPC. Since the accused was in Police Custody, Hon'ble Judicial Magistrate First Class, Kokrajhar sent him to District Jail, Kokrajhar under Judicial Custody for Reflection Period of 24 Hrs. The accused in his Confessional Statement has admitted

his Crime and has also mentioned the names of other accused persons who are involved in the instant case. The description given by the accused is very graphic and clearly enumerates the sequence of events, identities of his fellow cadres who executed the massacre as well as account of events happening both precedent and antecedent of this massacre.

17.7 During further investigation, the name of one witness, here- in- after marked as xxxxxxxxxxxxxxxx, surfaced, in xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx use to xxxxxxxxxxxxxxxxxxxxxxxx the incident. On the following day of incident accused **Sibiyari** (A-16) counted arms and ammunition and cleaned the weapons used in the incident along with other accomplices. In this regard, the statements of xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxx have been recorded which independently confirms the above facts. xxxxxxxx have deposed the same before Ld. JMFC, Kokrajhar and have also disclosed the names of other Squad members involved in the instant Crime. The congruence in the statements of xxxxxxxxxxxxxxxxxxxxxxxx other xxxxxxxx and confessional statement of A-16 is very high. It would be pertinent here to mention that the name of accused **Sibiyari** A-16 has also came up in the statements of xxxxxxxxxxxxxxxxxxxxxxxx as Prime accused in the present case.

17.8 Apart from the fact that accused G.Bidai A-14 is an active member of NDFB(S) heading the banned Outfit in the capacity of Military Chief of Organisation. In investigation it was revealed that G.Bidai (A-14) dictated the episode of massacre at different places in BTAD Districts of Assam including Massacre at Pakriguri village, through his ‘deputy Chief’ Batha (A-15). During further investigation several raids were conducted in the house of the accused as well as other possible hide outs, but it was revealed that, the accused has not visited his house since his name came up as accused in the instant case.

17.9 The earlier investigations had revealed that accused Batha (A-15) is an active member of NDFB(S) and acting as ‘Deputy Chief’ of Military wing of NDFB (S). He was part of the Conspiracy and took active part. Instructions of G. Bidai (A-14) to near simultaneously kill xxxxxxxx people in whole BTAD area was communicated to all the subordinate field formations by him. He was constantly monitoring the entire episode and ensured that every field formation took active part and carried out the killings. This is substantiated from the interception of mobile calls made to

