

R E P O R T

OF THE

COMMISSION OF INQUIRY

(Constituted by the Hon'ble Supreme Court of India by Order, Dated 12.12.2019, in Writ
Petition (Criminal) No(s). 348 of 2019)

Hon'ble Mr. Justice V S Sirpurkar, Chairman
Hon'ble Ms. Justice Rekha P Sondur Baldota, Member
Dr. D R Kaarthikeyan, Member

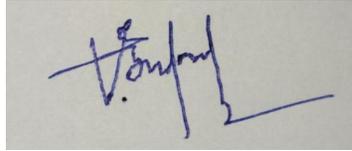
28/01/2022

To,
The Hon'ble the Chief Justice of India,
Supreme Court of India,
Tilak Marg, New Delhi - 110001

Hon'ble Chief Justice,

By orders dated 12.12.2019 and 10.01.2020 in Writ Petition (Criminal) No(s). 348 of 2019 this Commission was set up to inquire and submit report on the matters specified therein. The Commission has completed the inquiry and is herewith submitting the report of Inquiry.

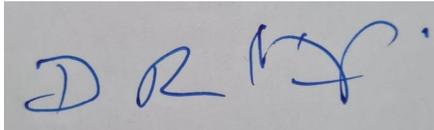
Yours faithfully



Hon'ble Mr. Justice V S Sirpurkar, Chariman



Hon'ble Ms. Justice Rekha P SondurBaldota, Member



Dr. D R Kaarthikeyan, Member

ACKNOWLEDGEMENTS

The Commission would like to acknowledge the assistance and efforts of the persons who have assisted the Commission to successfully complete its Inquiry.

The present and former Chief Justices of the High Court for the State of Telangana who have provided every assistance required for the Commission and had hosted the Commission in the premises of the High Court.

The Government of Telangana which has provided all the assistance required for the functioning of the Commission.

Hon'ble Justice A Venkateswara Reddy, formerly the Registrar General of the High Court for the State of Telangana, whose unstinting support in providing men and material ensured the smooth working of the Commission.

Smt. Anupama Chakravarty, former Registrar General, High Court for the State of Telangana.

Sri D. Nagarjuna, Registrar General, High Court for the State of Telangana.

The Registry of the High Court for the State of Telangana.

Sri A Santhosh Reddy, District Judge, Secretary to Government, Legal Affairs, Legislative Affairs and Justice, who had made all the initial arrangements for setting up the office of the Commission at Hyderabad and had provided everything required for the smooth functioning of the Commission.

Sri D Ramakanth and Sri Radhakrishna Chauhan, the present and former Registrars (IT), High Court, State of Telangana.

Sri E. Uma Maheshwar Rao, Sri V. Surender Rao, Ms. Lata Krishnamurthy, Sri Keerthi Kiran Kota, Sri Praveen Chillara, Sri Shaik Mastan Vali, Sri T. Bala Mohan Reddy, Ms. Vrinda Grover, Ms. Vasudha Nagaraj, Sri P.V. Krishnamachari and Sri D. Suresh Kumar, Advocates.

Sri Jitender, Additional Director General of Police (law and order), Telangana State Police, who had coordinated from the side of the police department.

Sri M Malla Reddy (OSD), liaison officer from the Police Department.

The staff of the Computer section of the High Court for the State of Telangana for their assistance in the deployment and use of ICT. Special mention is to be made of Sri Chakravarthy, Sri Sachin Kumar, Sri Praveen and Sri Lakhan Singh.

The Staff of the Commission deserve a special mention

	Sri V Kapaleeswara Swamy, Nodal Officer
Smt K Lalitha, Court Master	Sri M Venugopal, Office Subordinate
Smt Y Sukanthi, Court Master	Sri Minhajuddin, Driver
Smt Y V Lakshmi, Court Master	Sri Arjun Singh, Office Subordinate
Smt, E Geetha, Assitant	Sri Kamalkar, Office subordinate
Ms K Shobha Rani, Assistant	Sri Prashanth, Office Subordinate
Sri D Mahesh Kumar, Assistant	Sri K Srinivasulu, Officer Subordinate
	Sri R Srinivas, Office Subordinate.

The staff of the digitization project, High Court for the State of Telangana

The Officers and jawans of CRPF who have provided security whenever the Commission visited the city of Hyderabad.

The protocol officers who have attended to the Commission members during the visits to the City of Hyderabad.

Between the pandemic and the multiple lockdowns, the Commission would not have been able to accomplish the task entrusted to it but for the effective and relentless assistance by the Secretary Sri Sura Sasidhar Reddy, District Judge. The manner in which he marshalled the available resources and effectively harnessed the technology making the virtual hearings seamless is commendable.

Also, but for the untiring, highly competent and excellent assistance rendered by Sri Virupaksha Dattatreya Gouda and Sri K. Parameshwar, Advocates assisting the Commission of Inquiry, the Commission would not have been able to complete the task within time.

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For Annexures, see Companion Volume.

For a list of witnesses examined and documents exhibited, see Companion Volume.

1. INTRODUCTION

1.1 Background

- 1.1.1 In the early hours of 6th December 2019 an incident took place on the outskirts of Chatanpally Village, Ranga Reddy District, State of Telangana in which four accused persons, Mohd. Arif, Jollu Shiva, Jollu Naveen and Chintakunta Chennakesavulu died while they were in the custody of the police. Several petitions came to be filed, in the Hon'ble Supreme Court and in the High Court of the State of Telangana protesting against the deaths.
- 1.1.2 On the same day, Ms. K.Sajaya, Prof. Padmaja Shaw, Devi, G. Jhansi, Vimala M. V. Sandhya, B. Viajaya, K.N Ashalatha, A. Suneetha, Varsha Bargav, Khaleeda Parveen, Kahaneej Fatima, and Sanjeev who are women's and child rights and Human Rights activists submitted letter to the Chief Justice of the High Court for the State of Telangana, seeking intervention of the High Court in the incident and seeking direction, inter alia, for preservation of the dead bodies, autopsy by a special team of doctors from outside the states of Telangana and Andhra Pradesh, an independent examination of evidence by forensic experts, investigation into the incident by a court-monitored committee, ensure compliance of the Supreme Court guidelines in the case of PUCL v Union of India, to recover and preserve evidentiary material, fingerprints, firearms, bullets, projectiles cartridge cases and to prosecute the police personnel who participated in the incident under Section 302 IPC. The High Court of Telangana immediately took cognisance of the letter and registered the same as Suo-moto Public Interest litigation as WP (PIL) No.173 of 2019.
- 1.1.3 There were four more petitions filed by different persons before the High Court. Public interest litigations being WP (PIL) No.175 of 2019 by K Raghavendra Prasad, WP (PIL) No.181 of 2019 by Prof Gaddam Laxman, WP (PIL) No.183 of 2019 by Prof Rama Shankarnarayan Melkote and Another and WP (PIL) No.185 of 2019 by Prof. P. L. Vishweshwer Rao.
- 1.1.4 Before the Hon'ble Supreme Court four petitions were filed being WP (Criminal) No. 364 of 2019, WP (Criminal) No.348 of 2019, , WP (Criminal) No.347 of 2019 and WP (Criminal) No.355 of 2019.
- 1.1.5 WP (Criminal) No. 364 of 2019 was filed by Ms K Sajaya, Ms Meera Sanghamitra, Ms. Vimala and Ms. V. Sandhya Rani @ POW Sandhya, praying for collection and preservation of evidence concerning the incident that took place on 6th December 2019. Hon'ble Supreme Court disposed the Writ Petition with a liberty to apply to the

High Court for the collection of evidence and direction that the High Court may pass appropriate orders on the application by the petitioners.

- 1.1.6 WP (Criminal) No.348 of 2019 was filed by Sri G S Mani and Sri Pradeed Kumar Yadav. And Sri Mukesh Kumar Sharma filed WP (Criminal) No.347 of 2019 and WP (Criminal) No.355 of 2019 praying, inter alia, for investigation into the incident by an independent agency and for framing of guidelines and norms for protection and enforcement of Human and Fundamental Rights.

1.2 Judicial Orders

- 1.2.1 There are four judicial orders that concern the work of the present Commission of Inquiry. By order dated 12th December 2019 passed on WP (Criminal) No. 348 of 2019, WP (Criminal) No.347 of 2019 and WP (Criminal) No.355 of 2019, the Hon'ble Supreme Court, constituted this Commission with powers under the Commission of Inquiry Act. It appointed Adv. Sri K. Parameshwar, as the Commission's counsel. It made clear that no other Court or authority shall inquire into this matter pending the Commission of Inquiry constituted, until further orders. However, the orders passed by the High Court pertaining to the preservation of the dead body of the four accused persons and the investigation by the SIT constituted by the State Government were continued.¹
- 1.2.2 By order dated 10th January 2020,² the Hon'ble Supreme Court fixed specific terms of reference of the Inquiry Commission which read as follows:

“(1) To inquire into the alleged incident resulting in the death of four persons on 6th December, 2019 in Hyderabad, namely, Mohammed Arif, Chintakunta Chennakeshavulu, Jollu Shiva and Jollu Naveen, who were arrested in connection with the rape and murder of a young veterinary lady doctor, while they were in the custody of police.

(2) To inquire into the circumstances that led to the death of aforementioned four persons and to ascertain as to whether any offence appears to have been committed in the course. If yes, to fix the responsibility of erring officials.”

- 1.2.3 The relevant orders of the High Court of Telangana at Hyderabad, in this regard, are dated 6th December 2019 and 21st December 2019. By the first order, the High Court issued directions for the post-mortem of the four deceased suspects to be recorded through videography and the video record of the post-mortem to be handed over to the Principal District Judge, Mahabubnagar, who in turn was to submit the same to the

¹See Annexure 1.

²See Annexure 2.

High Court. It also directed that the bodies of the four deceased suspects to be preserved.³

- 1.2.4 The second order was on an application filed Ms K Sajaya, in WP (PIL) No.173 of 2019 praying for preservation of evidence pertaining to the incident. The High Court was pleased to pass the following order in the said application:⁴

“Therefore, this Court directs the SIT constituted by the State of Telangana under G.O.Ms.No.173 dated 08.12.2019, to seize the Case Diary, the Log Books, the Entries of the Weapon, the Movement Reports of the police from the date of filing of the F.I.R dealing with the alleged rape and murder of the lady veterinary doctor till the date of the alleged “encounter”. The SIT should also seize the weapons used by the police in the alleged “encounter”, and send the same to the Central Forensic Laboratory for its examination and report. The SIT should also collect call details record, and the details with regard to the cell tower locations as well as the CC TV footage of the Police Station from where the alleged offenders were taken and to collect all the necessary evidence, which may be useful for the perusal of the Commission appointed by the Apex Court. All the evidence so collected shall be preserved for the benefit of the Commission, and shall be placed before the Commission, if so called for.”

- 1.2.5 The High Court also directed that a second post-mortem examination be conducted by a panel of Doctors from All India Institute of Medical Sciences, New Delhi.

1.3 Background of the incident under inquiry.

- 1.3.1 The background reported, of the incident to be inquired into by the Commission, is that on the evening of 27th November 2019, the unfortunate girl Disha (name changed) left her home for a clinic in Gachibowli. She parked her Scooty, a two wheeler near toll plaza and took a cab to the clinic. At 9.22 pm. she called her younger sister saying that rear tyre of her Scooty had punctured and she was offered and had accepted help by some truck workers. But then she was worried and expressed fear for being alone amid men who looked suspicious. The sister advised her to walk to the toll plaza and wait there, but she hesitated to go there. After about six minutes, the call was cut and Disha’s phone remained switched off thereafter.
- 1.3.2 Around 10.30 pm. Disha’s sister and parents approached the police of RGIA Police Station. The police initially did not register the complaint claiming that they did not have jurisdiction and directed them to approach Shamshabad Rural Police Station. The relatives then searched the nearby areas and went to Shamshabad Rural Police Station where finally at 3.00 am. on 28th November 2019 the complaint was registered as Crime Number 480 of 2019, woman missing case.

³See Annexure 3.

⁴See Annexure 4.

- 1.3.3 On 28th November 2019 in early morning on the information received from one Samala Sathyam that, he had seen a woman's dead body burning in the underpass on NH44 near Chatanpally Village investigation was taken up by Shadnagar Police. In the course of investigation, the dead body was identified as that of Disha by her parents and Sister. Based thereon at around 9.00 am FIR in Crime No. 784 of 2019 was registered on the file of Shadnagar Police Station under Section 302 and 201 IPC.
- 1.3.4 Meanwhile, the print and electronic media widely reported on the incident and there was widespread public outrage and anger across the country.
- 1.3.5 On 29.11.2019 at about 7.00 pm Sri V C Sajjanar, Commissioner of Police, Cyberabad addressed a press conference and announced that four persons namely Mohammed Arif, Jollu Shiva, Jollu Naveen and Chintakunta Chennakesavulu (herein after 'deceased suspects') were arrested in connection with the rape and murder of Disha. He also narrated the details of the incident which were said to have been disclosed by four persons in their confessional statements recorded by the police.
- 1.3.6 On 30.11.2019 the four accused persons were produced for remand before Executive Magistrate, Farooq Nagar, who remanded them to Judicial Custody for a period of 13 days. The four deceased suspects were then taken to Cherlapally Central Prison on the evening of 31st November 2019.
- 1.3.7 On 2nd December 2019, an application was filed by Sri Vasam Surender, the Investigating Officer in Crime Number 784 of 2019, to the Additional Judicial Magistrate of First Class, Shadnagar for police custody. The application was allowed and custody granted to police for 10 days of the deceased suspects.
- 1.3.8 On 06th December 2019 it was widely reported in the media that the deceased suspects were killed when they attacked the police party which had taken them to Chatanpally to effect recovery of articles of Disha. It was reported that the deceased suspects had reportedly snatched fire-arms from the police and opened fire upon the police party and were subsequently killed in the exchange of fire. A few hours thereafter in a press conference held at site, Sri V C Sajjanar, Commissioner of Police, Cyberabad gave more details of the incident to the press.

2. LOGISTICS RELATING TO INQUIRY COMMISSION

2.1 Office of the Inquiry Commission

2.1.1 The premises for the office of the Commission was arranged by the High Court of Telangana by allocating rooms and Court Halls in the 'C' Block of High Court Buildings, vide Proceedings Order ROC.No.1553/SO/2019, Dt.28th December 2019.

2.2 Staff of the Inquiry Commission

2.2.1 In its order constituting the Commission the Hon'ble Supreme Court had directed the State of Telangana to provide secretarial assistance to the Commission. The Secretarial assistance was to be chosen by the Chairman of the Inquiry Commission and provisions were to be made by the State of Telangana in this regard. Accordingly the Government of Telangana issued G.O.Ms.No.1, Finance (HRM-II) Department, dt. 8th January 2020 creating following posts to assist the Commission.

SI. No.	Name of the post	Number of Posts
1	Secretary (sitting or Retired) in the cadre of District Judge	01
2	Nodal Officer/Deputy Secretary to be drawing and disbursing Officer and to attend protocol duties	01
3	Translator	03
4	Computer Operator	03
5	P.S/P.A/Stenographer	04
6	Senior Assistant/Junior Assistant	02
7	Officer Subordinate (on outsourcing basis)	05
	Total	19

2.3 Secretary of the Inquiry Commission

2.3.1 The High Court of Telangana deputed the services of Sri S. Sasidhar Reddy, District Judge, as Secretary to the Inquiry Commission *vide* Proceedings Order ROC.No.1553/SO/2019 dt. 27th January 2020.

2.4 Other staff for the Inquiry Commission

2.4.1 At the request of the State Government, the staff members for the posts sanctioned, were deputed by the High Court of Telangana *vide* Proceedings Order ROC.No.1553/SO/2019-20 dt. 5th February 2020.

2.5 Advocates for assisting the Inquiry Commission

- 2.5.1 Hon'ble Supreme Court vide order dated 12th December 2019 in W.P. (CrI.). No. 348 of 2019 was pleased to appoint Sri K. Parameshwar, advocate as the Commission's Counsel.
- 2.5.2 The Inquiry Commission found that a large part of the record before it was in Telugu and almost all the witnesses were Telugu speakers. Since the Chairman and Members as well as the Commission's Counsel appointed by the Supreme Court are not conversant with Telugu, it was decided to appoint a Telugu knowing Advocate to assist the Commission. Accordingly, on the directions of the Inquiry Commission, a panel of six Advocates was prepared by the Secretary, Inquiry Commission. From among the panel of Advocates, the Inquiry Commission selected Sri Virupaksha Dattatreya Gouda, (District Judge Retd.) who is practising before the High Court of Andhra Pradesh.

2.6 Working of the Commission

- 2.6.1 The Inquiry Commission held its first sitting at Hyderabad on 3rd February 2020. As per the order of the Hon'ble Supreme Court this Commission has all the powers of a commission under the Commissions of Inquiry Act 1952. Rule 5 (2) (b) of the Commissions of Inquiry (Central) Rules, 1972, requires that a public notification be issued by the Commission. Therefore, in the first sitting the Commission directed that a public notice be issued in the daily newspapers having wide circulation in English, Telugu, Hindi and Urdu. Accordingly, the Public Notice was issued and published on 05.02.2020 in "Times of India", English language daily Newspaper, "Sakshi" and "Namaste Telangana", Telugu language daily Newspapers, Siasat, Urdu language daily newspaper and "Dainik Jagran", Hindi language daily newspaper. By the public notice it called all persons who had any knowledge about the facts under inquiry and the general public to inform the Commission, the facts within their knowledge in the form of affidavits.
- 2.6.2 The next steps taken by the Commission for collection of the relevant material are that it directed the Addl. Director General of Police (L&O) to prepare a tentative list of documents to be examined by the Commission and submit the same to the Commission. It requested the Meteorological Centre, India Meteorological Department, Begumpet, Hyderabad to provide Meteorological data of 6th December 2020. The Inquiry Commission summoned record of the investigation done by the National Human Rights Commission from investigation team and the report of the

post mortem examination conducted by the Medical Board of AIIMS, New Delhi. It called for collection of the newspaper reports concerning the incident. With these directions the Inquiry Commission fixed the next sitting on 23.3.2020.

- 2.6.3 The data from Meteorological Centre, India Meteorological Department, Begumpet, Hyderabad was received on 12th December 2020. The record of the investigation by the National Human Rights Commission was received on 20th February 2020. The newspaper clippings were received from the Information and Public Relations Department, Government of Telangana on 22th February 2020. The report of the post-mortem examination conducted by the Medical Board of AIIMS, New Delhi was received from the Registrar General, High Court for the State of Telangana on 10th March 2020.
- 2.6.4 The records of investigation in Crime No.784 of 2019 (Disha rape and murder case) and Crime No.803 of 2019 (encounter case) with English translations of the Telugu Documents were submitted to the Commission by the Additional Director General of Police (Law and Order) on 25th February 2020.
- 2.6.5 In response to the public notification, 1365 affidavits were filed by various persons including the police personnel involved in the incident and the family members of three of the four deceased persons. The affidavits of the relatives of the deceased persons were received on 05.03.2020. The affidavits of the police personnel involved in the incident were received on 15.06.2020. The affidavit of the Principal Secretary to Government, Home Department, Government of Telangana was received on 17.07.2020.
- 2.6.6 Most of the records and affidavits received by the Inquiry Commission were in Telugu. The same were translated with the assistance of the translator appointed, Smt. C. Swarnalatha, Asst. Registrar (Retd.), High Court for the State of Telangana.
- 2.6.7 The Inquiry Commission had summoned the CC footage of the Police station and the safe house where the deceased persons were held, wireless log books, call data records of the deceased persons and the police officials involved in the incident with cell tower locations, movement reports, case diaries, GPS location of the police vehicles involved in the incident from the Additional Director General of Police (L&O).The directions for collection were given by the High Court for the State of Telangana vide order Dt.21.12.2019 passed in IA No. 1 of 2019 in WP (PIL) No. 173 of 2019. The office of the Commission received call data records, case diaries, weapons issue records, vehicle log-books on 13.03.2020. The Additional Director

General of Police (L&O) informed that there were no CC TV cameras at the police station or safe house and therefore no footage was available. Also there was no GPS in the vehicles used to transport the four deceased persons from safe house to the scene of incident.

- 2.6.8 Though the Commission had fixed the next sitting on 23.3.2020, unfortunately by that date the Covid-19 pandemic had peaked and interstate travel was restricted and lock-down imposed. Therefore, it was prevented from holding hearings at Hyderabad. But the lock down period was utilised by the office of the Commission for translation of the records collected from Telugu language to English language.
- 2.6.9 The Commission summoned and received reports of the Central Forensic Science Laboratory, New Delhi on the Forensic examination of Fire arms and other material objects.
- 2.6.10 Since the tenure of the Commission of Six months was to end on 2.8.2020, application being I.A.No.63913 of 2020 in W.P. (Criminal) No.348 of 2019 was filed before the Hon'ble Supreme Court seeking extension of time. By the order dated 24.7.2020 the Hon'ble Supreme Court was pleased to extend time by another Six months.
- 2.6.11 Since the COVID-19 pandemic had not abated, the Commission held virtual meeting on 15.9.2020 and issued several directions to summon records and affidavits from witnesses. It resolved to appoint a Telugu knowing Advocate as the records to be looked into are in Telugu language. It was decided that the Commission will take an appropriate call, if required, at a later stage to appoint an Investigating Officer to assist the Commission. The Commission perused the records and affidavits that were filed before it and it came to the conclusion that summons will have to be issued to some relevant persons asking them to file their affidavits and also for the production of certain records. This was necessitated in view of the fact that a thorough inquiry into the matter would not be possible without all relevant records and evidence. The Commission has time and again on appreciation of the record taken similar steps to call for relevant affidavits and documents. It resolved to summon the videographic record of the first post-mortem examination of the four deceased persons. The records of the Commission were also directed to be digitized. Accordingly

summonses were issued to 59 persons on 22.09.2020 for filing affidavits and for production of documents.⁵

- 2.6.12 In respect of the incident in question multiple investigative agencies including the police, judicial enquiry magistrate and NHRC had already conducted investigation, which resulted in several reports and records being placed before the Commission. In view of this, the Commission requisitioned the services of the Central Bureau of Investigation (hereinafter 'CBI'), albeit in a limited manner, to assist the Commission in sifting through the multiple reports, depositions and records. Accordingly, Sri PC Kalyan, IPS (SP, CBI-ACB) was deputed to assist the Commission on 16.10.2020 and, Sri Ch. Somaiah, DSP, CBI-ACB and Sri M. Srinivas, SG-II, CBI-ACB were deputed to assist Sri PC Kalyan *vide* letter dated 13.11.2020.
- 2.6.13 By the letter dt. 11.03.2020 request was made to Registrar General, High Court for the State of Telangana for providing video graphic record of the first post-mortem examination. The same was received on 17.06.2020.
- 2.6.14 The Commission held its next virtual meeting on 11.01.2021 in which it considered the panel of Telugu knowing advocates and short listed the names of three advocates and directed the Secretary of the Inquiry Commission to interview the advocates .It further issued directions to summon Final report of Special Investigation Team, Final NHRC Investigation Team, Magisterial Inquiry Report of RDO, Shadnagar and summonses were issued to 17 further witnesses.⁶
- 2.6.15 The Commission summoned information concerning the route taken by the police escort party while transporting the four accused from the Central Prison, Cherlapally to the safe house and the Safe House to the scene of incident, the details of traffic and surveillance cameras along the route and the video recording from the said cameras during the relevant time, the rules and regulations concerning handling of the deceased suspects while conducting recovery of material objects, concerning use of fire arms, formation of SOT and the Police Manual and *vide* letter dt. 11.01.2021 and reply has been received on 06.02.2021.
- 2.6.16 Since the six months extension period was ending on 02.02.2021 and there was no improvement in the COVID-19 situation, the Commission filed another extension petition in I.A.No.7790 of 2021 in W.P(Criminal)No.348 of 2019 before the Hon'ble

⁵See Annexure 5.

⁶See Annexure 6.

Supreme Court. The Hon'ble Supreme Court was pleased to extend the time by another six months vide order dt. 29.01.2021.

- 2.6.17 The Inquiry Commission in its meeting dated 12.02.2021, appointed Sri Virupaksha Dattatreya Gowda, Advocate, to assist the Commission. It issued directions to the Special Investigation Team to file its final report, since the Hon'ble Supreme Court had permitted it to continue investigation. To explore the possibility of recording oral evidence and to enable the Commission to assess on what counts oral evidence must be recorded, the Commission directed the advocates assisting the Commission to prepare a list of witnesses whom the Commission may require to examine. This was done in order to appreciate the necessity of recording oral evidence. Thereafter, summonses were issued on 18.02.2021 to some more persons including Sri V.C. Sajjanar, Commissioner of Police, Cyberabad and Sri N.Prakash Reddy, DCP, Shamshabad Zone.⁷
- 2.6.18 In its virtual meeting held on 22.02.2021, the Commission examined the material on record, the affidavits that had been filed, including affidavits and documents that had been specifically summoned and expressed its satisfaction that oral evidence is required to be recorded in the inquiry. Taking note of the Commissions of Inquiry (Central) Rules, 1972, requiring the State Government to commence evidence by producing witnesses, the Commission directed the Secretary of Inquiry Commission to invite the advocates representing the State Government to appear before the Commission in virtual hearing to ascertain whether the State Government would commence evidence.
- 2.6.19 Ten police officers involved in the firing incident on 06.12.2019 had filed applications under Section 8C of the Commissions of Inquiry Act, 1952, stating that they are entitled to legal representation. In the affidavits in support of their applications under Section 8C, they had specifically contended that as per the directions of the Hon'ble Supreme Court dated 12.12.2019, their actions during the said exchange of fire would be scrutinized by the Commission. Considering this pleading of theirs and given the fact that the Hon'ble Supreme Court had specifically directed the Commission "to fix responsibility of erring officials", the Commission passed a common order dated 22.02.2021 in I.A. Nos. 1 to 10 of 2020 allowing their applications. The Commission

⁷See Annexure 7.

also gave directions for issuing notices under Section 8B of the Commissions of Inquiry Act, 1952. In compliance, these notices were then duly served.

- 2.6.20 Upon being invited to appear, the Counsel appearing for the State of Telangana, Sri E.Umamaheswar Rao and Sri V.Surender Rao attended the virtual meeting of the Commission on 04.03.2021. In the said meeting Sri V. Surender Rao and Sri E. Umamaheswar Rao, Advocates appearing for the State Government appeared before the Commission and requested for time to seek instructions from the State of Telangana about the commencement of evidence by the State. The Commission also resolved to request the Advocates appearing on behalf of the police personnel to participate in the next virtual meeting.
- 2.6.21 Similarly, upon invitation, Sri Keerthi Kiran Kota, Sri Bala Mohan Reddy and Sri C.Praveen Advocates appearing for the police officials involved in the incident, appeared before the Commission in its next virtual meeting on 12.03.2021. The Advocates for the State Government again requested for time to obtain instructions from the State Government. The Commission then directed Sri V.Surender Rao and Sri E. Uma Maheshwara Rao, the Advocates for the State Government to file an application supported by the affidavit of the Home Secretary stating 1) whether the State Government will present evidence first as per the Commissions of Inquiry Rules. If not, the reasons that prevent the State government from commencing evidence 2) clarifying whether Sri V Surender Rao and Sri Umamaheswar Rao are representing the State Government or the Police Department or Cyberabad Police Officials or the Police officers involved in the encounter 3) clarifying the relationship between the State Advocates and Sri Keerthi Kiran Kota, Sri Praveen Chillara and Sri Bala Mohan Reddy, the Advocates appointed by the ten Police officers who participated in the encounter 4) requesting the commission to decide the order of examination of witnesses stating those that can be examined first and those that have to be examined after recording all other evidence.
- 2.6.22 The State of Telangana filed application, I.A.No.1 of 2021 requesting for certain documents. The police officials involved in the incident also filed IA.Nos.2, 3 & 4 of 2021 asking for charge-sheet or show cause notice issued against the applicants therein. In its meeting dated 26.03.2021, the Commission directed that the documents requested for under I.A.No.1 of 2021 be furnished to the State. The applications in I.A.Nos.2 to 4 of 2021 were rejected since no charge-sheet or show cause notice was filed against the applicants. The applicants were permitted to inspect the records of

the Inquiry Commission and file applications for the documents required by them. The Commission further resolved to permit Sri V.Surender Rao and Sri E.UmaMaheshwar Rao, Advocates, to appear on behalf of the Government of Telangana and the Police Department. Sri Keerthi Kiran Kota, Sri T.Bala Mohan Reddy & Sri C.Praveen, Advocates, would appear on behalf of the respective police officials for whom they had filed vakalaths.

- 2.6.23 The Commission in its meeting held on 04.06.2021 considered IA Nos. 5 to 9 of 2021. IA No. 9 of 2021 was filed by State of Telangana for supply of certain documents which was allowed by order dated 04.06.2021. The police officials to whom notices under Section 8B were directed to be served, while allowing their applications under Section 8C, surprisingly filed IA Nos. 5, 7 and 8 of 2021 praying that the notices which were issued under Section 8B be recalled. By separate orders dated 04.06.2021, the Applicants were permitted to withdraw IA Nos. 5, 7 and 8 of 2021. IA No. 6 of 2021 was filed by some of the police officials requesting permission to change their Advocate, which was allowed by a separate order dated 04.06.2021.
- 2.6.24 The State of Telangana through Sri Ravi Gupta, IPS, Principal Secretary to Govt., Home Department, Govt. of Telangana filed IA No. 10 of 2021, stating that they will be examining six witnesses. When the application was taken up for hearing in the next virtual meeting held on 14.06.2021, on noticing that copies of the application were not served on the other appearing counsel, directions were issued to the advocates for the State Government to serve the same on the other appearing counsel. The said application came to be considered in the next meeting dated 26.06.2021. In the meanwhile, the Commission issued further summons to five other persons.⁸
- 2.6.25 On 26.06.2021, I.A.No.10 of 2021 was considered. Having withdrawn the applications for recall of notices under Section 8B, the advocates appearing for the police officials filed affidavits contending that they are entitled for protection under Section 8B of the Commissions of Inquiry Act, 1952, and are therefore required to be examined at the end of the hearings. As such, they contended that the claim of the State Government that some of them ought to be examined in the first instance ought not to be permitted. The Commission heard the counsel and resolved to examine four of the six witnesses listed by the State Government and to hold a detailed hearing after the examination of the third witness on the question whether the Police officials

⁸See Annexure 8.

who were issued Section 8B notices can be examined at that stage or they have to be examined only at the end of the Inquiry. The Commission also discussed the possibility of examining witnesses online. The Commission found that in view of the gravity of the subject under inquiry and its sensitive nature, it necessary that all the witnesses are physically present before the Commission so that the Commission can observe their demeanour and also obviate any questions about the Inquiry process. The Commission further found that some of the witnesses may be examined online as they are only formal witnesses who would depose as to certain reports. Considering the overall situation of Corona pandemic and the spread of new variants, the Commission found it unviable to hold physical hearings at Hyderabad at that time. The Commission directed Sri Virupaksha Dattatreya Gowda and Sri K.Parameshwar, Advocates for the Commission and the Secretary of the Commission to examine the list of witnesses and classify them into categories of those who can be examined online and those who may be needed to be examined before the Commission physically and those who need not be examined. It was further resolved to seek extension of time for a minimum period of six more months from the Hon'ble Supreme Court.

- 2.6.26 Considering the pandemic and the extraordinary circumstances created by it, the Commission through its Counsel, filed I.A.No.76490 of 2021 in W.P. (Criminal)No.348 of 2019 on 07.07.2021 seeking extension of time before the Hon'ble Supreme Court. In the said application, it was pointed out that the examination of witnesses was yet to begin and therefore, appropriate extension may be granted.
- 2.6.27 The Inquiry Commission held its next virtual meeting on 12.07.2021. It directed that the description of the role of the witnesses be added to the list of witnesses for the convenience of all. It also directed the advocates of the Commission to examine the 1333 affidavits filed by the general public in response to the public notification and submit a note as to whether the 1333 persons have to be examined. Then the Commission directed issuance of summonses to Revenue officials who held the inquest over the four deceased persons and the panchayathdars who were present at the inquest to file their affidavits. The Commission directed issuing summons to Smt. Manzil Saini, IPS, DIG, NHRC, to give details of the investigation procedure adopted by them and the names of the officials who examined the witnesses. The Commission

thereafter issued summons to fourteen revenue officials and panchayathdars who were connected with the inquiry and inquest on 06.12.2019.⁹

- 2.6.28 The Hon'ble Supreme Court *vide* order dated 03.08.2021 extended time for six months from that day for the Inquiry Commission to submit its final report in the matter.
- 2.6.29 In its virtual meeting dated 07.08.2021, IANos.11 to 14 of 2021 filed by Ms K. Sajaya and Mr. S Jeevan Kumar for condoning the delay in filing their affidavits, for access to records, permission to participate in the inquiry and cross-examine witnesses, were considered. IA Nos. 11 to 14 of 2021 were permitted to be withdrawn upon recording the statement that they may be permitted to file an appropriate affidavit on or before 11.08.2021.
- 2.6.30 Considering that some of the relatives of the deceased suspects had filed affidavits before this Commission claiming that the deceased were minors at the time of their death, and also considering that similar claims were raised in W.P. (Criminal) 364 of 2019 filed by Ms. K. Sajaya and others before the Hon'ble Supreme Court and in W.P. (PIL) No. 185 of 2019, the Commission in its internal meeting on 07.08.2021, decided to issue summons to the relatives of the four deceased suspects namely, Mohammed Arif, Jollu Shiva, Jollu Naveen and Chintakunta Chennakesavulu to furnish proof of age of the four persons at the time of their arrest. It was resolved to issue summons to Sri A Sreedhar Kumar, the then Circle Inspector, Shadnagar, to file his affidavit before the Inquiry Commission. Since no records pertaining to the injuries and treatment of the injured policemen had been submitted to the Commission, the Commission resolved to summon the medical records, including X-ray films and scan reports of police officials, Sri Kore Venkatewarlu and Sri Aravindh Goud and the Accident Registers from Community Health Centre, Shadnagar and Care Hospital, Hi-tech City, Hyderabad and the original record of the investigation by NHRC. Pursuant to this, summonses were issued.¹⁰ Since the Commission was inquiring into the age of the deceased, the Commission also felt it appropriate that summons be issued to the headmasters of the respective schools where the deceased suspects had studied to summon the relevant school records.¹¹ Similarly, summons were also issued to the

⁹See Annexure 9.

¹⁰See Annexure 10.

¹¹See Annexure 11.

lorry driver with whom some of the deceased suspects were alleged to have worked and also to the NHRC officials involved in the investigation.¹²

- 2.6.31 In the virtual meeting dt.07.08.2021, the Inquiry Commission resolved to adopt Hybrid Mode of hearings and to commence hearings by directing the State to produce its witnesses on 21.08.2021 at 11.00 AM. It deferred identification of the witnesses to be examined by the Commission, the determination of the order in which the said witnesses will be examined and the date for examination of the said witnesses to the next meeting. The Inquiry Commission directed Sri Virupaksha Dattatreya Gouda and Sri K. Parameshwar to prepare draft procedure for examination of witnesses and submit the same for the consideration of the Commission.
- 2.6.32 Summons were issued on 11.10.2021 to print and electronic media houses to produce before the Commission the photographs and videographs taken by their employees on 06.12.2019 and 07.12.2019.
- 2.6.33 The Inquiry Commission considered the records collected and identified witnesses to be examined after completion of the evidence of the State Government on 21.08.2021. The Commission resolved to hold the hearings on 26.08.2021, 27.08.2021 and 28.08.2021 for examination of the witnesses in the list approved. The Commission took steps to identify the witnesses that it would examine, classified them based on their relevance and also drew up the order in which they would be examined. Since the time-frame stipulated by the Hon'ble Supreme Court was only six months, considering that the pandemic would impede regular physical hearings, the Commission resolved that witnesses would be examined through the virtual mode. The Secretary was asked to ensure that suitable technological and digital arrangements be undertaken so that recording of evidence would proceed in a transparent and smooth manner, the details of which are given in the forthcoming section. In order to ensure that the witnesses are secured, the Commission directed the Secretary to issue summons to the witnesses to appear before the Commission at the Commission's premises at Hyderabad as per the schedule fixed. The Standard Hearing Procedure for the virtual and physical mode of hearings was finalised and circulated.¹³
- 2.6.34 At the request of the Inquiry Commission the Hon'ble High Court for the State of Telangana issued proceedings to the Chief Judge, City Civil Court, Hyderabad to provide the services of Process Servers whenever required by the Inquiry Commission

¹²See Annexure 12.

¹³See Annexure 13.

for serving summons upon the witnesses. The Commission adopted multiple modes of service of summons, including e-mail, WhatsApp and registered post.

- 2.6.35 The hearings commenced on 21.08.2021. The State of Telangana commenced its evidence and produced its witnesses. In all the State of Telangana examined 4 witnesses. Since the remaining two witnesses proposed by the State of Telangana had claimed privilege under Section 8B, the Commission decided that they would be examined after the Commission's witnesses are examined. Since the recording of evidence through virtual mode and simultaneous transcription was proceeding without glitches, and since the Commission was able to observe the demeanour of the witnesses, the respective schedules for all witnesses indicated that the recording of evidence would be through the virtual mode. Then the Inquiry Commission summoned and examined 57 witnesses. The witnesses and Advocates all appeared physically at the premises of the Inquiry Commission at Hyderabad. The Chairman and Members of the Inquiry Commission presided over the hearings virtually from Nagpur, Pune and New Delhi respectively. Sri K Parameshwar, Advocate assisting the Inquiry Commission appeared virtually. Sri Virupaksha Dattatreya Gouda, Advocate assisting the Inquiry Commission appeared physically at the premises of the Inquiry Commission at Hyderabad.
- 2.6.36 The Commission examined witnesses for forty-seven days between 21.08.2021 and 15.11.2021. Thereafter, arguments on behalf of the respective parties were heard between 16.11.2021 and 25.11.2021. The parties were given time to file written submissions and the hearings were formally closed on 25.11.2021.
- 2.6.37 On 04.12.2021 and 05.12.2021, the Commission along with advocates assisting the Commission visited Hyderabad and inspected all the places associated with the incidents under inquiry.
- 2.6.38 Thereafter, the Commission held numerous internal meetings in the month of December, 2021 and January, 2022 to deliberate upon the evidence and material on record and to finalize the report.

3. PROCEDURE ADOPTED BY THE INQUIRY COMMISSION

3.1 Public Notice

3.1.1 As already mentioned earlier in view of Rule 5 (2) (b) of the Commissions of Inquiry (Central) Rules, 1972 which requires that a public notification be issued the Commission issued and got published public notice in the daily newspapers having wide circulation in English, Telugu, Hindi and Urdu language. The Notice was published on 05.02.2020 in “Times of India”, English language daily Newspaper, “Sakshi” and “Namaste Telangana”, Telugu language daily Newspapers, Siasat, Urdu language daily newspaper and “Dainik Jagran”, Hindi language daily newspaper. By the public notice it called all persons who had any knowledge about the facts under inquiry and the general public to inform the Commission the facts within their knowledge in the form of affidavits.

3.2 Notice under Section 8B of the Commissions of Inquiry Act, 1952

- 3.2.1 Section 8 B of the Commissions of Inquiry Act, 1952 provides that if, at any stage of the inquiry, the Commission, (a) considers it necessary to inquire into the conduct of any person; or (b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.
- 3.2.2 One of the specific terms of reference of the Inquiry Commission stipulated by the Hon’ble Supreme Court vide order dt 10.01.2020 is to inquire into the circumstances that led to the death of afore-mentioned four persons and to ascertain as to whether any offence appears to have been committed in the course. If yes, to fix the responsibility of erring officials
- 3.2.3 The material on the record produced before the Commission shows that there were ten police officials present at the scene of incident on 06.12.2019. They were also involved in the firing which resulted in the death of the four persons while in custody. In view of the stipulation in the terms of reference, the conduct of these ten police officials has to be necessarily scrutinised by the Inquiry Commission. Also the ten police officials had already filed applications being IA No.1 to 10 of 2020 under Sections 8B and 8C of the Commissions of Inquiry Act, 1952 contending that the Inquiry Commission will be scrutinising their conduct and they may be permitted to have legal representation. The Inquiry Commission was further of the opinion that the ten officials are, the persons likely to be prejudicially affected by the inquiry and as

such are entitled to the protection under Sections 8B and 8C of the Commissions of Inquiry Act, 1952, for reasonable opportunity of being heard in the inquiry and to produce evidence in their defence. It therefore allowed the applications filed by them seeking legal representation. The Inquiry Commission directed the Secretary, Inquiry Commission to issue notices under Section 8B to the ten officials.

- 3.2.4 The Secretary, Inquiry Commission, issued formal notices under Section 8B of the Commissions of Inquiry Act, 1952, and had the same served upon the ten police officials. The names of the ten police officials are (1) Sri Vasam Surender, Assistant Commissioner of Police, Shadnagar (2) Sri Konda Narasimha Reddy, Circle Inspector, Amangal (3) Sri Kore Venkateswarlu, Sub-Inspector, Nandigama (4) Shaik Lal Madar, sub-Inspector (5) Kocherla Ravi, Sub-Inspector (6) Mohammed Sirajuddin, Head Constable (7) Dharmakar Janakiram, Head Constable (8) Saidupally Aravind Goud, Police Constable (9) Balu Rathod, Police Constable and (10) Deverashetty Srikanth, Police Constable.
- 3.2.5 The ten police officials engaged Advocates to represent them before the Inquiry Commission. The same was recorded by the Inquiry Commission vide order Dt.30.03.2021.

3.3 Recording of Evidence - witnesses

- 3.3.1 The Inquiry Commission after examining the statements filed before it and the records furnished to it considered it necessary to record evidence in the incident under inquiry and issued order Dt.22.02.2021 accordingly.
- 3.3.2 Rule 5 (5)(a) of the Commissions of Inquiry (Central) Rules, 1973 requires that the Inquiry Commission should first record evidence of the Central Government. Under Rule 5(1) of the Andhra Pradesh Commissions of Inquiry Rules, 1968 also the Inquiry Commission should first record the evidence of the State Government. In view of the statutory position, the State of Telangana was directed to inform the Inquiry Commission whether it would lead evidence and to provide a list of witnesses along with an affidavit of the Home Secretary.
- 3.3.3 The State of Telangana filed I.A No.10 of 2021 on 11.06.2021 supported by the affidavit of Sri Ravi Gupta, Principal Secretary for Home, stating that the Government of Telangana is ready to examine its witnesses first in accordance with Rule 5(a) of the Commissions of Inquiry (Central) Rules, 1973 adopted by the State of Andhra Pradesh, with liberty to examine further witnesses in accordance with Rule 5(b) of the Rules. The six witnesses to be examined by the State were:

- (1) Sri Ravi Gupta
- (2) Kumari Pothula Bhavya
- (3) Sri J Surender Reddy
- (4) Sri V Surender
- (5) Sri Konda Narasimha Reddy
- (6) Sri M Rajashekar

- 3.3.4 Two out of the six witnesses, Sri V Surender and Sri Konda Narasimha Reddy were recipients of notices under Section 8B of the Commissions of Inquiry Act, 1952. Both raised objections to they being examined as witnesses before the other witnesses, by filing separate Affidavits on 26.06.2021 contending that they are protected under Section 8B and the law declared by the Hon'ble Supreme Court in Kiran Bedi & others v Committee of Inquiry and another [(1989) 1 SCC 494] and as such they are entitled to be examined at the end of the inquiry. They further contended that they cannot be included in the list of witnesses proposed to be examined by the State Government.
- 3.3.5 The Inquiry Commission heard advocates for the State of Telangana and the advocates for Sri V Surender and Sri Konda Narasimha Reddy. After hearing the advocates that Inquiry Commission deferred decision on the objections raised until completion of the examination of the other four witnesses listed by the State Government. i.e., witness number 1,2,3 and 6. It was further directed that immediately after the completion of the examination of the third witness in the list a detailed hearing will be held on these objections and a decision will be taken as to when these witnesses will be examined.
- 3.3.6 The Inquiry Commission examined the statements submitted by witnesses and the materials furnished and identified fifty-three witnesses who have to be examined orally.
- 3.3.7 The State Government commenced evidence by examining its witnesses on 21.08.2021. After examining the first three witnesses the objections for examination of Sri V Surender and Sri Konda Narasimha Reddy were heard. The State Government reported no objection if these two witnesses were examined at the end of the inquiry. Recording the same the Inquiry Commission directed that these two witnesses will be examined at the end of the Inquiry.

3.3.8 In all the State of Telangana examined four witnesses. The Inquiry Commission summoned and examined fifty-three witnesses including the ten police officials served with notices under Section 8B.

3.4 Recording of evidence – Procedure

3.4.1 The three legislations holding the field on the aspect of procedure to be followed by the Commission are the Commissions of Inquiry Act, 1952, the Commissions of Inquiry (Central) Rules, 1972 and the Andhra Pradesh Commissions of Inquiry Rules, 1968. It is to be noted that the relevant provisions i.e. Rule 5(1) in the Andhra Pradesh Commissions of Inquiry Rules, 1968, are in pari materia with the Central Rules.

3.4.2 Section 8 of the Commissions of Inquiry Act, 1952 states that the Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private). Rule 5 of the Commissions of Inquiry (Central) Rules, 1952 contains the set of rules on the procedure to be followed by the Commission. Sub-Rule 1 of it provides for sitting of the Commission, stating that the commission may sit in public or in private as it thinks fit and if a request is made by the Central Government it shall sit in private. [Rule 5(1)] Thus there is no obligation imposed on the Commission to follow a particular procedure, except in the event of a request made by the Government.

3.4.3 The High Court of Kerala in *S.V. Purushotham v. state of Kerala*, AIR 1983 Ker 118, has held that a Commission is the master of its own procedure and it can exercise complete control and discretion in deciding the method by which it wishes to conduct the proceedings.

3.4.4 The High Court of Allahabad in *Sardar Malkeet Singh v. State of U.P.*, AIR 1993 All 343, at Para 27, has held that under Section 8 of the Commissions of Inquiry Act, 1952, a Commission has full powers to sit in a place which it deems fit and it is not possible for a court or the parties appearing before the Commission to bind the latter to sit at a particular place or in a particular manner. The Court also noted that the place of sitting once fixed can be changed on the prayer of the parties and under the discretion of the Commission. It was further held that if a party is aggrieved by the place, time and manner of the sitting of the tribunal, the only recourse such a party has is to approach the Commission and the Commission may decide on such a plea as it deems fit. This view has also found support by the Hon'ble High Court of Kerala in *S.V. Purushotham v. State of Kerala*, AIR 1983 Ker 118.

- 3.4.5 In view of extant legal position and the gravity of the issues under inquiry, the necessity of noting the demeanour of the witnesses and the requirement of making a physical inspection of the scene of incident the Inquiry Commission was of the view that the hearings and examination witnesses has to be done in the physical presences of the Inquiry Commission in the premises of the Commission at Hyderabad. However, the prevailing COVID-19 pandemic had made it difficult to travel to Hyderabad and conduct physical hearings.
- 3.4.6 The Inquiry Commission upon examining the record found that the demeanour of every witness may not be required to be noted. There were witnesses like Sri Ravi Gupta, Home Secretary, and the officials of the Cell Service Providers who have submitted the call data records and other witnesses whose evidence is formal in nature or those who do not have direct knowledge of the events, whose demeanour may not be important to determine the veracity of their statements. The Commission considered that such witnesses can be examined in the virtual presence of the Commission. Also, the State of Telangana had expressed its willingness to participate in virtual hearings through its memo filed on 02.06.2021.
- 3.4.7 The Inquiry Commission also took note of the various modes of hearing that can be adopted namely, Physical Mode, Virtual Mode and Hybrid Mode.
- 3.4.8 In physical mode the Inquiry Commission would physically hold hearings in the Inquiry Commission's premises at Hyderabad. All the witnesses, Advocates assisting the Inquiry Commission, State Government's Advocates and Advocates for the person's served with notices under Section 8B of the Commissions of inquiry Act, 1952 and all other persons and Advocates permitted to participate in the hearings would appear before the Inquiry commission physically.
- 3.4.9 In virtual Mode of hearing all the witnesses, Advocates assisting the Inquiry Commission, State Government's Advocates and Advocates for the person's served with notices under Section 8B of the Commissions of inquiry Act, 1952 and all other persons and Advocates permitted to participate in the hearings would appear before the Inquiry commission physically at the Commission's premises at Hyderabad. The Inquiry Commission would preside over the hearings virtually through video conferencing facility.
- 3.4.10 In Hybrid Mode, some of the witnesses would be examined in physical Mode and some in Virtual Mode, as determined by the Inquiry Commission.

- 3.4.11 The Inquiry Commission considering the prevailing COVID-19 pandemic which made it difficult to hold physical hearings at Hyderabad and also the fact that there was possibility of examining some of the witnesses through virtual mode, decided that the hearings shall be held in a Hybrid Mode. The Commission formulated a “Standard Hearing Procedure” for both, the Physical and Virtual Modes of hearings.
- 3.4.12 The Commission determined which of the witnesses would be examined in physical mode and which of the witnesses would be examined in virtual mode and issued directions accordingly.
- 3.4.13 The examination of witnesses commenced in virtual mode on 21.08.2021. As the hearings progressed the Inquiry Commission found that the demeanour of a witness could be effectively observed in the virtual mode as well. Further the hearings were being recorded through audio-video recording which facilitated in adjudicating any objections about the statements recorded as the audio-video recording of the witness’ statements could be retrieved and replayed to determine the exact utterance. The depositions of the witnesses were also being scanned and furnished to the Inquiry Commission and all the advocates appearing before the Inquiry Commission immediately after the examination of the witness was complete. Later as the Covid-19 pandemic situation did not ease completely the Inquiry Commission continued with the virtual mode of examination of witnesses and completed examination of 57 witnesses.
- 3.4.14 On completion of evidence oral arguments of the Advocates were also heard in virtual mode by the Inquiry Commission.
- 3.4.15 The hearings were held openly subject to Covid-19 prevention protocols. The Advocates for all the interested parties were given access to records and the hearings. They were permitted to cross-examine witnesses and produce evidence in their defence.
- 3.4.16 In view of the Covid-19 protocols entry into the court hall where the hearings were held was restricted. Arrangement was made for the general public and journalists to view and hear the proceedings in another hall in which the proceedings were electronically displayed.

3.5 Legal Representation and cross-examination

3.5.1. Right to cross-examine

- 3.5.1.1 Section 8C provides for three classes of persons who are entitled to cross examine the witness and be represented by lawyers. It states that (i)the appropriate Government,

(ii) every person referred to in section 8B and, with the permission of the Commission, (iii) any other person whose evidence is recorded by the Commission, may (a) cross-examine a witness other than a witness produced by it or him; (b) address the Commission; and (c) be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person.

3.5.1.2 The Courts have held that there is an indefeasible right to cross examine under section 8C. This right accrues when the evidence is recorded *viva voce* (Md. Ibrahim Khan v. Susheel Kumar, AIR 1983 AP 69 (DB); Central Intelligence Officer v. Commission of Inquiry (Marad Incidents), 2005 SCC OnLine Ker 167: (2005) 2 KLT 927). The Hon'ble High Court of Delhi in *Indira Gandhi v. JC Shah*, ILR (1980) 1 Del 552, described the rules of procedure in Sections 8B and 8C as “*statutory 'rules of natural justice'*” and stated that it is a mandatory requirement that ought to be complied with.

3.5.1.3 The decision of the Hon'ble Supreme Court in *State of Jammu and Kashmir v. Bakshi Ghulam Mohammad*, MANU/SC/0050/1966: AIR 1967 SC 122, at Para 21, clarifies the scope of the rights codified in Sections 8B and 8C. In this case, the Hon'ble Supreme Court analysed Section 10 of the Jammu and Kashmir Commissions of Inquiry Act 1962 which is *in parimateria* with Sections 8B and 8C of the Commissions of Inquiry Act 1952. The Court held that:

We have to remember that we are dealing with a statute which permits a Commission of Inquiry to be set up for fact-finding purposes. The report of the Commission has no force proprio vigore. This aspect of the matter is important in deciding the rules of natural justice reasonably applicable in the proceedings of the Commission of Inquiry under' the Act. Then we find that s. 10 to which we have earlier referred, gives a right to be heard but only a restricted right of cross-examination. The latter right is confined only to the witnesses called to depose against the person demanding the right. So that Act did not contemplate a right of hearing to include a right to cross-examine. It will be natural to think that the statute did not intend that in other cases a party appearing before the Commission should have any further right of cross examination.

3.5.1.4 Thus, it can be seen that the right to cross-examination is not absolute. It is not available to all witnesses whose evidence is recorded. The Inquiry Commission has the discretion as to whether to permit a particular witness to conduct cross-examination as per Section 8-C. In the case of *D Gurusamy v. State of Tamil Nadu*, MANU/TN/0892/2000: AIR 2000 Mad 373, a Commission of Inquiry was set up to look into police excesses while redirecting protesting workers which had resulted in multiple deaths. The Petitioner was an advocate who was witness to the incident and had given his statement to the Commission. He did not have any role to play in the

incident. He made a request to cross-examine certain witnesses under Section 8C but was denied the right to do so. Aggrieved by this, he approached the Court. The High Court of Madras upheld the decision of the Commission and, at Para 8, held that:

Petitioner has no case that his reputation is likely to be prejudicially affected by the findings, if any, to be rendered by the Commission... The Petitioner herein appeared only as a witness and we do not think that every such witness has got a right to cross examine every other witnesses examined before the Commission. Moreover, the proceedings of the Commission had to be controlled by the Commission and we do not think that one witness can be permitted to cross examine the other witnesses especially when he has no case that his rights will be prejudicially affected by the report of the Commission.

3.5.1.5 Further, the Inquiry Commission has the discretion to circumscribe the scope of cross-examination. In the case of *Surendra Singh Bhanja Deo v. The Commission of Inquiry, Liquor Tragedy and Others*, MANU/OR/0194/1995: (1995) 80 CLT 690, a Commission of Inquiry was set up to look into the liquor tragedy which had resulted in multiple deaths. The request of the Petitioners to cross-examine certain witnesses on all aspects was disallowed by the Commission. The issue before the High Court of Orissa was regarding the scope of cross-examination by persons who had been permitted to conduct cross-examination by the Commission. The Court, at Para 5, held that:

It has to be borne in mind that in the aforesaid reported decisions. The point has been discussed elaborately and in depth as to the light to cross-examine while it accrues and what should be the nature of cross-examination. It cannot be an open blank charter enabling any party to cross--examine on the point which he thinks relevant and purposeful for the holding of the enquiry by the Commission. The scope of the enquiry is limited. All that we can observe is that it is open to the Commission to allow the questions in cross-examination which would be germane and pertinent to the relevance of the examination in viva voce and relevant for the purpose of holding the enquiry by the Commission, Any question beyond the scope can be over-ruled by the Commission and in order to avoid any complication, the party on whose behalf cross-examination is being held may file such relevant question in writing and the same may be kept on record for future reference, if any.

3.5.1.6 In the case of *Huzra Bee v State of Madhya Pradesh*, 2018 (1) M.P.L.J 383, the mother of the victim of a police encounter sought the right to cross-examine and to be provided with all material documents. The High Court of Madhya Pradesh arrived at the conclusion that the mother of the victim did not fall under either category of persons under Section 8-B and hence, did not have the right to be heard or to cross-examine witnesses. However, in that case, the mother was not a witness whose

evidence was taken on record and hence, she did not fall within the category of witness who could be permitted by the Commission to cross-examine other witnesses under Section 8-C. As a result, the Court did not examine the applicability of Section 8-C at all in that case.

3.5.2. Right to intervene and be heard

- 3.5.2.1 Before looking into the right to intervene and be given the opportunity to be heard under the Commissions of Inquiry Act 1952, it may be helpful to look at the scope for intervention in criminal proceedings. The right of a private person to intervene in criminal proceedings is limited under the Code of Criminal Procedure, 1973 (hereinafter Cr.P.C.). Section 24 of the Cr.P.C. states that a Public Prosecutor shall be appointed for conducting prosecutions, appeals or other criminal proceedings on behalf of the state. It does not confer a right on a private party to conduct a prosecution or other criminal proceedings. The scope for a private party to intervene can be located in Sections 301 and 302 of the Cr.P.C. Section 301 enables any court to permit a private person to conduct the prosecution. However, a private person may instruct a pleader to act only under the directions of the public prosecutor and submit written arguments after the close of the evidence. Further, Section 302 provides that a magistrate court may, at its own discretion, permit a private person to carry out the prosecution.
- 3.5.2.2 It must also be noted that although the statute itself does not restrict the categories of persons who can intervene, the Courts have clarified that the Cr.P.C. envisages intervention only by aggrieved persons and not by persons unrelated to the proceedings. *JK International v. State (Govt, of NCT of Delhi) & Ors.*, (2001) 3 SCC 462, at Para 9). Further, the Hon'ble Supreme Court in *Dhariwal Industries Limited v. Kishore Wadhvani & Ors.*, (2016) 10 SCC 378, at Para 13, has held that while granting permission under Section 301 and 302, the court has to form an opinion that cause of justice would be best served by the grant of such permission. The Courts have also emphasized that the permission under Section 302 can be granted only “under very exceptional circumstances” where “a denial of permission under Section 302 will stand in the way of meeting out, justice in the case” (*Babu v State of Kerala*, 1984 CriLJ 499, at Para 4).
- 3.5.2.3 Unlike the aforesaid provisions of the Cr.P.C., there is no specific provision pertaining to intervention of private parties in the Commissions of Inquiry Act 1952. However, it does allow for all persons acquainted with the subject matter of the inquiry to come

forward and furnish statements to help the Commission gather information. These persons can do so by responding to the public notice issued by the Commission. Rule 5(2) of the Commissions of Inquiry (Central) Rules, 1952 identifies two categories of notice that needs to be issued by the Commission. The first category [Rule 5(2)(a)] are those people who in the opinion of the Commission need to be heard. The second category under Rule 5(2)(b) relates to persons who respond to the public notice issued by the Commission.

3.5.2.4 It is pertinent to note here that the notice issued under Rule 5(2) is different from the notice under Section 8B of the Act. Even the object underlying both provisions are different. In *Jai Prakash Associates v. State of Uttar Pradesh*, MANU/UP/0219/2006: 2004 All LJ 2448, at Para 16, the Court held that:

At this juncture it is relevant to consider as to whether there is difference between the notice as contemplated under Rule 5 and the opportunity as contemplated under Section 8B. From the perusal of Rule 5 (2) (a) and (b) it is clear that the said notices are issued to every person who in the opinion of the Commission should be given opportunity of being heard in the inquiry to furnish to the Commission the statement relevant to such matter as may be specified in the notice. Sub rule (b) required notification to be published inviting all persons acquainted with the subject-matter to furnish the Commission with a statement. The object of Sub rule (2) is to elicit as much as information for purposes of inquiry for which the Commission has been constituted. At the stage when the notice is being issued under, Sub rule (2) the Commission is not necessarily to determine as to whether the persons who are being called to give statement may be persons whose conduct and reputation may be required to be examined by the Commission or not. Further, the notice under Sub rule (2) has to be issued as soon as may be possible after the appointment of the Commission, Thus, the notices under Sub rule (2) (a) and (b) are to be issued immediately after the constitution of the Commission for purposes of eliciting maximum information. The object and purpose of Rule 2 (a) and (b) is entirely different from that of Section 8B. Section 8B provides that at any stage of the inquiry if the Commission considers it necessary to inquire the conduct of any person or is of the opinion that reputation of any person is likely to be prejudicially affected in the inquiry, the Commission may give a reasonable opportunity to the person of being heard in the inquiry and to produce evidence in defence. Section 8B thus contemplates opportunity when conduct of any person is required to be enquired or the reputation of any person is likely to be prejudicially affected.

3.5.2.5 Only persons who fall under the two categories under Section 8B have the reasonable opportunity to be heard and consequently, the right to access relevant material and documents. In other words, only such persons who, according to the Commission, will be prejudiced, have the right to be given a reasonable opportunity to be heard. All persons who are issued notices or who respond to the public notice are not granted the right of reasonable opportunity to be heard.

3.5.2.6 In the case of *Amrish Patil v. Commission of Inquiry*, MANU/GJ/0042/2012: 2012 SCC OnLineGuj 610, a Commission of Inquiry was constituted to look into the Godhra riots. The Commission had permitted an NGO, JSM, to actively participate in the inquiry proceedings, even permitting it to conduct cross-examination of over 30 witnesses. The convener and a member of the NGO had also deposed before the Commission. The NGO filed an application before the Commission to summon and cross-examine certain individuals. At this stage, the Commission had dismissed the applications. Aggrieved by this, the NGO approached the Court and the Court had to evaluate whether the NGO had a right to cross-examine or be heard in the inquiry proceedings. The Court, at Para 22, held that:

JSM is not one of the persons envisaged in section 8C. Only three categories of persons are contemplated therein, namely, the appropriate Government, a person referred to in section 8B and other persons whose evidence is recorded by the Commission. The Commission was of the opinion that JSM would not fall in these categories merely because JSM had examined its convener and member before the Commission. Section 8C of the Act, as already noted, pertains to right of cross-examination and representation by legal practitioner. In particular it envisages that the appropriate Government, every person referred to in section 8B and any other person whose evidence is recorded before the Commission with permission of the Commission may cross-examine a witness other than a witness produced by it or him. JSM is an organization...Further, as already observed, the role of the Commission is one of fact finding and making recommendations... Commission's powers in this regard are also largely discretionary.

3.5.2.7 In view of the above legal position the persons served with notices under Section 8B were permitted legal representation and access to records. They were also permitted to cross-examine the witnesses wherever the witness has stated something adverse to them. The Inquiry Commission also suo-moto permitted the persons served with notice under Section 8B to recall and cross-examine witnesses even when their turn to examine the witnesses was completed.

3.5.2.8 Further certain witnesses, namely Pinjari Hussain, Jollu Rajaiah, Jollu Lakshmi and Chintakunta Renuka, the relatives of the four deceased persons filed applications under Section 8C of the Commissions of Inquiry Act, 1952 seeking permission of the Commission to participate in the Inquiry and cross-examine the witnesses. Also Ms Sajaya (CW-1) and Kumari Pothula Bhavya (SW-2) filed similar application. These witnesses were allowed legal representation and permitted access to depositions and exhibits marked and were further to attend the hearings and permitted to make oral and written submissions.

3.6 Various objections on the jurisdiction and procedure adopted by the Commission

3.6.1 Scope of Inquiry

3.6.1.1 In the Written Arguments filed before the Commission by the counsels for the persons who were issued notices under Section 8-B of the Act, a litany of procedural objections has been raised instead of putting forth arguments on the merits. This is especially curious since at every stage, fair procedure has been ensured so that no prejudice has been caused to any of the persons involved – (i) the Section 8-B notices were allowed legal representation; (ii) access to all materials on record with the Commission was permitted; (iii) the standard hearing procedure was intimated to all the persons involved; (iv) the agenda for hearing and list of witnesses was communicated in advance; (v) during the course of recording of evidence ample opportunity to cross-examine or re-examine witnesses was given; (vi) the Persons served with notices under Section 8-B were examined at the very end; (vii) procedural objections were considered in great detail and dealt with at the relevant points in time etc... Thus, at no stage has there been any violation of any rights of any persons involved or any principles of natural justice. Further, several of these objections were already raised before the Commission by way of memorandums of objections or applications and appropriate orders have been passed by the Commission after due consideration. It is most unfortunate that despite having been already decided, these procedural grounds are being again raised at this belated stage. The obvious reason for that would be nothing but to vitiate the sanctity of the proceedings that were conducted according to fair procedure. Regardless, these submissions with respect to procedure adopted by the Commission in the Written Arguments have been detailed hereinbelow.

3.6.1.2 Sri T Bala Mohan Reddy,¹⁴ Sri Praveen Chillara,¹⁵ Sri Keerthi Kiran Kota,¹⁶ and Sri Mastan Vali,¹⁷ have argued that the Commission has traversed upon issues beyond its scope of inquiry. It is their contention that the Commission ought to have restricted itself to the events that occurred on 06.12.2019 alone and that the issues leading to the incident on 06.12.2019 themselves are beyond the jurisdiction of the Commission. This is extremely surprising since this Commission has been constituted by the

¹⁴Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 1.

¹⁵Counsel for Kore Venkateshwaralu, Written Arguments dated 25.11.2021, Para 26-29.

¹⁶Counsel for Vasam Surender, Written Arguments dated 25.11.2021, Paras 3 and 15-22.

¹⁷Counsel for Lal Madhar, K Ravi and M Sirajuddin, Written Arguments dated 25.11.2021, Paras 5.18-5.19, 8.2.1-8.2.2.

Hon'ble Supreme Court *vide* its order dated 10.01.2020 in W.P. (Crl.) No. 348 of 2019 with the following terms of reference:

(1) To inquire into the alleged incident resulting in the death of four persons on 6th December, 2019 in Hyderabad, namely, Mohammed Arif, ChintakuntaChennakeshavulu, Jolu Shiva and Jollu Naveen, who were arrested in connection with the rape and murder of a young veterinary lady doctor, while they were in the custody of police.

(2) To inquire into the circumstances that led to the death of aforementioned four persons and to ascertain as to whether any offence appears to have been committed in the course. If yes, to fix the responsibility of erring officials."

3.6.1.3 While the first term of reference specifically refers to the incident that resulted in the deaths of the four deceased, the second term of reference requires the Commission to investigate all circumstances surrounding the death of the deceased and to establish if any offence appears to have been committed under those circumstances. The circumstances surrounding the death of the deceased necessarily include his arrest, first remand to court custody, subsequent grant of police custody, and actual police custody. This view is supported by the reasons stated by the Supreme Court while constituting the Commission by its order dated 12.12.2019 in W.P. (Crl.) No. 348 of 2019 at Page 4. The same is reproduced as follows:

"It is desirable and necessary to know the truth relating to the incident which has resulted in death of all the four accused persons when they were in custody of the police pursuant to an order passed by the Court. In other words, police were given custody of the four accused persons under a Court order. The death had occurred when the accused were in custody of law."

3.6.1.4 Further, considering that claims have been made before this Commission by the family members of the deceased that at least three of the four deceased persons were juveniles at the time of their arrest, it is necessary to determine the age of the deceased. This aspect of juvenility falls within the scope of reference as it would be neither prudent nor lawful for the Commission to interpret the terms of reference in such a narrow and pedantic manner. The issue of juvenility is extremely crucial since, if established, it would render the very arrest, remand to judicial custody and subsequent grant of police custody illegal. In other words, the events leading to the death of the deceased suspects would themselves be rendered illegal. Given that the

present incident involves police action that resulted in four deaths and has the stamp of approval from the department, it is amply clear that the intent of the Supreme Court, when it directed this Commission to conduct an independent inquiry into both the incident and the *"the circumstances that led to the death"* in the terms of reference, was for the Commission to examine the incidents and the events leading upto it in a thorough manner.

3.6.1.5 Additionally, it ought to be noted that the Supreme Court in its order dated 12.12.2019 directed "....that no other Court or authority shall inquire into this matter pending the Commission of Inquiry ... ". Therefore, the interpretation of the terms of reference must be wide enough to comprehend the legality of the custody and the subsequent deaths of the deceased. Not only that, this makes the duty entrusted to the Commission even more onerous and casts the obligation to examine the issue in considerable depth. In fact, the Hon'ble Supreme Court specifically recorded in its order that *"it is desirable and necessary to know the truth relating to the incident which has resulted in death of all the four accused persons when they were in custody of the police..."* Further, the present issue involves potential infringement of the human rights and fundamental rights of the deceased suspect. Therefore, the interpretation of the terms of reference must be wide enough to comprehend the legality of the custody which includes facts of arrest, initial remand to judicial custody and subsequent police custody.

3.6.1.6 Because of aforesaid reasons, i.e., (a) the direction of the Supreme Court to arrive at the truth of the incident and the circumstances that led to the death of the four deceased suspects, (b) the direction of the Supreme Court that no parallel inquiry would be permitted, (c) involvement of human rights and fundamental rights issues, (d) departmental approval for the police action that led to death in custody, it is evident that if the Commission did not examine the issues involved in a thorough and expansive manner, it would be failing to fulfill the solemn duty entrusted to it. Sri Keerthi Kiran Kota filed a memorandum of objections dated 13.09.2021 objecting to the agenda of hearings scheduled for 13.09.2021 to 18.09.2021 on the grounds that it was inquiring into the aspect of juvenility of the deceased suspects which was beyond the scope of inquiry of the Hon'ble Commission. The Commission *vide* a detailed order dated 14.09.2021 rejected the objections after observing that as a fact-finding

body,¹⁸ it was empowered to examine connected issues at great latitude since as per the terms of reference, they are required to inquire into the circumstances that led to the death of the deceased suspects. Thus, the Commission is duty-bound to examine potential violations of human rights and fundamental rights, including at the stage of arrest, arrest, initial remand to judicial custody and subsequent police custody of the deceased suspects.

3.6.1.7 In this order dated 14.09.2021, the Commission also felicitously referred to the observation in the decision of the Australian High Court in the case of *Ross v Costigan*, (1982) 41 ALR 219, wherein it was stated that “*if the Commission bona fide seeks to establish a relevant connection between certain facts and the subject matter of the inquiry, it should not be regarded as outside its terms of reference in doing so. This flows from the very nature of the inquiry being undertaken.*” Sri T Bala Mohan Reddy and Sri Praveen Chillaraha have contended that this reference to the decision in *Ross v. Costigan* in the order is incorrect. This contention reveals a complete lack of understanding of the nature and breadth of the inquiry provided for by the very scheme of the Commissions of Inquiry Act, 1952.

3.6.1.8 The Commission is a *sui generis* Commission of sorts. Unlike other Commissions of Inquiry which are appointed by governments, this Commission has been appointed by the Hon’ble Supreme Court in exercise of its powers under Article 32 while dealing with the writ petition which was filed asking the Hon’ble Court to look into the human rights and fundamental rights violations potentially caused by the death of four people while in police custody. Given the nature of the task entrusted to the Commission, it is not only within the powers of the Commission but also its solemn duty to thoroughly examine the facts of the incident. The powers of the Commission, rather its duties, are defined by the protection of human rights and fundamental rights enshrined in the Constitution. In fact, it is incumbent upon the Commission to adopt a higher standard of scrutiny to fulfil its duty to arrive at the truth of the incident. This necessarily involves thorough examination in greater detail since what is sought to be inquired into is a police action which has been given the stamp of approval by its own department. In such circumstances, the Commission’s jurisdiction and duty cannot be narrowly construed since even the state of Telangana has taken a categorical position that the actions of the police is justified instead of adopting a neutral stance. It is in

¹⁸See Annexure 14.

this context that the scope of inquiry of the Commission and its duty to find out the truth must be appreciated.

3.6.2 No Investigation as per Section 5-A

3.6.2.1 Sri T Bala Mohan Reddy¹⁹ and Sri Praveen Chillara²⁰ have raised an objection that the Commission has deviated from the procedure of inquiry prescribed in the Act and Rules since it has not utilised the services of any investigative agency as mandated under Section 5-A of the Act. As per the interpretation of Sri T Bala Mohan Reddy, the Commission is mandated to utilise the services of an investigation agency and cannot proceed further unless it does so. This interpretation is *ex-facie* erroneous as a plain reading of Section 5-A of the Act reveals that the Commission is granted the powers to utilise the services of any investigative agency and it *may* do so, if it is deemed fit to do so. This power is entirely discretionary. Further, the Commission has ample powers and discretion in deciding the procedure to be followed as has been reiterated in a catena of judgments including *S.V. Purushotham v. State of Kerala*, AIR 1983 Ker 118, *VallimayilAmmal v. Commission of Inquiry, Chidambaram*, ILR (1968) 2 Mad 188 and *SardarMalkeet Singh v. State of U.P.*, AIR 1993 All 343.

3.6.2.2 In the present case, multiple investigative agencies have already rendered reports based on which the Commission could arrive at a prima facie opinion to proceed further with the inquiry. That being said, the Commission had employed the services of the Central Bureau of Investigation (hereinafter 'CBI'), albeit in a limited manner, to assist the Commission in sifting through the multiple reports, depositions and records. Accordingly, Sri PC Kalyan, IPS (SP, CBI-ACB) was deputed to assist the Commission on 16.10.2020 and, Sri Ch. Somaiah, DSP, CBI-ACB and Sri M. Srinivas, SG-II, CBI-ACB were deputed to assist Sri PC Kalyan vide letter dated 13.11.2020. It must be emphasised that no separate investigation was carried on by the officers deputed by the CBI and no separate chargesheet or investigative report was filed by them. In light of this, the Commission has chosen to not exercise its powers under Section 5-A which would only lead to needless repetition, delay and expenses.

3.6.2.3 It must also be noted that this objection is being raised belatedly for the first time in the written submissions filed after the recording of evidence has been completed. That fact that such an objection is now being raised, almost three months after recording of

¹⁹Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 2.

²⁰Counsel for Kore Venkateshwaralu Written Arguments dated 25.11.2021, Para 30.

oral evidence has commenced, is a clear indication that it is frivolous and also a tactic to undermine the findings of the Commission.

3.6.3 Issuance of Section 8-B notices

3.6.3.1 Sri T Bala Mohan Reddy,²¹ Sri Mastan Vali,²² and Sri Praveen Chillara²³ have contended that the issuance of notices under Section 8-B by the Commission are in contravention to the Act and the Rules. According to them, the issuance of notices under Section 8-B was done without any basis of investigation under Section 5-A or any material available on record. This contention depicts an utter lack of understanding of the terms of reference of the Commission and is predicated on assumption that the Commission had no material at the stage of issuance of the notices, but it is also untenable since the conduct of the Persons served with notices under Section 8-B itself estops them from raising this ground at this stage for reasons elaborated upon hereinafter.

3.6.3.2 The Commission had issued notices under Section 8-B of the Act to the members of the police escort party *vide* order dated 22.02.2021.²⁴ Subsequent to this, the Secretary of the Commission issued the notices *vide* letter dated 10.03.2021. In this order, the Commission recorded the reason that since the Hon'ble Supreme Court had expressly asked the Commission to look into the conduct of the members of the police escort party and '*fix responsibility of erring officials*', and since the Persons served with notices under Section 8-B were the members of the police escort party who had custody of the deceased suspects at the time of the incident, their conduct would to be inquired into. Thus, it must be appreciated that from the very date of issuance of order by the Hon'ble Supreme Court constituting the Commission, it was evident that it was their duty to examine the conduct of the members of the police escort party and hence, as per Section 8B(a), it was incumbent upon the Commission to issue notices under Section 8-B to them to ensure they have a reasonable opportunity to be heard and produce evidence in their defence.

3.6.3.3 In fact, this fact that the Hon'ble Supreme Court had mandated an inquiry into the conduct of the members of the police escort party was well known to them and expressly acknowledged by them several months prior to the issuance of the notices under Section 8-B. The members of the police escort party had filed affidavits

²¹Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 3.

²²Counsel for Lal Madhar, K Ravi and M Sirajuddin, Written Arguments dated 25.11.2021 Para 5.3-5.7.

²³Counsel for Kore Venkateshwaralu, Written Arguments dated 25.11.2021 Para 34.

²⁴See Annexure 15.

accompanying their petitions under Section 8-C *vide* I.A. Nos. 1 to 10 of 2020 on 13.06.2020, wherein they had stated that “*as per the directions of the Hon’ble Supreme Court dt. 12/12/2019, my actions during the said exchange of fire are being scrutinized by thee Hon’ble Commission of Inquiry,*”²⁵ and on these grounds, submit that they are entitled to legal representation under Section 8-C of the Act. It must be noted that Section 8-C entitles the right to legal representation only upon (i) the appropriate government or (ii) Persons served with notices under Section 8-B. It is thus evident that the members of the police escort party pre-supposed the issuance of Section 8-B notices to them as a foregone conclusion since the Hon’ble Supreme Court had mandated an inquiry into their conduct. Therefore, they are estopped from raising any objection to the issuance of notices under Section 8-B to them.

3.6.3.4 In a strange volte-face, the members of the police escort party filed applications in I.A. Nos. 2-4 of 2021 dated 20.03.2021 requesting disclosure of all materials based on which the notices under Section 8-B were issued to them. The Commission *vide* order dated 26.03.2021 recorded that while there was no chargesheet/show cause notice available with the Commission,²⁶ they were permitted to inspect all the records of the Commission. The members of the police party then filed misplaced applications *vide* I.A. Nos. 5, 7, 8 of 2021 before the Commission praying for recall of the notices issued to them under Section 8-B on the grounds that there was no formulation of charges or disclosure of material against them which would enable them to sufficiently defend their case. During the course of hearing, the counsels sought leave to withdraw the applications which was allowed by the Commission *vide* order dated 04.06.2021.²⁷

3.6.3.5 It is thus evident that even if the incorrect assumption that there was no material on record at the time of issuance of notices is accepted, the Commission had no option but to issue notices to the members of the police escort party as per Section 8-B(a) since their conduct was being inquired into as per the mandate of the Hon’ble Supreme Court. Thus, the reliance sought to be placed on the cases such as *Alok Kumar v. Chairman, SIDCUL Inquiry Commission*, 2013 (1) UC 364 is misplaced since in those cases, there was no specific mandate to inquire into the conduct of specific persons. It is also to be noted that cart cannot be put before the horse, by

²⁵Para 4, Section 8-C Application of Konda Narasimha Reddy.

²⁶See Annexure 16.

²⁷See Annexure 17.

insisting that all materials that would come on record during the course of inquiry, should be put to the notices under section 8B, even before they are tested through oral evidence. In this inquiry, the noticees had from day one understood that their conduct was being inquired into. They admitted so, in clear terms in the petitions filed before this Commission. The order of the Hon'ble Supreme Court was categorical, they were given full access to records and yet they state that no reasons were furnished to them. In any event, the Hon'ble High Court of Guwahati in the case of *District Administration vs. Commissioner of Inquiry and Ors.*, MANU/GH/0210/2006: AIR 2007 (NOC) 275 (Gau). (D.B.), at Para 32, held that the Commission of Inquiry is not obligated to disclose the materials on the basis of which the Commission found it necessary to hold inquiry into the conduct of any person and the notices issued under Section 8-B would not be vitiated for the same reason.

3.6.3.6 It must also be appreciated that the primary reason for issuance of notice under Section 8-B is to provide the persons a reasonable opportunity of being heard and to provide evidence in their defence. Thus, no prejudice is caused to the persons who are issued notices under Section 8-B. The Commission *vide* order dated 26.03.2021 also permitted the persons who were issued notices to examine any and all material on record with the Commission and also permitted requests for copies of any of the documents to ensure that the Persons served with notices under Section 8-B had all the opportunities to be heard effectively. Thus, there is no question of the principles of natural justice being violated or any prejudice being caused.

3.6.3.7 Sri T Bala Mohan Reddy and Sri Praveen Chillara have also made the erroneous contention that the affidavits were filed by the persons who were issued notices under Section 8-B due to the oral instructions and insistence of the Commission. It is entirely misleading to state that the Commission issued any directions or instructions, either orally or in written form, to these persons asking them file or submit anything. In fact, they volunteered to file their affidavits and also filed applications under Section 8-C along with their affidavits, several months prior to the issuance of notices under Section 8-B.

3.6.4 Recording of Evidence under Rule 5(5)(a)

3.6.4.1 Sri T Bala Mohan Reddy,²⁸ Sri Praveen Chillara²⁹ and Sri Mastan Vali³⁰ have contended that the decision of the Commission to record oral evidence as per Rule

²⁸Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 4.

5(5)(a) without having utilised the services of an investigative agency to form a preliminary opinion as per Section 5-A is in contravention with the Act and Rules thereunder since they are unaware as to what material formed the basis of preliminary opinion for deciding to record oral evidence of some witnesses. They elaborate that they are unaware as to whether all the affidavits received by Commission pursuant to its notification dated 05.02.2020 were examined by the Commission. Such a contention questions the very integrity and discretion of the Commission and diminishes the duty cast upon the Commission by the Hon'ble Supreme Court. Given the gravity of the issues concerned and the bar on parallel inquiry, it is evident that the Hon'ble Supreme Court would have expected nothing less than thorough examination of all evidence by way of recording oral evidence in its pursuit to arrive at the truth of the incident.

3.6.4.2 The Commission thoroughly examined the records of the SIT in Crime No.803, records of the NHRC investigation team, the post mortem examination reports, forensic reports, call data records and the 1441 affidavits received from various persons including the police personnel, the relatives of the deceased, forensic experts and the like. The affidavits filed before the Commission included those filed by the relatives of the accused. Pinjari Hussain (the father of Mohd. Arif),³¹ Chintakunta Renuka (the wife of Chintakunta Chennakeshavalu),³² Jollu Laxmi (mother of Jollu Naveen)³³ and Jollu Rajaiah (father of Jollu Shiva)³⁴ had stated in their affidavits that the police had killed the deceased suspects in a police encounter.

3.6.4.3 By order dated 22.02.2021, the Commission considered it necessary to record evidence in order to thoroughly examine the issues and the events leading to the death of the deceased suspects under Rule 5(5)(a).³⁵ A plain reading of Rule 5(5)(a) would reveal that the Commission shall record the evidence of those they consider necessary and relevant for the inquiry after examination of the affidavits they have received. The Commission also has the discretion to orally examine persons who have not submitted affidavits if it considers their evidence relevant to the inquiry. The rules do not impose

²⁹Counsel for Kore Venkateshwarulu, Written Arguments dated 25.11.2021, Para 31-32.

³⁰Counsel for Lal Madhar, K Ravi and M Sirajuddin, Written Arguments dated 25.11.2021, Para 7.32.1.

³¹Ex.C-24, p 406-409, Vol II, Commission Exhibits.

³²Ex.C-29, p 568-571, Vol II, Commission Exhibits.

³³Ex.C-41, p 774-777, Vol III, Commission Exhibits.

³⁴Ex.C-44, p 782-785, Vol III, Commission Exhibits.

³⁵See Annexure 18.

any duty on the Commission to communicate the reasons for its decision to adduce oral evidence.

- 3.6.4.4 In any event the Commission had examined the 1333 affidavits and found that except for Running Office Current Nos.9, 16 & 1179, rest of the affidavits were stereotypical in nature. All the deponents of these affidavits simply stated that they had made inquiries with regard to the incidents leading to the death of Disha and the four persons accused of her murder and they found that the four accused persons are hardened criminals. They further stated that the police have acted professionally and have not committed any illegal act in the incidents leading to the death of these four persons. Since there is no material particulars concerning the incidents stated in these affidavits, the Commission decided that the deponents of the said affidavits need not be examined by the Commission.
- 3.6.4.5 In so far as ROC Nos.9, 16 & 1179 were concerned the deponents therein also do not have any personal knowledge of the incidents. Sri Shiv K Iyer, the deponent in ROC No.9, is a resident of Mumbai. He has no personal knowledge of the incidents. He states that he has read the newspaper reports and followed the Television news reports and that police had killed those four persons because of public pressure.
- 3.6.4.6 Sri Gummi Vengal Reddy, the deponent in ROC No.16, is a retired Government Servant. He stated that he had interacted with the many women and men from rural areas and he found that the reason the public celebrated the killings of the four accused persons is because the faith in the justice system is being eroded. He makes some suggestions to Inquiry Commission that can be considered to prevent repetition of such incidents of assault and rape in the future. He also does not have any personal knowledge about the incidents under Inquiry.
- 3.6.4.7 Dr. Sunitha Prasad, the deponent in ROC No.1179, describes herself as a Social Organiser. She supports the encounter claiming it to be “instant justice”. She also does not have any personal knowledge about the incidents under Inquiry.
- 3.6.4.8 Since the above-named persons also do not have any personal knowledge about the incidents under Inquiry, the Commission decided that they need not be examined by the Inquiry Commission.
- 3.6.4.9 In light of the direction of the Hon’ble Supreme Court to arrive at the truth about the incident, it would have been an utter dereliction of the duty entrusted to the Commission to not record oral evidence to determine what truly transpired and what human rights violations might have occurred in the events which resulted in the death

of four persons in police custody. It must also be noted that a detailed examination of the evidence in the pursuit of truth does not prejudice any of the persons concerned and there ought not to be any objection to the Commission discharging its duty as per its mandate.

3.6.4.10 This objection again is being raised at the fag end of the proceeding, once again betraying the fact that not only is it belated, but also frivolous. This is yet another attempt to rake up a procedural objection, when they clearly have not been able to demonstrate any prejudice or legal injury.

3.6.5 Standard Hearing Procedure Adopted

3.6.5.1 T Bala Mohan Reddy,³⁶ Sri Praveen Chillara³⁷ and Sri Mastan Vali³⁸ have contended that the Standard Hearing Procedure issued by the Commission on 21.08.2021 is in contravention of the Act and Rules. They have made two primary submissions: (i) the counsels assisting the Commission can only conduct examination prior to the stage of recording of evidence under Rule 5(5)(a) and they can at best play the role of an assessor as per Section 5-B of the Act; (ii) the counsels for the Persons served with notices under Section 8-B were asked to cross-examine some witnesses before examination by other counsels and were denied the opportunity to cross-examine certain other witnesses.

3.6.5.2 It must be appreciated at the outset that the Commission has the power to determine its own procedure. In exercise of these powers, the Commission issued the Standard Hearing Procedure detailing the order, mode and other aspects of examination of witnesses. The Commission has chosen to permit the counsels assisting the Commission to conduct examination as per the procedure adopted by it. The Commission is not conducting an adversarial inquiry. Rather, it is conducting a fact-finding inquiry and there are no two opposing parties to it. In fact, all the advocates, including the advocates for the State of Telangana and the persons served notices under Section 8-B, are only rendering assistance to the Commission in this fact-finding inquiry. Therefore, the contention that counsels assisting the Commission cannot examine witnesses is incorrect.

3.6.5.3 The Standard Hearing Procedure also deals with the order of examination by the advocates. In this, Clause 13(i)-(iv) clearly states that, with respect to witnesses called

³⁶Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 6 and 10.

³⁷Counsel for Kore Venkateshwaralu, Written Arguments dated 25.11.2021, Para 35.

³⁸Counsel for Lal Madhar, K Ravi and M Sirajuddin, Written Arguments dated 25.11.2021, Para 5.16.

by the Commission, the counsel assisting the Commission would first conduct chief-examination. This would be followed by cross-examination by the State, then the Persons served with notices under Section 8-B and lastly, any other persons who have been permitted under Section 8-C. With respect to State witnesses, as per Clause 13(vi)-(viii), the order of examination would be chief-examination by the counsel for the State followed by cross-examination by the Persons served with notices under Section 8-B and then examination by the counsels assisting the Commission.

3.6.5.4 This procedure was consistently adopted by the Commission. It is hence erroneous to state that that the Commission asked the Persons served with notices under Section 8-B to examine any witnesses first without being aware of the material against them. They were only asked to conduct cross-examination after the chief examination by the counsel for the State. In any event, the Commission clearly stated that they would permit recall of the witnesses for further cross-examination. If the witnesses did not make any adverse statements with respect to the Persons served with notices under Section 8-B, there was no question of cross-examining them. However, if there were any adverse statements made, the Commission took upon itself to permit further cross-examination by the counsels for the Persons served with notices under Section 8-B.³⁹ This permission was granted by the Commission of its own accord without any applications filed by the counsels for the Persons served with notices under Section 8-B. In fact, the counsels themselves declined the opportunity to cross-examine the witnesses despite being asked to on several occasions.⁴⁰ Given these multiple opportunities to recall witnesses, conduct further cross-examination and file applications for re-examination, it is evident that no prejudice has been caused to any of the Persons served with notices under Section 8-B and they have been afforded every avenue to defend their case after any adverse statements have been elicited from any witness.

3.6.5.5 It must also be noted that the role of the advocates for witnesses issued notices under Section 8-B is to ensure that their clients whose conduct is being inquired into by the Commission get an opportunity to have their say before the Commission. In light of this, the sequence of examination cannot matter. In any event, none of the witnesses

³⁹See SW-3, Q.405-421, pp.160-163, Deposition of Witnesses, Vol I: Further cross-examination of J Surender Reddy by Sri T Bala Mohan Reddy

⁴⁰See p.43, Deposition of Witnesses, Vol I: Sri Praveen Chillara declined cross-examination of Smt. Pothula Bhavya, SW-2; See p.218, Deposition of Witnesses, Vol I: Sri Praveen Chillara, Sri T Bala Mohan Reddy, Sri Keerthi Kiran Kota, all declined further cross-examination of J Surender Reddy.

examined by the State Government have stated anything adverse to the persons served with notices under Section 8-B. In the absence of anything adverse that has come on record during the examination, there is no question of cross-examination being permitted. Thus there is no question of a ‘right of cross-examination at first instance’ in the absence of any adverse statements being recorded. Moreover, the Commission has communicated that if necessary, applications may be made for re-examination as per Rule 5(5)(a) after all the evidence is recorded. The burden placed upon an applicant for recalling of witnesses under the Act is no higher than the burden under the Code of Civil Procedure 1908 or the Code of Criminal Procedure 1973. Hence, there was always an opportunity to re-examine the witnesses.

3.6.5.6 It is indeed not disputed that the right to cross-examine entitles upon the persons who are issued notices under Section 8-B. The Hon’ble High Court of Delhi in ***Indira Gandhi v. JC Shah***, ILR (1980) 1 Del 552, described the rules of procedure in Sections 8B and 8C as “*statutory rules of natural justice*” and stated that it is a mandatory requirement that ought to be complied with. However, it is to be noted that this right to cross-examination is not absolute in its ambit. The Hon’ble Supreme Court in ***State of Jammu and Kashmir v. Bakshi Ghulam Mohammad***, MANU/SC/0050/1966: AIR 1967 SC 122, at Para 21, clarifies the scope of the rights codified in Sections 8-B and 8-C. In this case, the Court analysed Section 10 of the Jammu and Kashmir Commissions of Inquiry Act 1962 which is *in pari materia* with Sections 8-B and 8-C of the Commissions of Inquiry Act 1952. The Court held that:

“We have to remember that we are dealing with a statute which permits a Commission of Inquiry to be set up for fact-finding purposes. The report of the Commission has no force proprio vigore. This aspect of the matter is important in deciding the rules of natural justice reasonably applicable in the proceedings of the Commission of Inquiry under the Act. Then we find that s. 10 to which we have earlier referred, gives a right to be heard but only a restricted right of cross-examination. The latter right is confined only to the witnesses called to depose against the person demanding the right. So that Act did not contemplate a right of hearing to include a right to cross-examine. It will be natural to think that the statute did not intend that in other cases a party appearing before the Commission should have any further right of cross-examination. “

3.6.5.7 Sri T Bala Mohan Reddy had raised objections to the Standard Hearing Procedure previously as well, wherein he had additionally contended that the examination of the

first three State Witnesses by the counsels for the Commission was recorded as “cross-examination” instead of “examination”. The Commission issued a detailed order dated 10.11.2021 wherein it considered each objection and rejected the same.⁴¹ It would be pertinent to note that it would be mischaracterization to call the examination by the counsels for the Commission as “cross-examination” and it was an inadvertent error that crept in regarding the nomenclature only while recording evidence of the first three State Witnesses but this has had no bearing on the role played by the counsels for the Commission. Clause 13(viii) of the Standard Hearing Procedure itself clearly states that the counsels for the Commission will only be conducting examination of the witnesses.

3.6.5.8 The objection that counsels assisting the Commission should not be permitted to examine witnesses is being raised at fag end of the proceedings. Counsels assisting the Commission are only tendering their assistance to the Commission to examine the witness critically, since the record and evidence was voluminous. They are not a separate party to the proceedings and are not interested in the outcome of the proceedings. In fact, by independently looking into the evidence and examining witness, they only assist the Commission in arriving at dispassionate view of the material on record. This is especially so in this case, because the State and the notices under section 8B, have opposed all attempts by the deceased suspects and other to intervene and cross examine witness. The State, in these peculiar circumstances, has chosen to accept the version of the police personnel. In such circumstances, it is only the Commission, through its counsel who can critically look at the evidence. Therefore, not only is this argument misplaced, but betrays the intent of the notices to ensure that the evidence is not critically appreciated.

3.6.6 No Notification under Section 11 of the Act

3.6.6.1 Sri T Bala Mohan Reddy⁴² and Sri Mastan Vali⁴³ have raised the untenable contention that there is no notification constituting the Commission under Section 11 of the Act read with Rule 5(2) and hence, there is no appropriate government for the conduct of proceedings. This contention was also previously raised by Sri T Bala Mohan Reddy in memorandum of objections dated 01.09.2021 which was dealt with by the Commission in its order dated 10.11.2021. It is disappointing to see this contention

⁴¹See Annexure 19.

⁴²Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 7.

⁴³Counsel for Lal Madhar, K Ravi and M Sirajuddin, Written Arguments dated 25.11.2021, Para 5.1-5.2 & 5.8.

raised once again and that the powers of the Hon'ble Supreme Court to constitute the Commission has been called into question. The Hon'ble Supreme Court has constituted this Commission *vide* its order dated 10.01.2020 in W.P. (CrI.) No. 348 of 2019 and vested the powers of a Commission under the Commission of Inquiry Act, 1952 upon it. In light of the judicial order establishing the Commission, there is no necessity for issuance of a notification under Section 11 of the Act.

3.6.7 Conduct of Inquiry in the Nature of a Trial and Differential Treatment of Witnesses

3.6.7.1 A most curious contention that the Commission has conducted the inquiry in the nature of a trial has been raised by Sri T Bala Mohan Reddy⁴⁴ and Sri Praveen Chillara.⁴⁵ They have contended that the Commission ought not to have examined entries in case diaries, statements made before law enforcement agencies and other records. It is unclear how the Commission could fulfil its responsibility of ascertaining the truth entrusted to it by the Hon'ble Supreme Court without examining these materials thoroughly. It is thus the duty of the Commission to conduct a thorough examination of all aspects of the incident and the events leading upto it to arrive at the truth of the incident. This necessarily involves adopting a higher standard of scrutiny. In fact, in light of the powers of a Commission to determine its own procedure, and because it is a fact-finding inquiry not bound by the strict rules of the Indian Evidence Act, there is no restriction on the amplitude and depth of the inquiry conducted insofar as it is in relation to the terms of reference. Further, the Commission has the powers to call upon records and venture in areas within the purview of a Court since it has been conferred appropriate powers under Sections 4 and 5 of the Act. Most importantly, there has been no instance of any prejudice caused to the persons who have been issued notices under Section 8-B by the procedure adopted by the Commission.

3.6.7.2 It is also incorrect to state that the Commission has meted out differential treatment to different witnesses when in fact, the Commission has adopted the same treatment for all witnesses. The Commission has followed the nomenclature of State Witnesses and Commission Witnesses for all witnesses and has permitted examination of all witnesses by its own counsels as well as counsel for the state and the persons who were issued notices under Section 8-B. It is also incorrect to state that the Commission disallowed several questions posed by the counsels for the persons who were issued

⁴⁴Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 8 and 9.

⁴⁵Counsel for Kore Venkateshwaralu, Written Arguments dated 25.11.2021, Para 36-39.

notices under Section 8-B or that several objections put forth were not recorded. The Commission has adopted a fair procedure and given ample opportunities for cross-examination and re-examination by all counsels and has certainly not treated some witnesses as witnesses for the prosecution or defense as contended by Sri Bala Mohan Reddy.

3.6.7.3 Sri T Bala Mohan Reddy contended that the Commission accorded differential treatment to some witnesses and contends that the commission gave an opportunity to CW.1 to correct his answer by putting the question number 80. A bare reading of the question shows that the witness CW-1 had given contradictory answers to the same question put at different times. Therefore, in order to obtain clarity about the witnesses stand the said question was put. The frivolousness of the contention is best illustrated by questions put to SW.3 and CW.43 when they gave contradictory answers to the same questions put at different times. The questions and answers are extracted below for sake of clarity.

Question number 402 was put to SW.3 concerning the contradictory answers about the efforts made to secure the medical records of the police officials allegedly injured in the incident from Care Hospital.

“402 Q. In your answer to question No.69, you had said that you had made efforts to obtain the documents from the Care Hospital, but the Hospital people had refused to give them to you. Today you have answered that the papers were given to Mr.K.Somaiah and they are available in your office. Which of the two statements is correct?”

Ans. My statement made subsequently that they are available in my office is the correct statement.”

Similarly Question number 92 was put to CW.43 concerning the contradictory answers given about CW.43 witnessing the arrest of the accused.

“92 Q. In response to Q.No.55 you stated that you left after Mohd. Arif was taken into custody by the police. But in response to the previous question, you now stated that you saw Naveen, Shiva and Chennakeshavulu in the custody of police in their village. Which statement is correct?”

Ans. My statement that I saw Naveen, Shiva and Chennakeshavulu being taken in custody at Gudigandla, is correct.”

3.6.7.4 Sri T Bala Mohan Reddy relies on an extract of deposition of CW-21 wherein the witness adds to his statements to contend that the witness added the same in view of the examination of the earlier witnesses making an attempt to bring onto record information that was at an earlier instance omitted/excluded either in their written affidavits or their depositions. He further contends that this would show selective approach to select witnesses who appear to depose against the state and police party. He further contends that such benefit was not extended to other witnesses which establishes the differential treatment that is subject of this section of the written argument.

3.6.7.5 This argument is also untenable for the reason that the deposition extracted by Sri T Bala Mohan Reddy only shows an explanation given by the witness for the NHRC team for preparing sketches. It is also on record that all the NHRC team members except the doctor who accompanied them were examined by the Commission. The NHRC team had conducted inquiry and recorded statements of the witnesses to the incident and therefore they were required to be examined by the Commission. The allegation that they were chosen as they would depose against the state and police is completely unfounded and is untenable. They are officials of the body entrusted with the protection of Human Rights in India. They were the first authority apart from the IO SW-3 to make an inquiry into the incidents that took place on 06.12.2019. Similarly all witnesses were chosen on the basis of their statements throwing light on the issues being inquired into. Further Sri T Bala Mohan Reddy does not cite any material to show that the other witnesses were not allowed the opportunity to add or improve upon their statements or the statements of their compatriots. In fact a perusal of the depositions of CW.44 to CW.53 which include the clients of Sri T Bala Mohan Reddy would show that the witnesses added, improved and corrected their statements over and over and they were permitted to do so. A critical review of their statements would also show that as the examination of the witnesses progressed their statements concerning certain issues would change from witness to witness in order to explain or cover the lacunae in the statements of the earlier witnesses. The advocates of the witnesses CW.44 to CW.53 were privy to all depositions and the line of questioning, however they were not injuncted from appraising their clients about the same. The Commission was aware of this but had not sequestered the witnesses. Ordinarily, in any investigation that would have been the regular course adopted to ensure that the witnesses do not discuss their testimony and adopt a narrative to frustrate the search

for the truth. It is in the interest of justice that such restrictions are not imposed and sometimes truth will also emerge from the improvements the witnesses attempt to make, which is the case here. In these circumstances the contention of Sri T Bala Mohan Reddy is extremely hypocritical if not down right contemptuous.

3.6.7.6 It is also to be noted that NHRC team officials were summoned only to depose as to their acts in connection with the inquiry conducted by them. They were also allowed to be cross-examined by the Advocates for the State Government and the persons served with notice under Section 8B. Further an analysis of the depositions of the NHRC team officials CW.19 to CW.24 would show that they were not treated with kid gloves. Their actions were critically examined by the Commission. Sri T Bala Mohan Reddy, by selectively quoting from the depositions, is trying to paint a false picture as if the Commission treated some witnesses with kid gloves while crucifying the police officials who appeared before the Commission.

3.6.7.7 In so far as the contention of Sri T Bala Mohan Reddy about asking SW4 to depose in English is concerned, it is to be noted that the Commission consists of members who are not natives of Telangana and are therefore not familiar with Telugu. It was noticed even though he was a was a gazetted officer, SW 4 claimed that he cannot speak English, the Commission asked him to speak as far as he can in English and that the Official Translator and the Secretary, Inquiry Commission would assist him if he faces any difficulty. The witness answered most questions in English without any difficulty. The Commission is unable to understand how Sri T Bala Mohan Reddy or his clients are concerned about this issue, when the witness SW-4 was comfortable with the examination, unless Sri T Bala Mohan Reddy is aggrieved that by making the witness speak in English some prejudice was caused to his clients. But such is not his case. Moreover all the witnesses CW.44 to CW53 including the clients of Sri T Bala Mohan Reddy were allowed to depose in Telugu even though they were proficient enough in English to correct the translations being made by the Official Translator and the Secretary, Inquiry Commission.

3.6.7.8 In so far as his contention concerning the examination of MailaramYadagiri (CW.27), it is beyond comprehension how the counsel can contend that the witness was not the author of the daily record of the bus trips. The witness admitted his signatures on the documents. Moreover he is a crucial witness as to an important aspect of the incident under inquiry namely the movement of the police party from the alleged safe house to Chatanpally where the incident had taken place. Ordinarily the drivers of government

vehicles are required to make the entries of the mileage travelled in a given day as well as the places visited on that day. Therefore the entries are the responsibility of the driver. The record would also show that the witness CW.27 was evasive in his answers and not truthful. Two diary entries concerning the movements of the police bus bearing the date 06.12.2019 with different noting were produced before the Commission, one of which was filed by an official no less than the Additional Director General of Police (law and order), Telangana and the other by the SIT. The witness also filed the diary entries along with his affidavit. Therefore, he admits to those entries and is required to be examined on those aspects.

3.6.7.9 In so far as the questions put to CW.5 about government orders are concerned a perusal of the deposition of CW.5 does not show any such question being put to him. However such question concerning the Government orders was put to CW.4 by Sri Keerthi Kiran Kota, Advocate for VasamSurender (CW44) and he had replied that he was not aware of the said Government orders. There is no further questioning on this aspect by Sri Keerthi Kiran Kota. In any event that is a question of the authority of CW4 to affect corrections in the school admission registers. If under law he does not have the power to make corrections in the School admission registers then all such corrections will become null. No further inquiry is required on that aspect. Thus, the position of CW27 is different than CW4 or CW5.

3.6.7.10 Faced with the numerous contradictions and falsities on record, most of the procedural objections now taken are an act of desperation, designed to unnecessarily attack the Commission and lawyers assisting it, who we must add, commendably discharged their duties fairly as officers of the Court. The Commission is of the opinion that these contentions are nothing but an attempt to frustrate the inquiry into the truth.

3.6.7.11 In so far as the contentions relating to objections about inquiry into juvenility are concerned, they have already been addressed in detail in the preceding paragraphs and also by order dated 14.09.2021. The contention concerning non-examination of Sri T Krishanaiah is completely baseless. Similar contention is also raised by the Advocates appearing for the State of Telangana. Sri T Bala Mohan Reddy does not cite any material in support of his contention that Sri T Krishanaiah had anything to do with the entries in the admission register concerning any of the deceased persons nor does he name the deceased concerning whose admission Sri T Krsihanaiah is supposed to have made entries. Similar contention is also raised

without any basis by the State Counsel who would contend that Sri T Krishnaiah had made corrections in the admission register. However, it is to be noted that Sri T Bala Mohan Reddy contends that Sri T Krishnaiah had something to do with the admission of one of the deceased whereas the State Counsel would contend that he had made some corrections in the admission register. This would only show that they are only trying to muddy the waters by making baseless allegations. In any event Sri T Krishnaiah had only produced attendance registers which are not primary documents for determining the age of a person and he was not examined as on the scheduled date he did not appear on the ground that he had to attend the funeral of his sister-in-law. The Commission considered the fact that Sri T. Krishnaiah only produced attendance registers and not admission records, the latter being the relevant documents for the purpose of inquiry into juvenility. In such circumstances, the oral examination of Sri T. Krishnaiah, in the opinion of the Commission, would not have thrown any additional light on the issue of juvenility. Moreover, if the evidence of Sri T Krishnaiah was felt necessary by the State or the clients of Sri T Bala Mohan Reddy, nothing prevented them from calling him as their witness. This contention was not raised before the Commission during the hearings when the witness schedules were communicated to them. It is only raised now at the fag end of the proceedings.

3.6.7.12 In so far as the contentions regarding the witness CW-53 being confronted with the photographs and videos collected from the media houses is concerned the same are not tenable. The photos and videos obviously show that scene of incident as on 06.12.2019. They were furnished to the advocates appearing for the State as well as the persons served with notices under Section 8B. The case of the witness CW-53 is that he had gone to the scene of incident on 06.12.2019 and had stayed there till 8.00 PM on that day. In those circumstances he is very much acquainted with the topography of the place and can be questioned about the same. He may not be author of the said photos and videos but he is certainly familiar with the place depicted therein. In fact, in his affidavit and deposition he has stated about the topography of the place of incident. There is no dispute as to the place depicted therein.

3.6.7.13 In so far as the contention that CW-46 to CW-48 were asked questions on aspects relating to the accused in Crime No. 784/2019, the seriousness of the crime in issue, the alleged sensational nature of the crime and the desirability of bringing the accused to justice in a court of law, the Commission is of the opinion that considering the nature of the inquiry before it as opposed to a regular criminal trial, these

questions are pertinent questions that ought to have been put to the members of the police escort party. In any event, the opinion of these persons with respect to the desirability to bring the deceased suspects to trial was relevant since, the deceased suspects died in police custody.

3.6.7.14 Mr Bala Mohan Reddy in his next set of objections mirrors some of the objections raised orally by Sri Shaik Mastan Vali during the course of hearings on 18.11.2021. The contents and nature of the objections are recorded in detail in the daily order dated 18.11.2021. Sri Vali in his arguments stated that after he had allegedly disclosed the names of the defence witnesses, he proposed to examine, some persons from the Commission and one of the lawyers assisting the Commission approached these proposed witnesses. He also alleged that a CBI official also visited these witnesses. In such circumstances, he alleged his case was prejudiced since he could not produce them as defence witnesses. Immediately after these allegations were raised, the advocates assisting the Commission, specifically requested Sri Vali to give clear details and to put such malicious allegations in writing. Sri Vali refused to do so and also gave vague replies to some of the questions asked by the members of the Commission. Sri Vali refused to even name the witnesses whom he was impaired from calling and stated he was not making any allegations, but he just wanted to place his grievance. Interestingly, Sri Vali has not taken these objections in his written submissions, but they find their way into the written arguments through the submissions made by Sri Bala Mohan Reddy, for obvious reasons. In view of this, the Commission finds no substance in these objections, but only to record that no members of the Commissions, its staff or the lawyers assisting the Commission have ever attempted to influence witnesses. Unfortunately, for the sake of record, the Commission has to even answer such innuendos in order to address all arguments taken before it.

3.6.7.15 The import of the arguments raised by Sri Bala Mohan Reddy and Sri Vali is that after SW-3 mentioned the names of some persons who were supposedly present near the scene of incident at the time the police party went there, the Advocates of the Commission and/or some officials of the Commission went there and interviewed those persons. From here the versions of the two advocates diverge. Sri Shaik Mastan Vali says because the Advocates and officials of the Commission interviewed them he had to drop them as defence witnesses. Sri T Bala Mohan Reddy's makes an incoherent argument. He first contends that the interview by the advocates and

officials is investigation and the report of the investigation was not provided to his clients. The he contends that the said persons had already filed affidavits before the Commission and were also named in the initial list of witnesses to be examined, but were not examined. He further says that several questions regarding topography were put to other witnesses but these witnesses were the persons who could speak about the topography of the scene of incident, but they were removed from the list of witnesses.

3.6.7.16 As can be seen above, neither Sri Shaik Mastan Vali not Sri T Bala Mohan Reddy state who informed them that the Advocates and officials of the Commission interviewed the witnesses. Sri ShaikMastan Vali refused to file an affidavit even when the Commission specifically asked him to do so. Further he makes the preposterous allegation without any basis. He further contends that he could not examine those witnesses in his defence as the officials of the Commission interviewed them. This allegation is also made without any basis. Neither does he name those witnesses nor does he state how the alleged interview compromised the witnesses. Similarly, the allegation that an independent investigation was conducted at the scene of occurrence by officials relating to the Commission of Inquiry, is not just an unfounded allegation but also a figment of their imagination. At the cost of repetition, it is reiterated that there was no separate chargesheet or investigative report that was filed by any of the officials assisting the Commission.

3.6.7.17 Since Sri Shaik Mastan Vali and Sri T Bala Mohan Reddy contend that the witnesses named by SW-3 in Question number 34 were interviewed by the Commission officials or Advocates, for the sake of clarity Question number 34 and the answer thereto are extracted hereunder:

“34Q: I put it to you that ChallaPanduranga Reddy, Samala Satyam, SamalaVenkataiah, KatikalaSrinivasulu and Siddhi Buchaiah have seen the police party along with the accused at 5:45 AM on 06.12.2019 at service road at Chatanpally Village? Is it correct or not?”

Ans: Pandu Ranga Reddy, KatikalaSrinivasulu and SiddiBuchaiah were present at that time at outskirts of Chatanpally service road near scene of incident.”

3.6.7.18 The above question was put by Sri ShaikMastan Vali to SW-3. From the above it can be seen that SW-3 states that of the five persons named in the question three were present. All five have filed affidavits before the Commission. A perusal of the affidavits of the three persons named in the answer i.e., Pandu Ranga Reddy, and

Siddi Buchaiah, would show that Pandu Ranga Reddy and Siddi Buchaiah had seen ACP Shadnagar and some police and some persons in civil dress at 5.45 Am on 06.12.2019 near the Chatanpally underpass and ten minutes later they heard sounds of gunfire and that Katikala Srinivasulu heard gunfire at around 6.00 AM. SW-3 does not confirm the presence of Samala Satyam and Samala Venkataiah. These are the owners of the land on which the incident had taken place on 06.12.2019. The evidence of SW-3 is in consonance with the statements under Section 161 Cr.P.C in Cr.No.803 of 2019 wherein they stated that thee went to their field at around 8.00 AM and found a large crowd there and came to know that the accused in Disha case were killed in an exchange of fire with the police. But Samala Satyam and Samala Venkataiah in their affidavits before the Commission stated that they went to their fields for milking cattle on 06.12.2019 and when they were returning at 5.45 AM they saw ACP Shadnagar, some police and some persons in civil dress there and they did not speak with them and went on their way and ten minutes later they heard gun fire. As can be seen the affidavits are completely contradictory to their Statements under Section 161 Cr P C in Cr No 803 of 2019 recorded by SW-3. Moreover, they are eerily similar to the affidavits filed by the other three persons Pandu Ranga Reddy, Katikala Srinivasulu and Siddi Buchaiah. It is also to be noted that the statement of SamalaSathyam in Cr No. 803 of 2019 is also contrary to his statement in Cr.784 of 2019 wherein he stated that in the early hours while returning after milking cattle he found the burnt dead body of a woman in the underpass. It is also to be noted that the statements of Samala Satyam and Samala Venkataiah were recorded on 10.12.2019 and the statements of Pandu Ranga Reddy, Katikala Srinivasulu and Siddi Buchaiah more than a year later on 20.12.2020. Also, none of them state anything about the topography of the scene of incident nor do they state any relevant fact in their affidavits as to the incident of firing. Therefore, they were not examined as they do not appear to state anything material to the inquiry and their statements do not appear to be believable.

3.6.7.19 In any event, their knowledge of the topography is not as relevant to the inquiry as that of the CW-44 to CW-53. The veracity of the statements of CW-44 to CW-53 will be tested on their knowledge of the topography of the scene of incident as they categorically state in their affidavits and depositions that they crossed four bunds, the bunds were slippery, the accused led to fifth bund and the incident occurred at fifth bund and so on. They are the best witnesses to speak about the topography of

the scene of incident. It is also to be noted that neither Sri Shaik Mastan Vali nor Sri T Bala Mohan Reddy called any defence witnesses when they were given opportunity to do so. Even when the schedules for examination of witnesses were released by the Commission, no objection in this regard was taken.

3.6.7.20 Sri T Bala Mohan Reddy raised another contention that one of the advocates assisting the Commission was contacted by the deceased suspect's families and it was said so during the course of the hearing. This is yet again a false allegation and all that was said during the course of the hearing that one of the civil liberties lawyers had contacted the advocates assisting the Commission in order to ascertain details about the notice and time of hearing. Unfortunately, yet again this Commission finds itself compelled to answer such frivolous and malicious allegations.

3.6.8 Place of sitting of Hon'ble Commission

3.6.8.1 It is to be appreciated that the Commission undertook its tasks during a pandemic which has caused several physical, travel and logistical restrictions. Evidence was recorded for 47 days and thereafter arguments were heard for 8 days. It would have been impossible for the three members of the Commission and one of the counsels assisting the Commission to be present in Hyderabad physically for such a long stretch for several reasons. One of the members of the Commission and one of the counsels assisting the Commission tested positive for COVID-19 and were subsequently admitted to the hospital for treatment. There were travel restrictions and long quarantine periods in place for several phases during the working of the Commission. In light of this, the Commission decided to conduct the hearings through use of video conferencing technology. The hearing proceeded seamlessly and there were no issues. Further, the technology employed enabled the Commission to observe the demeanour of the witnesses also clearly. However, after 47 witnesses were examined by the Commission through the virtual mode with no issues, four applications *vide* I.A. No. 32, 33, 34 and 35 of 2021 were filed, seeking that the witnesses proposed be examined in physical mode of hearing.

3.6.8.2 The Commission *vide* order dated 21.10.2021⁴⁶ dealt with these objections in detail and rejected them. In the aforesaid applications, an unfortunate contention was taken that one of the counsels for the Commission was permitted to appear virtually. The Commission in its order recorded that it has the powers to determine the procedure

⁴⁶See Annexure 20.

and it is its prerogative whether to permit the counsel in question to appear online. It is to be noted that under Section 8 of the Commissions of Inquiry Act, 1952, a Commission has full powers to sit in a place which it deems fit and it is not possible for a court or the parties appearing before the Commission to bind the latter to sit at a particular place or in a particular manner. The Courts have also noted that the place of sitting once fixed can be changed only under the discretion of the Commission. It was further held that even if a party is aggrieved by the place, time and manner of the sitting of the tribunal, the Commission may decide on such a plea as it deems fit. This view has also found support by the Hon'ble High Court of Kerala in *S.V. Purushotham v. State of Kerala*, AIR 1983 Ker 118 and the Hon'ble High Court of Judicature at Allahabad in *Sardar Malkeet Singh v. State of U.P.*, AIR 1993 All 343.

3.6.8.3 The Commission in its order also noted that the State of Telangana had filed a Memo dated 02.06.2021 expressing its willingness to participate in the virtual hearings. All the concerned persons were informed about the mode of hearing well in advance by way of copies of a detailed letter dated 13.08.2021 addressed by the Secretary of the Commission. The transcript of the evidence was also made available to the counsels on a day to day basis without any delay and there was no objection until this belated stage after recording of evidence of 47 witnesses. The Commission had also informed the Hon'ble Supreme Court in its application for extension of time that the hearings were being conducted in the virtual mode.

3.6.8.4 Despite this, Sri T Bala Mohan Reddy has raised objections to the conduct of hearing through virtual mode in his written arguments.⁴⁷ Once again, it is unclear what is the prejudice caused by the conduct of virtual hearings. Even the High Court of Telangana was conducting hybrid hearings at the relevant point in time. The reliance placed on Rule 5(1) which states that on a request being made by the Central Government, the Commission shall sit in private, to object to the open hearings conducted by the Commission is also wholly misplaced. There has been no request from the Central Government in this regard and this Rule cannot be said to abridge the discretion of the Commission under Section 8 of the Act.

3.6.9 Conduct of examination on privileged communication

3.6.9.1 Sri T Bala Mohan Reddy has raised a contention that the inquiry by the Commission was in breach of attorney client privilege. This reveals a completely erroneous

⁴⁷Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 12.

understanding of what amounts to privileged communication. As per Sections 126 and 128 of the Indian Evidence Act, which have been relied upon by Sri T Bala Mohan Reddy, the counsel shall not be permitted to disclose any communication made to him during the course of his employment as the counsel unless he has been given express consent to disclose the same. The Commission has not questioned any of the counsels for the persons who have been issued notices under Section 8-B. Thus, there is no question of examination on privileged communication.

3.6.9.2 This argument can be made if Sri T Bala Mohan Reddy was compelled to give evidence about the instructions his clients have given him. When his clients are on the stand and they are asked about the instructions they gave to him for drafting their affidavits which were filed before the Commission the said privilege does not apply. Moreover, the witnesses did not claim any such privilege under Section 129 of the Indian Evidence Act nor was such an objection raised before the Commission at the time of examination of witnesses. Further the witnesses, to disown the statements made in their affidavits which did not tally with their position before the Commission and also to explain the improvements they made from time to time, candidly stated that they had given instructions which were not followed by their Advocates while drafting their affidavits. In some instances, the witnesses also stated that their advocates instructed them that details need not be mentioned, the order of events did not matter and admitted that the affidavits did not reflect what they have told their advocates. It is also to be noted that the questions as to instructions to advocates while drafting the affidavits were put when the witnesses deposed before the Commission contrary to their own affidavits.

3.6.10 Trial by Media

3.6.10.1 Sri T Bala Mohan Reddy has also contended that the Commission did not do anything to prevent 'trial by media' of the persons who were issued notices under Section 8-B.⁴⁸ These objections pertaining to the alleged trial by media were already raised by way of applications *vide* I.A. Nos. 29, 30, 31 of 2021 wherein it was prayed that the Hon'ble Commission restrain the media from reporting. It is to be noted that the Act or the Rules thereunder do not confer upon the Commission any powers to issue directions to third-parties with respect to any issue unless they pertain to unearthing material relevant to the inquiry, be it by way of summoning witnesses,

⁴⁸Counsel for D Janakiram, Balu Rathod and D Srikanth, Written Arguments dated 25.11.2021, Para 15.

requisitioning records or utilising services of investigative agencies. Nevertheless, *vide* order dated 10.11.2021⁴⁹, the Commission considered the applications raised and clarified that the hearings of the Commission are open to the public, subject to COVID-19 protection protocols and if aggrieved by the comments of the media, the applicants are open to avail of any remedies available to them under law.

3.6.10.2 Sri Keerthi Kiran Kota and Sri Praveen Chillara filed I.A. No. 27 and 28 of 2021 before the Commission seeking that their clients be treated neither as Commission Witnesses nor as State Witnesses and instead be treated as independent witnesses. The Commission *vide* order dated 21.10.2021⁵⁰ noted that there was no demonstration of what legal right would be abridged or what prejudice would be caused to the applicants if they were treated as Commission Witnesses. The Commission further observed that issuance of notice under Section 8-B only entitled the noticee to be examined at the end and did not confer any additional rights as to their treatment as a witness. The Commission also relied upon the observation in *Kiran Bedi v. Committee of Inquiry*, (1989) 1 SCC 494, at Para 29, wherein the Hon'ble Supreme Court had observed that

“To us this apprehension seems to be more imaginary than real inasmuch as the power of the Constitution to call upon any person to appear as a witness under Section 4 of the Act which in terms is very wide and is not circumscribed by fetters of stage, will be available to the Commission and the Commission would be entitled to call such person as a witness even at that stage.”

3.6.10.3 Aggrieved by this order, the applicants approached the High Court of Telangana *vide* W.P. Nos. 26463 and 26464 of 2021. The High Court *vide* its order dated 28.10.2021⁵¹ dismissed the said writ petitions and held as under:

“the Commission is certainly empowered to frame its Rules and procedure and it is the discretion of the Commission to require any party to adduce the evidence first. It is certainly not at all open to the petitioner to state that he has to be examined as an independent witness or has to be examined in the last after examination of all witnesses is over.”

3.6.11 Comments made by the Commission

3.6.11.1 Sri Bala Mohan Reddy in his written submission has also drawn attention to comments made by the members of the Commission during the course of the hearing. All these comments which are attributed now to the members of the Commission

⁴⁹See Annexure 21.

⁵⁰See Annexure 22.

⁵¹See Annexure 23.

were made when witness after witness were recanting from earlier statements, giving evasive replies and were attempting to make preposterous stories during the course of their examination. These comments were merely an expression of exasperation and the record reflects that at least some of the witnesses were repeatedly warned about their demeanour and conduct. The Commission had to repeatedly remind several witnesses that questions are being evaded, not answered and these witnesses were given multiple opportunities to fairly answer those questions. The finding that this Commission has rendered in this report is based purely on the evidence and material available on record, which all affected persons had complete access to. In such circumstances, it is the considered opinion that these objections being raised at the fag end of the proceedings are yet another attempt to create prejudicial procedural record against the findings on merits.

3.6.11.2 In so far as the contentions in paras 12 (b) and (c) at page nos. 369 and 370 of his written submissions, the comment on “crowd” was made as the witnesses were citing the presence of the crowd as the reason for every lapse in investigation, for not complying with statutory requirements during arrest of the accused and for everything wrong they had done for which they had no explanation. The photos and videos produced by SIT as well as the media houses show that there was no large crowd present at the scene of incident on 06.12.2019. The crowd that was present was all confined at the National Highway about 500 meters from the scene of incident. The videos do not show the crowd in any manner interfering with the investigation procedures at the scene of incident. But SW-3, CW-15, CW-18 and CW-38 all blamed the crowd for the lapses in investigation at scene of incident on 06.12.2019. CW15 specifically claimed that a crowd prevented him from complying the mandatory legal requirements of arrest when he arrested the accused. The crowd prevented CW44 from correcting what he claimed to be typographical errors in the remand report of the accused. Viewing this incredulous stand taken by the witnesses contrary to the record the Commission made those comments.

3.6.11.3 The contention regarding the comment “Green everywhere” at paragraph 12 (d) at page no 371-372 shows the desperation of Sri T Bala Mohan Reddy to throw mud on the Commission. The argument is not only incoherent but also malicious. The Commission was compelled to make that comment as the witnesses refused to acknowledge what they were seeing with their own eyes. The Commission was forced to collect the videos and photos of the scene of incident taken by the media houses on

06.12.2019 as the SIT did not furnish the complete collection of video and photographs of the scene of incident taken on 06.12.2019 by the police. A viewing of the said photographs and videos as well as confronting the same to the witnesses was strenuously objected to by Sri T Bala Mohan Reddy. Those photographs and videos show that land at the scene of incident was covered with lush vegetation on 06.12.2019. Moreover the few photographs and videos that were furnished by the SIT also show that the land was covered with lush vegetation. He does not speak of those videos. Further Sri T Bala Mohan Reddy is portraying the video recordings made by the photographer employed by the Commission as those made by CBI officials.

3.6.11.4 In so far as the contentions of Sri T Bala Mohan Reddy at paragraphs 12(a), (b), (c), (d), (f), (h), (i), (j) at page numbers 369 to 375 are concerned they are based on misquoting comments made during hearings are twisting the purport of the comments out of context. For instance, the contention (d) concerns a comment made that rape is not established. As can be seen from the record the Commission was questioning CW-44 about how he came to the conclusion that rape was established since he had included the sections of law in the correspondence even before the arrest of the accused. The record indicates that the Section of law in the investigative record before arrest and the alleged confessions were about murder only. The comment was made in that context. But Sri T Bala Mohan Reddy sees it fit to twist the same out of context to cast aspersions on the Commission. The comments referred to in (a) and (f) as can be seen from the record are being quoted out of context. The record would show the conduct of the witnesses who refused to speak in English even though they were competent English speakers, witnesses who would not give a straightforward yes or no to questions that were supposed to be within their knowledge. Almost all the witnesses did not speak truth to the Commission. They went to extreme lengths to disown their own previous statements and sworn affidavits. They could not or would not explain the inconsistencies and contradictions in the official records they themselves had authored. In the process of eliciting answers the comments made out of exasperation are being misquoted or being quoted out of context to portray the Commission as being inimical to the witnesses. This is not expected of a responsible Advocate. The entire proceedings are video recorded and are submitted to the Hon'ble Supreme Court. A cursory viewing of the same would show the truth of the matter.

**4. USE OF INFORMATION AND COMMUNICATION TECHNOLOGY BY THE
INQUIRY COMMISSION**

- 4.1 The Inquiry Commission extensively utilized Information and Communication technology in the inquiry. The records were digitized and the meeting and hearings were held using video conferencing applications. Summons, notices, orders, depositions and records were served on the witnesses, advocates and other persons through electronic means.
- 4.2 In the initial stages of the Inquiry thousands of pages of records were furnished to the Inquiry Commission in response to the notices and summons issued. In order to preserve the same and to have ease of access to these records, the Inquiry Commission directed that the records be digitized. Accordingly, the records were compiled into volumes, indexed and scanned with the assistance of the staff of the Digitisation project of the Hon'ble High Court for the State of Telangana.
- 4.3 The Inquiry Commission utilized electronic communications such as email and whatsapp to serve notices, summons, orders, depositions and records along with physical mode of service.
- 4.4 The Inquiry Commission also took note of the various modes of hearing that can be adopted namely, Physical Mode, Virtual Mode and Hybrid Mode which have been discussed earlier.
- 4.5 After considering all the relevant circumstances the Inquiry Commission decided to adopt Hybrid Mode. It was decided that the examination of the first set of witnesses, who were to be examined by the State of Telangana, would commence on 21.08.2021 through Virtual Mode. The Virtual Mode requires the Witnesses and Advocates to assemble in the Commission's Premises at Hyderabad and the Inquiry Commission to preside over from their respective cities of residence. To hold the virtual hearings the Inquiry Commission utilized the Cisco Webex Video Conferencing Application.
- 4.6 Recording of evidence through virtual hearings presented certain challenges. The first challenge was to address the issue of how the Inquiry Commission would refer to the documents that would be used in the course of inquiry to confront to the witness. The Second Challenge was the electronic equipment required for the virtual hearing. The Third Challenge was the arrangement of Court Hall to meet the requirements of the virtual hearings. The fourth challenge was how the Inquiry Commission could monitor the typing of the deposition. The Fifth Challenge was how to ensure that the public can view the hearing.

- 4.7 The first challenge presented by the virtual hearings was the issue of how the Inquiry Commission will refer to the Documents that would be used in the course of examination of witnesses. In a physical hearing the Inquiry Commission will be able to refer to the documents which are available with the office of the Inquiry Commission and the clerical staff will be able to retrieve any required document and place it before the Inquiry Commission. But this is not possible in a virtual hearing.
- 4.8 The issue was resolved by having the affidavits and documents furnished before the Inquiry Commission compiled into volumes, which were paginated and indexed and bound. The bound volumes so prepared were consecutively numbered into Book numbers 1 to 15. Copies of the 15 books were made and the copies were furnished to the Inquiry Commission. During the virtual hearings the Advocates could point to the particular documents by giving reference of book number and page number. The Inquiry Commission could simultaneously refer to the document using the reference of the book number and page number.
- 4.9 As stated earlier the volumes were also digitized. The digitized volumes were made searchable and bookmarked. This also facilitated easy reference of the documents during the hearings.
- 4.10 As the hearings progressed several more documents were summoned and furnished to the Inquiry Commission. The copies of these documents were furnished to the Inquiry Commission by the office through courier. The documents were also scanned and digitized. The scanned copies were emailed to all the advocates appearing before the Inquiry Commission. These documents were also compiled into volumes, paginated and indexed after the hearings
- 4.11 The second challenge was the electronic equipment required for the virtual hearings. As stated above the Cisco Webex video conferencing application was used to conduct the virtual hearings. A high speed broad band internet connection was also installed. The hearing however required several cameras and microphones, audio devices and networking as listed below:

Equipment used in the Court Hall:

1. One Dell laptop for Hosting the meeting (Intel Core i3 processor, 8 GB RAM, Windows)
2. Logitech Full HD Camera
3. Revolabs Chat Box
4. One Acer all in one PC for the Court Master

5. Samsung 43-inch LED Display TV
6. One USB Webcam

Equipment used in the Conference Hall:

1. Acer Laptop
 2. LG 43-inch LED Display TV
 3. One USB Webcam
 4. One Airtel Dongle
- 4.12 The third challenge was the design of the court hall. The traditional design of a Court hall has the Judge presiding over the Court hall seated on a raised dais. In front of the Judge's seat on the dais at a slightly lower level, the clerks, typist or court masters and witnesses would be seated. Then at a little distance from the clerks at a slightly lower level the horseshoe table around which the advocates will be seated will be placed. Beyond the horseshoe table, separated from the advocates seating area by a partition the public seating will be arranged.
- 4.13 The court hall for the hearings of the Inquiry Commission was also similarly designed. The only difference was that instead of a Horseshoe table a large rectangular table was placed in the middle of the hall for the advocates. However, when the court hall was adapted for the virtual hearing it was found that the traditional court hall design was not conducive for virtual hearings. To conduct a virtual hearing traditional court hall design, required one computer, camera, microphone and audio device for the witness. One computer and microphone for the translator. Two to four computers along with cameras, microphones and audio devices for the advocates appearing before the Inquiry Commission.
- 4.14 This arrangement caused a lot disturbance in audio as the several microphones in the room were receiving the sound from the speakers and transmitting the same resulting in echoes in the various speakers. In order to solve this problem, the number of microphones and audio devices had to be reduced. Consequently, the number of computers also reduced.
- 4.15 The solution that was evolved was to place the main Dell Laptop hosting the meeting was also placed on the large table in the middle of the hall and the main High-definition camera was linked to that computer. A "chat-box" was also placed on the same table and connected to the main computer. The "Chat-box" is an audio device that can both act as a microphone and speaker. The "chat-box" employed was sensitive enough to pick up

sounds made around the table. The seating for the witness and Advocate examining the witness was arranged adjacent to each other in front of the camera along one side of the table. On the other side of the table opposite to the witness' chair a computer was installed for the court master to type the deposition. By this arrangement with one audio device and camera the Inquiry Commission could see and hear the witness, the Advocate could address the Inquiry Commission and the witness. The problem of echoes in the audio system was eliminated as there was only one audio device in the entire court hall.

- 4.16 Since the main camera only gives a limited view of the court hall, another camera was connected to the Court master's computer and positioned in a way that it gives a view of the entire court hall. This arrangement enabled the Inquiry Commission to view the entire court hall during the hearings.
- 4.17 The court master's computer was connected to the Cisco Webex application and the statement of the witness that was being typed was shared on the video conference so that the Inquiry Commission could monitor what was being typed. Immediately after the conclusion of a witness' deposition or the conclusion of a session, the deposition typed was printed out. Then the signatures of the witness was obtained on the deposition. Then the Secretary, Inquiry Commission also signed On the deposition. Then the deposition would be scanned and immediately emailed to the Inquiry Commission and all the advocates appearing before the Inquiry Commission, within the hour of the close of the session.
- 4.18 A 43-inch flat Panel TV was also installed in the court hall so that the deposition being typed and the Inquiry Commission are visible to all the advocates, witnesses and other officials present in the Court hall.
- 4.19 In view of the Covid-19 prevention restrictions, general public and journalists were not allowed into the main court hall. They were accommodated in a conference hall adjacent to the Main court hall. A computer was installed in the conference hall which was connected to a 40-inch flat panel television available there. The computer was connected to the Cisco Webex application and the persons in the conference hall could see and hear what was happening in the main court hall.
- 4.20 The entire proceedings of the hearings were recorded using the Cisco WebEx application. Also, as the Inquiry Commission was not physically presiding over the hearings, the entire happenings in the court hall were video recorded using a separate camera operated by a camera man. Thus, ensuring that a record of all the proceedings is preserved.

5. EVENTS ON 27.11.2019 & 28.11.2019

5.1 FIR No. 480/2019 and FIR No. 784/2019

- 5.1.1 As stated earlier, the entire set of events were set into motion when the sister of Disha, SW-2, registered a complaint with the police on the night of 27.11.2019 that her sister was missing. This resulted in the registration of FIR in Crime No. 480/2019 in Shamshabad Police Station relating to a missing person and also came to be linked with the investigation in CR No. 784 of 2019 relating to a burnt body which was registered at 9AM on the next day.
- 5.1.2 The initial steps of investigation into the offences that occurred on 27.11.2019, include recording statements of relatives of the victim and crucial witnesses, scene observation, seizure of material objects, examination of relevant CCTV footages, which according to the police, enabled them identify Mohd Arif, Jollu Naveen, Jollu Shiva and Chintakunta Chennakeshavalu and effect their arrest. The primary witnesses in so far as this section is concerned are SW-2, Pothula Bhavya, the sister of the deceased victim (Disha), CW-15, A Sridhar Kumar (first investigating officer in CR No. 784 of 2019) and CW-44, ACP V. Surender (second investigating officer in CR No. 784 of 2019).
- 5.1.3 According to the affidavit (Ex. S-16) of Pothula Bhavya (SW-2), on 27.11.2019, the deceased victim, who is a veterinarian doctor employed in a government hospital, returned home at 5.30 PM after attending her official duties in Kollur village. At around 5.50 PM, the deceased victim left for Oliva Clinic, Gachibowli on her Scooty (TS 08 EF 2677) to attend cosmetic treatment. She was then wearing blue colour jeans pant, orange colour shirt, one chunni with blue and white design dots and leather chappal, and carrying a purse with her debit card, Aadhar card and cell phone (SIM no. 9398990957).⁵²
- 5.1.4 SW-2 had gone to Shamshabad Airport at around 7 PM to attend to her work. At around 9.22 PM, she received a phone call from her sister.⁵³ She informed her that she had finished her treatment and was currently at the ORR toll plaza at Tondupally. She was fearful and wanted to talk for a few minutes. She informed that she was not in an accident, but was not allowed to park her Scooty in the usual place at the toll plaza and had to park it against the compound wall near the service road to Gachibowli on

⁵²Ex.S-16, pp 153-159, Vol I, State Exhibits.

⁵³Ex.C-228, p 2300, Vol VIII, Commission Exhibits. Read with Ex.C-227, p 2299, Vol VIII, Commission Exhibits.

the other side of the toll plaza after taking a U-turn. On returning, she found that the rear tyre of the Scooty was punctured. SW-2 advised her to leave the Scooty and hail an auto and go back. In response, her sister said that some people who looked like lorry cleaners and drivers assured her that they will repair the Scooty and one of them took the Scooty. She stated that she was panicking since they had scary looks on their face. SW-2 suggested that she go to the toll plaza where money is being collected as there would be people around. In response, her sister stated that if she goes to toll room and stand there, the people passing thereby may think otherwise about her. SW-2 then disconnected the phone and said she would continue talking later.⁵⁴

5.1.5 At 10 PM, SW-2 called her sister again. The phone was switched off. SW-2 then called her mother to verify whether her sister had reached home and was informed that she was not back from the hospital. SW-2 told her mother about the conversation and her mother informed her father. At around 11:20 PM, after a failed search for the deceased victim, they went to RGIA Police Station. They wrote half the complaint, which was not registered by the police. They requested that the police search for her. The police sent a patrol car to search all toll plazas but they could not find her.⁵⁵ At 2 AM on 28.11.2019, SW-2 and her father gave a written complaint to RGIA police station. They said Shamshabad Police Station had the jurisdiction and asked them to go there. At 3 AM, they went to Shamshabad Police Station, lodged a complaint in CR No. 480 of 2019⁵⁶ and went home.⁵⁷ This is what is gleaned from the evidence of SW-2 before this Commission.

5.1.6 The official version of the events as stated in the final report (Ex.S-14)⁵⁸ dated 08.12.2019 filed by the SIT constituted by the government is that, the complaint in CR No. 480/2019 was registered at 3.10 AM on 28.11.2019 in Shamshabad PS. This shows that though the relatives of the deceased victim had approached the police at 11.20 PM, unfortunately, there was a delay of nearly 4 hours for registration of the complaint. As a result crucial time was lost. CW-38, Commissioner of Police VS Sajjanar, sought to explain the delay by stating that it was because the officers had gone in search of the missing person.⁵⁹ Nonetheless action was taken against four

⁵⁴Ex.S-16, pp 153-159, Vol I, State Exhibits.

⁵⁵Ex.S-16, pp 153-159, Vol I, State Exhibits.

⁵⁶Ex.S-44, pp 426-247, Vol II, State Exhibits.

⁵⁷Ex.S-16, pp 153-159, Vol I, State Exhibits.

⁵⁸Ex.S-14, p 136, Vol I, State Exhibits.

⁵⁹CW-38, Response to Q 141, p 1329, Vol V, Deposition of Witnesses.

police officers for delay and mistreatment of the relatives.⁶⁰ CW-38 suspended⁶¹ M Ravi Kumar, Sub-Inspector of Police, Shamshabad,⁶² K Sathanarayana Goud, P Venugopal Reddy⁶³ and M Anjaiah,⁶⁴ all Head Constables of Shamshabad PS. An inquiry was also initiated against them⁶⁵. When specifically asked whether the inquiry has been concluded CW-38 stated he would find out. But no further information has been provided to the Commission.⁶⁶

- 5.1.7 At 7 AM on 28.11.2019, police constable Hanumanth from Shadnagar PS who was on Bluecolt patrol duty in Chatanpally informed CW-15, Sreedhar Kumar, that he had received a phone call informing him that a female dead body was found burning in the underpass bridge of NH 44 in the outskirts of Chattanpally village. CW-15 instructed him to rush to the spot and directed the duty Sub-Inspector to proceed to the site and enquire about the occurrence. He also informed his superior officers regarding the incident,⁶⁷ including ACP V Surender, CW-44.⁶⁸
- 5.1.8 Later at 9 AM, the Sub-Inspector, Sri Krishna, recorded statement of the informant and after going through it, CW-15 registered the case in CR No. 784/2019 and dispatched a copy of the FIR to the court.⁶⁹ The time of 9AM of registration of FIR in Crime No.784/2019 is also seen recorded in the final report filed by the SIT.⁷⁰ CW-15 then went to the spot at around 9:30 AM⁷¹ and saw completely charred dead body beyond recognition.⁷² He conducted preliminary enquiry, posted a guard, took photographs⁷³ and sent them to the Cyberabad Police Commissionerate through WhatsApp and requested them to verify whether any woman was missing.⁷⁴ On seeing the photographs, the Shamshabad Police suspected the identity to be that of the missing woman in CR No. 480/2019 and directed the blood relatives to the place of offence.⁷⁵

⁶⁰CW-38, Response to Q 142, p 1329, Vol V, Deposition of Witnesses.

⁶¹CW-38, Response to Q 145, p 1330, Vol V, Deposition of Witnesses.

⁶²Ex.C-166, pp 1787-1792, Vol VII, Commission Exhibits.

⁶³Ex.C-167, pp 1787-1792, Vol VII, Commission Exhibits.

⁶⁴Ex.C-168, pp 1787-1792, Vol VII, Commission Exhibits.

⁶⁵CW-38, Response to Q 143, p 1329, Vol V, Deposition of Witnesses.

⁶⁶CW-38, Response to Q 144, p 1329, Vol V, Deposition of Witnesses.

⁶⁷Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁶⁸Ex.C-181, p 2116, Vol VIII, Commission Exhibits.

⁶⁹Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁷⁰Ex.S-14, p 136, Vol I, State Exhibits.

⁷¹CW-15, Response to Q 99, p 637, Vol II, Deposition of Witnesses.

⁷²CW-15, Response to Q 100-101, p. 637-638, Vol II, Deposition of Witnesses.

⁷³Ex.C-182, p 2158, Vol VIII, Commission Exhibits.

⁷⁴Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁷⁵Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

- 5.1.9 According to SW-2, at 8:30 AM, she and her parents went to Shamshabad Police Station to enquire about her sister. There they were informed that there was a body of a young woman which had been set on fire in Chatanpally. Then, SW-2 and her parents went to Chatanpally. They identified a Ganesha locket and a blue chunni with white dots lying near the dead body as belonging to Disha. They also identified the body as that of Disha based on its physical features and handed over the voice clip of the conversation between SW-2 and Disha to Shadnagar Police.⁷⁶ Around the same time DCP Prakash Reddy, CW-18, visited the spot at Chatanpally and interacted with SW-2 for a few minutes while CW-15 was conducting the scene investigation.⁷⁷
- 5.1.10 Thereafter, CW-15 recorded the statements of the relatives. He then called three panchas, observed the scene of offence and seized the material objects⁷⁸ with the help of clues team by conducting the scene of offence observation Panchanama. He also conducted inquest panchanama in the presence of the mediators.⁷⁹ Since the body was charred, without clothing as confirmed by CW-18,⁸⁰ and incapable of being transported to the hospital for post mortem, he submitted a requisition to the Government Hospital, Shadnagar with a request to depute a team of doctors to the spot for conducting post mortem examination. Accordingly, a team of medical officers visited the scene of offence and conducted autopsy and preserved the viscera and sternum bone.⁸¹
- 5.1.11 On the same day around 2 PM there was change in the investigating officer⁸² as per the instructions of DCP Shamshabad vide memo No. 2138/DCP- SZ/OW/Cyb/2019⁸³ and CW-15 handed over the case file to ACP V Surender, (CW-44) to conduct further investigation.⁸⁴ As per the final report this transfer was in view of the gravity of the offence.⁸⁵ Strangely, CW-15 admits that no transfer of missing complaint in Crime No.480/2019 was sought at any time from Shamshabad PS to Shadnagar PS.⁸⁶ CW-15 deposed that the investigation was being monitored by the Commissioner, V C

⁷⁶Ex.S-16, pp 153-159, Vol I, State Exhibits

⁷⁷CW-18, Response to Q 3, p 758, Vol II, Deposition of Witnesses.

⁷⁸Ex.C-67, pp 1011-1016, Vol IV, Commission Exhibits.

⁷⁹Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁸⁰CW-18, Response to Q 6-7, p 759, Vol II, Deposition of Witnesses.

⁸¹Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁸²CW-15, Response to Q 11, p 616, Vol II, Deposition of Witnesses.

⁸³Ex.C-69, p 1027, Vol IV, Commission Exhibits.

⁸⁴Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁸⁵Ex.S-14, p 136, Vol I, State Exhibits.

⁸⁶CW-15, Response to Q 23, p 618, Vol II, Deposition of Witnesses.

Sajjanar, CW-38 and DCP Prakash Reddy, CW-18.⁸⁷ CW-38, however stated that his role was confined to taking morning briefings from the DCP.⁸⁸

- 5.1.12 CW-44 stated that on 28.11.2019, at about 1.43 PM and 2.03 PM, CW-15 was informed by the Dial 100 team that they had received a call from Praveen, Essar Petrol on the intervening night of 27-28.11.2019 regarding two unknown persons on a red Scooty requesting for petrol in a bottle.⁸⁹ The caller had refused to sell loose petrol as he suspected their integrity.⁹⁰
- 5.1.13 During the course of investigation, the IO CW-44 visited Tondupally toll plaza and checked the CCTV footage.⁹¹ CW-18, DCP Prakash Reddy, had also visited Tondupally plaza at about 3:15 PM and instructed the staff to check the CCTV footage.⁹² In the said footage CW-44 found that a lorry bearing no. TS 07 UA 3335 was found parked near Toll Plaza from 10.00 PM to 22.30 PM on 27.11.2019. At about 18.17 hours on 27.11.2019 the deceased was parking her Scooty at Tondupally ORR Toll plaza. Again at about 21.30 hours the deceased returned to her Scooty. At that time, a male person was found taking away the Scooty from the deceased. After some time, it appeared in blurred images that three persons caught the deceased and carried her away on their shoulders by taking cover of the parked lorry. Movement of the lorry was detected at 22:21 PM.⁹³ After perusing the CCTV footage, CW-44 examined and recorded statement of the Engineer in charge of the toll plaza and obtained the relevant CCTV footage.⁹⁴
- 5.1.14 Thereafter, CW-44 collected the details of the owner of the lorry bearing no. TS 07 UA 3335 and Scooty bearing no. TS 08 EF 2677 through the Police Intranet Website (3rd Eye)⁹⁵ and learnt that P Srinivasa Reddy, CW-43, was the owner of the lorry and one Srilatha Goud was the owner of the Scooty as per the Registration Certificates of the vehicles with Telangana State Transport Department database.⁹⁶ The efforts to contact P Srinivasa Reddy and the subsequent findings have been dealt in detail in the subsequent sections.

⁸⁷CW-15, Response to Q 13-14, pp 616 to 617, Vol II, Deposition of Witnesses.

⁸⁸CW-38, Response to Q 27, p 1291, Vol V, Deposition of Witnesses.

⁸⁹Ex.C-183, p 2160, Vol VIII, Commission Exhibits.

⁹⁰Ex.C-181, p 2120, Vol VIII, Commission Exhibits.

⁹¹Ex.C-184, pp 2161-2164, Vol VIII, Commission Exhibits.

⁹²CW-18, Response to Q 12, p 761, Vol II, Deposition of Witnesses.

⁹³Ex.C-181, p 2121, Vol VIII, Commission Exhibits.

⁹⁴Ex.C-181, p 2121, Vol VIII, Commission Exhibits.

⁹⁵Ex.C-185, pp 2165-2166, Vol VIII, Commission Exhibits.

⁹⁶Ex.C-181, pp 2121-2122, Vol VIII, Commission Exhibits.

- 5.1.15 CW-44 then instructed CW-15 to provide two panch witnesses for the purpose of investigation and requested the Clues Team, Dog Squad and fingerprint expert team to visit the Tondupally Toll Plaza. The dog from dog squad⁹⁷ took them to the nearby place where the lorry and Scooty were parked and further led them to an open plot nearby and stopped where some articles were found lying on ground and there were signs of unnatural disturbance.⁹⁸ With the assistance of the Clues Team and staff, CW-44 thoroughly checked the surroundings and found many material objects.⁹⁹ CW-18, DCP Prakash Reddy, also visited the scene and arrived at a preliminary suspicion that this was the initial place of occurrence of offence.¹⁰⁰
- 5.1.16 The relatives of the deceased victim were also present during the scene observation. According to SW-2, at around 5:30 PM to 6 PM on 28.11.2019, CW-44 called SW-2 and her parents to an open plot near Tondupally toll plaza and showed them one blue colour purse, coffee colour underwear, one pair of cat walk chappal, passport size photographs of her sister. SW-2 and her parents identified all the articles.¹⁰¹ During the scene observation, the fingerprint expert found availability of chance prints on liquor bottles¹⁰² and developed the same. Then, CW-44 collected the material objects with the help of the Clues Team and seized¹⁰³ the same in the presence of the panch witnesses.¹⁰⁴
- 5.1.17 In the meanwhile, CW-44 received information from the traffic police that one Red colour Scooty was found abandoned at Vinayaka Steels Junction near JP Darga cross road in the outskirts of Kothur village. Immediately, CW-44 instructed Inspector of Police, Kothur to arrange two Revenue department officials to act as panch witnesses for the purpose of investigation. CW-44 visited the spot and seized, in presence of panch witnesses, the Scooty which did not have registration number.¹⁰⁵
- 5.1.18 CW-44 then instructed Inspector of Police, Kothur to collect the CCTV footage along the JP Darga road. When, along with the IT Cell Team, Cyberabad CW-44 checked

⁹⁷Ex.C-186, pp 2167-2169, Vol VIII, Commission Exhibits.

⁹⁸Ex.C-181, p 2122, Vol VIII, Commission Exhibits.

⁹⁹Ex.C-181, p 2122, Vol VIII, Commission Exhibits: 1) one empty full bottle Imperial Blue whisky 2) one half Imperial Blue whisky bottle 3) one ladies underwear dark snuff colour, 4) one ladies hand purse labeled as Linoperros, having passport size photographs of two girls 5) one pair of ladies footwear black & gold colour, 6) one blue colour wallet, ATM debit card, one passport size photograph.

¹⁰⁰CW-18, Response to Q 12, p 761, Vol III, Deposition of Witnesses.

¹⁰¹Ex.S-16, pp 153-159, Vol I, State Exhibits.

¹⁰²Ex.C-193-Ex.C-194, pp 2197-2198, Vol VII, Commission Exhibits.

¹⁰³Ex.C-187, pp 2170-2175, Vol VIII, Commission Exhibits.

¹⁰⁴Ex.C-181, p 2122, Vol VIII, Commission Exhibits.

¹⁰⁵Ex.C-181, p 2123, Vol VIII, Commission Exhibits.

the CCTV footage, they found that at 22:51 PM a lorry was found proceeding towards JP Darga Road followed by a Red colour Scooty with a driver and pillion rider. At around 00:55 AM, the same lorry and Scooty were found returning to the same place at NH-44 main road from JP Darga cross road. On the same night i.e., 28.11.2019 at 02:03 AM again the said lorry was found returning from Shadnagar side followed by the said Red colour Scooty. Later, the Scooty took a U-turn in the wrong direction and went towards Shadnagar side at 02:06 AM on NH-44. CW-44 collected the relevant CCTV footages¹⁰⁶ for the purpose of investigation. These initial steps in investigation led to the events of identification of the four deceased as the accused in CR No. 784 of 2019. Those events have been described in detail in the next sections.

5.2 Identification of the Accused in FIR No.784/2019

5.2.1 The three witnesses crucial for identification of the accused are CW-15 (A Sreedhar Kumar), CW-44 (Vasam Surender) and CW-43, (P. Srinivas Reddy), the owner of the lorry in which the deceased allegedly worked. The events leading to the identification and arrest of the accused are primarily described by CW-15 and CW-44 in their respective affidavits being Ex.C-66¹⁰⁷ and Ex.C-181.¹⁰⁸ CW-43, (P. Srinivas Reddy), the owner of the lorry in which the deceased allegedly worked, has not filed affidavit, despite service of summons on 25.08.2021.¹⁰⁹ The other most important material for identification is the contents of the CCTV footage at Tondupalli Plaza and JP Darga cross-road on NH44. The contents of the CCTV footage have been described in detail in the earlier paras.

5.3 The presence of P Srinivas Reddy (CW-43) sought

5.3.1 In his affidavit, Ex. C-181, CW-44 baldly states that he secured presence of P Srinivas Reddy on 29.11.2019 when he visited RGIA Police Station, Shamshabad. He does not specify the time and manner of securing the presence. He stated that he examined P. Srinivasa Reddy and recorded his statement U/s 161 (3) Cr.PC. It is further stated that after watching CCTV footage collected from Tondupally Panchayat Office, Tondupally Toll Plaza and JP Darga Cross road, P. Srinivasa Reddy identified the persons who were present in his lorry at Tondupally toll plaza on 27.11.2019 as the

¹⁰⁶Ex.C-189-Ex.C-190, pp 2181-2190, Vol VIII, Commission Exhibits.

¹⁰⁷Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

¹⁰⁸Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits.

¹⁰⁹Summons was issued to P. Srinivas Reddy on 25.08.2021 and registered post acknowledgement was received on 27.08.2021.

four accused and further identified the rider and pillion rider of the Scooty as Jollu Shiva and Jollu Naveen Kumar.¹¹⁰

- 5.3.2 The claim¹¹¹ of CW-44 that he visited RGIA Police Station premises and secured the presence of P Srinivas Reddy (CW-43) at the Shamshabad Police Station on 29.11.2019 is seen contrary to the relevant diary entry of that date. As per the diary entry at 00:30 hrs he received information that the lorry owner had come to Shamshabad Police Station and upon receiving such information he went to Shamshabad PS.¹¹² This means that the presence was not secured by CW-44 as claimed in the affidavit by him. The deposition of P Srinivas Reddy (CW-43) on this aspect is that he received a call from the Shamshabad Police Station at 9:30 PM on 28.11.2019.¹¹³ He stated that he arrived at the Shamshabad Police Station at 10 PM,¹¹⁴ helped the police identify the accused and his statement u/s.161 CrPC was recorded¹¹⁵ to that effect between 11 PM to 12 Midnight. By 1 AM, he had left to go to the house of Arif, one of the accused.¹¹⁶
- 5.3.3 The deposition of the investigating officer, CW-44, would mean that the statement of P Srinivas Reddy was recorded only post 00:30 hrs because that is the time he received information about the presence of P Srinivas Reddy whereas according to P Srinivas Reddy, his statement had been recorded before midnight. Apart from this contradiction, CW-44 indicates a different time in his deposition, wherein he states that P Srinivas Reddy's statement was recorded at 00 hrs on 29.11.2019.¹¹⁷ Thus, at three different places, the time of recording of the statement of P Srinivas Reddy differs.
- 5.3.4 It is curious to note that the S. 161 statement of P Srinivas Reddy¹¹⁸ recorded in Part II of the case diary does not match with the synopsis¹¹⁹ of his statement recorded in Part I of the case diary on 29.11.2019. The synopsis contains information which is not found in the S.161 statement. Upon being questioned about the mismatch, CW-44 stated that P Srinivas Reddy had left after recording of his statement. He came back

¹¹⁰Ex.C-181, p 1398, Vol V, Deposition of Witnesses.

¹¹¹Ex.C-181, p 2124, Vol VIII, Commission Exhibits.

¹¹²P 169, Book No. 10.

¹¹³CW-43, Response to Q 18, p 1362, Vol V, Deposition of Witnesses.

¹¹⁴CW-43, Response to Q 19, p 1362, Vol V, Deposition of Witnesses.

¹¹⁵P 187, Book No. 10.

¹¹⁶CW-43, Response to Q 20, p. 1362 to 1364, Vol V, Deposition of Witnesses.

¹¹⁷CW-44, Response to Q 40, p 1461, Vol V, Deposition of Witnesses.

¹¹⁸PP 185-187, Book No. 10.

¹¹⁹P 169, Book No. 10.

after 10 minutes, and informed him that the accused had enjoyed a party on 27.11.2019. When asked about of absence of additional statement, CW-44 stated that he did not find it necessary to record an additional statement and deemed it fit to put this additional information in his Part I case diary.¹²⁰ He admitted that he did not record Part I of the case diary immediately after receiving the information.¹²¹

- 5.3.5 Securing the presence of P Srinivas Reddy is an important link in the chain of events that are needed to be established because he is the only person to identify the suspect persons. The facts discussed above indicate that there is not just lack of clarity with respect to the time at which the presence of P Srinivas Reddy was secured at Shamshabad P.S. and his statement recorded, but also raises strong suspicions as regards the veracity of the police records, including the case diary.

5.4 Alleged identification of the accused by P. Srinivas Reddy

- 5.4.1 P Srinivas Reddy, the only person to identify the suspects has done so solely on the basis of the contents of CCTV footages. Therefore, the circumstances needed to be established on the fact of identification are the date, time and place of viewing, the number of footages shown and specific description of the footages shown.
- 5.4.2 A memo titled “CCTV Identification Proceedings”¹²² has been produced before the Commission, along with the case diary in Crime No. 784 of 2019. This document is signed by ACP V. Surender alone, and does not bear the signature of P Srinivas Reddy who is supposed to have identified the four suspects from the CCTV footages. According to this document, P Srinivas Reddy (CW-43) was shown three footages, being, (a) Thondupally ORR Toll Plaza, (b) Gram panchayat office, Thondupally and (c) Kothur Police Station. It records that CW-43 described that the “stout man” was Arif, “short man with medium build” was Jollu Shiva, man with a “tall and lean” built was Chennakeshavulu and that another person with a “short, medium” built was Jollu Naveen. According to this document, while Jollu Shiva was working as a cleaner, in the lorry, Chennakeshavulu, and Jollu Naveen had earlier worked as cleaners in his lorries. This document states that the viewing was done at 1 AM on 29.11.2019. But, according to P Srinivas Reddy, at 1 AM he had left for Jaklair after returning from the Police Station.¹²³ It is the statement of ACP Surender himself that P Srinivas Reddy

¹²⁰CW-44, Response to Q 247 to 249, pp 1526 to 1527, Vol V, Deposition of Witnesses.

¹²¹CW-44, Response to Q 249, p 1527, Vol V, Deposition of Witnesses.

¹²²P 193, Book No. 10.

¹²³CW-43, Response to Q 20, p 1362-1364, Vol V, Deposition of Witnesses.

had told him that he would find out the addresses of the other three persons during that night and inform by morning.

5.4.3 Although the Memo “CCTV Identification Proceedings” refers to only three specific footages having been shown to P Srinivas Reddy, he claimed before the Commission that he was shown seven or eight CCTV footages.¹²⁴ On being asked as to in which footages he was able to identify the accused/deceased, he stated that he identified Shiva from the footage at the petrol pump where Shiva was taking petrol, Arif and Chennakeshavulu from the footage at Darga road, Kottur and Naveen from the footage at the Toll gate.¹²⁵ Interestingly, the footage of the petrol pump is not mentioned in the Memo of CCTV Identification Proceedings. It specifically refers to three other footages. What is of the concern is the fact that although the CW-43 stated that he identified Shiva from the petrol pump footage, the said footage, according to the police diary itself, was obtained subsequently i.e., only after 7:20 AM on the 29.11.2019 when V Surender (CW-44) visited the petrol pump. It is specifically mentioned in the case diary dt. 29.11.2019¹²⁶ that at 7.20 AM, CW-44 went to Essar petrol pump situated at Kottur and after recording the statement of the cashier working therein, he obtained the CCTV visuals. Therefore, it is inconceivable that at midnight, even before V Surender visited the petrol pump to obtain the footages, P Srinivas Reddy could identify Jollu Shiva from the petrol pump footage. The deposition of P. Srinivas Reddy before the Commission that he was shown footages with respect to Essar Petrol Pump in the intervening night of 28.11.2019 and 29.11.2019, when such footages were only obtained the next day, leads us to the irresistible conclusion that he is a tutored witness.

5.4.4 The basis of identification of the four persons by P Srinivas Reddy is the employment of these persons by him. Therefore the material on this aspect brought before the Commission is important. In his S.161 statement,¹²⁷ P Srinivas Reddy does not state that either Chennakeshavulu or Naveen Kumar were employed by him previously. CW-44, V Surender, initially stated that Srinivas Reddy did not tell him that he had employed Jollu Naveen and Chennakeshavulu. Later, he added that Srinivas Reddy had stated before him orally that the aforesaid two people had earlier worked for him. Yet again, he added that Srinivas Reddy did not state while recording the S. 161

¹²⁴CW-43, Response to Q 87, p 1378, Vol V, Deposition of Witnesses.

¹²⁵CW-43, Response to Q 88, p 1379, Vol V, Deposition of Witnesses.

¹²⁶P 170, Book No. 10.

¹²⁷PP 185-187, Book No. 10.

statement but only informed him at the time of the viewing the CCTV footage.¹²⁸ After initially stating that he was unable to recollect, CW-44 added that the S.161 statement of P Srinivas Reddy was recorded after he was shown the CCTV footage. Though in the CCTV Identification Proceedings it is recorded that Naveen was employed by him, P Srinivas Reddy in his deposition stated that he had never informed the police that Naveen was employed by him.¹²⁹

- 5.4.5 CW-44, Vasam Surender, stated in his evidence that it took P Srinivas Reddy one hour to see the photographs captured from various areas and that the latter recognized Chennakeshavulu and Jollu Naveen immediately on seeing their photographs.¹³⁰ On the contrary, P Srinivas Reddy admitted in his deposition that he could not identify Jollu Naveen. He further deposed that he had whatsapped the photos to one Jaffar,¹³¹ who identified Naveen. This again is a crucial incongruence between the testimonies of CW-44 and CW-43. In fact, P Srinivas Reddy (CW-43) was emphatic that he had never seen Naveen before.¹³² The witness also stated that he did not remember what photos he had forwarded to Jaffar for the purpose of identification of Naveen.¹³³
- 5.4.6 P Srinivas Reddy admitted his signatures in Ex.C-106,¹³⁴ statement recorded by the NHRC.¹³⁵ In the statement given to the NHRC, although the witness initially stated that Chennakeshavulu, Jollu Shiva and Jollu Naveen were employed by him,¹³⁶ he later retracted stating that Jollu Naveen was never employed by him.¹³⁷ So far as Arif is concerned, he stated before the NHRC that Arif initially worked as a cleaner and thereafter as a driver,¹³⁸ which fact is not stated by him either in his S. 161 statement or in his deposition. Though in the CCTV Identification Proceedings he stated that he could identify Shiva as the cleaner, before the NHRC, he stated that he came to know about Shiva being the cleaner from Arif at the police station.¹³⁹ He reiterated in response to another question before the NHRC, that he did not know the name of the

¹²⁸CW-44, Response to Q 251, p 1527, Vol V, Deposition of Witnesses.

¹²⁹CW-43, Response to Q 89, p 1379, Vol V, Deposition of Witnesses.

¹³⁰CW-44, Response to Q 250, p 1527, Vol V, Deposition of Witnesses.

¹³¹CW-43, Response to Q 61 and 64-74, p 1373-1374, Vol V, Deposition of Witnesses.

¹³²CW-43, Response to Q 77, p 1377, Vol V, Deposition of Witnesses.

¹³³CW-43, Response to Q 74-76, p 1376, Vol V, Deposition of Witnesses.

¹³⁴Ex.C-106, p 1272, Vol V, Commission Exhibits.

¹³⁵CW-43, Response to Q 58-59, p 1372, Vol V, Deposition of Witnesses.

¹³⁶Ex.C-106, p 1272, Vol V, Commission Exhibits.

¹³⁷Ex.C-106, p 1276, Vol V, Commission Exhibits.

¹³⁸Ex.C-106, p 1276, Vol V, Commission Exhibits.

¹³⁹Ex.C-106, p 1276, Vol V, Commission Exhibits.

cleaner who was accompanying Arif and that he only knew the village of the cleaner. The witness added that it was later that he came to know that it was Shiva.¹⁴⁰

- 5.4.7 Before the Commission, he described the appearance of Shiva as “lean,” looking like a “youngster” and an “adult.”¹⁴¹ Chennakeshavulu’s hair, he stated, was “thick and curly”¹⁴² and that this feature was visible in the CCTV footage.¹⁴³ The CCTV footage was from the night time,¹⁴⁴ and he reported being able to see some faces clearly but not being able to see other faces clearly.¹⁴⁵
- 5.4.8 It is interesting to note that in the statement of CW-43 before the NHRC, there is no mention of the CCTV footage having been shown to him. On the contrary, he states that one photograph of a person was shown to him which he could not identify. He added that a picture of a number plate of a truck was shown to him which he identified as his and upon being asked by the police, gave the details of the driver and only the village name of the cleaner. Upon being asked as to when the police confronted him with Arif and the other accused, the witness stated that it may have been on 29.11.2019 at evening and that he did not remember the exact date or time.
- 5.4.9 Thus, it can be seen that there are major contradictions in the number and identity of the CCTV footages shown to P Srinivas Reddy upon which the identification of the accused/deceased is premised on. In his statement before the NHRC, P Srinivas Reddy does not allude to him being shown CCTV footage at all but states that the he was shown a singular photograph of a person whom he could not identify. There is also a contradiction as to whether Jollu Naveen was employed by P Srinivas Reddy. Similarly, the immediate recognition of all the accused by P Srinivas Reddy as claimed by the police is contradicted by P Srinivas Reddy’s admission that he had never employed Naveen or ever seen him, and also by the fact that P Srinivas Reddy in his deposition states that he took the help of Jafar to identify Naveen. It is the considered opinion of the Commission that, given the contradictions in the CCTV footage identification, P Srinivas Reddy is not just worthy of credibility, but also seemed to be a tutored witness to suit the case of the police.

¹⁴⁰Ex.C-106, p 1280, Vol V, Commission Exhibits.

¹⁴¹CW-43, Response to Q 78, p 1377, Vol V, Deposition of Witnesses.

¹⁴²CW-43, Response to Q 80, p 1377, Vol V, Deposition of Witnesses.

¹⁴³CW-43, Response to Q 82, p 1377, Vol V, Deposition of Witnesses.

¹⁴⁴CW-43, Response to Q 83, p 1378, Vol V, Deposition of Witnesses.

¹⁴⁵CW-43, Response to Q 84, p 1378, Vol V, Deposition of Witnesses.

**6. ARREST OF THE ACCUSED AND PRODUCTION BEFORE THE
INVESTIGATING OFFICER V SURENDER**

6.1 Steps taken to arrest

- 6.1.1 According to V Surender (CW-44), upon recording of the statement of the lorry owner and upon perusing the CCTV footage, he concluded that the lorry driver, cleaner and his friends have committed the offence and therefore, he “*immediately*”¹⁴⁶ instructed his Inspector of Police, Shadnagar P.S., through memo bearing C.No.784/ACP/SDNR/CY13/2019¹⁴⁷ dated 29/11/2019 (Ex.C-72) to locate the above suspected persons and produce them before him for the purpose of investigation.¹⁴⁸ A perusal of the case diary dt. 29.11.2019 in Crime no. 784/2019 would also reveal that “*immediately*”¹⁴⁹ after recording the statement of the lorry owner and the CCTV Identification Proceedings, V Surender sent parties to trace out the whereabouts of suspected persons and also issued memo to Inspector, Shadnagar to proceed to Jaklair and Gudigandla for apprehension of suspects. The relevant entry about issuance of memo in the case diary precedes the entry relating to Essar Petrol Pump at 07.20 AM. As such, in the normal course of affairs, one would have assumed that upon recording of statement of the lorry owner in the early hours of 29.11.2019, the police would have immediately proceeded to apprehend the accused. But the first action was taken only at 8.30 AM on 29.11.2019.
- 6.1.2 V Surender (CW-44) stated that he issued Ex. C-72, the memo for arrest, at 8:30 AM on 29.11.2019. A Sreedhar Kumar (CW-15) who is the recipient of the memo, stated that he received the instructions to apprehend the accused at 9:30 AM.¹⁵⁰ When asked as to whether the Ex.C-72 memo was issued immediately or after 8 ½ hours of recording of the lorry owner’s statement, CW-44 sought to explain that Srinivas Reddy, the lorry owner, had told him that he would show him the houses of the accused in the morning and that the latter could not be compelled to go immediately the risk of compelling him could not be taken.¹⁵¹ However, Srinivas Reddy in his deposition stated that it was the Investigating Officer who instructed him that he would have to identify the house of Md. Arif on the morning of 29.11.2019.¹⁵²

¹⁴⁶Ex.C-181, Para 21, p 2125, Vol VIII, Commission Exhibits.

¹⁴⁷Ex.C-72, p 1043, Vol IV, Commission Exhibits.

¹⁴⁸Ex.C-181, p 2124, Vol VIII, Commission Exhibits.

¹⁴⁹P 170, Book No. 10.

¹⁵⁰CW-15, Response to Q 29-30, p 630, Vol II, Deposition of Witnesses.

¹⁵¹CW-44, Response to Q 195-197, p 1510-1511, Vol V, Deposition of Witnesses.

¹⁵²CW-43, Response to Q 20, p 1376, Vol V, Deposition of Witnesses.

6.1.3 The issuance of memo Ex.C-72 to apprehend the accused and its veracity is clouded in doubt for many reasons. First and foremost, the memo does not even name the persons to be arrested. It does not even state the addresses from where the arrest is to be affected. It merely instructs CW-15, A. Sridhar Kumar, to visit certain villages for the purpose of arrest. The memo reads as follows –

“to proceed to Jaklair and Gudigandla village, Makhtal Mandal of Narayanpet District, for apprehension of suspect who are said to be involved in this case as per evidence collected so far and produce them before me for the purpose of investigation”.

It is contended by the State of Telangana that non-mentioning of the names does not have any great bearing on the arrest because P. Srinivas Reddy (CW-43) was to accompany the police team while arresting, would name and identify the accused. This is not an acceptable argument, for the reason that Ex.C-72 Memo is not just any document but one which is required to be issued under Section 55 Cr.P.C. It is inconceivable that a stand is taken by the State that in an instruction to arrest persons without a warrant, there is no necessity to mention the name of the accused.

6.1.4 Next, according to the case diary dt. 29.11.2019 in CR No. 784/2019, the offences mentioned against the crime number, which were initially only under Sections 302 and 201 of the IPC, were amended to include Sections 376, 376D, 201, 392 r/w 34 IPC after the confession of the accused in the late evening of 29.11.2019.¹⁵³ In this particular case diary, the IO after recounting the confessional statements, records *“As such, I have added Section 366, 376D, 201, 392 r/w 34 IPC to section of law”.*

6.1.5 These sections however, find inclusion in the memo Ex.C-72, which according to the police was issued at 8:30 AM and received at 9:30 AM in the morning of 29.11.2019. There is inclusion of the offences in the memo for arrest even before the disclosure of commission of the offence. Same is the case with Ex.C-73,¹⁵⁴ the letter written by CW-15 A Sreedhar Kumar, evidencing production of the apprehended accused before CW-44, at 5 PM on 29.11.2019. This letter purportedly written at 5 PM on 29.11.2019, which is obviously before the alleged confession by the accused, carries the amended sections. When confronted with this contradiction of alteration of charges and the time when additional sections were included, V Surender (CW-44) stated that based on the viewing of the CCTV footages and the statement of the lorry owner P Srinivas Reddy he had come to a strong conclusion that the offences were

¹⁵³P 184, Book No. 10.

¹⁵⁴Ex.C-73, p 1044, Vol IV, Commission Exhibits.

committed by the very four persons and I added these sections to the memo.¹⁵⁵ CW-44 further stated that the memo to the court with amended charges was only filed after the confession but the changed sections were reflected in Ex.C-72 memo. Not only is his explanation contrary to the case diary, but also inspires very little confidence since neither the CCTV footages nor the statement of the lorry owner indicate offences under Sections 376D, 366, etc. of the IPC. V Surrender also sought to explain that he suspected that the offence of rape was committed based on the semen stains on the chunni of the victim.¹⁵⁶ However, there is no such record either in his case diary or where such sections added or altered on 29.11.2019. Apart from this, neither the S.50 Cr.P.C. notice (Ex.S-51)¹⁵⁷ nor the arrest memos (Ex.C-12, 13, 14 and 15)¹⁵⁸ dt. 29.11.2019 executed at 5 PM contain the amended sections.

- 6.1.6 A Sreedhar Kumar (CW-15) specifically stated that when the FIR in 784/2019 was registered at 9 AM on 28.11.2019, the provisions of law that were invoked were Sections 302 and 201.¹⁵⁹ He also stated that the additional sections were added after the confessions of the accused were recorded at 10:20 PM on 29.11.2019.¹⁶⁰ When he was confronted with the fact that Ex.C-72, Ex.C-73, etc. had already reflected the amended sections, although they are purported to have been executed much prior in time, CW-15 stated that it would have been a copying and pasting mistake and such typographical errors have occurred.¹⁶¹
- 6.1.7 In view of the fact that the case diary categorically records that the sections were amended only after the confessional statements were obtained on 29.11.2019, both Ex.C-72 and Ex.C-73 are unlikely to have been executed at the time when they are claimed to have been executed.
- 6.1.8 Given the highly doubtful version of identification of the four persons and improbable version of the police that they waited for up to nine hours to take steps to apprehend the accused, in a highly sensitive matter, it would be appropriate to take note of the evidence tendered by the relatives of the four deceased also as to how the arrests were affected by the police. The evidence of these witnesses is required to be appreciated

¹⁵⁵CW-44, Response to Q 200, p 1512, Vol V, Deposition of Witnesses.

¹⁵⁶CW-44, Response to Q 481, p 1594, Vol V, Deposition of Witnesses.

¹⁵⁷Ex.S-51, p 461, Vol II, State Exhibits.

¹⁵⁸Ex.C-12-Ex.C-15, pp 129-132, Vol I, Commission Exhibits.

¹⁵⁹CW-15, Response to Q 91, p 635, Vol II, Deposition of Witnesses.

¹⁶⁰CW-15, Response to Q 92-93, p 635, Vol II, Deposition of Witnesses.

¹⁶¹CW-15, Response to Q 94-97, p. 636-637, Vol II, Deposition of Witnesses.

on the background of their socio-economic status. All the relatives are essentially agricultural labourers and illiterates. They are thus simple and rustic witnesses.

6.2 Time of arrest

- 6.2.1 According to the S.161 statement of Sri Pinjari Hussain (CW-1), who is the father of accused Md. Arif on 29.11.2019,¹⁶² at about 3 AM, three persons came to his house and some more persons were in the car at some distance. He stated that those could be police personnel and that they took away his son.¹⁶³ In his statement before the NHRC, he gave the same time of arrival of the police, but the date given was intervening night of 27-28/11/2019.¹⁶⁴ In his affidavit filed before the Commission, he stated that the police came along with P Srinivas Reddy and took away his son.¹⁶⁵ In his examination, on the other hand, he stated that the police apprehended his son from his house at 3 AM on 26.11.2019.¹⁶⁶ The counsel for the state of Telangana, cross-examined him on the different timelines and dates given by him as to the arrest of his son. He replied that both the versions, the one stated before the NHRC as well as the one stated in his affidavit are true.¹⁶⁷ When this contradiction was further pointed out to him, he stated “I do not remember. I do not know what to say.”¹⁶⁸
- 6.2.2 Pinjari Hussain(CW-1) deposed that he is illiterate, but is only capable of putting his signature in Telugu.¹⁶⁹ His affidavit, Ex.C-24, was put to him and he identified his signature on it. Although the sworn affidavit reflects that its contents were explained to him in Telugu, the affidavit contains some factual errors. It states that his son was a minor and aged 17 years old. The name of his son was incorrectly given as Jollu Naveen. Much of the contents of this affidavit are similar to the contents of the affidavits submitted by the relatives of the other deceased. All of the affidavits are prepared by one advocate, indicating that there was some casual and perhaps irresponsible drafting. This witness admitted that he was examined by the NHRC.¹⁷⁰ He also admitted that whatever he stated before the NHRC is true. But he

¹⁶²PP 260-263, Book No. 1.

¹⁶³P 262, Book No. 1.

¹⁶⁴Ex.S-52, p 462, Vol II, State Exhibits.

¹⁶⁵Ex.C-24, p 406, Vol II, Commission Exhibits.

¹⁶⁶CW-1, Response to Q 48, p 266, Vol I, Deposition of Witnesses.

¹⁶⁷CW-1, Response to Q 61-62, p 268, Vol I, Deposition of Witnesses.

¹⁶⁸CW-1, Response to Q 63, p 269, Vol I, Deposition of Witnesses.

¹⁶⁹CW-1, Response to Q 1-2, p 255, Vol I, Deposition of Witnesses.

¹⁷⁰CW-1, Response to Q 13 and 17-21, p 260-261, Vol I, Deposition of Witnesses.

stated that the NHRC statement was not read over to him and he did not volunteer to affix his left thumb impression.¹⁷¹

- 6.2.3 This witness has out of exasperation volunteered his feeling at two places in his deposition. At the end of his further examination by the Counsel for the Commission, he volunteered:

*“Srinavasa Reddy has taken our son. Won't anybody ask about this? Now I want to say about this.”*¹⁷²

Again, after his entire evidence was over, he volunteered:

*“Why nobody asks for Srinavasa Reddy taking away our children? All of us were sitting in the police car at Shadnagar Police Station. Saying it was time, the police have taken our children to Cherlapalli. The next day, the police told us to bring clothes for my son to Shadnagar Police Station. So, we brought the clothes. Without asking for the clothes, they told us to get into the car and leave fast. Srinivasa Reddy took away our children. When the 5th name came into light, to avoid it, Srinivasa Reddy got conducted the encounter by police and got four of our sons murdered by Sajjanar. We have seen our sons from the distance; but we could not go to them. They did not even ask for our signatures.”*¹⁷³

- 6.2.4 Smt. Chintakunta Renuka (CW-3), who is the wife of accused Chintakunta Chennakeshavulu, in her S.161 Cr.P.C. statement stated that her husband was taken away by the lorry owner at 3 AM on the day following Thursday.¹⁷⁴ She did not give a specific date. In her deposition, she stated that her husband was taken away at night, at 3 AM¹⁷⁵ on either 28th or 29th of December 2019.
- 6.2.5 The father of Chennakeshavulu, Mr Chintakunta Kurumaiah, who subsequently passed away, in his S.161 Cr.P.C. statement, stated 3 AM as the time when some people came to his home and took away his son.¹⁷⁶ He stated before the NHRC that his son had been taken away at around 4 AM on 29.11.2019.¹⁷⁷ He further stated that P Srinivas Reddy, the lorry owner, came to his house along with persons who were in civil dress to take him away.¹⁷⁸
- 6.2.6 The mother of accused Jollu Naveen, Smt. Jollu Lakshmi (CW-7), stated in her affidavit (Ex.C-41) before the Commission that her son had been taken away on the *night* of 29-11-2019 by police personnel from the Shadnagar Police Station and the

¹⁷¹CW-1, Response to Q 21-22, p 261, Vol I, Deposition of Witnesses.

¹⁷²CW-1, Response to Q 15, p 260, Vol I, Deposition of Witnesses.

¹⁷³CW-1, p 276, Vol I, Deposition of Witnesses.

¹⁷⁴PP 276-279, Book No. 1.

¹⁷⁵CW-3, Response to Q 19-21, p 331-332, Vol II, Deposition of Witnesses.

¹⁷⁶PP 272-275, Book No. 1.

¹⁷⁷Ex.C-109, pp 1303-1305, Vol V, Commission Exhibits.

¹⁷⁸Ex.C-109, pp 1303-1305, Vol V, Commission Exhibits.

lorry owner P. Srinivas Reddy.¹⁷⁹ During her deposition, however, she recalled time of around 5 AM when her son had left home¹⁸⁰ and said that her son had been woken up and called away by Chintakunta Chennakeshavulu “to go on lorry,”¹⁸¹ In her S.161 Cr.P.C. statement, she narrated 4 AM as the time when Chennakeshavulu took away her son.¹⁸² Before the NHRC, she stated that her son was taken away by Chennakeshavulu at around 4 - 4:30 AM on 29.11.2019 and she was told by Chennakeshavulu that the lorry owner had called him.¹⁸³ She stated that she learnt about the connection between her son and a criminal case only upon watching the news later.¹⁸⁴

6.2.7 JolluRajaiah (CW-8), the father of accused Jollu Shiva, stated in his affidavit (Ex.C-44) submitted to the Commission that his son was taken away by the police and P Srinivas Reddy on Friday night of 29.11.2019 along with the other accused in a private car.¹⁸⁵ In his deposition, he stated the time, when his son was taken away as between 3 and 4 AM. He stated that Srinivasa Reddy woke up his son who was sleeping at home. When the witness asked him as to why was he taking his son at such time, and that he would start the work after taking bath, Srinivasa Reddy told him that there was some work related to documents of lorry and that he would bring him back by early morning at 6 AM.¹⁸⁶ Before the NHRC, he stated his son was taken away at 3 AM on 29.11.2019.¹⁸⁷ He also stated before the NHRC that Srinivasa Reddy had asked his son to show the location of the house of Md. Arif.¹⁸⁸ In his S.161 Cr.P.C. statement, he stated that his son was taken away at 4 AM.¹⁸⁹

6.2.8 Thus, as per the statements of the relatives of the deceased, the police accompanied by P. Srinivasa Reddy arrived at some time between 3 AM and 5 AM in the intervening night of 28.11.2019 - 29.11.2019, and arrested the four accused. As against this, the version of the police is that the arrest was carried out on the afternoon of 29.11.2019 by A. Sridhar Kumar (CW-15) at the instance of V. Surender (CW-44), with the help of P. Srinivasa Reddy (CW-43). Therefore, the evidence of these three witnesses i.e.,

¹⁷⁹Ex.C-41, p 774, Vol III, Commission Exhibits.

¹⁸⁰CW-7, Response to Q 11, p 415, Vol II, Deposition of Witnesses.

¹⁸¹CW-7, Response to Q 10-12, p 415 to 416, Vol II, Deposition of Witnesses.

¹⁸²PP 268 to 271, Book No. 1.

¹⁸³Ex.C-43, p 779, Vol III, Commission Exhibits.

¹⁸⁴CW-7, Response to Q 12-13, p 415-416, Vol II, Deposition of Witnesses.

¹⁸⁵Ex.C-44, p 782-785, Vol III, Commission Exhibits.

¹⁸⁶CW-8, Response to Q 11 and 78, p 436 and 535, Vol II, Deposition of Witnesses.

¹⁸⁷Ex.S-57, p 519, Vol II, State Exhibits.

¹⁸⁸Ex.S-57, pp 516-517, Vol II, State Exhibits.

¹⁸⁹PP 264-267, Book No. 1.

A. Sridhar Kumar (CW-15), P. Srinivasa Reddy (CW-43) and V. Surender (CW-44), is required to be next considered.

6.2.9 CW-15 stated in his deposition that the names of the persons to be apprehended were not mentioned in the memo, Ex. C-72. He came to know about the persons to be apprehended from V. Surender (CW-44) and he apprehended them with the assistance of P. Srinivasa Reddy (CW-43).¹⁹⁰ The specific details of his account of arrest are as follows:

- a) CW-44 instructed CW-15 to meet Srinivasa Reddy.
- b) Srinivasa Reddy was already present at Jaklair Village on 29.11.2019 when CW-15 met him.¹⁹¹
- c) CW-15 took six policemen and two drivers with him.¹⁹² They had gone in two cars.¹⁹³
- d) He alongwith Srinivasa Reddy and police first went to Jaklair to apprehend Md. Arif. Thereafter, they went to Gudigandla to apprehend the other three accused.¹⁹⁴
- e) The memorandum of production of the accused before CW-44 prepared and signed by CW-15 (Ex. C-73), shows that the arrest was made between 1 PM to 2 PM. Md. Arif was arrested from his house at Jaklair at 1 PM. Jollu Shiva was arrested at 1.30 PM, Jollu Naveen Kumar at 1.40 PM and Chintakunta ChennaKeshavulu at 2 PM, from their respective houses at Gudigandla.¹⁹⁵
- f) CW-15 was in the houses of the accused for 5-10 minutes at Jaklair and 15-20 minutes at Gudigandla.¹⁹⁶ Srinivas Reddy also spoke to the family of the accused for 1-2 minutes.¹⁹⁷
- g) There was a mob that gathered at each of the villages around the houses of the accused at the time of arrest.¹⁹⁸
- h) CW-15 stated that after the arrest of the accused, CW-43, P Srinivas Reddy, accompanied the police to the Shadnagar police station in his own vehicle after

¹⁹⁰CW-15, Response to Q 32, p 620, Vol II, Deposition of Witnesses.

¹⁹¹CW-15, Response to Q 26-27, p 619, Vol II, Deposition of Witnesses.

¹⁹²CW-15, Response to Q 36, p 622, Vol II, Deposition of Witnesses.

¹⁹³CW-15, Response to Q 45, p 624, Vol II, Deposition of Witnesses.

¹⁹⁴CW-15, Response to Q 33, p 621, Vol II, Deposition of Witnesses.

¹⁹⁵Ex.C-73, pp 1044-1045, Vol IV, Commission Exhibits.

¹⁹⁶CW-15, Response to Q 128, p 625, Vol II, Deposition of Witnesses.

¹⁹⁷CW-15, Response to Q 39, p 629, Vol II, Deposition of Witnesses.

¹⁹⁸CW-15, Response to Q 3-44 and 127, p 623 and 646, Vol II, Deposition of Witnesses.

they went to Jaklair and Gudigandla.¹⁹⁹ He is unaware of what P. Srinivasa Reddy did after that.²⁰⁰

6.2.10 The evidence of P. Srinivas Reddy (CW-43) is that:

- a) On 29.11.2019, a constable from the police station, called him over phone at 8:30 AM and told him that CW-15, A Sreedhar Kumar, will be at Boothpurand he should go there.²⁰¹
- b) Accordingly, he went to Boothpur, near a temple between 11 AM to 12 noon and from there he took CW-15 to Jaklair Village.²⁰²
- c) CW-15 and 7-8 policemen came in a single “Innova type” car.²⁰³ When asked whether all the policemen and the accused could fit in one car, he changed his statement and said that he did not see in which car they came and how they went, as he left after showing Md. Arif’s address.²⁰⁴ Thereafter, according to him, he went to Shadnagar, had his lunch, and then went to Hyderabad. He said that he had neither seen the houses of the three accused at Gudigandla nor did he show them to the police. According to him, he had gone in the night with Md. Arif, and asked him to point out the houses to him and he saw the houses from a distance. This claim of CW-43 cannot be accepted because there could be no reason and also no reason has been claimed for travelling in the dead of night for more than two hours just to see the houses of the three accused from a distance. Also, these statements of CW-43 contradict his earlier statements that after showing the house of Md. Arif at Jaklair village, he had accompanied CW-15 to Gudigandla, and had showed the houses at Gudigandla from a distance.²⁰⁵
- d) CW-43 and CW-15 arrived at Jaklair between 2 PM to 3 PM.²⁰⁶ They visited Arif, took the addresses of the other three accused from him and took him along with them,²⁰⁷ and then, they left for Gudigandla and reached there in 15 minutes.²⁰⁸

¹⁹⁹CW-15, Response to Q 49, p 625, Vol II, Deposition of Witnesses.

²⁰⁰CW-15, Response to Q 50, p 625, Vol II, Deposition of Witnesses.

²⁰¹CW-43, Response to Q 39, p 1368, Vol V, Deposition of Witnesses.

²⁰²CW-43, Response to Q 40-41, p 1368, Vol V, Deposition of Witnesses.

²⁰³CW-43, Response to Q 53, p 1371, Vol V, Deposition of Witnesses.

²⁰⁴CW-43, Response to Q 54-55, p 1371, Vol V, Deposition of Witnesses.

²⁰⁵CW-43, Response to Q 41, pp 1368-1369, Vol V, Deposition of Witnesses.

²⁰⁶CW-43, Response to Q 44, p 1369, Vol V, Deposition of Witnesses.

²⁰⁷CW-43, Response to Q 41, p 1368, Vol V, Deposition of Witnesses.

²⁰⁸CW-43, Response to Q 45, p 1369, Vol V, Deposition of Witnesses.

- e) CW-43 did not mention any mob being present at the time of arrest.
- f) CW-43 stated that he did not accompany the police to the Shadnagar police station after the arrests were carried out.²⁰⁹

6.2.11 It can thus be seen that there are a number of contradictions in the versions of CW-43 and CW-15 as to how the arrest of the accused took place, on crucial aspects including (a) time and place where CW-43 and CW-15 met, (b) composition of the police party for the arrest and the number of police vehicles, (c) time of arrest and the visit to Gudigandla after Jaklair by CW-43 and the police party, (d) interaction of CW-43 with the relatives of the deceased, (e) presence of mob at the villages of the deceased and (f) as to whether CW-43 visited Shadnagar Police Station after the arrest. Such extensive contradictions in respect of crucial aspects render it inconceivable that CW-43 and CW-15 visited the villages of the deceased suspects in the afternoon of 29.11.2019. Consequently, the arrest of the deceased suspects in the afternoon of 29.11.2019, in our considered opinion is not believable.

6.2.12 Apart from the aforesaid contradictions, it is important to note that CW-15 admitted that Jaklair and Gudigandla villages are outside the jurisdiction of his police station.²¹⁰ They are in the jurisdiction of Makthal Police Station.²¹¹ Even though the arrest happened within the jurisdiction of the Makthal Police Station, by an officer from another police station, no officer from Makthal accompanied him to Jacklair and Gudigandla villages.²¹² CW-15 claims that after apprehending the accused, he had orally informed Makthal Police Station²¹³ through one of his constables. However, Makhtal Police Station did not record in writing the information given by the constable.²¹⁴

6.2.13 The creditworthiness of CW-43 (P Srinivas Reddy) as to the factum of arrest in the afternoon of 29.11.2019 is seriously in doubt because before the NHRC, he stated that he had never visited the houses of Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu and reaffirmed the same during his deposition, when he was confronted with the NHRC statement.²¹⁵ Before the NHRC, CW-43 never stated that he was a participant or witness to the arrest of the four deceased. On the other hand,

²⁰⁹CW-43, Response to Q 55, p 1371, Vol V, Deposition of Witnesses.

²¹⁰CW-15, Response to Q 52, p 625, Vol II, Deposition of Witnesses.

²¹¹CW-15, Response to Q 53, p 626, Vol II, Deposition of Witnesses.

²¹²CW-15, Response to Q 54, p 626, Vol II, Deposition of Witnesses.

²¹³CW-15, Response to Q 55, p 626, Vol II, Deposition of Witnesses.

²¹⁴CW-15, Response to Q 56, p 626, Vol II, Deposition of Witnesses.

²¹⁵CW-43, Response to Q 66, p 1374, Vol V, Deposition of Witnesses.

CW-43 stated before the NHRC that he had met Md. Arif at the police station and that he had confronted Md. Arif and the other accused persons on the evening of 29.11.2019.²¹⁶ Another strange aspect of the evidence of CW-43 is that despite being in transport business, owning four lorries and employing twelve persons, he does not know Telugu language and that he could only sign his name in English.

6.2.14 The most telling fact in this regard is that the remand case diary prepared by the police on 30.11.2019 (Ex.C-55)²¹⁷ while seeking judicial custody of the accused/deceased in CR No. 784 of 2019, unequivocally states that it was P Srinivas Reddy who brought the accused to the police station. At Column No. 8, S. No. 7 of Ex.C-55, it is mentioned as follows: “*owner of lorry & brought accused A1 to A4 to police station*” This document not only contradicts the stand of the police but also reinforces the version of the victims that it was Srinivas Reddy accompanied by other persons who took the accused in the intervening night of 28.11.2019 and 29.11.2019. It only reinforces the conclusion drawn above at Paragraph 6.2.11 that the version that arrest took place in the afternoon of 29.11.2019 is complete falsehood.

6.2.15 During the course of depositions, desperate attempts were made to get over the aforesaid entry. CW-15 had admitted that he assisted CW-44 in the preparation of the case diary, remand diary and other official papers.²¹⁸ When confronted with the relevant entry in Ex.C-55 as to the fact that it was the lorry owner who brought the accused to the police station, CW-15 stated that it was a typographical error.²¹⁹ Similarly, ACP V Surender, when confronted with the same entry in Ex.C-55, stated that it was a “copy-paste mistake²²⁰ and a “human error.”²²¹ It was pointed out to him that there are no similarities between the columns between which there was alleged to be a “copy-paste mistake.” ACP V Surender did not address the discrepancy and stated that he would have corrected it before filing the same to the court if not for the fact that there was a mob agitating outside the police station on the night of 29.11.2019 when he was recording the remand case diary.²²² When asked which “human” the “human error” was made by, he responded that he was referring to the

²¹⁶Ex.C-106, pp 1276 and 1281, Vol V, Commission Exhibits.

²¹⁷Ex.C-55, pp 804-805, Vol III, Commission Exhibits.

²¹⁸CW-15, Response to Q 50, p 625, Vol II, Deposition of Witnesses.

²¹⁹CW-15, Response to Q 83, p 632 Vol II, Deposition of Witnesses.

²²⁰CW-44, Response to Q 28, p 1457, Vol V, Deposition of Witnesses.

²²¹CW-44, Response to Q 31, p 1459, Vol V, Deposition of Witnesses.

²²²CW-44, Response to Q 30, p 1458, Vol V, Deposition of Witnesses.

writer of the document,²²³ who was Mr Sadath Ali, to whom he had dictated the contents of the document.²²⁴ He went on to say that he had subsequently gone on to correct the record.²²⁵

- 6.2.16 Therefore, the claim of the police that they arrested the deceased in the afternoon is not believable. In our considered opinion, given the deposition of witnesses and the crucial contradictions between the versions of CW-15 and CW-43 as to the alleged arrest in the afternoon of 29.11.2019, the version of the relatives of the accused that the accused were in fact arrested and taken into custody in the intervening night of 28.11.2019 - 29.11.2019 gains acceptance. It must be noted that the relatives of the deceased, CW-1, CW-3, CW-7 and CW-8, in their S.161 CrPC statements recorded on 06.12.2019 and in their NHRC statements recorded on 08.12.2019, at the earliest possible opportunity, have consistently stated that the deceased were taken away by P Srinivas Reddy in the intervening night of 28.11.2019 - 29.11.2019 and not in the afternoon of 29.11.2019.
- 6.2.17 This version is buttressed by the fact the P Srinivas Reddy (CW-43) admits that he went to the villages of the accused on that night, although he does not admit that he had gone with the police. It is his statement that after identifying the accused at Shamshabad police station, he visited the houses of the accused on the same intervening night of 28.11.2019 - 29.11.2019. He started for the house of Md. Arif at Jaklair at 1 AM because Md. Arif owed him money. He reached the house of Md. Arif at 4 AM. He then sought the addresses of the other three accused from Arif, and saw from a distance, their houses at Gudigandla. Later, he took Md. Arif back to his house and claims to have returned to Hyderabad by 6 or 7 AM.²²⁶ He claimed later, however, that he had gone to Gudigandla alone at night, accompanied by no one.²²⁷ To the extent that he admits that he had gone to the villages of the accused at the time mentioned by the relatives of the accused, the versions of the relatives of the accused and P Srinivas Reddy are consistent with each other. The time of the arrest being on the intervening night of 28.11.2019 - 29.11.2019 is also consistent with the fact that it is extremely improbable that the police would have waited for nearly nine hours to take any action to apprehend the accused after identifying them in such a sensational

²²³CW-44, Response to Q 36, p 1460, Vol V, Deposition of Witnesses.

²²⁴CW-44, Response to Q 38, p 1460, Vol V, Deposition of Witnesses.

²²⁵CW-44, Response to Q 41, p 1461, Vol V, Deposition of Witnesses.

²²⁶CW-43, Response to Q 20, p 1362-1364, Vol V, Deposition of Witnesses.

²²⁷CW-43, Response to Q 57, p 1372, Vol V, Deposition of Witnesses.

case, allowing the owner of the lorry connected to the crime to potentially warn the accused, who were his employees, who could then have tried to evade arrest and tamper with evidence.

6.3 Identity of those who took away the accused and manner of arrest

- 6.3.1 The next fact that needs to be examined is whether the relatives of the deceased knew that the police was arresting and taking the deceased into custody in relation to CR No. 784 of 2019. This issue assumes importance in view of the fact that all the relatives of the accused have claimed that the deceased were taken by Srinivas Reddy and few other persons from their respective houses in the dead of the night, and that they came to know that they were in fact taken into police custody much later. Two aspects will have to be considered in this regard. Firstly, it will have to be seen whether the police, while taking the deceased into custody, were in uniform and had made it clear that the accused were in fact being taken into police custody. Secondly, whether the deceased or their relatives were informed the reasons for their arrest and custody.
- 6.3.2 According to his affidavit (Ex.C-24), Sri Pinjari Hussain (CW-1), who is the father of deceased Arif the police personnel had come in a private car and not in a police vehicle, and that they were not in uniform, apart from stating that CW-43 had come with them and promised to bring his son back.²²⁸ In his deposition before the commission, his stand has been inconsistent. He first stated that the police personnel had come in civil dress,²²⁹ but later stated that they had been in police uniform,²³⁰ confirmed that he knew the meaning of police uniform²³¹ and affirmed that they had been in uniform once again.²³² In his deposition, he reiterated that Srinivas Reddy was among the persons who had taken his son away²³³ and exclaimed in response to another question that Srinivas Reddy had taken away his son and why anyone would not ask about this.²³⁴ In his S. 161 Cr.P.C. statement, when he stated that three persons had taken his son away, he added that he was not sure whether they were police personnel, implying that they might not have been in uniform.²³⁵ In his

²²⁸Ex.S-24, p 251, Vol I, Deposition of Witnesses.

²²⁹CW-1, Response to Q 7, p 257, Vol I, Deposition of Witnesses.

²³⁰CW-1, Response to Q 47, p 266, Vol I, Deposition of Witnesses.

²³¹CW-1, Response to Q 50, p 266, Vol I, Deposition of Witnesses.

²³²CW-1, Response to Q 80, p 274, Vol I, Deposition of Witnesses.

²³³CW-1, Response to Q 7, p 255, Vol I, Deposition of Witnesses.

²³⁴CW-1, Response to Q 15, p 260, Vol I, Deposition of Witnesses.

²³⁵P. 262, Book No. 1.

statement before the NHRC (Ex.S-52), he stated that police personnel came with the lorry owner and took away his son.²³⁶

- 6.3.3 Smt. Chintakunta Renuka (CW-3), who is the wife of accused Chintakunta Chennakeshavulu, deposed before the Commission that her husband had been taken away by some persons who had been in civil dress,²³⁷ and affirmed the same during her cross examination when it was pointed out that she had not mentioned the same in her affidavit submitted before the commission (Ex.C-29).²³⁸ In her S.161 CrPC statement, she does not say that it was people in police uniform who had taken away Chennakeshavulu and only says that when her mother-in-law asked her husband, Chennakeshavulu answered that he only knew the lorry owner.²³⁹
- 6.3.4 The father of Chennakeshavulu, who is the now deceased Mr Chintakunta Kurumaiah, stated before the NHRC (Ex.C-109) that P Srinivas Reddy, the lorry owner, came to his house along with persons who were in civil dress to take him away.²⁴⁰ In his S. 161 CrPC statement, Kurmaiah does not specifically mention that police took away his son but only stated that some people came to his house and took away his son, one of whom was the lorry owner.²⁴¹
- 6.3.5 The mother of accused Jollu Naveen, Smt. Jollu Lakshmi (CW-7), stated in her affidavit submitted to the Commission that her son had been taken away by police personnel from the Shadnagar police station who were not in uniform and had come in a private vehicle and not a police car. She stated that the police personnel were accompanied by P Srinivas Reddy, and that he had assured the family that Jollu Naveen would be returned.²⁴² In her statement before the NHRC (Ex.C-43), however, she stated that Chennakeshavulu had called her son from the road, saying that P Srinivas Reddy the lorry owner was calling him, and that she had not been contacted by the police to go to any police station.²⁴³ In her deposition before the Commission as well, she stated that her son had left home at the beckoning of Chennakeshavulu who had called him to “go on lorry,” following which he did not return to the house.²⁴⁴ She deposed that when this transpired, she had not left the house.²⁴⁵ In her

²³⁶Ex.S-52, p 462, Vol II, Commission Exhibits.

²³⁷CW-3, Response to Q 18, p 330, Vol II, Deposition of Witnesses.

²³⁸CW-3, Response to Q 64, p 344, Vol II, Deposition of Witnesses.

²³⁹P. 278, Book No. 1.

²⁴⁰Ex.C-109, p 1303, Vol V, Commission Exhibits.

²⁴¹P 274, Book No. 1.

²⁴²Ex.C-41, p 409, Vol II, Commission Exhibits.

²⁴³Ex.C-43, p 779, Vol III, Commission Exhibits.

²⁴⁴CW-7, Response to Q 12, p 416, Vol II, Deposition of Witnesses.

S.161 Cr.P.C. statement also, she stated that Chennakeshavulu had taken her son away.²⁴⁶

- 6.3.6 Jollu Rajaiah (CW-8), the father of accused Jollu Shiva, also maintained in his affidavit submitted to the Commission that the Shadnagar police had not been in uniform at the time of the arrest, that they had come in a private car and not a police vehicle, and that he had been assured by Srinivas Reddy that his son would be returned.²⁴⁷ In his deposition before the commission, he stated that Srinivas Reddy had come along with three more persons who were waiting in the car, while Srinivas Reddy alone came into his house.²⁴⁸ He further stated that he could not identify the other individuals who were waiting in the car as they were not in police uniform.²⁴⁹ To the NHRC, he stated that P Srinivas Reddy had come to his home at 3 AM on 29.11.2019 and asked for his son, and told him that the reason was to take his help in finding the house of Mohd. Arif.²⁵⁰ In his S. 161 Cr.P.C. statement as well, he stated that his son was taken away by the lorry owner P Srinivas Reddy on the pretext of taking his help to find the house of his driver named Mohammed, and that he was accompanied by three more persons who were in a car just away from his house. Further, he stated that he did not know the identity of the other persons who took away his son. This statement further adds credence to the fact that the policemen or the persons who took away Jollu Shiva, were not in uniform. If they were in uniform, the witness would have definitely stated unambiguously in his S.161 Cr.P.C. statement that the police had taken away his son.
- 6.3.7 No doubt, Pinjari Hussain (CW-1) has contradicted himself in his deposition as to whether the persons who took away his sons were in police uniform. But in our opinion, this contradiction itself ought not to outweigh the consistent statements and depositions of the other relatives of the deceased suspects. It is observed that the other relatives of the deceased CW-3, CW-7 and CW-8 in their S.161 Cr.P.C. and NHRC statements had taken a consistent stance that apart from lorry driver P Srinivas Reddy, and that they could not identify who had taken away the deceased. In our view, had the police been in uniform, their statement would have reflected that the police had arrested the deceased. It must be noted that the S.161 Cr.P.C. statements and the

²⁴⁵CW-7, Response to Q 15, p 416, Vol II, Deposition of Witnesses.

²⁴⁶P 270, Book No. 1.

²⁴⁷Ex.C-44, p 429, Vol II, Commission Exhibits.

²⁴⁸CW-8, Response to Q 12, p 436, Vol II, Deposition of Witnesses.

²⁴⁹CW-8, Response to Q 13, p 436, Vol II, Deposition of Witnesses.

²⁵⁰Ex.S-57, p 516, Vol II, Deposition of Witnesses.

NHRC statements were recorded immediately after the incident on 06.12.2019 and 08.12.2019 respectively and reflect as contemporaneous a version as possible. The Commission also does not find any other reason to disbelieve CW-3, CW-7 and CW-8 on this account, nor has the State been able to demonstrate that these witnesses were untruthful.

6.4 Furnishing of reasons for arrest

- 6.4.1 CW-15 (A Sreedhar Kumar), did not state in his affidavit (Ex.C-66) that either the deceased or their relatives were informed of the reasons for the deceased being taken into custody. He claimed to have orally informed the accused and their relatives the reason for the arrest.²⁵¹ He deposed that when he visited the residence of the accused, parents of the accused were present, and he gave oral information to the parents.²⁵² When specifically asked about the person present at the house of Jollu Naveen at the time of arrest, he stated that he does not have correct idea.²⁵³ Significantly, he could not recollect anything about the houses of the deceased, whether the sizes or the colour.²⁵⁴ Admittedly, no arrest memos or arrest panchnamas were executed at the spot when they were arrested.²⁵⁵
- 6.4.2 According to the affidavit (Ex.C-24) of Sri Pinjari Hussain (CW-1), he was not given any reason for the arrest of his son. He was merely assured by P Srinivas Reddy, the lorry owner, that his son would be returned.²⁵⁶ In his deposition before the Commission, he deposed that when he asked for reasons, he was told that he should find out the same from his son and that they enquired as to whether his son had not told him about it.²⁵⁷ He stated that he had *not* been told by the police that his son had been involved in a murder case, but that they merely asked him to come to the Shadnagar police station.²⁵⁸ In his NHRC statement (Ex.S-52), he stated that he was told that Arif had killed a girl in a road accident by his truck and later stated that the police did not tell him for what offense his son was arrested.²⁵⁹ In his S.161 Cr.P.C. statement he stated that after the arrest of his son, he later came to know that his son is

²⁵¹CW-15, Response to Q 38, p 622, Vol II, Deposition of Witnesses.

²⁵²CW-15, Response to Q 58-60, p 627, Vol II, Deposition of Witnesses.

²⁵³CW-15, Response to Q 58, 59 and 60, p 627, Vol II, Deposition of Witnesses.

²⁵⁴CW-15, Response to Q 61-62, p 627, Vol II, Deposition of Witnesses.

²⁵⁵CW-15, Response to Q 42, p 623, Vol II, Deposition of Witnesses.

²⁵⁶Ex.C-24, p 251, Vol I, Deposition of Witnesses.

²⁵⁷CW-1, Response to Q 8, p 257, Vol I, Deposition of Witnesses.

²⁵⁸CW-1, Response to Q 49, p 266, Vol I, Deposition of Witnesses.

²⁵⁹Ex.S-52, p 462-465, Vol II, State Exhibits.

one of the accused persons who raped and killed a woman near the Shamshabad area.²⁶⁰

- 6.4.3 Smt. Chintakunta Renuka (CW-3), who is the wife of accused Chintakunta Chennakeshavulu, also stated in her affidavit that she was not given any reason for the arrest. In her deposition before the Commission, when she was asked whether the persons who took her husband gave reasons before taking him, she stated that she, her mother-in-law and father-in-law had asked the reason for her husband being taken away. They told them that they would take Chennakeshavulu to show them the house of Arif, after which they would bring him back to her, and asked her to not be afraid.²⁶¹ When she was asked why she did not mention this exchange in her affidavit (Ex.C-29), she responded that she must have forgotten to do so.²⁶² In her S. 161 Cr.P.C. statement, there is no mention of the police having arrested her husband and therefore no mention of the reasons for arrest.²⁶³
- 6.4.4 The father of Chennakeshavulu, Mr Chintakunta Kurmaiah, stated before the NHRC that his son had been taken away by Mr P Srinivas Reddy along with some people in civil dress under the pretext that he would be returned in two hours (by 6 AM).²⁶⁴ Kurmaiah states in his S. 161 Cr.P.C. statement that only after his son was taken away did he come to know that he was involved in an offence, and later he was called by the police to the police station on the day his son was sent to the jail.²⁶⁵ It must be noted that the deceased were sent to judicial custody not on 29.11.2019 but on 30.11.2019.
- 6.4.5 The mother of accused Jollu Naveen, Smt. Jollu Lakshmi (CW-7), stated in her affidavit that no reasons had been given to her for the arrest.²⁶⁶ She affirmed the same in her deposition before the commission and also added that they had not called her regarding the same.²⁶⁷ She also stated in her S.161 Cr.P.C. statement that it was only after her son was taken away that she came to know that he was involved in an offence, and that she was later called to the police station on the day her son was

²⁶⁰P 262, Book No. 1.

²⁶¹CW-3, Response to Q 24, p 332, Vol II, Deposition of Witnesses.

²⁶²CW-3, Response to Q 65, p 344, Vol II, Deposition of Witnesses.

²⁶³P 278, Book No. 1.

²⁶⁴Ex.C-109, p 1303, Vol V, Commission Exhibits.

²⁶⁵P 274-275, Book No. 1.

²⁶⁶Ex.C-41, p 409, Vol III, Commission Exhibits.

²⁶⁷CW-8, Response to Q 18, p 417, Vol II, Deposition of Witnesses.

taken to jail.²⁶⁸ In her statement before the NHRC (Ex.C-43), she stated that she was not called by the police and she did not go to any police station.²⁶⁹

6.4.6 Jollu Rajaiah (CW-8), the father of accused Jollu Shiva, stated in his deposition before the commission that he had not been given any information regarding the reasons for the arrest but had merely been called to the Shadnagar police station.²⁷⁰ CW-8 in his S.161 CrPC statement stated that he was informed that his son was being taken away to show the house of driver Mohammad and that later at 11 AM, he came to know through the news that his son was also one of the accused in a crime. He states that he was also called to the police station on the day that his son was sent to Cherlapally jail.²⁷¹ Jollu Rajaiah, in his NHRC statement (Ex.S-57), stated that no reasons were given for taking his son on 29.11.2019 but that he came to know from the TV news that his son was an accused in an offence. He stated that the police came to his house on 30.11.2019 and informed him that his son had committed an offense.²⁷²

6.4.7 Thus, it can be concluded that at the time the deceased were taken into custody by the police in the intervening night of 28.11.2019-29.11.2019 with the help of Srinivas Reddy, no reasons were assigned for their arrest nor was an arrest memo contemporaneously executed. There is no written record of the police that at the time of the arrest at their villages, the deceased or their relatives were informed about the reasons for arrest.

6.5 Time of production of accused before CW-44 at Shadnagar Police Station and recording of arrest

6.5.1 The material to be examined for the purpose of finding out the time of production of the accused before CW-44 at Shadnagar P.S. and recording of their arrest is the evidence of CW-15, the arresting officer, handwritten letter (Ex. C-73) given by him to CW-44, evidence of the investigating officer, CW-44 and the Arrest and Court Surrender Forms (Ex. C-12, C-13, C-14 and C-15) prepared and signed by CW-44. The Commission has already opined that the genuineness of Ex.C-73 and its contemporaneous execution is in serious doubt.

²⁶⁸P 270-271, Book No. 1.

²⁶⁹Ex.C-43, p 779-781, Vol III, Commission Exhibits.

²⁷⁰CW-8, Response to Q 15-18, p 437, Vol II, Deposition of Witnesses.

²⁷¹P 266-267, Book No. 1.

²⁷²Ex.S-57, p 519, Vol II, State Exhibits.

6.5.2 A. Sridhar Kumar (CW-15) admitted in his deposition that no arrest memo or arrest panchnama was executed at the spot of arrest.²⁷³ The reason for this, according to him, was presence of a large mob that had gathered around the residences of the accused, and the law and order situation thus created.²⁷⁴ According to him, this crowd had gathered at the sites of arrest because the incident had been widely publicised in the news channels. As they had arrived in two vehicles, people gathered to watch what they were doing and on learning their purpose, a large mob gathered.²⁷⁵ He stated that by the time the police arrived, the crowd already knew the reason why they were there, but that he does not know how.²⁷⁶ As people gathered out of curiosity, they questioned the police officers as to how they could take the accused persons away. CW-15 stated that he anticipated trouble, and hence took away the accused to the police station directly without executing arrest panchnamas.²⁷⁷ This was a conscious departure from an important legal provision relating to arrest. Therefore, the reasons for the departure were expected to have been stated in the case diary for the relevant date as well as his statement u/s 161 of the Cr.P.C. Not only it is not recorded in the official records, but his affidavit (Ex.C-66) filed here also does not state so.²⁷⁸ Therefore, according to the officer who arrested the accused, even if one were to assume that the accused were arrested in the afternoon of 29.11.2019, no arrest memos were executed contemporaneously as contemplated under S.41B(b) of the Cr.P.C.

6.5.3 A. Sridhar Kumar stated in his affidavit that he produced the accused before CW-44 at 5 PM, after having apprehended them at 2 PM on the 29.11.2019.²⁷⁹ He stated in his deposition that it took him three hours to reach Shadnagar PS and that they did not stop at any place except for 10 minutes near Jadcherla. He reiterated that he reached Shadnagar PS at 5 PM.²⁸⁰ Since he was given written instructions vide Ex.C-72 memo to apprehend the accused, he submitted a letter (Ex.C-73)²⁸¹ at the time he produced the accused before CW-44. That handwritten letter also states the time of 5 PM as the

²⁷³CW-15, Response to Q 42, p 623, Vol II, Deposition of Witnesses.

²⁷⁴CW-15, Response to Q 43, p 623, Vol II, Deposition of Witnesses.

²⁷⁵CW-15, Response to Q 45, p 624, Vol II, Deposition of Witnesses.

²⁷⁶CW-15, Response to Q 46, p 624, Vol II, Deposition of Witnesses.

²⁷⁷CW-15, Response to Q 47, p 624, Vol II, Deposition of Witnesses.

²⁷⁸CW-15, Response to Q 48, p 625, Vol II, Deposition of Witnesses.

²⁷⁹Ex.C-66, p 605, Vol II, Commission Exhibits; CW-15, Response to Q 73, p 630, Vol II, Deposition of Witnesses.

²⁸⁰CW-15, Response to Q 71-73, pp 629-630, Vol V, Deposition of Witnesses.

²⁸¹P 1045, Book No. 10.

time of production of the accused before CW-44. This time is confirmed by CW-44 in his affidavit (Ex.C-181).²⁸²

6.5.4 As regards CW-44, V. Surrender, stated in his deposition that he recorded the arrest of the accused at 5 PM on 29.11.2019.²⁸³ This would mean that the arrest was recorded by him on the production of the accused before him by CW-15. The remand case diary (Ex.C-55), however states that the arrest was recorded after recording of the confessional statements of the accused. This discrepancy was sought to be explained by CW-44 by stating that after recording the confessional statements, he issued the “Arrest and Court Surrender Memo”,²⁸⁴ i.e., Ex.C-12 to Ex.C-15. These documents also record the same time i.e., 5 PM as the time of arrest.

6.5.5 CW-44 deposed that he interrogated the accused before recording their confessional statements and that the interrogation went on from 4:45 PM to 5 PM.²⁸⁵ He had thereafter recorded the arrest at 5 PM.²⁸⁶ He claimed that the accused admitted to their crimes during this fifteen-minute interrogation.²⁸⁷ He admitted that the fact of interrogation of the accused and resultant confession is not recorded in the case diary. The spacious reason stated by him for the lapse is that a confession made in his presence would not be a valid confession.²⁸⁸ If he had in fact interrogated the accused from 4:45 PM to 5 PM, the accused could not have been produced before him at 5 PM as claimed by him in the case diary²⁸⁹ and his affidavit (Ex.C-181).²⁹⁰ This is also contrary to what has been stated by CW-15 in his deposition²⁹¹ and affidavit.²⁹² When this contradiction was pointed out to CW-44, he did not clarify the discrepancy but simply reiterated that the interrogation had taken place and that the arrest was carried out at 5 PM.²⁹³ When the question was again put to him and when he was asked why in Ex.C-73, a letter written to him by CW-15, it is stated that the accused had been presented before him at 5 PM, he stated that CW-15 had stated the same based on the

²⁸²Ex.C-181, pp 2116-2157, Vol V, Commission Exhibits.

²⁸³CW-44, Response to Q 14, p 1454, Vol VIII, Commission Exhibits.

²⁸⁴Ex.C-55, p 817, Vol III, Commission Exhibits.

²⁸⁵CW-44, Response to Q 17, p 1455, Vol V, Deposition of Witnesses.

²⁸⁶CW-44, Response to Q 14, p 1454, Vol V, Deposition of Witnesses.

²⁸⁷CW-44, Response to Q 18, p 1455, Vol V, Deposition of Witnesses.

²⁸⁸CW-44, Response to Q 24, p 1456, Vol V, Deposition of Witnesses.

²⁸⁹P 172, Book No. 10.

²⁹⁰Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits.

²⁹¹CW-15, Response to Q 73, p 630, Vol II, Deposition of Witnesses.

²⁹²Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

²⁹³CW-44, Response to Q 180, p 1503, Vol V, Deposition of Witnesses.

time of the arrest, and that he had meant to write the time of the arrest.²⁹⁴ He then stated that CW-15 had actually produced the accused before him at 4:45 PM, and that CW-15 may have recorded the time wrongly in the case diary because of confusion allegedly arising from the presence of 50 press persons in the police station. It was then pointed out to him that he himself and not CW-15 was the author of the case diary. To this, he stated to the effect that he had recorded the time of production of the accused wrongly.²⁹⁵ It was then pointed out that even in his affidavit, he had mentioned the time of production of the accused before him as 5 PM. To this, making no attempt to maintain a coherent narrative, he stated that what he has stated in his affidavit is correct.²⁹⁶

6.5.6 The Confession statements of all the four accused are at Ex.C-196 to Ex.C-199. The statements are named “Crime Confession Panchanama”, conducted by CW-44. His signature appears on each page of the four statements of confession. CW-15, in his deposition has stated the times at which the confessional statement of each accused was recorded. This is corroborated by the four confessional statements. The times given are

A-1 (Ex. C-196)	- 5:20 PM to 6:40 PM
A-2 (Ex. C-197)	- 6:45 PM to 7:45 PM
A-3 (Ex. C-198)	- 8:10 PM to 9:15 PM
A-4 (Ex. C-199)	- 9:20 PM to 10:30 PM

If the statement of CW-44 in his deposition that, he recorded the arrest of the accused after recording their confessional statements is to be accepted, A-1 (Arif) would have been shown as arrested at 6:40 PM. A-2 (Shiva) would have been shown as arrested at 7:45 PM. A-3 (Naveen) would have been shown as arrested at 9.15 PM. A-4 (Chennakeshavulu) would have been shown as arrested at 10:30 PM.

6.5.7 Thus, it can be seen that the deposition of CW-15 and CW-44 are just mutually contradictory as to the alleged production of accused at Shadnagar PS on 29.11.2019, but also contrary to the case diary and other documents contained therein. This further falsifies the case of the police that the accused were arrested in the afternoon of 29.11.2019 and were produced at the Police Station at 5 PM on that day.

²⁹⁴CW-44, Response to Q 181, p 1503, Vol V, Deposition of Witnesses.

²⁹⁵CW-44, Response to Q 182, p 1504, Vol V, Deposition of Witnesses.

²⁹⁶CW-44, Response to Q 183, p 1505, Vol V, Deposition of Witnesses.

- 6.5.8 The contradictions between these two witnesses, however, is not limited to production of accused at Shadnagar PS. CW-15 stated before the commission that he was at Shadnagar PS when arrest memos were recorded,²⁹⁷ and that the relatives of the accused were present as well when the arrest memos were recorded.²⁹⁸ At first, he stated that the arrest memos were executed after confessional statements were recorded for each of the accused.²⁹⁹ The confessional statements, according to him, were recorded from 5.20 PM to 10.30 PM.³⁰⁰ Thus, the arrest memos were executed after 10.30 PM according to him.³⁰¹ However, 5 PM is recorded as the time of arrest in the arrest memos.³⁰² When confronted with the same, CW-15 changed his stance on the time of arrest and stated that the arrest memos have been recorded correctly as 5 PM,³⁰³ and that the arrests took place *before* the confessional statements were recorded.³⁰⁴
- 6.5.9 In the Case Diary Part I, CW-44 stated that he “rearrested the accused A1 to A4” at 5 PM on 29.11.2019 when they were brought to him at the Shadnagar Police Station.³⁰⁵ He also stated in his examination that he had recorded the arrest at 5 PM.³⁰⁶ He stated that at this point, he explained the reason for arrest to the accused, and that information regarding the arrest was passed on to the relatives of the accused under S. 50 of the CrPC.³⁰⁷ When it was pointed out to him that according to the remand case diary, the arrest of the accused was recorded *after* recording the confessional statements of the four accused, CW-44 stated that he was instead referring to the fact that he had issued an “arrest and court surrender memo” after recording the confessional statements.³⁰⁸ In our view, this is a meaningless statement with the design to mislead with equivocation, as the arrest memos are titled “Arrest/Court Surrender Form.”³⁰⁹ It was again pointed out that contrary to his claim that the arrest had been carried out at 5 PM, he had stated in his affidavit (Ex.C-181) that he had arrested the accused after recording the confessional statements of the accused, which

²⁹⁷CW-15, Response to Q 68, p 628, Vol V, Deposition of Witnesses.

²⁹⁸CW-15, Response to Q 69, p 629, Vol II, Deposition of Witnesses.

²⁹⁹CW-15, Response to Q 84, p 633, Vol II, Deposition of Witnesses.

³⁰⁰CW-15, Response to Q 85, p 633, Vol II, Deposition of Witnesses.

³⁰¹CW-15, Response to Q 86, p 633, Vol II, Deposition of Witnesses.

³⁰²Ex.C-12 to C-15, p 121 to 132, Vol I, Commission Exhibits.

³⁰³CW-15, Response to Q 87, p 633, Vol II, Deposition of Witnesses.

³⁰⁴CW-15, Response to Q 88, p 633, Vol II, Deposition of Witnesses.

³⁰⁵P 172, Book No. 10

³⁰⁶CW-44, Response to Q 14, p 1454, Vol V, Deposition of Witnesses.

³⁰⁷P 172, Book No. 10.

³⁰⁸CW-44, Response to Q 15, p 1454, Vol V, Deposition of Witnesses.

³⁰⁹Ex.C-12 to Ex.C-15, p 132-134, Vol I, Commission Exhibits.

according to his affidavit concluded at 9:20 PM.³¹⁰ To this, he responded that he had in fact recorded the arrest at 5 PM, but that it took until 9:30 PM to 10:00 PM for the relatives of the accused to be intimated of the arrest and for their signatures to be obtained on the Arrest Court Surrender Form.³¹¹ When asked if the relatives of the accused had been there at the time of arrest, which he purports to be 5 PM, he replied in the negative.³¹² Therefore, there is contradiction in the material available on record and also the depositions as to at what time the arrest memos entitled ‘Arrest/Court Surrender Form’ were executed.

6.6 Contents of the arrest memo

- 6.6.1 In the arrest memos, Pinjari Hussain is listed as the witness for Arif,³¹³ “Jollu Rajappa” is listed as the witness for Jollu Shiva and Jollu Naveen,³¹⁴ and Kurmaiah is listed as the witness for Chennakeshavulu.³¹⁵ Jollu Rajaiah denies having affixed his thumb print on any such document,³¹⁶ although Ex.C-13 and Ex.C-15 contain thumb prints attributed to him.³¹⁷
- 6.6.2 In the Arrest/Court Surrender Form (Ex.C-14) of Chennakeshavulu, the thumb impression of Kurmaiah is collected, whereas in the S. 50 CrPC notice (Ex.S-51), a signature is recorded. When asked about this discrepancy, V Surender claimed that he could not pay attention to this detail because the police station was being attacked,³¹⁸ but that he did not feel it was necessary to check the authenticity of the thumb impression and the signature in light of this discrepancy.³¹⁹
- 6.6.3 Sri Pinjari Hussain (CW-1), the father of the accused Arif stated in his affidavit that he was not issued an arrest memo.³²⁰ He is, however, listed as the witness to the arrest memo of Mohd. Arif, and his signature is present on said document.³²¹ Further, Jollu Lakshmi, the mother of accused Jollu Naveen, also stated in her affidavit that she was not issued an arrest memo.³²²

³¹⁰Ex.C-181, p 1403, Vol V, Deposition of Witnesses.

³¹¹CW-44, Response to Q 184, p 1506, Vol V, Deposition of Witnesses.

³¹²CW-44, Response to Q 185, p 1506, Vol V, Deposition of Witnesses.

³¹³Ex.C-12, p 131, Vol I, Commission Exhibits.

³¹⁴Ex.C-13 and Ex.C-15, p 132-134, Vol I, Commission Exhibits.

³¹⁵Ex.C-14, p 133, Vol I, Commission Exhibits.

³¹⁶CW-8, Response to Q 64 and 68, p 449-451, Vol II, Deposition of Witnesses.

³¹⁷Ex.C-13 and Ex.C-15, p 131-134, Vol I, Commission Exhibits.

³¹⁸CW-44, Response to Q 192, p 1509, Vol V, Deposition of Witnesses.

³¹⁹CW-44, Response to Q 193, p 1510, Vol V, Deposition of Witnesses.

³²⁰Ex.C-24, p 406, Vol II, Commission Exhibits.

³²¹Ex.C-13 and Ex.C-15, p 132-134, Vol I, Commission Exhibits.

³²²Ex.C-41, p 774, Vol III, Commission Exhibits.

- 6.6.4 It is recorded in each of the arrest memos that the physical condition the accused has been examined by a government medical officer and that a “certificate is enclosed here with.”³²³ CW-15 deposed that he did not know if any medical examination was done at 5 PM,³²⁴ which is the time he claims the arrest memos were recorded. He subsequently admitted that there are no records pertaining to any medical examination done on 29.11.2019 in respect of the accused persons after the arrest.³²⁵ CW-44, on the other hand, stated that the physical examination by a medical officer was only mentioned as part of the format for an arrest memo, and that it was written only in the sense that the accused would be produced before a medical officer before remand.³²⁶
- 6.6.5 The above circumstances make it clear that the contemporaneous execution of arrest memos is also in serious doubt. This is yet another set of documents, where admittedly, the contents are not true.

6.7 Time when relatives of the accused came to Shadnagar P.S.

- 6.7.1 CW-15 stated that the relatives of the accused arrived at the police station at around 5.10 to 5.15, being 10 to 15 minutes after the time he claims he had arrived at the Shadnagar PS.³²⁷ Further, CW-44 in his deposition stated that he had permitted the relatives of the deceased to meet the deceased on 29.11.2019.³²⁸
- 6.7.2 The relatives of the accused, on the other hand, either state that they had not been called to the police station and had not done so, or that they had gone to the police station on the day following the arrest, i.e., 30.11.2019, with the exception of Pinjari Hussain, who contradicts himself on the matter.
- 6.7.3 Pinjari Hussain (CW-1) stated that he was asked to go to the police station on Saturday to bring the clothes of his son to the police station. These clothes were not received and were kept in the police station itself, and no signatures were taken on that day. In response to another question, he stated that he had been asked to come to the Shadnagar police station when his son was taken away, without being given any reason for why his son was being taken away.³²⁹ He stated that he followed this instruction and went to the Shadnagar police station³³⁰ on the same day.³³¹ Before the

³²³P 219-222, Book No. 10.

³²⁴CW-15, Response to Q 110-112 and 120, p 642-644, Vol II, Deposition of Witnesses.

³²⁵CW-15, Response to Q 119, p 644, Vol II, Deposition of Witnesses.

³²⁶CW-44, Response to Q 186, p 1506, Vol V, Deposition of Witnesses.

³²⁷CW-15, Response to Q 43 and 74, p 623 and 630, Vol II, Deposition of Witnesses.

³²⁸CW-44, Response to Q 263, p 1533, Vol V, Deposition of Witnesses.

³²⁹CW-1, Response to Q 49, p 266, Vol I, Deposition of Witnesses.

³³⁰CW-1, Response to Q 51, p 266, Vol I, Deposition of Witnesses.

³³¹CW-1, Response to Q 52, p 267, Vol I, Deposition of Witnesses.

NHRC, however, he said that he did not go to the police station on the same day but that he had been picked up from his house by some police personnel on the next day at around 4 AM. He went on to state before the NHRC that at the police station, the signatures/thumb impressions of himself and the relatives of the other accused were taken. He did not go to the police station after that.³³² In his S.161 Cr.P.C., he stated that he went to the police station on the day after the arrest and noticed that his son and three others were in the custody of the police.³³³

- 6.7.4 The father of Chennakeshavulu, who is the now deceased Mr. Chintakunta Kurmaiah, stated that he did not meet his son at the jail after his arrest.³³⁴ However, he is listed as the witness in the arrest memo of his son, which contains a thumb impression.³³⁵ Chintakunta Renuka (CW-3), the wife of Chennakeshavulu, deposed that she did not go the police station on the day of the arrest.³³⁶ Further, she stated that after 3 to 4 days after the arrest, the police had come to their house and asked them to bring clothes for her husband. Following this, her father-in-law went to the police station for this purpose.³³⁷
- 6.7.5 The mother of deceased Jollu Naveen, Smt. Jollu Lakshmi (CW-7), stated before the NHRC that she was not contacted by the police at all and had not been called to any police station.³³⁸ She also deposed that no signature was taken from her at the time of arrest, that she was not called by the police,³³⁹ and that she was only shown the dead body of her son thereafter. She had not gone to the police station.³⁴⁰
- 6.7.6 Jollu Rajaiah (CW-8), the father of deceased Jollu Shiva stated that he was not given any reasons when his son was taken away, but that he had merely been called to the Shadnagar police station.³⁴¹ When he went to the police station, he was not allowed to meet his son or the other accused.³⁴² His signatures were not obtained on that day.³⁴³ When asked if he had put thumb impressions on Ex.C-13 and Ex.C-15, which are Arrest/Court Surrender Forms recording the arrest of Jollu Shiva and Jollu Naveen at

³³²Ex.S-52, p. 462, Vol II, State Exhibits.

³³³P 262, Book No. 1.

³³⁴Ex.C-109, pp 1303-1305, Vol V, Commission Exhibits.

³³⁵Ex.C-14, p. 133, Vol I, Commission Exhibits.

³³⁶CW-3, Response to Q 25, p 332, Vol II, Deposition of Witnesses.

³³⁷CW-3, Response to Q 26, p 333, Vol II, Deposition of Witnesses.

³³⁸Ex.C-43, p 779, Vol III, Commission Exhibits.

³³⁹CW-7, Response to Q 19, p 417, Vol II, Deposition of Witnesses

³⁴⁰CW-7, Response to Q 20, p 417, Vol II, Deposition of Witnesses

³⁴¹CW-8, Response to Q 15-18, p 437, Vol II, Deposition of Witnesses.

³⁴²CW-8, Response to Q 20, p 438, Vol II, Deposition of Witnesses.

³⁴³CW-8, Response to Q 21, p 438, Vol II, Deposition of Witnesses.

the Shadnagar P.S., he denied having done so and stated that he did not affix his thumb impression on any such documents.³⁴⁴ In his statement to the NHRC, he reported that the police had come to his house on 30.11.2019, the day following the arrest, and had informed him that his son had committed the crime he was accused of, and that he had to visit the police station to provide various signatures. He stated that he did so.³⁴⁵ In his S.161 CrPC statement as well, he stated that he was informed of his son's arrest by the police the next day, and that he was called to the police station.³⁴⁶ No notice under S.50 CrPC seemed to have been served on Jollu Rajaiah at all.

6.7.7 Therefore, it can be seen that there is no cogent evidence to show that the relatives of the deceased were present at the Shadnagar Police Station on 29.11.2019. It can also be seen that Jollu Rajaiah (CW-8) has denied his thumb impressions on the arrest memos - Ex.C-13 & Ex.C-15, of Jollu Shiva and Jollu Naveen respectively. Further, there is contradiction as to the time of execution of the arrest memos and also as to the presence of the relatives of the deceased at the time of the execution of the arrest memos.

6.8 Notices to Accused's families

6.8.1 V Surender (CW-44) deposed before the commission that at the time of arrest, he had issued a notice to Hussain, the father of Md. Arif, and to the father of Shiva for Shiva and Naveen as they were both relatives, and that he took the signature of Chintakunta Kurmaiah (whose name he wrongly stated as "Kurmannna"), who is the father of Chennakeshavulu. He had asked for the documents proving identity of the accused like ID Cards or driving licenses from their relatives.³⁴⁷ They all produced Aadhar cards.³⁴⁸ This would mean that according to CW-44, the Aadhaar cards of all of the four accused were with him soon after the arrest. Despite that, in his letter dt. 30.11.2019 (Ex.C-262) sent to the Superintendent of Central Prison, Cherlapally,³⁴⁹ while handing over the accused after remand to judicial custody, CW-44 stated that the accused did not have any ID proof and requested Superintendent to take the accused without ID proofs. When this was pointed out to CW-44, then he stated that

³⁴⁴CW-8, Response to Q 64 and 68, p. 449 and 451, Vol II, Deposition of Witnesses.

³⁴⁵Ex.S-57, p 519, Vol II, State Exhibits.

³⁴⁶P 271, Book No. 1.

³⁴⁷CW-44, Response to Q 187, p 1507, Vol V, Deposition of Witnesses.

³⁴⁸CW-44, Response to Q 188, p 1507, Vol V, Deposition of Witnesses.

³⁴⁹Ex.C-263, p 2456, Vol IX, Commission Exhibits.

he had wrongly recorded this fact because of the emergency created when “thousands of people attacked the police station”.³⁵⁰

- 6.8.2 It was pointed out to CW-44 during his deposition that, notice dt. 29.11.2019 (Ex.S-51) issued under S. 50 Cr.P.C.,³⁵¹ reflects that the notice was given only to Mohd. Hussain (father of Md. Arif) and Chintakunta Kurmaiah (father of Chennakeshavulu). No notice was given to the relatives of Jollu Shiva and Jollu Naveen. He replied claiming ignorance about the signature of Jollu Rajaiah (who he wrongly recounted as “Jollu Rajappa”) not being taken in the said notice. He further stated that he did not know whether Jollu Rajaiah was present when the signature on the arrest form was to be taken from him. According to him, such signatures are usually collected by constables.³⁵²

6.9 Recording of confessional statement

- 6.9.1 According to CW-15, after the accused were apprehended in the afternoon of 29.11.2019, their confessional statements were recorded from 5.20 PM to 10.30 PM.³⁵³ The confession of Md. Arif, was allegedly recorded from 5.20 PM to 6.40 PM; that of Jollu Shiva from 6.45 PM to 7.45 PM; that of Jollu Naveen from 8.10 PM to 9.15 PM; and that of Chennakeshavulu from 9.20 PM to 10.30 PM.³⁵⁴ In the case diary, the confession of Md. Arif was recorded as having been recorded at 5 PM, that of Shiva at 6.45 PM, that of Naveen at 8.30 PM and that of Chennakeshavulu at 9.20 PM.³⁵⁵ According to CW-44 in his affidavit, the confessional statements were recorded from 5:20 PM till 9.20 PM on 19.11.2019.³⁵⁶ According to DCP Prakash Reddy (CW-18), he had been told by CW-44 at 5.15 PM that the accused had disclosed the crime and the manner in which it had been committed to CW-44.³⁵⁷ When CW-44 deposed before the commission subsequently, he stated that the deceased had confessed to him during a fifteen-minute interrogation from 4:45 PM to 5 PM³⁵⁸ – a claim not reflected in any prior record. Thus, it may be observed that there are a number of contradictions in the police version on the time of recording the confessional statements.

³⁵⁰CW-44, Response to Q 190, p 1508, Vol V, Deposition of Witnesses.

³⁵¹P 216, Book No. 10.

³⁵²CW-44, Response to Q 191, p 1509, Vol V, Deposition of Witnesses.

³⁵³CW-15, Response to Q 86, p 633, Vol II, Deposition of Witnesses.

³⁵⁴CW-15, Response to Q 85, p 633, Vol V, Deposition of Witnesses.

³⁵⁵P 172, Book No. 10.

³⁵⁶Ex.C-181, p 2127, Vol VIII, Commission Exhibits.

³⁵⁷CW-18, Response to Q 79, p 784, Vol III, Deposition of Witnesses.

³⁵⁸CW-44, Response to Q 17-18, p 1455, Vol V, Deposition of Witnesses.

- 6.9.2 In the Case Diary Part I, it is stated that after CW-15 produced the deceased before CW-44 at about 5 PM and after the deceased were “rearrested” at 5 PM, CW-44 sent a requisition (Ex.C-53)³⁵⁹ to the office of the Tahsildar, Farooqnagar at 5.10 PM, requesting him to provide two employees to act as panch witnesses for the recording of the statements of the deceased regarding he facts and circumstances of the case. KavaliJagadeshwar and KavaliChennaiah are recorded as the panch witnesses thus secured. This is contrary to what is stated by Kavali Jagadeshwar in his statement before the NHRC, where he states that the MRO informed him at 4.30 PM on 29.11.2019 to go to ACP Shadnagar to undertake panch duties. He further stated that he reached the Police Station at 5 PM along with his colleague. Therefore, contrary to the case diary, even before the deceased suspects had allegedly arrived at the Police Station, panchas were called.
- 6.9.3 According to the Case Diary Part I,³⁶⁰ affidavit (Ex.C-181) of CW-44,³⁶¹ the confessional statement of Md. Arif (Ex.C-196)³⁶² and the deposition of CW-15,³⁶³ the recording of the confessional statements had started from 5.20 PM. Further, CW-44, when asked in what manner the confessions were recorded on 29.11.2019, he stated that he had asked the panchas to put questions to the accused and to write down what the accused stated,³⁶⁴ indicating that the panchas were involved throughout the process of recording confessional statements. Thus, it is the version of the police that just ten minutes after CW-44 requisitioned the two panch witnesses from the Tahsildar’s office, the said panch witnesses had reached the Shadnagar Police Station and had started recording the confessional statements of the accused. This unlikely story is further thrown into question when the deposition of the Tahsildar who allegedly granted the requisition, Jaruplavath Pandu (Cw-9), is considered. At first, he stated that he did not receive any request from CW-44 in relation to Crime No. 784/2019.³⁶⁵ When the purported requisition letter (Ex.C-53) was shown to him, however, he acknowledged that he had received it and had endorsed it to the Additional Revenue Inspector.³⁶⁶ When asked at what time he had received said letter

³⁵⁹Ex.C-53, p 801, Vol III, Commission Exhibits.

³⁶⁰P 172, Book No. 10.

³⁶¹Ex.C-181, p 2127, Vol VIII, Commission Exhibits.

³⁶²Ex.C-196, pp 2200-2212, Vol VIII, Commission Exhibits.

³⁶³CW-15, Response to Q 85, p 633, Vol V, Deposition of Witnesses.

³⁶⁴CW-44, Response to Q 150, p 1492, Vol V, Deposition of Witnesses.

³⁶⁵CW-9, Response to Q 111, p 488, Vol II, Deposition of Witnesses.

³⁶⁶CW-9, Response to Q 112, p 488, Vol II, Deposition of Witnesses.

(Ex.C-53), he stated that he received the same before 12:00 noon on 29.11.2019, at which time he had been in his office.³⁶⁷ He further stated that he did not know when exactly his staff had attended the panchnama proceedings pursuant to his endorsement of Ex.C-53 and his instructions to his staff pursuant to the same, but that he had verified that they had attended the panchnama proceedings.³⁶⁸ The version of the Tahslidar, in our view, completely falsifies the version of the police that the requisition had been sent, two panch witnesses had been secured and the recording of the confessional statements had started all in a span of ten minutes.

6.9.4 That apart, Ex.C-53, which according to CW-44 was sent at 5 PM on 29.11.2019 and which according to CW-9 was received before 12 noon on 29.11.2019, also contains reference to the additional provisions of law, which were inserted in CR No. 784 of 2019. The fact that the additional sections were inserted much later after the confessions were obtained, would lead to the irresistible conclusion like Ex.C-72 and Ex.C-73, that Ex.C-53 is also a fabricated document.

6.9.5 Further, there are inconsistencies in the record of whether the confessional statements were recorded before or after the arrest. At first, CW-15 stated that the arrest memos were executed after confessional statements were recorded for each of the accused.³⁶⁹ The confessional statements, according to him, were recorded from 5.20 PM to 10:30 PM.³⁷⁰ Thus, the arrest memos were executed after 10:30 PM according to him.³⁷¹ However, 5 PM is recorded as the time of arrest in the arrest memos.³⁷² When confronted with the same, CW-15 changed his stance on the time of arrest and stated that the arrest memos have been recorded correctly as 5 PM,³⁷³ and that the arrests took place *before* the confessional statements were recorded.³⁷⁴ CW-44 on the other hand, both in the Case Diary Part I³⁷⁵ and in his examination,³⁷⁶ stated that he had recorded the arrest at 5 PM on 29.11.2019. When it was pointed out to him that according to the remand case diary (Ex.C-55), the arrest of the accused was recorded *after* recording the confessional statements of the four accused, CW-44 stated that he

³⁶⁷CW-9, Response to Q 113, p 488, Vol II, Deposition of Witnesses.

³⁶⁸CW-9, Response to Q 114-116, p 489, Vol II, Deposition of Witnesses.

³⁶⁹CW-15, Response to Q 84, p 633, Vol V, Deposition of Witnesses.

³⁷⁰CW-15, Response to Q 85, p 633, Vol V, Deposition of Witnesses.

³⁷¹CW-15, Response to Q 86, p 633, Vol V, Deposition of Witnesses.

³⁷²Ex.C-12 to C-15, p. 129 to 132, Vol I, Commissions Exhibits.

³⁷³CW-15, Response to Q 87, p 633, Vol V, Deposition of Witnesses.

³⁷⁴CW-15, Response to Q 88, p 633, Vol V, Deposition of Witnesses.

³⁷⁵P 172, Book No. 10

³⁷⁶CW-44, Response to Q 14, p 1454, Vol V, Deposition of Witnesses.

was instead referring to the fact that he had issued an “arrest and court surrender memo” after recording the confessional statements.³⁷⁷ As stated previously, in our view, this is a meaningless statement with the design to mislead with equivocation, as the arrest memos are titled “Arrest/Court Surrender Form.”³⁷⁸ It was again pointed out that contrary to his claim that the arrest had been carried out at 5 PM, he had stated in his affidavit (Ex.C-181) that he had arrested the accused *after* recording the confessional statements of the accused, which according to his affidavit concluded at 9:20 PM.³⁷⁹ To this, he responded that he had in fact recorded the arrest at 5 PM, but that it took until 9.30 PM to 10.00 PM to obtain the signatures of the relatives of the deceased on the Arrest Court Surrender Form.³⁸⁰ Thus, it may be observed that both CW-15 and CW-44 have not provided a convincing account that explains the discrepancies in their statements on the chronology of when the confessional statements were recorded vis-à-vis the arrest memos.

- 6.9.6 Further doubt is thrown on the alleged time of recording the confessional statements of the accused by the fact that a press conference was held by Commissioner V Sajjanar (CW-38) at 7 PM on 29.11.2019,³⁸¹ wherein he divulged various details of the case to the media which he claims were based on a briefing by the Deputy Commissioner of Police, Shamshabad, N Prakash Reddy (CW-18).³⁸² CW-18 himself claimed to have got the information that he gave to the Commissioner from CW-44³⁸³ at about 6.40 PM.³⁸⁴ According to CW-18, CW-44 told CW-18 at about 5.15 PM – even before any confessional statement was recorded according to the version of the police, that the four accused had disclosed the crime to CW-44 and that they had explained to him the manner in which the crime had been committed.³⁸⁵ CW-44 deposed that he provided information about the confessional statement of Md. Arif and its contents to the DCP at 6:30 PM.³⁸⁶ The Commissioner stated that he had briefed the media regarding the details of the case without having read any

³⁷⁷CW-44, Response to Q 15, p 1454, Vol V, Deposition of Witnesses.

³⁷⁸Ex.C-12-Ex.C-15, pp 132-134, Vol I, Commission Exhibits.

³⁷⁹Ex.C-181, p 2127, Vol VIII, Commission Exhibits.

³⁸⁰CW-44, Response to Q 184, p 1506, Vol V, Deposition of Witnesses.

³⁸¹CW-38, Response to Q 39, p 1296, Vol V, Deposition of Witnesses.

³⁸²CW-38, Response to Q 58, p 1304, Vol V, Deposition of Witnesses.

³⁸³CW-18, Response to Q 90, p 787, Vol III, Deposition of Witnesses.

³⁸⁴CW-18, Response to Q 91, p 787, Vol III, Deposition of Witnesses.

³⁸⁵CW-18, Response to Q 79, p 784, Vol III, Deposition of Witnesses.

³⁸⁶CW-44, Response to Q 205-206, p 1514, Vol V, Deposition of Witnesses.

confessional statement.³⁸⁷ According to the Commissioner, CW-18 had briefed him based on CCTV footage and “other scientific evidence” collected by CW-18,³⁸⁸ and on the basis of the confession of Md. Arif.³⁸⁹ When asked what “scientific evidence he was referring to, he stated that he was referring to tower call data and call records of the deceased.³⁹⁰ It must be noted that there is no reference to any tower call data and call records of the deceased in the case diary or the affidavit of the Investigating Officer CW-44 or any other record prior to the said press conference. Call Data Records (CDRs) and tower call data are only first reflected in the record in Ex.C-169,³⁹¹ which is dated 12.10.2019. The Commissioner expressed that he did not find it improper to brief the media about the confessions obtained from the accused before the factum of arrest and confession were reported to the jurisdictional magistrate.³⁹² Further, he did not believe that conflicting confessions could have arisen subsequent to the recording of Md. Arif’s confessional statement from further confessions as he believed he had stuck to just the basic facts.³⁹³ He did not think that making such a press statement could interfere in the due course of investigation.³⁹⁴ In our view, it is improbable that a press conference would have been held on such a sensational case in such extreme haste when confessional statements revealing details of the crime were still being recorded.

6.9.7 Therefore, in view of (a) contradictions in the record of when the confessions were recorded, (b) the unbelievable and falsified account of two panch witnesses starting to record a confessional statement within ten minutes of a requisition for said witnesses being issued, (c) inconsistencies in the police version on when the confessional statements were recorded vis-à-vis the recording of the arrest and (d) the improbability of important details of the case being revealed to the public in a press conference based on information that was still being collected by the police, we do not find it possible to believe the police version on when the confessional statements of the deceased had been recorded. When viewed along with the inconsistencies in the record on when the accused had been arrested, when they had been produced at the

³⁸⁷CW-38, Response to Q 59, p 1304, Vol V, Deposition of Witnesses.

³⁸⁸CW-38, Response to Q 41, p 1296, Vol V, Deposition of Witnesses.

³⁸⁹CW-38, Response to Q 43 and 57, p 1297 and 1304, Vol V, Deposition of Witnesses.

³⁹⁰CW-38, Response to Q 42, p 1297, Vol V, Deposition of Witnesses.

³⁹¹Ex.C-169, p 1793, Vol VIII, Commission Exhibits.

³⁹²CW-38, Response to Q 60, p 1305, Vol V, Deposition of Witnesses

³⁹³CW-38, Response to Q 77, p 1309, Vol V, Deposition of Witnesses

³⁹⁴CW-38, Response to Q 78, p 1310, Vol V, Deposition of Witnesses

Police Station and when their arrests had been recorded, the claimed time of recording of confessional statements is rendered all the more impossible to accept.

6.10 Law on Arrest

6.10.1 According to *Section 41B(a)* of the Cr.P.C., the *NHRC Guidelines on Arrest*,³⁹⁵ and the *AP Police Manual*,³⁹⁶ an arrest can only be made by a police officer who bears an accurate, visible and a clear identification of his name. This has also been affirmed in judgements of the Hon'ble Supreme Court.³⁹⁷

6.10.2 In the present case, however, this rule has been clearly flouted. While it is true that there are contradictions in the statements of CW-1, these contradictions cannot outweigh the consistent evidence otherwise on record in respect of the arrest of the deceased suspects. The relatives of the other deceased - CW-3, CW-7 and CW-8 in their S. 161 CrPC and NHRC statements, which constitute as contemporaneous a version of the arrest as possible and can be expected, had taken a consistent stance that apart from lorry driver P Srinivas Reddy, they could not identify who had taken away the deceased suspects. Had the police been in uniform, their statement would have reflected that the police had arrested the deceased suspects. Therefore, it is our considered opinion that since no satisfactory explanation has been offered to the relevant entry in the remand case diary that it was P Srinivas Reddy who brought the deceased suspects to the Police Station, the case of the police that all four deceased suspects were arrested by policemen in uniform cannot be believed.

6.10.3 According to *Section 41B (c)* of the Cr.P.C., it is the right of the arrestee to have the factum of arrest be informed to a family member or friend named by him, unless the arrest memo is itself attested by a member of his family. The Hon'ble Supreme Court has also time and again upheld this right,³⁹⁸ and this right is also present in the *NHRC Guidelines on Arrest*³⁹⁹ and the *AP Police Manual*.⁴⁰⁰ Further, *Section 50A* of the

³⁹⁵National Human Rights Commission Guidelines on Arrest, 22nd November, 1999, <https://police.py.gov.in/NHRC%20Guidelines%20Regarding/NHRC%20Guidelines%20Regarding%20arrest.PDF>, at Page 6.

³⁹⁶Andhra Pradesh Police Department Manual, Supreme Court Guidelines – To be followed in all cases of arrests (Chapter XXV, Standing Order No. 453), <https://www.appolice.gov.in/jsp/appm/appm/appm/manch/c25.htm#25453>

³⁹⁷D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, at Para 35; Ahmed Noormohmed Bhatti v. State of Gujarat, (2005) 3 SCC 647, at Para 8; RiniJohar v. State of Madhya Pradesh, (2016) 11 SCC 703, at Para 18.

³⁹⁸Sheela Barse v. State of Maharashtra, (1983) 2 SCC 96, at Para 4; der Singh v. State of Punjab, (1994) 4 SCC 260, at Para 21.

³⁹⁹National Human Rights Commission Guidelines on Arrest, 22nd November, 1999, <https://police.py.gov.in/NHRC%20Guidelines%20Regarding/NHRC%20Guidelines%20Regarding%20arrest.PDF>, at Page 7; National Human Rights Commission Manual on Human Rights for Police Officers, 10th

Cr.P.C., states that an arrested person should be allowed to inform a friend or relative about the arrest and the place where he is being held. If no person is informed about the arrest at the time of arrest, then the arresting officer must inform the arrested person, his right to have his relative/friend informed about the arrest. This shall take place as soon as the arrested person is brought to the police station. The arresting officer is required to make an entry in a diary as to who was informed. Additional safeguards advancing this right were laid down in *DK Basu v. State of West Bengal*.⁴⁰¹

6.10.4 In the present case, it is admitted by the police that the arrest memos were not executed at the time when the deceased were picked up.⁴⁰² Further, the thumb impressions in two of the arrest memos (that of Jollu Shiva and Jollu Naveen) are thrown into doubt as Jollu Rajaiah denied affixing his thumb impression on any such document.⁴⁰³ With the exception of Pinjari Hussain who contradicts himself, all the relatives of the deceased state that the deceased were taken away under false pretences in the middle of the night by those they did not clearly identify as police personnel, and they all state that the lorry owner P Srinivas Reddy played a significant role in the apprehension of the accused. Further, it must be noted that in a notice issued under S.50 Cr.P.C. dt. 29.11.2019,⁴⁰⁴ it is only reflected that notice of arrest was given to Mohd. Hussain (father of Md. Arif) and Chintakunta Kurmaiah (father of Chennakeshavulu), and not to the relatives of Jollu Shiva and Jollu Naveen. ACP V Surender expressed ignorance of why this was the case.⁴⁰⁵

6.10.5 According to *Section 41B(b)* of the Cr.P.C. and *DK Basu v. State of West Bengal*,⁴⁰⁶ every police officer *while making an arrest* should prepare a memorandum of arrest which shall be — (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made; (ii) countersigned by the person arrested. The *Telangana State Police*

December, 2011, https://nhrc.nic.in/sites/default/files/Manual_On_Human_Rights_for_Police_Officers.pdf, at Page 73.

⁴⁰⁰Andhra Pradesh Police Department Manual, Supreme Court Guidelines – To be followed in all cases of arrests (Chapter XXV, Standing Order No. 453), <https://www.appolice.gov.in/jsp/appm/appm/appm/manch/c25.htm#25453>.

⁴⁰¹D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, at Para 35.

⁴⁰²CW-15, Response to Q 42, p 623, Vol V, Deposition of Witnesses.

⁴⁰³CW-8, Response to Q 64 and 68, p 449 and 451, Vol II, Deposition of Witnesses.

⁴⁰⁴P 216, Book No. 10.

⁴⁰⁵CW-44, Response to Q 191, p 1509, Vol V, Deposition of Witnesses.

⁴⁰⁶D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, at Para 35.

Department requires its officers to follow the *DK Basu Guidelines*⁴⁰⁷ and the *AP Police Manual* also mandates its police officers to prepare an arrest memo at the time of arrest.⁴⁰⁸ Further, the *NHRC Manual* has reiterated the law laid down in *DK Basu*.⁴⁰⁹

6.10.6 In the present case, it is admitted by the police that the memoranda of arrest were not executed while the deceased were being picked up, but it is rather claimed that they were executed after the deceased were produced at the Shadnagar Police station and ‘rearrested’. It must be noted that the term ‘rearrest’ has no legal recognition in the Indian criminal justice system, and that the arrest memo is to be prepared at the time of arrest and not ‘rearrest’ according to Section 41B(b) of the Cr.P.C. While the arrest memos bear the signatures/thumbprints of the accused, a number of discrepancies remain. Jollu Rajaiah denies having affixed his thumb prints on said documents. Further, while Chintakunta Kurmaiah’s thumb impression is present on an arrest memo (Ex.C-14), his signature is present in the S. 50 Cr.P.C. notice (Ex.S-51). ACP V Surender stated that he did not look into this discrepancy.⁴¹⁰

6.10.7 S. 50 of the Cr.P.C. lays down the right of the accused to be made aware of the grounds on which the arrest is being made. The grounds for arrest have to be communicated to the accused by the Police or the person carrying out the arrest. Such a communication bears relevance to the object of Article 22(1) of the Constitution of India, since it gives the accused an opportunity to remove any misapprehensions which the Police might have with respect to the offence. It also gives the accused the time to prepare to defend himself from the accusations levelled against him. This right has been further strengthened and elucidated upon by the Supreme Court.⁴¹¹ The burden to prove that the requirements of aforesaid two provisions have been fully complied with, is on the state. This burden could be discharged by informing the arrestee of the necessary facts leading to his arrest, which includes the facts that in respect of whom and by whom the offence is said to be committed coupled with the

⁴⁰⁷Telangana State Police Department, Law of Arrest, <https://www.tspolice.gov.in/jsp/howDoIUser.do?method=howDoICategories2&howDoICategoryId=189&howDoICategoryName=Law%20of%20Arrest>

⁴⁰⁸Andhra Pradesh Police Department Manual, Arrest report or Memo (Chapter XXV, Standing Order No. 457), <https://www.appolice.gov.in/jsp/appm/appm/appm/manch/c25.htm#25457>.

⁴⁰⁹National Human Rights Commission Manual on Human Rights for Police Officers, 10th December, 2011, https://nhrc.nic.in/sites/default/files/Manual_On_Human_Rights_for_Police_Officers.pdf, at Page 57.

⁴¹⁰CW-44, Response to Q 192 and 193, p 1509 and 1510, Vol V, Deposition of Witnesses.

⁴¹¹Sheela Barse v. State of Maharashtra, (1983) 2 SCC 96, at Para 4; Re MadhuLimaye, (1969) 1 SCC 292, at Para 11; Govind Prasad v State of WB, 1975 SCC OnLine Cal 169, at Para 10.

date, time and place of the offence.⁴¹² The *NHRC Guidelines on Arrest*⁴¹³ and the *NHRC Manual*⁴¹⁴ too lay down detailed guidelines on how the reason for arrest ought to be communicated to the accused.

6.10.8 In CR No. 784 of 2019, upon considering the evidence, it is our finding that the deceased were taken into custody by the police in the intervening night of 28.11.2019 and 29.11.2019 with the help of Srinivas Reddy. There is no written record of the police that at the time of the apprehension of the arrest at their villages, the deceased or their relatives were informed about the reasons for arrest. Rather, all the relatives of the deceased except Pinjari Hussain have maintained a consistent account that the deceased had been picked up on false pretexts, without having the right reason being provided to them. Although A Sreedhar Kumar stated that he informed the reasons of arrest both to the accused as well as their relatives when he picked them up on the afternoon of 29.11.2019, this account is falsified when the statements of P Srinivas Reddy, the relatives of the accused and the irregularities in the material on record is considered with respect to the time at which the accused were picked up. ACP V Surender has also stated, in the Case Diary Part I, that he informed the deceased the reason for the arrest when they were produced before him at the Shadnagar Police Station, which according to him was at 4:45 PM. Assuming that the diary entry is accepted to be true, that does not satisfy the requirement of law that the deceased suspects and their relatives ought to have been informed about the reason for the arrest at the time of taking them into custody from their respective residences. Further, given the many discrepancies in the record and attempts to falsify documents, even this claim regarding when the deceased were told the reasons for the arrest is questionable.

6.10.9 *Section 41D* of the Cr.P.C. provides that an arrestee has a right to meet an advocate of his choice during interrogation, but not throughout the interrogation. The said provision came to be inserted by virtue of the guidelines laid down by the Hon'ble Supreme Court in *DK Basu v. State of West Bengal*.⁴¹⁵ It also finds support in the

⁴¹²Vikram v. State of UP, 1995 SCC OnLine All 1024, at Para 12; Vimal Kumar Sharma v State of UP, 1995 SCC OnLine All 75, at Para 4.

⁴¹³National Human Rights Commission Guidelines on Arrest, 22nd November, 1999, <https://police.py.gov.in/NHRC%20Guidelines%20Regarding/NHRC%20Guidelines%20Regarding%20arrest.PDF>, at Page 7.

⁴¹⁴National Human Rights Commission Manual on Human Rights for Police Officers, 10th December, 2011, https://nhrc.nic.in/sites/default/files/Manual_On_Human_Rights_for_Police_Officers.pdf, at Page 57.

⁴¹⁵D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, at Para 35.

NHRC Guidelines on Arrest,⁴¹⁶ and the *AP Police Manual*.⁴¹⁷ Further, as per the decision in *DK Basu* and the *NHRC Guidelines on Arrest*, it is the duty of the arresting officer to inform the arrested person about this right. In case the arrestee is not in a position to engage a counsel, then it is the duty of the arresting officer to inform that he is entitled to free legal aid at state expense.⁴¹⁸

6.10.10 There is no record either in the case diary or the documents contained therein that the deceased suspects were informed about their right to legal representation. The concerned police officer also did not depose to this effect before this Commission. On the contrary, SW-3, J. Surender Reddy, has admitted before the Commission that it was not recorded either in the case diary or in the arrest memo or in the Section 50-A notice served to the relatives of the accused that the accused were informed of their rights upon arrest, including the right to legal representation.⁴¹⁹ As will be seen in the following sections, this serious lapse in failure to provide legal aid/representation to the deceased suspects at the time of arrest, is a recurring feature, that occurred at the time of their remand to judicial custody and thereafter to police custody.

⁴¹⁶National Human Rights Commission Guidelines on Arrest, 22nd November, 1999, <https://police.py.gov.in/NHRC%20Guidelines%20Regarding/NHRC%20Guidelines%20Regarding%20arrest.PDF>, at Page 7.

⁴¹⁷Andhra Pradesh Police Department Manual, Supreme Court Guidelines – To be followed in all cases of arrests (Chapter XXV, Standing Order No. 453), <https://www.appolice.gov.in/jsp/appm/appm/appm/manch/c25.htm#25453>; Andhra Pradesh Police Department Manual, Rights of Arrested Persons (Chapter XXV, Standing Order No. 451), <https://www.appolice.gov.in/jsp/appm/appm/appm/manch/c25.htm#254513>.

⁴¹⁸National Human Rights Commission Guidelines on Arrest, 22nd November, 1999, <https://police.py.gov.in/NHRC%20Guidelines%20Regarding/NHRC%20Guidelines%20Regarding%20arrest.PDF>, at Page 7.

⁴¹⁹CW-44, Response to Q 262, p 1532, Vol V, Deposition of Witnesses.

7. ASPECTS REVOLVING AROUND THE JUVENILITY OF THE DECEASED

7.1 Background

- 7.1.1 While the Commission was perusing records and deliberating upon the evidence on record, it was noticed that the relatives of the deceased suspects, in their affidavits filed before the Commission, had raised an issue as to the juvenility of the deceased suspects at the time of their death. It was also noticed that the issue pertaining to juvenility was also raised in judicial proceedings being, WP (PIL) 185 of 2019 filed by Prof. P. L. Vishweshwer Rao in Telangana High Court and WP (Criminal) No. 364 of 2019 was filed by Ms K Sajaya, Ms Meera Sanghamitra, Ms M Vimala and Ms V Sandhya Rani in the Hon'ble Supreme Court, almost immediately after the incident on 06.12.2019. As has been discussed above in Chapter 3, the Commission came to the conclusion that it was its bounden duty to inquire into this aspect because a finding of juvenility would render the entire remand and police custody proceedings illegal.
- 7.1.2 Soon after the incident on 06.12.2019, the investigating team of the National Human Rights Commission (hereinafter **NHRC**) on 08.12.2019, recorded the statements of Sri Mohammed Hussain (CW-1), Sri Jollu Rajaiah (CW-8), Smt. Jollu Laxmi (CW-7) and Sri Chintakunta Kurumiah, the parents of Mohammed Arif, Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu respectively. CW-7, CW-8 and Chintakunta Kurumiah in their statements before the NHRC, Ex.C-43,⁴²⁰ Ex.C-57⁴²¹ and Ex.C-109⁴²² respectively, had alleged that their sons were minors as on 06.12.2019, when they were killed in the firing incident. CW-1 had made no such claim in his statement before the NHRC, being Ex.S-52.⁴²³ In the affidavits filed before this Commission, being Ex.C-41⁴²⁴ and Ex.C-44⁴²⁵ respectively, by CW-7 and CW-8 reiterated the fact that their sons were minors. Apart from this, Chintakunta Renuka (CW-3), wife of Chennakeshavulu, in her affidavit before this Commission, being Ex.C-29,⁴²⁶ stated that her husband was a minor as on 06.12.2019. Pinjari Hussain (CW-1), in his affidavit, being Ex.C-24, also claimed that his son was a minor. But he has not pressed the contention.

⁴²⁰Ex.C-43, pp 770-781, Vol III, Commission Exhibits.

⁴²¹Ex.C-57, pp 903-906, Vol IV, Commission Exhibits.

⁴²²Ex.C-109, pp 1303-1305, Vol V, Commission Exhibits.

⁴²³Ex.S-52, pp 462-465, Vol II, Commission Exhibits.

⁴²⁴Ex.C-41, pp 774-777, Vol III, Commission Exhibits.

⁴²⁵Ex.C-44, pp 782-785, Vol III, Commission Exhibits.

⁴²⁶Ex.C-29, pp 568-571, Vol II, Commission Exhibits.

- 7.1.3 The records in Cr. No. 784 of 2019, shows that the arrest memos of Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu, being Ex.C-13⁴²⁷, Ex.C-14⁴²⁸, Ex.C-15⁴²⁹, and their respective confession statements, being Ex.C-197⁴³⁰, Ex.C-198⁴³¹ and Ex.C-199⁴³², record different ages. Given these conflicting entries in the records and the claims raised by the relatives of the deceased, the Commission felt it necessary to inquire into the aspect of the claim of juvenility made by the relatives of the deceased, and therefore, issued summons for the production of the admission registers of the schools in which the deceased studied. Summons were issued to V. Narsimulu (CW-4), V. Prakash (CW-5) & J. Jagadeesh Kumar (CW-6), the principals of the respective schools on 18.08.2021, 27.08.2021 & 02.09.2021 respectively, for production of relevant school records. The records were submitted to the Commission through an appropriate affidavit and thereafter, these persons were summoned to tender their oral evidence. This was done in order to ensure that all concerned persons would be able to cross-examine these witnesses, in compliance with principles of natural justice. Before proceeding to analyse the school record and the evidence in respect thereof, it is necessary to take note of certain circumstances.
- 7.1.4 CW-15 who had effected the arrest did not even inquire about the age and identity of the persons being arrest either from them or their relatives present at the time of arrest.⁴³³ When questioned about that, his initial response was that he did not remember. But when it was pointed out to him that as the arresting officer it was his duty to ascertain the identity and age of the person to be arrested, he stated that he was unable to make the inquiries because of law and order problem. However, his answers to the further questions clearly establish that, there was no law and order problem at the relevant time. In fact, as he reached the houses of the persons to be arrested, no mob was present.⁴³⁴ Even if the explanation of CW-15 is to be accepted for not making the inquiries at the time of the arrest itself, it was expected that the necessary inquiries would be made immediately on they being brought to the police station.

⁴²⁷Ex.C-13, p 130, Vol I, Commission Exhibits.

⁴²⁸Ex.C-14, p 131, Vol I, Commission Exhibits.

⁴²⁹Ex.C-15, p 132, Vol I, Commission Exhibits.

⁴³⁰Ex.C-197, pp 2213-2225, Vol VIII, Commission Exhibits.

⁴³¹Ex.C-198, pp 2226-2240, Vol VIII, Commission Exhibits.

⁴³²Ex.C-199, pp 2241-2254, Vol VIII, Commission Exhibits.

⁴³³CW-15, Response to Q 121, 122 and 125, p 645, Vol III, Deposition of Witnesses.

⁴³⁴CW-15, Response to Q 128-129, p 646, Vol III, Deposition of Witnesses.

7.1.5 CW-44, Vasam Surender, the lead investigation officer in CR No. 784 of 2019 deposed before the Commission that he collected the Aadhaar cards of the deceased from their relatives on 29.11.2019.⁴³⁵ However, on the very next day, in his letter dated 30.11.2019⁴³⁶ (Ex.C-262) to the Superintendent of Central Prison, Charlapally, he stated that the accused had no ID proof and that they may be admitted into prison without any ID proofs. When confronted with this letter, CW-44 sought to explain it by stating that since thousands of people attacked the police station, he could not trace the documents. The explanation is not credit-worthy nor one which behooves a Senior Police Officer. Arun Tyagi, CW-21, was cross-examined by the Counsel for V. Surender (CW-44). During the cross-examination, he was put the following question.⁴³⁷

“55.The Aadhar card of Jollu Shiva Kumar was being circulated in the social media while NHRC team was investigation about the occurrence. My client Mr. V. Surender had received it on his whatsapp. That Aadhar card shows his date of birth as 18.09.2001. Have you come across the Aadhar card that was being circulated on whatsapp?”

The suggestion that a copy of aadhar card was being circulated in social media and not as a part of the arrest records, only suggests that CW-44's deposition before the Commission that he obtained aadhar cards at the time of recording of arrest is false. Strangely, neither the Counsel appearing for CW-44 nor the Counsel appearing for the State elicited from the relatives of the deceased that the aadhar cards of the deceased suspects were produced by them before the police at the time of arrest. Nor was anything elicited from them as to whether after the recording of arrest, they were summoned to produce the aadhar card of the deceased suspects.

7.1.6 A very important circumstance relating to the minority of the three deceased suspects got revealed in the deposition of CW-44. CW-44 was asked whether any of the mobile phone numbers allegedly used by Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu were registered in their respective names. He answered that he had collected customer application forms of those numbers which showed that the numbers are registered in the names of their respective parents. He was then asked whether he was aware that according to the regulations prevalent in India, no SIM Card can be issued to a minor. His reply was that he has no idea.⁴³⁸

⁴³⁵CW-44, Response to Q 187 and 188, p 1507, Vol V, Deposition of Witnesses.

⁴³⁶Ex.C-262, p 2456, Vol IX, Commission Exhibits.

⁴³⁷CW-21, Response to Q 55, p 878, Vol III, Deposition of Witnesses.

⁴³⁸CW-44, Response to Q 265-266, p 1533, Vol V, Deposition of Witnesses.

7.2 Re: Age of Mohammed Arif

7.2.1 Though Pinjari Hussain (CW-1), father of Md. Arif, in his affidavit, being Ex.C-24, claimed that his son was a minor, he has not pressed the contention further, for the obvious reason that Arif was 26 years old at the relevant time. In his Section 161 statement recorded on 06.12.2019, CW-1 stated that his son was 26 years old.⁴³⁹ In his statement before the NHRC, being Ex.S-52, recorded on 08.12.2019, CW-1 deposed that his son was 24 years old.⁴⁴⁰ According to the case diary in CR No. 784 of 2019, the age of Mohammed Arif was recorded as 26 years.⁴⁴¹ In his arrest memo, being Ex.C-12⁴⁴², and his confession statement dated 29.11.2019, being Ex.C-196⁴⁴³, his age is recorded as 26 years. In his deposition, he further stated that his son was 23 years old at the time of the incident.⁴⁴⁴ His affidavit before this Commission alone contains a statement that his son was a minor aged 17 years old,⁴⁴⁵ though in the earlier part of the same affidavit, he stated that his son was 25 years old. In all these circumstances, the question of juvenility of Arif does not arise for consideration of the Commission.

7.3 Re: the age of Jollu Shiva

7.3.1 Ex.C-13 dated 29.11.2019, titled “Arrest/Court Surrender Form” is the arrest memo of Jollu Shiva. It records his age as 19 years. This arrest memo is purportedly signed by Jollu Shiva and also carries the thumb impression of his father, Jollu Rajaiah (wrongly written as Jollu Rajappa in Ex.C-13). Jollu Rajaiah (CW-8), has denied having affixed his thumb impression on the arrest memo.⁴⁴⁶ The confessional statement of Jollu Shiva recorded on the same day (Ex.C-197)⁴⁴⁷, records his age as 20 years.

7.3.2 Jollu Rajaiah’s statement was recorded on 08.12.2019 by the NHRC team. He stated before the NHRC team that his son was a minor, aged about 17 years⁴⁴⁸ and that he studied up to VI Standard at the government school in Gudigandla.⁴⁴⁹ He stated that he would provide documents of his son as proof of age. His statement before the NHRC team was translated by Constable Malliah, who has been examined by this Commission, as CW-24. Immediately on the next evening i.e., on 09.12.2019, copies

⁴³⁹P 262, Book No. 1.

⁴⁴⁰Ex.S-52, pp 462-465, Vol II, State Exhibits.

⁴⁴¹P 168, Book No. 10.

⁴⁴²Ex.C-12, p 129, Vol I, Commission Exhibits.

⁴⁴³Ex.C-196, pp 2200-2212, Vol VIII, Commission Exhibits.

⁴⁴⁴CW-1, Response to Q 33, p 263, Vol II, Deposition of Witnesses.

⁴⁴⁵Ex.C-24, pp 406-209, Vol II, Commission Exhibits.

⁴⁴⁶CW-8, Response to Q 21, 64 and 68, p 438, 449 and 451, Vol II, Deposition of Witnesses.

⁴⁴⁷Ex.C-197, pp 2213-2225, Vol VIII, Commission Exhibits.

⁴⁴⁸Ex.S-57, p 517, Vol II, State Exhibits.

⁴⁴⁹Ex.S-57, p 516, Vol II, State Exhibits.

of the bonafide certificate of Jollu Shiva, his Aadhaar card and also a food card belonging to his family, were handed over to the NHRC team.

- 7.3.3 Arun Tyagi, Inspector, NHRC (CW-21), stated that he recorded the statement of Jollu Rajaiah on 08.12.2019 and that the documents annexed to the statement of Jollu Rajaiah were given on the next day.⁴⁵⁰ The documents were handed over at the gate of the Telangana State Police Academy, where the NHRC team was staying.⁴⁵¹ CW-21 stated that he remembered that the date of birth mentioned in the bonafide certificate was 2002 and that it indicated that the deceased was a minor at the time of the encounter. CW-21, was subjected to extensive cross-examination on how he received the school documents of Jollu Shiva. He stated that he was expecting those documents from Jollu Rajaiah and that he was informed on 09.12.2019 that Rajaiah would send these documents. On receipt of the documents no formal seizure memo was executed.⁴⁵² The witness was also cross-examined on the Aadhaar card of Jollu Shiva, which records his age as 2001. When the difference in the year of birth in the two documents was pointed out to him, the witness answered that, so far as date of birth is concerned, the bonafide certificate issued by the school, which showed the date of birth as 2002, would acquire precedence.⁴⁵³
- 7.3.4 To confirm the evidence given by CW-21, Constable Malliah, NHRC (CW-24), was asked whether any additional documents were given by any of the persons after the statements were recorded to which he replied that one person gave documents relating to the proof of birth.⁴⁵⁴ He further clarified that it related to Jollu Shiva. Pertinently, this witness was not cross-examined by the state or the persons who have received notices under section 8-B. Thus, it can be seen that Jollu Rajaiah had raised a claim of juvenility of his son on 08.12.2019 before the NHRC investigating team and produced documents on 09.12.2019, to establish that his son was a juvenile. There is nothing to indicate that the claim of juvenility on his part was an afterthought or that the documents produced were doctored to suit a claim for compensation.
- 7.3.5 It is no doubt true that the copy of the Aadhaar card of Jollu Shiva⁴⁵⁵, produced by Jollu Rajaiah before the NHRC team records his date of birth as 'year of birth' of 2001, but gives no details as to the month or year. But the bonafide certificate, being

⁴⁵⁰P 61-63, Book No. 5.

⁴⁵¹CW-21, Chief-examination, p 855, Vol III, Deposition of Witnesses.

⁴⁵²CW-21, Response to Q 43-52, p 874-876, Vol III, Deposition of Witnesses.

⁴⁵³CW-21, Response to Q 52, p 876, Vol III, Deposition of Witnesses.

⁴⁵⁴CW-24, Response to Q 4-5, p 921, Vol III, Deposition of Witnesses.

⁴⁵⁵Ex.B-5, p 2586, Vol IX, Commission Exhibits.

Ex.B-4,⁴⁵⁶ records his date of birth as 15.08.2002. The said bonafide certificate seems to be issued on 09.12.2019. A copy of this certificate seems to have been handed over to the NHRC. It is also true that the Aadhaar number in the Bonafide certificate, being Ex.B-4, matches with the number in the copy of the Aadhaar card, being Ex.B-5. In his deposition, JolluRajaiah stated that he had the original Aadhaar card of his son at the time of his death, but somebody had taken it thereafter.⁴⁵⁷

7.3.6 V. Narasimhulu (CW-4), Headmaster, Mandal Parishad High School, Gudigandla, was cross-examined on the issuance of bonafide certificate (Ex.B-4). He affirmed that the signature on the bonafide certificate was his and that he had seen the Aadhaar card number of J. Shiva Kumar while issuing Ex. B-4, bonafide certificate.⁴⁵⁸ Upon being asked that the date of birth in the Aadhaar card and the bonafide certificate are different, he stated that there is no date of birth mentioned in the Aadhaar card, only the year of birth is mentioned.⁴⁵⁹

7.3.7 CW-4 produced the original admission register maintained by the Upper Primary School, Gudigandla, which is now bifurcated into a Primary School and a High School. He produced the relevant school records through his affidavit, being Ex.C-32⁴⁶⁰. As per his evidence, the admission details of J. Shiva Kumar, are found at Admission No. 1668 in the register for the year 2008-09. The entire register is exhibited as Ex.S-55⁴⁶¹ and the relevant extract is exhibited as Ex.C-33⁴⁶². According to Ex.C-33 and the deposition of CW-4,⁴⁶³ the admission number of J. Shiva Kumar is 1668 and his date of admission is 26.08.2008. The date of birth of J. Shiva Kumar is 15.08.2002 and his father's name is J. Rajanna. It must be noted that this relevant entry belonging to "J. Shiva Kumar" was identified as belonging to Jollu Shiva by none other than CW-4. The summons issued by the Inquiry Commission pertained to Jollu Shiva as is reflected in Ex.C-32.⁴⁶⁴ The witness was specifically questioned as to how he identified this entry pertaining to Jollu Shiva, especially when the word "Jollu" is missing in Admission No. 1668 and only the name "J. Shiva Kumar" is present. To this, he specifically answered that the family of Shiva Kumar resides at

⁴⁵⁶Ex.B-4, p 2585, Vol IX Commission Exhibits.

⁴⁵⁷CW-8, Response to Q 48, p 445, Vol II, Deposition of Witnesses.

⁴⁵⁸CW-4, Response to Q 64-67, p 379-380, Vol II, Deposition of Witnesses.

⁴⁵⁹CW-4, Response to Q 68, p 80, Vol II, Deposition of Witnesses.

⁴⁶⁰Ex.C-32, p 574-575, Vol II, Commission Exhibits.

⁴⁶¹Ex.S-55, p 468-514, Vol II, State Exhibits.

⁴⁶²Ex.C-33, p 576-581, Vol II, Commission Exhibits.

⁴⁶³CW-4, Response to Q 7, p 355, Vol II, Deposition of Witnesses.

⁴⁶⁴Ex.C-32, p 574, Vol II, Commission Exhibits.

the backside of the school and he knew that “J.” stands for Jollu.⁴⁶⁵ The witness had earlier stated in his examination that the surname of J. Shiva Kumar was Jollu.⁴⁶⁶ The witness was yet again asked as to his identification of “J. Shiva Kumar” as Jollu and he said that this was the same person who was killed in the encounter.⁴⁶⁷ The witness also stated that he was residing at Jaklair village and thereafter moved to Marikkal village. CW-4 has impressed to be a truthful witness. He can be believed in so far as he identifies admission no. 1668 as the relevant entry of the deceased Jollu Shiva. Therefore, the suggestion given by the state that the relevant entry in the register so far as Jollu Shiva is concerned is not 1668, but is entry at S. No. 1516 of Ex.S-51 against the name “J. Shivaiah”,⁴⁶⁸ does not hold water. This is especially so, because the witness seems to know the family of the deceased Jollu Shiva and has specifically testified that the deceased Jollu Shiva’s family was staying behind the school. CW-4 has also withstood extensive cross-examination and nothing particular has been brought out in the cross-examination, suggesting that the witness had falsified school records or was committing perjury.

7.4 Re: Age of Jollu Naveen

- 7.4.1 Ex.C-14 dated 29.11.2019, which is the arrest memo of Jollu Naveen, records his age as 19 years.⁴⁶⁹ In the confessional statement of Jollu Naveen, being Ex.C-198, which was recorded on the same day, his age was recorded as 20 years.⁴⁷⁰
- 7.4.2 Jollu Laxmi (CW-7), the mother of Jollu Naveen in her statement before the NHRC, being Ex.C-43, which was recorded on 08.12.2019, just 2 days after the firing incident on 6.12.2019 stated that he was 18 years old but gave the date of birth as 02.02.2002. She then stated that her son was a minor and was only 17 years old.⁴⁷¹ She added that she would provide the documents regarding his age as proof.
- 7.4.3 In her affidavit filed before the Commission, being Ex.C-41, she reiterated that her son was a minor aged 17 years.⁴⁷² During her deposition she produced the original Bonafide Certificate issued by the Mandal Parishad Primary School, Chinnaporla, Ex.C-42⁴⁷³. According to this Certificate, issued on 09.12.2019, the date of birth of

⁴⁶⁵CW-4, Response to Q 21, p 361, Vol II, Deposition of Witnesses.

⁴⁶⁶CW-4, Response to Q 50, p 373, Vol II, Deposition of Witnesses.

⁴⁶⁷CW-4, Response to Q 39, p 369, Vol II, Deposition of Witnesses.

⁴⁶⁸CW-4, Response to Q 33-37, p 368, Vol II, Deposition of Witnesses.

⁴⁶⁹Ex.C-14, p 131, Vol II, Commission Exhibits.

⁴⁷⁰Ex.C-198, p 2226-2240, Vol VIII, Commission Exhibits.

⁴⁷¹Ex.C-43, p 779, Vol III, Commission Exhibits.

⁴⁷²Ex.C-41, p 774-777, Vol III, Commission Exhibits.

⁴⁷³Ex.C-42, p 778, Vol III, Commission Exhibits.

Naveen Kumar is 04.04,2004. She affirmed the date of birth as 04.04.2004 during her deposition.⁴⁷⁴ In her deposition she stated that she is not a literate but she can sign in Telugu.⁴⁷⁵ She also stated that she cannot say dates but can identify the day of the week.⁴⁷⁶ When she was asked that, since she cannot tell the dates, whether she could tell the date of birth of her son, she stated that since he is her child she would have recorded the date of birth. She added that the sisters at the hospital noted it down for her.⁴⁷⁷ When the witness was asked why she stated the date of birth as 02.02.2002 before the NHRC team, she stated that she was in a state of confusion due to the death of her son.⁴⁷⁸

- 7.4.4 In her deposition the witness stated that she stays in Gudigandla and that her son studied at Chinnaporla.⁴⁷⁹ Since her elder sister was given in marriage in Chinnaporla, her son was staying with her elder sister when he was studying at Chinnaporla. In her Cross-examination she stated that her husband died in 2006 and that JolluRajaiah, who was her cousin, was taking care of her family.⁴⁸⁰ The witness was cross-examined about her household card filed with her application which showed that her son was also a resident of Gudigandla, to which she stated that the contents of the household card were correct.⁴⁸¹ However she stated that her son was studying in Chinnaporla even though he was aged four.⁴⁸²
- 7.4.5 Although Ex.C-42⁴⁸³, the Bonafide Certificate records that it was issued on 09.12.2019, the witness stated that she obtained the Certificate eight days after the death of her as the Delhi people had asked her (implying NHRC).⁴⁸⁴ When she was confronted with the photocopy of the Aadhaar card of her son, Naveen Kumar, The witness readily produced the original, a copy of which is marked as Ex.S-56.⁴⁸⁵ Just as in the case of Shiva, Ex.S-56, the copy of the Aadhaar card of Naveen does not give the exact date of birth but only gives the year of birth as 2001. It is equally important to appreciate that CW-7, mother of Naveen, did not withhold the original

⁴⁷⁴CW-7, Response to Q 35, p 420, Vol II, Deposition of Witnesses.

⁴⁷⁵CW-7, Response to Q 7, p 415, Vol II, Deposition of Witnesses.

⁴⁷⁶CW-7, Response to Q 8-9, p 415, Vol II, Deposition of Witnesses.

⁴⁷⁷CW-7, Response to Q 32, p 419, Vol II, Deposition of Witnesses.

⁴⁷⁸CW-7, Response to Q 36, p 420, Vol II, Deposition of Witnesses.

⁴⁷⁹CW-7, Response to Q 26 and 27, p 417 and 419, Vol II, Deposition of Witnesses.

⁴⁸⁰CW-7, Response to Q 38-40, p 421, Vol II, Deposition of Witnesses.

⁴⁸¹CW-7, Response to Q 44, p 422, Vol II, Deposition of Witnesses.

⁴⁸²CW-7, Response to Q 45, p 422, Vol II, Deposition of Witnesses.

⁴⁸³Ex. C-42, p 778, Vol III, Commission Exhibits.

⁴⁸⁴CW-7, Response to Q 46, p 423, Vol II, Deposition of Witnesses.

⁴⁸⁵Ex.S-56, p 515, Vol II, State Exhibits.

Aadhaar card from production even though it would not have suited her claim. She was extensively cross-examined as to whether her son could have studied in Chinnaporla as she was a resident of Gudigandla, but the witness continued to affirm that her son studied at Chinnaporla, and also stated that the teachers at Chinnaporla could be asked to verify about her son studying at Chinnaporla.⁴⁸⁶

- 7.4.6 J. Jagadeesh Kumar (CW-6), the Head Master of Zilla Parishad Primary School, Chinnaporla the school where Jollu Naveen studied till V Standard⁴⁸⁷, through affidavit Ex. C-40⁴⁸⁸, produced the register of admissions and withdrawals, Ex. C-38⁴⁸⁹, along with the original admission form of Naveen, being Ex.C-39⁴⁹⁰. In his deposition, he stated that as per the admission register for the year 2009-2010, Ex.C-38, Naveen Kumar S/o Yellappa was admitted to Class 1 on 28.8.2009 with admission number 1908. He further stated that the date of birth was recorded as 4.04.2004.⁴⁹¹
- 7.4.7 Since he had started working in the school only from 01.10.2013⁴⁹², J. Jagadeesh Kumar (CW-6) was subjected to extensive cross-examination. He deposed that he had no personal knowledge regarding the entries made in the register,⁴⁹³ but he went on to state that in June 2014, he had himself issued a certificate to Jollu Naveen when he cleared his 5th class exams.⁴⁹⁴ Further, due to the difference in handwriting and usage of two different inks in recording Admission Nos. 1907 and 1908, an allegation of tampering of the register was made during the cross-examination of Jagadeesh Kumar.⁴⁹⁵ However, he deposed that the handwriting and inks are different because, when no document is produced in support of the Date of birth at the time of admission, the school authorities ask the parents to produce documents in support of Date of birth at a later point of time. Hence, he stated that entries concerning Date of birth are sometimes made when such suitable documents are produced, thereby warranting a change in the ink and handwriting.⁴⁹⁶ He further stated that the document relating to Date of birth would also be noted in the register.⁴⁹⁷ However, he added that

⁴⁸⁶CW-7, Response to Q 41, 46, 54 and 66, p 421-427, Vol II, Deposition of Witnesses.

⁴⁸⁷CW-6, Response to Q 14, p 396, Vol II, Deposition of Witnesses.

⁴⁸⁸Ex.C-40, pp 769-773, Vol III, Commission Exhibits.

⁴⁸⁹Ex.C-38, pp 670-766, Vol III, Commission Exhibits.

⁴⁹⁰Ex.C-39, pp 767-768, Vol III, Commission Exhibits.

⁴⁹¹CW-6, Response to Q 10, p 398, Vol II, Deposition of Witnesses.

⁴⁹²CW-6, Response to Q 5, p 394, Vol II, Deposition of Witnesses.

⁴⁹³CW-6, Response to Q 18, p 397, Vol II, Deposition of Witnesses.

⁴⁹⁴CW-6, Response to Q 42, p 406, Vol II, Deposition of Witnesses.

⁴⁹⁵CW-6, Response to Q 19, p 397, Vol II, Deposition of Witnesses.

⁴⁹⁶CW-6, Response to Q 35, p 402, Vol II, Deposition of Witnesses.

⁴⁹⁷CW-6, In Response to Q 36, Page no. 403, Vol II, Deposition of Witnesses.

no such note is there against Admission No. 1908 since, a signature was taken on the admission form to the effect that the Date of birth stated is correct, and that usually such a signature is considered as proof regarding the correctness of the Date of birth.⁴⁹⁸ Considering that Naveen was a common name, CW-6 was asked if he was sure that the Naveen in Admission No. 1908 is the same Naveen who was killed in the encounter. He stated with utmost surety that the Naveen in Admission No. 1908 is the same Naveen whose death is being inquired into.⁴⁹⁹ To a suggestion that Ex.C-38 and Ex.C-39 are not supported by contemporaneous entries, he continued to affirm that the student in question is Jollu Naveen.⁵⁰⁰ Yet again, when it was suggested that he was giving false evidence as to the entries in Ex.C-38 and Ex.C-39, he affirmed that the relevant entries belonged to Jollu Naveen.⁵⁰¹ The witness further stated that he knew the family of Naveen Kumar personally and stated that the maternal aunt of Naveen Kumar resided at Chinnaporla village. He also stated that though Naveen Kumar was native of Gudigandla Village, he grew up at his aunt's house in Chinnaporla.⁵⁰² CW-6 also identified K. Ramesh, who signed as the guardian in Ex.C-39, the admission of form of Naveen Kumar, as the son of the junior maternal aunt of Naveen Kumar.⁵⁰³ In so far as the personal details of the family of deceased Naveen and his studying at Chinnaporla are concerned, the testimony of CW-6 Headmaster corroborates the testimony of Naveen's mother CW-7. She has affirmed that she had an elder sister named Laxmi and that the latter also had a son named Ramesh.⁵⁰⁴ In our considered view, the testimonies of CW-6 and CW-7 not only corroborate the admission and school details of the deceased, Jollu Naveen, but are also reflective of the actual state of affairs.

7.4.8 The cross-examination of CW-6 and CW-7 seemed to proceed on the line that deceased, Jollu Naveen, would have studied at Guduigandla and not Chinnaporla. In this regard, one may refer to Ex.C-198 confessional statement of Jollu Naveen dated 29.11.2019⁵⁰⁵. According to the said confessional statement, Naveen revealed to the police that he stayed with the elder sister of his mother at Chinnaporla and that he also

⁴⁹⁸CW-6, Response to Q 37, p 403, Vol II, Deposition of Witnesses.

⁴⁹⁹CW-6, Response to Q 39, p 404, Vol II, Deposition of Witnesses.

⁵⁰⁰CW-6, Response to Q 40, p 405, Vol II, Deposition of Witnesses.

⁵⁰¹CW-6, Response to Q 41, p 405, Vol II, Deposition of Witnesses.

⁵⁰²CW-6, Response to Q 27-28, p 400-401, Vol II, Deposition of Witnesses.

⁵⁰³CW-6, Response to Q 12, p 396, Vol II, Deposition of Witnesses.

⁵⁰⁴CW-7, Response to Q 29-31, p 419, Vol II, Deposition of Witnesses.

⁵⁰⁵Ex.C-198, p 2226, Vol IX, Commission Exhibits.

studied at Chinnaporla village. Therefore, the suggestion in the cross-examination of CW-4 that the deceased Jollu Naveen studied at Gudigandla, by pointing out admission number 1686 in Ex.S-55 is completely misplaced.

7.5 Re: Age of Chintakunta Chennakeshavulu

- 7.5.1 In Ex.C-15 dated 29.11.2019, which is the arrest memo of Chintakunta Chennakeshavulu, his age was recorded as 19 years.⁵⁰⁶ In the confessional statement of Chennakeshavulu, being Ex. C-199, which was recorded on the very same day, his age was recorded as 20 years.⁵⁰⁷ Chintakunta Kurmaiah, father of Chennakeshavulu, in his statement before the NHRC, being Ex.C-109, recorded on 08.12.2019, stated that his son was aged 19 years.⁵⁰⁸
- 7.5.2 CW-3, Renuka, wife of deceased Chennakeshuvulu, by affidavit (Ex.C-29) filed before this Commission stated that her husband was a minor and was aged 17 years.⁵⁰⁹ CW-3 produced, Ex. C-30, copy of her Aadhaar card, in which her date of birth was recorded as 01.01.2004.⁵¹⁰ She also produced Ex.C-31, Bonafide certificate of Chennakeshavulu dated 24.07.2018, according to which his date of birth is 10.04.2004. She stated in her deposition that in her affidavit Ex.C-29, she had deliberately mis-stated her age as 19 due to the apprehension that her marriage took place when she was a minor. Though it was suggested by the State that this witness is not creditworthy because she has deliberately misstated her age, the Commission is of the opinion that considering the socio-economic status of the witness, it is quite likely that the marriage was solemnized during minority. She stated that she does not know the date of birth of her husband but at the time of marriage,⁵¹¹ she was aged 14 and her husband was aged 15.⁵¹² In her cross-examination, she stated that her marriage took place one year prior to the death of her husband.⁵¹³ The witness produced the original aadhar card of Chennakeshavulu, the copy of which was marked as Ex.S-53. Just like Naveen and Shiva, the Aadhaar card of Chennakeshavulu does not record a specific date of birth but only records year of birth as 2001. Yet again, even in the case of this witness there was no attempt to suppress the Aadhaar card of the deceased, and

⁵⁰⁶Ex.C-15, p 132, Vol I, Commission Exhibits.

⁵⁰⁷Ex.C-199, p 2241-2254, Vol VIII, Commission Exhibits.

⁵⁰⁸Ex.C-109, p 1303, Vol V, Commission Exhibits.

⁵⁰⁹Ex.C-29, p 568, Vol II, Commission Exhibits.

⁵¹⁰Ex.C-30, p 572, Vol II, Commission Exhibits.

⁵¹¹CW-3, Response to Q 13-14, p 330, Vol II, Deposition of Witnesses.

⁵¹²CW-3, Response to Q 17, p 330, Vol II, Deposition of Witnesses.

⁵¹³CW-3, Response to Q 40, p 336, Vol II, Deposition of Witnesses.

the witness readily produced it even though it was contrary to the claims put forward by her.

- 7.5.3 V. Narasimhulu (CW-4), the Head Master who produced the school records of Jollu Shiva also produced the relevant records of deceased Chennakeshavuliu. In his affidavit (Ex.C-32) before the Commission, he stated that as per the admission register, Chennakeshavulu's admission number was 1999 and the date of birth was 10.04.2004.⁵¹⁴ He stated that the admission entry regarding Chennakeshavulu was made on 04.07.2014 upon a transfer from Shantiniketan School, Jaklair village. During his deposition he reiterated the details concerning Chennakeshavulu and also stated that Chennakeshavulu's father was C. Kurumaiah. He got marked the relevant register for the year 2014-2015 and the relevant extract of the admission register was marked as C-34.⁵¹⁵ The relevant entry concerning Chennakeshavulu is at admission number 1999 in Ex. C-34. The witness stated that he joined the school as 14.12.2007 as a teacher and from 2013 was the Head Master of the school.⁵¹⁶ He also stated that the relevant entry regarding Chennakeshavulu was in his handwriting.⁵¹⁷ It was suggested to the witness that the relevant entry for Chennakeshavulu was admission number 1547 and not admission number 1999, to which the witness explained that the student with respect to admission number 1547 had dropped out.⁵¹⁸ When enquired about the papers brought by Chennakeshavulu in respect of admission number 1999 relating to his earlier study at Shantiniketan School, the witness stated that he did not produce the same but it was available at the School.⁵¹⁹
- 7.5.4 This witness was extensively cross-examined on the corrections, over-writings and different inks in many of the entries contained in the school register. The witness explained the inconsistencies in the number, multiple entries and over-writings,⁵²⁰ which, in our considered opinion, do not indicate that the relevant entries deposited by the witnesses have been tampered or doctored.

⁵¹⁴Ex.C-32, p 575, Vol II, Commission Exhibits.

⁵¹⁵Ex.C-34, p 582, Vol II, Commission Exhibits.

⁵¹⁶CW-4, Response to Q 11, p 358, Vol II, Deposition of Witnesses.

⁵¹⁷CW-4, Response to Q 18, p 360, Vol II, Deposition of Witnesses.

⁵¹⁸CW-4, Response to Q 47-48, p 372, Vol II, Deposition of Witnesses.

⁵¹⁹CW-4, Response to Q 54, p 374, Vol II, Deposition of Witnesses.

⁵²⁰CW-4, Response to Q 8, 19, 20, 31, 32, 33, 34, 35, 41, 51, 52, 55 and 56, p 356, 360, 366, 367, 373, 374 and 376, Vol II, Deposition of Witnesses.

7.6 Findings

7.6.1 From the entire material brought before the Commission in respect of the claims of the relatives of the four deceased that they were minors at the time of their death, the following facts emerge:

- a) There can be no doubt that Md. Arif was aged 26, as on 06.12.2019 and therefore, the question of him being a minor at the relevant point does not arise.
- b) CW-7 (Jollu Laxmi) and CW-8 (Jollu Rajaiah) had raised the issue of juvenility of their sons when they were questioned by the NHRC team on 08.12.2019. The Bonafide Certificate of Jollu Shiva (Ex.B-4) is dated 09.12.2019, the Bonafide Certificate of Jollu Naveen (Ex.C-42) is dated 09.12.2019 and the Bonafide Certificate of Chintakunta Chennakeshavulu is (Ex.C-31) is dated 24.07.2018. The claims were made two days after the incident and the documents are also contemporaneous. It is therefore quite difficult to accept the suggestions made by the State and the persons served with notices U/s 8-B that the documents produced before the Commission have been doctored or falsified.
- c) Neither Jollu Laxmi (CW-7) nor Chintakunta Renuka (CW-3) sought to suppress the respective Aadhaar cards of their relatives, even though it contradicted their claims they readily produced the Aadhaar cards during the course of their examination before the Commission. The commission finds them to be *bonafide* witnesses.
- d) The Aadhaar cards of deceased Shiva, Naveen and Chennakeshavulu, being Ex.B-4, Ex.S-53 and Ex.S-56 respectively, record only their year of birth as 2001 and no exact date of birth is mentioned in any of these documents. The Commission takes note of various judicial decisions which have held that Aadhaar card cannot be proof of date of birth. In *Sher Singh v. State of M.P., 2020 SCC OnLine MP 2149, at Para 8*, it was held that:

“Undisputedly, the AADHAAR Card is the certificate of Biometrics and it is not a certificate of date of birth”.

Further, in *SharadaSoni @ SonuSoni v. State of M.P., 2018 SCC OnLine MP 1748*, at Para 11, it was held that

“The Aadhaar card cannot be used as a proof of date of birth. This document is only for the identification of a particular person”

- e) Section 94(2)(i) of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides that the date of birth certificate obtained from the school shall be primary document evidencing the age of a person and it is only in the absence of such a certificate that the birth certificate from a Municipal Panchayat or a medical test shall be resorted to. The significant change introduced by Section 94(2)(i) as compared to the previous law was specifically emphasized by the Supreme Court in *Sanjeev Kumar Gupta v. State of U.P.*, (2019) 12 SCC 370, at Para 17. This position has been reemphasised by a recent decision of Supreme Court in *Rishipal Singh Solanki v. State of Uttar Pradesh & Ors.*, 2021 SCC OnLine SC 1079.
- f) In *Ashwani Kumar Saxena v. State of MP*, (2012) 9 SCC 750, Paras 38 and 42, it was held that once a school admission register is produced and the principal of the school has duly proved the document, then a court need not conduct a detailed inquiry as to how the Date of birth of the juvenile was entered in the register. It was also held that not examining the staff who recorded the Date of birth would not reduce the credibility of an admission register. In *Ram Suresh Singh v. Prabhat Singh*, (2009) 6 SCC 681, at Para 15, the Supreme Court observed that when an admission register is not found to be forged, fabricated or otherwise inadmissible in law, then the said register ought to be accepted as proof of Date of birth.
- g) In the present case, the relevant portions of the admission registers of Jollu Shiva and Chennakeshavulu (Ex.C-33, Ex.C-34) demonstrate that their date of birth is 15.08.2002, 10.04.2004 whereas Jollu Naveen's date of birth according to the admission register is 04.04.2004. Therefore, at the relevant point of time it appears that the aforesaid three deceased suspects were minors, being of the age 17 years, 15 years and 15 years respectively.
- h) In our considered view there is no reason to disbelieve the evidence of the Head Masters, CW-4 & CW-6, who not only identified the relevant entries pertaining to the deceased but also have deposed that they personally knew the family of the deceased persons (Jollu Shiva & Jollu Naveen).
- i) The Head Master (CW-4 & CW-6) withstood extensive cross-examination by not just the counsels appearing for persons served with notices under section 8-B but also by the counsel by the State of Telangana. Curiously, the stand taken by the State of Telangana during their examination of these witnesses seem to

suggest that the state wanted to disown the admission registers maintained in the normal course by Government Schools.

- j) Most importantly, CW-4, Narasimhulu, specifically stated in his examination that three or four days after the DISHA incident, Mandal Educational Officer telephoned him during night at 10.00 to 10.30 PM and told him that some police men might come, so he has to show the school registers. He then went to the school by 10.30 PM and the police came there. When they asked for the records of J. Shiva Kumar and C. Chennakeshavulu, he showed them the records. He also stated that they took photographs of the admission registers with mobile phones and that the policemen came from Shamshabad PS and one of them was a Sub-Inspector.⁵²¹ This clearly suggests that the police were well aware about the School records of Jollu Shiva and Chennakleshavulu and yet they chose to gloss over it. The telling feature in respect of this deposition is that neither the state nor any of the others chose to cross-examine the witness on this aspect.

7.6.2 It becomes clear from the above that apparently the police, from the physical appearance of at least two of the deceased, did have doubts about their age. They went to the school where Jollu Shiva and Chennakeshavulu had studied, took photographs of the relevant school registers and thus had knowledge of the dates of birth of the two. Yet the entire investigation record is silent over this. The only logical inference is that the facts on juvenility have been deliberately suppressed.

⁵²¹CW-44, Response to Q 12-14, p 358-359, Vol II, Deposition of Witnesses.

8 INCIDENTS ON 30.11.2019 LEADING TO JUDICIAL REMAND

8.1 Crowd

- 8.1.1 Pursuant to the arrest and recording of crime confessions on the 29.11.2021, the police officials sought to resume investigation on the morning of 30.11.2021. According to the turn of events described primarily by V Surender (CW-44) and A Sreedhar Kumar (CW-15), there was a crowd of people thronging the police station which impeded the course of investigation and led them to request that the accused be remanded to judicial custody.
- 8.1.2 According to CW-44's affidavit (Ex.C-181), he had received information that thousands of people started gathering in front of Shadnagar Police Station and were about to arrest the accused since they had received information from the media that the accused persons involved had been arrested and were to be produced before the Court. He stated that more than 50,000 to 60,000 members of the public gathered and started agitating in front of the police station. The crowd attempted to lay siege and barge into the police station and were demanding handover of the arrested accused. The crowd was also sloganeering and engaged in heated arguments with the police.⁵²² This was videographed and photographed by the police (Ex.C-200).⁵²³
- 8.1.3 This rendition is consistent with his S.161 statement, wherein CW-44 stated that thousands of people staged a dharna in front of Shadnagar Police Station and that 50,000-60,000 people had gathered together with the intent to kill the accused and there was no possibility of taking the accused for seizure of things.⁵²⁴ In the case diary in Crime No. 784/2019, CW-44 has stated that from 8 AM onwards, thousands of people started gathering and the crowd consisted of more than 50,000 to 60,000.⁵²⁵ However, in the statement recorded by the NHRC (Ex.C-94), CW-44 stated that there was a crowd of 5000 people gathered at Shadnagar PS on 30.11.2019.⁵²⁶ This contradiction was pointed out to CW-44 during his deposition and he stated that a '0' is missing in the NHRC statement and he had mentioned 50,000 then as well.⁵²⁷
- 8.1.4 CW-44 deposed that he had arrived at the police station at 8 AM on 30.11.2019.⁵²⁸ There was crowd at that time as well⁵²⁹ and, at 8 AM, the crowd was 3000 to 4000

⁵²²Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits.

⁵²³Ex.C-200, pp 2255-2264, Vol VIII, Commission Exhibits.

⁵²⁴P 161, Book No. 1.

⁵²⁵P 315, Book No. 10.

⁵²⁶Ex.C-94, p 1175, Vol V, Commission Exhibits.

⁵²⁷CW-44, Response to Q 218, p 1516, Vol V, Deposition of Witnesses.

⁵²⁸CW-44, Response to Q 210, p 1514, Vol V, Deposition of Witnesses.

people strong but it increased to 50,000 by the time the accused were dispatched to Cherlapally Jail.⁵³⁰ He stated that he had seen crowds of 50,000 people multiple times during his *bandobasth* duties⁵³¹ and, his estimate of crowd strength is based on public information, media information from local press and informers and electronic media such as TV9 and NTV and, his own personal estimation.⁵³² He stated that the crowd strength mentioned in the case diary was written on the night of 30.11.2019.⁵³³ When the contradiction in the petition before the Judicial Magistrate seeking police custody (Ex.S-22) wherein CW-44 had stated that the crowd strength was 3000 was pointed out,⁵³⁴ he stated that it was a typographical mistake and should have been 30,000.⁵³⁵

- 8.1.5 CW-15, A Sreedhar Kumar, in his affidavit (Ex.C-66), stated that V Surender, CW-44, was about to go to the place where the articles of the deceased were hidden by the accused in the outskirts of Chatanpally village to recover the material objects as per Section 27, Indian Evidence Act at around 9 AM on 30.11.2019. However, due to the crowd of 50,000-60,000 people who had gheraoed the station this was not possible. Assistance of additional forces had to be sought to restore the law and order situation to normalcy.⁵³⁶ In his S.161 statement, CW-15 narrated a similar thronging of crowd but did not specify an estimate. He stated that thousands of people had gathered in front of the police station and demanded handover of the accused.⁵³⁷
- 8.1.6 In his deposition, CW-15 stated that V Surender, CW-44, came to police station at 8:30 AM⁵³⁸ which differs from V Surender's version in his deposition and case diary that he reached there at 8 AM. Unlike V Surender's deposition that at that time itself there was a mob of 3000-4000 people, CW-15 stated that while they were getting the accused ready for effective recovery at about 8:30 AM, 15-20 minutes thereafter, a mob started gathering 'slowly' before the police station. At that time, they were giving breakfast to the accused.⁵³⁹ By the time the accused finished their breakfast, a large mob gathered. Information was then given to the Divisional Force and Zonal force and V Surender, after consultation with superior officers, instructed them to prepare

⁵²⁹CW-44, Response to Q 211, pp 1514-1515, Vol V, Deposition of Witnesses.

⁵³⁰CW-44, Response to Q 212, p 1515, Vol V, Deposition of Witnesses.

⁵³¹CW-44, Response to Q 213, p 1515, Vol V, Deposition of Witnesses.

⁵³²CW-44, Response to Q 214-215, p 1515-1516, Vol V, Deposition of Witnesses.

⁵³³CW-44, Response to Q 216-217, p 1516, Vol V, Deposition of Witnesses.

⁵³⁴Ex.S-22, p 253, Vol II, State Exhibits.

⁵³⁵CW-44, Response to Q 219, p 1517, Vol V, Deposition of Witnesses.

⁵³⁶ Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁵³⁷P 280, Book No. 1.

⁵³⁸CW-15, Response to Q 155, pp 652-654, Vol II, Deposition of Witnesses.

⁵³⁹CW-15, Response to Q 155, pp 652-654, Vol II, Deposition of Witnesses.

formalities for medical examination etc. for remand of the accused to judicial custody since they cannot be taken outside for recovery.⁵⁴⁰ At this point, it is pertinent to note that the order granting remand to judicial custody (Ex.C-54)⁵⁴¹ and the Executive Magistrate, CW-9, who passed the aforesaid order (Ex.C-54), stated in his deposition that there were around 30,000-40,000 people who were sloganeering and demanding handover of the accused⁵⁴² when he reached the police station.⁵⁴³

- 8.1.7 From the above, existence of the crowd outside the police station in the morning at the time when it was decided that the accused could not be escorted for the purposes of recovery, stands established. But there are material contradictions as regards the strength of the crowd. The strength varies over the wide range of 3,000 to 60,000.

8.2 Conduct of Medical Examination

- 8.2.1 CW-44, in his affidavit (Ex.C-181), stated that due to the large crowd outside the police station, he was unable to take the accused out for a medical check-up to the Community Hospital, Shadnagar. Therefore, he sent a requisition at 10:30 AM to the Medical Officer requesting him to come to the police station for medical examination of the four accused persons (Ex.C-202).⁵⁴⁴ It is his further statement on evidence that, the Medical Officer, CHC, Shadnagar, visited the police station and examined all the accused (Ex.C-204 to Ex.C-207). He issued fitness certificates as well as potency test certificates (Ex.C-208 to Ex.C-211) of all the accused opining that “there is nothing to suggest that the male examined is not capable of performing sex act”.⁵⁴⁵
- 8.2.2 The case diary written by CW-44 also records that the requisition (Ex.C-202) was sent to the Medical Officer at 10:30 AM, and in response, the Medical Officer visited the Police Station, examined all the four persons, conducted potency tests and issued medical certificates.⁵⁴⁶
- 8.2.3 However, there are two more records in the investigation papers made by CW-44, Arrest Memos of the four persons (Ex. C-12, C-13, C-14 and C-15) and the Remand Case Diary (Ex. C-55). Both these records state that all the four suspects were taken to the Govt. CHC for medical examination. CW-44 was confronted with these records

⁵⁴⁰CW-15, Response to Q 155, pp 652-654, Vol II, Deposition of Witnesses.

⁵⁴¹Ex.C-54, p 802, Vol III, Commission Exhibits.

⁵⁴²CW-9, Response to Q 160, p 502, Vol II, Deposition of Witnesses.

⁵⁴³CW-9, Response to Q 161, p 502, Vol II, Deposition of Witnesses.

⁵⁴⁴Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits read with Ex.C-202, pp 2266-2267, Vol VIII, Commission Exhibits.

⁵⁴⁵Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits read with Ex.C-204-Ex.C-211, pp 2270-2277, Vol VIII, Commission Exhibits.

⁵⁴⁶P 315, Book No. 10.

of his own creation and signed by him. As regards the arrest memos, his explanation was⁵⁴⁷:

“It is a format. We write it in the sense that the accused is going to be produced before the medical officer before remand. On 30.11.2019, we produced the accused before the Community Health Centre doctors. The certificates are enclosed.”

- 8.2.4 About the Remand Case Diary, he stated that he had prepared a skeleton remand report for producing the accused before the Court after making recovery of the material objects on 30.11.2019. In the said skeleton remand report, as per format, he had written that the accused were produced before the hospital for medical examination. The writer prepared the report based on this skeleton report and due to the law-and-order problem, he could not incorporate the fact that medical examination was conducted at the police station in the remand report.⁵⁴⁸
- 8.2.5 Both these explanations offered by CW-44 sound highly improbable and difficult to accept.
- 8.2.6 In addition to the contradictions as regards the place of medical examination, there is contradiction in respect of the time of medical examination also. The case diary of CW-44 states the time of visit of the Medical Officer to the Police Station as 1 PM, whereas the potency certificates issued after conducting the medical examination for Md. Arif (Ex.C-208) records the time of examination as 12:45 PM.
- 8.2.7 When CW-44 was specifically asked about the time recorded in the potency certificate of Md. Arif (Ex.C-208), which is prior to the arrival of the doctors at the police station, he stated that he entered the time as per memory and that he had not recorded the timing of the visit in his case diary.⁵⁴⁹ He repeated that he had not noted the exact time when it was pointed to him that he had stated the time of arrival of the doctors as 1 PM in the case diary.⁵⁵⁰ When asked about whether the potency test was confirmed before or after the medical examination of the accused, CW-44 stated that he was not aware.⁵⁵¹ He further stated that, initially, the SHO had given requisition to the doctors to visit the police station for medical examination (Ex.C-202) and immediately after their arrival, he himself served the letter (Ex.C-263)⁵⁵² upon the doctors,⁵⁵³ although he is unsure at what time this was.⁵⁵⁴

⁵⁴⁷CW-44, Response to Q 186, p 1506, Vol V, Deposition of Witnesses.

⁵⁴⁸CW-44, Response to Q 229, p 1519, Vol V, Deposition of Witnesses.

⁵⁴⁹CW-44, Response to Q 256, p 1530, Vol V, Deposition of Witnesses.

⁵⁵⁰CW-44, Response to Q 257, pp 1530-1531, Vol V, Deposition of Witnesses.

⁵⁵¹CW-44, Response to Q 258, p 1531, Vol V, Deposition of Witnesses.

⁵⁵²Ex.C-263, pp 2457-2458, Vol IX, Commission Exhibits.

- 8.2.8 CW-15, in his affidavit (Ex.C-66), briefly stated that due to the abnormal law and order situation, CW-44 requisitioned the medical officer to come to the police station for examination of accused and he accordingly came and issued necessary medical certificates of the accused persons.⁵⁵⁵ He deposed that the medical staff arrived at the police station and after the completion of the medical examination, the accused were produced before the Executive Magistrate, CW-9.⁵⁵⁶ When CW-15 was specifically asked about the contradiction in the remand diary (Ex.C-55), which narrates that the accused were taken to the hospital, he stated that the accused were examined at the police station.⁵⁵⁷ He stated that while the medical examination happened at the police station, he could not say anything regarding the potency test since he was managing the mob.⁵⁵⁸
- 8.2.9 CW-9, the Executive Magistrate who had granted judicial remand deposed that for the purpose of remand, he had gone to the Police Station between 12:30 PM to 1 PM. During remand proceedings he had confirmed the medical records with the help of the Sub-Inspector.⁵⁵⁹ He was told which doctor had conducted the medical examination⁵⁶⁰ and that the accused were examined by the Doctor between 12:30 PM and 1 PM.⁵⁶¹ When asked if the accused were examined in his presence, he stated that he did not himself see the medical examination.⁵⁶² There, thus, appear to be several lapses/contradictions regarding the conduct of medical examination:
- a) As per V Surrender, the request for medical examination at the police station was issued at 10:30 AM (Ex.C-202).⁵⁶³
 - b) The doctors are supposed to have arrived at the police station and conducted the medical examination as per CW-44, CW-15 and CW-9.
 - c) The remand case diary (Ex.C-55)⁵⁶⁴ states that the accused were taken to Govt. CHC for medical examination.
 - d) The doctors arrived at 1 PM on 30.11.2019 as per V Surrender, CW-44.

⁵⁵³CW-44, Response to Q 260, pp 1531-1532, Vol V, Deposition of Witnesses.

⁵⁵⁴CW-44, Response to Q 261, p 1532, Vol V, Deposition of Witnesses.

⁵⁵⁵Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁵⁵⁶CW-15, Response to Q 155, pp 652-654, Vol II, Deposition of Witnesses.

⁵⁵⁷CW-15, Response to Q 159, p 654, Vol II, Deposition of Witnesses.

⁵⁵⁸CW-15, Response to Q 160, p 655, Vol II, Deposition of Witnesses.

⁵⁵⁹CW-9, Response to Q 148, p 499, Vol II, Deposition of Witnesses.

⁵⁶⁰CW-9, Response to Q 149, p 499, Vol II, Deposition of Witnesses.

⁵⁶¹CW-9, Response to Q 150, p 499, Vol II, Deposition of Witnesses.

⁵⁶²CW-9, Response to Q 151, p 499, Vol II, Deposition of Witnesses.

⁵⁶³Ex.C-202, pp 2266-2267, Vol VIII, Commission Exhibits.

⁵⁶⁴Ex.C-55, pp 817-818, Vol III, Commission Exhibits.

- e) As per J Pandu, CW-9, medical examination was conducted between 12:30 PM to 1 PM.
- f) A separate letter requesting conduct of potency test (Ex.C-263)⁵⁶⁵ was issued to the doctors indicating that the potency tests were conducted after the medical examination.
- g) As per V Surender, this letter was served immediately after the arrival of the doctors in the police station.
- h) As per the potency certificate of Md. Arif potency test (Ex.C-208)⁵⁶⁶ was conducted at 12:45 PM.
- i) CW-44, CW-15 or CW-9 were present at the time of medical examination cannot state the details of the medical examination.

8.3 Information to, and Remand by, Executive Magistrate

- 8.3.1 V. Surender, CW-44, states in his affidavit (Ex.C-181), that he was informed by the Court PC of Shadnagar Police Station that the Judicial Magistrate was on some other duty and, J Pandu (CW-9), the Executive Magistrate, Farooqnagar was put in charge to look after urgent judicial work during the absence of a Judicial Magistrate (Ex.C-201).⁵⁶⁷ He made a requisition to CW-9 requesting him to visit the police station to grant judicial remand of the accused as it was impossible to take them out of the police station because of the huge crowd (Ex.C-54).⁵⁶⁸ CW-9 visited the police station at about 1 PM and granted judicial custody of the accused under Section 167, Cr.P.C.⁵⁶⁹
- 8.3.2 In his S. 161 statement, CW-44 states that he requested the CW-9, in-charge Tahsildar Shadnagar (MRO), to come to Police station and take the four accused for remand and, obliging to the request CW-9 came to police station ordered 14 days remand to the four accused.⁵⁷⁰ The sequence of events wherein the Court PC informed CW-44 about the order putting CW-9 in-charge to look after urgent judicial work at 9:30 AM, the request to CW-9 and his visit to the police station to grant judicial custody is consistent with the case diary as well.⁵⁷¹ However, there is no mention of the time at

⁵⁶⁵Ex.C-263, pp 2457-2458, Vol IX, Commission Exhibits.

⁵⁶⁶Ex.C-208, p 2274, Vol VIII, Commission Exhibits.

⁵⁶⁷Ex.C-181, p 2130, Vol VIII, Commission Exhibits read with Ex.C-201, p 2265, Vol VIII, Commission Exhibits.

⁵⁶⁸Ex.C-181, pp 2130-2131, Vol VIII, Commission Exhibits read with Ex.C-54, p 802, Vol III, Commission Exhibits.

⁵⁶⁹Ex.C-181, p 2131, Vol VIII, Commission Exhibits read with Ex.C-54, p 802, Vol III, Commission Exhibits.

⁵⁷⁰P 161, Book No. 1.

⁵⁷¹P 315, Book No. 10.

which request was sent to CW-9 and the time at which he arrived at the police station in the case diary.

- 8.3.3 In his deposition, CW-44 initially stated that he sent the request to CW-9 (Ex.C-54), the Executive Magistrate, at 11:30 AM to 12 noon,⁵⁷² and CW-9 arrived at the police station in the same time frame, i.e. between 11:30 AM to 12 noon.⁵⁷³ He then stated that he was confused and had incorrectly stated the time. He clarified that he had sent a request to CW-9 at 12 noon and he arrived at the police station, more or less, around 1 PM.⁵⁷⁴ He stated that he was not present before CW-9⁵⁷⁵ and that he did not supply the Aadhar cards to CW-9⁵⁷⁶ although he was in possession of the same.⁵⁷⁷
- 8.3.4 A Sreedhar Kumar, CW-15, in his affidavit (Ex.C-66) states that the due to unavailability of the Judicial Magistrate which was brought to their notice, CW-9, the Executive Magistrate, was requested to visit the police station and grant remand of the accused under Section 167 Cr.P.C. (Ex.C-54).⁵⁷⁸ In his S.161 statement, CW-15 stated that CW-9 was requested to come to the police station and take the accused into judicial custody. Accordingly, CW-9 visited the police station and remanded them to judicial custody for 14 days.⁵⁷⁹
- 8.3.5 The sequence of events narrated by CW-15 in his deposition differs from that of CW-44. CW-15 deposed that they learnt that the Judicial Magistrate was on other duty (Ex.C-201) and that CW-9 was in-charge for the day only after the completion of medical examination. Hence, the requisition to CW-9 with a request that he come to the police station (Ex.C-54) was also sent after this. They then escorted CW-9 to the police station and he granted remand to judicial custody at the police station.⁵⁸⁰ CW-9 visited the police station between 2 PM to 2:30 PM⁵⁸¹ and he was accompanied by the court staff.⁵⁸² CW-15 stated that he did not have an estimate of the time consumed by the remand proceedings as he was managing the mob.⁵⁸³

⁵⁷²CW-44, Response to Q 224, p 1518, Vol V, Deposition of Witnesses.

⁵⁷³CW-44, Response to Q 225, p 1518, Vol V, Deposition of Witnesses.

⁵⁷⁴CW-44, Response to Q 228, p 1519, Vol V, Deposition of Witnesses.

⁵⁷⁵CW-44, Response to Q 230, p 1520, Vol V, Deposition of Witnesses.

⁵⁷⁶CW-44, Response to Q 231, p 1521, Vol V, Deposition of Witnesses.

⁵⁷⁷CW-44, Response to Q 188, p 1507, Vol V, Deposition of Witnesses.

⁵⁷⁸Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁵⁷⁹P 280, Book No. 1.

⁵⁸⁰CW-15, Response to Q 155, pp 652-654, Vol II, Deposition of Witnesses.

⁵⁸¹CW-15, Response to Q 156, p 654, Vol II, Deposition of Witnesses.

⁵⁸²CW-15, Response to Q 157, p 654, Vol II, Deposition of Witnesses.

⁵⁸³CW-15, Response to Q 158, p 654, Vol II, Deposition of Witnesses.

- 8.3.6 The Executive Magistrate, J Pandu, CW-9, in his affidavit (Ex.C-45) states that he was made in-charge of urgent judicial work as per the directions of the Hon'ble Addl. District and Sessions Judge, Mahabubnagar on 30.11.2019 (Ex.C-201). At that time, the deceased were arrested by CW-44 and were 'produced before' him accordingly and he granted judicial remand of the deceased (Ex.C-54) after which they were shifted to Central Prison, Cherlapally.⁵⁸⁴ There is no mention of the events that transpired on 30.11.2019 in his statement/letter to the NHRC (Ex.C-51).⁵⁸⁵
- 8.3.7 In his deposition, CW-9 stated that he received a request from CW-44 on 30.11.2019.⁵⁸⁶ He also received a telephonic call from CW-44.⁵⁸⁷ CW-9 had initially responded that it was improper for him to go the Police Station for remand work, but when CW-44 told him about the situation, CW-9 agreed to go to the Police Station.⁵⁸⁸ He also acquainted himself with the situation and found that there was crowd in the surroundings of his office as well. The police and court staff came to his office and took him to the police station in a vehicle. He claimed that he remained seated in the police station and the accused were made to stand in a row before him. The remand notice, arrest warrant Section 50 notice, arrest memo, confessional statement were placed before him through the Court Superintendent. However, he is unsure whether he checked the documents personally or if it was checked by the Court staff. He further stated that he cross-checked the identity of the accused persons with the personal information mentioned in the documents placed before him, although did not ask anyone any questions. He then signed on the remand order which was handed to him by the Court Superintendent; the contents of which were explained to him by the court staff. After that, the accused were taken away.⁵⁸⁹ CW-9 did not see V Surender, CW-44, during the proceedings.⁵⁹⁰ Only a Sub-Inspector and Assistant Sub-Inspector were present during production of accused and conduct of remand proceedings.⁵⁹¹
- 8.3.8 CW-9 further stated that he went to the police station between 12:30 PM to 1 PM on 30.11.2019. He claimed that since it was his first time remanding accused to judicial custody, he was unfamiliar with the proceedings⁵⁹² and the court staff had informed

⁵⁸⁴Ex.C-45, pp 786-789, Vol III, Commission Exhibits.

⁵⁸⁵Ex.C-51, pp 796-799, Vol III, Commission Exhibits.

⁵⁸⁶CW-9, Response to Q 117, p 489, Vol II, Deposition of Witnesses.

⁵⁸⁷CW-9, Response to Q 163, p 502, Vol II, Deposition of Witnesses.

⁵⁸⁸CW-9, Response to Q 164, p 503, Vol II, Deposition of Witnesses.

⁵⁸⁹CW-9, Response to Q 119, p 490, Vol II, Deposition of Witnesses.

⁵⁹⁰CW-9, Response to Q 145, p 498, Vol II, Deposition of Witnesses.

⁵⁹¹CW-9, Response to Q 146, p 498, Vol II, Deposition of Witnesses.

⁵⁹²CW-9, Response to Q 123, p 491, Vol II, Deposition of Witnesses.

him about the same.⁵⁹³ He stated that due to stress because of the situation and lack of time, he could not ask about the nature of proceedings to be followed and believed the court staff would not mislead him.⁵⁹⁴ Neither did the police did tell him about the manner and details of arrest nor did he attempt to inquire either from the police or the accused about the time and manner of arrest.⁵⁹⁵ He merely saw the date and time written in the remand report (Ex.C-55).⁵⁹⁶ He stated that he did not ask the deceased any details apart from their names, ages, father's name and village. This too, he was unsure whether he asked them himself or it was the court staff who asked on his behalf.⁵⁹⁷ He deposed that he did not inform the accused that they had the right to be represented by a legal counsel.⁵⁹⁸ Although he stated that he confirmed that notices were issued to relatives of all four accused intimating them about the arrest,⁵⁹⁹ it is to be noted that the notice issued under Section 50-A (Ex.C-56)⁶⁰⁰ does not contain the signatures of the relatives of Jollu Shiva and Jollu Naveen. When specifically asked about this, he stated that he although there is no record of issuance of notice on relatives of Jollu Shiva and Naveen, he had been updated that Kurmaiah had received notices on behalf of them.⁶⁰¹ He did not specify who updated him about this and did not indicate that he attempted to verify the same.

8.3.9 With respect to the order granting remand to judicial custody, CW-9 stated that a typed matter, which was brought by the Court Superintendent, was shown to him and he wrote it by hand on an independent third page.⁶⁰² He stated that the remand order (Ex.C-54) was already prepared in advance and kept ready and given along with the case diary and other records by the time he reached there.⁶⁰³ He did not have any idea about the handwritten order and was under the impression that he had signed on the typed order.⁶⁰⁴ Thus, there are several inconsistencies and procedural improprieties with respect to the role and involvement of the Executive Magistrate:

⁵⁹³CW-9, Response to Q 124, p 491, Vol II, Deposition of Witnesses.

⁵⁹⁴CW-9, Response to Q 159, p 502, Vol II, Deposition of Witnesses.

⁵⁹⁵CW-9, Response to Q 125-126, p 491, Vol II, Deposition of Witnesses.

⁵⁹⁶CW-9, Response to Q 127, p 492, Vol II, Deposition of Witnesses.

⁵⁹⁷CW-9, Response to Q 158, p 501, Vol II, Deposition of Witnesses.

⁵⁹⁸CW-9, Response to Q 152, p 499, Vol II, Deposition of Witnesses.

⁵⁹⁹CW-9, Response to Q 153, p 499, Vol II, Deposition of Witnesses.

⁶⁰⁰ Ex.C-56, p 899, Vol III, Commission Exhibits.

⁶⁰¹CW-9, Response to Q 155, p 500, Vol II, Deposition of Witnesses.

⁶⁰²CW-9, Response to Q 138-141, pp 496-497, Vol II, Deposition of Witnesses.

⁶⁰³CW-9, Response to Q 142, p 497, Vol II, Deposition of Witnesses.

⁶⁰⁴CW-9, Response to Q 143, p 497, Vol II, Deposition of Witnesses.

- a. Although the police were aware that the Executive Magistrate was made in-charge of judicial work (Ex-C-201) at 9:30 AM, no request was sent to him until over two hours later.
- b. The time at which the Executive Magistrate arrived at the police station is unclear.
 - i. V Surender has contradicted himself about the time of arrival. He first stated that he arrived between 11:30 AM and 12 PM and then stated that he arrived at 1 PM.
 - ii. A Sreedhar Kumar stated that the Executive Magistrate arrived between 2 PM and 2:30 PM. This is barely half an hour before the accused were boarded onto the bus to Central Jail, Cherlapally, as per the entry in the case diary.
 - iii. J Pandu, the Executive Magistrate, on the other hand states that he arrived between 12:30 PM and 1 PM, which is when, according to him, the medical examination was conducted.
- c. There are several illegalities in the remand proceedings:
 - i. The Executive Magistrate admitted to signing a remand order (Ex.C-54) that was prepared in advance and given to him along with the case diary. He copied the content shown to him and signed the order without any application of mind.
 - ii. He did not inquire any details regarding the time and manner of arrest of the accused either from the police or from the accused themselves.
 - iii. He did not independently verify the details of the identity of accused and only verified the consistency of details across the documents given to him by the police, i.e., remand notice, arrest warrant Section 50 notice, arrest memo, confessional statement. It is unclear whether even this verification was done by him or by the accompanying court staff.
 - iv. He did not inform the accused about their right to legal representation.
 - v. He did not attempt to ascertain whether notice had been issued to relatives of Jollu Shiva and Naveen despite their signatures not being there on the Section 50-A notice (Ex.C-56).
 - vi. In such circumstances, especially when the Executive Magistrate signed on a remand order already prepared, it is impossible to accept the contention of

the State of Telangana, taken in its written submissions, that there was “substantial compliance”.

8.3.10 It is thus evident that there are several irregularities, and at times, patent illegalities with respect to the remand proceedings. The Hon’ble Supreme Court in *Khatri (2) v. State of Bihar*, (1981) 1 SCC 627, noted that the constitutional obligation to provide free legal aid attracts at the stage of production of the accused before the Magistrate for the first time since it is at this stage when the accused needs competent legal advice regarding application for bail and/or resisting the remand to police/judicial custody.⁶⁰⁵ Hence, the Magistrate is under an obligation to inform the accused that he may obtain free legal services at this stage. The Hon’ble Supreme Court *Mohd. Ajmal Amir Kasav v. State of Maharashtra*, (2012) 9 SCC 1, endorsed the findings in *Khatri* and went on to categorically hold that the right to counsel and be defended by a legal practitioner arises when the arrested person is first produced before a Magistrate. It is the duty of the Magistrate to inform the arrested person about this right and non-discharge of this duty would make the Magistrate liable to departmental inquiries.⁶⁰⁶

8.4 Transport of Accused to Cherlapally Central Prison and Request for Police Custody

8.4.1 V Surender, CW-44, in his affidavit (Ex.C-181) stated that after receiving the order granting remand to judicial custody of the accused, he issued instructions (Ex.C-212)⁶⁰⁷ to K Devaraj, Sub-Inspector to take the deceased suspects to Cherlapally Central Prison, Hyderabad.⁶⁰⁸ In the case diary, CW-44 states that at about 3 PM, the accused person boarded the police bus along with police escort in order to go to Cherlapally Central Prison. At 4 PM, with the help of special teams of police party who dispersed the agitated mob, they proceeded towards the jail.⁶⁰⁹ CW-44 in his S. 161 statement stated that as per the orders of the Executive Magistrate on 30.11.2019, the accused were taken to Cherlapally Jail after remand on the same day in the evening at 6 PM with the required escort force. At that time, there were hundreds of people sitting in front of Cherlapally Jail as well.⁶¹⁰ Although admittedly the Aadhar cards were in his possession,⁶¹¹ CW-44 issued letter requesting that remand be

⁶⁰⁵*Khatri (2) v. State of Bihar*, (1981) 1 SCC 627, Para 5-6.

⁶⁰⁶*Mohd. Ajmal Amir Kasav v. State of Maharashtra*, (2012) 9 SCC 1, Para 471-474.

⁶⁰⁷Ex.C-212, p 2278, Vol VIII, Commission Exhibits

⁶⁰⁸Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits.

⁶⁰⁹P 315, Book No. 10.

⁶¹⁰P 161, Book No. 10.

⁶¹¹CW-44, Response to Q 188, p 1507, Vol V, Deposition of Witnesses.

accepted without ID proof (Ex.C-212).⁶¹² When specifically asked about the reason for this, CW-44 deposed that because the police station was attacked by thousands, he could not trace the documents given to him in the night and he issued the letter as it was an emergency.⁶¹³

- 8.4.2 There is also an inconsistency with respect to whether after remand to judicial custody, CW-9 was approached later in the day for grant of police custody of the accused. CW-44 stated that he had instructed the SHO to inquire from CW-9 whether he was amenable to granting police custody on 30.11.2019 and, was informed that since CW-9 was in charge only for one day, he had the power to take remands but not grant police custody.⁶¹⁴ CW-15 in his affidavit (Ex.C-66) stated that when CW-9 was approached for grant of police custody, he informed that he was only empowered to look after judicial work of receiving FIRs and granting remand to the accused and could not hear the police custody petition. As a result, the police custody petition was not accepted and CW-44 was informed about this.⁶¹⁵ He reiterated the same in his deposition and stated that he approached CW-9 on 30.11.2019 to grant police custody⁶¹⁶ at around 5 PM to 6 PM,⁶¹⁷ i.e., immediately after being granted judicial remand.⁶¹⁸ He gave the requisition for grant of police custody to CW-9 in writing and CW-9 replied orally.⁶¹⁹ On the other hand, CW-9 categorically deposed that he was not approached by the police for grant of police custody of the accused after to granting judicial remand on 30.11.2019.⁶²⁰

8.5 CCTV Cameras in Shadnagar Police Station

- 8.5.1 The High Court of Telangana by its order dated 21.12.2019 passed in W.P. (PIL) 173 of 2019 filed by Ms. K. Sajaya directed that, the CCTV footages from the Police Station be collected by the SIT and made available to the Commission, if requested for. No CCTV footage from Shadnagar P.S. has been produced before the Commission. In view of the directions, the Commission had by letter dt. 06.03.2020 requested the Additional Director General of Police (Law and Order), Telangana

⁶¹²Ex.C-262, p 2456, Vol IX, Commission Exhibits read with CW-44, Response to Q 189, p 1507, Vol V, Deposition of Witnesses.

⁶¹³CW-44, Response to Q 190, p 1508, Vol V, Deposition of Witnesses.

⁶¹⁴CW-44, Response to Q 299, p 1542, Vol V, Deposition of Witnesses.

⁶¹⁵Ex.C-66, pp 1000-1010, Vol IV, Commission Exhibits.

⁶¹⁶CW-15, Response to Q 161, p 655, Vol II, Deposition of Witnesses.

⁶¹⁷CW-15, Response to Q 163, p 655, Vol II, Deposition of Witnesses.

⁶¹⁸CW-15, Response to Q 162, p 655, Vol II, Deposition of Witnesses.

⁶¹⁹CW-15, Response to Q 164, p 656, Vol II, Deposition of Witnesses.

⁶²⁰CW-9, Response to Q 156, p 501, Vol II, Deposition of Witnesses.

(“Addl. DGP”), that the CCTV footage of Shadnagar police station, amongst other documents, be furnished to it. The Addl. DGP replied by the letter dt. 13.03.2020 (Ex.C-75)⁶²¹ stating that no CCTV cameras are available at Shadnagar police station.

8.5.2 The existence or non-existence of CCTV cameras in the Police Station has been deposed upon by 3 witnesses before the Commission - Mahesh Bhagwat (CW-16), J Surender Reddy (SW-3) and A Sreedhar Kumar (CW-15). J. Surender Reddy (SW-3), the IO for Special Investigation Team formed by the State of Telangana, stated in his deposition that he had issued a notice dt. 26.12.2019 (Ex.C-76),⁶²² under Section 91 Cr.P.C. to A. Sridhar Kumar, calling upon him to immediately submit, amongst other documents, CD containing CCTV footages of Shadnagar P.S. from 29.11.2019 to 06.12.2019 for the purpose of investigation. CW-15 did not reply to the notice,⁶²³ but orally informed J. Surender Reddy that, no data was available because the CCTV cameras in Shadnagar P.S. were not in working condition during the period 29.11.2019 to 10.12.2019.⁶²⁴ Also he had not collected CCTV footages from any place.⁶²⁵ CW-15, on the other hand, claimed in his deposition that he had sent a reply in writing to J. Surender Reddy to the notice under S. 91 Cr.P.C. He however, expressed his inability to produce a copy of the reply on the spacious ground that he had been transferred from the concerned Police Station. Attention of SW-3 was drawn to the contents of the letter dt. 13.03.2020 of Addl. DGP (Law and Order), that there are no CCTV Camera available in Shadnagar P.S., and asked whether his statement that CCTV cameras at Shadnagar P.S. were malfunctioning is incorrect. He gave a non-committal reply that the SHO, Shadnagar, orally stated that CCTV cameras are not functioning. He however, admitted that, the information received by him about CCTV cameras at Shadnagar P.S. from CW-15 is not recorded anywhere in the case diary.⁶²⁶ Later he has admitted that there is no CCTV footage collected by him from any place i.e., Shadnagar P.S., Ravi Guest House and en-route Ravi Guest House to the place of the incident and the jail premises.

8.5.3 CW-15 narrates an entirely different version regarding the existence of CCTV cameras at Shadnagar police station. He stated that he did not receive any request

⁶²¹Ex.C-75, pp 1047-1048, Vol IV, Commission Exhibits.

⁶²²Ex.C-76, p 1049-1050, Vol IV, Commission Exhibits.

⁶²³SW-3, Response to Q 531, p 215, Vol I, Deposition of Witnesses.

⁶²⁴SW-3, p 116, Vol I, Deposition of Witnesses.

⁶²⁵SW-3, p 118, Vol I, Deposition of Witnesses.

⁶²⁶SW-3, p 117, Vol I, Deposition of Witnesses.

from the Commissioner, Cyberabad, regarding CCTV footage⁶²⁷ and acknowledged that he received a formal request that CCTV footage be supplied from SW-3,⁶²⁸ although he is unsure of the date when he received this request.⁶²⁹ He deposed that he had replied to the notice in writing⁶³⁰ wherein he clearly stated that the CCTV footage for the relevant period between 29.11.2019 and 06.12.2019 the storage time had lapsed and hence, not available.⁶³¹ He was then asked whether he could produce a copy of his reply, to which he stated that due to his transfer out of Shadnagar Police Station, he was unable to provide a copy of the reply.⁶³² The Counsel for the State of Telangana, while cross-examining CW-15, drew his attention to the report of Addl. DGP (Law and Order) that no cameras were available at Shadnagar P.S. and asked from where were the cameras mentioned by CW-15 were procured for installation in the Police Station. CW-15 responded that CCTV cameras were installed in and around the P.S. with the assistance of donations contributed by the community.⁶³³ They are also known as community CCTV cameras. He then reiterated that cameras did exist in the Shadnagar P.S. between those dates.⁶³⁴ He categorically disagreed with the contents of the letter issued by the Addl. DGP (Law and Order) and stated that CCTV cameras existed in Shadnagar Police Station⁶³⁵ and the information furnished by the Addl. DGP is inconsistent with the records.⁶³⁶

8.5.4 When Mahesh Bhagwat, CW-16, the Commissioner of Rachakonda and head of the SIT, was specifically asked about the correct position regarding the CCTV cameras, i.e., “was the footage not recovered, was the CCTV installed and not working or were the CCTV never installed at all at Shadnagar Police Station”. CW-16 replied by referring to notice given by J. Surender Reddy (SW-3) to CW-15 and stated that SW-3 could not get any reply from CW-15. He next referred to the reply given by Addl. DGP (Ex.C-75) to the Commission that, there are no CCTV cameras installed in Shadnagar Police Station,⁶³⁷ and answered “Therefore no CCTV footage of the above place available.” Immediately thereafter, he contradicted himself by volunteering that

⁶²⁷CW-15, Response to Q 9, p 616, Vol II, Deposition of Witnesses.

⁶²⁸CW-15, Response to Q 6, p 615, Vol II, Deposition of Witnesses.

⁶²⁹CW-15, Response to Q 7, p 615, Vol II, Deposition of Witnesses.

⁶³⁰CW-15, Response to Q 142, p 649, Vol II, Deposition of Witnesses.

⁶³¹CW-15, Response to Q 143, p 649, Vol II, Deposition of Witnesses.

⁶³²CW-15, Response to Q 144, p 649, Vol II, Deposition of Witnesses.

⁶³³CW-15, Response to Q 248, p 678, Vol II, Deposition of Witnesses.

⁶³⁴CW-15, Response to Q 249, p 678, Vol II, Deposition of Witnesses.

⁶³⁵CW-15, Response to Q 107, pp 640-641, Vol II, Deposition of Witnesses.

⁶³⁶CW-15, Response to Q 109, p 641, Vol II, Deposition of Witnesses.

⁶³⁷CW-16, Response to Q 46, p 708, Vol III, Deposition of Witnesses.

in the State of Telangana there are community CCTV sponsored by the local community and that cameras may be installed in Shadnagar Police Station, but there is no official record because there are no government cameras installed.⁶³⁸ On a query from the Commission, as regards the action against CW-15 for not responding to notice under S. 91 Cr.P.C. issued to him, he stated that SW-3 did not take any action or make any report regarding the non-responsiveness of CW-15 to the notice issued under S. 91 Cr.P.C. He further stated that SW-3 had stated that CW-15 had informed him on oral enquiry that cameras were installed but footage was not available as storage capacity was exhausted.⁶³⁹ This differs from SW-3's claim that CW-15 informed him that the CCTV cameras were not functioning. Thus, there is a complete lack of clarity regarding CCTV cameras since:

- a) Addl. DGP states that no cameras existed in the police station (Ex.C-75).
- b) CW-15 states community CCTV cameras existed in and around the police station and their existence was part of the records but CCTV footage for the relevant period was not available due to lapse of time. Information regarding this was communicated in writing in reply to the notice issued by SW-3. However, he cannot furnish any documents to substantiate his statements due to his transfer.
- c) SW-3 states that CW-15 informed him orally that CCTV cameras were not functioning and hence, he could not collect any footage. However, there is no corresponding entry in the case diary regarding this and he did not pursue any action against CW-15 despite his non-responsiveness.
- d) CW-16 self-contradictorily states that SW-3 was informed orally by CW-15 that cameras were installed but footage was not available as storage capacity got exhausted. At the same time, he states that no CCTV cameras were installed. He elaborates that no government cameras were installed but there is a possibility that community cameras were installed but there is no record of the same.

⁶³⁸ CW-16, Response to Q 47, p 708, Vol III, Deposition of Witnesses.

⁶³⁹ CW-16, Response to Q 47, p 708, Vol III, Deposition of Witnesses.

9 GRANT OF POLICE CUSTODY ON 02.12.2019

9.1 Background

- 9.1.1 The two most important witnesses on the aspect of grant of police custody are V. Surender (CW-44) and P. Shyam Prasad (CW-37), the Additional Civil Judge, Shadnagar. The next witness would be A. Sridhar Kumar (CW-15). The concerned documents would obviously be the application dt. 02.12.2019 (Ex. C-162) being CrI. M.P. No. 997 of 2019 and the order thereon.
- 9.1.2 It has already been seen earlier that according to the police, an attempt at police custody was made earlier which had failed. CW-15 claimed to have approached with a written request to CW-9, the executive magistrate had granted judicial custody on 30.11.2019 between 5 PM to 6 PM. He was however told by CW-9, that CW-9 did not have the authority to grant police custody⁶⁴⁰. CW-44 supported the claim⁶⁴¹ but CW-9 refuted it stating that he was never approached by any officer.⁶⁴²
- 9.1.3 CW-44 on 02.12.2019 filed the petition for police custody (Ex.C-162) before Additional JMFC Court, Shadnagar, requesting for grant of police custody for 10 days of the accused, for interrogation and to recover material objects for the purpose of Investigation. He claims to have handed over the petition to CW-15 at about 8 PM on the same day⁶⁴³ which finally reached the court between 4 PM to 5 PM⁶⁴⁴.
- 9.1.4 Beyond making and finding of the petition for police custody, CW-44 claims to have done nothing further. According to him, he came into picture again only after the Petition was allowed. Same is the stance of CW-15. Beyond receiving and filing the Petition, he claims to have done nothing. Both claim that they were not present in the Court when the Petition was heard and they learnt of the order through a constable. CW-15 stated that he learnt of the order in the evening from a constable who brought a sealed cover which he handed over to CW-44.⁶⁴⁵ CW-44 deposed that Court constable Ravi of Shadnagar Police Station informed him of the custody being granted and that constable Ravi had attended the court at the time of hearing. On this statement, when asked as to how could he send only a court constable to attend the hearing in a highly sensational case, his reply was that he entrusted the work to the

⁶⁴⁰CW-15, Response to Q 164, p 656, Vol II, Deposition of Witnesses.

⁶⁴¹CW-44, Response to Q 161-163, p 1516, Vol V, Deposition of Witnesses.

⁶⁴²CW-9, Response to Q 156, p 501, Vol II, Deposition of Witnesses.

⁶⁴³CW-44, Response to Q 268, p 1534, Vol V, Deposition of Witnesses.

⁶⁴⁴CW-37, Response to Q 1-2, p 1261, Vol IV, Deposition of Witnesses.

⁶⁴⁵CW-15, Response to Q 169, p 656-657, Vol II, Deposition of Witnesses.

SHO and he does not know whom he deputed to attend the court. This apathy expressed is in the face of knowledge that there was no regular Asst. Public Prosecutor attached to that Court and the Asst. Public Prosecutor attached to another Court was attending to the matters in this Court. The order of remand records that no prosecutor was present at the hearing of the Petition.

- 9.1.5 Interestingly, the order granting police custody records the presence of CW-44 in the Court at the time of hearing. The order records presence of only one police officer. It does not reflect the presence of Constable Ravi. Despite this record CW-44 maintained that he was not present. He was then asked whether he brought the fact to the notice of the code to get the order of factually corrected, he answered in the negative.

9.2 Issuance of notice to the accused in Cr. No. 784 of 2019.

- 9.2.1 As can be seen hereinafter there is nothing on record to indicate that the Petition for Police Custody (Ex. C-162) was actually served upon the four deceased persons. CW-37 states in the affidavit filed before this Commission that after perusing Ex. C-162, he had issued notice to all the four accused⁶⁴⁶, but they neither filed a counter nor did they engage a counsel to oppose Ex. C-162.
- 9.2.2 In view of his statement in the affidavit that he had issued notice to all the four accused, CW-37 was asked the manner in which the notices were served. At that time he stated that he did not issue any notice after Ex. C-162 was filed before him. According to him, the police had served the notice upon the accused. The obvious question thereafter to him was how did he verify the service of notice. His first response was that, he could not say anything about it. But thereafter, he stated that he had seen signatures on the Petition, which tallied with the names of the accused persons, meaning thereby that the signatures were an acknowledgement of service. As regards, ascertainment of the signatures, his response was that he believed the signatures to be those of the accused persons because the signatures were attested by the Jailor, Central Prison, Cherlapalli, and he presumed from the attestation of the signatures of the jailor that copies of the Petition were served upon the accused persons.
- 9.2.3 When admittedly, neither the accused nor their counsel were present at the time of hearing of their Petition, CW-37 was asked as to how could he say that accused did

⁶⁴⁶Ex.C-161, pp 1672-1682, Vol VII, Commission Exhibits.

not file any counter to the notice. The surprising answer given by CW-37 was that generally, if the accused intended to file any counter, then that is sent with the jailor. Because he did not receive any counter from the jailor, he presumed that no counter was filed. This answer was given on the background of the fact that he had not even bothered to inquire whether the notices had been served upon. He was then confronted with a possible situation of a jailor either deliberately not handing over a counter to the court or forgetting to hand it over to the court. He responded by saying that in that case, “The accused will suffer”. He however, immediately added that, during his tenure at Shadnagar Court, he had not received any complaint from under-trial prisoners that the jail authorities had not submitted the counters or any grievances before the court, and therefore, he did not suspect the jail authorities to have acted otherwise.

9.3 Absence of the accused before the Court at the time of remand to police custody.

- 9.3.1 A. Sreedhar Kumar in his deposition before the Commission, stated that he was unaware if the accused were physically produced before the Court on 02.12.2019.⁶⁴⁷ But it is now admitted position that the accused were not physically produced before the Court.⁶⁴⁸ Despite being aware of the fact that the earlier remand was granted by an executive magistrate who is not expected to be conversant with the legal provisions relating to remand, CW-37 deposed that he did not feel the need to insist the physical presence of the accused,⁶⁴⁹ since he was satisfied with the judicial remand granted by CW-9. He also stated that after perusing the remand order, he was of the opinion that the concerned legal provisions were also adhered to by CW-9.⁶⁵⁰ Despite the order of CW-9 being cryptic and sketchy, he found no mistake in the order, though he stated that he could not make out what provisions of law CW-9 had complied with because the order does not specify it.
- 9.3.2 V. Surender (CW-44) was asked the reason for non-production of the accused before the Court at the time of hearing of the Police Custody Petition. He answered that the practice of producing the accused before a magistrate does not exist in the State of Telangana.⁶⁵¹ He also deposed that the jail authorities would not have handed over the

⁶⁴⁷CW-15, Response to Q 166, p 656, Vol II, Deposition of Witnesses.

⁶⁴⁸CW-37, Response to Q 8, p 1262, Vol IV, Deposition of Witnesses.

⁶⁴⁹CW-37, Response to Q 8-10, p 1262-1263, Vol IV, Deposition of Witnesses.

⁶⁵⁰CW-37, Response to Q 12, 13 and 15, p 1264-1265, Vol IV, Deposition of Witnesses.

⁶⁵¹CW-44, Response to Q 290, p 1539, Vol V, Deposition of Witnesses.

accused, who were in judicial remand, without magisterial orders.⁶⁵² Further, he stated that he lacks the requisite authority to even approach the jail authorities and request for production of the accused in court, without such orders being passed by a competent magistrate.⁶⁵³

- 9.3.3 CW-37 was asked whether he did not think it necessary to appoint a legal aid counsel for the accused to oppose the Petition for Police Custody, to which his unfortunate reply was that he did not receive any requisition from the accused to appoint a legal aid counsel on their behalf. One fails to understand as to how the accused persons could have requested for legal aid, when they did were not even aware of the Petition filed by the Police for custody.

9.4 Order granting police custody

- 9.4.1 As per the deposition of CW-37, the Petition for Police Custody was filed in his Court sometime in the forenoon, and the order passed thereon was between 4 PM to 5 PM. As already seen above, neither the accused nor their counsel nor the Asst. Public Prosecutor nor any police officer was present at the time of hearing of the Petition. According to CW-44, court constable Ravi alone was present. This would mean that absolutely no assistance to the Court at the time of hearing. CW-37 had to go through the papers as filed before him on his own and pass the orders. He has deposed that except for the Petition, no material was produced before him by the Police. He had only perused the earlier remand and statements of witnesses and panchanamas produced before CW-9, for passing the order. He was then asked as to how the entire file of CW-9 came to him. In answer, he stated that on 30.11.2019, at the time of judicial remand, the Superintendent of his Court was present with CW-9, but he was unable to say as to how the remand diary along with the statements of the witnesses and four panchanamas of confession by the accused came to his court. It is his statement that he went through the panchanama with respect of only Md. Arif (A-1) and checked up the relevant portions of the panchanamas of Jollu Siva, Jollu Naveen and Chintakunta Chennakeshavulu to ascertain whether the panchanamas were similar.
- 9.4.2 The State of Telangana, in its written submissions contends that there is no statutory requirement for the accused to be produced before the magistrate under Section 167 Cr.P.C. at the time of hearing of the application, once they were produced for the first

⁶⁵²CW-44, Response to Q 291, p 1539, Vol V, Deposition of Witnesses.

⁶⁵³CW-44, Response to Q 292, p 1539, Vol V, Deposition of Witnesses.

time for judicial remand on 30.11.2019 and that such practice is not prevalent in the State of Telangana. They contend that service of notice is alone sufficient. The contention flies in the face of Section 167 of the Cr.P.C. which states that the accused has to be produced before the judicial magistrate every time detention of the accused is to be granted in the custody of the police. The Hon'ble Supreme Court in *Satyajit Ballubhai Desai v State of Gujarat*, (2014) 14 SCC 434, has held that if the arrested accused is produced before the Executive Magistrate, he is empowered to authorise the detention in such custody either police or judicial only for a week, in the same manner namely by one or more orders but after one week he should transmit him to the nearest Judicial Magistrate along with the records. When the arrested accused is so transmitted the Judicial Magistrate, for the remaining period, that is to say excluding one week or the number of days of detention ordered by the Executive Magistrate, may authorise further detention within that period of first fifteen days to such custody either police or judicial.

9.4.3 The order of remand to police custody passed by CW-37 leaves much to be desired. There are several irregularities in the conduct of the proceedings by CW-37. It also does not conform to the several duties categorically recognized and cast upon the court of magistrate by the Hon'ble Supreme Court in *Mohd. Ajmal Amir Kasav v. State of Maharashtra*, (2012) 9 SCC 1. Instead, the irregularities noticed in the remand proceedings are as follows:

- a) The Petition filed by the Police on 02.12.2019 was not accompanied by any documents.
- b) CW-37 did not insist for production of relevant documents by the police. He went through the documents produced in the first remand proceedings before CW-9 on 30.11.2019.
- c) The material collected by the Police during the period 30.11.2019 to 02.12.2019 was not made available to CW-37.
- d) The accused were not produced before CW-37.
- e) There were no steps taken as regards legal assistance to the deceased suspects and therefore, there was no lawyer representing the deceased suspects. There was no public prosecutor present during the proceedings. Shockingly, even in the absence of any lawyers appearing in the Petition, the order records "heard arguments".

- f) According to CW-44, no police officer was present before the Magistrate. The person apparently present was a court constable, who is not expected to know the details of the steps in investigation taken earlier and required to be taken. However, the order granting police custody states that CW-44 was present.
- g) CW-37 did not ascertain whether the Petition for police custody was in fact served upon the accused persons.
- h) The so-called signatures of the accused appearing in the Petition do not indicate that, they are in acknowledgement of service of the Petition upon the accused persons.

10 PREPARATION FOR TAKING INTO POLICE CUSTODY

10.1 Requisitions made by V. Surender

- 10.1.1 CW-44 states in his affidavit that he apprehended some trouble from the general public once the news of grant of police custody would become known. He had learnt from his sources that some members of the public had been moving to the all the police stations in Shadnagar sub-division enquiring about the accused. Therefore, by his letter (Ex. S-23) dated 02.12.2019 i.e., he requested his senior, N. Prakash Reddy (CW-18), for permission to keep the accused in a safe place outside the Shadnagar area; and also for additional police force/escort team to control the agitating public.⁶⁵⁴ Further, on the next day he made a request (Ex.C-88) for the escort team to be armed with 6 long-range weapons.⁶⁵⁵ Both the request of CW-44 were granted. The police had seen three guest houses i.e., Ravi Guest House, Narsimha Guest House and Mallesh Yadav Guest House on 02.12.2019, and later finalized on Ravi Guest House as the safe place for keeping the accused.⁶⁵⁶ As regards the request for additional force, N. Prakash Reddy (CW-18), on 02.12.2019, addressed a letter (Ex. C-86) to Commissioner of Police, Cyberabad, V.C. Sajjanar (CW-38), for that purpose.⁶⁵⁷ CP, V.C. Sajjanar *vide* letter dated 03.12.2019 (Ex.S-24), allotted a team of 29 armed police personnel consisting of 1 ACP, 4 Inspectors, 5 Sub-Inspectors, 4 Head Constables and 15 Police Constables to assist V. Surender.⁶⁵⁸
- 10.1.2 With respect to the parameters based on which the escort team was to be identified, N. Prakash Reddy (CW-18) stated that he had conveyed to Sri Ghouse Moinuddin, Additional DCP, Special Branch, Cyberabad, that he expected the escort team to be skilled in handling crowds and protecting the accused.⁶⁵⁹ When asked if he was the person who identified the escort team, N. Prakash Reddy (CW-18) stated that it was Ghouse Moinuddin, who identified the escort team.⁶⁶⁰ However, a different version is provided by CP, V.C. Sajjanar in his deposition, stating that, usually, it is the concerned DCP sending in a requisition for the escort force, who decides the composition of the escort team, albeit after consulting the Additional DCP, Special

⁶⁵⁴Ex.S-23, p 259, Vol I, State Exhibits.

⁶⁵⁵Ex.C-88, p 1102, Vol IV, Commission Exhibits.

⁶⁵⁶CW-18, Response to Q 139, p 802, Vol III, Deposition of Witnesses.

⁶⁵⁷Ex.C-86, p 1101, Vol IV, Commission Exhibits.

⁶⁵⁸Ex.S-24, p 264, Vol I, State Exhibits.

⁶⁵⁹CW-18, Response to Q 106-107, pp 792-793, Vol III, Deposition of Witnesses.

⁶⁶⁰CW-18, Response to Q103, p 792, Vol III, Deposition of Witnesses.

Branch.⁶⁶¹ In this case, since the request for an escort team had come from N. Prakash Reddy, he had asked N. Prakash Reddy to contact Ghouse Moinuddin and put up a list.⁶⁶² He stated that it was after due consultation between the two, the names arrived at were placed before him for approval.⁶⁶³ He granted the approval by the letter dated 03.12.2019 (Ex.S-24).⁶⁶⁴

10.1.3 The composition of the escort team shows that, 9 out of the 29 officers were part of the Special Operations Team,⁶⁶⁵ a team which functions directly under the aegis of the Commissioner of Police, Cyberabad, as per the Memorandum dated 08.09.2004,⁶⁶⁶ including the three persons who actually fired at the four deceased.⁶⁶⁷ Also, 3 other members of the escort team had served as members of the SOT in the past. Thus, majority of the members of the escort team who were present at the time of the firing were officers trained for handling organized crimes.

10.2 **Weapons used by the Escort Team**

10.2.1 Specific request (Ex. S-23) had been made to CP, V.C. Sajjanar, for issuance of 6 long range weapons for the escort team on 02.12.2019 by N. Prakash Reddy.⁶⁶⁸ CP, V.C. Sajjanar granted the permission.⁶⁶⁹ The request for 6 long range weapons does not find a mention in either the case diary of 03.12.2019 in CR No. 784/2019 or the affidavits filed by V. Surender (Ex. C-181), N. Prakash Reddy (Ex. C-85) and V.C. Sajjanar (Ex. C-163).

10.2.2 All three officers i.e., CP, V.C. Sajjanar, N. Prakash Reddy and V. Surender were extensively questioned over the issuance of long-range weapons to the escort team. CP, V.C. Sajjanar and V. Surender tendered a general response by stating that escort team officers are usually armed with long range weapons.⁶⁷⁰ N. Prakash Reddy stated that as per Order No. 378 of the Andhra Pradesh Police Manual, when there are three to five prisoners, at the discretion of the unit officer, strong armed escort can be

⁶⁶¹CW-38, Response to Q 91, p 1314, Vol V, Deposition of Witnesses.

⁶⁶²CW-38, Response to Q 91, p 1314, Vol V, Deposition of Witnesses.

⁶⁶³CW-38, Response to Q 91, p 1314, Vol V, Deposition of Witnesses.

⁶⁶⁴Ex.S-24, p 264, Vol I, State Exhibits.

⁶⁶⁵Ex.S-24, p 264, Vol I, State Exhibits.

⁶⁶⁶Ex.S-15, pp 149-152, Vol I, State Exhibits.

⁶⁶⁷CW-38, Response to Q 89, pp 1313, Vol V, Deposition of Witnesses.

⁶⁶⁸Ex.S-23, p 259, Vol I, State Exhibits.

⁶⁶⁹CW-18, Response to Q 62, p 778, Vol III, Deposition of Witnesses.

⁶⁷⁰CW-38, Response to Q 34, p 1294, Vol V, Deposition of Witnesses; CW-44, Response to Q 296, p 1540, Vol V, Deposition of Witnesses.

provided and generally they are armed with long range weapon,⁶⁷¹ though no explanation is provided for the discretion exercised by the unit officer in this case.

⁶⁷¹CW-18, Response to Q 31, p 767, Vol III, Deposition of Witnesses.

11 SAFE HOUSE

11.1 It is stated that in view of the threat posed to the accused from the general public, it was proposed to keep the accused in a safe and confidential house during the period of police custody. It is not known whether there is any such practice of taking private premises for lodging accused during police custody. When asked on how many occasions he had rented a private guest house as a safe house and whether it was a normal practice in State of Telangana to engage a private guest house as a safe house, N. Prakash Reddy (CW-18), states that only once in his career, he had rented a private guest house as a safe place and that he is not aware whether it is a normal practice.⁶⁷² Hence it should be inferred that it is not a routine practice and therefore such a course could not have been adopted without the approval of CP, V.C. Sajjanar. When J. Surender Reddy (SW-3), is asked whether there is any correspondence with the Commissioner of Police regarding identification of safe house, he stated that there is such correspondence.⁶⁷³ However when he is asked whether there is any record to show that the Commissioner of Police accorded such permission, the witness did not answer the question even after granting sufficient time.⁶⁷⁴ When CP, V.C. Sajjanar, is asked whether he granted permission to keep accused in safe place at Mirzaguda Ravi guest house during police custody, he states that he did not give permission and that the information was received by his office from DCP Shamshabad about utilization of safe house.⁶⁷⁵ When his attention was drawn to page 281 and 282 of Book No 9 wherein it is stated that Commissioner of Police granted permission to keep the accused in safe house at Ravi Guest house Mirzaguda, CP, V.C. Sajjanar, states that he did not grant any such permission and that it was just informed to the office.⁶⁷⁶ However, CP, V.C. Sajjanar, in para 5 of his affidavit states that V. Surender requested him and N. Prakash Reddy (CW-18) to accord permission to keep the accused in a safe and confidential place other than Shadnagar Division.⁶⁷⁷ In para 7 of his affidavit, CP, V.C. Sajjanar, further states that Ravi guest house situated in Mirzaguda of Shankarpally Mandal was identified and confidentially selected as a safe place to keep the accused during police custody period.⁶⁷⁸ Now, it is to be considered whether the safe house was in fact utilized for interrogating the accused during police custody. Before that

⁶⁷²CW-18, Response to Q 37, p 770, Vol III, Deposition of Witnesses.

⁶⁷³SW-3, Response to Q 155, p 110, Vol I, Deposition of Witnesses.

⁶⁷⁴SW-3, Response to Q 156, p 111, Vol I, Deposition of Witnesses.

⁶⁷⁵CW-38, Response to Q 81, p 1311, Vol V, Deposition of Witnesses.

⁶⁷⁶CW-3, Response to Q 82, p 1311, Vol V, Deposition of Witnesses.

⁶⁷⁷CW-38, p 1277, Vol V, Deposition of Witnesses.

⁶⁷⁸CW-38, p 1278, Vol V, Deposition of Witnesses.

it is necessary to advert to the evidence relating to identification of safe house, lease of the same and payment of rent etc.

11.2 It is to be seen that there is any amount of discrepancy with regard to identification and selection of the safe house. N. Prakash Reddy (CW-18), has stated in para 6 of his affidavit that Ravi guest house situated in Mirzaguda was identified and was confidentially selected as a safe place to keep the accused during police custody period.⁶⁷⁹ N. Prakash Reddy (CW-18), has stated that on 02.12.2019, he received a requisition from V. Surender (CW-44) to identify a safe place and that on 02.12.2019, he visited Ravi guest house and two other guest houses and chose Ravi guest house and another stand-by guest house.⁶⁸⁰ V. Surender (CW-44) states in para 47 of his affidavit that he addressed letter dated 02.12.2019 to his superior officer to accord permission to keep the accused in a safe and confidential place during the police custody period.⁶⁸¹ The said letter is Ex.S-23.⁶⁸² As per Ex.S-23, the Court has passed order and granted police custody for 10 days. Hence Ex.S-23 would have been addressed only after the passing of orders in the Police Custody Petition. As per the evidence of A. Sridhar Kumar (CW-15), the then SHO of Shadnagar P.S., the order granting police custody was received in the evening hours.⁶⁸³ When such is the case, the necessity to visit the Safe house would arise only after the evening hours. When N. Prakash Reddy (CW-18) is asked at what time he received request from V. Surender (CW-44), he states that he cannot even approximately remember when he received the request.⁶⁸⁴ In answer to another question, he has stated that he assumed that police custody would be granted.⁶⁸⁵ When such is the preparedness to proceed with investigation, there should not have been any delay in finalizing the guest house and in taking the accused into police custody soon after the order was passed. When N. Prakash Reddy (CW-18) is asked who ultimately decided that Ravi guest house should be hired as safe house, he says that it was V. Surender (CW-44) who decided the same.⁶⁸⁶ When N. Prakash Reddy (CW-18) has identified two guest houses on 02.12.2019 itself, V. Surender (CW-44) should have followed it up immediately. As per Ex. C-180,⁶⁸⁷N. Prakash Reddy (CW-18) has addressed a letter to Commissioner of Police that

⁶⁷⁹CW-18, p 754, Vol III, Deposition of Witnesses.

⁶⁸⁰CW-18, Response to Q 37, p 769, Vol III, Deposition of Witnesses.

⁶⁸¹CW-44, p 1409, Vol V, Deposition of Witnesses.

⁶⁸²Ex.S-23, p 259, Vol II, State Exhibits.

⁶⁸³CW-15, Response to Q 169, p 656, Vol II, Deposition of Witnesses

⁶⁸⁴CW-18, Response to Q 111-112, p 794, Vol III, Deposition of Witnesses

⁶⁸⁵CW-18, Response to Q 110, p 794, Vol III, Deposition of Witnesses.

⁶⁸⁶CW-18, Response to Q 139, p 803, Vol III, Deposition of Witnesses.

⁶⁸⁷Ex.C-180, p 2115, Vol VIII, Commission Exhibits.

any of the two guest houses may be utilized as safe house. V. Surender (CW-44) initially stated that he visited Ravi guest house along with N. Prakash Reddy (CW-18) on 04.12.2019.⁶⁸⁸ But on the next day he sought leave to add that N. Prakash Reddy (CW-18) did not come along with him and he alone visited Ravi guest house.⁶⁸⁹

11.3 In para 61 of his affidavit, V. Surender (CW-44) states that on 04.12.2019 he visited Ravi guest house and entered a rental agreement with Anil, Manager, Ravi guest house, for a period of 10 days on lease basis.⁶⁹⁰ In his deposition, he stated that the decision to finalise Ravi Guest House was taken only on 04.12.2019.⁶⁹¹ When he is asked the reason for not finalising the safe house till 04.12.2019, V. Surender (CW-44) gives a vague answer that he blocked the guest houses on 03.12.2019 and after he visited it physically on 04.12.2019, he finalized.⁶⁹² When he is informed that he has not answered the question for delay in finalizing the guest house, he states that because he did not get the intimation regarding the force for safeguarding the house, there was delay in finalizing the guest house,⁶⁹³ and that he received intimation regarding the force on the evening of 03.12.2019.⁶⁹⁴ Thus as per V. Surender (CW-44), he visited the guest house on 04.12.2019 and the guest house was finalized on 04.12.2019. In this regard, Anil Kumar (CW-25) the lessee/manager, has stated that V. Surender (CW-44) visited the guest house on 03.12.2019⁶⁹⁵ and he specifically states that the statement in his affidavit that V. Surender (CW-44) visited the guest house on 04.12.2019 is incorrect.⁶⁹⁶ In fact the Rental Deed, Ex. S-39, is dated 04.12.2019.⁶⁹⁷ When such is the case, the period of 10 days should have commenced from 04.12.2019. But the copy of rental deed Ex. S-39 shows that the period of lease commenced on 03.12.2019 itself.⁶⁹⁸ When asked why the premises were taken on lease from 03.12.2019, V. Surender (CW-44) states that he had instructed to reserve the guest house from 03.12.2019.⁶⁹⁹ When asked whether there is any record to show such reservation of guest house from 03.12.2019, he states that he had instructed his

⁶⁸⁸CW-44, Response to Q 4, p 1451, Vol V, Deposition of Witnesses.

⁶⁸⁹CW-44, p 1462, Vol V, Deposition of Witnesses.

⁶⁹⁰CW-44, p 1414, Vol V, Deposition of Witnesses.

⁶⁹¹CW-44, Response to Q 43, p 1463, Vol V, Deposition of Witnesses.

⁶⁹²CW-44, Response to Q 44, p 1463, Vol V, Deposition of Witnesses.

⁶⁹³CW-44, Response to Q 45, p 1463, Vol V, Deposition of Witnesses.

⁶⁹⁴CW-44, Response to Q 46, p 1463-1464, Vol V, Deposition of Witnesses.

⁶⁹⁵CW-25, Response to Q 12, p 930, Vol III, Deposition of Witnesses.

⁶⁹⁶CW-25, Response to Q 13, p 930, Vol III, Deposition of Witnesses.

⁶⁹⁷Ex.S-39, p 412-413, Vol II, State Exhibits.

⁶⁹⁸Ex.S-39, p 412-413, Vol II, State Exhibits.

⁶⁹⁹CW-44, Response to Q 50, p 1464, Vol V, Deposition of Witnesses.

Assistant Investigating Officer to reserve the guest house from 04.12.2019 onwards.⁷⁰⁰ When asked why the lease period was shown to have commenced from 03.12.2019, he states that since he has reserved from 03.12.2019, he has instructed the Asst Investigating Officer to reserve the guest house from 04.12.2019.⁷⁰¹

11.4 If the guest house was reserved from 03.12.2019 and if the lease period commenced from 03.12.2019, the rent should have been paid from 03.12.2019. But when asked for which dates and for how many days the rent was paid, V. Surender (CW-44) states he paid rent for three days from 04.12.2019 to 06.12.2019.⁷⁰² V. Surender (CW-44) claims to have sent rent for the guest house⁷⁰³ and that he paid in cash⁷⁰⁴ and that there is a receipt.⁷⁰⁵ The said receipt is filed along with the final report, Ex.S-14.⁷⁰⁶ Considering the gravity of the incident on 06.12.2019, neither party would be in a hurry to settle the payment of rent for the guest house. But here is a case, where CW-44 is said to have paid rent on 07.12.2019, and CW-25 states that he received after about 10 days.⁷⁰⁷ He states that he receives Rs 10.000/- per month as Contingent Fund and that he paid rent from that fund.⁷⁰⁸ He states that no separate register is maintained for contingent fund⁷⁰⁹ and again says that he does not know whether any separate account or register is maintained for contingent fund.⁷¹⁰ There ought to be records for the amount spent from government funds. There is also no reference to payment of rent in the case diary.⁷¹¹

11.5 The aforesaid discrepancies with regard to the rental deed assume significance in view of the fact that the alleged lessee/manager of Ravi guest house in his statement before J. Surender Reddy (SW-3) and which is furnished to the Commission at the earliest point of time does not refer to execution of any such rental deed or the alleged payment of rent.⁷¹² When J. Surender Reddy (SW-3) is confronted with that statement, he admits that it is recorded by him and that it bears his signature.⁷¹³ There is no reference to execution of

⁷⁰⁰CW-44, Response to Q 51, p 1465, Vol V, Deposition of Witnesses.

⁷⁰¹CW-44, Response to Q 52, p 1465, Vol V, Deposition of Witnesses.

⁷⁰²CW-44, Response to Q 54, p 1465, Vol V, Deposition of Witnesses.

⁷⁰³CW-44, Response to Q 53, p 1464, Vol V, Deposition of Witnesses.

⁷⁰⁴CW-44, Response to Q 57, p 1466, Vol V, Deposition of Witnesses.

⁷⁰⁵CW-44, Response to Q 58, p 1466, Vol V, Deposition of Witnesses.

⁷⁰⁶P 479, Book No. 12.

⁷⁰⁷CW-25, Response to Q 53, p 937, Vol III, Deposition of Witnesses.

⁷⁰⁸CW-44, Response to Q 58, p 1466, Vol V, Deposition of Witnesses.

⁷⁰⁹CW-44, Response to Q 59, p 1466, Vol V, Deposition of Witnesses.

⁷¹⁰CW-44, Response to Q 60, p 1466, Vol V, Deposition of Witnesses.

⁷¹¹CW-44, Response to Q 56, p 1466, Vol V, Deposition of Witnesses.

⁷¹²P 445, Book No. 1.

⁷¹³P 445, Book No. 1.

rental deed and payment of rent in the statement sent to the Commission.⁷¹⁴ But according to J. Surender Reddy (SW-3), Popuri Anil Kumar (CW-25) in his statement before him, has stated about rental deed and payment of rent.⁷¹⁵ Hence he was asked whether he recorded the statement of Anil Kumar (CW-25) twice and he said that he recorded the statement of Anil Kumar (CW-25) only once.⁷¹⁶ But when examined on the next day, he has stated that he examined Anil Kumar (CW-25) twice.⁷¹⁷ When asked why the second statement was not sent to the Commission along with the records submitted by Additional DG Law & Order, he wanted to verify.⁷¹⁸ On a later date, he says that due to oversight, he forgot to send the second statement to the Commission.⁷¹⁹ He cannot say anything more. However, in the cross examination by the counsel representing some of the 8B noticees, it is elicited that whenever a witness adds anything further, they would not insert the same in the first statement and he would draw another 161statement.⁷²⁰ There cannot be any quarrel about it. But in the second statement, that which is stated on a later occasion alone would be incorporated and at any rate, both the statements should form part of the record. However, in this case, the second statement is neither referred to in case diary nor does it confine only to the additional information about rental deed and payment of rent. Strangely, J. Surender Reddy (SW-3) states that when such statements are recorded twice, the first statement would be replaced by the second statement and the first statement would be discarded.⁷²¹ He states that the first statement was recorded at 8 am on 08.12.2019 and the second statement was recorded on the same day at about 1 PM.⁷²² But his case diary does not show that he recorded the statement of Anil Kumar (CW-25) twice.⁷²³ J. Surender Reddy (SW-3) by referring to his records i.e., the statement of Anil Kumar (CW-25)⁷²⁴ states that Anil Kumar (CW-25) has spoken about rental deed and payment of rent.⁷²⁵ When confronted with the discrepancy between the two statements, he said that there is no reference to execution of rental deed and payment of rent in the

⁷¹⁴P 445, Book No. 1.

⁷¹⁵SW-3, Response to Q 162, p 111, Vol I, Deposition of Witnesses.

⁷¹⁶SW-3, Response to Q 163, p 111, Vol I, Deposition of Witnesses.

⁷¹⁷SW-3, Response to Q 174, p 114, Vol I, Deposition of Witnesses.

⁷¹⁸SW-3, Response to Q 180, p 116, Vol I, Deposition of Witnesses.

⁷¹⁹SW-3, Response to Q 266, p 133, Vol I, Deposition of Witnesses.

⁷²⁰SW-3, Response to Q 418, p 163, Vol I, Deposition of Witnesses.

⁷²¹SW-3, Response to Q 419, p 163, Vol I, Deposition of Witnesses.

⁷²²SW-3, Response to Q 178, p 115, Vol I, Deposition of Witnesses.

⁷²³SW-3, Response to Q 179, p 115, Vol I, Deposition of Witnesses.

⁷²⁴P 319, Book No. 12.

⁷²⁵SW-3, Response to Q 164, p 111, Vol I, Deposition of Witnesses.

statement at page 445 of Book No 1.⁷²⁶ Anil Kumar (CW-25) does not state either in his affidavit or in his deposition that he was examined twice by J. Surender Reddy (SW-3). As regards rental deed and payment of rent, he says that he did not state about the same to IO as he was not asked about the said aspects.⁷²⁷ Though J. Surender Reddy (SW-3) claims that rental deed was seized, he says that he cannot produce any seizure memo of any such rental deed.⁷²⁸

11.6 There is a further discrepancy regarding the authority of Anil Kumar (CW-25) to enter into any such rental deed with reference to Ravi guest house. Anil Kumar (CW-25) has stated in his statement before the J. Surender Reddy (SW-3) that he took the guest house from Satya Prasad on lease.⁷²⁹ Later he says that he was working as Manager.⁷³⁰ Then again says that he had taken the guest house from the owner and running it⁷³¹ and yet again says that he was appointed as Manager.⁷³² According to both his statements before J. Surender Reddy (SW-3), he took the guest house on lease from the owner Satya Prasad and running the same since past 2 years.⁷³³ But in his affidavit Ex. C-125, he states that he is working as manager of the guest house since 2012.⁷³⁴ When he is asked about the said discrepancy, he says that he is working as manager and therefore there is no lease agreement.⁷³⁵ Again in answer to a question, he says that he had taken the guesthouse on lease for a period of 2 years from 2017 to 2019 and it was on lease for almost till the year 2020⁷³⁶ and that he was the manager from 2012 to 2017.⁷³⁷ If he was a lessee from 2017 onwards, in his affidavit, he could not have described himself as manager. When he is asked to explain the discrepancy, he says that he was the manager of the guest house till it was disposed of.⁷³⁸ Even V. Surender (CW-44) states that Anil Kumar (CW-25) was both a lessee and a manager.⁷³⁹ He also states that his statement before the J. Surender Reddy (SW-3) that V. Surender (CW-44) contacted him on 02.12.2019 and that he gave

⁷²⁶SW-3, Response to Q 167, p 111, Vol I, Deposition of Witnesses.

⁷²⁷CW-25, Response to Q 4, p 928, Vol III, Deposition of Witnesses.

⁷²⁸SW-3, Response to Q 168, p 113, Vol I, Deposition of Witnesses.

⁷²⁹P 445-446, Book No 1.

⁷³⁰CW-25, Response to Q 6, p 929, Vol III, Deposition of Witnesses.

⁷³¹CW-25, Response to Q 7, p 929, Vol III, Deposition of Witnesses.

⁷³²CW-25, Response to Q 8, p 929, Vol III, Deposition of Witnesses.

⁷³³P 445, Book No. 1 and P 319-320, Book No. 12.

⁷³⁴Ex.C-125, p 925-926, Vol III, Deposition of Witnesses.

⁷³⁵CW-25, Response to Q 6, p 925, Vol III, Deposition of Witnesses.

⁷³⁶CW-25, Response to Q 27, p 933, Vol III, Deposition of Witnesses.

⁷³⁷CW-25, Response to Q 28, p 933, Vol III, Deposition of Witnesses.

⁷³⁸CW-25, Response to Q 30, p 933, Vol III, Deposition of Witnesses.

⁷³⁹CW-44, Response to Q 47, p 1464, Vol V, Deposition of Witnesses.

possession of the guest house on 03.12.2019 are incorrect.⁷⁴⁰ Thus, in his statement before J. Surender Reddy (SW-3), he has stated that V. Surender (CW-44) contacted him on 03.12.2019 and in his affidavit he has stated that V. Surender (CW-44) contacted him on 04.12.2019 and in his deposition he has reverted to V. Surender (CW-44) contacting him on 03.12.2019. There could not have been so many discrepancies if there was any truth with regard to execution of rental deed and payment of rent. Ultimately Anil Kumar (CW-25) states that usually they do not give the guest house to an outsider and that when the police came and asked for a rental receipt, he has issued a rental receipt for 3 days.⁷⁴¹ As per the 2nd statement said to have been recorded by J. Surender Reddy (SW-3), Anil Kumar (CW-25) handed over a copy of the rental deed to J. Surender Reddy (SW-3).⁷⁴² But Anil Kumar (CW-25) states that he did not carry any copy of the rental deed when he visited the office of N. Prakash Reddy (CW-18) while he was examined by J. Surender Reddy (SW-3).⁷⁴³ In his 2nd statement he is said to have stated to J. Surender Reddy (SW-3) that rent was paid for 3 days from 03.12.2019 to 05.12.2019.⁷⁴⁴ However when he is asked whether he stated so before J. Surender Reddy (SW-3), he says that he did not say so⁷⁴⁵ and that he was paid rent for 3 days from 04.12.2019 to 06.12.2019.⁷⁴⁶ All these discrepancies stated above cast a doubt on the evidence of Anil Kumar (CW-25).

11.7 Anil Kumar (CW-25) also makes inconsistent statements with regard to the particulars of the watchmen employed at Ravi guest house. He states that there was only one watchman working in the guest house⁷⁴⁷ and that his name is Venkateswara Rao (CW-26).⁷⁴⁸ When he is asked whether any person by name Sambaiah worked as watchman in the guest house, he says that Sambaiah did not work as watchman when the police took the guest house and that Venkateswara Rao (CW-26) was the watchman at that time and that Sambaiah had worked previously for 3 or 4 months temporarily for the purpose of Dairy farm⁷⁴⁹ and that was in 2017.⁷⁵⁰ If Venkateshwara Rao (CW-26) was working as watchman in Ravi guest house, it is expected that he would stay in the same premises. But Anil Kumar (CW-25) states that Venkateshwara Rao (CW-26) was staying outside as his

⁷⁴⁰CW-25, Response to Q 17-18, p 931, Vol III, Deposition of Witnesses.

⁷⁴¹CW-25, Response to Q 31, p 934, Vol III, Deposition of Witnesses.

⁷⁴²Page 320 Book No 12

⁷⁴³CW-25, Response to Q 59, p 938, Vol III, Deposition of Witnesses.

⁷⁴⁴P 320, Book No. 12.

⁷⁴⁵CW-25, Response to Q 55, p 938, Vol III, Deposition of Witnesses.

⁷⁴⁶CW-25, Response to Q 56 p 938, Vol III, Deposition of Witnesses.

⁷⁴⁷CW-25, Response to Q 45, p 936, Vol III, Deposition of Witnesses.

⁷⁴⁸CW-25, Response to Q 46, p 936, Vol III, Deposition of Witnesses.

⁷⁴⁹CW-25, Response to Q 47, p 936, Vol III, Deposition of Witnesses.8

⁷⁵⁰CW-25, Response to Q 48, p 937, Vol III, Deposition of Witnesses.

family was working for another farm house ⁷⁵¹ and that he would come to the guest house every day in the morning and would leave by night.⁷⁵² Venkateshwara Rao (CW-26) in his affidavit states that earlier he worked as watchman at Ravi guest house for about 4 years. However during his examination he has stated that he was working as watchman of Jayaprada Gardens⁷⁵³ since 5 years⁷⁵⁴ and that he stays with his family at Jayaprada gardens.⁷⁵⁵ Though he initially states that he was the watchman of Ravi guest house,⁷⁵⁶ later he says that there was another watchman by name Sambaiah⁷⁵⁷ and that after the police came, he left the job⁷⁵⁸ and again says that one day before the police arrived, Sambaiah went to his village in Andhra Pradesh.⁷⁵⁹ As per the statement of Venkateshwarulu (CW-26) made before J. Surender Reddy (SW-3), he was asked to perform the duties of the watchman at Ravi guest house for 4 days during the temporary absence of Sambaiah.⁷⁶⁰ When the contents of the said statement were read over to him, he admitted that he has made such a statement.⁷⁶¹ When his attention was drawn to the discrepant versions in his affidavit and in his statement before J. Surender Reddy (SW-3), he states that he had earlier worked in Ravi guest house and left the job and that Sambaiah asked him to work in Ravi guest house for a period of 4 days as he was going to Andhra Pradesh.⁷⁶² The statement of Venkateshwarulu (CW-26), both in his statement before J. Surender Reddy (SW-3) and also in his evidence before the Commission, would establish that Sambaiah was the watchman at the relevant time and that because he was absent temporarily, Venkateshwarulu (CW-26) was asked to attend to duties of watchman. But Anil Kumar (CW-25) totally denies the employment of Sambaiah as watchman at the relevant time. Thus, both Anil Kumar (CW-25) and Venkateshwarulu (CW-26) have avoided any reference to Sambaiah being employed as watchman. However, Venkateshwarulu (CW-26) subsequently states that it was Sambaiah who was the regular watchman and that he was temporarily absent at the time when the police occupied the guest house.

⁷⁵¹CW-25, Response to Q 49, p 937, Vol III, Deposition of Witnesses.

⁷⁵²CW-25, Response to Q 50, p 937, Vol III, Deposition of Witnesses.

⁷⁵³CW-26, Response to Q 4, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁴CW-25, Response to Q 5, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁵CW-26, Response to Q 6, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁶CW-26, Response to Q 7, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁷CW-26, Response to Q 11, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁸CW-26, Response to Q 12, p 945, Vol III, Deposition of Witnesses.

⁷⁵⁹CW-26, Response to Q 13, p 945, Vol III, Deposition of Witnesses.

⁷⁶⁰P 448, Book No. 1.

⁷⁶¹CW-26, Response to Q 15, p 946, Vol III, Deposition of Witnesses.

⁷⁶²CW-26, Response to Q 4, p 945, Vol III, Deposition of Witnesses.

11.8 The evidence of Venkateshwarulu (CW-26) would suggest that he has no personal knowledge about the alleged stay of the police in Ravi guest house. If at all Venkateshwarulu (CW-26) had worked as watchman of Ravi guest house, he should have known when the police party occupied the guest house. But when asked, whether all the police personnel came at a time, he says that since they came in the night, he had not seen them⁷⁶³ and that he came to know about the occupation of police when they woke him up in the early hours for supply of water.⁷⁶⁴ When asked as to when the police left the guest house, he says that they woke him up in the early hours and informed him that they were leaving and they asked him to lock the gate.⁷⁶⁵ When asked whether all the police people left at a time, he says that some of them left and some of them stayed back and that they asked him to lock the gate saying that they would remain at the guest house⁷⁶⁶ and that the others left the guest house after the daybreak⁷⁶⁷ and that he opened the gate when they left after daybreak.⁷⁶⁸ If at all any of them stayed back at the guest house, they would not have asked to put the lock to the gate. Moreover, according to the record placed by the State, an order book was maintained and a sentry post was placed at the gate. When the guest house is occupied by the police in connection with lodging of accused in a sensitive case and when they apprehended threat to the lives of the accused from the hands of general public, they would not have allowed the watchman to operate a lock to the gate of the guest house during the stay of the police and the accused. The evidence of Venkateshwarulu (CW-26) is also not consistent regarding the number of days when the guest house was occupied by the police. He states that police occupied the guest house for 2 days and that they came in the night and stayed for that day and went away on the next day.⁷⁶⁹ But as per the order book, they occupied the guest house for 3 days from 04.12.2019 to 06.12.2019. For these reasons, the evidence of Venkateshwarulu (CW-26) does not appear to be acceptable.

11.9 Though the safe house is said to have been identified by N. Prakash Reddy (CW-18) on 02.12.2019 itself, the accused have not been taken into police custody till 11 PM on 04.12.2019. When N. Prakash Reddy (CW-18) is asked the reason for not taking the

⁷⁶³CW-26, Response to Q 20, p 947, Vol III, Deposition of Witnesses.

⁷⁶⁴ CW-26, Response to Q 21, p 948, Vol III, Deposition of Witnesses.

⁷⁶⁵CW-26, Response to Q 24, p 948, Vol III, Deposition of Witnesses.

⁷⁶⁶CW-26, Response to Q 25, p 948, Vol III, Deposition of Witnesses.

⁷⁶⁷CW-26, Response to Q 26, p 948, Vol III, Deposition of Witnesses.

⁷⁶⁸CW-26, Response to Q 27, p 948, Vol III, Deposition of Witnesses.

⁷⁶⁹CW-26, Response to Q 35, p 948, Vol III, Deposition of Witnesses.

accused into police custody till 04.12.2019, he says that he does not know.⁷⁷⁰ Even after taking the accused into custody, the Investigating agency does not appear to have taken any steps to continue any investigation such as taking out the accused to effect recovery in pursuance of the confessions recorded at the police station or further interrogation etc. The reason for this stated by V. Surender (CW-44) is that there was a necessity to interrogate the accused.⁷⁷¹ There was already loss of two days of police custody period without any interrogation. At least immediately after the accused were taken into custody, the interrogation ought to have commenced without any further loss of time. In para 68 of his affidavit, V. Surender (CW-44) states that on 05.12.2019 he was busy in other duties and therefore he directed K. Venkata Reddy (Addl. Inspector RGIA Police Station) to interrogate the accused. During his examination, CW-44 states that because of his age (his age is said to be 56 years⁷⁷²) and health problem, he could not be present at the safe house by the time the accused were brought there to take up interrogation.⁷⁷³ In that case he could have commenced interrogation at least on the morning of 05.12.2019. But he states that he was busy with investigation during the morning on that day and that he went to Forensic Science Laboratory (FSL) to collect pending reports and that he forwarded material objects to FSL and that he was analyzing CCTV footage and that the panchas also came at 6 PM and for these reasons he could not interrogate the accused on the morning of 05.12.2019.⁷⁷⁴ None of these reasons appear to be satisfactory reasons for not taking up interrogation of the accused by him till the night of 05.12.2019. It is stated that Asst. Investigating Officer Venkata Reddy went to the safe house and interrogated the accused from 12 noon to 5:30 PM and prepared interrogation reports.⁷⁷⁵ The said interrogation reports are filed along with the affidavit of V. Surender (CW-44) and they are marked as Ex.C-254 to Ex.C-257.⁷⁷⁶ V. Surender (CW-44) has also stated in his statement before the IO that Asst. Investigating Officer Venkata Reddy interrogated the accused and prepared a report. The said Venkata Reddy who is examined as LW 36 in CR No. 803/2019 also states in his statement before J. Surender Reddy (SW-3) that he interrogated the accused till the evening and prepared a report.⁷⁷⁷

⁷⁷⁰CW-26, Response to Q 141, p 803, Vol III, Deposition of Witnesses.

⁷⁷¹CW-44, Response to Q 70, p 1470, Vol V, Deposition of Witnesses.

⁷⁷²CW-44, Response to Q 76, p 1472, Vol V, Deposition of Witnesses.

⁷⁷³CW-44, Response to Q 75, p 1472, Vol V, Deposition of Witnesses.

⁷⁷⁴CW-44, Response to Q 129, p 1486, Vol V, Deposition of Witnesses.

⁷⁷⁵Ex.C-181, Para 68, p 1417, Vol V, Deposition of Witnesses.

⁷⁷⁶Ex.C-254-Ex.C-257, p 2368-2412, Vol IX, Commission Exhibits.

⁷⁷⁷P 463, Book No. 1.

11.10 The said interrogation reports do not form part of the record of CR No. 784 of 2019 submitted to the Commission on 25.02.2020. They are however found in the original case diary of CR No. 784/2019. In this connection, it is to be recalled that the High Court for the State of Telangana had directed that the case diary in CR No. 784/2019 shall be seized and produced before the Commission. While the said order was passed on 21.12.2019, the original case diary was produced before the Commission only on 14.09.2021. If the said interrogation reports had formed part of the original case diary by the date the copies of the same were produced before the commission on 25.02.2020, the copies of the interrogation report also should have found place in the record produced before the Commission. V. Surender (CW-44) was confronted with the copies of case dairies in CR No. 784/2019, Book Nos. 10 and 11 and he has stated that interrogation reports do not form part of the case dairies submitted to the Commission.⁷⁷⁸ When asked why they did not form part of the record submitted to the Commission, he states that he had not submitted the records to the Commission and that somebody collected them from him and produced before the Commission and in that process some records might have been missing.⁷⁷⁹ The said explanation does not appear to be acceptable and the records of such a sensitive case pending consideration before the Commission would not have been dealt with in such a fashion. The explanation probably could be accepted had there been no conflicting evidence before the Commission. None of the other police officers who are examined on 06.12.2019 and 07.12.2019 have stated in their statements recorded by the Investigating Officer in CR No. 803/2019, about any such interrogation by Asst Investigating Officer Venkata Reddy.⁷⁸⁰ Some of the witnesses examined on 08.12.2019, on which date the statement of Venkata Reddy is recorded, have stated that Venkata Reddy interrogated the accused and prepared a report.⁷⁸¹ There is no reference to any such interrogation or interrogation report in Ex.S-14, final report.⁷⁸² Above all, in his statement before NHRC team, recorded on 10.12.2019, V. Surender (CW-44) has stated as noted hereunder: -

“In the morning of 05.12.19, I had directed Detective Inspector Venkata Reddy to interrogate all accused whether they were involved in other similar

⁷⁷⁸CW-44, Response to Q 113, p 1481, Vol V, Deposition of Witnesses.

⁷⁷⁹CW-44, Response to Q 115, p 1482, Vol V, Deposition of Witnesses.

⁷⁸⁰P 104-121 and 142-230, Book No. 12.

⁷⁸¹P 325-340 and 265-370, Book No. 12.

⁷⁸²Ex.S-14, p 110-148, Vol I, State Exhibits.

cases. However, no record or documentation was maintained about this interrogation.”⁷⁸³

11.11 When V. Surender (CW-44) is confronted with the said statement, he says that he did not say so before NHRC team,⁷⁸⁴ despite the fact that all the pages in statements at Ex. C-94 and Ex. C-108 bear his signatures. He states that he put his signatures or initials in the statement without knowing what is written therein, as it was late in the night and as he was also threatened.⁷⁸⁵ The evidence of V. Surender (CW-44) with regard to his statement before NHRC team is totally discrepant. On the one hand, he states that he does not know whether they had recorded what he had stated before them⁷⁸⁶ and that they did not record what he stated, he had stated one thing and they wrote something else.⁷⁸⁷ Also, there was also an argument about it when he pointed out the same.⁷⁸⁸ The above answers would indicate that the statement recorded by NHRC team was in fact read over to him before he signed it. Without that he could not have commented about the correctness of his statement. But, he says that he did not go through the statement recorded by NHRC at any time.⁷⁸⁹ When he is asked how he could say that they did not record what he stated, he says that the statement was read over by the NHRC officials and that as there were contradictions, an argument ensued.⁷⁹⁰ In view of such inconsistencies, it is to be held that there is no truth in the allegation that the NHRC team did not record what was stated by him or that the statement was not made by him. If really there were any such threats by NHRC team, the witness would have brought it to the notice of the higher authorities in writing. V. Surender (CW-44) initially said that he did not complain to anybody⁷⁹¹ but later said that he informed N. Prakash Reddy (CW-18)⁷⁹². However, he does not remember even approximately when and how he informed N. Prakash Reddy (CW-18).⁷⁹³ He finally says that he decided to close the issue at that stage⁷⁹⁴ and that he did not want to make an issue out of it.⁷⁹⁵ When he was asked as to why he had put signatures even when the statement is not recorded properly, he stated that “My senior officials were

⁷⁸³P 72, Book No. 5.

⁷⁸⁴CW-44, Response to Q 80, p 1473, Vol V, Deposition of Witnesses.

⁷⁸⁵CW-44, Response to Q 84, p 1474, Vol V, Deposition of Witnesses.

⁷⁸⁶CW-44, Response to Q 82, p 1473, Vol V, Deposition of Witnesses.

⁷⁸⁷CW-44, Response to Q 97, p 1476, Vol V, Deposition of Witnesses.

⁷⁸⁸CW-44, Response to Q 98, p 1477, Vol V, Deposition of Witnesses.

⁷⁸⁹CW-44, Response to Q 105, p 1479, Vol V, Deposition of Witnesses.

⁷⁹⁰CW-44, Response to Q 106, p 1469, Vol V, Deposition of Witnesses.

⁷⁹¹CW-44, Response to Q 89, p 1475, Vol V, Deposition of Witnesses.

⁷⁹²CW-44, Response to Q 90, p 1475, Vol V, Deposition of Witnesses.

⁷⁹³CW-44, Response to Q 93, p 1475, Vol V, Deposition of Witnesses.

⁷⁹⁴CW-44, Response to Q 95, p 1476, Vol V, Deposition of Witnesses.

⁷⁹⁵CW-44, Response to Q 96, p 1476, Vol V, Deposition of Witnesses.

present.”⁷⁹⁶ When asked who were his higher officials present, he denied stating “My higher officials were also present”.⁷⁹⁷ Since the witness had disputed the translation, the recording was replayed for confirmation. The recording in Telugu was “Naa pai officials kudaunnaru”., which means in English “My higher officials were also present”. Thus, the translation done was found to be correct.

11.12 In any case, the interrogation reports by Investigating Officer Venkata Reddy at Ex. C-254, C-255, C-256 and C-257 are in formats said to be available in Crime Criminal Tracking Network system (CCTNS). As per the caption of the said formats, they are “MO Criminals Database Inputs.” Except noting the personal details such as names of family members and identification marks etc, nothing more is found in those reports. In one of the columns, it is recorded that during interrogation, discrete enquiries were made regarding their complicity in some other reported offences and that they did not confess. Some of the entries therein appear to have been made without even minimum verification. Eg. V. Surender (CW-44) states that all the accused in CR No. 784/2019 have a fixed abode.⁷⁹⁸ But in the column “Regular Residence” in respect of Md. Arif in Ex. C-254, it is noted that he stays in a lorry bearing number 07 UA 3335 and in respect of the other accused, the said column is left blank. V. Surender (CW-44) states that since Md. Arif regularly travels in that lorry, it is stated so and that the other accused are not travelling as regularly as him.⁷⁹⁹ When asked what is the purpose of Serial No 21 in the format of Interrogation Report, he states that he cannot say exactly⁸⁰⁰ and that such type of proforma was not there when he joined service.⁸⁰¹ He does not know when this proforma came in existence⁸⁰² and that he does not remember whether he ever filled up such proforma as Inspector of Police.⁸⁰³ Further, he does not have any idea whether the filling up of those forms would not have taken more than an hour.⁸⁰⁴ It appears the alleged interrogation by Asst. IO Venkat Reddy and the preparation of interrogation reports Ex.C-254 to Ex.C-257 are introduced only to make it appear that some investigation was done on the morning of 05.12.2019 at the safe house.

⁷⁹⁶CW-44, Response to Q 99, p 1477, Vol V, Deposition of Witnesses.

⁷⁹⁷CW-44, Response to Q 100, p 1477, Vol V, Deposition of Witnesses.

⁷⁹⁸CW-44, Response to Q 119, p 1482, Vol V, Deposition of Witnesses.

⁷⁹⁹CW-44, Response to Q 120-121, p 1483, Vol V, Deposition of Witnesses.

⁸⁰⁰CW-44, Response to Q 123, p 1485, Vol V, Deposition of Witnesses.

⁸⁰¹CW-44, Response to Q 124, p 1485, Vol V, Deposition of Witnesses.

⁸⁰²CW-44, Response to Q 125, p 1485, Vol V, Deposition of Witnesses.

⁸⁰³CW-44, Response to Q 129, p 1486, Vol V, Deposition of Witnesses.

⁸⁰⁴CW-44, Response to Q 100, p 1486, Vol V, Deposition of Witnesses.

11.13 It is the case of the Investigating Agency in CR No. 784/2019 that the accused made another confessional statement in the safe house. As per the case diary in CR No. 784/2019, accused had made confessional statements in the police station on 29.11.2019 and they had disclosed that they had hidden the articles of DISHA behind the bushes where the body of Disha was burnt. V. Surender (CW-44) affirms the same in his evidence.⁸⁰⁵ It is stated by V. Surender (CW-44) that the accused could not be taken out for effecting recovery after recording confessional statements on 29.11.2019, as it was late in the night.⁸⁰⁶ It is further claimed that on the next day they could not be taken out for recovery because of the presence of the mob in and around the police station. It is thus clear that the investigating agency had necessary information disclosed by the accused regarding the place where the articles of Disha were hidden, and the accused had volunteered to lead the police to the place where the articles were hidden. Though the accused could not be taken out during day time in view of the threat posed by the agitated mob, by the time the accused were taken into police custody from the Central Prison, the V. Surender (CW-44) had the services of adequate force to deal with the crowd. In that case, from the Central Prison itself, the accused could have been taken straight to the place where they are said to have hidden the articles of Disha. But V. Surender (CW-44) stated that there was necessity to further interrogate the accused as they appeared to be professional criminals.⁸⁰⁷ According to him, long interrogation was necessary as similar crimes relating to women burning were pending in their Zone.⁸⁰⁸ Even if the accused were suspected to be involved in other offences, interrogation as regards the other offences was not necessary to recover the articles concerned in CR No. 784/2019. In other words, there did not appear to be any valid reason for obtaining another confession from the accused in the safe house. Having claimed that it was necessary to interrogate the accused, V. Surender (CW-44) states that he himself did not interrogate the accused. He has not even chosen to visit the safe house till 10 PM on 05.12.2019 either on the ground of his age and health problem or on the ground of his preoccupation with other duties. Even after he comes to safe house at 10 PM on 05.12.2019, he does not claim that he did any interrogation and his evidence before the Commission is contrary to his own affidavit.

⁸⁰⁵CW-44, Response to Q 69, p 1469, Vol V, Deposition of Witnesses.

⁸⁰⁶CW-44, Response to Q 68, p 1469, Vol V, Deposition of Witnesses.

⁸⁰⁷CW-44, Response to Q 70, p 1470, Vol V, Deposition of Witnesses.

⁸⁰⁸CW-44, Response to Q 72, p 1471, Vol V, Deposition of Witnesses.

11.14 In para 69 of his affidavit, V. Surender (CW-44) states that on 05.12.2019 at about 6 PM, Rajasekhar (SW-4) and Abdul Rauf (CW-30) came to him while he was at Shamshabad.⁸⁰⁹ V. Surender (CW-44) is said to have addressed letters to the concerned officers to depute someone for the purpose of interrogation and in pursuance of the directions of the superior officers, Rajasekhar and Abdul Rauf are said to have appeared before him. It is seen that both Rajasekhar and Abdul Rauf are residents of Shadnagar area and they are said to have gone all the way to Shamshabad (which is at a distance of 28 to 30 KMs)⁸¹⁰ where V. Surender (CW-44) was camping, to act as mediators for confession panchanama. There are government offices and public offices at Shamshabad.⁸¹¹ V. Surender (CW-44) could as well have summoned any government officials from Shamshabad area itself. It is stated by Rajasekhar (SW-4) in his affidavit that he reached the office of N. Prakash Reddy (CW-18) at 5 PM on 05.12.2019 and that Abdul Rauf came to the office of N. Prakash Reddy (CW-18) at 6 PM. However, in the previous statement before the investigating officer as well as in his statement before the Judicial Magistrate under section 164 Cr.P.C., he has stated that Abdul Rauf was already present by the time he went to the office of N. Prakash Reddy (CW-18). However, he denies having made such a statement before the V. Surender (CW-44).⁸¹²

11.15 In para 70 of his affidavit, V. Surender (CW-44) says that he along with panch witnesses Rajasekhar and Rauf reached the safe house by 10 PM and thereafter he interrogated the accused A1 to A4 and recorded their confessional statements in the presence of the panchas with the help of his staff.⁸¹³ CW-45 to CW-53 have also stated in their affidavits that V. Surender (CW-44) interrogated the accused at the safe house in the presence of panch witnesses and drafted confessional statements of the accused. CW-45 to CW-50 have stated in para 9 of their affidavits that on 05.12.2019 at about 10 PM, V. Surender (CW-44) came to the safe house along with two panch witnesses and interrogated the accused one after the other in the presence of panch witnesses and drafted confessional statements of the accused. CW-51 to CW-53 have stated in para-6 of their affidavits that at about 10 PM, V. Surender (CW-44) came to the safe house along with two panch witnesses, examined the accused and drafted the confessional statements of the accused in the presence of panch witnesses. V. Surender (CW-44) in his evidence does not

⁸⁰⁹CW-44, p 1417, Vol V, Deposition of Witnesses.

⁸¹⁰CW-44, Response to Q 306, p 1545, Vol V, Deposition of Witnesses.

⁸¹¹CW-44, Response to Q 307, p 1545, Vol V, Deposition of Witnesses.

⁸¹²SW-3, Response to Q 10, p 230, Vol I, Deposition of Witnesses.

⁸¹³CW-44, p 1418, Vol V, Deposition of Witnesses.

claim that he interrogated the accused. He states that the accused, Panchas and the scribe alone were present when the confessional statements were recorded at the safe house and that he was outside the building but within the premises of guest house.⁸¹⁴ When his attention is drawn to para 70 of his affidavit, he says that in his case diary it is stated that the panchas had recorded the confessional statements and he introduced the panchas to the accused and thereafter they recorded the confessional statements⁸¹⁵. He states that what is contained in para-70 of his affidavit might have occurred due to time gap between the incident and the filing of affidavit.⁸¹⁶ His case diary,⁸¹⁷ however records that he had called the accused, recorded the statements of accused in the presence of mediators giving the time details. When his attention is drawn to the said entry, he says that it is not stated in the case diary that he had recorded their statements and that he has written the case diary in the sense that he had called the mediators and introduced them to the accused and they recorded the confessional statements in the presence of the mediators.⁸¹⁸ The relevant portion in the case diary is reproduced in the deposition and it is also reproduced hereunder for the purpose of appreciation of the evidence of V. Surender (CW-44) in relation to an important part of investigation.

“Thereafter I called the accused and recorded their statements in the presence of the above mediators. The confessional statement of accused A1 was recorded at 22.30 hours, statement of A2 was recorded at 23.40 hours, statement of A3 was recorded at 00.40 hours on 06-12-2019, and statement of A4 at 01-40 hours and concluded at 02-30 hours on 06-12-2019”.

V. Surender (CW-44) continued to maintain that he had written the diary in the sense that he had introduced the accused to the panchas and not in the sense that he had personally recorded the confessional statements of the accused.⁸¹⁹ There is a different version in his statement before the Investigating officer in CR. No. 803/2019⁸²⁰ recorded in Telugu, wherein it is stated that he showed the accused to the panchas and that the panchas examined the accused one after the other and related their statements to him and he had those confessional statements of accused recorded. He says that he did not state so before

⁸¹⁴CW-44, Response to Q 142-143, p 1490, Vol V, Deposition of Witnesses.

⁸¹⁵CW-44, Response to Q 158, p 1493, Vol V, Deposition of Witnesses.

⁸¹⁶CW-44, Response to Q 159-162, p 1494, Vol V, Deposition of Witnesses,

⁸¹⁷P 540, Book No 10.

⁸¹⁸CW-44, Response to Q 165, p 1495, Vol V, Deposition of Witnesses.

⁸¹⁹CW-44, Response to Q 166, p 1497, Vol V, Deposition of Witnesses.

⁸²⁰P 150-155, Book No. 1.

J. Surrender Reddy (SW-3).⁸²¹ When he is asked what other portion of his statement recorded by J. Surrender Reddy (SW-3) is incorrectly recorded, the witness read the statement and initially stated that the other portion is correctly recorded except the portion referred in Question No 171⁸²²; again he says that he is unable to remember if any part of his statement was incorrectly recorded and that he would answer as and when he remembers. Even in his complaint statement Ex. S-2⁸²³, it is stated that the accused were further questioned in the presence of mediators. When it is pointed out that he has not stated that the mediators questioned the accused, his stock answer is that all facts need not be mentioned in the FIR.⁸²⁴ It is evident that the various statements confronted to him do not convey any meaning which is suggested by him and yet he persists with the same version that it was panchas who questioned the accused.

11.16 Mohammed Sirajuddin (CW-47) has stated that V. Surrender (CW-44) was not present when the interrogation was going on.⁸²⁵ According to him, V. Surrender (CW-44) told the accused to tell the panchas what they had stated earlier concerning the offence and about the place where they had hidden the material objects and went away.⁸²⁶ When asked where was ACP when the interrogation was going on, he stated that he was sitting in a chair outside near the guard and that he was either sitting there or walking around.⁸²⁷ Thus, according to Mohammed Sirajuddin (CW-47), V. Surrender (CW-44) did not interrogate the accused at the safe house. K. Ravi (CW-48) also made the same statement as CW-47.⁸²⁸ When K. Ravi (CW-48) is confronted with para 9 of his affidavit stating that V. Surrender (CW-44) interrogated the accused, he says that he had instructed his advocate that V. Surrender (CW-44) had introduced the accused to the panchas and left and that the panchas had recorded the statements of the accused.⁸²⁹ When asked where was V. Surrender (CW-44) when the confessional statements were being recorded, he says that ACP had gone out of the safe house and that he does not know where he had gone⁸³⁰ and that he returned to the safe house after 2:30 am.⁸³¹ When he is asked whether he instructed his advocate that V. Surrender (CW-44) left the premises of the safe house when

⁸²¹CW-44, Response to Q 171, p 1498-1499, Vol V, Deposition of Witnesses.

⁸²²CW-44, Response to Q 172, p 1499, Vol V, Deposition of Witnesses.

⁸²³Ex.S-2, p 17-27, Vol I, State Exhibits.

⁸²⁴CW-44, Responses to Q 178-179, pp 1500-1501, Vol V, Deposition of Witnesses.

⁸²⁵CW-47, Response to Q 92, p 1776, Vol VI, Deposition of Witnesses.

⁸²⁶CW-47, Response to Q 93, p 1776, Vol VI, Deposition of Witnesses.

⁸²⁷CW-47, Response to Q 100, p 1778, Vol VI, Deposition of Witnesses.

⁸²⁸CW-48, Response to Q 99, p 1831, Vol VI, Deposition of Witnesses.

⁸²⁹CW-48, Response to Q 108, p 1833, Vol VI, Deposition of Witnesses.

⁸³⁰CW-48, Response to Q 100, p 1832, Vol VI, Deposition of Witnesses.

⁸³¹CW-48, Response to Q 101, p 1832, Vol VI, Deposition of Witnesses.

confessions were being recorded, he initially states that he gave such instructions to his advocate but again as an afterthought adds to his answer and says that he does not know whether V. Surender (CW-44) was in the premises of the safe house or not.⁸³² K. Venkateshwarulu (CW-49) also initially states as though V. Surender (CW-44) was present at the time of interrogation, but later says that V. Surender (CW-44) did not interrogate.⁸³³ When he is confronted with para 9 of his affidavit where it is stated that V. Surender (CW-44) interrogated the accused, he says that he had told his advocate's junior what all occurred.⁸³⁴ Even Arvind Goud (CW-50) states that V. Surender (CW-44) was outside the safe house during the interrogation.⁸³⁵ Initially he states that it is not stated in his affidavit that V. Surender (CW-44) interrogated the accused.⁸³⁶ When confronted with para 9 of his affidavit, he states that he is aware that it is stated in his affidavit that V. Surender (CW-44) had interrogated the accused in the presence of panchas⁸³⁷ and that in fact V. Surender (CW-44) only spoke to the accused⁸³⁸ and that his advocate informed him that speaking with the accused is also interrogation.⁸³⁹ D. Janakiram (CW-51) also makes inconsistent statements. Once he states that V. Surender (CW-44) did not examine the accused and he only spoke to them and V. Surender (CW-44) told the accused to tell to the panchas what they had told him.⁸⁴⁰ Again when he was confronted with para 6 of his affidavit where it is stated that V. Surender (CW-44) interrogated the accused and after the contents were read over in Telugu, he states that the contents of affidavit are correct.⁸⁴¹ D. Srikanth (CW-53) states that V. Surender (CW-44) did not examine the accused⁸⁴² and when confronted with para 6 of his affidavit, he states that V. Surender (CW-44) spoke to accused and he told his advocate the same thing and that his advocate informed that what is written in affidavit also conveys the same meaning.⁸⁴³ Thus, not only V. Surender (CW-44), but the other police officers who were said to be present at the safe house have denied their prior statement in their affidavits and stated in their evidence that there was no interrogation by V. Surender (CW-44) and that V. Surender (CW-44)

⁸³²CW-48, Response to Q 109, p 1834, Vol VI, Deposition of Witnesses.

⁸³³CW-49, Response to Q 201, p 1927-1928, Vol VI, Deposition of Witnesses.

⁸³⁴CW-49, Response to Q 202, p 1928, Vol VI, Deposition of Witnesses.

⁸³⁵CW-50, Response to Q 149, p 1983, Vol VI, Deposition of Witnesses.

⁸³⁶CW-50, Response to Q 153, p 1984, Vol VI, Deposition of Witnesses.

⁸³⁷CW-50, Response to Q 154, p 1984, Vol VI, Deposition of Witnesses.

⁸³⁸CW-50, Response to Q 153, p 1984, Vol VI, Deposition of Witnesses.

⁸³⁹CW-50, Response to Q 154, p 1984, Vol VI, Deposition of Witnesses.

⁸⁴⁰CW-51, Response to Q 87, p 2020, Vol VI, Deposition of Witnesses.

⁸⁴¹CW-51, Response to Q 90, p 2021, Vol VI, Deposition of Witnesses.

⁸⁴²CW-53, Response to Q 115, p 2105, Vol VI, Deposition of Witnesses.

⁸⁴³CW-53, Response to Q 116, p 2105, Vol VI, Deposition of Witnesses.

only introduced the panchas to the accused and left and that V. Surender (CW-44) was not present when the confessional statements were recorded. The version stated by the panchas in their affidavits is something else. It is stated in para 5 of their affidavits that V. Surender (CW-44) requested them to examine the accused about the occurrence of offence and left them. One of the attestors of confession panchanamas Ex. C-20 to Ex. C-23 is examined as Rajashekhar (SW-4). SW-4 has initially stated that the police were present when they enquired with the accused⁸⁴⁴ and apart from V. Surender (CW-44) and the writer, one of the policemen was present in the Hall where the confessional statements were recorded.⁸⁴⁵ Only when he is confronted with the statement in his affidavit that V. Surender (CW-44) left them after requesting them to examine the accused, he says that V. Surender (CW-44) sat at some distance in the Hall.⁸⁴⁶ The evidence of Rajashekhar (SW-4) about the manner in which the confession was recorded is inconsistent with the certificate at the foot of the confessional statements. Rajashekhar (SW-4) stated in the first instance that the statements of the accused were recorded by the writer simultaneously while they were being examined by them. When he is confronted with the certificates at the foot of Ex. C-20 to Ex. C-23, he admits that it is recorded therein that both the panchas first took the statement from the accused and thereafter the panchas informed the same to the police and that what is stated by the panchas is recorded by the police in Telugu and that the panchas read and verified that both the statements are one and the same.⁸⁴⁷ He also admits that even in his statement before the magistrate he has stated that they informed the V. Surender (CW-44) about the statement given by the accused persons and V. Surender (CW-44) got it scribed.⁸⁴⁸ The witness volunteers that first the police person wrote the statements of the accused and they gave the statement to the V. Surender (CW-44) and that he forgot to mention before the magistrate that a police constable had first written the statements. The evidence of Rajashekhar (SW-4) therefore shows that V. Surender (CW-44) was in fact present when the confessional statements were recorded. The other attestor, Abdul Rauf (CW-30) however states that apart from himself, Rajashekhar (SW-4) and one writer, none were present when the confessional statements were recorded. Thus, according to Abdul Rauf (CW-30), the V. Surender (CW-44) was not present.

⁸⁴⁴SW-4, Response to Q 13, p 230, Vol I, Deposition of Witnesses.

⁸⁴⁵SW-4, Response to Q 17, p 231, Vol I, Deposition of Witnesses.

⁸⁴⁶SW-4, Response to Q 21, p 232, Vol I, Deposition of Witnesses.

⁸⁴⁷ SW-4, Response to Q 46, p 239, Vol I, Deposition of Witnesses.

⁸⁴⁸ SW-4, Response to Q 47, p 239, Vol I, Deposition of Witnesses.

11.17 There is another major discrepancy in the evidence of Rajashekhar (SW-4) and Abdul Rauf (CW-30) regarding the confessional statements allegedly recorded at the safe house. On the requisition of the investigating officer in CR No. 803 of 2019, the statements of both Rajashekhar (SW-4) and Abdul Rauf (CW-30) have been recorded by a judicial magistrate under section 164 of Cr.P.C. Their statements are also recorded by the investigating officer under section 161 Cr.P.C. In their statements, both Rajashekhar (SW-4) and Abdul Rauf (CW-30) could have stated only such facts which are disclosed to them by the accused at the time of recording of the confessional statements at the safe house. However, it is seen that in their prior statements, they have stated certain facts which are not at all found in the confessional statements allegedly recorded on 05.12.2019-06.12.2019, but which are found in the confessional statements said to have been recorded at Shadnagar police station on 29.11.2019 i.e., Ex.C-196 to Ex.C-199. Admittedly Rajashekhar (SW-4) and Abdul Rauf (CW-30) were not the attestors of Ex.C-196 to Ex.C-199. In fact in answer to a question, Rajashekhar (SW-4) clearly states that they were not informed that the accused were already examined prior to their examination.⁸⁴⁹ Thus in his statement before the judicial magistrate under section 164 Cr.P.C., Ex.C-18⁸⁵⁰ Rajashekhar (SW-4) has stated as though the accused have stated to them that “on the evening at about 6 PM a girl aged about 20 to 25 years parked her scooty near their lorry and she boarded a car near the tollgate and went away and all the 4 accused hatched a plan to rape her and that after she left they deflated the rear tyre and that after she returned, they offered to get the tyre punctured.” Similarly, Abdul Rauf (CW-30) in his statement under section 164, has stated so. In para-6 of their affidavits, both Rajashekhar (SW-4) and Abdul Rauf (CW-30) have stated that Md. Arif voluntarily confessed before them that on 27.11.2019, at 9:30 PM, he along with other 3 persons abducted the deceased woman, took her to adjacent land, committed gang rape and murder near ORR toll plaza, Tondupally village and it is further stated that the said deceased woman came near their lorry to park her scooty and then they removed air of rear tyre wantonly and later in the guise of helping her for repairing the puncture of the rear tyre, they abducted her and committed rape.

11.18 However, these statements are not found in the confessional statements said to have been recorded at safe house in the presence of Rajashekhar (SW-4) and Abdul Rauf (CW-

⁸⁴⁹SW-4, Response to Q 22, p 232, Vol I, Deposition of Witnesses.

⁸⁵⁰Ex.C-18, p 354-363, Vol II, Commission Exhibits.

30). The said confessional statements are marked as Ex.C-20 to Ex.C-23.⁸⁵¹ They are also marked by the State as Ex.S-27.⁸⁵² What is stated in Ex.S-27 and Ex.C-20 to Ex.C-23 is that the girl who had earlier kept the scooty in front of their lorry returned there at about 9:30 PM and all the four of them took her into the bushes by the side of the lorry and raped her. When Abdul Rauf (CW-30) is confronted with the contents of Ex.C-20 to Ex.C-23, initially he stated that it is stated in Ex.C-20 to Ex.C-23 that on the evening at 6.00 PM a girl aged 20 to 25 years parked her scooty near their lorry and boarded a car near the toll gate,⁸⁵³ and on being asked to read the relevant portion, he concedes that the said statement is not found in Ex.C-20 to Ex.C-23.⁸⁵⁴ He also admits that it is not mentioned in Ex.C-20 to Ex.C-23 that all the 4 accused hatched a plan to commit rape on her anyhow.⁸⁵⁵ He also admits that it is not stated in Ex.C-20 to Ex.C-23 that “later they removed the air of the scooty from the rear tyre and that they waited there until her arrival and after her arrival they told her that the rear tyre of scooty got punctured and that they would get it repaired and that they took her scooty and spent some time.”⁸⁵⁶ These circumstances would suggest that Rajashekhar (SW-4) and Abdul Rauf (CW-30) may not have witnessed any such recording of confession at the safe house and that they have simply reproduced in whatever manner they were tutored and the person who has briefed the witnesses appears to have relied upon Ex.C-196 to Ex.C-199 instead of Ex.C-20 to Ex.C-23.

11.19 As stated earlier, there was in fact no necessity to interrogate the accused once again since they are said to have disclosed in the earlier confessional statements about the place where they had hidden the material objects and since they had offered to show them to the police. On consideration of the entire material on record, it would appear that Ex.C-20 to Ex.C-23 are introduced only to change the venue of the alleged place from where the articles were to be recovered. As per the confessional statements Ex.C-196 to Ex.C-199, the accused are said to have stated that they had hidden the phone, power bank and wrist watch “in the bushes at some distance from the place where the body was burnt.” But according to the contents of Ex.C-20 to Ex.C-23, the accused are said to have stated that they had hidden the phone, power bank, connecting wire and wrist watch “near a big

⁸⁵¹Ex.C-20 to C-23, pp 376-405, Vol II, Commission Exhibits,

⁸⁵²Ex.S-20, pp 271-300, Vol II, State Exhibits,

⁸⁵³CW-30, Response to Q 12, p 1041, Vol IV, Deposition of Witnesses.

⁸⁵⁴CW-30, Response to Q 13, p 1042, Vol IV, Deposition of Witnesses.

⁸⁵⁵CW-30, Response to Q 14, p 1041, Vol IV, Deposition of Witnesses.

⁸⁵⁶CW-30, Response to Q 15, p 1042, Vol IV, Deposition of Witnesses.

electric pole on the eastern side at some distance from the place where the body was burnt.”

11.20 In this regard, the evidence of CP, V.C. Sajjanar (CW-38) is to be taken note of CP, V.C. Sajjanar (CW-38) has stated in the press conference held on 06.12.2019 at the scene of occurrence that the articles of Disha were recovered from behind the bushes. When his attention is drawn to the discrepancy in the two confessions regarding the place where the articles are said to have been hidden⁸⁵⁷ he states that his statement in the press conference that the articles of Disha were recovered from behind the bushes is erroneous,⁸⁵⁸ and that he is not aware of the discrepancy in the two confessions.⁸⁵⁹

11.21 The above discussion would establish that the claim that the accused were interrogated or that the accused were examined at the safe house and that their confessional statements were recorded in the presence of Rajashekhar (SW-4) and Abdul Rauf (CW-30) at the safe house etc... cannot be accepted.

⁸⁵⁷Ex.C-196 to C-199, p 2200-2254, Vol VIII, Commission Exhibits and Ex.S-27, pp 271-300, Vol II, State Exhibits.

⁸⁵⁸CW-38, Response to Q 123, p 1322, Vol V, Deposition of Witnesses.

⁸⁵⁹CW-38, Response to Q 124, p 1322, Vol V, Deposition of Witnesses.

12 EVENTS FROM SAFE HOUSE TO FIFTH BUND

12.1 Background

- 12.1.1 The details of the alleged trip from safe house to Chatanpally would not have been of any importance but for the serious and unexplained contradictions relating to a) the time at which the police bus arrived at the safe house b) the time at which the police party left the safe house c) the journey time from safe house to Chatanpally d) the time at which the police party reached Chatanpally and lastly e) whether the police party deboarded the bus at Chatanpally immediately on reaching there or whether they stayed put in the bus till day break as it was dark at the time when they reached Chatanpally. Moreover, there are also different versions regarding the manner in which the police party gained entry into the field and the manner of file formation of the police team till they reached the place where they are said to have sighted the material objects of Disha.
- 12.1.2 The team of NHRC officials have examined CW-44 to CW-48, CW-51 to CW-53, CW-27, CW-30 and SW-4 and recorded their statements soon after the incident. All of them have consistently stated before NHRC team that they left the safe house at 3.00 AM and reached Chatanpally at about 4.30 AM while it was still dark and that they were asked to stay in the bus as it was dark and they stayed in the bus for about an hour and at about 5.30 AM, they deboarded the bus.
- 12.1.3 In the final report submitted by the SIT in CR No. 803 of 2019, the time at which the police party left the safe house along with the accused and panchas is stated as 3.30 AM on 06.12.2019 and it is stated that it took about two hours to reach Chatanpally⁸⁶⁰ and that the police party reached Chatanpally village at 5.30 AM.⁸⁶¹
- 12.1.4 The distance from safe house to Chatanpally is said to be about 60 to 70 KMs. About half the said distance is covered by National Highway. The journey is during early hours when there could not have been any traffic. Therefore, the journey time between the safe house and Chatanpally could not have been more than 1 hour or at the best 1.5 hours. As per the Order Book⁸⁶² said to have been maintained at the safe house, the police party left the safe house at 3.00 AM. There is another serious discrepancy with reference to the log book of the police bus bearing number TS 09 PB 4760, since

⁸⁶⁰Ex.S-14, p 110-148, Vol I, State Exhibits.

⁸⁶¹Ex.S-14, p 110-148, Vol I, State Exhibits.

⁸⁶²Ex.C-253, pp 2359-2367, Vol IX, Commission Exhibits.

the entries in the log book filed along with the Final Report, Ex. S-28,⁸⁶³ are at variance with the entries in the log book, Ex. C-128,⁸⁶⁴ furnished by the State to NHRC team at the earliest point of time. In the first instance there could not have been two log book entries for the same vehicle signed by the same driver and secondly the details of the trip on the same day could not have been different. For all these reasons, it is necessary to scrutinize the evidence relating to the details of the journey with reference to their previous statements before J. Surender Reddy (SW-3) in CR. No. 803 of 2019 and before NHRC team and also with reference to their affidavits filed before the Commission.

12.2 The time at which the bus arrived at the safe house

12.2.1 Mailaram Yadagiri (CW-27), the driver of the police bus bearing number TS 09 PB 4760, in his statement recorded under Section 161 Cr.P.C by J. Surender Reddy (SW-3) stated that, on 05.12.2019 as per the directions of the MTO Cyberabad, he had taken the police bus to safe place on the outskirts of Mirzaguda Village on the way to Shankerpalli and reported to Chandrashekar, ACP Traffic, at about 8.00 PM on the same day.⁸⁶⁵ However, in his statement before the NHRC team (Ex.C-105), he has stated that he was instructed to go to Narsingi SOT at about 11.30 PM on 05.12.2019 and that he reached Narsingi SOT by 12.00 midnight and one constable whose name he did not know boarded the bus and took him to Shankerpally guest house and that they reached the guest house by 00.30 AM on 06.12.2019.⁸⁶⁶ Mailaram Yadagiri (CW-27) in his affidavit filed before the Inquiry Commission (Ex.C-127) has stated that, on 05.12.2019 around 11.30 PM he was informed by his Motor Transport Officer that he was assigned prisoner escort duty and was asked to report for duty at safe custody guest house at Mirzaguda and accordingly at about 11.45 PM, he left for Mirzaguda and at 00.15 AM, he reported for duty at the guest house.⁸⁶⁷ When Mailaram Yadagiri (CW-27) was confronted with his statement under Section 161 Cr.P.C recorded by J. Surender Reddy (SW-3), wherein he had stated that he reached the safe house at 8.00 PM, Mailaram Yadagiri (CW-27) stated that he had told the Investigating Officer that he had gone to the safe house by 12.15 AM that he does not know what the

⁸⁶³Ex.S-28, pp 301–304, Vol II, State Exhibits.

⁸⁶⁴Ex.C-128. pp 1374-1375, Vol V, Commission Exhibits.

⁸⁶⁵P 231-232, Book No.12.

⁸⁶⁶Ex.C-105, p 1265-1271, Vol V, Commission Exhibits.

⁸⁶⁷Ex.C-127, p 1371-1373, Vol V, Commission Exhibits.

Investigating Officer had written.⁸⁶⁸ He also denied having stated before the NHRC that he had reached SOT Narsingi at 12 midnight and from there a constable who was in uniform took him to Shankarpalli Guest house and that after reaching the guest house the constable went inside the guest house and he slept in the bus.⁸⁶⁹

12.2.2 V. Surender (CW-44) in his deposition before the Commission initially stated that he cannot say at what time the bus came,⁸⁷⁰ but he has again stated that the bus came at 3 am.⁸⁷¹ V. Surender (CW-44) stated before the Commission that he summoned the bus after he decided to take the accused to make recovery and that he summoned the bus after completing the recording of confessions.⁸⁷² Whereas in his statement before the NHRC he has stated that he had decided to call for the bus before recording the confessions of the accused and the bus arrived at 3.00 AM on 06.12.2019,⁸⁷³ and he states he does not remember whether he stated so before NHRC.⁸⁷⁴

12.2.3 Konda Narasimha Reddy (CW-45) in his deposition before the Commission stated that he saw the bus arrive at 3.30 AM.⁸⁷⁵ Sri Shaik Lal Madhar (CW-46) in his deposition before the Inquiry Commission stated that the bus arrived at 3.30 AM.⁸⁷⁶ He stated in his statement before NHRC team that the bus arrived at 3.00 AM.⁸⁷⁷ Ravi Kocherla (CW-48) in his deposition before the Commission stated that the bus arrived after 3.00 AM.⁸⁷⁸ Ravi Kocherla (CW-48) in his statement before the NHRC has stated that he does not know when the bus came.⁸⁷⁹ Kore Venkateswarlu (CW-49) in his deposition before the Commission stated that the bus arrived at 3.30 AM.⁸⁸⁰ Dharmakar Janakiram (CW-51) in his statement before the NHRC team has stated that the bus came at 12.00 AM,⁸⁸¹ and he admits the same.⁸⁸² Again he states that the bus came at 3.30 AM,⁸⁸³ and again states that the bus came at 12.00 midnight.⁸⁸⁴ Balu

⁸⁶⁸CW-27, Response to Q 21-23, p 962, Vol III, Deposition of Witnesses.

⁸⁶⁹CW-27, Response to Q 31-33, p 963-964, Vol III, Deposition of Witnesses.

⁸⁷⁰CW-44, Response to Q 462, p 1590, Vol V, Deposition of Witnesses.

⁸⁷¹CW-44, Response to Q 465, p 1591, Vol V, Deposition of Witnesses.

⁸⁷²CW-44, Response to Q 463-464, p 1590, Vol V, Deposition of Witnesses.

⁸⁷³Ex.C-94, p 1162, Vol V, Commission Exhibits.

⁸⁷⁴CW-44, Response to Q 465, p 1590-1591, Vol V, Deposition of Witnesses.

⁸⁷⁵CW-46, Response to Q 67, p. 1637-1638, Vol VI, Deposition of Witnesses.

⁸⁷⁶CW-46, Response to Q 3, p 1698, Vol VI, Deposition of Witnesses.

⁸⁷⁷Ex.C-91, p 1117, Vol IV, Commission Exhibits.

⁸⁷⁸CW-48, Response to Q 104, p 1832, Vol VI, Deposition of Witnesses.

⁸⁷⁹Ex.C-95, p 1186, Vol V, Commission Exhibits.

⁸⁸⁰CW-49, Response to Q 195, p 1925, Vol VI, Deposition of Witnesses.

⁸⁸¹Ex.C-105, p. 1252, Vol V, Commission Exhibits.

⁸⁸²CW-51, Response to Q 98, p 2023, Vol VI, Deposition of Witnesses.

⁸⁸³CW-51, Response to Q 99, p 2023, Vol VI, Deposition of Witnesses.

⁸⁸⁴CW-51, Response to Q 100, p 2023, Vol VI, Deposition of Witnesses.

Rathod (CW-52) in his deposition before the Commission stated that the bus came at 3.30 AM.⁸⁸⁵ In his statement before the NHRC he stated that he does not know when the bus came.⁸⁸⁶

12.2.4 From the above, it can be seen that there is a glaring contradiction regarding the time at which the bus arrived at the safe house. It varies from 8.00 PM on 05.12.2019 to 3.30 AM on 06.12.2019. There is even a discrepancy as to when the requisition for the bus was given. The story of the bus driver is that he reached the safe house by 12.00 AM, which statement is corroborated only by the statement of Dharmakar Janakiram (CW-51). The statements of rest of the witnesses do not corroborate this. The driver Mailaram Yadagiri (CW-27) himself gives different versions in different statements. There could not have been so many inconsistent statements regarding the time at which the bus arrived at the safe house. Such discrepancies raise doubt whether the bus in fact came to the safe house.

12.3 Time at which the police party left the Safe House and the time at which the police party reached Chatanpally

12.3.1 Mailaram Yadagiri (CW-27) in his statement recorded under Section 161 Cr.P.C by J. Surender Reddy (SW-3) stated that on 06.12.2019 at about 3.30 AM on the orders of V. Surender (CW-44) he had left the safe house with the four accused, V. Surender (CW-44), escort staff and panchas and drove towards Shadnagar on the NH-44 highway to the scene of offence near the under pass bridge on the outskirts of Chatanpally village and reached there at about 5.45 AM.⁸⁸⁷ In his statement before NHRC he says that at about 3.00 AM, he took the bus onto a service road and parked the bus near the Chatanpally bridge at 4.40 AM and that they waited for about one hour in the bus and at about 5.30 AM, all the persons deboarded the bus.⁸⁸⁸

12.3.2 In the statements of the ten police officials (CW-44 to CW-53)⁸⁸⁹, Mailaram Yadagiri (CW-27) and the 2 panchas i.e., M Rajashekar (SW-4) and Abdul Rauf (CW-30) recorded under Section 161 Cr.P.C by J. Surender Reddy (SW-3), it is consistently stated that the police party left the safe house for Chatanpally at around 3.30 AM on 06.12.2019 and reached Chatanpally at around 5.30 AM on 06.12.2019.

⁸⁸⁵CW-52, Response to Q 112, p 2062, Vol VI, Deposition of Witnesses.

⁸⁸⁶Ex.C-96, p 1200, Vol V, Commission Exhibits.

⁸⁸⁷P 231-232, Book No. 12.

⁸⁸⁸Ex.C-105, p. 1265-1271, Vol V, Commission Exhibits.

⁸⁸⁹P 104-233, Book No.12.

- 12.3.3 In the statements of these witnesses before the NHRC team, the time at which the police party left the safe house for Chatanpally is stated as around 3.00 AM on 06.12.2019 and it is stated that they reached Chatanpally around 4.30 AM.
- 12.3.4 In the affidavits of CW-44 - CW-53 filed before the Commission, the time at which they left the safe house is conspicuously absent.
- 12.3.5 M. Rajashekar (SW-4) in his statement before the NHRC team (Ex.C-19) stated that they started at about 3.00 AM-3.10 AM and after one and a half hour of drive, reached the place where the deceased was burnt, at around 4.30 AM⁸⁹⁰ and then they waited in the bus till 5.30 AM - 5.45 AM⁸⁹¹ as V. Surender (CW-44) asked them to wait in the bus. When he was confronted with his statement before NHRC team wherein he had stated that they left the safe house at 3.00 AM and reached Chatanpally by 4.30 AM and waited in the bus till 5.30 AM, M. Rajashekhar (SW-4) stated that he did not give such statement to the NHRC team.⁸⁹²
- 12.3.6 Abdul Rauf (CW-30) also in his statement before the NHRC team (Ex.C-97) has stated that he along with the other 10 to 12 members including the four accused persons started from the Guest house in a mini bus at about 3.00 AM and reached the place of incident at about 4.30 AM⁸⁹³ and that they reached the place under the bridge by taking the service road near the petrol pump and they remained in the bus till 5.45 AM. When Abdul Rauf (CW-30) was confronted with his statement before the NHRC team that they left the safe house at 3.00 AM and reached Chatanpally at 4.30 AM and remained in the bus till 5.45 AM, Abdul Rauf (CW-30) stated that he did not state so before the NHRC team.⁸⁹⁴
- 12.3.7 Vasam Surender (CW-44) in his statement before the NHRC team (Ex.C-94) stated that at around 3.00 AM on 06.12.2019 a mini bus arrived at the safe house and the team consisting of police, panchas and accused, all numbering 17 left for the spot for recovery⁸⁹⁵. He further stated that the distance from safe house to place of occurrence was 60 KMs and it took about one hour to reach there and that mini bus reached the spot around 4.30 AM. When V. Surender (CW-44) was confronted with his statement given to NHRC team that they reached Chatanpally at 4.30 AM and waited till 5.30

⁸⁹⁰Ex.C-19, p 369-375, Vol II, Commission Exhibits.

⁸⁹¹Ex.C-19, p 369-375, Vol II, Commission Exhibits.

⁸⁹²SW-4, Response to Q 48-52, p 239-240, Vol I, Deposition of Witnesses.

⁸⁹³Ex.C-97, p 1211-1217, Vol V, Commission Exhibits.

⁸⁹⁴CW-30, Response to Q 111, p. 1060, Vol IV, Deposition of Witnesses.

⁸⁹⁵Ex.C-94, p 1159-1173, Vol V, Commission Exhibits.

AM as it was dark, he stated that he did not state so before the NHRC team.⁸⁹⁶ When he was confronted with the entries in the Order Book⁸⁹⁷ which showed that they left the safe house at 3.00 AM, he stated that he had taken custody of the Accused at that time and brought them out of the safe house.⁸⁹⁸ When asked why he did not mention the time at which he left the safe house in his complaint and affidavit, he stated that he missed it, but he had mentioned it in his Part-I case diary.⁸⁹⁹ But even in his case diary dt. 06.12.2019 the time at which he left the safe house with the police party is not stated.⁹⁰⁰ Later on, in his deposition dt. 26.10.2021, CW-44 added that he left the safe house at 3.30 AM and the same can be gathered from his statements in paragraphs 72 and 73 of his affidavit Ex.C-181.⁹⁰¹

12.3.8 Konda Narasimha Reddy (CW-45) in his statement before the NHRC team (Ex.C-103) stated that the bus moved to Chatanpally Bridge and from the service road reached near the bridge tunnel at 4.30 AM approximately.⁹⁰² He further stated that it was completely dark and there was fog, very poor visibility. He further stated that the IO instructed them to stay there for some time and at around 5.30 AM, they all deboarded the bus.⁹⁰³ Sri Shaik Lal Madhar (CW-46) in his statement before the NHRC team (Ex.C-91) stated that a white mini bus arrived at the safe house at around 3.00 AM on 06.12.2019 and then they were all asked to board the bus and the bus arrived at the scene of burning through service road at around 4.30 AM on 06.12.2019. He further stated that they were asked to remain seated in the bus and not to get out of it and at 5.30 AM, V. Surender (CW-44) instructed them to get down.⁹⁰⁴ When Shaik Lal Madhar (CW-46) was asked why the time at which they started to Chatanpally is not mentioned in his affidavit (Ex.C-268), he first stated that his advocate advised him that all information need not be stated in affidavit and then he stated that he remembers that the time at which they started from the safe house is mentioned in his affidavit. After verifying his affidavit, he admitted that it is not specifically mentioned in his affidavit. Then he further added that they started from

⁸⁹⁶CW-44, Response to Q 315, p 1546-1547, Vol V, Deposition of Witnesses.

⁸⁹⁷Ex.C-253, pp 2359-2367, Vol IX, Commission Exhibits.

⁸⁹⁸CW-44, Response to Q 312, p 1546, Vol V, Deposition of Witnesses.

⁸⁹⁹CW-44, Response to Q 322, p 1549, Vol V, Deposition of Witnesses.

⁹⁰⁰P 607-612, Book No. 10.

⁹⁰¹Ex.C-181, p. 1576, Vol V, Deposition of Witnesses.

⁹⁰²Ex.C-103, p 1237-1250, Vol V, Commissions Exhibits.

⁹⁰³Ex.C-103, p 1237-1250, Vol V, Commissions Exhibits.

⁹⁰⁴Ex.C-91, p 1115-1132, Vol V, Commissions Exhibits.

the safe house at 3.30 AM.⁹⁰⁵ Mohammed Sirajuddin (CW-47) in his statement before the NHRC team (Ex.C-119) stated that the police party left the safe house along with the accused and panchas at around 3.00 AM on 06.12.2019 and reached the place stated by the accused at around 4.30 AM and that V. Surender (CW-44) told them that it was still dark and asked them remain seated and that after an hour and 30 minutes he came and told that it is dawn and that they will start now and that at that time, it was around 5.45 AM.⁹⁰⁶ When confronted with his statement to the NHRC team that they had reached Chatanpally at approximately 4.30 AM and then V. Surender (CW-44) asked all of them to be seated in the bus as it was dark outside and then about one and a half hour later V. Surender (CW-44) asked them to get down from the bus and at that time it was 5.45 AM, Mohammed Sirajuddin (CW-47) stated that it was incorrect.⁹⁰⁷ Mohammed Sirajuddin (CW-47) admitted in his deposition that he did not instruct his advocate about the time at which they left the safe house.⁹⁰⁸ He further stated that he had told his advocate that after having them fall in at 3.00 AM, they were briefed for half an hour and thereafter they had started to Chatanpally.⁹⁰⁹ Kocherla Ravi (CW-48) in his statement before the NHRC team (Ex.C-95) has stated that at about 3.00 AM on 06.12.2019 he along with other police personnel, four accused, two independent police panchas left the safe house in a mini bus and that the bus arrived at Chatanpally at about 4.00 AM or 4.30 AM on 06.12.2019 and since it was dark, V. Surender (CW-44) told them to wait inside the bus and at around 5.45 AM they came out of the bus.⁹¹⁰ Kocherla Ravi (CW-48) was confronted with his statement before the NHRC team that the police party reached Chatanpally at about 4/4.30 AM and since it was dark, V. Surender (CW-44) asked them to stay inside the bus and that they got down from the bus at 5.45 AM, he replied that what was stated in the affidavit was correct and that NHRC officials had asked him what was being done at what time and they had asked him where he was at 4.30 AM and he had answered that he was in the bus and the bus was traveling.⁹¹¹ Dharmakar Janakiram (CW-51) in his statement before the NHRC team (Ex.C-104) stated that at about 3.00 AM on 06.12.2019 the police team along with the 2 panch

⁹⁰⁵CW-46, Response to Q 8, p 1699, Vol VI, Deposition of Witnesses.

⁹⁰⁶Ex.C-119, p 1332-1349, Vol V, Commission Exhibits.

⁹⁰⁷CW-47, Response to Q 111, p. 1780, Vol VI, Deposition of Witnesses.

⁹⁰⁸CW-47, Response to Q 105, p. 1779, Vol VI, Deposition of Witnesses.

⁹⁰⁹CW-47, Response to Q 105, p. 1779, Vol VI, Deposition of Witnesses.

⁹¹⁰Ex.C-95, p 1185-1197, Vol V, Commission Exhibits.

⁹¹¹CW-48, Response to Q 176, p. 1853, Vol VI, Deposition of Witnesses.

witnesses and 4 accused persons boarded the bus and left for Shadnagar area and the bus reached near Chatanpally Bridge and took the service road to reach the underpass at 4.40 AM and at that time it was dark outside and there was medium fog and V. Surender (CW-44) asked them to remain seated in the bus and they waited for about one hour and at about 5.45 AM, the police team deboarded from the bus along with the accused and the panchas.⁹¹² Dharmakar Janakiram (CW-51) stated he did not state before NHRC team that they had started from the safe house at 3.00 AM. He also denied having stated before the NHRC that the V. Surender (CW-44) asked them to remain seated in the bus after reaching Chatanpally and that they waited in the bus for about one hour.⁹¹³ R Balu Rathod (CW-52) in his statement before the NHRC team (Ex.C-96) has stated that at about 2.45 AM or 3.00 AM on 06.12.2019, the ten police personnel, four accused, two panchas and one driver left the safe house in a minibus and that they reached the Chatanpally highway bridge by 4.00 AM or 4.30 AM on 06.12.2019, and since it was dark, they all remained in the bus for approximately one hour.⁹¹⁴ R Balu Rathod (CW-52) also denied having stated before the NHRC team that they had left the safe house at 2.45/3.00 AM and reached Chatanpally highway bridge by 4/4.30 AM, and as it was dark all of them remained in the bus for approximately one hour.⁹¹⁵ Devarasetti Srikanth (CW-53) in his statement before the NHRC (Ex.C-92) stated that they left the guest house at about 3.45 AM on 06.12.2019 and reached the spot where the victim girl was burnt at about 4.30 AM to 4.40 AM and since it was dark they remained seated in the bus and V. Surender (CW-44) directed them to remain seated in the bus for one hour and at around 5.30 AM or 5.40 AM, they got down from the bus on the instructions of V. Surender (CW-44).⁹¹⁶

12.3.9 Thus, all the witnesses who are said to have travelled in the police bus from safe house to Chatanpally have stated before NHRC team that the bus left the safe house at 3.00 AM and reached Chatanpally between 4.00 AM and 4.30 AM. They have also stated that it was dark when they reached Chatanpally and therefore, they waited in the bus till day break. However, in their statements before J. Surender Reddy (SW-3), they have stated that they left safe house at 3.30 AM which is contrary to the entries in order book maintained at the safe house. They also state before J. Surender Reddy

⁹¹²Ex.C-104, p.1251-1263, Vol V, Commission Exhibits.

⁹¹³CW-51, Response to Q 98-101, p 2023, Vol VI, Deposition of Witnesses.

⁹¹⁴Ex.C-96, p 1198-1210, Vol V, Commission Exhibits.

⁹¹⁵CW-52, Response to Q 113, p 2062, Vol VI, Deposition of Witnesses.

⁹¹⁶Ex.C-92, p 1133-1153, Vol IV, Commission Exhibits.

(SW-3) that they reached Chatanpally around 5.30 or 5.40 AM. Thus, as per the statements before J. Surender Reddy (SW-3), the journey took almost two hours. Now probably, having realized that the trip from safe house to Chatanpally would not take so much time, the witnesses in their affidavits filed before the Commission do not state the time at which they left the safe house and the theory of briefing at the safe house is introduced in an attempt to push the time at which they left the safe house at least by ½ an hour to one hour. In fact, J. Surender Reddy (SW-3), initially stated that the journey time would be one hour to two hours and again says about two hours.⁹¹⁷ V. Surender (CW-44) has filed an affidavit on 20.01.2021, Ex. C-264, wherein the details of the journey have been disclosed. As per the said affidavit the distance between safe house and Chatanpally is 60 KMs and that they took the route from safe house to Narsingi and travelled through the service road along Outer Ring Road upto Tondupally toll plaza and from Tondupally toll plaza to Chatanpally they travelled on NH 44.⁹¹⁸ V. Surender (CW-44) states that distance travelled through NH 44 is 27 KMs.⁹¹⁹ There was no reason to travel through the service road along the Outer Ring Road and they could have as well travelled through Outer Ring Road, an 8 lane expressway. Be that as it may, during the site inspection by us on 05.12.2021, we visited the safe house and then drove from the safe house along the route the police bus is supposed to have taken at a speed not exceeding 60 kilometers per hour, which was 20 kilometers per hour less than maximum speed at which the police bus could travel according to Mailaram Yadagiri (CW-27)⁹²⁰. The Inquiry Commission's convoy left the safe house at 10.05 AM and reached scene of incident at Chatanpally by 11.30 AM. The police had cleared the roads for the convoy, but this recreated the traffic conditions that would have obtained at 3.00 AM on that route. Therefore, if the police party had left safe house at 3.00 AM, they would have reached the scene of incident by 4.30 AM. If the journey time was 2 hours and if they had left at 3.30 AM, they would have reached the scene of incident at 5.30 AM and there was no necessity for the police team to carry torch lights or dragon lights.

⁹¹⁷SW-3, Response to Q 192, p 118, Vol I, Deposition of Witnesses.

⁹¹⁸Ex. C-264, Para 6, p 2459-2461, Vol IX, Commission Exhibits.

⁹¹⁹CW-44, Response to Q 416, p 1578, Vol V, Deposition of Witnesses.

⁹²⁰CW-27, Response to Q 122, p 982, Vol III, Deposition of Witnesses.

- 12.3.10 Another curious aspect is that there are two log book extracts produced before the Inquiry Commission for the same journey by the bus bearing number TS 09 PB 4760. One is Ex.S-28⁹²¹ and another Ex.C-128⁹²².
- 12.3.11 In Ex.S-28 filed along with the Final Report, Ex. S-14, the Milometer reading on 05.12.2019 is “10067-10082”, distance travelled is “15 Kilometers” and the places visited are “CAR Headquarters to Safe Place”. On 06.12.2019 the Milometer reading is “10082-10202”, distance travelled is “120 Kilometers” and the places visited are “Safe place Mirzaguda to Narsingi X road Shamshabad to Chatanpally. Chatanpally - Shamshabad to Narsingi X road to Safe place Mirzaguda to SOT Narsingi, CAR HQRs”.
- 12.3.12 In response to a request by NHRC team at the earliest point of time, the State has furnished copies of extracts of log books of all the vehicles which were used during the said period and it was noticed that the relevant extract of the same vehicle contained altogether different entries particularly regarding the return trip and the two log books were in different handwriting. The extract furnished to NHRC was marked as Ex.C-128. In Ex.C-128, the Milometer reading on 05.12.2019 is “10067-10082”, distance travelled is “15 Kilometers” and the places visited are “CAR Headquarters to Safe Place Mirzaguda”. On 06.12.2019 the Milometer reading is “10082-10202”, distance travelled is “120 Kilometers” and the places visited are “Safe place – Mirzaguda - Narsingi X road - Shamshabad – Chatanpally, Chatanpally - Shamshabad - Narsingi X road - CAR Head Quarters”.
- 12.3.13 Mailaram Yadagiri (CW-27) admitted his signatures on Ex.S-28 and Ex.C-128. But when questioned about the entries in the log book, he stated that he was told by “Sir” that there would be mileage problem if it is written that he had gone to safe house because he had gone there to fetch his bag.⁹²³ Such an explanation would have been accepted if there was no entry regarding the trip to safe house. If there was any problem, the trip to safe house would not have been noted.
- 12.3.14 Further, in the “vehicles out and in” register of the M.T. Section of Cyberabad Commissionerate (Ex.C-129)⁹²⁴ there is no entry regarding the return trip of the Bus

⁹²¹Ex.S-28, p 301-304, Vol I, State Exhibits.

⁹²²Ex.C-128, p 1374, Vol V, Commission Exhibits.

⁹²³CW-27, Response to Q 58-60, p 969, Vol III, Deposition of Witnessess.

⁹²⁴Ex.C-129, p 1376-1385, Vol V, Commission Exhibits.

Bearing number 4760 on 06.12.2019 and Mailaram Yadagiri (CW-27) admits the same.⁹²⁵

12.3.15 Further, Mailaram Yadagiri (CW-27) in his deposition gave contradictory statements about the time he left Chatanpally.⁹²⁶ He says at one place that he left Chatanpally at 12.30 PM. He admits that he was given instructions to leave at 7.20 AM, but states that he remained at Chatanpally as there was traffic and he was curious to see what was happening. In his affidavit he stated that he left Chatanpally at 5.00 PM as per the instructions of the officers and returned to headquarters at 6.00 PM. Mailaram Yadagiri (CW-27) stated before the Inquiry Commission in his deposition that he did not instruct his Advocate to write in his affidavit that he left Chatanpally at 5.00 PM.

12.3.16 When Mailaram Yadagiri (CW-27) is asked how does he know the name and location of the guest house, he states that he being a local man of Shamshabad, knows the name of guest house⁹²⁷ and that he knows the location as he goes by that way to attend to his duty.⁹²⁸ But when asked the distance from Shamshabad to guest house, he says he does not know.⁹²⁹ During the site visit, it was noticed that the guest house is located a little away from the main road and it is not visible to the main road. Therefore, it could not have been possible for Mailaram Yadagiri (CW-27) to locate the guest house on his own during midnight.

12.3.17 The conduct of Mailaram Yadagiri (CW-27) as stated by him, does not appear to be natural conduct. In his statement before NHRC, Ex. C-105, he states that he slept in the bus and about 25 minutes later, he heard sounds of gunshots for about 5 minutes and that he could not see anything from inside the bus as there was darkness and fog outside and that he slept in the bus and at 6.30 AM, an Ambulance came and he was woken up to give way to the Ambulance and that at 7.20 AM, one constable came and asked him to go back to the place from where he had come and that he took the bus to Shankerpally guest house and remained there till 4.30 PM and after that he went to MT HQRs and dropped the bus there and left for his house at 6.00 PM.⁹³⁰ In his affidavit filed before the Commission, Mailaram Yadagiri (CW-27) states that he remained in the bus taking rest and at about 6.00 AM, he heard firing sound from the direction in which the police party had gone and that he learnt that the four accused

⁹²⁵CW-27, Response to Q 86, p 975, Vol III, Deposition of Witnesses.

⁹²⁶CW-27, Response to Q 152, p 988, Vol III, Deposition of Witnesses.

⁹²⁷CW-27, Response to Q 13, p 960, Vol III, Deposition of Witnesses.

⁹²⁸CW-27, Response to Q 11, p 960, Vol III, Deposition of Witnesses.

⁹²⁹CW-27, Response to Q 14, p 960, Vol III, Deposition of Witnesses.

⁹³⁰Ex.C-105, p 1265-1271, Vol V, Commission Exhibits.

were killed in an exchange of fire with the police and in para 5 of the affidavit, he states that at about 5.00 PM, as per the instructions of his officers, he left Chatanpally village and at about 6.00 PM he returned to his headquarters.⁹³¹ During his examination before the Commission, he states that he did not leave Chatanpally at 5 PM as stated in para 5 of his affidavit and that he left Chatanpally at 12-30 PM and reached headquarters at 5.30 PM or 6 PM. Once he states that he used the same route for the return journey⁹³² and again says that in the return trip he used Outer Ring Road and not the same route.⁹³³

12.3.18 All these circumstances raise a serious doubt regarding the alleged trip from safe house to Chatanpally in the bus including the time at which the bus arrived, the time at which they left safe house and the time at which they reached scene of incident.

12.4 Entry into the fields

12.4.1 It is to be noted here that in the statements of the ten police officials (CW-44 to CW-53) and the two panchas M. Rajashekar (SW-4) and Abdul Rauf (CW-30), recorded by J. Surender Reddy (SW-3) under Section 161 Cr.P.C.,⁹³⁴ they do not state how the police party entered into the agricultural field, which is the scene of incident. In their statements before the NHRC team, some of them have stated that they entered into the field through a fencing and they do not speak about entering into the field through any gate. But, during their examination before the Commission, they have denied their prior statements before the NHRC.

12.4.2 M. Rajashekar (SW-4) in his deposition before the Commission stated that there was no gate to the fields and there was a fencing.⁹³⁵ M. Rajashekar (SW-4) has further stated that as it was dark at that time, he cannot say how many entry points were there to the agricultural land⁹³⁶ and again stated that he does not know at what point he entered the place of occurrence and that he simply followed the police.⁹³⁷ Abdul Rauf (CW-30) in his evidence before the Commission stated that there was an opening like a gate and they entered the agricultural fields through the same.⁹³⁸ Mohammed Sirajuddin (CW-47) in his statement before NHRC team,⁹³⁹ has stated that they all got

⁹³¹Ex.C-127, p 1371-1373, Vol V, Commission Exhibits.

⁹³²CW-27, Response to Q 51, p 967, Vol III, Deposition of Witnesses.

⁹³³CW-27, Response to Q 52-54, p 968, Vol III, Deposition of Witnesses.

⁹³⁴P 104-233, Book No. 12.

⁹³⁵SW-4, Response to Q 55, p 240, Vol I, Deposition of Witnesses.

⁹³⁶SW-4, Response to Q 56, p 240, Vol I, Deposition of Witnesses.

⁹³⁷SW-4, Response to Q 57, p 241, Vol I, Deposition of Witnesses.

⁹³⁸CW-30, Response to Q 26, p 1044, Vol IV, Deposition of Witnesses.

⁹³⁹Ex.C-119, pp 1332-1349, Vol V, Commission Exhibits.

down from the bus and then V. Surender (CW-44) directed them to follow him in a line and after walking for some distance, V. Surender (CW-44) widened the fence and through it he entered the field and the rest of them followed him, but in his deposition before the Commission, he denied having stated so.⁹⁴⁰ On the other hand, Mohammed Sirajuddin (CW-47) in his deposition before the Commission, stated that the entry point into the agricultural field was about 30 to 40 feet which was on the north side of the field with a gate made out of wood and they entered through that gate.⁹⁴¹ Devarasetti Srikanth (CW-53) in his statement before the NHRC (Ex.C-92) has stated that V. Surender (CW-44) led the team and Md. Arif was behind him and all the team members and accused moved towards east and they found a fencing of iron wire in the way and they all passed through the fencing by bending the iron wire.⁹⁴² However, in his deposition before the Inquiry Commission, Devarasetti Srikanth (CW-53) stated that the bus was parked about 40 to 50 meters before the underpass and fields were to the left side towards east and that the entry to the agricultural fields was 60 to 70 feet from the place the bus was parked and they went into the fields through what looked like a gate barred by sticks and there was fencing around the fields.⁹⁴³ Shaik Lal Madhar (CW-46) in his statement before the NHRC, Ex.C-91,⁹⁴⁴ has stated that they came across an iron fencing and Narasimha Reddy (CW-45), pierced through it and reached other side and all the other team members and accused followed him. However, in his deposition before the Commission, he denied having stated so.⁹⁴⁵ Shaik Lal Madhar (CW-46) in his deposition before the Inquiry Commission stated that the entry into the fields was on the north side abutting service road⁹⁴⁶ and that there was no gate and the entry was blocked with sticks.⁹⁴⁷ Kore Venkateswarlu (CW-49) in his deposition before the Inquiry Commission, stated that on the north side of the fields there was no fencing and there was a wooden gate.⁹⁴⁸ V. Surender (CW-44) in his statement before the NHRC team (Ex.C-94)⁹⁴⁹ has only

⁹⁴⁰CW-47, Response to Q 113, p 1780, Vol VI, Deposition of Witnesses.

⁹⁴¹CW-47, Response to Q 109-112, p 1779-1780, Vol VI, Deposition of Witnesses.

⁹⁴²Ex.C-92, pp 1133-1153, Vol IV, Commission Exhibits.

⁹⁴³CW-53, Response to Q 20-27, p 2082-2084, Vol VI, Deposition of Witnesses.

⁹⁴⁴Ex.C-91, pp 1115-1132, Vol IV, Commission Exhibits.

⁹⁴⁵CW-46, Response to Q 38, p 1708, Vol VI, Deposition of Witnesses.

⁹⁴⁶CW-46, Response to Q 5, p 1698, Vol VI, Deposition of Witnesses.

⁹⁴⁷CW-46, Response to Q 6, p 1698, Vol VI, Deposition of Witnesses.

⁹⁴⁸CW-49, Response to Q 200, p 1927, Vol VI, Deposition of Witnesses.

⁹⁴⁹Ex.C-94, pp 1159-1184, Vol V, Commission Exhibits.

stated that they entered the fields towards High Tension tower opposite the spot where the body of victim was burnt.

12.4.3 Thus, there is no consistency whether the police party entered the agricultural field through a gate or a gate like provision or by breaking/bending a wired fencing erected around the field. J. Surender Reddy (SW-3) ought to have placed relevant photos and video of the topography of the scene of incident. The same is not done. He states that he had given instructions to the videographer to cover the path through which the accused persons, police party and the panchas approached the scene of offence.⁹⁵⁰ He states that he instructed the Videographer to properly record the video of the position of the dead bodies and the scene of offence and that he was under the impression that the videographer acted according to his instructions and that he realized only later that the videographer did not record the video according to his instructions.⁹⁵¹

12.5 From alighting from the bus to fifth bund and the formation of the police party till fifth bund

12.5.1 M Rajashekar (SW-4) in his affidavit filed before the Inquiry Commission (Ex.S-48)⁹⁵² and Abdul Rauf (CW-30) in his affidavit filed before the Inquiry Commission (Ex.C-139)⁹⁵³ have stated that they reached the service road situated on the eastern side of NH44, Chatanpally Village, at about 5.45 AM and that after getting down from the bus, the four accused showed way towards eastern side of the fields where they had hidden the articles of the deceased and that both of them along with the ACP and his staff accompanied the accused and each accused was assigned one police person as handler and there was a supervisor for every two handlers and the three armed escort were behind them for security and that the accused initially took them to the nearby high tension electrical pole area which was in a sloped agricultural field and that the slope of the field had been leveled into six level step bunds for agricultural purposes and the accused first led to various places at four of the bunds and ultimately they took them to the fifth bund which was two and half feet high and at the place indicated by Mohammed Arif, CI Narasimha Reddy started digging on the instructions of V. Surender (CW-44).

12.5.2 V. Surender (CW-44) in his affidavit filed before the Inquiry Commission (Ex.C-181) states that Md. Arif indicated to him that the objects were buried in a field bund

⁹⁵⁰SW-3, Response to Q 472, p 193, Vol I, Deposition of Witnesses.

⁹⁵¹SW-3, Response to Q 471, pp 192-193, Vol I, Deposition of Witnesses.

⁹⁵²Ex.S-48, pp 451-458, Vol I, State Exhibits.

⁹⁵³Ex.C-139, pp 1408-1415, Vol VI, Commission Exhibits.

within 200 meters and then they all moved into the fields on the eastern side of NH44 led by the accused and at around 5.45 AM, the accused took them to the area in the field where a high tension tower was situated and that there the fields were sloping from east to west and the field was divided into five level steps for agricultural purposes and each part had a parapet wall type bunds to store water and the bunds were one feet to two and a half feet in height. He states that initially the accused took them to the first level bund and said that the objects were hidden there and nothing was found and then the accused took them to the other three level bunds and at 6.00 AM the accused took them to the fifth level bund which was two and half feet in height and there Md. Arif pointed at a spot where there was a stick and some stones lying and said that that was the spot where they concealed the articles. He has stated that he called the panch witnesses to come forward and asked CI Amangal to verify the spot.⁹⁵⁴

12.5.3 All others i.e., Sri Konda Narasimha Reddy (CW-45), Sri Shaik Lal Madhar(CW-46), Mohammed Sirajuddin (CW-47), Kocherla Ravi (CW-48), Kore Venkateswarlu (CW-49), Saidupally Arvind Goud (CW-50), Dharmakar Janakiram (CW-51), Balu Rathod (CW-52) and Devarshetty Srikanth (CW-53) in their affidavits filed before the Inquiry Commission, being Ex.C-266,⁹⁵⁵ Ex.C-268,⁹⁵⁶ Ex.C-270,⁹⁵⁷ Ex.C-271,⁹⁵⁸ Ex.C-272,⁹⁵⁹ Ex.C-274,⁹⁶⁰ Ex.C-275,⁹⁶¹ Ex.C-276⁹⁶² and Ex.C-277⁹⁶³ respectively set out the same version as found in the affidavit of V. Surender (CW-44).

12.5.4 When the accused are taken to a scene of incident by a team of 10 police officers, accompanied by two panchas, there would be a definite pattern of file formation, based on the location of the scene and the nature of security concerns. The accused would not be allowed to roam freely in the field. V. Surender (CW-44) in his affidavit filed before the Commission,⁹⁶⁴ states that the men were assigned duties of handling the accused. During their examination before the Commission, M. Rajashekhar (SW-4), Abdul Rauf (CW-30) and CW-44 to CW-53 have all stated that the handlers were

⁹⁵⁴Ex.C-181, pp 2116-2157, Vol VIII, Commission Exhibits.

⁹⁵⁵Ex.C-266, pp 2463-2477, Vol IX, Commission Exhibits.

⁹⁵⁶Ex.C-268, pp 2482-2494, Vol IX, Commission Exhibits.

⁹⁵⁷Ex.C-270, pp 2496-2509, Vol IX, Commission Exhibits.

⁹⁵⁸Ex.C-271, pp 2510-2524, Vol IX, Commission Exhibits.

⁹⁵⁹Ex.C-272, pp 2525-2538, Vol IX, Commission Exhibits.

⁹⁶⁰Ex.C-274, pp 2541-2553, Vol IX, Commission Exhibits.

⁹⁶¹Ex.C-275, pp 2554-2560, Vol IX, Commission Exhibits.

⁹⁶²Ex.C-276, pp 2561-2567, Vol IX, Commission Exhibits.

⁹⁶³Ex.C-277, pp 2568-2574, Vol IX, Commission Exhibits.

⁹⁶⁴ Ex C-181, pp 2116-2157, Vol VIII, Commission Exhibit.s

holding the accused. Even Dharmakar Jankiram (CW-51), Balu Rathod (CW-52) and D. Srikanth (CW-53) have stated in para 6 of their respective affidavits that they were assigned the duties of handlers of the accused. But in para 7 of their affidavits, Dharmakar Jankiram (CW-51), Balu Rathod (CW-52) and D. Srikanth (CW-53) have stated that as the accused were cooperating with the police party, they did not handcuff them and the accused were allowed to roam freely under their surveillance. The affidavits of D. Jankiram (CW-51), Balu Rathod (CW-52) and D. Srikanth (CW-53) are marked as Ex. C-275⁹⁶⁵, Ex. C-276⁹⁶⁶ and Ex. C-277⁹⁶⁷ respectively.

12.5.5 At any rate, the evidence concerning the file formation ought to be consistent and there cannot be any divergent statements. However, in this case, it is found that there is no such consistency.

12.5.6 M. Rajashekar (SW-4) in his statement before the NHRC team (Ex.C-19) has stated that each accused was held by one policeman and that as the way was narrow at one place they moved in single file and that he and the Revenue Inspector were last in the file.⁹⁶⁸ M. Rajashekar (SW-4) in his deposition stated that they followed one another⁹⁶⁹ and Circle Inspector and Sub-Inspector were behind Md. Arif and that he, Abdul Rauf and V. Surender (CW-44) were behind the Circle Inspector and Sub-Inspector, and behind them there were some police persons,⁹⁷⁰ and that they were in the same formation when Arif pointed out the place where the articles were hidden.⁹⁷¹ Strangely, he states that Narasimha Reddy (CW-45) went in front of the Circle Inspector and Sub-Inspector. There was only one Circle Inspector and his name is Narasimha Reddy (CW-45). Having realized the same, he again stated that Narasimha Reddy was the Circle Inspector.⁹⁷²

12.5.7 Abdul Rauf (CW-30) in his statement before the NHRC team (Ex.C-97)⁹⁷³ has stated that he and Rajashekar (SW-4) were behind all the others and that each accused was held by one policeman and the accused were not handcuffed. Abdul Rauf (CW-30) in his deposition before the Inquiry Commission stated that they moved in three rows, with the accused and the police men holding them in the first row, in the second row

⁹⁶⁵ Ex C-275, pp 2554-2560, Vol IX, Commission Exhibits.

⁹⁶⁶ Ex C-276, pp 2561-2567, Vol IX, Commission Exhibits.

⁹⁶⁷ Ex C-277, pp 2568-2574, Vol IX, Commission Exhibits.

⁹⁶⁸ Ex.C-19, pp 369-375, Vol II, Commission Exhibits.

⁹⁶⁹ SW-4, Response to Q 62, p 241, Vol I, Deposition of Witnesses.

⁹⁷⁰ SW-4, Response to Q 63, p 241, Vol I, Deposition of Witnesses.

⁹⁷¹ SW-4, Response to Q 64, p 241, Vol I, Deposition of Witnesses.

⁹⁷² SW-4, Response to Q 75, p 243, Vol I, Deposition of Witnesses.

⁹⁷³ Ex.C-97, pp 1211-1221, Vol V, Commission Exhibits.

he was there with V. Surender (CW-44) and Rajashekar (SW-4) and behind them the three policemen carrying weapons⁹⁷⁴ and that they continued in the same formation throughout.⁹⁷⁵ Abdul Rauf (CW-30) stated that Arif was on the extreme left of the first row and he does not remember who were there in the other positions in that row.⁹⁷⁶ He further stated that the Circle Inspector was on the right side of Arif and Arif was in the first row.⁹⁷⁷

12.5.8 Konda Narasimha Reddy (CW-45) in his statement before the NHRC team (Ex.C-103)⁹⁷⁸ has stated that as the path was narrow and terrain suitable for single line formation, they moved in that manner as per the directions of the IO and that later they moved in a straight direction towards east, turned slightly towards left and stood in horizontal facing towards east and in that shuffle, the positions of the team members and accused changed though they were all in a single row. He has stated that he was behind the middle of the team with AK-47 taking care of the accused and Kocherla Ravi (CW-48) was to his left behind V. Surender (CW-44) and Mohammed Sirajuddin (CW-47) to his right behind Chennakesavulu and Venkateswarlu, Sub-Inspector.⁹⁷⁹ Shaik Lal Madhar (CW-46) has also made markings on a sketch provided by the NHRC team showing his position at various points of time during the incident.⁹⁸⁰ The sketch shows the formation in which the police party moved. It shows the police party was arranged in three rows V. Surender (CW-44), D. Janakiram (CW-51), Md. Arif, Konda Narasimha Reddy (CW-45), Jollu Shiva, Aravindh Goud (CW-50), R. Balu Rathod (CW-52), Jollu Naveen, D. Srikanth (CW-53), Chennakeshavulu and Kore Venkateshwarulu (CW-49) in the first row; K. Ravi (CW-48), Shaik Lal Madhar (CW-46) and Mohammed Sirajuddin (CW-47) in the second row behind them and panchas; and M. Rajashekhar (SW-4) and Abdul Rauf (CW-30) in the third row behind them.

12.5.9 Mohd Sirajuddin (CW-47) has stated that they proceeded for about 200 to 300 meters and reached an electric pole and there Md. Arif told V. Surender (CW-44) that they had concealed the objects somewhere along the electric pole high tension wire and then they were made to stand one beside the other and instructed to inform if they saw

⁹⁷⁴CW-30, Response to Q 31, p 1045, Deposition of Witnesses.

⁹⁷⁵CW-30, Response to Q 32, p 1045, Deposition of Witnesses.

⁹⁷⁶CW-30, Response to Q 36, p 1046, Deposition of Witnesses.

⁹⁷⁷CW-30, Response to Q 39-40, p 1046, Deposition of Witnesses.

⁹⁷⁸Ex.C-103, p 1237-1250, Vol V, Commission Exhibits.

⁹⁷⁹Ex.C-91, p 1115-1132, Vol IV, Commissions Exhibits.

⁹⁸⁰Ex.C-91, p 1115-1132, Vol IV, Commissions Exhibits.

some object and at that time, the accused and their handlers and K. Narasimha Reddy (CW-45) and Kore Venkateswarlu (CW-49), were in a row in front of Shaik Lal Madhar (CW-46) and Mohammed Sirajuddin (CW-47), and Mohammed Sirajuddin (CW-47) and K. Ravi (CW-48) were covering the persons in front of them and behind them, the two panchas were there and V. Surender (CW-44) instructed them to move forward.⁹⁸¹

12.5.10 Kocherla Ravi (CW-48) in his statement before the NHRC team (Ex.C-95) stated that initially they moved in a single line and after that they moved in a row.⁹⁸² He has also made markings on a sketch provided by the NHRC team showing the positions of the police, accused and panchas at various points of time.⁹⁸³

12.5.11 Dharmakar Janakiram (CW-51), in his statement before the NHRC team (Ex.C-104) stated that the police team moved in single file and D. Janakiram (CW-51) has also drawn a sketch showing the formation.⁹⁸⁴ R. Balu Rathod (CW-52) in his statement before the NHRC team (Ex.C-96) stated that they followed V. Surender (CW-44) in a line formation for up to 300 yards and after reaching the high tension tower, the police and accused spread out into a row and he has also made markings on a sketch provided by the NHRC team showing the positions of the police, accused and panchas at various points of time.⁹⁸⁵

12.5.12 D. Srikanth (CW-53), in his statement before the NHRC (Ex.C-92) stated that V. Surender (CW-44) made them to stand in a row and Md. Arif and his escort D. Janakiram (CW-51), then Narasimha Reddy (CW-45), Jollu Shiva with his escort Aravind Goud (CW-50), behind him K. Ravi (CW-49), then Jollu Naveen with his escort R. Balu Rathod (CW-52) and behind them Shaik Lal Madhar (CW-46) and then Chennakeshavulu with his escort D. Srikanth (CW-53) and then Kore Venkateswarlu (CW-49) behind him and Mohammed Sirajuddin (CW-47) behind Venkateswarlu, followed by the two panchas M. Rajashekhar (SW 4) and Abdul Rauf (CW-30) and they moved 200 to 300 meters and then the accused asked them to take a turn and ACP stopped them near the electric pole (high tension wire) and then all the police and accused were asked to stand in a horizontal line facing towards east, which was

⁹⁸¹Ex.C-119, p 1332-1349, Vol V, Commissions Exhibits.

⁹⁸²Ex.C-95, pp 1185-1197, Vol V, Commission Exhibits.

⁹⁸³Ex.C-95, pp 1185-1197, Vol V, Commission Exhibits.

⁹⁸⁴Ex.C-104, pp 1251-1263, Vol V, Commission Exhibits.

⁹⁸⁵Ex.C-96, pp 1198-1210, Vol V, Commission Exhibits.

also marked by D. Srikanth (CW-53) in a separate sketch.⁹⁸⁶ The sketch in which D. Srikanth (CW-53) made the marking also indicated the positions of the police, panchas and the accused at various places.⁹⁸⁷

12.5.13 Abdul Rauf (CW-30) in his deposition before the Inquiry Commission stated that after getting down from the bus they went to the electric tower in the agricultural field, which was at distance of 120 feet from the service road.⁹⁸⁸ He stated that there was visibility. He stated that the accused first took them to the first embankment, which was about 10 to 20 feet from the electric tower. The first embankment was situated to the east of the electric tower.⁹⁸⁹ He further stated that Md. Arif took them to the first embankment and they searched that place and then Md. Arif took them to the second embankment and they did not find anything there. Then Md. Arif took them to the next embankment and when they did not find anything there, V. Surender (CW-44) asked Md. Arif seriously to show the correct place and Md. Arif took them to the fifth embankment and there Md. Arif pointed to a place in the middle of the fifth embankment where there were two stones and a stick and V. Surender (CW-44) and asked K. Narasimha Reddy (CW-45) to check the place and at that point V. Surender (CW-44) was two feet away from him and beside him. Md. Arif and one constable and Circle Inspector were before him. He first stated that the Circle Inspector was on the left side of Arif and then again corrected himself saying Md. Arif was the left side of Circle Inspector and the other three accused were to his right.⁹⁹⁰

12.5.14 V. Surender (CW-44) in his deposition before the Inquiry Commission stated that at the time of recovery they were not standing in a row, but had drawn closer to the place where the articles were found and that the panchas were standing near him, he cannot say who was to his left and who was to his right.⁹⁹¹ He further stated that the sketch on which he made markings showing the positions of the police, accused and panchas is wrong even though it bears his signature.⁹⁹² He also refused to draw a sketch depicting the location where “Disha” articles were found on the 5th bund.⁹⁹³

⁹⁸⁶Ex.C-92, pp 1133-1153, Vol IV, Commission Exhibits.

⁹⁸⁷Ex.C-92, pp 1133-1153, Vol IV, Commission Exhibits.

⁹⁸⁸CW-30, Response to Q 23-25, p 1044, Vol IV, Deposition of Witnesses.

⁹⁸⁹CW-30, Response to Q 42-43, p 1047, Vol IV, Deposition of Witnesses.

⁹⁹⁰CW-30, Response to Q 48-54, pp 1048-1050, Vol IV, Deposition of Witnesses.

⁹⁹¹CW-44, Response to Q 355-362, pp 1561-1563, Vol V, Deposition of Witnesses.

⁹⁹²CW-44, Response to Q 431, p 1583, Vol V, Deposition of Witnesses.

⁹⁹³CW-44, Response to Q 383, p 1567, Vol V, Deposition of Witnesses and CW-44, Response to Q 433, p 1583, Vol V, Deposition of Witnesses.

12.5.15K. Narasimha Reddy (CW-45) in his deposition before the Inquiry Commission says that they reached Chatanpally at 5.30 AM on 06.12.2019 and dawn was breaking at that time and there was some visibility and they did not have to use the dragon lights carried by them⁹⁹⁴ and that they reached the spot where DISHA's articles were allegedly kept by 5.50 AM to 6.00 AM and the visibility improved by that time.⁹⁹⁵ He stated that he cannot mark the spot where the articles of DISHA were found and refused to say whether the point marked in the sketch is the place where the articles were found.⁹⁹⁶ He states that when they reached the 5th bund the three policemen with long range weapons were behind him and the panchas were also behind him⁹⁹⁷ and that in front of him, the accused and their handlers were there in the front row along with him and Kore Venkateswarlu (CW-49) also moved forward into their line.⁹⁹⁸ He stated that he was seeing the sketch attached to his statement before NHRC for the first time during the deposition and it was not prepared in his presence.⁹⁹⁹ He states that he did not state before the NHRC team that the path was narrow and the terrain suitable for single line formation, and that they moved for 200-300 meters and that V. Surender (CW-44) directed to use file formation which K. Narasimha Reddy (CW-45) had explained in the site plan attached to the statement and in the file formation V. Surender (CW-44) was on the left side of the formation.¹⁰⁰⁰

12.5.16 Shaik Lal Madhar (CW-46) in his deposition before the Inquiry Commission has stated that first handlers, then supervisor, and then DSP and then panchas and then behind them all them, Mohammed Sirajuddin (CW-47) and K. Ravi (CW-48) were there and this formation continued till the place where DISHA's articles were recovered.¹⁰⁰¹ He states that the distance between the rows was about 2 feet¹⁰⁰² and Md. Arif led the party giving directions to the handlers and led them first to a bund about 10 feet from the high-tension tower and thereafter he showed four bunds¹⁰⁰³ and when Md. Arif pointed out the place of material objects, V. Surender (CW-44) called K. Narasimha Reddy (CW-45) to check and K. Narasimha Reddy (CW-45) checked

⁹⁹⁴CW-45, Response to Q 78-80, p 1640, Vol VI, Deposition of Witnesses.

⁹⁹⁵CW-45, Response to Q 84, p 1641, Vol VI, Deposition of Witnesses.

⁹⁹⁶CW-45, Response to Q 86, p 1641, Vol VI, Deposition of Witnesses.

⁹⁹⁷CW-45, Response to Q 89, p 1642, Vol VI, Deposition of Witnesses.

⁹⁹⁸CW-45, Response to Q 92, p 1643, Vol VI, Deposition of Witnesses.

⁹⁹⁹CW-45, Response to Q 176, p 1661, Vol VI, Deposition of Witnesses.

¹⁰⁰⁰CW-45, Response to Q 179, p 1663, Vol VI, Deposition of Witnesses.

¹⁰⁰¹CW-46, Response to Q 12-13, p 1700, Vol VI, Deposition of Witnesses.

¹⁰⁰²CW-46, Response to Q 40, p 1708, Vol VI, Deposition of Witnesses.

¹⁰⁰³CW-46, Response to Q 15-18, p 1701, Vol VI, Deposition of Witnesses.

and the V. Surender (CW-44) moved forward and the formation closed in and he remained where he was.¹⁰⁰⁴ He stated that K. Narasimha Reddy (CW-45) was on the right side of Md. Arif and his handler when the articles were sighted¹⁰⁰⁵ and he denied stating before NHRC that they crossed three banks and reached 4th or 5th one where there was a small mound/heap covered with stones and clay stick was there and when V. Surender (CW-44) asked, Md. Arif (A-1) told that in that heap/mound the objects were concealed and meanwhile the panchas went near V. Surender (CW-44) and V. Surender (CW-44) moved towards the mound to examine in the focus of light.¹⁰⁰⁶ He states that the articles were hidden at the edge of the 4th field, at the middle of 5th bund, at the foot¹⁰⁰⁷ and that there was light when they reached 5th bund and there was no fog.¹⁰⁰⁸ He admitted that the marking made on the sketch attached to his statement before NHRC were made by him, but stated that markings are incorrect and only the positions of the dead bodies match.¹⁰⁰⁹ Shaik Lal Madhar (CW-46) was given a copy of the rough sketch, Ex.C-8, and was asked to mark the place where the objects of Disha were sighted and he did not mark the place stating that he can say but cannot mark and that the map was confusing. He was asked to draw a sketch and he drew Ex.C-269 showing 4th field and 5th bund with a dot in the middle of line indicating 5th bund. He stated that he can describe the place and he cannot draw the sketch with reference to topography.¹⁰¹⁰

12.5.17 Mohammed Sirajuddin (CW-47) in his deposition before the Inquiry Commission stated that when they entered the field, they were in rows viz in the first row handlers and accused; in the second row Kore Venkateswarlu (CW-49) and K. Narasimha Reddy (CW-45); in the third row V. Surender (CW-44) and Panchas and behind them Shaik Lal Madhar (CW-46), Mohammed Sirajuddin (CW-47) and K. Ravi (CW-48).¹⁰¹¹ He denied having stated before the NHRC team that V. Surender (CW-44) led the team from the front and they all followed him in a line and that the panchas were

¹⁰⁰⁴CW-46, Response to Q 41, p 1709, Vol VI, Deposition of Witnesses.

¹⁰⁰⁵CW-46, Response to Q 42, p 1709, Vol VI, Deposition of Witnesses.

¹⁰⁰⁶CW-46, Response to Q 51, p 1711, Vol VI, Deposition of Witnesses.

¹⁰⁰⁷CW-46, Response to Q 52, p 1720, Vol VI, Deposition of Witnesses.

¹⁰⁰⁸CW-46, Response to Q 92-95, p 1698, Vol VI, Deposition of Witnesses.

¹⁰⁰⁹CW-46, Response to Q 102, p 1722, Vol VI, Deposition of Witnesses.

¹⁰¹⁰CW-46, Response to Q 139-142, p 1732-1734, Vol VI, Deposition of Witnesses.

¹⁰¹¹CW-47, Response to Q 114, p 1781, Vol VI, Depositions of Witnesses.

behind Mohammed Sirajuddin (CW-47).¹⁰¹² He stated that the panchas along with V. Surender (CW-44) were in front of him when the objects were sighted.¹⁰¹³

12.5.18K. Ravi (CW-48) in his deposition before the Commission initially denied the correctness of the sketches attached to his statement before the NHRC team.¹⁰¹⁴ Then he admitted to the positions in the sketches but denied that he was in front of the fifth bund when firing.¹⁰¹⁵

12.5.19Dharmakar Janakiram (CW-51) in his deposition before the Inquiry Commission stated that when they reached Chatanpally the visibility was 20 to 30 feet and he denied stating before NHRC team that he held Md. Arif from behind with hands on his shoulder and left hand and he stated that he only held the left hand of Md. Arif and he admitted that he stated before the NHRC that they moved in single file and that he and Md. Arif were in the front, then supervisors, then V. Surender (CW-44) and Panchas and then weapons party. He stated that he did not state before NHRC that the path was narrow and that he had told them that it was wide and they all moved in rows.¹⁰¹⁶

12.5.20D. Srikanth (CW-53) in his deposition before the Inquiry Commission stated that when they went into the agricultural fields, they went side by side and not one behind the other.

12.5.21Thus, each one has his own version regarding the manner in which the police party, accused and panchas traversed through the field and about the file formation. It might be useful to examine this aspect with reference to the sketches drawn by the police team in the presence of NHRC team. As stated in the above paras, during their examination by the NHRC team, each of them has been asked to draw a sketch of their respective positions at the scene. In all the sketches, the position of V. Surender (CW-44) is shown on the extreme left side in the first row. In fact, he being the head of the team is bound to be ahead of other members of the team. The statements also disclose that when Md. Arif pointed out the place where the material objects were hidden by them, V. Surender (CW-44) called the panchas to move forward. This version would indicate that V. Surender (CW-44) was in the front row. But during their examination before the Commission all of them would state that V. Surender

¹⁰¹²CW-47, Response to Q 115-116, p 1781, Vol VI, Depositions of Witnesses.

¹⁰¹³CW-47, Response to Q 117, p 1781, Vol VI, Depositions of Witnesses.

¹⁰¹⁴CW-48, Response to Q 72-76, pp 1825-1827, Vol VI, Deposition of Witnesses.

¹⁰¹⁵CW-48, Response to Q 123-135, pp 1839-1842, Vol VI, Deposition of Witnesses.

¹⁰¹⁶CW-51, Response to Q 102-106, p 2024-2025, Vol VI, Deposition of Witnesses.

(CW-44) was standing behind in the row in which the panchas were standing. This version is not only contrary to the positions pointed out in the sketches drawn by the witnesses in the presence of the NHRC team but also contrary to natural conduct.

12.5.22 From the above discussion it is seen that the time at which the whole team reached Chatanpally and the time of their entry into the place of the incident appears to be of some significance to the police. A lot of confusion is sought to be created over the timing. Same is the case in respect of file formation at the time of entry and also thereafter. Since ultimately the dead bodies were found at the place, the police and the accused would have traveled to the scene of incident either in bus TS 09 PB 4760 or any other vehicle/vehicles. Since in all likelihood they wanted to travel without being noticed by the general public, they would have started for Chatanpally during early hours and would have reached Chatanpally much before the daybreak, as stated by all the witnesses in their statements before NHRC team. As regards what transpired thereafter, needs to be assessed on examination of the relevant material brought before the Commission.

13. INCIDENTS AT 5TH BUND

13.1 Background

- 13.1.1 The circumstances to be looked at, for knowing what actually transpired at the 5th Bund would be – (i) the exact location of the incident; (ii) finding the articles of Disha and seizure of the same; (iii) time of the incident; (iv) the acts attributed to the deceased; (v) actions by the police; (vi) nature of command given for firing; (vii) actual incident of firing; and (viii) the nature of wounds suffered by the deceased.
- 13.1.2 The earliest document concerning the incident is the FIR in CR No. 803/2019, registered on the basis of the complaint given by V. Surender (CW-44) to Shadnagar Police Station. The complaint filed by CW-44, significantly does not allege the fact of the accused throwing soil into the eyes of police party. Also, there is no reference in the FIR that the incident occurred at the 5th bund. The description of the place of the incident as given in the FIR is “200 -300 mtrs towards East side Under Bridge on NH44 road, in the limits of Chatanpally village Farooqnagar”. The description as given in the handwritten complaint of CW-44 is “barren land situated in between 2nd and 3rd HT lines towards East side at a distance at around 300 to 400 meters at the underpass bridge”
- 13.1.3 The version of the police and the State later, before the Commission is that on 06.12.2019, at about 6.00 AM, the deceased persons led the police party to 5th level bund where they had hidden the material objects of the deceased woman. It is stated that on the instructions of V. Surender (CW-44), K. Narasimha Reddy (CW-45) dug the area and found some articles and at the moment the attention of the police staff and the panch witnesses was drawn towards that place, Md. Arif assaulted CW-45, K. Narasimha Reddy (CW-45) who was digging the pit in a bent position, and snatched his service pistol from his left side waist and hinted to the other accused to run by shouting “guys run”, hurled dust and earth into the eyes of police officers and panch witnesses. It is stated that the other accused also threw dust and earth into the eyes of policemen, Jollu Shiva beat Aravind Goud (CW-50) with a stick and Jollu Naveen beat Venkateshwarlu (CW-49) with a stone and that Chennakesavulu snatched the service pistol of Venkateshwarlu (CW-49). It is stated that while the policemen and panch witnesses were wiping dust from their eyes, the accused started running away and firing and CW-44 instructed his staff and panchas to lie down and warned the accused to surrender and not to fire, but the accused continued to fire and as the firing endangered the lives of police and panchas, CW-44 instructed Lal Madhar (CW-46)

to fire in the air as a caution warning and yet the accused continued to fire and in a bid to re-arrest the fleeing accused and to save the lives of police team and panchas, CW-44 directed Lal Madhar (CW-46), Mohd Sirajuddin (CW-47) and Kocherla Ravi (CW-48) to open counter firing towards the sound of firing from the accused without direct aim and accordingly, they opened counter firing to arrest the fleeing accused and after about five minutes, there was a lull from the side of the accused and all the four accused were found dead with bullet injuries.

- 13.1.4 There are twelve witnesses to the entire incident. They are the ten police officials examined as CW-44 to CW-53 and the two panch witnesses M. Rajashekhar (SW-4) and Abdul Rauf (CW-30). The ten police officers and the two panch witnesses have filed their affidavits before the Commission and they are also examined by the Investigating Officer. Their version is echoed in the Final Report, Ex. S-14, at least in respect of the broad contours.
- 13.1.5 Sri Samala Sathaiah and Sri Samala Venkataiaha, owners of the land in which the incident has occurred and Challa Panduranga Reddy, Katikala Srinivasulu @ Raju and Siddi Butchaiah, some of the neighbouring land owners have filed their affidavits before the Commission and they are also examined by the Investigating Officer in CR No. 803/2019. Their testimony at best explains the presence of the police officers and some civilians near the scene of incident and hearing of firing sound and it does not throw any light on the events that are alleged to have taken place at 5th bund.
- 13.1.6 Apart from the affidavits filed before the Commission and the statements recorded by J. Surender Reddy (SW-3), all the twelve of them have been examined by the Executive Magistrates during the course of inquest proceedings. The statements of K. Venkateshwarulu (CW-49) and Arvind Goud (CW-50) have been recorded by the Judicial Magistrate in the course of Magisterial Inquiry under Section 176(1A) of Cr.P.C. The statements of SW-4 and CW-30 have been recorded under Section 164 Cr.P.C. The investigative team of NHRC has recorded the statements of CW-44 to CW-48, CW-51 to CW-53, SW-4 and CW-30. Since there is no other witness to speak about the incident, the evidence of these 12 witnesses is to be examined with reference to their previous statements and the probabilities.

13.2 Whither Fifth Bund?

- 13.2.1 As mentioned earlier, there is no reference in Ex.S-2 that the incident occurred at 5th bund. For the first time, in the affidavits of SW-4, CW-30 and CW-44 to CW-53, it is stated that the incident took place at 5th bund.

13.2.2 CW-16, Mahesh Bhagwat, Head of Special Investigation Team stated that, on 11.12.2019 when the SIT visited the scene of incident, J. Surender Reddy (SW-3) informed them that the articles belonging to Disha were recovered from the 5th bund at the scene of occurrence and that the police party also fired from the 5th bund.¹⁰¹⁷ When CW-16 is asked to show either by the sketch prepared by SW-3, or from the statements of the police officers and the two independent witnesses, recorded under Section 161 Cr.P.C to the effect that the recoveries were made at the 5th bund and that there was a fixed spot therein, he stated that from the scene of crime panchanama, in the Case Diary in CR No. 803/2019, he came to know that the articles of Disha concealed in a plastic bag were recovered from a pit covered with a stone at the lower level side at the middle of the 5th level bund and that the bund was solid and a pit was dug up to conceal the articles of Disha kept in a plastic bag.¹⁰¹⁸ When he is asked to show from the recovery panchanama that the articles were recovered from the 5th bund, CW-16 stated that in the panchanama, the word "5th bund" is not written.¹⁰¹⁹ Then he was asked to show from the sketch at Ex.C-8, of the scene of occurrence, whether the spot of recovery of articles of Disha is marked, he states that it is not marked in the said rough sketch.¹⁰²⁰ A question then arose as to how the SIT concluded in its Final Report, Ex.S-14, that the recoveries of articles of Disha were effected from the lower side of middle portion of the 5th embankment. He answered that the investigating officer after recording the statements of the police witnesses and panch witnesses, has ascertained this fact.¹⁰²¹ When he is asked to state which police witness or panch witness in his statement u/s 161 Cr.P.C., recorded by the Investigating Officer of the SIT has stated that the articles of Disha were found at the 5th embankment, he stated that he was not able to find out the word "5th bund" in the statement of any of the witnesses and that only the word "bund" is there.¹⁰²² However, when it is suggested to him that the statement in the Final Report that the recoveries were effected at the 5th embankment is without basis, he denies the same and states that he does not agree and that the investigation officer has physically seen the levels and then only named it as 5th bund and that however, now the situation at the scene of crime is different and that at that particular point of time, the bund was 5th one from

¹⁰¹⁷CW-16, Response to Q 19, pp 697- 698, Vol III, Deposition of Witnesses.

¹⁰¹⁸CW-16, Response to Q 20, p 698, Vol III, Deposition of Witnesses.

¹⁰¹⁹CW-16, Response to Q 23, p 699, Vol III, Deposition of Witnesses.

¹⁰²⁰CW-16, Response to Q 24, p 699, Vol III, Deposition of Witnesses.

¹⁰²¹CW-16, Response to Q 25, p 699-700, Vol III, Deposition of Witnesses.

¹⁰²²CW-16, Response to Q 26, p 700, Vol III, Deposition of Witnesses.

the high tension pole, though it is not named as 5th bund in any of the statements of the witnesses.¹⁰²³ In that case, the investigating officer should have made some contemporaneous record of his inspection noting it as 5th bund. When asked whether the investigating officer has made his own statement recording his visit and referring to the place as 5th bund, CW-16 states that he is not able to find out.¹⁰²⁴

13.2.3 The place where the objects of Disha were allegedly found is not even marked as “pit” in the sketch, Ex. C-8. Since it is claimed that the place from where the articles of Disha were recovered is also the place from where the accused are said to have fled, and it is also the place where the police party are said to have positioned themselves at the time of firing, a clear marking of that point was quite essential. J. Surender Reddy (SW-3) states that the exact point where the police were positioned is not marked in the sketch.¹⁰²⁵ CW-31, Dr. Venkanna, Assistant Director, Telangana Forensic Science Laboratory, who is the head of the clues team, and who was said to be present at the time of observation of scene of the incident, initially claimed that the scene of the incident, including the place where the police had positioned themselves at the time of firing was cordoned off¹⁰²⁶ by using a tape “Crime scene. Do not cross.”¹⁰²⁷ Later he accepted that the place from where the police had fired upon the deceased was not included in the place preserved.¹⁰²⁸ The place from where the objects of Disha were allegedly seized, which is also the place from where the police party had opened fire, is not shown in the sketch and it was not cordoned off and not a single photo or video footage of that place is forthcoming. If really there was such a pit from where the objects of Disha were seized and if it was the place where such altercation such as throwing of soil and hurling of stones and causation of bleeding injuries had taken place, such place would have eloquently presented tell-tale signs of the incident and the same would have been cordoned off. It would also have been duly photographed. According to Ex.S-30, the mahajar prepared at the time of seizure of the articles of Disha, V. Surender (CW-44) was said to be present and yet CW-44 states that he does not know whether that spot was photographed or not.¹⁰²⁹ Absence of such record leads to serious doubts regarding the very genesis of the incident.

¹⁰²³CW-16, Response to Q 27, p 700, Vol III, Deposition of Witnesses.

¹⁰²⁴CW-16, Response to Q 19, p 700-701, Vol III, Deposition of Witnesses.

¹⁰²⁵SW-3, Response to Q 113, p 104, Vol I, Deposition of Witnesses.

¹⁰²⁶CW-31, Response to Q 27, p 1095, Vol I, Deposition of Witnesses.

¹⁰²⁷CW-31, Response to Q 28, p 1095, Vol I, Deposition of Witnesses.

¹⁰²⁸CW-31, Response to Q 31, p 1096, Vol I, Deposition of Witnesses.

¹⁰²⁹CW-44, Response to Q 376, p 1565, Vol V, Deposition of Witnesses

- 13.2.4 There is another serious discrepancy with regard to the alleged seizure of the articles of Disha from the said 5th bund. As per the Inquest reports, the scene observation mahajar and seizure had already been concluded by the time of inquest and the same was duly photographed and videographed. But there is one scene of observation mahajar at 3 PM and as per the said mahajar, the pit where the articles of Disha were concealed was covered with two big stones.¹⁰³⁰ As per the evidence of CW-44 to CW-53 and CW-30 and SW-3, the stones had already been removed and the polythene cover was visible by the time of the incident. At any rate, the said articles of Disha have not been seized at the time of the first panchanama, Ex.C-3. There is another mahajar, Ex. S-30, the panchanama conducted at 05.10 PM, where it is stated that they found a part of polythene cover and that on picking up the same, they found the cell phone, power bank, wristwatch and a wire.¹⁰³¹ Thus, the stones with which the pit was covered at 3 PM are not found at 5.10 PM. This discrepancy further throws doubt about any such incident at 5th bund.
- 13.2.5 The persons who took part in the recovery proceedings and who were at the scene for a considerable time and more particularly, the police officers who are used to scene observation and preparation of the sketch of the scene, should be able to draw a rough sketch of the scene at Chatanpally. But in this case, all of the witnesses CW-44, CW-45, CW-47 to CW-53 refused to draw a sketch during the inquiry and stated that they could only describe. CW-46 attempted to draw a sketch and gave up midway saying that he cannot draw any sketch and that he could only describe. The only description they gave is “lower side of the center of embankment” as recited in Ex.C-3.
- 13.2.6 V. Surender (CW-44) when asked to draw a sketch showing location of the place at which articles of Disha were found on the 5th bund, stated that he was not in a position to draw the sketch “*now*.”¹⁰³² On the next day, when he was asked whether he would draw a sketch, he said “*it is difficult*.” He stated that he has not seen the sketch drawn by J. Surender Reddy (SW-3).¹⁰³³ When his attention was drawn to the sketch Ex.C-8 drawn by J. Surender Reddy (SW-3) and when he was asked whether the said sketch represents the scene of incident, even without looking at the sketch, he stated “*I cannot say as it was prepared by the investigating officer*.”¹⁰³⁴ Thus, CW-44 was

¹⁰³⁰SW-3, Response to Q 93, p 100, Vol I, Deposition of Witnesses.

¹⁰³¹SW-3, Response to Q 94, p 100, Vol I, Deposition of Witnesses.

¹⁰³²CW-44, Response to Q 383, p 1567, Vol V, Deposition of Witnesses.

¹⁰³³CW-44, Response to Q 436, p 1584, Vol V, Deposition of Witnesses.

¹⁰³⁴CW-44, Response to Q 456, p 1588, Vol V, Deposition of Witnesses.

neither willing to draw a sketch of his own nor was he willing to make any comment regarding the sketch at Ex.C-8. This was clearly an act of non-co-operation. Similarly, when K. Narasimha Reddy (CW-45) was asked to mark on a copy of Ex.C-8 (the sketch drawn by the Investigating Officer), the spot from where articles of Disha were allegedly found, he pleaded inability to mark on the sketch and he only orally explained.¹⁰³⁵ When he is asked whether the place depicted by dot in Ex.C-8 is the spot, he states that he cannot say as there is no reference to “gattu” in the copy of Ex.C-8 given to him.¹⁰³⁶

13.2.7 K. Narasimha Reddy (CW-46) has stated in Ex.C-91 before the NHRC team that Md. Arif pointed to a heap/mound covered with stones and clay, stick as the place where the articles were hidden¹⁰³⁷. However in his deposition he denies having stated so.¹⁰³⁸ When CW-46 is asked whether the place where the articles were hidden was a pit or whether they were hidden on the ground and covered with mud etc, he says that he did not observe.¹⁰³⁹ When he is asked whether he can mark in the sketch the place where the articles of Disha were found, he says that he cannot mark, but he can say¹⁰⁴⁰ and that the map is confusing.¹⁰⁴¹ The Counsel for the state of Telangana requested that Ex.C-8 itself be shown instead of a copy of Ex.C-8 and accordingly Ex.C-8 was shown and yet he stated that the map is confusing.¹⁰⁴² When he is asked to draw a sketch of his own, he drew a sketch Ex.C-269 by marking 4th bund and 5th bund with a dot in the middle indicating 5th bund and again stated that he cannot draw the sketch of the place from where articles of Disha were found, with reference to topography and that he can only describe.¹⁰⁴³

13.2.8 There is one very serious discrepancy even with regard to the disclosure statement said to have been made by the accused which lead to the police party to the scene of incident. As per the confessional statements Ex. C-196 to Ex. C-199, the accused are said to have stated that they had hidden the phone, power bank and wrist watch ***“in the bushes at some distance from the place where the body was burnt.”*** But according to the contents of Ex. C-20 to Ex. C-23, the confessions recorded at safe

¹⁰³⁵CW-45, Response to Q 87, p 1642, Vol VI, Deposition of Witnesses.

¹⁰³⁶CW-45, Response to Q 88, p 1642, Vol VI, Deposition of Witnesses.

¹⁰³⁷Ex.C-91, pp 1115-1132, Vol IV, Commission Exhibits.

¹⁰³⁸CW-46, Response to Q 51, p 1711, Vol VI, Deposition of Witnesses.

¹⁰³⁹CW-46, Response to Q 49, p 1711, Vol VI, Deposition of Witnesses.

¹⁰⁴⁰CW-46, Response to Q 139, p 1733, Vol VI, Deposition of Witnesses.

¹⁰⁴¹CW-46, Response to Q 140, p 1733, Vol VI, Deposition of Witnesses.

¹⁰⁴²CW-46, Response to Q 140-141, p 1733, Vol VI, Deposition of Witnesses.

¹⁰⁴³CW-46, Response to Q 142, p p1733-1734, Vol VI, Deposition of Witnesses.

house, the accused are said to have stated that they had hidden the phone, power bank, connecting wire and wrist watch “*near a big electric pole on the eastern side at some distance from the place where the body was burnt.*” In this regard, the evidence of CW-38, CP, VC Sajjanar, is to be taken note of. CW-38 has stated in the press conference held on 06.12.2019 at the scene of occurrence itself, that articles of Disha were recovered from behind the bushes. When his attention is drawn to the discrepancy in the two confessions regarding the place where the articles are said to have been hidden¹⁰⁴⁴ he states that his statement in the press conference that the articles of Disha were recovered from behind the bushes is erroneous,¹⁰⁴⁵ and that he is not aware of the discrepancy in the two confessions.¹⁰⁴⁶ It is also relevant to note that K. Narasimha Reddy (CW-46), in his statement Ex. C-91 before the NHRC has stated that Md. Arif told V. Surender (CW-44) that items were hidden near high tension wire pole towards East of the place of burning body i.e., the underpass but not at underpass as he had confessed.¹⁰⁴⁷ When he is confronted with the same, he denies having stated so.¹⁰⁴⁸

13.2.9 Another pertinent aspect to be examined is whether the deceased suspects would have travelled up to the alleged spot of recovery at the 5th Bund on the intervening night of 27.11.2019 and 28.11.2019 to hide the articles of Disha. The Commission inspected the scene of incident. It is approximately 500 mts. from the service road of NH-44 in the middle of the fields. There is no light available in that area. Traversing that land in day time itself is difficult if one is not familiar with the lay of the land. Traversing it during night time without light or even with some form of light would be extremely difficult and time consuming. It is not believable that the deceased suspects who went there allegedly to dispose of the dead body of Disha, would have taken the time to move across the field to hide the articles of Disha. Moreover, there were several bushes bordering the service road where the articles could be hidden. Therefore, it is highly improbable that the deceased suspects could have travelled up to the 5th Bund, the alleged spot of recovery.

13.2.10 There is also no evidence to establish that the articles allegedly recovered belong to Disha, as SW-2, the sister of Disha has categorically stated before the Commission

¹⁰⁴⁴Ex.C-196 to Ex.C-199, pp 2200-2254, Vol VIII, Commission Exhibits and Ex.S-27, pp 271-300, Vol II, State Exhibits.

¹⁰⁴⁵CW-38, Response to Q 123, p 1322, Vol V, Deposition of Witnesses.

¹⁰⁴⁶CW-38, Response to Q 124, p 1322, Vol V, Deposition of Witnesses.

¹⁰⁴⁷Ex.C-91, pp 1115-1132, Vol IV, Commission Exhibits.

¹⁰⁴⁸CW-46, Response to Q 48, p 1710, Vol VI, Deposition of Witnesses.

that she was not summoned by the police after the incident on 06.12.2019.¹⁰⁴⁹ The record would show that till the time of examination of SW-2, the articles allegedly recovered were not shown to the family members of Disha for identification. The IO in CR No. 803 of 2019, SW-3 was asked as to who identified the alleged articles recovered as those belonging to Disha. SW-3 stated that he had verified with the sister of Disha on 07.12.2019 and that he had not recorded the statement of sister of Disha under Section 161 Cr.P.C. When he was confronted with the deposition of the sister of Disha and was asked whether he was aware that she had stated that she was not summoned by the police after 06.12.2019, he stated that he was not aware.¹⁰⁵⁰

13.2.11 SW-3 in his deposition further admitted that, the fingerprints of the deceased suspects were not found on the alleged articles of Disha and also stated that they were not sent for forensic examination. In fact, he admitted that the fingerprints of the deceased suspects are not found on any of the objects allegedly recovered from the scene of occurrence on 06.12.2019.¹⁰⁵¹

13.2.12 In view of the above discussion, it is difficult to accept that there was any recovery of articles of Disha at the scene of incident, more particularly, at the alleged 5th bund.

13.3 Question of Visibility

13.3.1 It is stated that the police team left safe house in the early hours of 06.12.2019. However, the claim that the journey took two-hour time and that they reached at about 5.45 AM does not appear to be plausible especially considering the previous statements recorded by NHRC team and also considering the actual journey time as noticed by the Commission during site visit. According to the witnesses they had carried Dragon lights and they continued to carry the lights even after alighting from the bus despite allegedly there being day-break by that time. They say that they continued to carry dragon lights throughout the time. In fact, it is stated that K. Narasimha Reddy (CW-45) continued to hold the Dragon light in his right hand when he attempted to take out the articles of Disha with his left hand. In this background it is apposite to examine the evidence of the witnesses with regard to visibility, reason for carrying of Dragon lights and use of Dragon lights.

13.3.2 There are inconsistent statements on how much light was there when the police party reached the 5th bund. In their statements under Section 161 Cr.P.C., V. Surender (CW-

¹⁰⁴⁹SW-2, Response to Q 10, p 43, Vol I, Deposition of Witnesses.

¹⁰⁵⁰SW-3, Response to Q 213-216, p 122, Vol I, Deposition of Witnesses.

¹⁰⁵¹SW-3, Response to Q 230, p 125, Vol I, Deposition of Witnesses.

44), M. Rajashekhar (SW-4) and Abdul Rauf (CW-30) have stated that Dragon lights were used to light their path during their movements across the fields and also while K. Narasimha Reddy (CW-45) was checking the place as pointed out by the accused. But CW-45 to CW0-53, in their statements under Section 161 Cr.P.C, have not stated that lights were used.

- 13.3.3 M. Rajashekhar (SW-4) in his statement under Section 164 Cr.P.C. has stated that K. Narasimha Reddy (CW-45) used torchlight to check the spot pointed out by the accused.¹⁰⁵² Abdul Rauf (CW-30) also states the same thing in his statement under Section 164 Cr.P.C.¹⁰⁵³
- 13.3.4 Shaik Lal Madhar (CW-46) in his statement before the NHRC has stated that they used torch lights during the search through the fields.¹⁰⁵⁴ D. Janakiram (CW-51), R. Balu Rathod (CW-52) and D. Srikanth (CW-53) in their statements before the NHRC stated that V. Surender (CW-44), K. Narsimha Reddy (CW-45) and K. Venkateshwarulu (CW-49) carried torch lights.¹⁰⁵⁵
- 13.3.5 However, K. Ravi (CW-48) in his statement before the NHRC claimed that at the time of the incident there was sufficient light.¹⁰⁵⁶ Abdul Rauf (CW-30) in his statement before the NHRC has stated that there was no lighting arrangement and dawn was breaking and there was sufficient light with visibility of 15 to 20 feet.¹⁰⁵⁷ K. Narsimha Reddy (CW-45) in his statement before NHRC stated that he was carrying a Dragon Light in his hand.¹⁰⁵⁸ Mohammed Sirajuddin (CW-47) in his statement before NHRC has stated that as dawn was just breaking and since there was fog, he could not see the faces of the accused clearly and that they had taken three torch lights with them.¹⁰⁵⁹
- 13.3.6 During the inquiry before the Commission, when asked whether police were carrying any torch lights, Abdul Rauf (CW-30) first stated that it might have been there and that he does not remember and again says that there was one torchlight and again says that he did not observe properly.¹⁰⁶⁰ However, all the other witnesses have stated that V. Surender (CW-44), K. Narsimha Reddy (CW-45) and K. Venkateshwarulu (CW-49) were carrying dragon lights. If their statements that there was clear visibility even

¹⁰⁵²P 598-607, Book No.12

¹⁰⁵³P 613-624, Book No.12

¹⁰⁵⁴Ex.C-91, pp 1115-1120, Vol IV, Commission Exhibits.

¹⁰⁵⁵Ex.C-104, Ex.C-92 and Ex.C-96, p 1251-1263, 1133-1153 and 1198-1208, Vol IV, Commission Exhibits.

¹⁰⁵⁶Ex.C-95, pp 1185-1197, Vol V, Commission Exhibits.

¹⁰⁵⁷Ex.C-97, pp 1211-1221, Vol V, Commission Exhibits.

¹⁰⁵⁸Ex.C-103, pp 1237-1250, Vol V, Commission Exhibits.

¹⁰⁵⁹Ex.C-119, pp 1332-1349, Vol V, Commission Exhibits.

¹⁰⁶⁰CW-30, Response to Q 27, pp 1044-1045, Vol IV, Deposition of Witnesses,

by the time they alighted from the bus at Chatanpally is to be accepted, there could not have been any necessity to carry torch lights. K. Narasimha Reddy (CW-45) has stated that there was no necessity for using the dragon lights¹⁰⁶¹ and yet he carried a dragon light with him¹⁰⁶² and others also were carrying the dragon lights when they entered the fields.¹⁰⁶³ CW-45 states that when he was digging for the material objects, the dragon light was in his right hand¹⁰⁶⁴.¹⁰⁶⁵ Lal Madhar (CW-46) states that the dragon lights were not used.¹⁰⁶⁶ But in Ex. C-91, his statement before NHRC team, he has stated that they searched first at the first bank focusing torch lights at open place.¹⁰⁶⁷ He has denied having stated so.¹⁰⁶⁸ When asked about the visibility at Chatanpally, CW-47 said that dawn was breaking by the time they reached Chatanpally and visibility was around 20ft, and by the time the briefing was completed,¹⁰⁶⁹ there was daylight and visibility had improved. Despite this, CW-44, K. Narasimha Reddy (CW-45) and Venkateswarlu (CW-49) continued to carry torchlights and that he could not have advised his superior officers.¹⁰⁷⁰ R. Balu Rathod (CW-52) states that at the time when CW-44 finished the briefing at Chatanpally, there was sufficient visibility and therefore the torchlights and dragon lights were not used¹⁰⁷¹ and when asked why dragon lights and torchlights were being carried when there was enough light, he also said that he could not tell anything to his superior officers.¹⁰⁷² D. Srikanth (CW-53) states that torches or dragon lights were not used as there was sufficient light¹⁰⁷³ and when asked whether he did not wonder why they were carrying torchlights when there was no necessity, CW-53 says that he does not know, and he stated that when they got down from the bus, they could see with clarity and that there was no darkness.¹⁰⁷⁴ He said he did not know why the torch lights were carried even after they alighted from the bus,¹⁰⁷⁵ and that K. Venkateswarlu (CW-49) and Narsimha Reddy (CW-45) were carrying dragon lights

¹⁰⁶¹CW-45, Response to Q 80, p 1640, Vol VI, Deposition of Witnesses.

¹⁰⁶²CW-45, Response to Q 81, p 1641, Vol VI, Deposition of Witnesses.

¹⁰⁶³CW-45, Response to Q 82, p 1641, Vol VI, Deposition of Witnesses.

¹⁰⁶⁴CW-45, Response to Q 98, p 1644, Vol VI, Deposition of Witnesses.

¹⁰⁶⁵CW-45, Response to Q 214, p 1676, Vol VI, Deposition of Witnesses.

¹⁰⁶⁶CW-46, Response to Q 89, p 1720, Vol VI, Deposition of Witnesses.

¹⁰⁶⁷Ex.C-91, pp 1115-1132, Vol IV, Commission Exhibits.

¹⁰⁶⁸CW-46, Response to Q 98, p 1721-1722, Vol VI, Deposition of Witnesses.

¹⁰⁶⁹CW-47, Response to Q 128, p 1785, Vol VI, Deposition of Witnesses.

¹⁰⁷⁰CW-47, Response to Q 130, p 1786, Vol VI, Deposition of Witnesses.

¹⁰⁷¹CW-52 Response to Q 119, p 2064, Vol VI, Deposition of Witnesses.

¹⁰⁷²CW-52 Response to Q 118, p 2064, Vol VI, Deposition of Witnesses.

¹⁰⁷³CW-53 Response to Q 80, p 2096, Vol VI, Deposition of Witnesses.

¹⁰⁷⁴CW-53 Response to Q 82, p 2096-2097, Vol VI, Deposition of Witnesses.

¹⁰⁷⁵CW-53 Response to Q 85, p 2097, Vol VI, Deposition of Witnesses.

in their hands at the time when their pistols were snatched.¹⁰⁷⁶ It would therefore appear that the evidence that the torch lights were being carried in spite of there being adequate light and that CW-45 continued to hold the torch light even when he was attempting to recover the articles of Disha, is highly unnatural and to say the least, it is absurd. The three dragon lights which were allegedly carried by the police officers have not been seized by the investigating officer.¹⁰⁷⁷ Such inconsistency is a hallmark of concocted testimonies.

13.4 Time of Incident

13.4.1 The time of incident also does not appear to be free from doubt. While the time of incident is said to be 6:10 AM as per the FIR, Ex.S-2¹⁰⁷⁸, in the inquest reports of all the four accused persons, Ex. S-20, it is recorded in Col. 3 that the witnesses mentioned in Col. 1 (which includes CW-44) had seen the dead bodies for the first time at 6.30 AM.¹⁰⁷⁹ In column 4 of the inquest reports, it is stated that the accused were last seen alive by the same witnesses before 6.30 AM. When CW-44 is asked about it, he states that he did not say so at the time of inquest.¹⁰⁸⁰ The inquest reports are some of the earliest documents and this discrepancy ought to have been explained by the concerned and no such effort has been made and consequently the version of the police party, investigating agency and the State that the accused died at about 6.13 AM cannot be accepted.

¹⁰⁷⁶CW-53 Response to Q 92, p 2098, Vol VI, Deposition of Witnesses.

¹⁰⁷⁷CW-17, Response to Q 57, p 746, Vol III, Deposition of Witnesses.

¹⁰⁷⁸Ex.S-2, p 17-27, Vol I, State Exhibits.

¹⁰⁷⁹Ex.S-20, pp 199-234, Vol I, State Exhibits.

¹⁰⁸⁰CW-44, Response to Q 420, p 1580, Vol V, Deposition of Witnesses.

14. ALLEGED ATTACK ON POLICE PARTY AND ATTEMPT TO ESCAPE

14.1 Throwing of soil to incapacitate the police party

14.1.1 That such an incident could have happened is somewhat strange considering the large number of the armed police men being present. The Hon'ble Supreme Court while passing the order dated 12.12.2019, having observed the *peculiarities of the case*, considered it necessary to know the truth relating to the incident.

14.1.2 The throwing of dust and earth into the eyes of the police party is said to be the genesis of the fatal incident. It is claimed that only on account of the throwing of dust and earth into the eyes of the police party, the accused could escape from the custody of the police and assault the policemen and snatch pistols and finally opened fire at the police party. Such an important aspect is not adverted to in the FIR, Ex. S-2. The first informant is none other than V. Surender (CW-44). In the printed form of the FIR, the details of the incident stated are very short and cryptic. Even the statement of CW-44 accompanying the FIR i.e., the complaint lacks the material details of the incident of the encounter. Surprisingly, it states several details of the facts relating to the offence committed in CR No. 784/2019. The attention of CW-44 was drawn to the absence of the fact of throwing dust and earth in the eyes of the police party, amongst several other missing facts, and asked whether he considered this fact as material while giving the complaint. CW-44, instead of answering the question, started shuffling through papers in his hands. Considering his conduct, the Commission was constrained to record his demeanour in the evidence in following words:

“the witness has taken an unusually long time in answering the question. He was going through some papers. Therefore, it had to be pointed out to him that the question is about his opinion of the importance of the fact which cannot be found in any file or papers”.

14.1.3 Thereafter, CW-44 answered that at the relevant time, he was unable to recollect because of his emotional state. He however added that, he noted it in his case diary written on the next day, and his affidavit filed before this Commission is based on that.¹⁰⁸¹ This claim however, is difficult to accept because these facts are missing from his statement recorded by NHRC team also. In fact, none of the members of the police party examined by NHRC and the two panchas, state before NHRC team about throwing of dust and earth in their eyes. The statements of two of the police officers, CW-49 and CW-50 were recorded by the Judicial Magistrate (CW-10), and even in those statements the fact of throwing of dust and earth is not mentioned. It may be

¹⁰⁸¹CW-44, Response to Q 331, p 1552, Vol V, Deposition of Witnesses.

noted that the statements of two panchas, M. Rajashekhar (SW-4) and Abdul Rauf (CW-30) are recorded by a Judicial Magistrate u/s 164 Cr.P.C. on 04.01.2020. Even in their statements u/s 164 Cr.P.C. as well as in their statements recorded by J. Surender Reddy (SW-3) u/s 161 Cr.P.C.¹⁰⁸², they do not refer to any such incident. When SW-3 who was examined in the initial stages of the inquiry, was confronted with such omissions, he stated that he had forgotten to state so before the Magistrate¹⁰⁸³ and that J. Surender Reddy (SW-3) did not record it though he stated to him.¹⁰⁸⁴ SW-3 also admits that he did not mention about it in Ex. C-19, his statement before the NHRC.¹⁰⁸⁵ However, when Abdul Rauf (CW-30), who was examined much later by the Commission, is confronted with the omissions, he claimed to have made the statement but not recorded by SW-3.¹⁰⁸⁶ He claimed to have stated before NHRC team also and he did not know whether they recorded it or not.¹⁰⁸⁷ As regards the omission in his statement u/s 164 Cr.P.C., he makes a wild allegation that he had stated so before the Magistrate, but the Magistrate did not record the same and had admonished him to sign the statement and he signed out of fear.¹⁰⁸⁸ Such allegations in respect of a judicial function, cannot be countenanced, particularly when the allegation is not found even in the statement recorded by SW-3. He admits that such an allegation is not stated in his affidavit.¹⁰⁸⁹ The other two documents are the statements of CW-49 & CW-50 recorded by the Judicial Magistrate (CW 10) in CARE hospital on 07.12.2019 and they are marked as Ex. C-58.¹⁰⁹⁰ Even in these statements, CW-49 & CW-50 do not say that the accused threw dust and earth into the eyes of police party. Of course, CW-49 & CW-50 make similar allegations that the Magistrate did not record the statements in their presence and that their signatures were taken by a police officer subsequently. They do not state so in their affidavits which are admittedly drafted by their counsel. Their counsel does not make any such suggestions to the Magistrate while the Magistrate was in the witness box. Hence it is evident that there is no basis for the allegations made by CW-30, CW-49 and CW-50.

¹⁰⁸²P 122-127, Book No. 12 and P 132-137, Book No. 12.

¹⁰⁸³SW-4, Response to Q 31, p 235, Vol I, Deposition of Witnesses.

¹⁰⁸⁴SW-4, Response to Q 32, p. 235, Vol I, Deposition of Witnesses.

¹⁰⁸⁵SW-4, Response to Q 33, p 235, Vol I, Deposition of Witnesses.

¹⁰⁸⁶CW-30, Response to Q 60, p 1051, Vol IV, Deposition of Witnesses.

¹⁰⁸⁷CW-30, Response to Q 64, p 1051-1052, Vol IV, Deposition of Witnesses.

¹⁰⁸⁸CW-30, Response to Q 55, p 1050, Vol IV, Deposition of Witnesses.

¹⁰⁸⁹CW-30, Response to Q 56, p 1050, Vol IV, Deposition of Witnesses.

¹⁰⁹⁰Ex.C-58, pp 907-973, Vol IV, Commission Exhibits.

- 14.1.4 Thus, in all the documents such as FIR, statements recorded during inquest, statements of the panchas recorded under section 164 Cr.P.C. and the statements recorded by Magistrate at CARE hospital and the statements recorded by NHRC, and even the statements of the panchas, SW-4 and CW-30, recorded by SW-3, there is no reference to any such throwing of dust and earth into the eyes of police party.
- 14.1.5 The allegation is made for the first time in the statements of CW-44 to CW-53 recorded by SW-3 and the said statements do not appear to have been produced before any authority before their production before the Commission. Since such a material particular is introduced so belatedly, the evidence in this regard is to be subjected to stricter scrutiny.
- 14.1.6 When the witnesses are questioned with regard to the details of the alleged throwing of mud and earth into the eyes of police party, they have tried to avoid answering the question either by stating that they did not observe or by stating that they do not know.
- 14.1.7 In their depositions when questioned about the specifics of the incident the witnesses gave varied and contradictory answers. CW-30 stated that Md. Arif scooped soil from the ground and threw it¹⁰⁹¹ He stated that Arif picked and threw soil only once with both hands and it fell in the eyes of the two panch witnesses and all the policemen and then he corrected it saying that the soil fell in the eyes of the persons nearby.¹⁰⁹²Ex. C-11 photograph was confronted to the witness and he admitted that the soil and stones are not visible in the photograph.¹⁰⁹³
- 14.1.8 V. Surender (CW-44) in his evidence before the Commission stated that he cannot say how many times Md. Arif threw soil, soil had gotten into his eyes¹⁰⁹⁴ and he could not also say in what position Md. Arif was when he was throwing soil claiming that since soil fell into his eyes he could not see.¹⁰⁹⁵ When asked whether the soil thrown by Md. Arif on the first occasion fell into the eyes of all the policemen, CW-44 states that the soil fell into his eyes and that he cannot say whether it was the first time he threw soil or the second time and that Md. Arif kept on throwing soil.¹⁰⁹⁶ When asked whether Md. Arif was throwing soil by picking up soil every time by bending down or did he

¹⁰⁹¹CW-30, Response to Q 49, p 1049, Vol IV, Deposition of Witnesses.

¹⁰⁹²CW-30, Response to Q 71-73, p 1053, Vol IV, Deposition of Witnesses.

¹⁰⁹³CW-30, Response to Q 93-95, p 1056, Vol IV, Deposition of Witnesses.

¹⁰⁹⁴CW-44, Response to Q 385, p 1568, Vol V, Deposition of Witnesses.

¹⁰⁹⁵CW-44, Response to Q 389-391, p 1568-1569, Vol V, Deposition of Witnesses.

¹⁰⁹⁶CW-44, Response to Q 389, p 1568-1569, Vol V, Deposition of Witnesses.

take the soil repeatedly while he was in a bent position, CW-44 stated that once soil fell into his eyes, he could not see what position he was throwing the soil.¹⁰⁹⁷ He had warned the other police officials that the accused were escaping.¹⁰⁹⁸ CW-44 states that while Md. Arif was throwing soil into their eyes, the other suspect were on the top of the 5th bund and again says that he does not remember.¹⁰⁹⁹ In answer to a question whether D. Janakiram did not catch Md .Arif when Md. Arif picked up soil, CW-44 says that he cannot say and that D. Janakiram has to answer.¹¹⁰⁰ Had any such incident in fact occurred, CW-44 would not have replied in such a manner. When CW-44 is questioned further he makes the following statement;

“Q 393: Since you said that soil was thrown in the eyes of all of you, what could be the purpose of your cautioning?”

Ans: Soil falling into the eyes was only an impediment for a minute and it was not of such severity as to prevent us from doing our jobs. We tried to clear our eyes by wiping them.”

14.1.9 K. Narasimha Reddy (CW-45) also deposes that Md. Arif threw soil in his eyes.¹¹⁰¹ CW-45 states that it was not necessary for Md. Arif to bend while he picked up soil¹¹⁰² and again says that soil was picked up from the ground.¹¹⁰³ CW-45 states that Md. Arif threw soil in the eyes of D. Janakiram first and then pushed him immediately.¹¹⁰⁴ Once he states that he saw Md. Arif throwing mud in the eyes of Janakiram and himself only¹¹⁰⁵ and again states that he saw mud falling into the eyes of Arvind Goud and Venkateshwarlu,¹¹⁰⁶ and that he saw Shiva throwing mud in the eyes of Arvind Goud.¹¹⁰⁷ CW-45 stated that after throwing soil into his eyes Md. Arif snatched the pistol and pouch.¹¹⁰⁸ In his affidavit CW-45 stated that after throwing soil, Md. Arif snatched the pistol, but in his deposition he stated that after snatching pistol Md. Arif threw soil.¹¹⁰⁹ CW-45 further says that Md. Arif threw soil before and after snatching the pistol and picked up soil more than once.¹¹¹⁰ When asked how he could observe mud falling into the eyes of Aravind Goud and Venkateshwarlu, CW-45 states that he

¹⁰⁹⁷CW-44, Response to Q 390, p 1569, Vol V, Deposition of Witnesses.

¹⁰⁹⁸CW-44, Response to Q 392, p 1569, Vol V, Deposition of Witnesses.

¹⁰⁹⁹CW-44, Response to Q 384, p 1567, Vol V, Deposition of Witnesses.

¹¹⁰⁰CW-44, Response to Q 387, p 1568, Vol V, Deposition of Witnesses.

¹¹⁰¹CW-45, Response to Q 114-116, p 1647, Vol VI, Deposition of Witnesses.

¹¹⁰²CW-45, Response to Q 117, p 1648, Vol VI, Deposition of Witnesses.

¹¹⁰³CW-45, Response to Q 225, p 1681, Vol VI, Deposition of Witnesses.

¹¹⁰⁴CW-45, Response to Q 110, p 1646, Vol VI, Deposition of Witnesses.

¹¹⁰⁵CW-45, Response to Q 117, p 1648, Vol VI, Deposition of Witnesses.

¹¹⁰⁶CW-45, Response to Q 132, p 1651, Vol VI, Deposition of Witnesses.

¹¹⁰⁷CW-45, Response to Q 135, p 1651, Vol VI, Deposition of Witnesses.

¹¹⁰⁸CW-45, Response to Q 119, p 1645, Vol VI, Deposition of Witnesses.

¹¹⁰⁹CW-45, Response to Q 215-220, p 1676-1678, Vol VI, Deposition of Witnesses.

¹¹¹⁰CW-45, Response to Q 223-226, p 1680-1681, Vol VI, Deposition of Witnesses.

had wiped his eyes by then.¹¹¹¹ So even if there was any such throwing of soil into the eyes of police party, it could not have disabled them from preventing the escape of the accused.

14.1.10 CW-45 stated that after throwing soil into his eyes Arif snatched the pistol and pouch.¹¹¹² In his affidavit CW-45 stated that after throwing soil, Arif snatched the pistol, but in his deposition he stated that after snatching pistol Arif threw soil.¹¹¹³ CW-45 further says that Arif threw soil before and after snatching the pistol and picked up soil more than once.¹¹¹⁴ Shaik Lal Madhar (CW-46) has stated that when soil was thrown into the eyes of Janakiram and CW-45, the dust fell into his eyes.¹¹¹⁵ According to CW-46, the distance between the row in which the accused and the supervisors were standing was 2 feet and N. Prakash Reddy (CW-18) and panchas were again at a distance of 2 feet and he and the other armed men were again at a distance of 3 feet.¹¹¹⁶ Thus, CW-46 would be at a distance of 7 feet behind from the place where Md. Arif was there. It is highly improbable that the soil thrown by Md. Arif would fall into the eyes of CW-46. Hence, he appears to have said dust. CW-46 in his deposition stated that he did not observe whether soil was thrown by Md. Arif into the eyes of all the persons present there at the same time, but he saw him pushing Janakiram first and throwing soil in the eyes of Janakiram.¹¹¹⁷ He also deposed that soil fell in his eyes when soil was thrown in the eyes of CW-45 and CW-51.¹¹¹⁸ CW-46 states that after throwing soil into the eyes of CW-51 and after pushing him aside, Md. Arif threw soil in the eyes of CW-45, pushed him and snatched his weapon and then, shouting "Arey Vurakandira" ran away.¹¹¹⁹ This is in contradiction to the statement of CW-45, who deposed that Md. Arif continued to throw soil after snatching his pistol.¹¹²⁰ Further, the reaction of CW-46 to the incident is completely unnatural. He says he was briefed to look for threat from general public.¹¹²¹ But his response when asked why he did not intervene when he saw Arif attacking the police is extracted below:

¹¹¹¹CW-45, Response to Q 133-134, p 1651, Vol VI, Deposition of Witnesses.

¹¹¹²CW-45, Response to Q 119, p 1645, Vol VI, Deposition of Witnesses.

¹¹¹³CW-45, Response to Q 215-220, p 1675-1678, Vol VI, Deposition of Witnesses.

¹¹¹⁴CW-45, Response to Q 223-226, p 1680-1681, Vol VI, Deposition of Witnesses.

¹¹¹⁵CW-46, Response to Q 59, p 1713, Vol VI, Deposition of Witnesses.

¹¹¹⁶CW-46, Response to Q 40, p 1708-1709, Vol VI, Deposition of Witnesses.

¹¹¹⁷CW-46, Response to Q 56, p 1712, Vol VI, Deposition of Witnesses.

¹¹¹⁸CW-46, Response to Q 58-59, p 1713, Vol VI, Deposition of Witnesses.

¹¹¹⁹CW-46, Response to Q 60, p 1713, Vol VI, Deposition of Witnesses.

¹¹²⁰CW-45, Response to Q 223-226, p 1680-1681, Vol VI, Deposition of Witnesses.

¹¹²¹CW-46, Response to Q 61, p 1713-1714, Vol VI, Deposition of Witnesses.

“76 Q. You were at a distance of about 8 to 10 feet from the place of recovery. According to your statement, even if any soil had fallen in your eyes, it must have been negligible. Did you make any attempt to rush towards A 1 to try to catch him?”

*Ans. When Sri Narsimha Reddy said that the articles were present, I drew near to that place. When he threw soil in our eyes and started shouting, because of my briefing that there was threat from public, I was wiping my eyes and looking around for the threat.”*¹¹²²

14.1.11 Mohammed Sirajuddin (CW-47) deposed that Chennakesavulu first threw soil at Venkateswarlu and then snatched his pistol.¹¹²³ CW-47 further says that he saw Naveen assaulting Venkateswarlu (CW-49) but did not intervene as he was briefed to look for threat from the public¹¹²⁴ and that he could not intervene as dust fell in his eyes.¹¹²⁵ CW-47 states that the entire incident started as the accused threw soil in the eyes of the police.¹¹²⁶ CW-47 first says dust fell into his eyes and then says soil fell into his eyes and then first Md. Arif and then all the accused stood on the fifth bund and started throwing soil at the police party¹¹²⁷ and that as he was at a distance of 10 feet from the bund only dust fell into his eyes.¹¹²⁸ CW-47 states in his deposition that the soil was thrown into the eyes of the entire police party and dust fell in his eyes because of that. CW-47 deposed that only dust fell into his eyes and by the time he wiped his eyes, he saw stone hitting Venkateswarlu.¹¹²⁹ CW-47 has differentiated lumps of soil as “soil” and the particles floating in the air when soil is thrown as “dust”.¹¹³⁰ CW-47 stated that Md. Arif picked up soil from the bund.¹¹³¹ When asked whether Md. Arif ran away as soon as he snatched the weapon or he stayed near 5th bund even after snatching the weapon, V. Surender (CW-44) states that Md. Arif snatched the weapon and ran away.¹¹³² CW-47 also states that Md. Arif threw soil in the eyes and snatched the weapon and ran away immediately after snatching the weapon.¹¹³³ Again, when CW-47 was asked who all threw soil from the top of the 5th Bund, CW-47 states that Md. Arif was one of the persons who threw soil from the top

¹¹²²CW-46, Response to Q 76, p 1717, Vol VI, Deposition of Witnesses.

¹¹²³CW-47, Response to Q 36, p 1762, Vol VI, Deposition of Witnesses.

¹¹²⁴CW-47, Response to Q 42, p 1763, Vol VI, Deposition of Witnesses.

¹¹²⁵CW-47, Response to Q 43, p 1763, Vol VI, Deposition of Witnesses.

¹¹²⁶CW-47, Response to Q 78, p 1773, Vol VI, Deposition of Witnesses.

¹¹²⁷CW-47, Response to Q 52, p 1765, Vol VI, Deposition of Witnesses.

¹¹²⁸CW-47, Response to Q 51-52, p 1765, Vol VI, Deposition of Witnesses.

¹¹²⁹CW-47, Response to Q 44-48, p 1763-1764, Vol VI, Deposition of Witnesses.

¹¹³⁰CW-47, Response to Q 49, p 1765, Vol VI, Deposition of Witnesses.

¹¹³¹CW-47, Response to Q 60, p 1769, Vol VI, Deposition of Witnesses.

¹¹³²CW-44, Response to Q 399, p 1567, Vol V, Deposition of Witnesses.

¹¹³³CW-47, Response to Q 61, p 1769, Vol VI, Deposition of Witnesses.

of the 5th bund.¹¹³⁴ Thus, on the one hand CW-47 says that Arif ran away immediately after snatching the weapon and again says that after climbing the top of 5th bund, he stood along with other accused and threw soil. CW-47 states that when Md. Arif threw soil in the eyes of Janakiram, Janakiram shouted¹¹³⁵ loudly and the same was audible to everyone.¹¹³⁶ When asked whether the handlers of Jollu Shiva, Jollu Naveen and C. Chennakeshavulu made any attempt to prevent their escape, CW-47 states that the concentration of all of them was towards the objects being recovered,¹¹³⁷ and again admits that the recovery of material objects in a criminal case is nothing strange in his career.¹¹³⁸ CW-47 states that Md. Arif was throwing soil with his right hand even while Janakiram was holding his left hand¹¹³⁹ and that even while Janakiram held the left hand of Md. Arif, yet Arif bent down to pick up soil.¹¹⁴⁰

14.1.12K. Venkateshwarulu (CW-49) states that Md. Arif and others were throwing soil from the 5th bund.¹¹⁴¹ The evidence of some of the witnesses is that Arif had run away immediately after snatching the weapon of Narasimha Reddy and thus the statement that Arif continued to throw soil from the top of the 5th bund is contradictory to the other evidence on record. In fact, CW-49 also says that he saw firing coming from the top of the 5th bund and that he did not see who was firing.¹¹⁴² This statement would mean that Arif started firing from the top of the 5th bund. CW-49 states that soil and dust fell into his eyes from the side of Arif. According to the file formation, Arif was said to be on the extreme left side and CW-49 was said to be on the extreme right side and therefore the evidence that the soil fell into the eyes of CW-49 from the side of Arif cannot be accepted.

14.1.13When CW-49 was confronted with the statement before the Magistrate CW-10 and asked why he did not state about the soil being thrown, the witness did not give any answer and evaded the question.¹¹⁴³

14.1.14Aravind Goud (CW-50) claimed that he had stated before J. Surender Reddy (SW-3) and the Magistrate (CW-10) that soil was thrown into his eyes.¹¹⁴⁴ CW-50 deposed

¹¹³⁴CW-47, Response to Q 67, p 1771, Vol VI, Deposition of Witnesses.

¹¹³⁵CW-47, Response to Q 62, p 1769, Vol VI, Deposition of Witnesses.

¹¹³⁶CW-47, Response to Q 63, p 1770, Vol VI, Deposition of Witnesses.

¹¹³⁷CW-47, Response to Q 64, p 1770, Vol VI, Deposition of Witnesses.

¹¹³⁸CW-47, Response to Q 65, p 1770, Vol VI, Deposition of Witnesses.

¹¹³⁹CW-47, Response to Q 71, p 1772, Vol VI, Deposition of Witnesses.

¹¹⁴⁰CW-47, Response to Q 75, p 1772, Vol VI, Deposition of Witnesses.

¹¹⁴¹CW-49, Response to Q 28, p 1879, Vol VI, Deposition of Witnesses.

¹¹⁴²CW-49, Response to Q 34, p 1880, Vol VI, Deposition of Witnesses,

¹¹⁴³CW-49, Response to Q 92-93, p 1893-1896, Vol VI, Deposition of Witnesses.

that he cannot say whether the incident started with the soil being thrown into the eyes of the police by the accused, but soil fell into his eyes.¹¹⁴⁵ CW-50 states that he was beside CW-45 when Md. Arif threw soil in the eyes of D. Janakiram (CW-51), but he cannot say whether soil fell in the eyes of all the other persons in the same line or in the second and third row¹¹⁴⁶ and that some of the soil fell in his eyes and when he was wiping the same. CW-50 states that Jollu Shiva picked up soil from the 5th bund¹¹⁴⁷ and that Jollu Shiva picked up soil with his right hand even while he (CW-50) was holding his left hand¹¹⁴⁸ and threw soil in his eyes. When CW-50 is asked how was it possible for A2 to move and pick up the soil, CW-50 states that some soil thrown by Arif fell into his eyes and that Jollu Shiva also threw soil into his eyes.¹¹⁴⁹

14.1.15 Dharmakar Jankiram (CW-51) deposed that Md. Arif picked up soil and when he went to catch him, Arif pushed him away and then Arif first threw soil in his eyes and then in the eyes of K. Narasimha Reddy (CW-45) and then the rest of the police party.¹¹⁵⁰ When it was pointed out to CW-51 that according to his affidavit, Md. Arif first pushed CW-51 and then threw soil, he answered that he had told his advocate and his advocate said that the order of events does not matter.¹¹⁵¹ R. Balu Rathod (CW-52) states that Arif picked up soil even while Janakiram was holding Arif¹¹⁵² and that he picked up soil from the top of the fifth bund¹¹⁵³ and when asked whether Janakiram tried to prevent Arif from picking up soil¹¹⁵⁴, he says that he does not remember and when he is asked whether V. Surender (CW-44) who was behind Arif tried to catch Arif¹¹⁵⁵, he says that he does not remember and when he is asked whether the soil thrown by Arif fell into the eyes of the persons standing in the 2nd and 3rd rows also, he says that he does not know¹¹⁵⁶ and that he does not know whether the soil thrown by Arif fell into the eyes of the persons who were on his right.¹¹⁵⁷ He states that the accused picked up soil even while they were being held by their handlers and that the

¹¹⁴⁴CW-50, Response to Q 62-69, p 1963-1965, Vol VI, Deposition of Witnesses.

¹¹⁴⁵CW-50, Response to Q 68, p 1964, Vol VI, Deposition of Witnesses.

¹¹⁴⁶CW-50, Response to Q 83, p 1968, Vol VI, Deposition of Witnesses.

¹¹⁴⁷CW-50, Response to Q 75, p 1966, Vol VI, Deposition of Witnesses.

¹¹⁴⁸CW-50, Response to Q 76, p 1966, Vol VI, Deposition of Witnesses.

¹¹⁴⁹CW-50, Response to Q 80, p 1968, Vol VI, Deposition of Witnesses.

¹¹⁵⁰CW-51, Response to Q 49, p 2008, Vol VI, Deposition of Witnesses.

¹¹⁵¹CW-51, Response to Q 50, p 2008, Vol VI, Deposition of Witnesses.

¹¹⁵²CW-52, Response to Q 58, p 2050, Vol VI, Deposition of Witnesses.

¹¹⁵³CW-52, Response to Q 59, p 2050, Vol VI, Deposition of Witnesses.

¹¹⁵⁴CW-52, Response to Q 60, p 2050, Vol VI, Deposition of Witnesses.

¹¹⁵⁵CW-52, Response to Q 62, p 2050, Vol VI, Deposition of Witnesses.

¹¹⁵⁶CW-52, Response to Q 63, p 2050, Vol VI, Deposition of Witnesses.

¹¹⁵⁷CW-52, Response to Q 64, p 2051, Vol VI, Deposition of Witnesses.

accused pushed their handlers and ran away and then climbed on the top of the 5th bund and threw stones, soil and clods.¹¹⁵⁸ Again R. Balu Rathod (CW-52) says that the accused ran away immediately after pushing the handlers.¹¹⁵⁹ When he is asked whether the CW-44, K. Venkateswarlu (CW-49) and 3 members of the weapon party took any steps to catch the accused who were getting released from the hands of their handlers, he says that he had soil in his eyes and therefore he did not observe.¹¹⁶⁰ Balu Rathod (CW-52) deposed that he saw Arif and Jollu Naveen throwing soil and Naveen threw soil in his eyes¹¹⁶¹ and Arif threw soil to his left and first into the eyes of D. Janakiram (CW-51),¹¹⁶² but he does not know whether CW-51 tried to prevent Arif from picking up the soil, whether CW-44 made any attempt to stop Arif, whether the soil thrown by Arif fell into the eyes of the persons in second and third rows.¹¹⁶³ CW-52 states that all the accused picked up soil while being held by their handlers and pushed them and ran away and they climbed on top of the 5th bund and threw stones and soil and clods.¹¹⁶⁴ The conduct of CW-52 is also unnatural as he states that even when he saw Arif throwing soil, he continued to hold tightly to the left hand of Jollu Shiva instead of immobilising Jollu Shiva by holding both his hands.¹¹⁶⁵

14.1.16 Devarshetty Srikanth (CW-53) when confronted with photographs which showed that the entire scene was covered with thick grass, he initially stated that the bund was made of soil¹¹⁶⁶ and that the bund was not covered with green grass¹¹⁶⁷ and that none of the bunds including the 5th bund were covered with grass and that all of them were constructed with soil.¹¹⁶⁸ Then CW-53 was confronted with certain photographs and after ascertaining that he had seen the photographs, he was asked whether the photos cover the spot where the encounter took place, and he wanted to see the photos once again and after seeing the photos once again, he states that there is grass on all the bunds and he further adds that there was soil on the bunds on that day.¹¹⁶⁹

¹¹⁵⁸CW-52, Response to Q 70, p 2052, Vol VI, Deposition of Witnesses.

¹¹⁵⁹CW-52, Response to Q 76, p 2053, Vol VI, Deposition of Witnesses.

¹¹⁶⁰CW-52, Response to Q 71, p 2052, Vol VI, Deposition of Witnesses.

¹¹⁶¹CW-52, Response to Q 47-50, p 2046-2047, Vol VI, Deposition of Witnesses.

¹¹⁶²CW-52, Response to Q 55-56, Deposition of Witnesses.

¹¹⁶³CW-52, Response to Q 60-64, p 2050-2051, Vol VI, Deposition of Witnesses.

¹¹⁶⁴CW-52, Response to Q 70, p 2052, Vol VI, Deposition of Witnesses.

¹¹⁶⁵CW-52, Response to Q 67, p 2051, Vol VI, Deposition of Witnesses.

¹¹⁶⁶CW-53, Response to Q 100, p 2100, Vol VI, Deposition of Witnesses.

¹¹⁶⁷CW-53, Response to Q 101, p 2100, Vol VI, Deposition of Witnesses.

¹¹⁶⁸CW-53, Response to Q 102, p 2100-2101, Vol VI, Deposition of Witnesses.

¹¹⁶⁹CW-53, Response to Q 103-105, p 2100-2102, Vol VI, Deposition of Witnesses.

14.1.17 It is to be noted that the photographs show that there was dense vegetation at the place the witnesses say the incident happened. Even conceding that the accused were able to pick up soil in the first instance, they could not have picked up and thrown enough soil to raise dust that would incapacitate a person ten feet away.¹¹⁷⁰

14.1.18 The Inquiry Commission collected a great number of contemporaneous photographs and videos of the Scene of Incident from the police and the Media. All the photographs and videos show that the scene of incident was a fallow land covered with lush vegetation and picking up soil from the ground is well-nigh impossible. A handful may be collected with some effort, but nowhere enough to throw in the eyes of twelve persons so as to incapacitate them and attack them. Further it is to be noted that the leader of the police party CW-44 deposed that the soil falling in their eyes was not sufficient to incapacitate them.¹¹⁷¹ If at all any such throwing of dust and earth into the eyes of police party had incapacitated the police party in preventing the escape of the accused, such throwing of dust and earth should have also incapacitated the accused and dust and earth would have fallen into their eyes also since they were by the side of the policemen at least when Arif started the throwing of mud and earth initially. When CW-53 is asked whether dust soil did not fall into the eyes of accused, he states that he do not know.¹¹⁷²

14.1.19 On account of the fact that the allegation of throwing of dust and earth is introduced belatedly and considering the improbabilities in the version, it is to be held that this allegation is an embellishment and introduced only to give a plausible explanation that the accused could escape from the custody of such a large contingent of armed police party. When any such mischievous attempt is initiated by one of the accused, the entire police party would get alerted and would thwart all such attempts. Such helplessness could not have been expected even from a layman until at least the weapons are snatched. Hence it would be necessary to examine the veracity of the claim that the accused snatched the weapons of the policemen.

14.2 Assault on Police Officers

14.2.1 V. Surender (CW-44), the leader of the team does not even say that he witnessed the assault on the other officers and he states that he heard K. Venkateshwarlu shouting that he was injured by a stone and Arvind Goud shouting that he was injured by a

¹¹⁷⁰CW-47, Response to Q 51, p 1765, Vol VI, Deposition of Witnesses.

¹¹⁷¹CW-44, Response to Q 393, p 1570, Vol V, Deposition of Witnesses.

¹¹⁷²CW-53, Response to Q 97, Vol VI, Deposition of Witnesses.

stick and that all the accused attacked together and he cannot say who attacked with what weapon.¹¹⁷³

14.2.2 M. Rajashekhar (SW-4), one of the panchas, has stated before NHRC team that when Arif started running, he was not carrying any stone, stick or weapon in his hand, but in his deposition he denies having stated so.¹¹⁷⁴ SW-4 also denies having stated before NHRC team that he did not see any accused person attacking police personnel.¹¹⁷⁵ SW-4 has not spoken of any threats or pressure by NHRC team. SW-4 states that a translator was present when his statement was recorded.¹¹⁷⁶ SW-4 also states that at the time of incident, he did not know that two police people were injured and that he learnt about it afterwards.¹¹⁷⁷ To a subsequent question, he states that after the incident of firing was over, he saw two persons lying down.¹¹⁷⁸

14.2.3 Abdul Rauf (CW-30), the other panch witness, when asked as to who beat the police persons, states that while he was wiping his eyes, he could hear shouts from the other police persons and that one man was standing on the 5th embankment and hitting the police personnel with a stick¹¹⁷⁹ and that he cannot say who was beating whom¹¹⁸⁰ and that he could not correctly identify the person assaulting from the top of 5th embankment as he had soil in his eyes.¹¹⁸¹ When asked who was the person who was beaten with stick at the 5th Embankment, he states the name of Venkateswarlu and again says he does not know.¹¹⁸² When asked where were the other injured persons, he says that he was besides Venkateswarlu¹¹⁸³ and when asked who was there by the side of the other injured person, he says no one was there and he again says that he does not have a correct idea.¹¹⁸⁴ CW-30 states that he cannot say how many stones were thrown at the police party and that the stones were thrown from the side and that Venkateshwarulu had a bleeding injury on his forehead.¹¹⁸⁵ When asked whether the stone was hurled at Venkateswarlu or whether he was beaten with stones, he says that

¹¹⁷³CW-44, Response to Q 350, p 1559, Vol V, Deposition of Witnesses.

¹¹⁷⁴SW-4, Response to Q 76, p 243, Vol I, Deposition of Witnesses.

¹¹⁷⁵SW-4, Response to Q 89, p 245, Vol I, Deposition of Witnesses.

¹¹⁷⁶SW-4, Response to Q 54, p 240, Vol I, Deposition of Witnesses.

¹¹⁷⁷SW-4, Response to Q 87, p 245, Vol I, Deposition of Witnesses.

¹¹⁷⁸SW-4, Response to Q 88, p 245, Vol I, Deposition of Witnesses.

¹¹⁷⁹CW-30, Response to Q 76, p 1054, Vol IV, Deposition of Witnesses.

¹¹⁸⁰CW-30, Response to Q 81, p 1054, Vol IV, Deposition of Witnesses.

¹¹⁸¹CW-30, Response to Q 82, p 1054-1055, Vol IV, Deposition of Witnesses.

¹¹⁸²CW-30, Response to Q 84, p 1055, Vol IV, Deposition of Witnesses.

¹¹⁸³CW-30, Response to Q 87, p 1055, Vol IV, Deposition of Witnesses.

¹¹⁸⁴CW-30, Response to Q 88, p 1055, Vol IV, Deposition of Witnesses.

¹¹⁸⁵CW-30, Response to Q 90-92, p 1056, Vol IV, Deposition of Witnesses.

he does not know.¹¹⁸⁶ However, CW-30, on seeing a photo, Ex. C-11, states that soil and stones are not visible in that photograph. When CW-30 is asked where he was standing when the assault took place, he says that he was beside Rajashekhar (SW-4) and that SW-4 was beside Circle Inspector and again says he does not remember who was by his side.¹¹⁸⁷

14.2.4 The evidence of K. Venkateshwarulu (CW-49) and Arvind Goud (CW-50) who are said to have been injured in the incident has been elaborately discussed separately with reference to the medical records. However, it is necessary to note one salient feature.

14.2.5 According to CW-49, Jollu Naveen was standing on top of the 5th bund in front of him¹¹⁸⁸ when he threw stones at him and that at that time, he was at a distance of 1 foot to 2 feet from the 5th bund.¹¹⁸⁹ The other injured person, CW-50 states that some soil fell into his eyes and while he was wiping his eyes, Jollu Shiva picked up a stick and hit him on his hands, on his head and neck and that when he tried to catch hold of him, he climbed on to the bund and hit him hard on his left arm and he fell down and that meanwhile firing commenced.¹¹⁹⁰ CW-50 states that the accused threw soil and assaulted the police party from the 5th bund and when asked whether they assaulted from the top of the 5th bund¹¹⁹¹, he states that Jollu Shiva attacked him from the foot of the 5th bund and also after climbing on the top of the 5th bund.¹¹⁹² CW-50 states that Shiva hit him two or three times in the 4th field and that after climbing on the top of the bund, he hit him hard once and that he dealt blows with a stick¹¹⁹³ on his hands, neck and head.¹¹⁹⁴ Mohammed Sirajuddin (CW-47) also states that Jollu Naveen had climbed on to the field (5th field) when he assaulted Venkateswarlu with a stone¹¹⁹⁵ and that Naveen threw the stone at Venkateswarlu and did not smash it on his forehead.¹¹⁹⁶ CW-47 states that soil was thrown into his eyes after Naveen attacked Venkateswarlu,¹¹⁹⁷ and when his attention was drawn to Para 18 of his affidavit where

¹¹⁸⁶CW-30, Response to Q 96, p 1056, Vol IV, Deposition of Witnesses.

¹¹⁸⁷CW-30, Response to Q104-106, p 1058, Vol IV, Deposition of Witnesses.

¹¹⁸⁸CW-49, Response to Q 20, p 1877, Vol VI, Deposition of Witnesses.

¹¹⁸⁹CW-49, Response to Q 21, p 1877, Vol VI, Deposition of Witnesses.

¹¹⁹⁰CW-50, Response to Q 58, p 1961-1962, Vol VI, Deposition of Witnesses.

¹¹⁹¹CW-50, Response to Q 88, p 1969, Vol VI, Deposition of Witnesses.

¹¹⁹²CW-50, Response to Q 89, p 1969, Vol VI, Deposition of Witnesses.

¹¹⁹³CW-50, Response to Q 97, p 1971, Vol VI, Deposition of Witnesses.

¹¹⁹⁴CW-50, Response to Q 98, p 1971, Vol VI, Deposition of Witnesses.

¹¹⁹⁵CW-47, Response to Q 39, p 1762, Vol VI, Deposition of Witnesses.

¹¹⁹⁶CW-47, Response to Q 40, p 1763, Vol VI, Deposition of Witnesses.

¹¹⁹⁷CW-47, Response to Q 46, p 1764, Vol VI, Deposition of Witnesses.

it is stated that Naveen hit Venkateswarlu after the police party wiped their eyes, he says that after wiping his eyes, he saw the stone hitting Venkateswarlu and that since they were behind, the soil did not fall in their eyes and that only dust flew into their eyes.¹¹⁹⁸ Interestingly, though CW-47 states that he witnessed the incident personally,¹¹⁹⁹ he says that he did not intervene as he was instructed that there was a threat to the accused from the public and therefore he was checking from all the sides as to whether there was any threat from the public.¹²⁰⁰

14.2.6 Thus, it is alleged that the accused climbed on to the 5th bund and assaulted the police persons from the 5th bund. It is stated that the bund is at a height of 2 feet or 2.5 feet. It is inconceivable that the police party would keep quiet till the accused climb on to the 5th bund and it is also highly improbable that the accused who wanted to escape would remain on top of the 5th bund to assault the police persons. Moreover, K. Ravi (CW-48) states that the handlers of the accused had a better build than the accused¹²⁰¹ and when asked how the accused could free themselves from the handlers who had a better built than the accused, he says he cannot say.¹²⁰²

14.2.7 In his statement before the NHRC Team, CW-48 has stated that the accused assaulted the police party with sticks, stones and rods, however in his deposition he states that he had only stated that the accused assaulted with sticks and stones and that he has no idea about any assault with rod.¹²⁰³

14.2.8 R. Balu Rathod (CW-52) has stated before the NHRC team in answer to Question No. 10 that, both Venkateswarlu (CW-49) and Arvind Goud (CW-50) were conscious and they had fallen down after getting the injuries and when confronted with the said statement, he denies the same.¹²⁰⁴ CW-52 also denies having stated before the NHRC team that Naveen threw a stone at him and that somehow he was able to protect himself and that the stone hit Venkateswarlu.¹²⁰⁵ CW-52 states that after CW-44 and others went to see the injured persons in the 6th field, CW-53 shouted loudly that CW-49 and CW-50 were lying unconscious and then he observed that they were lying

¹¹⁹⁸CW-47, Responses to Q 46-47, p 1764, Vol VI, Deposition of Witnesses.

¹¹⁹⁹CW-47, Response to Q 41, p 1763, Vol VI, Deposition of Witnesses.

¹²⁰⁰CW-47, Response to Q 42, p 1763, Vol VI, Deposition of Witnesses.

¹²⁰¹CW-48, Response to Q 88, p 1829, Vol VI, Deposition of Witnesses.

¹²⁰²CW-48, Response to Q 90, pp 1829-1930, Vol VI, Deposition of Witnesses.

¹²⁰³CW-48, Response to Q 153, p 1847, Vol VI, Deposition of Witnesses.

¹²⁰⁴CW-52, Response to Q 103, p 2060, Vol VI, Deposition of Witnesses.

¹²⁰⁵CW-52, Response to Q 106, p 2060-2061, Vol VI, Deposition of Witnesses.

unconscious and when he is asked whether no one knew that they were injured till CW-53 shouted, he says that he does not know.¹²⁰⁶

14.2.9 CW-53 states that both CW-49 and CW-50 were beaten with stones and sticks and he also told the Emergency Staff at CARE Hospital.¹²⁰⁷

14.2.10V. Surrender (CW-44) states that there were many stones at the scene of incident¹²⁰⁸ and that some stones were of fist size and some were smaller and some were larger which could be held in two hands¹²⁰⁹ and they were lying in the 5th field after the 5th bund towards the approach of 6th field.¹²¹⁰ The scene observation panchanamas do not mention existence of such large number of stones.

14.2.11 In view of the evidence copiously extracted in the above paragraphs, it is evident that each one of the witnesses have stated his own version and their present version is at variance with their statements made before NHRC team. In our opinion, it is not a case of mere contradictions and the allegation of assault is inherently improbable and false to the core.

14.3 Injuries to Police officers

14.3.1 Background

14.3.1.1 It is the version of the State as stated in Para 15.17¹²¹¹ of the Final Report, Ex.S-14, that during the incident on 06-12-2019, Jollu Shiva, beat Saidupally Aravind Goud (CW 50) with a stick and that Jollu Naveen beat K. Venkateshwarlu with stones and in Para 15.24¹²¹², it is stated that both the injured were shifted to Community Health Center, Shadnagar and from there to CARE hospital. As per the Medico-Legal Certificates, Ex.S-40¹²¹³, K. Venkateshwarlu had suffered a laceration of 2 cm with surrounding abrasions on the right side of forehead and S. Aravind Goud had pain and tenderness in left hand and shoulder. As per the final opinion issued by CARE hospital, Ex.S-47¹²¹⁴, S. Aravind Goud had hairline fracture of inferior angle of left scapula and the said injury is grievous in nature. The injury sustained by K. Venkateshwarlu is said to be simple in nature. Apart from the evidence of the police officers and panchas, the doctors who are said to

¹²⁰⁶CW-52, Response to Q 109, p 2062, Vol VI, Deposition of Witnesses.

¹²⁰⁷CW-53, Response to Q 75, p 2095, Vol VI, Deposition of Witnesses.

¹²⁰⁸CW-44, Response to Q 369, p 1564, Vol V, Deposition of Witnesses.

¹²⁰⁹CW-44, Response to Q 370, p 1564, Vol V, Deposition of Witnesses.

¹²¹⁰CW-44, Response to Q 372, p 1564, Vol V, Deposition of Witnesses.

¹²¹¹Ex.S-14, p 140, Vol I, State Exhibits.

¹²¹²Ex.S-14, p 141, Vol I, State Exhibits.

¹²¹³Ex.S-40, p 415-416, Vol II, State Exhibits.

¹²¹⁴Ex.S-47, p 450, Vol II, State Exhibits.

have treated the injured police officers at Community Health Center and CARE hospital have been examined and the record from both the hospitals have been placed before the Commission.

14.3.1.2 In the complaint statement, being Ex.S-2, there is a bald allegation that SI Venkateshwarlu and police constable Aravind Goud sustained injuries.¹²¹⁵ The informant Vasam Surender (CW-44) neither states the names of the persons who caused those injuries nor does he state situs of the injuries nor the nature of the injuries sustained by them. It is claimed that both the injured were lying unconscious. While the incident is said to have occurred at about 6:13 AM, the informant drafted the complaint at about 8 AM i.e., nearly 2 hours later and yet these details are missing. The least that could have been mentioned is the situs of the injuries. For this, CW-44 offers explanation that the FIR need not be an encyclopaedia and that he was in a disturbed state of mind and therefore he did not narrate all these facts in his complaint statement.¹²¹⁶ When a complaint is given by a senior police officer, it is expected that material facts would be mentioned. It is not as though Ex.S-2 is a cryptic document. It is a compendious document running into 5 pages which sets out minute details of the incident from 27.11.2019. Therefore, the contention that FIR need not be an encyclopaedia is not applicable to the fact situation in relation to this event. The explanation does not sound to be real. The two reasons stated are patently contradictory to each other. The first explanation is a deliberate exclusion whereas the second is a situation beyond control. Both cannot be true at the same time.

14.3.1.3 During the examination of SW-1, the Principal Secretary, Home department, it is stated that the SIT submitted a status report.¹²¹⁷ Later a copy of the status report of investigation as on 19.06.2020¹²¹⁸ signed by SW-3 and submitted along with the letter of Head of SIT dated 24.06.2020 has been submitted to the Commission. As per para 5 of the status report, *“In the incident two police personnel i.e., Shri Venkateshwarlu, S I of Police Nandigama and Sri Aravind Goud, PC of Cyber Crimes also sustained bleeding injuries.”* Since the statement that two policemen suffered bleeding injuries finds place in the report contemporaneously along with the statement at Para 17 of the same report that wound certificates of both

¹²¹⁵Ex. S-2, pp 19-24, Vol I, State Exhibits.

¹²¹⁶CW-44, Response to Q 342, p 1556, Vol V, Deposition of Witnesses.

¹²¹⁷SW-1, Response to Q 42, p 25, Vol I, Depositions of Witnesses.

¹²¹⁸See Annexure 24.

policemen were obtained, it is unclear as to what was the exact content of the wound certificate mentioned in the said report.

14.3.1.4 This matter is further confounded by the fact that Ms K. Apoorva Rao, one of the members of SIT has stated in her case diary in CR No. 803 of 2019 at page 595 of Book No. 2 that “In the incident two police personnel i.e., Shri Venkateshwarlu, SI of Police Nandigama and Sri Aravind Goud, PC of Cyber Crimes also sustained bleeding injuries.”¹²¹⁹ She states that she inspected the case diary of Investigating Officer and spoke to the Investigating Officer and came to a conclusion that Aravind Goud suffered bleeding injuries¹²²⁰ and that the Investigating Officer told her in a meeting on 09.12.2019 at SIT office that Aravind Goud had suffered bleeding injury.¹²²¹ Later, after referring to Medico Legal Record, states that she has written about bleeding injury in the Case Diary through oversight¹²²² and when suggested that it was something too important to commit a mistake in the facts of this case, she admits that it was an important aspect.¹²²³

14.3.2 Manner in which the Police Officers are said to have sustained injuries

14.3.2.1 As regards the manner in which the injuries are said to have been caused to the policemen, as seen above, there is absolutely no mention of the details in Ex.S-2 FIR. The informant, CW-44 admits that it is not stated in his complaint as to who assaulted the police officers.¹²²⁴ He states that because of his disturbed mental state, some facts are missing in the FIR and that he could not recollect all the details of the incident.¹²²⁵ In fact, there is a vague allegation in FIR (Ex.S-2) that “all the 4 accused conjointly overpowered the police party, assaulted and snatched two firearms”. The FIR states that an iron rod was also one of the weapons used in the incident. When CW-44 is asked who beat whom with the iron rod he says that he cannot say.¹²²⁶ In answer to a question as to which accused used which weapon, he states that all the accused attacked together and that he cannot say specifically who attacked with what weapon.¹²²⁷ CW-44 does not even claim that he witnessed

¹²¹⁹P 600, Book No 2.

¹²²⁰CW-17, Response to Q 1, p 730, Vol III, Deposition of Witnesses.

¹²²¹CW-17, Response to Q 2, p 730, Vol III, Deposition of Witnesses.

¹²²²CW-17, Response to Q 10, p 732, Vol III, Deposition of Witnesses.

¹²²³CW-17, Response to Q 11, p 732, Vol III, Deposition of Witnesses.

¹²²⁴CW-44, Response to Q 342, p 1556, Vol V, Deposition of Witnesses.

¹²²⁵CW-44, Response to Q 342, p 1556, Vol V, Deposition of Witnesses.

¹²²⁶CW-44, Response to Q 367, p 1564, Vol V, Deposition of Witnesses.

¹²²⁷CW-44, Response to Q 350, p 1559, Vol V, Deposition of Witnesses.

the assault on the policemen. He says that he heard Venkateshwarlu shouting that he was injured by a stone and Aravind Goud shouting that he was injured by a stick.¹²²⁸

14.3.2.2 CW-47, Mohammed Sirajuddin states that Naveen hit Venkateshwarlu with a stone¹²²⁹ on the right side of the forehead above the eyebrow,¹²³⁰ that Naveen had climbed onto the field and hit Venkateshwarlu with a stone¹²³¹ and that he threw the stone.¹²³² The witness stated that he had personally witnessed this,¹²³³ and yet he took no step to prevent the assault because his assignment was limited only to protect Naveen from general public. He stated that ACP had instructed them that there was a threat to the accused from the public and therefore at the time of occurrence of the incident he was checking on all the sides if there was any threat from the public.¹²³⁴ With regard to the sequence of events, he has stated in paragraph 18 of his affidavit that Naveen hit Venkateshwarlu after the police party wiped soil from their eyes,¹²³⁵ but before the Commission, he states that soil was thrown into his eyes after Naveen attacked Venkateswarlu.¹²³⁶ CW-47 at one stage states that Md. Arif beat Narasimha Reddy¹²³⁷ and again says that he did not say that Arif beat Narasimha Reddy.¹²³⁸

14.3.2.3 CW-49, K. Venkateshwarulu, states that Aravind Goud was hit on the head, neck and other parts with a stick by Shiva¹²³⁹ and when asked whether he tried to help Aravind Goud, he says that he himself was injured.¹²⁴⁰ It was then suggested to him that he did not witness the assault on Aravind Goud, to which he replied that he did witness Aravind Goud being assaulted because by that time he was not hit by stone.¹²⁴¹ The deposition of CW-49 that he witnessed the assault on Aravind Goud is contrary to the contents of para 23 of his affidavit where he states that he

¹²²⁸CW-44, Response to Q 350, p 1559, Vol V, Deposition of Witnesses.

¹²²⁹CW-47, Response to Q 37, p 1762, Vol VI, Deposition of Witnesses.

¹²³⁰CW-47, Response to Q 38, p 1762, Vol VI, Deposition of Witnesses.

¹²³¹CW-47, Response to Q 39, p 1762, Vol VI, Deposition of Witnesses.

¹²³²CW-47, Response to Q 40, p 1763, Vol VI, Deposition of Witnesses.

¹²³³CW-47, Response to Q 41, p 1763, Vol VI, Deposition of Witnesses.

¹²³⁴CW-47, Response to Q 42, p 1763, Vol VI, Deposition of Witnesses.

¹²³⁵Ex.C-270, p 1746, Vol VI, Deposition of Witnesses.

¹²³⁶CW-47, Response to Q 46, p 1764, Vol VI, Deposition of Witnesses.

¹²³⁷CW-47, Response to Q 52, p 1765, Vol VI, Deposition of Witnesses.

¹²³⁸CW-47, Response to Q 53, p 1766, Vol VI, Deposition of Witnesses.

¹²³⁹CW-49, Response to Q 36, p 1881, Vol VI, Deposition of Witnesses.

¹²⁴⁰CW-49, Response to Q 37, p 1881, Vol VI, Deposition of Witnesses.

¹²⁴¹CW-49, Response to Q 40, p 1882, Vol VI, Deposition of Witnesses.

later came to know that Aravind Goud was assaulted by Jollu Shiva.¹²⁴² CW-49 states that he was attacked before the firing started¹²⁴³ and that he did not become unconscious and that he was aware of the firing sound even though he was lying on the ground.¹²⁴⁴ But when he is asked whether he was beaten with sticks, he says that he does not remember and that he only remembers being hit by stones.¹²⁴⁵ In fact, he has given vivid details of the incident in para 18 to 22 of his affidavit. Therefore, his explanation that he does not remember whether he was hit by sticks or not is not acceptable. As per the entries in Ex.C-16 medical record of CARE hospital, the patient himself has given the history and the patient is said to have stated that he was also hit with wooden sticks.¹²⁴⁶ But CW-49 states that he did not speak to the staff at the hospital.¹²⁴⁷

14.3.2.4 CW 50 Aravind Goud states that the accused threw soil and assaulted the police party from the 5th bund¹²⁴⁸ and when asked whether they assaulted from the top of the 5th bund, he says that Jollu Shiva attacked him from the foot of the 5th bund and also after climbing on the top of the 5th bund¹²⁴⁹ and he does not know where was the stick with which Shiva hit him.¹²⁵⁰ But it is not stated in his affidavit that Shiva hit him with stick from the top of the 5th bund, though he is said to have informed his advocate about the same.¹²⁵¹ When asked on which part of the body Shiva dealt blows, he says that he beat him on his hands, neck and head¹²⁵² and that he stated the same both before the investigating officer as also his advocate and yet it is not found either in his affidavit or in the statement recorded by the investigating officer.¹²⁵³ Though he claims that he was hit with a stick on the head, he says that he did not receive an injury.¹²⁵⁴ When asked about the details of the stick, he says he cannot say.¹²⁵⁵ Though he says that there is no injury on the head, he claims to have lost consciousness for a long time. But according to the medical

¹²⁴²Ex.C-272, Para 23, p 1867, Vol VI, Deposition of Witnesses.

¹²⁴³CW-49, Response to Q 41, p 1882, Vol VI, Deposition of Witnesses.

¹²⁴⁴CW-49, Response to Q 42, p 1882, Vol VI, Deposition of Witnesses.

¹²⁴⁵CW-49, Response to Q 122-123, p 1904, Vol VI, Deposition of Witnesses.

¹²⁴⁶Ex.C-16, p 140, Vol I, Commission Exhibits.

¹²⁴⁷CW-49, Response to Q 141, p 1909, Vol VI, Deposition of Witnesses.

¹²⁴⁸CW-50, Response to Q 88, p 1970, Vol VI, Deposition of Witnesses.

¹²⁴⁹CW-50, Response to Q 89, p 1970, Vol VI, Deposition of Witnesses.

¹²⁵⁰CW-50, Response to Q 90, p 1971, Vol VI, Deposition of Witnesses.

¹²⁵¹CW-50, Response to Q 101, p 1972, Vol VI, Deposition of Witnesses.

¹²⁵²CW-50, Response to Q 98, p 1971, Vol VI, Deposition of Witnesses.

¹²⁵³CW-50, Response to Q 100, p 1972, Vol VI, Deposition of Witnesses.

¹²⁵⁴CW-50, Response to Q 114, p 1975, Vol VI, Deposition of Witnesses.

¹²⁵⁵CW-50, Response to Q 118-120, p 1970, Vol VI, Deposition of Witnesses.

records there was no history of loss of consciousness. Thus, there is no consistency with regard to the manner in which the police officers allegedly received injuries.

14.3.3 *Unnatural reaction of the police party in taking care of the injured and discrepancies in the narration of their transport to the hospitals*

14.3.3.1 There is something very unnatural about the way in which the other members of the police party are said to have reacted to a situation where some of the members have sustained injuries. When some of the members of the team are injured, the other members would attend on them and give some first aid till proper treatment is made available. In this case, at least after it was found that the accused were dead, the other members present there would have given some first aid to the injured persons. The head of the police team, CW-44, when asked whether he went near the place where the injured persons were lying unconscious, he says that he does not remember.¹²⁵⁶ CW-44 does not even give a proper answer to a question whether the injured persons were carried on stretchers from the scene of occurrence up to the vehicle. Initially he states that they were carried on stretchers,¹²⁵⁷ again says that he was in confusion whether they were taken on stretchers or not¹²⁵⁸ and again he says that he cannot say whether they were carried or taken on stretchers.¹²⁵⁹ But none of the witnesses state either in their statements before the Investigating Officer or in their affidavits that they gave any such first aid. The head of the team, CW-44 states that the injured were unconscious when he saw them¹²⁶⁰ at 6.10 AM¹²⁶¹ and when he is asked whether he went near the place where the injured were lying unconscious, he says he does not remember.¹²⁶² One or two witnesses have for the first time stated before the Commission that they gave first aid. When a specific question is put to CW-45, he states that he rubbed the legs of the injured policemen and administered some first aid¹²⁶³ by patting them to check whether they were breathing or not and by calling their names into their ears¹²⁶⁴ and however they did not regain consciousness.¹²⁶⁵ Another witness

¹²⁵⁶CW-44, Response to Q 469, p 1591, Vol V, Deposition of Witnesses.

¹²⁵⁷CW-44, Response to Q 474, p 1593, Vol V, Deposition of Witnesses.

¹²⁵⁸CW-44, Response to Q 476, p 1593, Vol V, Deposition of Witnesses.

¹²⁵⁹CW-44, Response to Q 477, p 1593, Vol V, Deposition of Witnesses.

¹²⁶⁰CW-44, Response to Q 466, p 1591, Vol V, Deposition of Witnesses.

¹²⁶¹CW-44, Response to Q 467, p 1591, Vol V, Deposition of Witnesses.

¹²⁶²CW-44, Response to Q 469, p 1591, Vol V, Deposition of Witnesses.

¹²⁶³CW-45, Response to Q 158, p 1656, Vol VI, Deposition of Witnesses.

¹²⁶⁴CW-45, Response to Q 159, p 1656, Vol VI, Deposition of Witnesses.

¹²⁶⁵CW-45, Response to Q 160, p 1656, Vol VI, Deposition of Witnesses.

CW-50 has stated that he and Srikanth gave first aid to the injured¹²⁶⁶ and that he rubbed the hands of Venkateshwarlu.¹²⁶⁷ However when asked further questions such as who else gave first aid to the injured persons, etc, he says he does not know or he does not remember.¹²⁶⁸

14.3.3.2 When it is claimed that two of the police officers were seriously injured and lying unconscious, they ought to have been sent to a hospital without loss of time. If really, they were so critical that they had lost consciousness, the other police officers present would lose no time in calling for 108 ambulance. None of them made any such attempt, either by sending the injured policemen in the bus readily available at the site or by securing any vehicle passing through NH-44 situated just adjacent to scene of incident. Even when the ambulance arrived at the scene, the staff of the ambulance are not even asked to examine the injured police officers to give them first aid and strangely, the injured officers are transported to Community Health Centre in a police vehicle. This aspect is examined at length in the following paragraphs.

14.3.3.3 A Sridhar Kumar (CW-15), the then SHO of Shadnagar PS, who is said to have reached the scene of occurrence first, states that Venkateshwarlu and Aravind Goud were in unconscious state with bleeding injuries. In answer to question, he has stated that the ambulance reached the spot at about the same time when he reached the spot.¹²⁶⁹ However, he states that he opted to send the injured for treatment in a police vehicle and not in the ambulance. When asked why he did not send the injured in an ambulance, he states that they did not know that the accused were dead until the ambulance staff informed them and that the ambulance staff took a lot of time to declare that the accused died.¹²⁷⁰ But, in para 17 of his affidavit, being Ex.C-66, he states that CW-44 informed him that the accused were found dead due to bullet injuries.¹²⁷¹

14.3.3.4 When CW-44 is asked whether he made any effort to find out whether the bus in which they had travelled to the scene was still available so as to send the injured persons to the hospital, he states that he tried for an ambulance as there would be equipment in the ambulance and he was informed that the ambulance was

¹²⁶⁶CW-50, Response to Q 86, p 2055, Vol VI, Deposition of Witnesses.

¹²⁶⁷CW-50, Response to Q 88, p 2056, Vol VI, Deposition of Witnesses.

¹²⁶⁸CW-50, Response to Q 90-94, p 2057, Vol VI, Deposition of Witnesses.

¹²⁶⁹CW-15, Response to Q 171, p 657, Vol II, Deposition of Witnesses.

¹²⁷⁰CW-15, Response to Q 173, p 659, Vol II, Deposition of Witnesses.

¹²⁷¹Ex. C-66, p 609, Vol II, Commission Exhibits.

coming.¹²⁷² But when the ambulance came, the staff of ambulance is not even asked to examine the injured police officers and they are not sent to the hospital in that ambulance. Thus, it is evident that there is no satisfactory explanation for not sending the injured policemen in an ambulance. Probably one of the reasons for avoiding reference to the ambulance could be that the information pertaining to the patients carried in the said ambulances will be computerised and the information cannot be manipulated. The evidence of Sridhar Kumar regarding examination of injured witnesses by the ambulance staff is also discrepant. He states that the medical personnel in the ambulance did not examine the injured persons.¹²⁷³ However he was confronted with his statement under section 161 Cr.P.C. recorded by the Investigating Officer and marked as Ex.C-77 wherein it is stated that the 108-ambulance staff also examined the injured police officers.¹²⁷⁴ He has stated that whatever is stated by him before the commission is the correct version.¹²⁷⁵ Thus according to him the ambulance staff did not even examine the injured police officers at the scene of occurrence. This is the evidence of the police officer who is said to have first reached the scene of occurrence.

14.3.3.5 In this regard, it is useful to refer to the affidavit of Ganduri Satyanarayana, Emergency Medical Technician of 108 Ambulance of Shadnagar Community Health Center area,¹²⁷⁶ and the affidavit of Bendi Vijayabhaskara Reddy, Pilot driver of 108 Ambulance of Shadnagar Community Health Centre area.¹²⁷⁷ Both of them have only stated that at 6-24 am, they received information about an accident at underpass bridge at Chatanpally and that they rushed there and they checked the pulses of 4 persons lying in the fields and that they could not trace the pulse and that they informed the same to the police and left. They do not state that they examined any injured persons at the spot. If there were any injured persons present there when the ambulance staff arrived there, they would have been asked to examine them and to give first aid and to carry them in the ambulance.

14.3.3.6 Strangely enough, the injured are said to have been taken in a police vehicle to CHC Shadnagar though an ambulance was very much available. But it is stated that the injured were taken from CHC Shadnagar to CARE hospital in an

¹²⁷²CW-44, Response to Q 472, p 1592, Vol V, Deposition of Witnesses.

¹²⁷³CW-15, Response to Q 175, p 660, Vol II, Deposition of Witnesses.

¹²⁷⁴Ex. C-77, p 1059, Vol IV, Commission Exhibits.

¹²⁷⁵CW-15, Response to Q 178, p 660, Vol II, Deposition of Witnesses.

¹²⁷⁶P 20-22 Book No. 14.

¹²⁷⁷P 23-25, Book No. 14.

ambulance. It is not known why the ambulance was secured after the injured were given first aid and when they are said to have regained consciousness. As per the entries in Ex.C-16, the record of CARE hospital,¹²⁷⁸ the injured were brought in a private vehicle. Though the Investigation Officer has examined the ambulance staff who came to the scene of occurrence, the ambulance staff who are said to have taken them to CARE hospital have not been examined. The record relating to ambulance would be very much available, but not collected.

14.3.3.7 It is claimed that both the injured lost consciousness, which in turn would show that they were critically injured. However, such an important piece of information is not to be found in FIR, being Ex.S-2.¹²⁷⁹ Admittedly the police party was transported to the scene of incident in a police bus bearing number TS 09 PB 4760 driven by M. Yadagiri (CW-27). According to the affidavit of the said Yadagiri, being Ex.C-127, the bus remained there till 5 PM.¹²⁸⁰ However, when the contents of his affidavit in English are translated to him, he denies the statement that he left Chatanpally at 5 PM. He states that he was present till 12.30 PM.¹²⁸¹ Strangely, the informant, CW-44 states that he does not know whether the bus was still there at the scene of incident.¹²⁸² The driver of the bus could not have left the scene without specific instructions by CW-44. Therefore, it is to be held that the bus should have been there all the time at least till the arrival of ambulance. Moreover, admittedly National Highway is passing through quite close from the scene of incident and a vehicle could have been secured easily. Hence the claim that the policemen had sustained injuries which necessitated their prolonged treatment in ICCU does not appear to be acceptable.

14.3.4 Treatment of the injured police officers at CHC, Shadnagar

14.3.4.1 It is stated that the injured police officers were forwarded to Community Health Centre for treatment and from there to CARE hospital. There is any amount of doubt regarding the authenticity of the records relating to the same. CW-32, Dr Gone Naveen Kumar, in his affidavit, Ex.C-147, states that the two injured police persons were brought to Community Health Centre Shadnagar and that he gave

¹²⁷⁸Ex.C-16, p. 145 and 248, Vol I, Commission Exhibits.

¹²⁷⁹Ex.S-2, p 19-24, Vol I, State Exhibits.

¹²⁸⁰Ex.C-127, p 1321, Vol V, Commission Exhibits.

¹²⁸¹CW-27, p 1592, Vol III, Deposition of Witnesses.

¹²⁸²CW-44, Response to Q 5, p 959, Vol V, Deposition of Witnesses.

first aid and referred them to CARE hospital for better treatment.¹²⁸³ In answer to Q. No. 4, he has stated that requisitions are sent in prescribed format.¹²⁸⁴ However, he has enclosed with his affidavit, a copy of hand written requisition said to have been addressed by SHO Shadnagar PS and the same is marked as Ex.C-148.¹²⁸⁵ There could not have been more than one such requisition. Hence, he has stated that he received only one requisition.¹²⁸⁶ But there are two more requisitions sent in prescribed format at pages 930 and 932 of Book No. 2 and the same are confronted to him and they are marked as Ex.C-151¹²⁸⁷ and Ex.C-152¹²⁸⁸. He states that both the requisitions were received on the same day.¹²⁸⁹ He states that he received Ex.C-148, Ex.C-151 and Ex.C-152 on 06.12.2019 at 7 AM.¹²⁹⁰ If that was really so crime number could not have been noted in the requisitions as by that time, the case was not yet registered, but CR No. 803 of 2019 is noted in Ex. C-151 and Ex. C-152 (which was registered only at 8:30 AM) and he admits the same.¹²⁹¹ The requisite information such as the details of the person escorting the injured is not noted in Ex.C-151 and Ex.C-152 and they are not even signed by the SHO. In this connection it is necessary to refer to the letter dated 06.12.2019 filed along with the affidavit of the present Superintendent of Community Health Center Shadnagar filed before the Commission on 31.08.2021.¹²⁹² The said letter is said to have been written by Vijayabhaskar, SI of Police Shadnagar to the Superintendent, Community Health Centre, Shadnagar requesting that the patients may be referred to CARE hospital as there is Arogya Bhadratha scheme of government. If at all any such letter was addressed on 06.12.2019, it should bear the initials of CW-32 as is found in Ex.C-148. CW-32 was confronted with the said letter and he has stated that he did not come across any such letter and that the said document does not bear his initial. It would therefore appear that the said letter dated 06.12.2019 is introduced into the records for the first time when the present incumbent Dr Santhana Srinivasulu filed his affidavit before the commission.

¹²⁸³Ex.C-147, p 1137, Vol IV, Commission Exhibits.

¹²⁸⁴CW-32, Response to Q 4, p 1141, Vol IV, Deposition of Witnesses.

¹²⁸⁵Ex.C-148, p 1427, Vol VI, Commission Exhibits.

¹²⁸⁶CW-32, Response to Q 8, p 1141, Vol IV, Deposition of Witnesses.

¹²⁸⁷Ex.C-151, p 1430, Vol VI, Commission Exhibits.

¹²⁸⁸Ex.C-152, p 1432, Vol VI, Commission Exhibits.

¹²⁸⁹CW-32, Response to Q 12, p 1142, Vol IV, Deposition of Witnesses.

¹²⁹⁰CW-32, Response to Q 14, p 1143, Vol IV, Deposition of Witnesses.

¹²⁹¹CW-32, Response to Q 15, p 1143, Vol IV, Deposition of Witnesses.

¹²⁹²P 429, Book No. 19.

14.3.4.2 Apart from the requisition sent by the SHO, CW-32 has also enclosed to his affidavit the copies of Out Patient tickets Ex.C-149¹²⁹³ and Ex.C-150¹²⁹⁴ wherein it is simply recorded that “as there is no availability of CT scan, on the request of the police, the injured person was referred to CARE hospital as he has Arogya Bhadratha scheme.” CW-32 has not enclosed to his affidavit the crucial documents such as the report of examination of injuries and his opinion about the injuries. The same are found at pages 931 and 933 of Book No 2 marked as Ex.C-153¹²⁹⁵ and Ex.C-154¹²⁹⁶. As per the entries in Ex.C-153 and Ex.C-154, the injured were referred to Osmania General hospital. According to CW-32, the entries in Ex.C-153 and Ex.C-154 were filled up and signed on 18.01.2020,¹²⁹⁷ and yet there is no mention that the patients were referred to CARE hospital and he explains saying that the entries were made in a hurry burry.¹²⁹⁸ In the column relating to his treatment as out-patient or in-patient in Ex.C-153 and Ex.C-154, it is only noted “OP” and the out-patient number is also not noted. In his statement before NHRC team, being Ex.C-100,¹²⁹⁹ he does not even state that the patients were referred to CARE hospital. He does not offer any explanation for such omission.¹³⁰⁰

14.3.4.3 It is further observed that there is a serious discrepancy in the nature of the injuries noted by CW-32 in his own records. He admits that the entries in the Medico Legal Register will be incorporated in the wound certificates.¹³⁰¹ However, the entries in the wound certificate of Venkateshwarlu Ex. C-153¹³⁰² are totally at variance with the entries in the Medico Legal Register. The original Medico Legal Register is summoned and the same is produced through the present Superintendent, Community Health Centre, Shadnagar and it is marked as Ex.C-155¹³⁰³ and the relevant entry at Page No. 341 of the Register is marked as Ex.C-156.¹³⁰⁴ As per the entries in Ex.C-156, Venkateshwarlu has a laceration measuring

¹²⁹³Ex.C-149, p 1428, Vol VI, Commission Exhibits.

¹²⁹⁴Ex.C-150, p 1429, Vol VI, Commission Exhibits.

¹²⁹⁵Ex.C-153, p 1432, Vol VI, Commission Exhibits.

¹²⁹⁶Ex.C-154, p 1433, Vol VI, Commission Exhibits.

¹²⁹⁷CW-32, Response to Q 27, p 1146, Vol IV, Deposition of Witnesses.

¹²⁹⁸CW-32, Response to Q 28, p 1146, Vol IV, Deposition of Witnesses.

¹²⁹⁹Ex.C-100, p 1230, Vol V, Commission Exhibits.

¹³⁰⁰CW-32, Response to Q 103, p 1165, Vol IV, Deposition of Witnesses.

¹³⁰¹CW-32, Response to Q 29 & 39, p 1147 & 1149, Vol IV, Deposition of Witnesses.

¹³⁰²Ex.C-153, p 1432, Vol VI, Commission Exhibits.

¹³⁰³Ex.C-155, pp 1434-1618, Vol VI, Commission Exhibits.

¹³⁰⁴Ex.C-156, p 1619, Vol VI, Commission Exhibits.

2 cm. But as per Ex.C-153¹³⁰⁵ he had a laceration of 3x1cm. Thus, the entries in Ex.C-153 wound certificate of Venkateshwarlu are different from the entries in Medico Legal Register, being Ex.C-155 at Ex.C-156. CW-32 admits that the entries are discrepant.¹³⁰⁶ When he is asked to explain the discrepancy, he states that he noted the size of lacerated injury as 3 x 1 cm as per the record of CARE hospital.¹³⁰⁷ However, after verifying the Medico Legal Certificate of CARE hospital at Ex.S-40,¹³⁰⁸ he states that the size of the injury is noted as 2 cm and not as 3x1 cm. When asked whether he noted the size as 2 cm based on CARE record, he denies it.¹³⁰⁹ The writing “2cmlaceration” in Ex.C-156¹³¹⁰ appears to be in a different ink. But CW-32 has denied the said suggestion.¹³¹¹ He states that generally a laceration wound is measured in terms of length, width and depth.¹³¹² In fact, majority of the entries in Ex.C-155 show that a laceration is described with reference to length, width and depth.¹³¹³ So there is no reason why the laceration of Venkateshwarlu is described with reference to length only. As regards the injuries on Aravind Goud, CW-32 admits that some of the entries in respect of Aravind Goud in Ex.C-156, are struck off.¹³¹⁴ CW-32 has contradicted himself on several other aspects also. As regards the nature of injury of Aravind Goud, he says that he opined that the injury is grievous based on the findings of CARE hospital.¹³¹⁵ He states that Aravind Goud suffered fracture of left scapula.¹³¹⁶ But he says that he did not mention in Ex.C-154 that there was a fracture of left scapula.¹³¹⁷ After verification of CARE records, he says that there is a small hairline fracture in the inferior border of scapula.¹³¹⁸ He finally says that he neither saw CT scan film or report.¹³¹⁹ He also says that discharge summary of Aravind Goud in Ex.C-16 does not refer to CT scan of left shoulder¹³²⁰ and that there is such reference to CT scan

¹³⁰⁵Ex.C-153, p 1432, Vol VI, Commission Exhibits.

¹³⁰⁶CW-32, Response to Q 40, p 1149, Vol IV, Deposition of Witnesses.

¹³⁰⁷CW-32, Response to Q 41, p 1149, Vol IV, Deposition of Witnesses.

¹³⁰⁸Ex.S-40, p 415, Vol II, State Exhibits.

¹³⁰⁹CW-32, Response to Q 44, p 1149, Vol IV, Deposition of Witnesses.

¹³¹⁰Ex.C-156, p 1619, Vol VI, Commission Exhibits.

¹³¹¹CW-32, Response to Q 45, p 1150, Vol IV, Deposition of Witnesses.

¹³¹²CW-32, Response to Q 36, p 1148, Vol IV, Deposition of Witnesses.

¹³¹³Ex.C-155, pp 1434-1618, Vol VI, Commission Exhibits.

¹³¹⁴CW-32, Response to Q 32, p 1147, Vol IV, Deposition of Witnesses.

¹³¹⁵CW-32, Response to Q 76, p 1158, Vol IV, Deposition of Witnesses.

¹³¹⁶CW-32, Response to Q 77-78, p 1158, Vol IV, Deposition of Witnesses.

¹³¹⁷CW-32, Response to Q 80, p 1159, Vol IV, Deposition of Witnesses.

¹³¹⁸CW-32, Response to Q 83, p 1160, Vol IV, Deposition of Witnesses.

¹³¹⁹CW-32, Response to Q 87, p 1161, Vol IV, Deposition of Witnesses.

¹³²⁰CW-32, Response to Q 88, p 1161, Vol IV, Deposition of Witnesses.

in Doctor's notes¹³²¹ and that however he is seeing the doctor's notes first time at the time of giving evidence.¹³²² Regarding the conscious state of the patients, he has stated in para 4 of his affidavit that he made the unconscious patients into conscious¹³²³ and when questioned how the patients arrived at the hospital, he states that they were brought by a wheel chair¹³²⁴ and when asked how unconscious patients could be brought by wheel chair, he says that by the time he attended, they were already in the Casualty ward.¹³²⁵ Contrary to his present version regarding conscious state of the patients, he has given a statement before the NHRC team in his own handwriting Ex.C-100¹³²⁶ wherein he has stated that the patients were conscious and that they were walking themselves and that they were not in a serious condition. He admits having made such a statement but says that they were in fact unconscious.¹³²⁷ As regards bleeding on the wound of Venkateshwarlu, he states that there was minor bleeding¹³²⁸ and that he applied pressure and the bleeding was arrested¹³²⁹. In answer to a question he states that blood coagulation takes place within 5 to 7 minutes¹³³⁰ and the bleeding stops and it is a natural phenomenon.¹³³¹ He states that bleeding would continue even after coagulation if the wound is deep¹³³² and that in this case the depth of the wound was 1 cm¹³³³ and that he did not check it and did not record the depth of the wound anywhere.¹³³⁴ If really bleeding had continued till the injured was brought to the hospital, the clothes of the injured would have been stained with blood. But CW-32 states that the clothes of Venkateshwarlu were not stained with blood.¹³³⁵ In his statement before the NHRC also, he has stated that the clothes of the injured policemen were not stained with blood.¹³³⁶ It is strange that an allegedly blood stained shirt of CW-

¹³²¹CW-32, Response to Q 90, p 1162, Vol IV, Deposition of Witnesses.

¹³²²CW-32, Response to Q 92, p 1162, Vol IV, Deposition of Witnesses.

¹³²³Ex.C-147, p 1137, Vol IV, Commission Exhibits.

¹³²⁴CW-32, Response to Q 54, p 1152, Vol IV, Deposition of Witnesses.

¹³²⁵CW-32, Response to Q 55, p 1152, Vol IV, Deposition of Witnesses.

¹³²⁶Ex.C-100, p 1230, Vol V, Commission Exhibits.

¹³²⁷CW-32, Response to Q 100, p 1164, Vol IV, Deposition of Witnesses.

¹³²⁸CW-32, Response to Q 61, p 1153, Vol IV, Deposition of Witnesses.

¹³²⁹CW-32, Response to Q 62, p 1154, Vol IV, Deposition of Witnesses.

¹³³⁰CW-32, Response to Q 63, p 1154, Vol IV, Deposition of Witnesses.

¹³³¹CW-32, Response to Q 64, p 1154, Vol IV, Deposition of Witnesses.

¹³³²CW-32, Response to Q 67, p 1155, Vol IV, Deposition of Witnesses.

¹³³³CW-32, Response to Q 68, p 1155, Vol IV, Deposition of Witnesses.

¹³³⁴CW-32, Response to Q 69, p 1155, Vol IV, Deposition of Witnesses.

¹³³⁵CW-32, Response to Q 65, p 1154, Vol IV, Deposition of Witnesses.

¹³³⁶Ex.C-100, pp 1231, Vol V, Commission Exhibits.

49 is said to have been seized during investigation under Ex.C-9 and it is even sent to Forensic Laboratory for examination and report.

14.3.4.4 The various discrepancies in the evidence of CW-32 as well as the serious discrepancies in the record maintained by him i.e., Ex.C-148, Ex.C-151 to Ex.C-156 as detailed above, more particularly regarding the question whether the patients were referred to Osmania general hospital or CARE hospital and the discrepancy with regard to the size of laceration injury etc raise any amount of doubt regarding the shifting of the injured to Community Health Centre, Shadnagar, and referring the patients to CARE hospital from CHC Shadnagar.

14.3.5 Treatment of CW-49 at Care Hospital

14.3.5.1 The two doctors who are said to have treated the injured policemen at CARE hospital are examined as CW-33 and CW-35. CW-33 has stated in his affidavit, being Ex.C-157¹³³⁷, that on 06.12.2019, a patient by name K. Venkateswarlu was brought to the hospital at 8.05 AM by a police officer by name Vijaya bhaskar and that the patient was conscious, coherent and had a clear state of mind with stable vitals and that he had a laceration of 2 cm with surrounding abrasions on the right side of forehead and that the laceration was sutured under local anaesthesia and that he was advised admission as the patient gave a history of loss of consciousness of 5 minutes.

14.3.5.2 From the contents of the affidavit of CW-33, the patient had a loss of consciousness for 5 minutes only. However, the evidence of SW-4, CW-30, CW-32 and CW-44 to CW-53, would suggest that the loss of consciousness continued beyond 5 minutes. However, in the medicolegal record of Venkateswarlu, Ex.S-40¹³³⁸, in the column “*Unconscious/Conscious/Semi-Conscious responding to*” there is a tick mark above the entry *Semi-Conscious*.¹³³⁹ During the cross examination of SW-3, one of the counsels for 8B witnesses, has drawn the attention of the witness to the said entry.¹³⁴⁰ When CW-33 is confronted with the said entry, he only says that the said entry is made by their Emergency Physician and that however by 8:30 AM, when he examined the patient, he was very much conscious, coherent, oriented. Moreover, in the emergency department record of the same patient under the caption “**general examination**” it is recorded

¹³³⁷Ex.C-157, pp 1620-1621, Vol VI, Commission Exhibits.

¹³³⁸Ex.S-40, pp 414-416, Vol II, State Exhibits.

¹³³⁹Ex.C-16, p 134, Vol I, Commission Exhibits; Ex.S-40, p 415, Vol II, State Exhibits.

¹³⁴⁰SW-3, Response to Q 422, p 164, Vol I, Deposition of Witnesses.

“conscious, oriented”.¹³⁴¹ In fact, CW-33 has clarified that when the condition of the patient is recorded as semiconscious, it is required to specify whether he could open eyes whether he could respond to verbal commands etc.¹³⁴² Therefore, the tick mark above the word “Semi conscious” does not carry any significance. CW-33 in the normal course should have gone through the record prepared by the emergency physician. However, CW-33 at one stage says that he did not go through the medico legal record¹³⁴³ and asserts once again that he did not go through the record made by emergency department¹³⁴⁴. Again, he says that he had gone through the treatment given in the emergency department and that however he did not look into the wordings made by the E R physician in the emergency room record¹³⁴⁵ and when asked which pages of the emergency department record, he perused and which pages he did not go through, he says that he went through the vital chart and column “systemic review” of the medical record of Venkateswarlu¹³⁴⁶. When asked whether he did not read the history noted by the emergency physician, he says that he himself took the history.¹³⁴⁷ The said deposition of CW-33 would suggest that he does not want to admit some of the entries of the record made by the emergency department. CW-33 has made some statements from out of his memory. Thus, he says that when he enquired the emergency physician about the mental status of K. Venkateshwarlu when he was brought to the hospital, he was informed that the patient was obeying commands and that he was not opening his eyes and that the same is mentioned in the copy of medico legal record.¹³⁴⁸ When asked to read out from MLC the words “he was obeying commands but he was not opening eyes”, he says that it was not mentioned in M.L.C.¹³⁴⁹ Thus CW-33 appears to be making an attempt to justify the entry in the MLC that the patient was *semi-conscious*. However, the other entries in MLC that the patient was conscious and oriented and also his own entries that the patient was conscious, coherent and oriented, come in his way in justifying the entry *semi-conscious*. In fact, he says that when he examined the patient at 8.30 AM he has noted the finding as “E 4 M 6 V 5” which

¹³⁴¹Ex.C-16, p 146, Vol I, Commission Exhibits

¹³⁴²CW-33, Response to Q 13, p 1174, Vol IV, Deposition of Witnesses.

¹³⁴³CW-33, Response to Q 3, p 1171, Vol IV, Deposition of Witnesses.

¹³⁴⁴CW-33, Response to Q 28, p 1178, Vol IV, Deposition of Witnesses.

¹³⁴⁵CW-33, Response to Q 29, p 1179, Vol IV, Deposition of Witnesses.

¹³⁴⁶CW-33, Response to Q 30, p 1179, Vol IV, Deposition of Witnesses.

¹³⁴⁷CW-33, Response to Q 31, p 1179, Vol IV, Deposition of Witnesses.

¹³⁴⁸CW-33, Response to Q 9, p 1173, Vol IV, Deposition of Witnesses.

¹³⁴⁹CW-33, Response to Q 10, p 1174, Vol IV, Deposition of Witnesses.

means the patient was conscious, obeying commands and was communicating.¹³⁵⁰ Therefore it is quite evident that except for the history of alleged loss of consciousness for about 5 minutes, there is no other record to show that Venkateshwarlu suffered any loss of consciousness. The entire version that Venkateshwarlu had lost consciousness is totally unbelievable and unacceptable. As per the evidence of SW-3, he examined Venkateshwarlu on 07.12.2019 and it is not the case of either Venkateshwarlu or SW-3 that there was any such complaint of loss of consciousness during such examination. It is interesting to note one inconsistent statement in the deposition of CW-44. When he is asked for reasons as to why he has not disclosed to the Investigating Officer the overt acts on the part of the accused, he says that as far as he can remember he had stated the overt acts as he had seen the injured police personnel and also interacted with them.¹³⁵¹ After the lunch break, when he was recalled and examined, he sought leave to add to the above said answer and now he states that he went near the injured persons and saw them and they were not in a position to speak and he had not interacted with them.¹³⁵²

14.3.5.3 There is also a discrepancy whether K. Venkateshwarlu was admitted in emergency department in the first instance or he was admitted in ICCU straight away. CW-33 has stated that any patient received in emergency is first assessed by the emergency physician and primary treatment is given and the patient is stabilized and in the meantime a consultant is called for and after examination by the consultant, investigations are ordered and decision would be taken whether the patient is to be admitted or not.¹³⁵³ If that be so, the patient could not have been found in ICCU at 8.00 AM even before the examination was done by CW-33. But the admission data of Venkateshwarlu in page 12 of Ex.C-16 shows that the patient was admitted in ICCU at 8.00 AM.¹³⁵⁴ When the attention of CW-33 is drawn to the said entry at page 12 of Ex.C-16, he says that he is unable to explain the said entry.¹³⁵⁵ On the other hand, the registration data at Page No.3 of Ex.C-16¹³⁵⁶ shows admission time as 10.12 AM and the category to which the patient is admitted is

¹³⁵⁰CW-33, Response to Q 6, p 1172, Vol IV, Deposition of Witnesses.

¹³⁵¹CW-44, Response to Q 353, p 1560, Vol V, Deposition of Witnesses.

¹³⁵²CW-44, Response to Q 353, p 1561, Vol V, Deposition of Witnesses.

¹³⁵³CW-33, Response to Q 19, p 1176, Vol IV, Deposition of Witnesses.

¹³⁵⁴Ex.C-16, p 150, Vol I, Commission Exhibits.

¹³⁵⁵CW-33, Response to Q 19, p 1176, Vol IV, Deposition of Witnesses.

¹³⁵⁶Ex.C-16, p 137, Vol I, Commission Exhibits.

shown as ER casualty.¹³⁵⁷ When CW-33 was confronted with the nature of treatment given in emergency department and when it was suggested that except paracetamol, Pantop and IV fluids, no other treatment was given, CW-33 states that TT and Overan were also given in the emergency department.¹³⁵⁸ However, when he was asked to verify the record, he realizes that the said treatment i.e. TT and Overan were said to have been administered before the patient was brought to CARE hospital.¹³⁵⁹

14.3.5.4 As per the findings of CW-33, Venkateshwarlu had a laceration of about 2 centimetres on right side of forehead. CW-33 agrees with the suggestion that an accurate description of wounds in medico legal cases is necessary.¹³⁶⁰ However, except stating that the patient had a laceration of 2 centimetres, he has not given any other details. He agrees that a laceration injury is measured with reference to length, width, depth.¹³⁶¹ However, he says that he did not measure because the laceration is surrounded by abrasions, besides *he did not have a measuring devise*.¹³⁶² He also agrees that a laceration may appear linear or stellar (irregular)¹³⁶³ and when pointed out that he has not noted the shape of laceration, he says that he has drawn a picture mentioning the laceration, its location and associated injuries¹³⁶⁴ and he points to some noting on a picture of body chart drawn at page 13 of Ex.C-16¹³⁶⁵ and claims that it is a diagram of the laceration injury¹³⁶⁶. In fact, the said marking would only indicate the location of the injury and does not appear to be a diagram of the nature of the injury as claimed by CW-33. Though he says that the laceration suffered by the patient is a curvilinear laceration with ragged edges,¹³⁶⁷ he admits that he did not note either in the case sheet or in the discharge summary that there was a curvilinear laceration with ragged edges¹³⁶⁸. He further admits that he has not noted either the colour of the wound or the age of

¹³⁵⁷Ex.C-16, p 137, Vol I, Commission Exhibits.

¹³⁵⁸CW-33, Response to Q 23, p 1177, Vol IV, Deposition of Witnesses.

¹³⁵⁹CW-33, Response to Q 24, p 1177, Vol IV, Deposition of Witnesses.

¹³⁶⁰CW-33, Response to Q 48, p 1185, Vol IV, Deposition of Witnesses.

¹³⁶¹CW-33, Response to Q 34, p 1181, Vol IV, Deposition of Witnesses.

¹³⁶²CW-33, Response to Q 39, p 1183, Vol IV, Deposition of Witnesses.

¹³⁶³CW-33, Response to Q 36, p 1182, Vol IV, Deposition of Witnesses.

¹³⁶⁴CW-33, Response to Q 37, p 1182, Vol IV, Deposition of Witnesses.

¹³⁶⁵Ex.C-16, p 147, Vol I, Commission Exhibits.

¹³⁶⁶CW-33, Response to Q 38, p 1182, Vol IV, Deposition of Witnesses.

¹³⁶⁷CW-33, Response to Q 38, p 1182, Vol IV, Deposition of Witnesses.

¹³⁶⁸CW-33, Response to Q 46, p 1184, Vol IV, Deposition of Witnesses.

the wound.¹³⁶⁹ When asked whether he found any exposure of muscle or fat or bone at the wound side, he says that ‘facie and bone were exposed’¹³⁷⁰ and when he was asked whether he made a note of the same, he says that there is no documentation regarding exposure of facia and bone and that he is saying from his memory¹³⁷¹. When he is asked whether the diagram which he is said to have made shows the exposure of muscle, fat or bone, he says that they are necessarily exposed when there is laceration,¹³⁷² but when he was asked whether there is exposure of muscle, fat or bone in all lacerations, he says ‘no’ and that it all depends on the depth of laceration¹³⁷³. When asked whether this injury could have caused the death of person he says “yes”.¹³⁷⁴ Immediately when he was asked whether the injury was significantly big enough so as to be able to cause death, he says ‘in this case no’.¹³⁷⁵ As regards bleeding, he says that there was bleeding when he saw the patient,¹³⁷⁶ but he concedes that it is not noted either in the records of the emergency department or in his own notes that there was any such bleeding.¹³⁷⁷ When he was asked whether the wound was deep enough for continuous bleeding right from 6.45 AM when the patient was first taken to community health centre, he says ‘NO’ and he further clarifies that there was no active bleeding when the dressing was opened at CARE hospital.¹³⁷⁸ Thus, the evidence of CW-33 does not inspire credibility and the witness has made several discrepant statements and several of his statements are either inconsistent with the record or not borne out by documentation.

14.3.5.5 Above all, neither the evidence of CW-33 nor the medical record would show any necessity to keep Venkateshwarlu in ICCU from 06.12.2019 to 09.12.2019. CW-33, with reference to vitals noted in the chart at page 10 of medical record of Venkateshwarlu in Ex.C-16,¹³⁷⁹ says that the heart rate was 74 per minute, blood pressure was 130/80, respiratory rate was 21 per minute, oxygen saturation was 98

¹³⁶⁹CW-33, Response to Q 57, p 1187, Vol IV, Deposition of Witnesses.

¹³⁷⁰CW-33, Response to Q 58, p 1187, Vol IV, Deposition of Witnesses.

¹³⁷¹CW-33, Response to Q 59, p 1188, Vol IV, Deposition of Witnesses.

¹³⁷²CW-33, Response to Q 63, p 1188, Vol IV, Deposition of Witnesses.

¹³⁷³CW-33, Response to Q 64, p 1189, Vol IV, Deposition of Witnesses.

¹³⁷⁴CW-33, Response to Q 41, p 1183, Vol IV, Deposition of Witnesses.

¹³⁷⁵CW-33, Response to Q 43, p 1183, Vol IV, Deposition of Witnesses.

¹³⁷⁶CW-33, Response to Q 54, p 1186, Vol IV, Deposition of Witnesses.

¹³⁷⁷CW-33, Response to Q 55, p 1186, Vol IV, Deposition of Witnesses.

¹³⁷⁸CW-33, Response to Q 56, p 1187, Vol IV, Deposition of Witnesses.

¹³⁷⁹Ex.C-16, p 145, Vol I, Commission Exhibits.

percent, temperature was normal and random blood sugar was 99¹³⁸⁰ and he agrees that all these readings are normal¹³⁸¹. However, he says that he advised the admission of the patient as he was told that the patient had become unconscious and that is the only reason why he advised the admission of the patient.¹³⁸² When asked whether it is not correct that generally patients likely to require advanced respiratory support and patients requiring support of multiorgan systems and patients with chronic impairment of one or more organ systems would require constant monitoring and frequent nursing care are admitted to ICU, he says that in cases of head injury, there can be a bleed into the brain during the course of treatment and that the condition of the patient may deteriorate due to fits and therefore admission was warranted for observation.¹³⁸³ He has stated that no specific treatment was given in ICCU and that he would need specific treatment only if the condition of the patient deteriorates.¹³⁸⁴ He states that he advised the patient to be admitted in ICCU for 3 days as the patient complained neck pain.¹³⁸⁵ CW033 states that as the patient was not responding to analgesics, they had to administer Fentanyl once on 07.12.2019¹³⁸⁶ and that he prescribed it at 10.30 AM and the said drug was administered at 10.35 AM¹³⁸⁷. He admits that Fentanyl is separately sanctioned under the caption “narcotic prescription”.¹³⁸⁸ When such is the case, it would appear improbable that the drug was secured and administered within a period of 5 minutes. But he says it could be secured within 5 minutes.¹³⁸⁹ While the said drug is said to have been prescribed and administered on 07.12.2019, the date in the case sheet Ex.C-16 is noted as 07.11.2019.¹³⁹⁰ The timing at which the drug Fentanyl was said to have been prescribed and administered assumes significance in view of the contents of the record of the Magistrate Ex. C-58¹³⁹¹ where it is stated that she reached CARE hospital on 07.12.2019 at 10 AM, and after confirming from the doctor that the patient is

¹³⁸⁰CW-33, Response to Q 68, p 1190, Vol IV, Deposition of Witnesses.

¹³⁸¹CW-33, Response to Q 69, p 1190, Vol IV, Deposition of Witnesses.

¹³⁸²CW-33, Response to Q 44, p 1184, Vol IV, Deposition of Witnesses.

¹³⁸³CW-33, Response to Q 71, p 1191, Vol IV, Deposition of Witnesses.

¹³⁸⁴CW-33, Response to Q 74, p 1191, Vol IV, Deposition of Witnesses.

¹³⁸⁵CW-33, Response to Q 76, p 1192, Vol IV, Deposition of Witnesses.

¹³⁸⁶CW-33, Response to Q 76, p 1192, Vol IV, Deposition of Witnesses.

¹³⁸⁷CW-33, Response to Q 85, p 1194, Vol IV, Deposition of Witnesses.

¹³⁸⁸CW-33, Response to Q 83, p 1194, Vol IV, Deposition of Witnesses.

¹³⁸⁹CW-33, Response to Q 83, p 1194, Vol IV, Deposition of Witnesses.

¹³⁹⁰Ex.C-16, p 172, Vol I, Commission Exhibits.

¹³⁹¹Ex.C-58, p 916, Vol IV, Commission Exhibits.

conscious and coherent, started recording the statement of Venkateshwarlu and that Venkateshwarlu reported giddiness and doctor suggested a break and informed that since he had a head injury and in view of medications, he might have felt giddiness. However, CW-33 states that the patient did not suffer loss of consciousness at any time during the period of history at the hospital.¹³⁹²When questioned about the effect of Fentanyl, the witness says that only 25 micrograms was given and it does not induce sleep.¹³⁹³However as per the narcotic prescription, 100 micrograms of Fentanyl has been sanctioned. There cannot be such discrepancy with regard a drug which required a special sanction. For all these reasons, it is to be stated that there does not appear to be any necessity to admit the patient as an in-patient for any such observation and there does not appear to be any reason for his admission in ICCU.

14.3.5.6 The discrepancies in the medical record are galore. CW-33 admits that the date 07.12.2019 is overwritten in the front page of page 24 of Ex.C-16,¹³⁹⁴ and that on the reverse of page 24 in columns 2, 3 and 4 the date is written as 06.11.2019.¹³⁹⁵While the patient was said to have been admitted in the hospital at about 8 AM on 06.12.2019, it is recorded in page number 30 of Ex. C-16¹³⁹⁶ that the level of consciousness of the patient is semi-conscious at 7 AM on 06.12.2019. When CW-33 is confronted with the said entry, he says that the nursing staff might have recorded him as semiconscious while the patient was sleeping.¹³⁹⁷When he is reminded that the said entry would suggest that the patient was present in CARE hospital even by 7 AM, he clarifies that the patient was not present in CARE hospital by that time.¹³⁹⁸ In his cross-examination by the counsel for the state of Telangana, an attempt is made to substantiate the said error apparent on record by eliciting that if a person is admitted prior to 1 PM, the entries will be made in the column of morning shift.¹³⁹⁹ If at all there is no appropriate time column, the time at which the finding is recorded should be noted by changing the caption of the

¹³⁹²CW-33, Response to Q 87, p 1194, Vol IV, Deposition of Witnesses.

¹³⁹³CW-33, Response to Q 122, p 1205, Vol IV, Deposition of Witnesses.

¹³⁹⁴Ex.C-16, p 171, Vol I, Commission Exhibits; CW-33, Response to Q 77, p 1192, Vol IV, Deposition of Witnesses.

¹³⁹⁵Ex.C-16, p 172, Vol I, Commission Exhibits; CW-33, Response to Q 79, p 1193, Vol IV, Deposition of Witnesses.

¹³⁹⁶Ex.C-16, p 180, Vol I, Commission Exhibits.

¹³⁹⁷CW-33, Response to Q 88, p 1195, Vol IV, Deposition of Witnesses.

¹³⁹⁸CW-33, Response to Q 90, p 1195, Vol IV, Deposition of Witnesses.

¹³⁹⁹CW-33, Response to Q 123, p 1206, Vol IV, Deposition of Witnesses.

column manually. At any rate, it is not the case of CW-33 that the patient was semiconscious at any time in the hospital. While the patient is said to have sustained injury on the right side of forehead, in page number 32 of Ex.C-16¹⁴⁰⁰ under the heading, “lesions or wounds”, it is described in two columns that there is *left side abrasion* present and in the last column it is written as *right side abrasion* present. As per the case sheet, the injured had a laceration. Similarly on the reverse of page number 33 of Ex.C-16¹⁴⁰¹ under the heading “lesions or wounds”, it is recorded that there is left side abrasion, left side head laceration and on the reverse of page 31 of Ex. C-16,¹⁴⁰² it is only specified “on forehead” without noting whether it is on the right side of left side. On the reverse of page number 50 of Ex.C-16 an entry is made in respect of 11.12.2019 and there is also a signature in a blank sheet.¹⁴⁰³ When the attention of the witness is drawn to all these discrepancies, he simply says that they are clerical errors¹⁴⁰⁴ and that the entries are made by the nursing staff¹⁴⁰⁵ and that he did not verify them and that he cannot change the record¹⁴⁰⁶. All these discrepancies in the record would appear to suggest that the said entries are made in haste. In this connection it is stated by the Magistrate in her report Ex.C-58¹⁴⁰⁷ that when she asked for copies of the medical record, she was informed that the copies of the medical record cannot be given before the patient is discharged. However, when the NHRC team has asked for records on 09.12.2019, such copies have been given although the patient was not discharged and the said record is found at Pages 360 to 423 of Book No. 6.¹⁴⁰⁸

14.3.5.7 As regards the object with which the injury is allegedly caused to Venkateswarlu, as per the history given by the patient, he was hit by stone and wooden stick and CW-33 also states so.¹⁴⁰⁹ When suggested that an injury caused by stone would appear differently from the injury caused by a stick, he says that they may appear same and they may appear different.¹⁴¹⁰ However, CW-33 admits that he has not given any opinion regarding the object which had caused the said

¹⁴⁰⁰Ex.C-16, p 185, Vol I, Commission Exhibits.

¹⁴⁰¹Ex.C-16, p 187, Vol I, Commission Exhibits.

¹⁴⁰²Ex.C-16, p 183, Vol I, Commission Exhibits.

¹⁴⁰³Ex.C-16, p 221, Vol I, Commission Exhibits.

¹⁴⁰⁴CW-33, Response to Q 108, p 1202, Vol IV, Deposition of Witnesses.

¹⁴⁰⁵CW-33, Response to Q 103, p 1202, Vol IV, Deposition of Witnesses.

¹⁴⁰⁶CW-33, Response to Q 95, p 1196, Vol IV, Deposition of Witnesses.

¹⁴⁰⁷Ex.C-58, p 917, Vol IV, Commission Exhibits.

¹⁴⁰⁸P 360-423, Book No. 6.

¹⁴⁰⁹CW-33, Response to Q 50, p 1185, Vol IV, Deposition of Witnesses.

¹⁴¹⁰CW-33, Response to Q 51, p 1186, Vol IV, Deposition of Witnesses.

injury.¹⁴¹¹ He also says that an identical injury can also be caused by a fall on the ground.¹⁴¹² Even though the medico legal record at Page No. 7 of Ex.C-16¹⁴¹³ is issued at 4.00 PM on 06.12.2019, by which time all the investigation reports were allegedly received and yet in the said final opinion there is no reference to the scan reports and other reports. When the attention of the witness was drawn to the same, he says that he does not know why it is not mentioned.¹⁴¹⁴

14.3.5.8 As stated earlier, according to CW-31, the bleeding had been arrested by the time the patient left CHC Shadnagar. According to CW-33, there was no active bleeding when the patient was brought to CARE hospital, but in his statement before NHRC team, being Ex.C-122,¹⁴¹⁵ CW-33 has stated that he found some clothes i.e., Police uniform, stained with blood were found in a cover with the patient. When CW-33 is asked whether there could be any bleeding from a dressed wound so as to stain the clothes, he says 'NO'.¹⁴¹⁶ Even if there were any such blood-stained clothes, the same could not have been found in ICCU. When CW-33 is asked whether cell phones can adversely affect the functioning of various equipment in ICCU, he says that he is not aware of the same,¹⁴¹⁷ and when asked whether the patients would be permitted to use cell phones in the ICCU, he says that they are also permitted to make video calls when their relatives are not available in the hospital. It would appear that CW-33 is too anxious to support the evidence of Investigating Agency that blood stained clothes of Venkateshwarlu were seized in the hospital and that the injured police officers spoke over video call.

14.3.5.9 Now it is required to be considered whether the evidence of the injured person K. Venkateshwarlu CW-49 is consistent with the evidence of CW-33 and the entries in Ex.C-16 medical record.¹⁴¹⁸ As per para 17 of the affidavit of CW-49, he was assaulted by Jollu Naveen with a stone on his right side of forehead and that he received bleeding injuries.¹⁴¹⁹ It is also claimed that he lost consciousness. The loss of consciousness can only be attributed to the injury on the head and if at all

¹⁴¹¹CW-33, Response to Q 52, p 1186, Vol IV, Deposition of Witnesses.

¹⁴¹²CW-33, Response to Q 53, p 1186, Vol IV, Deposition of Witnesses.

¹⁴¹³Ex.C-16, p 92, Vol I, Commission Exhibits.

¹⁴¹⁴CW-33, Response to Q 98, p 1199, Vol IV, Deposition of Witnesses.

¹⁴¹⁵Ex.C-122, p 1355, Vol V, Commission Exhibits.

¹⁴¹⁶CW-33, Response to Q 111, p 1203, Vol IV, Deposition of Witnesses.

¹⁴¹⁷CW-33, Response to Q 116, p 1204, Vol IV, Deposition of Witnesses.

¹⁴¹⁸Ex.C-16, pp 133-349 Vol I, Commission Exhibits.

¹⁴¹⁹CW-49, p 1865, Vol VI, Deposition of Witnesses.

there is loss of consciousness, the same should have happened soon after the injury is caused to him. In fact, the statement of CW-49 recorded by the investigating officer is on the same lines.¹⁴²⁰ In para 23 of his affidavit also, he states that due to sudden assault followed by the sound of firing he went into shock and fell on the ground due to giddiness and that he came to know that Aravind Goud also received injuries etc.¹⁴²¹ According to the said statement, he learnt about the exchange of fire only after he regained consciousness. CW-49 says that the said statement is correct.¹⁴²² However, before the Commission, he has stated that he was attacked before the firing started¹⁴²³ and that he did not become unconscious before the firing started¹⁴²⁴ and he had witnessed what had happened at the place of incident and that he also saw Aravind Goud being assaulted¹⁴²⁵. When the discrepancy between his statement before the Investigating Officer and his statement before the Commission is brought to his notice, he says that he has stated to the Investigating Officer what is stated by him in his deposition before the Commission.¹⁴²⁶ Thus, on the one hand, he says that he lost consciousness after being assaulted and that subsequently he came to know that Aravind Goud was also assaulted and that he learnt about the exchange of fire after he regained consciousness. On the other hand, he states that he lost consciousness only after exchange of fire. He has specifically stated in answer to Q. No.44 that he became unconscious after he heard ACP instructing the firing party to move towards the deceased.¹⁴²⁷ There are similar discrepancies regarding his regaining consciousness. At one stage, he says that he regained consciousness at Shandnagar Government Hospital.¹⁴²⁸ However in para 23 of his affidavit he says that he regained consciousness while on the way to Shadnagar Hospital.¹⁴²⁹ The alleged loss of consciousness and the regaining of consciousnesses best explained in answer to Question No.118.¹⁴³⁰ The question was put whether any special consent was taken from him before administering drug? The answer as recorded in the deposition reads as follows:

¹⁴²⁰P 326, Book No. 1.

¹⁴²¹Ex.C-272, p 1867, Vol VI, Commission Exhibits.

¹⁴²²CW-49, Response to Q 67, p 1887, Vol VI, Deposition of Witnesses.

¹⁴²³CW-49, Response to Q 41, p 1882, Vol VI, Deposition of Witnesses.

¹⁴²⁴CW-49, Response to Q 42, p 1882, Vol VI, Deposition of Witnesses.

¹⁴²⁵CW-49, Response to Q 40, p 1882, Vol VI, Deposition of Witnesses.

¹⁴²⁶CW-49, Response to Q 69, p 1888, Vol VI, Deposition of Witnesses.

¹⁴²⁷CW-49, Response to Q 44, p 1882, Vol VI, Deposition of Witnesses.

¹⁴²⁸CW-49, Response to Q 45, p 1883, Vol VI, Deposition of Witnesses.

¹⁴²⁹Ex.C-272, pp 2525-2538, Vol IX, Commission Exhibits.

¹⁴³⁰CW-49, Response to Q 118, p 1902-1903, Vol VI, Deposition of Witnesses.

On 06.12.2019 and on 07.12.2019 I was unconscious and now say that I was not unconsciousness, I was giddiness. did not state that I was unconscious. I had giddiness. I do not know what drugs were administered. My initial was not taken for administering any drugs. I now say that I do not remember”.

14.3.5.10 After the above answer was recorded, the witness has stated that the translation of his answer is not accurate. Hence, the audio recording has been replayed and the following statement was retrieved from the recording:

“on 6th and 7th I was slightly unconscious. I do not know what drug was given. My signature was not taken. I had giddiness. Not unconscious, I had giddiness. I did not say unconscious. I do not remember”.

14.3.5.11 He further says that he was confused between “unconscious” and “giddiness”.

14.3.5.12 As regards the injuries, according to the entries in Ex.C-16 and also according to the evidence of CW-33, CW-49 himself gave a history that he was beaten with stick and stones.¹⁴³¹ But CW-49 says that he did not give any history to the doctors and he did not speak to the medical staff.¹⁴³² As per the history recorded by the medical staff in Ex.C-16 recorded on 06.12.2019 and 07.12.2019, there was only loss of consciousness for a period of five minutes only and there is a specific entry at Page No. 151 of Ex C-16.¹⁴³³ In fact, CW-33 states that at page 13 of Ex.C-16 of his notes he has recorded “H/O. Transient LOC for about 5 mins.”¹⁴³⁴ He further explains that “H/O” means the history given by the patient and “LOC” means loss of consciousness and “TRANSIENT” means for a few minutes. He clarifies that he understood that the patient had sustained head injury and he became unconscious for a couple of minutes and he regained consciousness spontaneously.¹⁴³⁵ Thus, according to the entries in Ex.C-16 and the evidence of CW-33, CW-49 had a history of loss of consciousness for 5 minutes only. On the other hand, the evidence of CW-49 is that he regained consciousness only at 6.45 or 7.00 AM when he reached Community Health Centre, Shadnagar. While the record Ex.C-16 shows that the patient informed the medical staff that he was assaulted with stick and stone, CW-49 says that he was not assaulted with stick. In his evidence, CW-49 further claims that apart from bleeding injury, he had sustained several other

¹⁴³¹CW-33, Response to Q 6, p 1172, Vol I, Deposition of Witnesses.

¹⁴³²CW-49, Response to Q 140-141, p 1909, Vol VI, Deposition of Witnesses.

¹⁴³³Ex.C-16, p 151, Vol I Commission Exhibits

¹⁴³⁴Ex.C-16, p 141, Vol I, Commission Exhibits.

¹⁴³⁵CW-33, Response to Q 7, p 1172, Vol I, Deposition of Witnesses.

injuries all over his head and neck¹⁴³⁶ but he admits that there is no mention of the said injuries in his affidavit and he says that he felt that it was not necessary to mention about the injury in his affidavit¹⁴³⁷. As regards the treatment, when asked what treatment was advised for the neck, he says that no specific treatment was advised and that he was given medicines¹⁴³⁸ but as per the medical record Ex.C-16 he was advised to wear Cervical Collar.¹⁴³⁹ Thus, the evidence of CW-49 with regard to the injuries allegedly sustained by him is not at all acceptable. For all the above reasons, the infliction of injuries, the loss of consciousness and the subsequent treatment at Care Hospital, in so far as CW-49 is concerned, is not at all believable.

14.3.6 Treatment of CW-50 at Care Hospital

14.3.6.1 As regards the injuries alleged to have been caused to Aravind Goud, the consultant Orthopaedic of CARE hospital is examined as CW-35. As per the affidavit of CW-35, being Ex. C-159,¹⁴⁴⁰ the patient was conscious, coherent and with clear state of mind with stable vitals and that he was tender over the left upper arm and over the shoulder and over the scapular region and that X-ray did not show any fractures and that trauma protocol, CT-Scan revealed hair line fracture of the inferior border of the scapula and that he was treated conservatively with analgesia and arm sling. Even in the case of Aravind Goud, the final opinion at Page No.7 of medical record of Aravind Goud, being Ex.C-16,¹⁴⁴¹ is said to have been given on 06.12.2019 at 4.00 PM by which time the necessary investigation reports would have been received and yet, it is only stated that CT trauma protocol and X ray were advised and it is not stated that any such reports were referred while giving the final opinion. When CW-35 is confronted with the said document, he says that the medico legal record is documented by E.R. consultant.¹⁴⁴² Once again when his attention is drawn to the fact that the injury certificate in medico legal record does not mention the nature of the injury as described in the discharge summary, he says that the injury certificate is not written by him.¹⁴⁴³ When he is

¹⁴³⁶CW-49, Response to Q 127, p 1906, Vol VI, Deposition of Witnesses.

¹⁴³⁷CW-49, Response to Q 128, p 1906, Vol VI, Deposition of Witnesses.

¹⁴³⁸CW-49, Response to Q 132, p 1907, Vol VI, Deposition of Witnesses.

¹⁴³⁹Ex.C-16, p 116, Vol I, Commission Exhibits.

¹⁴⁴⁰Ex.C-159, p 1221, Vol IV, Commission Exhibits.

¹⁴⁴¹Ex.C-16, p 236, Vol I, Commission Exhibits.

¹⁴⁴²CW-35, Response to Q 2, p 1224, Vol IV, Deposition of Witnesses.

¹⁴⁴³CW-35, Response to Q 4, p 1225, Vol IV, Deposition of Witnesses.

asked about the radiological investigations done at the hospital, he says that a plain x ray of the shoulder as well as CT trauma protocol were part of the radiological investigation¹⁴⁴⁴ and that CT trauma protocol includes taking CT from head to pelvis level¹⁴⁴⁵. However, in the radiology list of the discharge summary, there is no mention of any X-ray and CW-35 admits that the X-ray should have been mentioned in the check list.¹⁴⁴⁶ Even the X-ray findings are also not noted in the discharge summary. Similarly, there is no reference to CT scan shoulder/ scapula in the discharge summary. CW-35 admits that it is not so mentioned and that however there is a mention of the same in his clinical notes and that every detail will not be mentioned in the discharge summary.¹⁴⁴⁷ However, it is brought to the notice of the witness that in the discharge summary under the head “Radiology list” there is a reference to CT – whole abdomen (plain) and CT – brain scan (Plain) which have not disclosed any positive findings and strangely there is no reference to CT scan shoulder – scapula which is the relevant report in this case. CW-35 says that it should have been mentioned.¹⁴⁴⁸ Thus the hair line fracture of inferior of angle of left scapula is detected only on the basis of CT scan shoulder/scapula and yet there is no reference to it in the column “Radiology list”. CW-35 has only stated that it should have been mentioned.¹⁴⁴⁹

14.3.6.2 It is found in the medical record that a narcotic prescription drug by name “Fentanyl” was prescribed but the same was not administered. In this regard as per the entries in page 23 and 24 of Ex.C-16¹⁴⁵⁰ regarding drug administration chart do not tally with the drugs under the caption “Medication during stay” in the discharge summary particularly in respect of the drug Fentanyl. CW-35 admits that they do not tally.¹⁴⁵¹ There are some other strange entries in Ex.C-16. While it is stated that Aravind Goud was discharged on 10.12.2019, as per the entries on the reverse of Page No. 25 of Ex.C-16¹⁴⁵² the patient was found sleeping at 2.00 AM on 11.12.2019 and there is another entry in the same page which shows that the patient was discharged on 11.12.2019. CW-35 says that the said entries are made

¹⁴⁴⁴CW-35, Response to Q 8, p 1227, Vol IV, Deposition of Witnesses.

¹⁴⁴⁵CW-35, Response to Q 9, p 1227, Vol IV, Deposition of Witnesses.

¹⁴⁴⁶CW-35, Response to Q 10, p 1227, Vol IV, Deposition of Witnesses.

¹⁴⁴⁷CW-35, Response to Q 12, p 1228, Vol IV, Deposition of Witnesses.

¹⁴⁴⁸CW-35, Response to Q 13, p 1229, Vol IV, Deposition of Witnesses.

¹⁴⁴⁹CW-35, Response to Q 14, p 1229, Vol IV, Deposition of Witnesses.

¹⁴⁵⁰Ex.C-16, p 274-277, Vol I, Commission Exhibits.

¹⁴⁵¹CW-35, Response to Q 21, p 1233, Vol IV, Deposition of Witnesses.

¹⁴⁵²Ex.C-16, p 279, Vol I, Commission Exhibits.

by the nursing staff.¹⁴⁵³ When it is suggested that such wrong entries affect the credibility of the charts, CW-35 admits that errors in the chart would reduce their credibility¹⁴⁵⁴. Similarly, it is not the case of anybody that Aravind Goud had any open wound which required dressing, but an entry on the reverse of Page 40 of Ex.C-16¹⁴⁵⁵ shows that there is a reference to dressing and the said entry is not struck off though there is an endorsement that it is an error.¹⁴⁵⁶

14.3.6.3 Above all, neither the record Ex.C-16 nor the evidence of CW-35 appear to justify admission of Aravind Goud in ICCU from 06.12.2019 to 09.12.2019. It is admitted by CW-35 that admission to ICCU is necessary only for patients who require advance respiratory support or such of those patients who require to one or more organ system and who require constant monitoring and frequent nursing care by skilled staff.¹⁴⁵⁷ He also admits that Aravind Goud did not have any such problems which required his admission and treatment in ICCU, but he says that there was a potential risk in the form of injury in the lung which is often associated with scapular injury.¹⁴⁵⁸ When a pointed question is put to him as to how many patients with a hair line fracture of scapula were admitted by him in ICCU, he says ‘NONE’.¹⁴⁵⁹ Even though it is claimed that there was a potential risk, it is nowhere recorded in Ex.C-16 that a lung injury was suspected.¹⁴⁶⁰ It is suggested to CW-35 that even if any observation was required, it may not be necessary to have kept him in ICCU for four days. Finally, he concedes that it was probably not necessary to keep CW-50 ICCU¹⁴⁶¹ and that he feels that his admission to ICCU was unnecessary¹⁴⁶². Though the entire record of Aravind Goud at CARE hospital does not show that there was any history of loss of consciousness before he was brought to CARE hospital or loss of consciousness during his stay at the hospital, in his statement before NHRC team, being Ex.C-121¹⁴⁶³, CW-35 has stated that the patient had brief loss of consciousness. When he is asked about it, he says that he

¹⁴⁵³CW-35, Response to Q 22-23, p 1233, Vol IV, Deposition of Witnesses.

¹⁴⁵⁴CW-35, Response to Q 24, p 1234, Vol IV, Deposition of Witnesses.

¹⁴⁵⁵Ex.C-16, p 309, Vol I, Commission Exhibits.

¹⁴⁵⁶CW-35, Response to Q 26, p 1234, Vol IV, Deposition of Witnesses.

¹⁴⁵⁷CW-35, Response to Q 28, p 1235, Vol IV, Deposition of Witnesses.

¹⁴⁵⁸CW-35, Response to Q 30, p 1237, Vol IV, Deposition of Witnesses.

¹⁴⁵⁹CW-35, Response to Q 35, p 1236, Vol IV, Deposition of Witnesses.

¹⁴⁶⁰CW-35, Response to Q 37, p 1236, Vol IV, Deposition of Witnesses.

¹⁴⁶¹CW-35, Response to Q 39, p 1238, Vol IV, Deposition of Witnesses.

¹⁴⁶²CW-35, Response to Q 41, p 1238, Vol IV, Deposition of Witnesses.

¹⁴⁶³Ex.C-121, p 1353, Vol V, Commission Exhibits.

does not remember though he has stated so in that statement and that however in the entire clinical notes, he has not mentioned about loss of consciousness.¹⁴⁶⁴

14.3.6.4 Thus, the evidence of CW-35 would show that the crucial document i.e., the CT scan of Shoulder/Scapula which is said to have disclosed the fracture injury has not seen the light of the day. The report of CT scan Shoulder/Scapula is not even referred to in the Discharge summary. The alleged potential risk in the form of a suspected lung injury is not even referred to in the case sheet. For all these reasons, it is to be stated that there is no satisfactory material to accept the claim that Aravind Goud was injured in the incident.

14.3.6.5 CW-50, who is said to have suffered a hair line fracture on the inferior border of the scapula, also claims that he lost consciousness. In para 23 of his affidavit, being Ex.C-274,¹⁴⁶⁵ he states that due to sudden assault followed by the sound of firing he went into shock and fell on the ground due to giddiness and that he came to know that Venkateshwarlu also received injuries etc. According to the said statement, he learnt about the exchange of fire only after he regained consciousness. But in paras 17 to 22 of his affidavit he has stated as though he witnessed the entire incident. In his statement before the Investigating Officer¹⁴⁶⁶ he has stated that he came to know about the incident later. When confronted with his statement before the Investigating Officer, he states that he has stated before the Investigating Officer everything and that he does not know what is written by the Investigating Officer. In his statement before the Magistrate, he has stated that after he received a blow on his left arm immediately, he fell down and became unconscious.¹⁴⁶⁷ When he is confronted with that statement, he states that he did not state so before the Magistrate.¹⁴⁶⁸ When it is suggested to him that in his statement before the Investigating Officer, he has neither stated that he lost consciousness or that he regained consciousness, he states that he stated before the Investigating Officer.¹⁴⁶⁹ When he is confronted with the statement before the Investigating Officer that they were taken to CHC Shadnagar in a Bolero vehicle, he denies having made any such statement.¹⁴⁷⁰ In his statement before the

¹⁴⁶⁴CW-35, Response to Q 48, p 1241, Vol IV, Deposition of Witnesses.

¹⁴⁶⁵Ex.C-274, p 1938, Vol VI, Commission Exhibits.

¹⁴⁶⁶PP 335-339, Book No. 1.

¹⁴⁶⁷Ex.C-58, p 939, Vol IV, Commission Exhibits.

¹⁴⁶⁸CW-50, Response to Q 47, p 1958, Vol VI, Deposition of Witnesses.

¹⁴⁶⁹CW-50, Response to Q 52, p 1959, Vol VI, Deposition of Witnesses.

¹⁴⁷⁰CW-50, Response to Q 56, p 1960, Vol VI, Deposition of Witnesses.

Investigating Officer ¹⁴⁷¹ he has stated that he came to know about the snatching of the weapons by the accused and about exchange of fire and death of accused, but he denies having made such statement before the Investigating Officer.¹⁴⁷² When questioned about the reason why he lost consciousness, he states that he was also hit on his head and that he had heard firing sound for the first time and that he did not know what was happening and that he felt his head spinning and he lost consciousness.¹⁴⁷³ He states that he was hit above the left side forehead, and that he did not receive any injury on his head¹⁴⁷⁴, that he did not tell the doctor about being hit by a stick on his head and about this loss of consciousness as he did not feel anything at that time.¹⁴⁷⁵ When asked when did he regain consciousness, he stated that he regained consciousness while undergoing treatment at CHC Shadnagar.¹⁴⁷⁶ Again when he is asked whether he was fully conscious when he reached CARE hospital, he has stated that he was not fully conscious.¹⁴⁷⁷ When asked whether the medical staff at CARE hospital inquired him about the cause of injury, he states that he was not conscious at that time.¹⁴⁷⁸ When asked when did he regain consciousness, he has stated that he regained consciousness while undergoing treatment.¹⁴⁷⁹ When he was specifically asked at what time and on which date he regained consciousness, he says that he regained consciousness on 06.12.2019 at 6-45 AM or 7 AM,¹⁴⁸⁰ which would be before he was allegedly taken to CARE hospital.

14.3.6.6 There is an entirely different version in his statement recorded by the Magistrate at CARE hospital. In his statement before the Magistrate¹⁴⁸¹, he has stated that after he regained consciousness, he found himself admitted in CARE hospital. When he is confronted with that statement, he states that he did not state so before the Magistrate.¹⁴⁸² When asked whether any bandage was put to him for the fracture of shoulder, he indicated that a bandage was put on his left hand and

¹⁴⁷¹PP 335, Book No. 1.

¹⁴⁷²CW-50, Response to Q 58, p 1961, Vol VI, Deposition of Witnesses.

¹⁴⁷³CW-50, Response to Q 112, p 1974, Vol VI, Deposition of Witnesses.

¹⁴⁷⁴CW-50, Response to Q 114, p 1975, Vol VI, Deposition of Witnesses.

¹⁴⁷⁵CW-50, Response to Q 115, p 1975, Vol VI, Deposition of Witnesses.

¹⁴⁷⁶CW-50, Response to Q 2, p 1945, Vol VI, Deposition of Witnesses.

¹⁴⁷⁷CW-50, Response to Q 9, p 1946, Vol VI, Deposition of Witnesses.

¹⁴⁷⁸CW-50, Response to Q 12, p 1947, Vol VI, Deposition of Witnesses.

¹⁴⁷⁹CW-50, Response to Q 13-19, p 1947-1948, Vol VI, Deposition of Witnesses.

¹⁴⁸⁰CW-50, Response to Q 14, p 1947, Vol VI, Deposition of Witnesses.

¹⁴⁸¹Ex.C-58, p 907-973 @ 940, Vol IV, Commission Exhibits.

¹⁴⁸²CW-50, Response to Q 37, p 1955, Vol VI, Deposition of Witnesses.

shoulder and going around his neck¹⁴⁸³ and when asked how long was the bandage sustained, he says, he cannot say correctly and that he had the bandage for about 10 to 15 days.¹⁴⁸⁴ As per the medical record, he was advised to wear only an arm sling and no bandage has been put. Thus, the evidence of Aravind Goud regarding the alleged injuries sustained by him in the incident do not appear to be acceptable. What is more surprising is that none of the family members of CW-50 attended on him while he was undergoing treatment at CARE hospital.¹⁴⁸⁵

14.3.7 Admission to ICU or ICCU

14.3.7.1 The entire claim that Venkateshwarlu and Aravind Goud were treated in ICCU is to be viewed with any amount of doubt on account of the fact that the alleged injuries sustained by them did not necessitate their admission in the hospital let alone their admission in ICCU. The doubt is further cemented since the discrepancies in the medical record referred to above suggest that they do not carry any credibility and is further compounded by the failure to account for and produce the original medical record of CARE hospital.

14.3.7.2 In this regard, it is interesting to note the evidence of Ms Apoorva Rao (CW-17). She states that she visited CARE hospital on 09.12.2019¹⁴⁸⁶ and examined Venkateshwarlu and Aravind Goud at CARE hospital. When she is asked where Venkateshwarlu and Aravind Goud in CARE hospital were when she examined them, she says she does not remember.¹⁴⁸⁷ When asked whether she examined them in the room or reception etc, she states that they were examined in their room.¹⁴⁸⁸ When asked whether they were in independent rooms or same room and in which floor the room is located, she says she does not remember.¹⁴⁸⁹ Most amusing part of it is that when she is asked whether they were in a normal ward or ICU, she says that they were in a normal ward.¹⁴⁹⁰ When she is asked whether she knows the distinction between a ward and Intensive care unit, she says that she knows the distinction.¹⁴⁹¹ This is the evidence of a member of the SIT regarding the treatment of policemen at CARE hospital.

¹⁴⁸³CW-50, Response to Q 128, p 1978, Vol VI, Deposition of Witnesses.

¹⁴⁸⁴CW-50, Response to Q 129, p 1978, Vol VI, Deposition of Witnesses.

¹⁴⁸⁵CW-50, Response to Q 136, p 1979 & 1980, Vol VI, Deposition of Witnesses.

¹⁴⁸⁶CW-17, Response to Q 12, p 735, Vol VI, Deposition of Witnesses.

¹⁴⁸⁷CW-17, Response to Q 23-24, p 737, Vol VI, Deposition of Witnesses.

¹⁴⁸⁸CW-17, Response to Q 27, p 738, Vol VI, Deposition of Witnesses.

¹⁴⁸⁹CW-17, Response to Q 28, p 738, Vol VI, Deposition of Witnesses.

¹⁴⁹⁰CW-17, Response to Q 37, p 740, Vol VI, Deposition of Witnesses.

¹⁴⁹¹CW-17, Response to Q 38, p 740, Vol VI, Deposition of Witnesses.

14.3.8 Examination by Magistrate at Care Hospital

14.3.8.1 It is seen that both Venkateshwarlu and Aravind Goud have stated in their depositions that the statements recorded by Magistrate and forming part of Ex.C-58 bear their signatures. When confronted with some contradictions and omissions in those statements, they have for the first time, stated that Magistrate did not record their statements in their presence and that she only wrote in a small note book and that one Krishnaiah, ASI of Shadnagar obtained their signatures in the said statements on the evening of 07.12.2019.¹⁴⁹²It may be noted that the examination of CW-49 commenced on 08.11.2021 and in answer to a question whether his statement recorded by the Magistrate was read over and explained to him before he signed, he has stated that he does not remember.¹⁴⁹³ When his examination is continued on 09.11.2021, he has come up with a statement that the statement was not recorded in his presence. CW-50 who is examined later repeats the same version. CW-50 has further stated that the statement did not contain what he had told and that he informed the same to ASI who in turn assured him that he would inform the Magistrate.¹⁴⁹⁴This version is stated for the first time before the commission. There is no such allegation in their affidavits.

14.3.8.2 Their counsel did not choose to cross examine the Magistrate who was examined as CW-10, in the first instance nor did they choose to recall the witness. When CW-50 is asked whether he ascertained from ASI whether he informed the Magistrate, the witness has volunteered that he informed CW-44 on the evening of eighth that certain inaccurate facts were found in his statement recorded by the Magistrate.¹⁴⁹⁵ When he is undergoing treatment in ICCU on eighth, how and when he could contact CW-44 is not clarified. They have stated that the Investigating Officer also did not record their statements in their presence. Considering the various serious discrepancies in their evidence, no value can be attached to their evidence that their statements were not recorded in their presence by the Magistrate.

¹⁴⁹²CW-50, Response to Q 31, p 1951, Vol VI, Deposition of Witnesses; CW-49, Response to Q 94, p 1896, Vol VI, Deposition of Witnesses.

¹⁴⁹³CW-49, Response to Q 88, p 1891, Vol VI, Deposition of Witnesses.

¹⁴⁹⁴CW-50, Response to Q 31, p 1950, Vol VI, Deposition of Witnesses.

¹⁴⁹⁵CW-50, Response to Q 45, p 1957, Vol VI, Deposition of Witnesses.

14.3.9 *Discrepancies – Presence of CW-53, WhatsApp calls*

14.3.9.1 As per the case of the witnesses as well as the version of the investigating agency, the injured police personnel were escorted to the hospital by HC Srikanth (CW-53) who was also part of the team which took the accused to Chatanpally for recovery of material objects and Vijay bhaskar SI of police, Shadnagar. The said Srikanth is examined as CW-53. Srikanth has been examined by NHRC team and his statement is marked as Ex.C-92.¹⁴⁹⁶ In his statement before NHRC team, Srikanth does not say that he escorted the injured police people to the hospital, instead, he has stated that local police shifted them to the hospital¹⁴⁹⁷. If Srikanth had escorted the injured persons to the hospital and the registration has taken place at about 10 AM, considering the critical condition of the injured persons, the presence of Srikanth once again at about 12 noon to be a witness for the inquest of Jollu Siva appears to be not believable. It is not as though he was the only eye witness for the incident. No doubt as per the entries in the records of CARE hospital, Ex.C-16 at pages 134 and 236 Medico Legal Records,¹⁴⁹⁸ the injured were accompanied by D. Srikanth (CW-53). Not only CW-53 is said to have been present, the injured persons Venkateshwarlu and Aravind Goud were also said to have been examined during the inquest over the dead bodies of Jollu Naveen and Chinthakunta Chennakeshavulu. It is admitted by the Investigating Officer¹⁴⁹⁹ that the said Srikanth, K. Venkateshwarlu and S. Aravind Goud referred to in the inquest reports of Shiva, Naveen and Chennakeshavulu respectively are none other than CW-53, CW-49 and CW-50. During the course of the proceedings of the Commission, the affidavits of Mandal Executive Magistrates have been called for.

14.3.9.2 In the affidavits of Mandal Executive Magistrates filed before the commission, it is stated for the first time and surprisingly so, that the injured police persons, Venkateshwarlu and Aravind Goud were examined by Mandal Executive Magistrates through video conferencing over WhatsApp. As per the case diaries of the first Investigating Officer Sreedhar Kumar, Venkateshwarlu and Aravind Goud were examined during the course of inquest. It is nowhere stated in the inquest reports or the case dairy that Venkateshwarlu and Aravind Goud were examined during inquest through WhatsApp video calls. The Investigating Officer, SW-3 has

¹⁴⁹⁶Ex.C-92, p 1133-1153, Vol IV, Commission Exhibits.

¹⁴⁹⁷Ex.C-92, p 1140, Vol IV, Commission Exhibits.

¹⁴⁹⁸ Ex.C-16, pp 134 and 236, Vol I, Commission Exhibits.

¹⁴⁹⁹ SW-3, Response to Q 71, p 94, Vol I, Depositions of Witnesses.

expressed his inability to inform the phone numbers through which such whatapp calls were made. The investigating officer has stated that they have not adopted this practice of examination through video calls at any time before.¹⁵⁰⁰ When questioned who exactly spoke to the injured persons through video call, the Executive Magistrate CW-11¹⁵⁰¹ has referred to Sri Syed Hyder Ali who is said to have conducted inquest over the dead body of Jollu Naveen and who is said to be no more. Sri Hyder Ali, the Executive Magistrate has given a statement before the NHRC team in his own handwriting (Ex.C-123)¹⁵⁰² stating that he conducted the inquest between 12:45 PM and 2:45 PM in the presence of the available witnesses (*Pratyaksha Sakshulu*), photographer, videographer and after taking their opinion. He does not state that he spoke to any of the witnesses by WhatsApp video calls. All these circumstances would suggest that the theory of examination of Venkateshwarlu and Aravind Goud through video call has been introduced after having noticed that the names of Venkateshwarlu and Aravind Goud figure as witnesses during the inquest.

14.3.10 Discrepancies – Seizure of clothes of CW-49 and CW-50

14.3.10.1 When the investigating officer was questioned whether the clothes of the injured police persons were stained with blood, he stated that the shirt of Venkateshwarlu was stained with blood¹⁵⁰³ and when he was asked whether the clothes of the injured police officers were seized, he says “no”.¹⁵⁰⁴ He admits that Venkateshwarlu stated in his statement recorded under Section 161 Cr.P.C.,¹⁵⁰⁵ that he handed over the torn pistol pouch and bloodstained shirt.¹⁵⁰⁶ When he is confronted with his earlier statement that he did not seize the clothes of injured policemen, he says that the witness handed over the shirt and that he did not seize the same.¹⁵⁰⁷ Similarly, he admits that Aravind Goud stated in his statement recorded under Section 161 Cr.P.C.,¹⁵⁰⁸ that he handed over his shirt. However, he says that he did not seize it.¹⁵⁰⁹ When the investigating officer is confronted with

¹⁵⁰⁰ SW-3, Response to Q 80, p 96, Vol I, Depositions of Witnesses.

¹⁵⁰¹ CW-11, Response to Q 18, p 521, Vol II, Depositions of Witnesses.

¹⁵⁰² Ex.C-123, p 1357-1360, Vol V, Commission Exhibits.

¹⁵⁰³ SW-3, Response to Q 117, p 105, Vol I, Deposition of Witnesses.

¹⁵⁰⁴ SW-3, Response to Q 118, p 105, Vol I, Deposition of Witnesses.

¹⁵⁰⁵ P 334, Book No. 1.

¹⁵⁰⁶ SW-3, Response to Q 120, p 105, Vol I, Deposition of Witnesses.

¹⁵⁰⁷ SW-3, Response to Q 121, p 106, Vol I, Deposition of Witnesses.

¹⁵⁰⁸ SW-3, Response to Q 125, p 106, Vol I, Deposition of Witnesses.

¹⁵⁰⁹ SW-3, Response to Q 126, p 106, Vol I, Deposition of Witnesses.

the letter of advice dated 08.12.2019¹⁵¹⁰, he says that there is a seizure report and the same is marked as Ex.C-9.¹⁵¹¹

14.3.10.2 According to the evidence of the investigating officer, the injured police officers Venkateshwarlu and Aravind Goud were examined at CARE hospital on 07.12.2019 and during their examination, they handed over their shirts. But as per Ex.C-9, the place of seizure is the agricultural land in survey number 377 of Samala Venkataiah, resident of Chatanpally. The investigating officer says that the clothes were in fact seized at CARE hospital and that the place of seizure is mentioned wrongly in Ex.C-9.¹⁵¹² He further states that even the date and time of seizure is recorded wrongly in Ex.C-9¹⁵¹³. Ex.C-9 bears the signatures of CW-13, Kavali Malleshham and CW-14 Chapala Lingam, who have attested the panchanamas at the scene of the incident. In the normal course they would not have been present at a distance of 60 km from the place of incident only to witness the seizure of clothes of injured police officers at CARE hospital. It is admitted by the investigating officer that Kavali Malleshham and Chapala Lingam are residents of Shadnagar,¹⁵¹⁴ CW-13 and CW-14 have not stated in their affidavits that the clothes of the injured police officers were seized in their presence. However, CW-13 admits that his name figures as one of the mediators for the seizure under Ex.C-9 and that it bears his signature.¹⁵¹⁵ CW-13 does not say that the seizure under Ex.C-9 took place at CARE hospital. CW-13 was examined on 21.09.2021. CW-14 was examined on 22.09.2021. CW-14 when examined with reference to Ex.C-9, states that his signature in Ex.C-9 was obtained on next day¹⁵¹⁶ at CARE hospital¹⁵¹⁷. Admittedly CW-14 is a resident of Farooqnagar¹⁵¹⁸ and his office is also situated at Farooqnagar¹⁵¹⁹ and the distance from Farooqnagar to CARE hospital is about 60 to 70 km¹⁵²⁰. CW-14 says that he went to hospital only to witness the seizure of the clothes.¹⁵²¹ When it is pointed out that the place of seizure

¹⁵¹⁰P 432, Book No. 1.

¹⁵¹¹Ex.C-9, p 126-127, Vol I, Commission Exhibits.

¹⁵¹²SW-3, Response to Q 130, p 107, Vol I, Deposition of Witnesses.

¹⁵¹³SW-3, Response to Q 133 and 150, p 107 and 110, Vol I, Deposition of Witnesses.

¹⁵¹⁴SW-3, Response to Q 136, p 108, Vol I, Deposition of Witnesses.

¹⁵¹⁵CW-13, Response to Q 44-45, p 578, Vol II, Deposition of Witnesses.

¹⁵¹⁶CW-14, Response to Q 33, p 593, Vol II, Deposition of Witnesses.

¹⁵¹⁷CW-14, Response to Q 34, p 593, Vol II, Deposition of Witnesses.

¹⁵¹⁸CW-14, Response to Q 41, p 594, Vol II, Deposition of Witnesses.

¹⁵¹⁹CW-14, Response to Q 42, p 594, Vol II, Deposition of Witnesses.

¹⁵²⁰CW-14, Response to Q 43, p 594, Vol II, Deposition of Witnesses.

¹⁵²¹CW-14, Response to Q 47, p 595, Vol II, Deposition of Witnesses.

in Ex.C-9 is shown as agricultural land in survey number 377 of Venkataiah of Chatanpally, he says that he does not know what is stated in Ex.C-9.¹⁵²²

14.3.10.3 D. Srikanth (CW 53) who is said to have escorted the injured policemen states that he did not receive the personal belongings of Venkateshwarlu, despite a document titled “Handling/Taking over of Items/Specimens of Patients” of Venkateshwarlu, Ex.C-278,¹⁵²³ showing that a shoe, watch, yellow coloured ring, belt, purse and pouch belonging to Venkateshwarlu were handed over to him. The said document is signed by him. When asked why did he sign Ex.C-278, CW-53 says that he was asked to sign as he had brought the injured to the hospital.¹⁵²⁴ If such be the case, he should have signed “Handling/Taking over of Items/Specimens of Patients” of Aravind Goud, Ex C- 279¹⁵²⁵ without receiving the articles mentioned therein, but he states that he received the said items of Aravind Goud.¹⁵²⁶ The reason for denying receipt of articles of Venkateshwarlu is not far to seek because according to the Investigating Officer and CW-49, the pistol pouch of Venkateswarlu was seized by the Investigating Officer from the possession of Venkateswarlu.

14.3.10.4 While there are such glaring discrepancies relating to the seizure of the alleged blood-stained clothes, some documents stating that they were seized at the scene and some stating that they were seized at the hospital, CW-32 who is said to have treated the injured policemen in the first instance at Community Health Centre, Shadnagar, states that the clothes of the injured policemen were not at all stained with blood.¹⁵²⁷

14.3.10.5 These discrepancies in relation to the alleged seizure of the clothes of the policemen cast a serious doubt about the claim that the police officers were injured. In fact, it is not the case that Aravind Goud had any bleeding injury and as such there was absolutely no need for the seizure of the shirt of Aravind Goud.

14.3.11 Mystery surrounding the original records of Care Hospital

14.3.11.1 The only record placed by the investigating agency in the first instance is medicolegal certificates of Venkateshwarlu and Aravind Goud, Ex. S-40¹⁵²⁸. When

¹⁵²²CW-14, Response to Q 48, p 595, Vol II, Deposition of Witnesses.

¹⁵²³ Ex.C-278, p 177, Vol I, Commission Exhibits.

¹⁵²⁴CW-53 Response to Q 58, p 2091, Vol VI, Depositions of Witnesses.

¹⁵²⁵Ex.C-279, p 331, Vol I, Commission Exhibits

¹⁵²⁶CW-53, Response to Q 54, p 2090, Vol VI, Depositions of Witnesses.

¹⁵²⁷CW-32, Response to Q 65, p 1154, Vol IV, Deposition of Witnesses.

¹⁵²⁸Ex.S-40, pp 414-416, Vol II, State Exhibits.

the investigating officer is questioned whether he collected the case sheet, registration data of the injured policemen from CARE hospital, he says that he did not collect them,¹⁵²⁹ and when he is asked whether he made any effort to collect Case sheet, registration data etc from CARE hospital, he states that he tried and that they refused to give the record¹⁵³⁰. However, as per the affidavit of Dr Charles, Deputy Medical Superintendent of CARE hospital filed before the Commission, all the original documents were taken away by Mr K Somaiah. When the investigating officer is confronted with the said affidavit, he said that he would verify.¹⁵³¹ When examined on the next day, he stated that the original documents obtained by K Somaiah are available in his office,¹⁵³² and he produced the same. The said documents were taken over and marked as Ex.C-16. On verification of the same, it is seen that they are only attested copies and not the original records. The Investigating Officer says that these are the documents received by K Somaiah from CARE hospital.¹⁵³³ The x-ray films and CT scan films are not produced before the Commission. As regards the CT scan films, CW-33 says that all the originals were given to investigating officers.¹⁵³⁴ The above noted material would demonstrate that there appears to be a deliberate attempt to withhold the medical record. In this connection, it is to be noted that as per the report of the Magistrate, the authorities of CARE hospital did not furnish copies of medical records on the ground that the copies of records cannot be given until the patient is discharged. However, some portions of the records have been given to NHRC team when they visited the hospital and by that date the patients were not discharged. All these aspects throw any amount of suspicion over the issue pertaining to the alleged treatment at CARE hospital. In this regard, it is necessary to advert to the observation of CW-10 (judicial magistrate) who in her report (Ex.C-58) states that she has personally gone through case sheets, X ray reports, C T Scan reports and the recorded statements of injured and attending doctors and found them corroborating with each other on material particulars.¹⁵³⁵ The X ray films or CT Scan films are not placed before the Commission. Admittedly, the X ray of Aravind

¹⁵²⁹SW-3, Response to Q 66, p 93, Vol I, Deposition of Witnesses.

¹⁵³⁰SW-3, Response to Q 69, p 94, Vol I, Deposition of Witnesses.

¹⁵³¹SW-3, Response to Q 338, p 155, Vol I, Deposition of Witnesses.

¹⁵³²SW-3, Response to Q 401, p 159, Vol I, Deposition of Witnesses.

¹⁵³³SW-3, Response to Q 404, p 160, Vol I, Deposition of Witnesses.

¹⁵³⁴CW-33, Response to Q 118, p 1204, Vol IV, Deposition of Witnesses.

¹⁵³⁵Ex.C-58, p 917, Vol IV, Commission Exhibits.

Goud did not show any fracture and there is neither CT Scan film of shoulder of Aravind Goud nor even a report of CT Scan Shoulder. Surprisingly, what is placed before the Commission is the CT Scan reports of Whole Abdomen and Brain. Added to that there are several discrepancies in the record as pointed out in the above paragraphs. Hence the observations of CW-10 in her report (Ex.C-58) about alleged corroborations with medical record cannot be accepted.

14.3.12 Delay in intimation to Police

14.3.12.1 It is mandatory that in respect of all medico legal cases, upon the admission of the injured, the concerned hospital shall send intimation to the police forthwith. However, in this case, it is stated that the patients are admitted on 06.12.2019, but the medical intimation is sent to the Inspector of Police, Shadnagar, on 07.12.2019 at 12:00 Noon, as seen from the entries in Ex.C-16.¹⁵³⁶ CW-35 states that he does not know the reason for the delay.¹⁵³⁷ Thus, the reason for the delay is not explained.

14.3.12.2 For all these reasons, the claim that the accused assaulted the policemen and that two of the policemen by name Venkateshwarlu and Aravind Goud suffered injuries and that they were treated at CARE hospital etc cannot be accepted.

14.4 Whether the Police Party tried to chase the accused when they tried to escape

14.4.1 The evidence on record would suggest that nobody made any attempt to catch the accused when they allegedly tried to get themselves released from the handlers and started running away from there. M. Rajashekhar (SW-4) when asked whether any of the policemen chased the accused, he says he does not know.¹⁵³⁸ Lal Madhar (CW-46) says that he did not observe whether K. Ravi (CW-48) and Mohammed Sirajuddin (CW-47) made any effort to catch Arif.¹⁵³⁹ When CW-48 is asked whether any member of the Police Team made any attempt to prevent the accused from running away or to apprehend them before they opened fire, he says that by the time the police moved, the firing had started from the accused.¹⁵⁴⁰ When Arvind Goud (CW-50) is asked whether any member of the police team tried to catch Arif when he threw soil, he states that he did not see¹⁵⁴¹ and when he is asked whether anybody tried to catch

¹⁵³⁶Ex.C-16, p 140 and 244, Vol I, Commission Exhibits

¹⁵³⁷CW-35, Response to Q 7, p 1226, Vol IV, Deposition of Witnesses.

¹⁵³⁸SW-4, Response to Q 83, p 244, Vol I, Deposition of Witnesses.

¹⁵³⁹CW-46, Response to Q 77, p 1718, Vol VI Deposition of Witnesses.

¹⁵⁴⁰CW-48, Response to Q 180, p 1854, Vol VI, Deposition of Witnesses.

¹⁵⁴¹CW-50, Response to Q84, p 1969, Vol VI, Deposition of Witnesses.

any of the accused before the firing commenced, he says that he does not know¹⁵⁴² and he also says that none of the members of the police party moved ahead from the 4th field.¹⁵⁴³ When CW-50 is asked whether Venkateswarlu (CW-49) or R. Balu Rathod (CW-52) or D. Srikanth (CW-53) made any attempt to catch Jollu Shiva when he threw soil into his eyes, CW-50 says he does not know.¹⁵⁴⁴ D. Janakiram (CW-51) states that when the accused threw soil into their eyes, and when they were running away, CW-44 instructed them to catch them and that they went after the accused and that he went after the accused for some distance and that he cannot say the distance which he ran and that he remained in the 4th field and that he did not observe who else ran after the accused. If he had run after the accused, he ought to have climbed on the 5th bund and he ought to have run in the 5th field. But he says that he was pushed by Arif and that he fell at a distance of 4 or 5 feet away.¹⁵⁴⁵ The above said statements of CW-51 exposes the falsity of his evidence, as he could not have run even an inch when he stood at the edge of the 4th field. When CW-52 is asked whether the persons in the second and the third row moved from their places till the commencement of firing or whether they stayed put where they were, he states that he did not observe.¹⁵⁴⁶ When asked whether any member of the police party tried to catch the accused by running behind them, he says that he also ran and again says he also tried to run and that he tried to climb the bund and by that time, firing started and CW-44 asked them to lie down.¹⁵⁴⁷ If at all any such incident had occurred, the natural conduct would be to make a concerted effort to catch the accused and at least, the answer from the witnesses would be either that they made effort to catch the accused or that they did not make any such effort. But the witnesses in this case say “they did not observe” or “they do not know”, which demonstrate that no such incident had really happened and they have chosen not to give any categorical answers only to avoid discrepancies in their evidence inter-se.

¹⁵⁴²CW-50, Response to Q 86, p 1969, Vol VI, Deposition of Witnesses.

¹⁵⁴³CW-50, Response to Q 87, p 1969, Vol VI, Deposition of Witnesses.

¹⁵⁴⁴CW-50, Response to Q 91, p 1970, Vol VI, Deposition of Witnesses.

¹⁵⁴⁵CW-51, Response to Q 32-36, p 2004-2005, Vol VI, Deposition of Witnesses.

¹⁵⁴⁶CW-52, Response to Q 73, p 2053, Vol VI, Deposition of Witnesses.

¹⁵⁴⁷CW-53, Response to Q 98, p 2099-2100, Vol VI, Deposition of Witnesses.

15. ALLEGED SNATCHING AND FIRING OF WEAPONS

15.1 Snatching of weapons of CW-45

15.1.1 Snatching of weapons of CW-45

15.1.1.1 The evidence relating to snatching of weapons is best illustrated by the answer given by the leader of the team CW-44 to one of the questions. Initially he states that he saw **with his own eyes** Arif and Chennakeshavulu snatching the weapons and he again says that he saw with his eyes Arif snatching the weapon and heard Chennakeshavulu snatching the weapon from Venkateshwarlu (CW-49).¹⁵⁴⁸

15.1.1.2 In the FIR, Ex.S-2, it is not stated that the incident occurred when K. Narasimha Reddy (CW-45) dug the area and found some articles while he was in a bent position. On the other hand, CW-44 states in Ex. S-2 that the incident started while he (CW-44) was making efforts to trace the material objects at the instance of the accused.¹⁵⁴⁹ When the attention of CW-44 is drawn to a contradiction between the statement in para 77 of his affidavit that CW-45 was checking the pit where the objects were found and the statement in his complaint, Ex.S-19, wherein he has stated that the incident occurred when he (CW-44) was making efforts to trace the material objects at the instance of the accused, CW-44 states that he could not recollect all the details of the incident in view of the mental state he was in the immediate aftermath of the incident.¹⁵⁵⁰ CW-44 states that to the best of his memory, CW-45 was carrying a torch light in his right hand.¹⁵⁵¹ CW-45 deposed before the Commission that while he was bending and digging, he had kept his left leg on the slope and Arif put his leg on his left leg and pulled the pistol pouch forcibly and because of the same, he had fallen down and Arif snatched the pistol along with pouch.¹⁵⁵² This is not found in any of the prior statements of CW-45 including his affidavits before the Commission Ex.C-266 or Ex.C-267.¹⁵⁵³ The said allegation is also not found in the statements or affidavits of any other witnesses. This allegation appears to have been introduced only to make it appear more probable that the weapon of CW-45 was snatched by Arif when the police team was seriously incapacitated.

¹⁵⁴⁸CW-44, Response to Q 344, p 1557, Vol V, Deposition of Witnesses

¹⁵⁴⁹Ex.S-2, pp 17-27, Vol I, State Exhibits.

¹⁵⁵⁰CW-44, Response to Q 323, pp 1549-1550, Vol V, Deposition of Witnesses.

¹⁵⁵¹CW-44, Response to Q 340, p 1555, Vol V, Deposition of Witnesses.

¹⁵⁵²CW-45, Response to Q 107, p 1645, Vol VI, Deposition of Witnesses.

¹⁵⁵³Ex.C-266 and Ex.C-267, p 2463-2477, Vol IX, Commission Exhibits.

15.1.1.3 CW-45 has stated that a pouch containing a pistol attached to the belt can be removed from the belt only by pulling it forcefully.¹⁵⁵⁴ CW-45 states that he did not see whether the pouch had fallen anywhere near the dead bodies of Arif and Chennakeshavulu on that day¹⁵⁵⁵ and the he did not even go near their bodies.¹⁵⁵⁶ Though he states that the pouch was found on the day¹⁵⁵⁷, at the crime scene, he states that he does not know exactly where it was found.¹⁵⁵⁸ When he is asked whether the pouch was torn into pieces, he states that he does not know.¹⁵⁵⁹ Even more curiously CW-45 did not make any attempt to check what happened to his service weapon. The service weapon and bullets issued to him are entirely his responsibility and he has to account for them. But he did not go to check the state of his weapon and he states that he did not see it in the hands of Arif and he was only informed that it was seized by J. Surender Reddy (SW-3) when he went to report at the headquarters about the loss of the weapon.¹⁵⁶⁰

15.1.2 Snatching of weapon of CW-49

15.1.2.1 When K. Venkateshwarulu (CW-49), is asked whether Chennakeshavulu was standing in front of him when he snatched the pistol, he initially stated that they were all standing near each other and later stated that Chennakeshavulu climbed on to the 5th bund and snatched his pistol and pushed him down and again says that he was standing in front of him when he snatched the pistol.¹⁵⁶¹ When a clarification is sought whether Chennakeshavulu was standing at an elevated position and whether he bent down to snatch his pistol, CW-49 says he does not remember as he was already injured by that time¹⁵⁶² and that he does not remember whether Chennakeshavulu was in a bent position.¹⁵⁶³ Thus the statement of CW-49 that Chennakeshavulu snatched his weapon while Chennakeshavulu was on the 5th bund appears to be highly improbable because the height of the bund is said to be about 2-2 and half feet. One should have necessarily bent forward to snatch the weapon from a person standing in the 4th field. Therefore, CW-49 conveniently

¹⁵⁵⁴CW-45, Response to Q 13, p 1625, Vol VI, Deposition of Witnesses.

¹⁵⁵⁵CW-45, Response to Q 22-23, p 1627, Vol VI, Deposition of Witnesses.

¹⁵⁵⁶CW-45, Response to Q 24, p 1627, Vol VI, Deposition of Witnesses.

¹⁵⁵⁷CW-45, Response to Q 26, p 1628, Vol VI, Deposition of Witnesses.

¹⁵⁵⁸CW-45, Response to Q 27, p 1628, Vol VI, Deposition of Witnesses.

¹⁵⁵⁹CW-45, Response to Q 33, p 1629, Vol VI, Deposition of Witnesses.

¹⁵⁶⁰CW-45, Response to Q 192, p 1668-1669, Vol VI, Deposition of Witnesses.

¹⁵⁶¹CW-49, Response to Q13-14, p 1875-1876, Vol VI, Deposition of Witnesses.

¹⁵⁶²CW-49, Response to Q14, p 1876, Vol VI, Deposition of Witnesses.

¹⁵⁶³CW-49, Response to Q15, p 1876, Vol VI, Deposition of Witnesses.

states that he does not remember whether Chennakeshavulu had bent forward when he snatched the weapon. According to all the witnesses, CW-49 was on the extreme right side of the row and according to all the witnesses, none of them actually saw Chennakeshavulu snatching the weapon from the waist of CW-49, and that all of them heard CW-49, shouting that Chennakeshavulu had snatched his weapon. Of course, some of them have stated that they saw Chennakeshavulu snatching the weapon of Venkateswarlu. However, they have again corrected themselves and stated that they only heard about it when CW-49 shouted. Thus, in para 18 of his affidavit, K. Ravi (CW-48) has stated that Chennakeshavulu snatched the weapon from the waist of Venkateswarlu. However, CW-48 now says that he did not see Chennakeshavulu snatching away the weapon from Venkateswarlu and that he only heard Venkateswarlu Shouting that his weapon was snatched.¹⁵⁶⁴ When asked whether it is mentioned in his affidavit that he heard Venkateswarlu shouting about his snatching of his weapon, CW-48 says that he had informed his advocate that he had heard Venkateswarlu that his weapon was snatched and that advocate had written that the weapon was snatched from Venkateswarlu.¹⁵⁶⁵

15.1.2.2 Contrary to his earlier stand that he was standing when his pistol was snatched by Chennakeshavulu¹⁵⁶⁶, CW-49 thereafter stated that he was pushed down and lying on the ground when his pistol was snatched.¹⁵⁶⁷ This version that the pistol was snatched when he was lying down is contradicted by the evidence of CW-53, who stated that CW-49 fell down after the pistol was snatched.¹⁵⁶⁸ He further stated that Chennakeshavulu snatched his pistol and that he did not snatch the pouch¹⁵⁶⁹ and that the pouch remained with him¹⁵⁷⁰ and that he took the pistol without opening the pouch¹⁵⁷¹ though he had closed the pouch with velcro fastening¹⁵⁷² and when he is asked whether Chennakeshavulu first opened the velcro fastening and took out the pistol while he was standing at a higher platform, he states that he had soil in his eyes and that as he was pushed, he could not understand what was

¹⁵⁶⁴CW-48, Response to Q 154, p 1847, Vol VI, Deposition of Witnesses.

¹⁵⁶⁵CW-48, Response to Q 156, p 1848, Vol VI, Deposition of Witnesses.

¹⁵⁶⁶CW-49, Response to Q13-14, p 1875-1876, Vol VI, Deposition of Witnesses.

¹⁵⁶⁷CW-49, Response to Q 164-165, p 1915, Vol VI, Deposition of Witnesses.

¹⁵⁶⁸CW-53, Response to Q 30, p 2084, Vol VI, Deposition of Witnesses.

¹⁵⁶⁹CW-49, Response to Q 22, p 1877-1878, Vol VI, Deposition of Witnesses.

¹⁵⁷⁰CW-49, Response to Q 23, p 1878, Vol VI, Deposition of Witnesses.

¹⁵⁷¹CW-49, Response to Q 24, p 1878, Vol VI, Deposition of Witnesses.

¹⁵⁷²CW-49, Response to Q 25, p 1878, Vol VI, Deposition of Witnesses.

happening.¹⁵⁷³ Abdul Rauf (CW-30) stated that Chennakeshavulu snatched the weapon of Venkateshwarulu and when asked whether he could recognize Chennakeshavulu, he says “no”.¹⁵⁷⁴ However in Para 13 of his affidavit, he has stated that they learnt that one of the three other persons snatched the weapon from Venkateswarlu and when confronted with his affidavit, he states that what is recorded in the affidavit is correct.¹⁵⁷⁵

15.1.2.3 M. Rajashekhar (SW-4) when asked whether he knows who snatched the weapon of Venkateshwarulu (CW-49), he states that he does not know and he did not see it and he was told about it later on.¹⁵⁷⁶ However in his statement before the Magistrate recorded under Section 164 Cr.P.C, he has stated that Chennakeshavulu snatched the weapon from CW-49.¹⁵⁷⁷ When asked who told him that Chennakeshavulu snatched the gun of CW-49, he says that nobody told him and that he saw the gun in the hands of Chennakeshavulu and therefore he is saying that it was snatched.¹⁵⁷⁸ He again states that he has seen the gun being snatched from CW-49 and at that time he did not know who was the person snatching the gun.¹⁵⁷⁹

15.1.2.4 Therefore, the entire evidence pertaining to the snatching of the weapon of CW-49 appears to be unacceptable.

15.2 Location of Pistol Pouch

15.2.1 According to the deposition of J. Surender Reddy (SW-3) dated 21.08.2021, he stated that Md. Arif snatched the pistol from the pouch of K. Narasimha Reddy (CW-45) and Chennakeshavulu snatched the weapon from the left side waist of K. Venkateshwarlu (CW-49).¹⁵⁸⁰ He further stated that the finger prints of Md. Arif and Chennakeshavulu were not identified on the pouches.¹⁵⁸¹

15.2.2 According to SW-3, a pistol pouch was found at a distance of 22 feet towards west from the dead body of Jollu Shiva which is also shown in the Rough Sketch (Ex. C-8) which is contrary to the inquest reports (Column No. 8, Pg. No. 93, Book no. 1) of Jollu Shiva and Chennakeshavulu wherein it was stated that a pistol pouch had fallen

¹⁵⁷³CW-49, Response to Q 26, p 1878-1879, Vol VI, Deposition of Witnesses.

¹⁵⁷⁴CW-30, Response to Q 98-99, p 1057, Vol IV, Deposition of Witnesses.

¹⁵⁷⁵CW-30, Response to Q 100, p 1057, Vol IV, Deposition of Witnesses.

¹⁵⁷⁶SW-4, Response to Q 68, p 242, Vol I, Deposition of Witnesses.

¹⁵⁷⁷SW-4, Response to Q 70, p 242, Vol I, Deposition of Witnesses.

¹⁵⁷⁸SW-4, Response to Q 71, p 242, Vol I, Deposition of Witnesses.

¹⁵⁷⁹SW-4, Response to Q 72, p 242-243, Vol I, Deposition of Witnesses.

¹⁵⁸⁰SW-3, Response to Q228, p 125, Vol I, Deposition of Witnesses.

¹⁵⁸¹SW-3, Response to Q230, p 125, Vol I, Deposition of Witnesses.

at a distance of 9 feet from dead body of Jollu Shiva.¹⁵⁸² He further deposed that in Serial No. 7 of scene of offence observation and seizure Mahzar (Ex. C-3) wherein it was stated that a brown colour pistol pouch was found at a distance of 22 feet from one empty 9MM round was incorrect because such a pouch was found 22 feet away from the dead body of Jollu Shiva.¹⁵⁸³

15.2.3 J. Surender Reddy (SW-3) stated that a black-coloured pistol pouch that is shown at a distance of 5 feet from the right knee of Jollu Naveen, according to the Column No. 8 of inquest proceedings of Jollu Naveen is not shown in the rough sketch (Ex. C-8) rather such a pistol pouch is shown near the 5th bund.¹⁵⁸⁴ A perusal of Ex.C-3, scene of offence observation and seizure panchanama would reveal that it was not a whole black-coloured pistol pouch but only a part of it which was found at the scene of occurrence.¹⁵⁸⁵ Surprisingly, it is claimed that the part of this black-coloured pistol pouch was seized at 3 PM *vide* Ex.C-3 and it also claimed that the black-coloured pistol pouch was also seized at 8 PM near agricultural fields at Chatanpally on 06.12.2019 *vide* Ex.C-9.¹⁵⁸⁶ The Commission examined the black-coloured pistol pouch during the course of the hearing and found that except for a tear, no part of the pistol pouch had been detached. This factum was admitted to by CW-49 also.

15.2.4 Shockingly, SW-3 states that a black-coloured pistol pouch used by CW-49 was handed over to him by CW-49 on 07.12.2019, when SW-3 examined him at the hospital.¹⁵⁸⁷ A similar statement is made by CW-49 during the course of his examination.¹⁵⁸⁸ This statement is contradicted by Ex.C-278 (medical records of Care Hospital pertaining to CW-49) wherein it stated that the pistol pouch of CW-49 was handed to CW-53 on 06.12.2019 in the hospital. Therefore, it can be seen that the black-coloured pistol pouch allegedly belonging to CW-49 has been seized/delivered on four occasions between 06.12.2019 and 07.12.2019. In the deposition of D. Srikanth (CW-53), he was shown Ex.C-278 of the Medical Records of Care Hospital concerning Venkateshwarulu (CW-49) that were submitted by Dr. Charles, Superintendent of Care Hospital wherein it was stated that a shoe, watch, yellow colour ring, belt, purse and pistol pouch of Venketswarulu (CW-49) were handed over

¹⁵⁸²SW-3, Response to Q 504, p 205, Vol I, Deposition of Witnesses.

¹⁵⁸³SW-3, Response to Q 508, p 206, Vol I, Deposition of Witnesses.

¹⁵⁸⁴SW-3, Response to Q 513, p 208, Vol I, Deposition of Witnesses.

¹⁵⁸⁵Ex.C-3, p 41-51, Vol I, Commission Exhibits.

¹⁵⁸⁶Ex.C-9, p 126-127, Vol I, Commission Exhibits.

¹⁵⁸⁷SW-3, Response to Q 120-132, pp 105-107, Vol I, Deposition of Witnesses.

¹⁵⁸⁸CW-49, Response to Q 113, 166-167, p 1901 and 1916, Vol VI, Deposition of Witnesses.

to CW-53 on 06.12.2019 in the hospital. When asked to clarify on this matter since it was previously stated that the pistol pouches were seized by J. Surender Reddy (SW-3), he stated that he does not remember receiving such articles belonging to Venketswarulu.¹⁵⁸⁹ He further stated that the signature in Ex. C-278 was his and he signed it since he brought those articles to the Hospital.¹⁵⁹⁰ He accompanied CW-49 to CHC in the vehicle (Bolero) and claims that he did not observe if CW-49 still had the pistol pouch, he also stated that he signed that document without receiving the articles as he was under tension.¹⁵⁹¹ He further claims that during treatment in the CHC the blood soaked shirt, personal items such as belt, pistol pouch, shoe etc. of Venkateshwarulu were not removed.¹⁵⁹² He deposed that he did not observe the colour of pistol pouches carried by Narasimha Reddy (CW-45) or Venkateshwarulu (CW-49) due to bad light.¹⁵⁹³ Such absurd multiple versions about the presence and seizure of black-coloured pistol pouch belonging to CW-49 leads to only one conclusion – the testimony that Chennakeshavulu snatched the pistol from CW-49 is concocted and false.

15.2.5 According to the deposition of Begumpet Srikanth Reddy (CW-12) dated 21.09.2021, he stated that he was responsible for conducting inquest proceedings over the dead body of Jollu Shiva.¹⁵⁹⁴ He initially stated that the pistol pouch as referred to him in column no. 8 of the inquest report was grey in colour but then rectified himself and stated that the pouch was the colour of the belt of the police (brown).¹⁵⁹⁵ He mentioned that the pouch was made of leather¹⁵⁹⁶ and was damaged¹⁵⁹⁷ like someone tried pulling it off.¹⁵⁹⁸

15.2.6 According to the deposition of Kavali Mallesh (CW-13) before the commission dated 21.09.2021, he stated that he was a village revenue assistant and was one of the mediators present at the scene of occurrence.¹⁵⁹⁹ He further stated that the Khaki Colour full sleeves shirt of PC-4385 Aravind Goud and Khaki colour full sleeves shirt

¹⁵⁸⁹CW-53, CW-49, Response to Q 56, p 2090, Vol VI, Deposition of Witnesses.

¹⁵⁹⁰CW-53, CW-49, Response to Q 58, p 2091, Vol VI, Deposition of Witnesses.

¹⁵⁹¹CW-53, CW-49, Response to Q 59-60, p 2090, Vol VI, Deposition of Witnesses.

¹⁵⁹²CW-53, CW-49, Response to Q 62, p 2092, Vol VI, Deposition of Witnesses.

¹⁵⁹³CW-53, CW-49, Response to Q 90-91, p 2098, Vol VI, Deposition of Witnesses.

¹⁵⁹⁴CW-12, Response to Q 4, p 545, Vol II, Deposition of Witnesses.

¹⁵⁹⁵CW-12, Response to Q 46, p 555, Vol II, Deposition of Witnesses.

¹⁵⁹⁶CW-12, Response to Q 47, p 555, Vol II, Deposition of Witnesses.

¹⁵⁹⁷CW-12, Response to Q 48, p 555, Vol II, Deposition of Witnesses.

¹⁵⁹⁸CW-13, Response to Q 48, p 556, Vol II, Deposition of Witnesses.

¹⁵⁹⁹CW-13, Response to Q 44, p 578, Vol II, Deposition of Witnesses.

belonging to SI-Venkateshwarlu and black colour pistol pouch belonging to Si-Venkateshwarlu have been seized under Ex.C-9.¹⁶⁰⁰

- 15.2.7 According to the deposition of Chapala Lingam (CW-14) before the commission dated 22.09.2021, he stated that he is a village revenue assistant and assisted the Tahsildar during the inquest proceedings.¹⁶⁰¹ He further stated that all the articles i.e., Khaki Colour full sleeves shirt of PC-4385 Aravind Goud and Khaki colour full sleeves shirt belonging to K. Venkateshwarlu and black colour pistol pouch belonging to K. Venkateshwarlu mentioned in Ex.C-9 were covered in blood stains.¹⁶⁰² Subsequently he stated that he does not remember if the blood stains were present on the black pistol pouch.¹⁶⁰³
- 15.2.8 He also stated that he cannot recollect the exact location of the pistol pouch that was recorded in the panchanama¹⁶⁰⁴ although he was the witness to that panchanama and that the pistol pouch might have been in the 5th or 6th embankment.¹⁶⁰⁵
- 15.2.9 According to the deposition of Konda Narasimha Reddy (CW-45) dated 26.10.2021, he stated that he was allotted a pistol bearing butt no. 4 on 03.10.2018¹⁶⁰⁶ but a pistol pouch was not given for the same.¹⁶⁰⁷ He claims to have bought the pouch for carrying the pistol and that the pouch was brown in colour, made from nylon.¹⁶⁰⁸ He stated that the pouch is attached to the belt using a loop¹⁶⁰⁹ and the pouch was closed using a Velcro mechanism.¹⁶¹⁰ He further stated that the pouch could be removed from the belt by pulling it forcefully¹⁶¹¹ and generally he removes the pouch by removing the belt and sliding it out along the belt.¹⁶¹² On 06.12.2019 the pistol was snatched along with the pouch by Md. Arif¹⁶¹³. He claims to have no idea near which body, Arif or Chennakeshavulu, the pouch was found¹⁶¹⁴ and that he did not go looking for it once the pouch went missing from his possession.¹⁶¹⁵ He subsequently stated that it

¹⁶⁰⁰CW-13, Response to Q 47, p 578, Vol II, Deposition of Witnesses.

¹⁶⁰¹CW-14, Response to Q 4, p 587, Vol II, Deposition of Witnesses.

¹⁶⁰²CW-14, Response to Q 30, p 592, Vol II, Deposition of Witnesses.

¹⁶⁰³CW-14, Response to Q 31, p 593, Vol II, Deposition of Witnesses.

¹⁶⁰⁴CW-14, Response to Q 56, p 597, Vol II, Deposition of Witnesses.

¹⁶⁰⁵CW-14, Response to Q 57, p 597, Vol II, Deposition of Witnesses.

¹⁶⁰⁶CW-45, Response to Q 2, p 1623, Vol VI, Deposition of Witnesses.

¹⁶⁰⁷CW-45, Response to Q 4, p 1624, Vol VI, Deposition of Witnesses.

¹⁶⁰⁸CW-45, Response to Q 7, p 1623, Vol VI, Deposition of Witnesses.

¹⁶⁰⁹CW-45, Response to Q 8, p 1623, Vol VI, Deposition of Witnesses.

¹⁶¹⁰CW-45, Response to Q 9, p 1624, Vol VI, Deposition of Witnesses.

¹⁶¹¹CW-45, Response to Q 13, p 1625, Vol VI, Deposition of Witnesses.

¹⁶¹²CW-45, Response to Q 14, p 1625, Vol VI, Deposition of Witnesses.

¹⁶¹³CW-45, Response to Q 18, p 1626, Vol VI, Deposition of Witnesses.

¹⁶¹⁴CW-45, Response to Q 22-23, p 1627, Vol VI, Deposition of Witnesses.

¹⁶¹⁵CW-45, Response to Q 25, p 1627, Vol VI, Deposition of Witnesses.

was his responsibility to safe keep the pistol and the pouch, that Arif snatched and ran away, he was not allowed to re-enter the crime scene by SHO Shadnagar to retrieve the said pouch or look for it.¹⁶¹⁶ When asked regarding the process of removing the pistol from the pouch, he deposed that the pistol can be removed from the pouch by simply opening the Velcro strip and removing the pouch from the belt is not necessary.¹⁶¹⁷ He also stated the pouch was recovered from the cordoned off area¹⁶¹⁸ and that the loop was still attached to it¹⁶¹⁹ but he does not remember if this was the same pouch that was recovered from 5th or 6th embankment.¹⁶²⁰

15.2.10 Further, the claim of snatching of weapons is beset with contradictions in the details of location of the pistol pouches and their recovery.

15.2.11 Thus, the claim that pistols of CW-45 and CW-49 were snatched by Md. Arif and Chennakeshavulu respectively is a concocted story, invented only to make out a case for opening firing at the deceased suspects.

15.3 Scene of Firing

15.3.1 K. Narasimha Reddy (CW-45) stated that when they have taken the accused for recovery, he bent down to recover a polythene bag. He claims that he had put his right leg forward as the bund was inclined and, at that point, Md. Arif put his leg on the left leg of CW-45 and forcibly snatched the pistol pouch.¹⁶²¹ He claimed that Arif had thrown mud into his eyes thereby he could not see if the pistol pouch was opened immediately.¹⁶²² He further stated that by the time he cleared his eyes of the mud, Arif started firing across the 5th bund.¹⁶²³

15.3.2 On 08.11.2021, the Commission received a sealed box from the High Court of Telangana which was opened in the presence of CW-45. The box contained a plastic polythene bag in which there were two cloth packages with yellow labels on them. The first cloth package was from Telangana State Forensic Laboratories (TSFL) which was labelled Item No. 14, MO13 Cr. No. 803/2019 PS Shadnagar CPR No. 148/2019 which contained the brown colour pistol pouch. The second cloth package

¹⁶¹⁶CW-45, Response to Q 28-29, p 1627, Vol VI, Deposition of Witnesses.

¹⁶¹⁷CW-45, Response to Q 19, p 1626, Vol VI, Deposition of Witnesses.

¹⁶¹⁸CW-45, Response to Q 36, p 1630, Vol VI, Deposition of Witnesses.

¹⁶¹⁹CW-45, Response to Q 37, p 1630, Vol VI, Deposition of Witnesses.

¹⁶²⁰CW-45, Response to Q 38, p 1630, Vol VI, Deposition of Witnesses.

¹⁶²¹CW-45, Response to Q 107, p 1645, Vol VI, Deposition of Witnesses.

¹⁶²²CW-45, Response to Q 120, p 1648, Vol VI, Deposition of Witnesses.

¹⁶²³CW-45, Response to Q 128, p 1651, Vol VI, Deposition of Witnesses.

was also from TSFL and was labelled Item No. 18, MO17 Cr. No. 803/2019 PS Shadnagar CPR No. 148/2019 which contained the black colour pistol pouch.¹⁶²⁴

15.3.3 Konda Narasimha Reddy (CW-45) further identified the pistol pouch used by him and picked up Item No. 14, MO13 which was brown in colour.¹⁶²⁵ He then went on to demonstrate how the pouch is attached to the belt and also pointed out to the Commission where it was torn due to Arif snatching it from him.¹⁶²⁶ He then proceeded to explain that he was digging with his left hand and holding a dragon light with his right hand when Arif snatched the pistol pouch and how he couldnot stop him since both the hands were occupied and he had fallen down.¹⁶²⁷ However, in his affidavit (**Ex. C-226**), he stated that at the time of snatching he was wiping eyes since Arif threw mud into his eyes while snatching and when asked for a clarification as to which of the above scenarios is true during snatching, he clarified that soil fell into his eyes and the snatching of the pistol took place simultaneously while he fell down and that he wiped his eyes with his right hand and was holding the dragon light with his left hand.¹⁶²⁸ This would mean that he had shifted the dragon light earlier held in his right hand to his left hand while falling down. Clinging to the dragon light rather than safeguarding his pistol would be a very strange and unnatural conduct on his part. He then elaborated on the scenario and stated that Md. Arif first threw soil into the eyes of D. Janakiram (CW-51) and thereafter pushed him and then Md. Arif threw the soil into the eyes of CW-45 and then pushed him and snatched the brown pistol pouch simultaneously.¹⁶²⁹

15.3.4 According to the deposition of Kore Venkateswarlu (CW-49) before this Commission dated 08.11.2021, he stated that he used the black colour pistol pouch on 06.12.2019 and he picked up Item No. 18, MO17 CR. No. 803/2019 PS Shadnagar, CPR No. 148/2019 from the parcel sent by High Court of Telangana.¹⁶³⁰ He further demonstrated to the Commission the manner in which he generally attaches the pouch to his belt and claims that there is a stitched loop through which the belt is passed for the purpose of attaching the pouch.¹⁶³¹ He stated that the pouch has a button and

¹⁶²⁴CW 45, p 1673, Vol VI, Deposition of Witnesses.

¹⁶²⁵CW-45, Response to Q 201, p 1673, Vol VI, Deposition of Witnesses.

¹⁶²⁶Question no. 205, 206, 207 & 208, Page no. 53 & 54, Vol VI

¹⁶²⁷CW-45, Response to Q 215, p 1676, Vol VI, Deposition of Witnesses.

¹⁶²⁸CW-45, Response to Q 216-217, p 1677, Vol VI, Deposition of Witnesses.

¹⁶²⁹CW-45, Response to Q 219, p 1678, Vol VI, Deposition of Witnesses.

¹⁶³⁰CW-49, Response to Q 4, p 1873, Vol VI, Deposition of Witnesses.

¹⁶³¹CW-49, Response to Q 4, p 1873, Vol VI, Deposition of Witnesses.

Velcro fastening to close the pistol pouch but he generally only uses the Velcro fastening to close the pouch since there would be no sufficient space to use the button if there is a pistol in the pouch¹⁶³² and that he carried the pistol on his left side,¹⁶³³ and that on 06.12.2019, Chennakeshavulu, who was standing in front of him, snatched the pistol pouch from him when he climbed to the 5th bund and pushed him down.¹⁶³⁴ He stated that he does not remember if Chennakeshavulu was in a bent position when he snatched the pistol.¹⁶³⁵ He states that the assault on him was initiated by Jollu Naveen, who threw soil and then hit him with stones while standing on the 5th Bund.¹⁶³⁶ He states that subsequent to this, Chennakeshavulu threw soil into his eyes and snatched the pistol but did not snatch the black colour pouch.¹⁶³⁷ When asked whether Chennakeshavulu first opened the Velcro fastening and then took out his pistol while he was standing at a higher platform, initially he evaded the answer and later stated that as he was pushed, he could not understand what was happening.¹⁶³⁸

15.3.5 CW-49 stated that the pouch remained as a whole with him after the pistol was snatched by Chennakeshavulu which is contrary to the Scene Observation and Seizure Panchanama (Ex.C-3) wherein it was stated that a black pistol pouch was recovered from the scene of occurrence on 06.12.2019. Venkateswarlu (CW-49) reiterates that his pistol pouch was intact and he himself handed it over to J. Surender Reddy (SW-3).¹⁶³⁹ Contrary to his previous statements, he then stated that Chennakeshavulu was standing below the 5th bund to his right but then corrected himself and stated that Chennakeshavulu was standing diagonally to his front left side.¹⁶⁴⁰ He added that since he was on the ground beneath the 5th bund and had soil in his eyes, he did not observe whether Chennakeshavulu snatched the pistol or removed it from the pouch but since the pouch was only closed using a Velcro fastening, it is easy to remove.¹⁶⁴¹

15.3.6 It was pointed out to him that neither in his statement under Section 161 Cr.P.C or in his statement before the Judicial Magistrate, he had stated that he was pushed down to the ground when the pistol was snatched from him but he reiterates that what he

¹⁶³²CW-49, Response to Q 8, p 1874, Vol VI, Deposition of Witnesses.

¹⁶³³CW-49, Response to Q 10, p 1875, Vol VI, Deposition of Witnesses.

¹⁶³⁴CW-49, Response to Q 12-13, p 1875, Vol VI, Deposition of Witnesses.

¹⁶³⁵CW-49, Response to Q 15, p 1876, Vol VI, Deposition of Witnesses.

¹⁶³⁶CW-49, Response to Q 16-21, p 1877, Vol VI, Deposition of Witnesses.

¹⁶³⁷CW-49, Response to Q 22, p 1878, Vol VI, Deposition of Witnesses.

¹⁶³⁸CW-49, Response to Q 26, p 1879, Vol VI, Deposition of Witnesses.

¹⁶³⁹CW-49, Response to Q 159, p 1913, Vol VI, Deposition of Witnesses.

¹⁶⁴⁰CW-49, Response to Q 161, p 1914, Vol VI, Deposition of Witnesses.

¹⁶⁴¹CW-49, Response to Q 163, p 1915, Vol VI, Deposition of Witnesses.

deposed before the Commission is the true version of events.¹⁶⁴² It was also pointed out to him that according to his statements, if the pouch was not snatched and only the pistol was snatched, and in that event how is that the loop of the black coloured pouch was torn. He stated that since force was used on him to push him to the ground, the loop tore in the process.¹⁶⁴³ The Commission finds it extremely extraordinary that the loop of the pistol pouch is not torn when the pistol is snatched, but torn when the witness falls to the ground. These statements clearly reflect how the entire theory of snatching of pistol is concocted.

15.3.7 As seen above, the inherently improbable and multiple versions of snatching of the 9MM pistols, the multiple places and times at which a single pouch was recovered, the improbabilities of removing a pistol without opening the velcro while the pistol pouch is still attached to CW-49's belt etc., lead only to one conclusion that the version that the deceased suspects snatched the 9MM pistols is not only concocted but is a mischievous attempt to justify the police firing.

15.4 Could the deceased suspects could operate firearms?

15.4.1 K. Narasimha Reddy (CW-45) has stated that he keeps his 9MM pistol normally at Magazine load for safety¹⁶⁴⁴ and that after cocking, the round goes into chamber which is called chamber load¹⁶⁴⁵ and that there will be a safety catch in the pistol¹⁶⁴⁶ and that generally the safety catch is applied after chamber load¹⁶⁴⁷ and after chamber load, the safety catch is moved upwards for safety.¹⁶⁴⁸ Thus, it can be seen there are at least two clear steps before a 9MM pistol is ready to fire. CW-45 states that when he was in the bus along with accused on the way to Chatanpally, the pistol was in magazine mode¹⁶⁴⁹ and after that he did not change it to chamber mode.¹⁶⁵⁰ CW-45 has once again affirmed that the pistol was magazine loaded only when he carried¹⁶⁵¹ and that it was not chamber loaded.¹⁶⁵² Therefore, in order for the deceased suspects to have fired the said 9MM pistol on 06.12.2019, all the aforesaid steps ought to have been taken by the deceased suspect before even he could attempt firing. CW-45

¹⁶⁴²CW-49, Response to Q 164, p 1915, Vol VI, Deposition of Witnesses.

¹⁶⁴³CW-49, Response to Q 164, p 1915, Vol VI, Deposition of Witnesses.

¹⁶⁴⁴CW-45, Response to Q 40-41, p 1630, Vol VI, Deposition of Witnesses.

¹⁶⁴⁵CW-45, Response to Q 44, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁴⁶CW-45, Response to Q 45, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁴⁷CW-45, Response to Q 46, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁴⁸CW-45, Response to Q 47, p 1631-1632, Vol VI, Deposition of Witnesses.

¹⁶⁴⁹CW-45, Response to Q 48, p 1632, Vol VI, Deposition of Witnesses.

¹⁶⁵⁰CW-45, Response to Q 49, p 1632, Vol VI, Deposition of Witnesses.

¹⁶⁵¹CW-45, Response to Q 122, p 1649, Vol VI, Deposition of Witnesses.

¹⁶⁵²CW-45, Response to Q 123, p 1649, Vol VI, Deposition of Witnesses.

demonstrated before the Commission how to chamber load a pistol by cocking it.¹⁶⁵³ Having seen the demonstration of the manner of chamber loading of the pistol, a question was put to CW-45 whether it would require some knowledge for a stranger to know how to chamber load a pistol and the answer was that he cannot say whether a stranger would need any such knowledge.¹⁶⁵⁴ When asked whether in his experience, can he say whether an amateur person can fire a pistol using a single hand, he states that he cannot say¹⁶⁵⁵ and that he cannot also say whether the pistol would fall off from the hand, due to the effect of recoil when a person who is not used to fire, does the firing with a 9mm pistol.¹⁶⁵⁶ Surprisingly, K. Narasimha Reddy (CW-45) stated that the position of the safety catch need not be changed for firing¹⁶⁵⁷, a statement which is at variance with the testimony of N.B. Bardhan (CW-34), the ballistics expert. Having considered the above statements of CW-45, it would be evident that a person who has never used a firearm would not have used it for the first time in such a situation. When asked whether during the investigation, he ascertained whether the accused had any experience in handling fire arms, J. Surender Reddy (SW-3) states that he cannot say.¹⁶⁵⁸

15.4.2 N.B. Bardhan, CW-34, the forensic ballistics expert from CFSL, stated that in order to fire a 9MM standard RFI pistol, a person must first check the workability of the firearm in an empty condition, then load the magazine and cock the weapon by pulling the body of the slides behind and then, pull the trigger for firing to happen.¹⁶⁵⁹ He stated thereafter the pistol is fired, the fired cartridges will eject upwards from the pistol on the right side and fall around 4-5 feet from the pistol.¹⁶⁶⁰ He further stated that in a 9MM standard RFI pistol is a semi-automatic pistol with a safety knob located on the lateral side of the body, and he categorically deposed that if the safety knob is on the safe position, the trigger will not function.¹⁶⁶¹ As per CW-31, although this safety knob is identifiable, if a person has never handled a pistol, he would be unable to identify the knob and its function.¹⁶⁶² Although the

¹⁶⁵³CW-45, Response to Q 125, p 1649, Vol VI, Deposition of Witnesses.

¹⁶⁵⁴CW-45, Response to Q 126, p 1650, Vol VI, Deposition of Witnesses.

¹⁶⁵⁵CW-45, Response to Q 53, p 1633, Vol VI, Deposition of Witnesses.

¹⁶⁵⁶CW-45, Response to Q 54, p 1633, Vol VI, Deposition of Witnesses.

¹⁶⁵⁷CW-45, Response to Q 46, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁵⁸SW-3, Response to Q 259, p 129, Vol I, Deposition of Witnesses.

¹⁶⁵⁹CW-34, Response to Q 1, p 1211, Vol IV, Deposition of Witnesses.

¹⁶⁶⁰CW-34, Response to Q 6, p 1212, Vol IV, Deposition of Witnesses.

¹⁶⁶¹CW-34, Response to Q 2-4, p 1211-1212, Vol IV, Deposition of Witnesses.

¹⁶⁶²CW-34, Response to Q 5, p 1212, Vol IV, Deposition of Witnesses.

magazine capacity of the 9 MM pistol is 10 cartridges, generally only 9 are loaded for safety reasons.¹⁶⁶³

- 15.4.3 According to the deposition of J. Surender Reddy (SW-3) before the Commission dated 28.08.2021, he stated that he does not know whether investigation was carried out into the matter of the position of the safety latches of the 9MM pistols of K. Narasimha Reddy (CW-45) and Venkateshwarlu (CW-49) when Arif and Chennakeshavulu snatched the pistols from them.¹⁶⁶⁴ When asked if it was possible for a common man to identify the safety latch in a 9MM pistol, especially during a struggle of the nature that occurred on 06.12.2019, he stated that he cannot say on that matter.¹⁶⁶⁵ He further deposed that he did not inquire from the aforementioned two officers regarding the position of the safety latch¹⁶⁶⁶ but he confirmed that generally the pistol safety latch is in the off position and is opened only during the time of actual firing.¹⁶⁶⁷
- 15.4.4 According to the deposition of Mahesh M. Bhagwat (CW-16) before the Commission dated 24.09.2021, he stated that during the investigation of SIT the position of the selector switch on the AK-47 used by Lal Madhar (CW-46) or the position of safety latch on the 9MM pistols recovered from Arif and Chennakeshavulu was not investigated by SW-3 and such position was also not recorded in the panchanama at EX.C-64 or the seizure panchanama (Ex.S-30).¹⁶⁶⁸ He further stated that the SIT did not examine the panchanama regarding the position of the selector switch.¹⁶⁶⁹
- 15.4.5 According to the Deposition of N. Prakash Reddy (CW-18) before the Commission dated 20.10.2021. In the transcript of the press conference of Cyberabad Police Commissioner dt. 06.12.2019, a journalist has asked him “who were the officers who were carrying the weapons and how did the accused manage to unlock the weapons?” to which the commissioner answered that “They were unlocked already”. He stated that the word ‘unlocked; is used incorrectly in the transcript as the words ‘safety catch up or down’ are generally used.¹⁶⁷⁰ He further elaborated on this matter and stated that for a 9MM pistol the safety catch down is unlocked, in general terminology, and for

¹⁶⁶³CW-34, Response to Q 8, p 1212, Vol IV, Deposition of Witnesses.

¹⁶⁶⁴SW-3, Response to Q 242, p 127, Vol I, Deposition of Witnesses.

¹⁶⁶⁵SW-3, Response to Q 244, p 127, Vol I, Deposition of Witnesses.

¹⁶⁶⁶SW-3, Response to Q 245, p 127, Vol I, Deposition of Witnesses.

¹⁶⁶⁷SW-3, Response to Q 246, p 127, Vol I, Deposition of Witnesses.

¹⁶⁶⁸CW-16, Response to Q 53, p 712, Vol III, Deposition of Witnesses.

¹⁶⁶⁹CW-16, Response to Q 54, p 712, Vol III, Deposition of Witnesses.

¹⁶⁷⁰CW-18, Response to Q 151, p 806, Vol III, Deposition of Witnesses.

an AK-47 or SLR, change lever not set to safety is unlocked.¹⁶⁷¹ He stated that SHO Shadnagar informed him regarding the position of the safety latches which he further briefed to CP, V.C. Sajjanar before the press conference but he did not ascertain how SHO Shadnagar came to know about this fact.¹⁶⁷² This was also confirmed by CP, V.C. Sajjanar (CW-38) in his deposition dated 12.10.2021 before the Commission.¹⁶⁷³

15.4.6 According to the deposition of N. B. Bardhan (CW-34) before this commission dated 08.10.2021, he stated that 9MM standard RFI pistol is a semi-automatic pistol and has a safety knob, if the safety knob is put in the safe position the trigger will not function and vice versa.¹⁶⁷⁴ The safety knob on a 9MM pistol is on the lateral body side of the pistol and is easily identifiable to a person if he sees it but if a person has never handled a weapon then he cannot identify the safety knob or its function.¹⁶⁷⁵

15.4.7 According to the deposition of Konda Narasimha Reddy (CW-45) before this Commission dated 26.10.2021, he stated that he generally keeps his pistol in the magazine load position wherein he clarifies that 'magazine load' means safety.¹⁶⁷⁶ He further stated that there is safety catch on the pistol and such safety catch is generally applied after chamber load and that the safety catch is moved upwards after chamber load for safety.¹⁶⁷⁷ He explained that chamber load is the process when the round goes into the chamber after cocking the pistol.¹⁶⁷⁸ He also stated that on 06.12.2019 when the police party was in the bus on the way to Chatanpally along with the accused, the pistol was in magazine load and he never changed it to chamber load.¹⁶⁷⁹

15.4.8 According to the deposition of Kore Venkateshwarlu (CW-49) before this Commission, first gave an evasive answer when he was asked whether his 9MM pistol was magazine loaded.¹⁶⁸⁰ Thereafter, he stated that he had not cocked his pistol on 06.12.2019 and that it could not have been cocked when he had carried it in his pouch.¹⁶⁸¹ Shockingly, contrary to both the deposition of his colleague CW-45 and the ballistic expert (CW-34), CW-49 states that in the same pistol make (9MM Pistol RFI) there is no safety switch. He further stated that in his pistol magazine load itself was

¹⁶⁷¹CW-18, Response to Q 152, p 806, Vol III, Deposition of Witnesses.

¹⁶⁷²CW-18, Response to Q 153-154, p 807, Vol III, Deposition of Witnesses.

¹⁶⁷³CW-38, Response to Q 125-128, p 1323-1324, Vol V, Deposition of Witnesses.

¹⁶⁷⁴CW-34, Response to Q 2-3, p 1211, Vol IV, Deposition of Witnesses.

¹⁶⁷⁵CW-34, Response to Q 5, p 1212, Vol IV, Deposition of Witnesses.

¹⁶⁷⁶CW-45, Response to Q 40-41 and 47, p 1630, Vol VI, Deposition of Witnesses.

¹⁶⁷⁷CW-45, Response to Q 46, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁷⁸CW-45, Response to Q 44, p 1631, Vol VI, Deposition of Witnesses.

¹⁶⁷⁹CW-45, Response to Q 48-49, p 1632, Vol VI, Deposition of Witnesses.

¹⁶⁸⁰CW-49, Response to Q 184, p 1922, Vol VI, Deposition of Witnesses.

¹⁶⁸¹CW-49, Response to Q 185, p 1922, Vol VI, Deposition of Witnesses.

the safety.¹⁶⁸² It is evident that the witness has been completely dishonest in his deposition and that such absurd answers on the existence of a safety switch is a desperate attempt to cover up the concocted story.

15.5 Gunshot Residue – Collection and Analysis

15.5.1 Background

15.5.1.1 In this section, the collection, processing and analysis of the evidence of gunshot residue (“GSR”) from the hands of the two deceased, Md. Arif and Chintakunta Chennakeshavalu, shall be examined. As per J Surender Reddy, SW-3, on 06.12.2019, he visited the scene of offence at Chatanpally village limits and secured the presence of two mediators in whose presence The Clues Team headed by Dr. N Venkanna (CW-31) accompanied SW-3 and gunshot residue (GSR) of Md. Arif and Chintakunta Chennakeshavalu was collected.¹⁶⁸³ This collection through clues team was done at 1 PM when the seizure panchnama was conducted.¹⁶⁸⁴

15.5.1.2 SW-3 also stated in his affidavit that the scene of offence was also videographed and photographed.¹⁶⁸⁵ However, it is to be noted that neither of the videographs of collection of GSR actually show collection of GSR from the hands of the accused. It merely shows Dr. N Venkanna squatting next to the body of Md. Arif.¹⁶⁸⁶ As per the independent witness, Kavali Mallesh, CW-13, who is unaware of the meaning of “gunshot residue”,¹⁶⁸⁷ he saw the hands of Md. Arif and Chintakunta Chennakeshavalu being wiped with cotton.¹⁶⁸⁸

15.5.1.3 Thereafter, the bodies of the deceased were transported for post-mortem examination. The Executive Magistrate present during the inquest proceedings and the transportation of bodies, Mr. J Pandu, CW-9, stated that the hands of the deceased were not wrapped in white paper before transportation¹⁶⁸⁹ and zipper bags were not used.¹⁶⁹⁰ Then, as per SW-3’s affidavit, Dr. T Krupal Singh (CW-29) conducted post-mortem examination, preserved viscera and collected GSR swabs

¹⁶⁸²CW-49, Response to Q 186, p 1923, Vol VI, Deposition of Witnesses.

¹⁶⁸³Ex.S-17, Para 26, p169, Vol I, State Exhibits.

¹⁶⁸⁴SW-3, p 127, Vol I, Deposition of Witnesses.

¹⁶⁸⁵Ex.S-17, Para 26, p 169, Vol I, State Exhibits.

¹⁶⁸⁶SW-3, Response to Q 491-492, p 202, Vol I, Deposition of Witnesses.

¹⁶⁸⁷CW-13, Response to Q 40, p 577, Vol II, Deposition of Witnesses.

¹⁶⁸⁸CW-13, Response to Q 41, p 577, Vol II, Deposition of Witnesses

¹⁶⁸⁹CW-9, Response to Q7 0, p 474, Vol II Deposition of Witnesses.

¹⁶⁹⁰CW-9, Response to Q 71, p 475, Vol II, Deposition of Witnesses.

which were sent for forensic analysis.¹⁶⁹¹ CW-29 too deposed that the hand of the deceased were not covered and protected.¹⁶⁹² This casts grave doubt on the sanctity and integrity of the evidence and is in contravention to the specific mandate of the *Forensic Guide for Crime Investigators* which has been issued by the Ministry of Home Affairs. Then, as per SW-3's affidavit, after an analysis of the GSR swabs collected from the deceased Mohd. Arif and Chintakunta Chennakeshavalu, the ballistic expert *videhis* report dated 13.12.2019¹⁶⁹³ opined that the swabs collected from Mohd. Arif and Chintakunta Chennakeshavalu revealed traces of GSR.¹⁶⁹⁴

15.5.2 Collection of GSR

15.5.2.1 Dr. N Venkanna (CW-31), in his affidavit (Ex.C-140), stated that he was requisitioned *via* letter dated 6.12.2019 (Ex.C-143) to visit the scene of offence at Chatanpally for collection of material and scientific evidence in Cr. No. 803/2019.¹⁶⁹⁵ Thereafter, he along with his staff, went to the scene of offence and obtained, amongst other material, cotton swabs from both hands of Md. Arif and Chintakunta Chennakeshavalu.¹⁶⁹⁶ As per the request of the SW-3, GSR swabs were collected from the hands of the deceased and the police personnel who were involved in the exchange of fire, and later, handed over to SW-3.¹⁶⁹⁷

15.5.2.2 In his deposition, CW-31 stated that the Clues Team was responsible to collect GSR from the hands of the two deceased who possessed fire arms on 6.12.2019¹⁶⁹⁸. Although they arrived at the crime scene at 11 AM,¹⁶⁹⁹ the Clues Team could commence their work only at 12:45 PM.¹⁷⁰⁰ The collection of GSR was done around 2.30 PM to 4.00 PM,¹⁷⁰¹ prior to obtaining fingerprints from the deceased.¹⁷⁰² Since 5% nitric solution was not available with him,¹⁷⁰³ he collected GSR using cotton (ear bud) and distilled water.¹⁷⁰⁴ He deposed took one sample

¹⁶⁹¹Ex.S-17, Para 29, p 169, Vol I, State Exhibits.

¹⁶⁹²CW-29, Response to Q 13, p1 013, Vol IV, Deposition of Witnesses.

¹⁶⁹³Ex.S-34, p 393, Vol II, State Exhibits.

¹⁶⁹⁴Ex.S-17, Para 29, p 169, Vol I, State Exhibits.

¹⁶⁹⁵Ex.C-140, Para 2, p 1416, Vol VI, Commission Exhibits.

¹⁶⁹⁶Ex.C-140, Para 4, p 1416, Vol VI, Commission Exhibits.

¹⁶⁹⁷Ex.C-140, Para 5, p 1416, Vol VI, Commission Exhibits.

¹⁶⁹⁸CW-31, Response to Q 56, p 1102, Vol IV, Deposition of Witnesses.

¹⁶⁹⁹CW-31, Response to Q 5, p 1090, Vol IV, Deposition of Witnesses.

¹⁷⁰⁰CW-31, Response to Q 26, p 1095, Vol IV, Deposition of Witnesses.

¹⁷⁰¹CW-31, Response to Q 67-68, p 1104, Vol IV, Deposition of Witnesses.

¹⁷⁰²CW-31, Response to Q 69, p 1104, Vol IV, Deposition of Witnesses.

¹⁷⁰³CW-31, Response to Q 73, p 1105, Vol IV, Deposition of Witnesses.

¹⁷⁰⁴CW-31, Response to Q 71, p 1104, Vol IV, Deposition of Witnesses.

from each hand,¹⁷⁰⁵ from in between the thumb and index finger region.¹⁷⁰⁶ In the letter dated 06.12.2019 addressed to CW-15, which is the most contemporaneous rendition, CW-31 has not elaborated about the manner of collection and has merely stated that cotton swabs were collected from both hands of both the deceased.¹⁷⁰⁷ Before the NHRC (Ex. C-120), he stated that he collected cotton swab from the right hand web region of Md. Arif.¹⁷⁰⁸ It is pertinent to note that when questioned, CW-31 was not certain what he meant by ‘web region’ in hands meant.¹⁷⁰⁹ Further, before the NHRC, he made no mention of GSR collected from Chintakunta Chennakeshavalu.¹⁷¹⁰ When confronted about the different renditions of collection of GSR samples, he was unable to recollect¹⁷¹¹ and stated that the omission could have been due to hurry to file his statement before the NHRC.¹⁷¹²

15.5.2.3 When asked if he was aware that the NHRC guidelines prescribed collection of gunshot residues only using the handwash method, he stated that he had no idea about the permissible methods of collection of GSR.¹⁷¹³ Neither was he aware that the cotton bud method is the least preferred method as per the *Forensic Guide for Crime Investigators*, Ministry of Home Affairs¹⁷¹⁴ and, that it specifically mandates collection of GSR through cotton bud only with 5% nitric acid solution. In fact, as per the *Forensic Guide*, wherever the deceased are in occupations where there are chances of coming in contact with batteries, paint or metals, it is imperative that the ‘taping method’ be used. Instead, he opined that in certain instances 5% nitric acid solution affects the reagents used for the detection of GSRs in Forensic Ballistic lab by experts.¹⁷¹⁵ However, he was not able to cite any supporting authority or guidelines regarding this opinion.¹⁷¹⁶ When questioned about the method of collection of GSR prescribed in *Crime Scene to Court: the essentials of Forensic science by Peter White*, a standard book which CW-31

¹⁷⁰⁵CW-31, Response to Q 72, p 1105, Vol IV, Deposition of Witnesses.

¹⁷⁰⁶CW-31, Response to Q 94, p 1112, Vol IV, Deposition of Witnesses.

¹⁷⁰⁷Ex-C-145, p 1424, Vol VI, Commission Exhibits.

¹⁷⁰⁸Ex.C-120, p 1350, Vol V, Commission Exhibits.

¹⁷⁰⁹CW-31, Response to Q 95-98, pp 1112-1113, Vol IV, Deposition of Witnesses

¹⁷¹⁰Ex.C-120, p 1350, Vol V, Commission Exhibits.

¹⁷¹¹CW-31, Response to Q 101 p 1113, Vol IV, Deposition of Witnesses.

¹⁷¹²CW-31, Response to Q 102, p 1113, Vol IV, Deposition of Witnesses.

¹⁷¹³CW-31, Response to Q 74, p 1105, Vol IV, Deposition of Witnesses.

¹⁷¹⁴CW-31, Response to Q 75, p 1105, Vol IV, Deposition of Witnesses.

¹⁷¹⁵CW-31, Response to Q 76, p 1106, Vol IV, Deposition of Witnesses

¹⁷¹⁶CW-31, Response to Q 76, p 1106, Vol IV, Deposition of Witnesses.

stated he had in his possession,¹⁷¹⁷ he admitted that the books prescribes that the ‘optimum recovery of primer residue is by a taping method’.¹⁷¹⁸ He further admitted that the method used by him, that is, collection of GSR using cotton bud with distilled water, was not prescribed anywhere in the aforementioned book.¹⁷¹⁹

15.5.2.4 Despite being aware that, as per the guidelines issued by the National Institute of Criminology and Forensic sciences, Ministry of Home Affairs, it is mandated that multiple swabs from each hand of person alleged to have used the gun should be collected for GSR detection,¹⁷²⁰ he did not collect multiple swabs. He justified his actions on the grounds that it was the responsibility of the doctor conducting post-mortem examination (‘PME’) to collect GSR. However, he collected a little since GSR depletes over time.¹⁷²¹ However, he later contradicted himself and said that it was part of his duty to identify GSR on the hands of the deceased by using preliminary test kits at the scene of offence.¹⁷²² Interestingly, he stated that he was not instructed by SW-3 to collect GSR and rather advised him to protect the hands of the deceased.¹⁷²³ Not only did SW-3 not follow this advice, if tendered, but CW-31’s own actions run contrary to the instructions he received regarding collection of material and scientific evidence. It is also contradictory to his own deposition wherein he later states that he was instructed by SW-3 to collect GSR samples from in between the thumb and index finger region of both the deceased.¹⁷²⁴

15.5.2.5 Dr. T Krupal Singh, CW-29, in his affidavit (**Ex.C-131**) stated that he received requisition to conduct four post-mortem examinations at 5 PM on 06.12.2019 from CW-9, the Executive Magistrate.¹⁷²⁵ Thereafter, they conducted the examination which was entirely videographed.¹⁷²⁶ During the examination, they collected GSR from Mohd. Arif and Chintakunta Chennakeshavalu.¹⁷²⁷ He deposed that cotton swabs were collected from the web of the finger,¹⁷²⁸ without dipping in any

¹⁷¹⁷CW-31, Response to Q 75, p 1106, Vol IV, Deposition of Witnesses.

¹⁷¹⁸CW-31, Response to Q 92, p 1111, Vol IV, Deposition of Witnesses.

¹⁷¹⁹CW-31, Response to Q 93, p 1112, Vol IV, Deposition of Witnesses.

¹⁷²⁰CW-31, Response to Q 78, p 1106, Vol IV, Deposition of Witnesses.

¹⁷²¹CW-31, Response to Q 79, p 1106, Vol IV, Deposition of Witnesses.

¹⁷²²CW-31, Response to Q 81, p 1107, Vol IV, Deposition of Witnesses.

¹⁷²³CW-31, Response to Q 80, p 1107, Vol IV, Deposition of Witnesses.

¹⁷²⁴CW-31, Response to Q 43, p 1112, Vol IV, Deposition of Witnesses.

¹⁷²⁵Ex.C-133, p 1395, Vol VI, Commission Exhibits.

¹⁷²⁶Ex.C-133, p 1395, Vol VI, Commission Exhibits.

¹⁷²⁷Ex.C-133, p 1396, Vol VI, Commission Exhibits.

¹⁷²⁸CW-29, Response to Q 1, p 1008, Vol IV, Deposition of Witnesses.

solution,¹⁷²⁹ and after sealing,¹⁷³⁰ were handed over to the Shadnagar Police Station¹⁷³¹ officers on the same day.¹⁷³² He deposed that this collection was done before removal of clothes¹⁷³³ and washing of the body at the beginning of the post-mortem examination¹⁷³⁴ However, this was not mentioned anywhere in the report¹⁷³⁵ nor was it photographed or videographed.¹⁷³⁶

15.5.2.6 When V. Venkateshwarulu, CW-36, the forensic ballistic expert from SFSL, was asked about the method of collection of GSR, he initially stated that collection of GSR using distilled water is a recommended practice in instances wherein 5% nitric acid solution or any other alcohol is not available.¹⁷³⁷ However, he was unable to cite any authority for this opinion¹⁷³⁸ and later admitted that he had himself recommended using 5% nitric solution for the collection of GSR in a paper authored by him (**Ex.C-160**).¹⁷³⁹ Further, he too stated that usually multiple swabs are to be collected from different parts of the hand.¹⁷⁴⁰ The Forensic Guide issued by the Ministry of Home Affairs too lays down a clear procedure with respect to collection of GSR. It recommends that multiple swabs be lifted from different parts of the hand with each lift being marked separately indicating the portion of hand. The handwashing should be done in in 50cc of 5% Hydrochloric acid or Nitric acid and put in a plastic bottle which is labelled with identifying details.

15.5.2.7 Thus, with respect to the collection of GSR at the scene of offence from the hands of the deceased, there are two versions: (i) where CW-31 collected one sample each from both hands of both deceased and (ii) where CW-31 only collected one sample from the right web region of Mohd. Arif's hand. There is also discrepancy as to the time of collection as SW-3 states it was collected at 1 PM while CW-31 states it was collected between 2:30 to 4 PM. This is relevant in the light of CW-31's own opinion that GSR depletes with time. Further, there are contradictory statements as to whether CW-31 received instruction from SW-3 to

¹⁷²⁹CW-29, Response to Q 7, p 1011, Vol IV, Deposition of Witnesses.

¹⁷³⁰CW-29, Response to Q 4, p 1009, Vol IV, Deposition of Witnesses.

¹⁷³¹CW-29, Response to Q 3, p 1009, Vol IV, Deposition of Witnesses.

¹⁷³²CW-29, Response to Q 2, p 1009, Vol IV, Deposition of Witnesses.

¹⁷³³CW-29, Response to Q 21, p 1015, Vol IV, Deposition of Witnesses.

¹⁷³⁴CW-29, Response to Q 8, p 1011, Vol IV, Deposition of Witnesses.

¹⁷³⁵CW-29, Response to Q 9-11, p 1011, Vol IV, Deposition of Witnesses.

¹⁷³⁶CW-29, Response to Q 12, p 1009, Vol IV, Deposition of Witnesses.

¹⁷³⁷CW-36, Response to Q 17, p 1251, Vol IV, Deposition of Witnesses.

¹⁷³⁸CW-36, Response to Q 18, p 1251, Vol IV, Deposition of Witnesses.

¹⁷³⁹CW-36, Response to Q 20, p 1251, Vol IV, Deposition of Witnesses.

¹⁷⁴⁰CW-36, Response to Q 16, p 1250, Vol IV, Deposition of Witnesses.

collect GSR or whether it was an unauthorised overstep on his part since GSR samples are to be collected only by the doctor conducting post-mortem examination.

15.5.2.8 However, there is consistency in the version that the collection of sample by CW-31 was done through cotton bud with distilled water. Further, CW-29 has collected a sample with cotton without using any solution whatsoever. There is also consistency across various authorities and government issued guidelines that: (i) collection through cotton bud is the least preferred method; (ii) multiple swabs must be collected and (iii) if cotton bud is used, it must only be with 5% nitric acid solution. It is also clear that there is no supporting authority regarding usage of distilled water which casts grave doubt on the sanctity of the method of collection. It is also pertinent to note that the hands of the deceased were not protected and CW-29 collected the sample only after 6 PM. Further, this sample was sent to the police officials from Shadnagar PS which casts doubt on the chain of custody as well. Most crucially, the best evidence on the method of collection used, i.e. videographs and photographs of the process, have not been placed before this Commission.

15.5.3 Analysis of GSR

15.5.3.1 Dr. V. Venkateshwarlu, CW-36, the forensic ballistic expert from SFSL, conducted two analyses of the cotton swabs collected from the deceased. The first opinion was rendered on 13.12.2019,¹⁷⁴¹ wherein he concluded that the cotton swabs from the right hand of both Mohd. Arif and Chintakunta Chennakeshavulu showed traces of GSR and, the second opinion was rendered on 06.01.2020.¹⁷⁴² wherein he concluded that the cotton swabs from both hands of Mohd. Arif and the right hand of Chintakunta Chennakeshavalu showed traces of GSR. However, the cotton swab from the left hand of D4 tested negative for GSR.¹⁷⁴³ Thus, it can be noted that there is a discrepancy in both opinions with respect to traces of GSR on Mohd. Arif's left hand.

15.5.3.2 When questioned about this discrepancy, CW-34 opined that the methods employed by the person first collecting GSR is most crucial.¹⁷⁴⁴ He elaborated that if cotton swabs are collected using 5% nitric acid solution, GSR will be found only

¹⁷⁴¹Ex.S-34, p 393, Vol II, State Exhibits.

¹⁷⁴²CW-36, Response to Q 1, p 1244, Vol IV, Deposition of Witnesses read with P 728, Book No. 13.

¹⁷⁴³CW-36, Response to Q 4, p 1245, Vol IV, Deposition of Witnesses.

¹⁷⁴⁴CW-36, Response to Q 9, p 1246, Vol IV, Deposition of Witnesses.

once. If collection was done using distilled water, GSR can be detected more than once.¹⁷⁴⁵ This was because the entire GSR gets collected in a single swab if 5% nitric acid solution is used whereas with distilled water, the entire GSR may not be collected leaving some residue which can be collected the second time.¹⁷⁴⁶ He deposed that he had not inquired into the methods of collection used¹⁷⁴⁷ but both samples, which yielded differing results, were collected by two different people as he received the first sample from the Professor of Forensic Medicine in Gandhi Medical College on 10.12.2019 and the second sample from Addition Junior Civil Judge, Shadnagar on 13.12.2019.¹⁷⁴⁸ It is relevant to note that the cotton swabs collected by CW-31 at the scene of offence was handed over for testing only a week later and it was this first collected sample that does not show any GSR on the left hand of Mohd. Arif.

15.5.3.3 CW-36 deposed that he analysed the cotton swab samples using X-ray Fluorescence and chemical test, pursuant to which he detected copper, iron and traces of nitrites in them.¹⁷⁴⁹ With respect to the analysis of samples for detection of GSR, he admitted that in the paper authored by him, he has stated that for positive handwashing in an individual who has fired a gun, antimony, barium and lead must also be present in GSR.¹⁷⁵⁰ It is relevant to note that antimony, barium and lead have not been detected in the samples of GSR collected from the deceased. When asked if this would render the finding that GSR was detected to be incorrect, CW-36 deposed that the presence of nitrites was indicative of a positive detection.¹⁷⁵¹ However, he was unwilling to make a categorical statement that barium and antimony are not necessary constituents of GSR and stated that in the absence of nitrites, it is essential that barium, antimony and lead be present in the primer residue.¹⁷⁵² At the same time, CW-36 also admitted that there are chances of getting positive results for nitrites even when such persons have not fired firearms and in such cases too, nitrites would be found on both hands of the accused.¹⁷⁵³ This, supported by his admission that no separate test is needed to detect barium

¹⁷⁴⁵CW-36, Response to Q 8, p 1246, Vol IV, Deposition of Witnesses.

¹⁷⁴⁶CW-36, Response to Q 15, p 1250, Vol IV, Deposition of Witnesses.

¹⁷⁴⁷CW-36, Response to Q 11, p 1247, Vol IV, Deposition of Witnesses.

¹⁷⁴⁸CW-36, Response to Q 13, p 1249, Vol IV, Deposition of Witnesses.

¹⁷⁴⁹CW-36, Response to Q 2, p 1245, Vol IV, Deposition of Witnesses.

¹⁷⁵⁰CW-36, Response to Q 21, p 1252, Vol IV, Deposition of Witnesses.

¹⁷⁵¹CW-36, Response to Q 22, p 1252, Vol IV, Deposition of Witnesses.

¹⁷⁵²CW-36, Response to Q 23, p 1252, Vol IV, Deposition of Witnesses.

¹⁷⁵³CW-36, Response to Q 24, p 1253, Vol IV, Deposition of Witnesses.

and antimony¹⁷⁵⁴ since X-ray fluorescence is a non-destructive technique to detect all the elements at a time,¹⁷⁵⁵ casts doubt on the finding that the traces are indeed GSR, especially in the absence of lead, barium and antimony. CW-36 also admitted to the lapse of not testing the GSR for density to determine the range and intensity of firing.¹⁷⁵⁶

15.5.3.4 The 'Forensic guide for Crime Investigators' issued by the National Institute of Criminology and Forensic Science, Ministry of Home Affairs, too defines GSR as consisting of invisible spheroids of lead, barium and antimony, lending credence to the finding that the conclusion of the forensic expert regarding detection of GSR is tenuous at best. Further, there is specific mention of the phenomenon of secondary transfer of GSR in the aforementioned guide. It states that secondary transfer of GSR can happen if: (i) the person is near the firer; (ii) the person has touched the fired firearm; (iii) there is a struggle during which residue has come on the hand and (iv) if the firearm is planted into the hands of the victim to simulate murder as suicide, more GSR will be found on the palm of the victim. It is relevant to note once again at this stage that no swab was collected from the palms of the deceased and only one single swab was collected from the web of each hand.

15.5.3.5 When CW-31 was asked about the possibility of GSR being found because of planting of the pistol in the hands of the deceased, he initially stated that that neither in the event of (i) planting the pistol in the hands of the deceased¹⁷⁵⁷ and then firing nor (ii) planting the pistol in the hands of the deceased after firing,¹⁷⁵⁸ there was possibility for GSR to appear. However, he later backtracked and said it was possible¹⁷⁵⁹ and opined that it is possible for GSR to appear on dead body's hand, if it has not suffered from rigor mortis, and a gun is placed in its hand and then fired. However, according to him, this possibility was remote if the pistol is planted after firing.¹⁷⁶⁰ Despite rendering such a categorical opinion on what he considered to be hypotheticals on firing incidents,¹⁷⁶¹ he was not aware that the '*Forensic guide for Crime Investigators*' issued by the National Institute of

¹⁷⁵⁴CW-36, Response to Q 25, p 1253, Vol IV, Deposition of Witnesses.

¹⁷⁵⁵CW-36, Response to Q 26, p 1253, Vol IV, Deposition of Witnesses.

¹⁷⁵⁶CW-36, Response to Q 29, p 1254, Vol IV, Deposition of Witnesses.

¹⁷⁵⁷CW-31, Response to Q 182, p 1133, Vol IV, Deposition of Witnesses.

¹⁷⁵⁸CW-31, Response to Q 184, p 1134 Vol IV, Deposition of Witnesses.

¹⁷⁵⁹CW-31, Response to Q 183, p 1133 Vol IV, Deposition of Witnesses.

¹⁷⁶⁰CW-31, Response to Q 185, p 1134 Vol IV, Deposition of Witnesses.

¹⁷⁶¹CW-31, Response to Q 187, p 1135, Vol IV, Deposition of Witnesses.

Criminology and Forensic Science, Ministry of Home Affairs, states GSR will be found if a firearm is planted into the hands of the victim.¹⁷⁶²

15.5.3.6 Mr. N.B. Bardhan, CW-34, the forensic ballistic expert in CFSL, Delhi, too deposed that it is possible to find the presence of GSR if the gun is placed in the hands of a dead person and fired by someone else before rigor mortis has set in.¹⁷⁶³ He opined that it is not possible to find GSR if the gun is fired and then immediately placed in the hands of a dead person.¹⁷⁶⁴ However, when specifically asked about the possibility of secondary transfer of GSR, he elaborated that, when a firer fires a firearm the smoke ejected from the breeze-block of the firearm and stick on the palm or hand of the firer. If after firing, somebody put the same firearm in the hands of the dead body, it is not probable that GSR will be detected on the hand or palm of the dead body unless somebody mechanically put the GSR on the hand or palm of the dead body.¹⁷⁶⁵ Thus, he indicated two modes of planting GSR on a deceased person: (i) planting the pistol in the hands of the deceased and then firing and (ii) mechanically planting GSR on the hands of the deceased. It is relevant to note that CW-34 could not conduct any testing of the samples for presence of GSR since the samples had already been tested by the SFSL and that it is scientifically impossible to test them again for the presence of GSR.¹⁷⁶⁶

15.5.3.7 Thus, it is evident that there are several infirmities in the process of collection of GSR, the chain of custody of the samples and the analysis conducted on them.

15.5.3.8 There are contradictory statements as to the time of collection of the first sample at the scene of offence which is relevant given that the GSR depletes with time. In any event, it is clear that even the first sample was collected at least seven hours after the time of incident and during the intervening time frame, there was no protection or cover of the hands of the deceased to ensure no contamination of evidence. The second sample was collected over twelve hours after the time of the incident.

15.5.3.9 The collection of sample was done with the least suitable method, in direct contravention with the guidelines issued by the Ministry of Home Affairs and standard authorities, which require the 'taping method' to be used when there is a

¹⁷⁶²CW-31, Response to Q 186, p 1135, Vol IV, Deposition of Witnesses.

¹⁷⁶³CW-34, Response to Q 28, p 1218, Vol IV, Deposition of Witnesses.

¹⁷⁶⁴CW-34, Response to Q 29, p 1218, Vol IV, Deposition of Witnesses.

¹⁷⁶⁵CW-34, Response to Q 31, p 1219, Vol IV, Deposition of Witnesses.

¹⁷⁶⁶CW-34, Response to Q 27, p 1217, Vol IV, Deposition of Witnesses.

- possibility of the deceased being engaged in occupations where they come in contact with nitrites.
- 15.5.3.10 The collection of sample even using cotton swab, the least preferred method, was done without the mandated 5% nitric solution. In the first instance of collection, at the scene of offence, distilled water was used. This is not supported by any authority and is not standard practice. In the second instance of collection, at the time of post-mortem examination, no solution of any sort was used.
- 15.5.3.11 The hands of the deceased were not protected at the time of transporting the bodies for inquest and post-mortem examination.
- 15.5.3.12 A single swab from only the web of the hand was collected despite it being mandated that swabs be lifted from multiple portions of the hand, each being labelled separately, to enable better analysis of the GSR.
- 15.5.3.13 The best evidence, i.e. photographs and videographs, of the collection during post-mortem examination and scene of offence are not available before the Commission.
- 15.5.3.14 There is no sanctity in the chain of custody as the sample collected at the time of post-mortem examination was handed over to police officials from the Shadnagar Police Station who were closely involved with the events that led to the death of the deceased.
- 15.5.3.15 There is undue and unexplained delay of over 4 days (for the sample collected by the doctor conducting post-mortem examination) and 7 days (for the sample collected at the scene of offence) between collection of the sample and handing it over to the State FSL for analysis.
- 15.5.3.16 There is a discrepancy in the results of analysis of the two sets of samples. The more contemporaneous sample does not show any detection of GSR on the left hand of Mohd. Arif while the sample collected over twelve hours after the incidents shows GSR.
- 15.5.3.17 Neither of the samples show any traces of antimony, barium and lead which are defined to be necessary constituents of GSR. Only nitrites, which are likely to be found even ordinarily depending on the occupation and exposure, have been detected in the samples collected.
- 15.5.3.18 There is a possibility that similar residue may be detected even if (i) the pistol was planted in the hands of the deceased and then fired, (ii) the residue was mechanically rubbed on to the hands of the deceased or (iii) there was secondary

transfer due to proximity to firing, touching the fired firearm or planting. In the absence of samples being collected and analysed from multiple portions of the hand, especially the palm, these alternatives cannot be ruled out.

15.6 Issuance of 9MM Pistols

- 15.6.1 During the deposition of CW-16, the head of the SIT, when asked about the arms records and the allocation of pistols, he stated that the City Armed Reserve Headquarters while issuing the relevant 9MM pistols to K. Narasimha Reddy (CW-45) and K. Venkateshwarulu (CW-49) has made relevant entries at Page 165 and 155 respectively.¹⁷⁶⁷ He had earlier stated that arms issuance registers are not maintained at the police station concerning CW-45 and CW-49, and all records are maintained at the Commissionerate Armed Reserve Headquarters.¹⁷⁶⁸ He also added that 9MM pistols with Butt No. 4 and Butt No. 36 were handed over to CW-45 and CW-49 respectively, on 03.10.2018. The original Arms and Ammunition Distribution Register, Cyberabad – 2019 was marked as Ex.C-165¹⁷⁶⁹, through the Commissioner of Police, V.C. Sajjanar (CW-38).¹⁷⁷⁰
- 15.6.2 The relevant pages in Ex.C-165 register concerning entries relating to Amangal P.S. to which CW-45 belonged and Nandigama P.S. to which CW-49 belonged are to be found at internal pages 165 and 155 of the said register respectively. The relevant entry belonging to Amangal P.S.¹⁷⁷¹ indicates that the 9MM Pistol with Butt No. 4 was allotted to CW-45 on 03.10.2018. However, in the remarks column it is indicated that it was seized on 03.12.2019 in CR No. 803 of 2019, which is surprisingly 3 days before CR No. 803 of 2019 was registered. In so far as Nandigama P.S. is concerned,¹⁷⁷² the 9MM Pistol bearing Butt No. 36 is shown as being issued to B. Narasimha, SIP, and does not indicate that it was issued to CW-49. In this record also, in the remarks column it is stated that the Pistol was seized on 03.12.2019 in Crime No. 803 of 2019. When this discrepancy is pointed out, CW-38 states that two letters were submitted regarding information of seizure on 13.12.2019 by CW-45 and CW-49, and therefore, instead of recording as ‘13.12.2019’, it was erroneously recorded as 03.12.2019.¹⁷⁷³ He also stated that CW-49 was SHO, Nandigama, on the transfer of

¹⁷⁶⁷CW-16, Response to Q 76, p 721, Vol III, Deposition of Witnesses.

¹⁷⁶⁸CW-16, Response to Q 72, p 719-720, Vol III, Deposition of Witnesses.

¹⁷⁶⁹Ex.C-165, p 1698, Vol VII, Commission Exhibits.

¹⁷⁷⁰CW-38, Response to Q 15, 1287, Vol V, Deposition of Witnesses.

¹⁷⁷¹Ex.C-165, p 1781, Vol VII, Commission Exhibits

¹⁷⁷²Ex.C-165, p 1776, Vol VII, Commission Exhibits

¹⁷⁷³CW-38, Response to Q 45-47, 1300-1301, Vol V, Deposition of Witnesses.

the earlier SHO B. Narasimha, the 9MM Pistol was taken over by CW-49, and therefore, the entry does not mention the name of CW-49. This must be contrasted with the deposition of CW-16 who states that the 9MM Pistol with Butt No. 36 was allotted to one Narasimha, SI of Nandigama P.S., and on 03.10.2018 it was allotted to CW-49, on the transfer of the former. However, the relevant entry in Ex.C-165 shows that it was actually allotted to B. Narasimha on 03.10.2018.

15.6.3 CW-49 states that he took over the said 9MM Pistol from SHO, Nandigama, on 28.02.2019,¹⁷⁷⁴ when he took charge of the properties at Nandigama P.S. *vide* Ex.C-273,¹⁷⁷⁵ but gives an ambivalent answer as to why the record in the arms register does not reflect him taking over the arms pistol.¹⁷⁷⁶ Thus, it can be seen that the records pertaining to the arms register concerning the 9MM Pistols alleged to have been used by the deceased suspects is also fraught with contradictions.

¹⁷⁷⁴CW-49, Response to Q 171, 1918, Vol VI, Deposition of Witnesses.

¹⁷⁷⁵Ex.C-273, p 2539, Vol IX, Commission Exhibits

¹⁷⁷⁶CW-49, Response to Q 176, 1920, Vol VI, Deposition of Witnesses.

16. FIRING BY THE POLICE PARTY

16.1 Firing – Nature of Command

16.1.1. In this section, the exact nature of command regarding firing of arms issued by ACP V Surender, CW-44, the leader of the police escort party, in the early hours of 06.12.2019 at Chatanpally shall be examined. The earliest rendition of the events leading to the death of the four accused that transpired on 06.12.2019 is found in the first information report filed in CR No. 803 of 2019 in Shadnagar Police Station at 8:30 AM pursuant to receiving the handwritten complaint of ACP V Surender which was prepared at 8 AM (Ex.S-2). In this, ACP V Surender does not specifically detail any commands issued by him to the police escort party. He states that at 6:10 AM, the four deceased conjointly overpowered the police party, snatched their firearms, opened fire and despite repeated warnings to surrender, they fired with an intention to kill the police party and in self-protection, the police personnel opened fire on them resulting in the death of the deceased.¹⁷⁷⁷ It is too curious to note that although the most crucial details of the incident are missing in the complaint, it elaborately details the events leading up to the arrest of, and subsequent confession by, the deceased.

16.1.2. DCP J Surender Reddy, SW-3, who was the Investigating Officer in CR No.803 of 2019, recorded the statements of all the members of the police escort party and the two independent *panch* witnesses who were at the scene of offence under S. 161. The following are the details:

- a) CW-44, ACP V Surender, stated that he had first shouted two-three times at the accused asking them to stop firing and surrender. However, the accused continued to fire and then, upon his orders and with an intention to warn them, Shaik Lal Madhar (CW-46) fired a few rounds into the air as a caution. The accused, however, continued to fire at the police escort party and were running away. Therefore, the staff, i.e. CW-46, CW-47 and CW-48, in an attempt to catch them and make them stop fleeing, and for protecting the lives of the staff and *panchas*, fired towards the direction from where the firing sound came from the accused.¹⁷⁷⁸ Thus, he stated that he issued one direction to CW-46, the exact phrasing of the same is not mentioned, after which CW-46 fired a few rounds into the air as warning, and did not state that he issued any further directions/commands with respect to firing.

¹⁷⁷⁷Ex.S-2, p 26, Vol I, State Exhibits.

¹⁷⁷⁸P 166, Book No. 1.

- b) CW-45, K Narasimha Reddy, stated that as per the orders of CW-44, CW-46 fired a few rounds into the air as a caution with an intention to warn them. However, since the deceased continued their firing, in attempt to catch the accused and for self-protection, CW-46, CW-47 and CW-48 fired towards the direction of sound.¹⁷⁷⁹ Thus, he too stated that CW-43 issued one direction to CW-46 and does not mention any further directions/commands with respect to firing.
- c) CW-46, Shaik Lal Madhar, stated that the police party attempted to catch the fleeing deceased but due to their firing, had sought cover of a bump and CW-44 cautioned the deceased who did not stop firing. Then, on the orders of CW-44, he fired a few rounds into the air with the gun as a caution. As the deceased continued to fire and the situation was such that they could have lost their lives, he along with CW-47 and CW-48, fired towards the direction of the firing sound from the accused.¹⁷⁸⁰ He too mentions one command issued by CW-44 with respect to firing with reference to the warning shots fired by him into the air and does not specify any further commands.
- d) CW-47, M Sirajuddin, stated that on the orders of CW-44, CW-46 fired a few rounds into the air as a caution. Due to the continued firing by the accused, he along with CW-46 and CW-48, fired towards the direction of firing.¹⁷⁸¹ Thus, as per CW-47 as well, CW-44 had issued one initial command with respect to firing rounds into the air and did not give any further commands.
- e) CW-48, Kocherla Ravi, similarly stated that on the orders of CW-44, CW-46 fired a few rounds into the air as a caution. Due to the continued firing by the accused, he along with CW-46 and CW-47, fired towards the direction of firing.¹⁷⁸²
- f) CW-49, K Venkateshwarlu, stated that due to the bleeding injury inflicted to his right temporal region by the deceased Chennakeshavulu when he snatched the 9 MM pistol from his left pouch, he became giddy and fell down. He attained consciousness later in the hospital and hence, was not aware of what transpired after being hit, including the command on firing issued by CW-44.¹⁷⁸³
- g) CW-50, S Arvind Goud, stated that after hearing CW-49 yell that Chennakeshavulu was fleeing and hearing the sudden firing sound, he got shocked

¹⁷⁷⁹PP 230-231, Book No. 1.

¹⁷⁸⁰P 197, Book No. 1.

¹⁷⁸¹P 219, Book No. 1.

¹⁷⁸²P 208, Book No. 1.

¹⁷⁸³PP 333-334, Book No. 1.

and fell under the *bund* due to giddiness. He was not aware of what transpired thereafter, including the command on firing issued by CW-44.¹⁷⁸⁴

- h) CW-51, D Janakiraman, stated that when the accused tried to escape by opening fire at them, CW-44 instructed CW-46 to fire into the air to get the accused to surrender. However, as they continued firing, CW-46, CW-47 and CW-48 fired towards the firing sound.¹⁷⁸⁵ Thus, according to CW-51 too, CW-44 issued one command on firing to CW-46 with respect to firing into the air and does not specify any further commands.
- i) CW-52, Balu Rathod, too stated that when the accused tried to escape by opening fire at them, CW-44 instructed CW-46 to fire into the air to get the accused to surrender. However, as they continued firing, CW-46, CW-47 and CW-48 fired towards the firing sound.¹⁷⁸⁶ Thus, CW-51 too mentions only one command on firing.
- j) CW-53, D Srikanth, stated the same set of facts wherein when the accused tried to escape by opening fire at them, CW-44 instructed CW-46 to fire into the air to get the accused to surrender. However, as they continued firing, CW-46, CW-47 and CW-48 fired towards the firing sound.¹⁷⁸⁷
- k) CW-30, Abdul Rauf, one of the *panch* witnesses, stated that due to fear of life, they were all lying down to protect themselves from the firing of the accused. He stated that CW-44 directed the police party to 'catch the fleeing accused'. Upon this direction, the police party opened fire to apprehend the accused.¹⁷⁸⁸ Thus, as per CW-30's version, no specific command was issued by CW-44 with respect to firing but the police party construed his general instruction to apprehend the accused to mean they could open fire upon the accused.
- l) SW-4, M Rajashekhar, the second *panch* witness, stated that the accused were firing at them and the police party with snatched firearms and they were on the ground to protect themselves from the firing. Then, CW-44 directed the police party to catch the fleeing accused. Upon this, the police party opened fire.¹⁷⁸⁹ Thus, SW-4 too does not mention the issuance of any specific command on firing by CW-44.

¹⁷⁸⁴P 342, Book No. 1.

¹⁷⁸⁵P 239, Book No. 1.

¹⁷⁸⁶P 258, Book No. 1.

¹⁷⁸⁷P 248, Book No. 1.

¹⁷⁸⁸P 183, Book No. 1.

¹⁷⁸⁹P 177, Book No. 1.

- 16.1.3 Thus, a perusal of the S.161 statements of the police escort party, which is the most contemporaneous evidence recorded, reveals that the eight police personnel who were conscious during the entirety of the incident consistently state that CW-44 issued one command to CW-46 to fire warning shots into the air. No further commands on firing were issued although due to the circumstances, in order to defend themselves, three of the police personnel opened fire towards the direction of firing sounds by the deceased. The S.161 statements of the *panch* witnesses, which are consistent with each other, do not specify any specific instruction on firing but a general instruction to apprehend the fleeing accused which was construed as using the method of firing at the accused.
- 16.1.4 In his S. 176(1A) statement,¹⁷⁹⁰ which was recorded by the Principal Junior Civil Judge, Shadnagar on 07.12.2019,¹⁷⁹¹ CW-49, K Venkateshwarlu, stated that CW-44 had directed the police party and the *panch* witnesses to lie down. However, thereafter, he fell unconscious due to his injury and did not know what transpired. Curiously, he could hear the siren and found himself in the hospital 2.5 hours later.¹⁷⁹² CW-50, S Aravind Goud, stated that he fell unconscious after being hit by the deceased Jollu Shiva. However, he was still able to hear the warning issued by CW-44 to the deceased to surrender and the instruction to the rest of them to lie down. He was unable to recollect the events that followed and although he could hear a firing sound while he was unconscious. He gained consciousness after a few hours in the hospital.¹⁷⁹³ These events are consistent with their S.161 statement, which was recorded on the same day, to the extent that neither of them heard any commands issued by CW-44 with respect to firing due to their unconscious state.
- 16.1.5 Shortly thereafter, on 08.12.2019, ten witnesses – the police party and the *panch* witnesses, gave statements before the NHRC. These statements, however, reveal inconsistencies.
- 16.1.6 CW-44, in his statement before the NHRC (Ex.C-94 and Ex.C-108), stated that after the deceased Mohd. Arif shouted ‘run’ and fired from the snatched pistol in their direction, CW-44 shouted asking them to stop firing and surrender. While lying down on the ground, he realised that the police personnel also retaliated by opening fire.¹⁷⁹⁴

¹⁷⁹⁰P 60, Book No. 7.

¹⁷⁹¹P 35, Book No. 1.

¹⁷⁹²P 60, Book No. 7.

¹⁷⁹³P 59, Book No. 7.

¹⁷⁹⁴Ex.C-94, p 1159, Vol V, Commission Exhibits; Ex.C-108, p 1292, Vol V, Commission Exhibits.

In other words, CW-44 does not make any mention of any command on firing issued by him. In fact, states that he realised that retaliatory firing was ongoing only at a subsequent point in time,¹⁷⁹⁵ thereby contradicting the version of events narrated in his S.161 statement.

- 16.1.7 CW-45, in his statement before the NHRC (Ex.C-103), stated that CW-44 gave a warning to the accused asking them to stop the firing. However, they did not stop and he and CW-4 were lying down. Then, the police staff with long range weapons retaliated and fired upon the accused persons.¹⁷⁹⁶ Thus, CW-45 too does not make any mention of any commands on firing issued during the entire incident.
- 16.1.8 CW-46, in his statement before the NHRC (Ex.C-91), stated that after he heard firing sounds towards CW-49, SI Venkateshwarlu, he opened fire at the accused in self-defence and CW-47 and CW-48 opened fire from another direction at the accused.¹⁷⁹⁷ Thus, in a stark contradiction to what he stated in his S.161 statement recorded by SW-3, he does not even mention firing a warning shot into the air. Neither does he mention any command on firing issued by CW-44 and instead indicates that he took an independent call to open fire in self-defence.
- 16.1.9 CW-47, M Sirajuddin, in his statement recorded by the NHRC (Ex.C-119), stated that he, CW-46 and CW-48, stepped forward and tried to lie down but were fired at from the front side by the accused. Hence, in self-defence, he fired his SLR weapon at the direction from which they were firing at him.¹⁷⁹⁸
- 16.1.10 CW-48, K Ravi, in fact, categorically states in his statement recorded by the NHRC (Ex.C-95), that he was not ordered by anybody and opened the firing on his own after seeing firing from the deceased Mohd. Arif. While describing the incident, he states that he saw Jollu Shiva take a stick and attack CW-50, S Aravind Goud, and there was a firing sound from the front side. This caused him to retaliate with his SLR in the direction of the sound in standing position without taking any aim.¹⁷⁹⁹ Thus, this is an express contradiction to the version of events stated in the S.161 statement.
- 16.1.11 CW-51, D Janakiram, in his statement before the NHRC (Ex.C-104), stated that CW-44 was shouting asking the deceased to stop firing but they continued. He was lying down to save himself as were the *panchas*, the Circle Inspector, ACP and the

¹⁷⁹⁵Ex.C-94, p 1159, Vol V, Commission Exhibits.

¹⁷⁹⁶Ex.C-103, p 1237, Vol V, Commission Exhibits.

¹⁷⁹⁷Ex.C-91, p 1115, Vol IV, Commission Exhibits.

¹⁷⁹⁸Ex.C-119, p 1332, Vol V, Commission Exhibits.

¹⁷⁹⁹Ex.C-95, p 1185, Vol V, Commission Exhibits.

constables, but he could not see what happened to the others. He heard multiple gunshots for a few minutes.¹⁸⁰⁰ Thus, CW-51 indicates that he was not in a position to witness much of what transpired and he had not heard anything apart from gunshots. He does not mention any commands issued or any conversation beyond the shouts of CW-44 to the accused.

16.1.12CW-52, Balu Rathod, in his statement before the NHRC (Ex.C-96), similarly states that he was in a lying position and the firing continued for around five minutes. Prior to the firing, while the accused were running, CW-44 was shouting asking them to surrender.¹⁸⁰¹ Curiously, this statement mentions that CW-44 was shouting while the accused were running, before the firing started which contradicts the version that the accused were firing while they were running. He too does not mention any commands that were issued with respect to the firing.

16.1.13CW-53, D Srikanth, in his statement before the NHRC (Ex.C-92), states that either CW-44 or the Circle Inspector were shouting and asking the accused to surrender. However, the accused continued firing. He was lying down to escape from the firing and the incident took around two to three minutes.¹⁸⁰² There is no mention of any other conversation amongst the members of the police party or any directions issued by CW-44 who was leading the party.

16.1.14CW-30, Abdul Rauf, the *panch* witness, in his statement before the NHRC (Ex.C-97), stated that CW-44 told the accused to not run and to stop. Due to the firing, he was fearful and lied down after seeing one constable on the ground. The firing continued for four to five minutes.¹⁸⁰³ This is a variation from the sequence of events narrated by CW-30 in his S.161 statement wherein he stated that CW-44 instructed the police to catch the fleeing accused. Here, he does not mention any instructions of any sort issued by CW-44 beyond shouting at the accused and asking them to stop.

16.1.15SW-4, M Rajashekhar, in his statement before the NHRC (Ex.C-19), stated that there was some commotion and he heard a gunshot and lied down. Several gunshots were heard and CW-44 had shouted asking them to surrender. However, he did not hear anything other than the warning of CW-44 to the accused. He could not see anything either.¹⁸⁰⁴ This differs from what he stated earlier to SW-3 since he said that CW-44

¹⁸⁰⁰Ex.C-104, p 1251, Vol V, Commission Exhibits.

¹⁸⁰¹Ex.C-96, p 1198, Vol V, Commission Exhibits.

¹⁸⁰²Ex.C-92, p 1131, Vol IV, Commission Exhibits.

¹⁸⁰³Ex.C-97, p 1211, Vol V, Commission Exhibits.

¹⁸⁰⁴Ex.C-19, p 369, Vol II, Commission Exhibits.

had instructed the police to catch the accused and the police personnel opened fire pursuant to that direction.

16.1.16 Thus, the statements before the NHRC portray an entirely different sequence of events. According to this version, which is consistent across all the witnesses, CW-44 did not issue any command whatsoever regarding firing. In fact, this is expressly stated so by CW-48 who says he did not receive any instructions from anyone and acted on his own. As per the witnesses, CW-44 had shouted asking for the accused to surrender themselves. Nine out of ten witnesses, barring CW-52, state that the gunshots started before CW-44 started shouting while CW-52 indicates that there was no firing prior to that. The statements of the two witnesses who, according to their S.161 statement, were unconscious during the incident has not been recorded by the NHRC.

16.1.17 The S.164 statements of the panch witnesses were recorded by the Judicial Magistrate, First Class, Jadcherla. CW-30, Abdul Rauf, stated (Ex.B-13) that after the deceased started firing at them, he and the others lied down. CW-44 said “Ye Babu, stop firing and surrender yourselves.” However, the firing continued by the accused and then, CW-44 instructed the police party to catch the deceased ‘by all means’. Thereafter, the police also opened firing.¹⁸⁰⁵ SW-4, M Rajashekhar, stated (Ex.C-18) a similar version of events wherein CW-44 asked the deceased to surrender and stop firing but since they continued firing, CW-44 instructed the police party to catch the accused ‘at any cost’. Thereafter, the police started firing to catch the accused.¹⁸⁰⁶ While this version is largely consistent with the version in the S.161 statements of the panch witnesses wherein the police personnel construed the direction by CW-44 to catch the accused to permit them to open fire, it differs the version in their NHRC statements wherein they stated nothing and from the version in the S.161 statements of the police escort party wherein they stated that CW-44 instructed CW-46 to fire warning shots into the air.

16.1.18 Hence, thus far, there are three versions: (i) CW-44 instructed CW-46 to fire warning shots in the air, (ii) CW-44 did not issue any instructions whatsoever with respect to firing and (iii) CW-44 instructed the entire police party to catch the fleeing accused ‘by all means’. However, these are not the only variations as is evident from the affidavits and depositions of the witnesses before this Commission.

¹⁸⁰⁵P 613, Book No.13.

¹⁸⁰⁶Ex.C-18, p 367, Vol II, Commission Exhibits.

16.1.19CW-44, V Surender, in his affidavit (Ex.C-181) stated that after seeing the sudden assault and snatching of pistols of the police party, he immediately alerted his staff in Telugu language. Further, he instructed them in a loud voice to stop and restrain the fleeing accused from escaping and to arrest them.¹⁸⁰⁷ Within no time, the accused opened blind fire using the snatched pistols. The police staff, panch witnesses lied down under the cover of the bund to protect themselves from indiscriminate firing. CW-44 then shouted twice warning the fleeing accused in Telugu “Kalchakandi, Kalchakand, longipondi, longipondi” which translates to ‘don’t fire, don’t fire, surrender, surrender’. The accused did not cease their firing.¹⁸⁰⁸ With an intent to re-arrest the fleeing accused, CW-44 then asked the staff to fire into the air as a caution warning pursuant to which CW-46, Shaik Lal Madhar, fired into the air with his weapon. Despite this, the firing continued by the accused.¹⁸⁰⁹ In order to prevent their escape and to divert their attention, CW-44 asked the armed escort team who were scattered near him in the South and North direction along the level step bund, to fire towards the sound of firing without any direct aim to the accused so as to stop them firing and to re-arrest them from escape without causing any harm to their lives. Accordingly, CW-46, CW-47 and CW-48 fired towards the direction of firing sound of the accused side without any direct aim to stop the accused firing and to re-arrest them from escape.¹⁸¹⁰ It is to be noted that this is the first time there is any mention of a second command on firing issued by CW-44. During his deposition, CW-44 reiterated what was stated in his affidavit¹⁸¹¹ and clarified that his orders were not to shoot at the persons.¹⁸¹²

16.1.20CW-45, K Narasimha Reddy, in his affidavit (Ex.C-266), stated the same sequence of events as in CW-44’s affidavit (Ex.C-181) in an almost verbatim narration. He stated that the accused opened blind fire using the snatched pistols. CW-44 then shouted twice warning the fleeing accused in Telugu “Kalchakandi, Kalchakand, longipondi, longipondi” which translates to ‘don’t fire, don’t fire, surrender, surrender’. When the accused did not cease their firing,¹⁸¹³ CW-44 then asked the staff to fire into the air as a caution warning pursuant to which CW-46, Shaik Lal Madhar, fired into the air with

¹⁸⁰⁷Ex.C-181, p 2148, Vol VIII, Commission Exhibits.

¹⁸⁰⁸Ex.C-181, p 2148, Vol VIII, Commission Exhibits.

¹⁸⁰⁹Ex.C-181, p 2149, Vol VIII, Commission Exhibits.

¹⁸¹⁰Ex.C-181, p 2198, Vol VIII, Commission Exhibits.

¹⁸¹¹CW-44, Response to Q 400-402, pp 1571-1572, Vol V, Deposition of Witnesses.

¹⁸¹²CW-44, Response to Q 403, p 1572, Vol V, Deposition of Witnesses.

¹⁸¹³Ex.C-181, p 2148, Vol VIII, Commission Exhibits.

his weapon. Despite this, the firing continued by the accused.¹⁸¹⁴ In order to prevent their escape and to divert their attention, CW-44 asked the armed escort team to fire towards the sound of firing without any direct aim to the accused so as to stop them firing and to re-arrest them from escape without causing any harm to their lives. Accordingly, CW-46, CW-47 and CW-48 fired towards the direction of firing sound of the accused side without any direct aim to stop the accused firing and to re-arrest them from escape.¹⁸¹⁵

16.1.21 In his deposition, CW-45 deposed that while the accused were running and firing, CW-44 cautioned them to stop firing and surrender. When they did not stop, CW-44 ordered CW-46, Shaik Lal Madhar, to fire in the air. When the firing continued, CW-44 ordered CW-46, CW-47 and CW-48 to fire towards the direction of firing to apprehend the accused and divert their attention.¹⁸¹⁶ Thus, two crucial discrepancies emerge. (i) Contrary to what is stated in his affidavit wherein he stated that CW-44 generally instructed the staff to fire in the air, CW-46 deposed that CW-44 specifically instructed CW-46 to fire in the air and, (ii) similarly, CW-46 deposed that CW-44 specifically instructed CW-46, CW-47 and CW-48 to fire towards the direction of firing while in his affidavit he stated that CW-44 generally instructed the police escort party to do so.

16.1.22 CW-46, Shaik Lal Madhar too, in his affidavit (Ex.C-268) narrated events in a near verbatim manner to that in CW-44 (Ex.C-181) and CW-46 (Ex.C-266)'s affidavits wherein CW-44 issued two commands with respect to firing – first, wherein he ordered the armed escort party to fire into the air as a caution warning and second, later wherein he instructed them to fire towards the sound of firing of the accused without direct aim to stop them firing.¹⁸¹⁷

16.1.23 In his deposition, he stated that when the firing started, CW-44 instructed them all to lie down on the ground.¹⁸¹⁸ This is the first mention of such an instruction although it does not pertain to firing specifically. CW-46 further deposed that after the instructions of CW-44, he kept the selector switch of the AK-47 in single position.¹⁸¹⁹ CW-46 then immediately contradicted himself and stated that CW-44 did not give instructions to put the switch in single position. He added that when the accused

¹⁸¹⁴Ex.C-181, p 2149, Vol VIII, Commission Exhibits.

¹⁸¹⁵Ex.C-266, p 2469, Vol IX, Commission Exhibits.

¹⁸¹⁶CW-45, Response to Q 142, p 1653, Vol V, Deposition of Witnesses.

¹⁸¹⁷Ex.C-268, p 2487, Vol IX, Commission Exhibits.

¹⁸¹⁸CW-46, Response to Q 82, p 1718, Vol V, Deposition of Witnesses.

¹⁸¹⁹CW-46, Response to Q 108, p 1724, Vol V, Deposition of Witnesses.

started firing, ACP sir gave caution "Kalchakandi kalchakandi, paripokandi, longipondi longipondi" two-three times.

16.1.24 Since they did not heed the caution and continued to fire, CW-44 instructed CW-46 by name saying "Lal Madhar Gali lo kalchandi", which translates to 'Lal Madhar fire into the air'. At that time, CW-46 changed the selector switch from safety to single.¹⁸²⁰ He deposed that he could see the accused¹⁸²¹ but still fired towards the sound to divert their attention and apprehend them since that was the instruction of CW-44.¹⁸²² He reiterated that he was instructed not to target the accused at all while firing.¹⁸²³ When asked about the omission in his S.161 statement about CW-44's instructions to open fire, he said that he had stated it to SW-3 but he did not write down his statement in his presence.¹⁸²⁴ However, since SW-3 was higher in rank to him, he did not protest about the omission.¹⁸²⁵

16.1.25 CW-47, M Sirajuddin too, in his affidavit (Ex.C-270), which is verbatim to that of CW-46, stated that CW-44 first instructed the armed escort party to fire a caution warning into the air and then instructed them to fire towards the sound of firing without any direct aim in order to stop them from firing and to rearrest them.¹⁸²⁶ In his deposition, when he was asked about how entire paragraphs of his affidavit are verbatim with that of CW-46's affidavit, he stated that he did not know.¹⁸²⁷ He deposed that CW-44 had given instructions to fire towards the direction from which firing was coming in order to distract them and to make them stop running away.¹⁸²⁸ He further stated that he could indeed clearly see the accused while he was firing.¹⁸²⁹ When asked about whether his S.161 statement mentions the ACP's instructions to fire towards the direction from which the firing was coming, he replied that he had stated so but SW-3 did not write it and he wrote something that he had not stated.¹⁸³⁰

16.1.26 CW-48, Kocherla Ravi, in his affidavit (Ex.C-271) once again rendered a narration that was verbatim with the affidavits of the previous witnesses with respect to the narration of events regarding the firing. According to his affidavit, CW-44 first

¹⁸²⁰CW-46, Response to Q 109, pp 1724-1725, Vol V, Deposition of Witnesses.

¹⁸²¹CW-46, Response to Q 116, p 1727, Vol V, Deposition of Witnesses.

¹⁸²²CW-46, Response to Q 123, p 1728, Vol V, Deposition of Witnesses.

¹⁸²³CW-46, Response to Q 124, p 1728, Vol V, Deposition of Witnesses.

¹⁸²⁴CW-46, Response to Q 134, p 1730, Vol V, Deposition of Witnesses.

¹⁸²⁵CW-46, Response to Q 135, p 1731, Vol V, Deposition of Witnesses.

¹⁸²⁶Ex.C-270, p 2496 Vol IX, Commission Exhibits.

¹⁸²⁷CW-47, Response to Q 7, p 1756, Vol VI, Deposition of Witnesses.

¹⁸²⁸CW-47, Response to Q 118, p 1782, Vol VI, Deposition of Witnesses.

¹⁸²⁹CW-47, Response to Q 23, p 1759, Vol VI, Deposition of Witnesses.

¹⁸³⁰CW-47, Response to Q 119, p 1782, Vol VI, Deposition of Witnesses.

instructed the armed escort party to fire a caution warning into the air and then instructed them to fire towards the sound of firing without any direct aim in order to stop them from firing and to re-arrest them.¹⁸³¹ In his deposition, CW-48 stated that ACP had instructed him to fire towards the direction of firing in order to distract them and to apprehend them and he fired as per the instructions.¹⁸³² He reiterated that CW-44 instructed them to fire towards the sound of firing.¹⁸³³ However, he too stated that the deceased were clearly visible to him.¹⁸³⁴

16.1.27 He deposed that when the accused were running away, CW-44 had instructed to police party to catch them. By that time, firing started and all the handlers had laid down on the ground. All the other members also laid down.¹⁸³⁵ He affirmed that CW-44 gave orders to fire in the air and added that the accused did not stop firing even after the caution given by the CW-44 to stop firing and surrender, he had instructed Sri Lal Madhar to fire in the air.¹⁸³⁶ He categorically stated that CW-44 instructed only Lal Madhar to fire in the air.¹⁸³⁷

16.1.28 When asked about the omission in his affidavit wherein he just stated that CW-44 asked them to fire in the air as a caution, CW-48 stated that he was advised by his advocate that all particulars need not be stated.¹⁸³⁸ When asked about the omission in his S.161 statement, he stated that he had mentioned that CW-44 had instructed to fire towards the sound of firing of the accused, to SW-3¹⁸³⁹ and does not know why it is not mentioned in the S.161 statement.¹⁸⁴⁰ When asked about his categorical statement before the NHRC that he was not ordered by anybody and opened fire on his own, he first stated that he did say so before the NHRC. He then contradicted himself and said that he was asked whether ACP alone had issued orders or whether any other member of the team had issued orders and had answered that no one gave orders.¹⁸⁴¹

16.1.29 The narration of events in CW-49, K. Venkateshwarlu's affidavit (Ex.C-272), is also verbatim with that in the affidavits of the previous witnesses. He too stated that CW-44 first instructed the armed escort party to fire a caution warning into the air and then

¹⁸³¹ Ex.C-271, p 2510, Vol IX, Commission Exhibits.

¹⁸³² CW-48, Response to Q 28, p 1816, Vol VI, Deposition of Witnesses

¹⁸³³ CW-48, Response to Q 29, p 1816, Vol VI, Deposition of Witnesses.

¹⁸³⁴ CW-48, Response to Q 30, p 1817, Vol VI, Deposition of Witnesses.

¹⁸³⁵ CW-48, Response to Q 41, p 1819, Vol VI, Deposition of Witnesses.

¹⁸³⁶ CW-48, Response to Q 47, p 1819, Vol VI, Deposition of Witnesses.

¹⁸³⁷ CW-48, Response to Q 48, p 1820, Vol VI, Deposition of Witnesses.

¹⁸³⁸ CW-48, Response to Q 49, p 1821, Vol VI, Deposition of Witnesses.

¹⁸³⁹ CW-48, Response to Q 147, p 1845, Vol VI, Deposition of Witnesses.

¹⁸⁴⁰ CW-48, Response to Q 148, p 1845, Vol VI, Deposition of Witnesses.

¹⁸⁴¹ CW-48, Response to Q 150, p 1846, Vol VI, Deposition of Witnesses.

instructed them to fire towards the sound of firing without any direct aim in order to stop them from firing and to re-arrest them.¹⁸⁴² This is especially peculiar since as per his S.161 statement and S.176(1-A) statement, he was unconscious during the incident and could not have borne witness to the sequence of events as narrated in his affidavit. In his deposition too, however, he stated that CW-44 directed to fire in the air and then, CW-46 started firing in the air.¹⁸⁴³ He further deposed that the firing was continuous and CW-44 directed the firing party to fire in the direction from which firing was coming in order to apprehend the accused.¹⁸⁴⁴

16.1.30 Similarly, in the affidavit of CW-50 (Ex.C-274), yet another witness who was unconscious during the incident, the narration of events is verbatim with that in the affidavits of the previous witnesses.¹⁸⁴⁵ When questioned how he could hear CW-44's warning to the accused when he was unconscious, CW-50 deposed that he was conscious when CW-44 was issuing instructions.¹⁸⁴⁶ When asked how he could have narrated the incident when he had earlier stated in his S.161 statement that he came to know later that the accused had forcibly snatched the weapons, he deposed that he did not state so to SW-3. He was conscious at the time of the incident and was attacked by Jolly Shiva. CW-44 had instructed that the accused were running away and should be caught. When firing continued despite CW-44's shouts to stop and surrender, CW-44 instructed CW-46 to fire in the air to frighten the accused. Then CW-44 instructed to fire towards the direction from which the sound of firing was coming. He had stated this entirely to SW-3 and is unaware what was actually written down.¹⁸⁴⁷

16.1.31 CW-51, D. Janakiram, in his affidavit (Ex.C-275), briefly stated that he heard warning shouts of CW-44 asking the accused to surrender, cautioning staff to lay down and instructing the armed escort to open fire in the air as the fleeing accused were opening fire on the police party.¹⁸⁴⁸ CW-52, Balu Rathod, in his affidavit (Ex.C-276), in a pithily verbatim manner to that of CW-51, states that, he heard warning shouts of CW-44 asking the accused to surrender, cautioning staff to lay down and instructing the armed escort to open fire in the air as the fleeing accused were opening fire on the

¹⁸⁴²Ex.C-272, p 2531, Vol IX, Commission Exhibits.

¹⁸⁴³CW-49, Response to Q 32, p 1880, Vol VI, Deposition of Witnesses.

¹⁸⁴⁴CW-49, Response to Q 33, p 1880, Vol VI, Deposition of Witnesses.

¹⁸⁴⁵Ex.C-274, p 2546, Vol IX, Commission Exhibits.

¹⁸⁴⁶CW-50, Response to Q 35, p 1953, Vol VI, Deposition of Witnesses.

¹⁸⁴⁷CW-50, Response to Q 58, p 1961, Vol VI, Deposition of Witnesses.

¹⁸⁴⁸Ex.C-275, p 2557, Vol IX, Commission Exhibits.

police party.¹⁸⁴⁹ CW-53, D Srikanth (Ex.C-277), too states the exact same description of events in his affidavit wherein he heard warning shouts of CW-44 asking the accused to surrender, cautioning staff to lay down and instructing the armed escort to open fire in the air as the fleeing accused were opening fire on the police party.¹⁸⁵⁰ All three of them mention only one command to open fire in the air which is consistent with the version narrated by the police escort team in their S.161 statements recorded by SW-3. They make no mention of a second command to fire towards the sound of firing in an attempt to divert attention and apprehend the accused.

16.1.32 CW-30, Abdul Rauf, the panch witness, in his affidavit (Ex.C-139) stated that CW-44 had asked one of his staff to open fire in the air when the accused kept firing upon them. Accordingly, one of the staff fired nearly ten times in the air. When the firing by the accused did not stop, CW-44 asked his armed staff to divert their attention by counter firing towards the firing sound of persons without any direct aim.¹⁸⁵¹ When specifically asked if heard anything else during his deposition, he did not mention any command on firing and only mentioned CW-44's shouts asking the deceased to surrender.¹⁸⁵² SW-4, M Rajeshkhar, the other *panch* witness, too stated in his affidavit (Ex.S-48) that CW-44 had asked one of his staff to open fire in the air when the accused kept firing upon them. Accordingly, one of the staff fired nearly ten times in the air. When the firing by the accused did not stop, CW-44 asked his armed staff to divert their attention by counter firing towards the firing sound of persons without any direct aim.¹⁸⁵³ Both these versions differ from what was stated by them on three different occasions – (i) S.161 statement, (ii) S.164 statement and (iii) statement before the NHRC.

16.1.33 When SW-4 was specifically asked about the omission of the statement that 'ACP commended to fire in open, staff fired ten times in air and then ACP asked staff to divert their attention by counter firing'. In his Section 164 and NHRC statement, he deposed that, only the part of firing in the air was not in his earlier statements, but it is stated there that CW-44 had asked that the persons should be caught at any cost.¹⁸⁵⁴ When he was further asked whether in his previous statements he had mentioned about CW-44's direction to open fire in air and commence counter firing, he stated

¹⁸⁴⁹Ex.C-276, p 2564, Vol IX, Commission Exhibits.

¹⁸⁵⁰Ex.C-277, p 2571, Vol IX, Commission Exhibits.

¹⁸⁵¹Ex.C-139, p 1412, Vol VI, Commission Exhibits.

¹⁸⁵²CW-30, Response to Q 127 and 131, p 1064, Vol IV, Deposition of Witnesses.

¹⁸⁵³Ex.S-48, p 453, Vol II, State Exhibits.

¹⁸⁵⁴SW-4, Response to Q 35, p 236, Vol I, Deposition of Witnesses.

that he had made mentioned it to SW-3 and before the NHRC but is not aware why it is not recorded. However, he had forgotten to mention it before the Magistrate.¹⁸⁵⁵

16.1.34 It is thus evident that in addition to the three versions of commands issued by CW-44, three more versions emerge from the affidavits and depositions of the witnesses, which do not find mention at any stage prior to the submission of affidavits before this Commission: (i) CW-44 issued two sets of commands to the police party, first to fire into the air and later to fire in the direction of sound to divert attention and apprehend the accused; (ii) CW-44 issued a command specifically to CW-46 to fire into the air and later issued a command to the police party asking them to fire in the direction of sound to divert attention and apprehend the accused and lastly, (iii) CW-44 issued a command specifically to CW-46 to fire into the air and later issued a command specifically to CW-46, CW-47 and CW-48 asking them to fire in the direction of sound to divert attention and apprehend the accused.

16.1.35 Thus, to sum it up, there are six different versions with respect to what exactly the nature of command issued by CW-44 was:

- a) CW-44 did not issue any instructions whatsoever with respect to firing.
- b) CW-44 instructed one command after which CW-46 fired warning shots in the air.
- c) CW-44 instructed the entire police party to catch the fleeing accused.
- d) CW-44 issued two sets of commands to the police party, first to fire into the air and later to fire in the direction of sound to divert attention and apprehend the accused.
- e) CW-44 issued a command specifically to CW-46 to fire into the air and later issued a command to the police party asking them to fire in the direction of sound to divert attention and apprehend the accused.
- f) CW-44 issued a command specifically to CW-46 to fire into the air and later issued a command specifically to CW-46, CW-47 and CW-48 asking them to fire in the direction of sound to divert attention and apprehend the accused.

16.1.36 Despite the multiplicity of versions, each contradictory to the other, both the status report dated 24.06.2020¹⁸⁵⁶ and the final report submitted by the Special Investigation Team (Ex.S-14) arrives at a conclusive finding. The status report dated 24.06.2020 was produced during the course of hearing by SW-1 when he was specifically

¹⁸⁵⁵SW-4, Response to Q 36, p 236, Vol I, Deposition of Witnesses.

¹⁸⁵⁶P 22, Book No 21.

questioned about his reference to a report in his affidavit.¹⁸⁵⁷ In this status report, at Para 22, it is concluded that as there was no alternative to safeguard their lives and also the lives of the *panch* witnesses, on the instructions of CW-44, the armed escort also in self defense opened fire towards the sense of sound from the accused. Interestingly, in the same report a different version of the firing is given at Para 5. According to this version, the police escort party not only fired warning shots in the air, but also towards the side and on the ground. Curiously, the timing of the incident is stated to be 6:10 AM. This is the only document which refers to the firing towards the ground as well. If there were to be true, then at least some bullets fired into the ground ought to have been recovered from the scene of occurrence, but neither Ex.C-3 (Scene of Observation and Seizure Panchanama) nor Ex.C-8 (sketch of the incident).

16.1.37A similar conclusion is arrived at in Para 15.19 and 15.20 of the final report, wherein it is stated that, CW-44 directed CW-46 to open fire into air as a caution warning to the fleeing accused. Accordingly, CW-46 opened ten rounds firing into the air with his AK-47 but deceased continued fierce and deadly indiscriminate firing.¹⁸⁵⁸ It is further stated in the final report that in a bid to re-arrest the fleeing deceased who were escaping from the lawful custody of police and in order to save the lives of panch witnesses and police staff, CW-44 warned the accused to surrender. But they did not heed and continued firing. Then, CW-44 directed CW-46, CW-47 and CW-48 to arrest the fleeing accused and if necessary open counter firing to the side of sense of firing sound from the deceased without any direct aim. Accordingly, in pursuance of the directions and commands, CW-46, CW-47 and CW-48 opened counter firing in a bid to arrest fleeing accused.¹⁸⁵⁹

16.1.38It is pertinent to note that both at the time of filing the status report on 24.06.2020 and the final report on 05.02.2021, there was no recorded material for the investigative agencies to arrive at the aforesaid conclusion. At this point in time, only the S.161 statements, S.164 statements, S.176(1-A) statements and NHRC statements were recorded. In none of these statements have any of the witnesses made any mention or tangential reference to a second command issued by CW-44 to open counter firing in the direction of the sound of the firing. It is curious how such a categorical finding

¹⁸⁵⁷SW-1, Response to Q 42, p 25, Vol I, Deposition of Witnesses.

¹⁸⁵⁸Ex.S-14, p 140, Vol II, State Exhibits.

¹⁸⁵⁹Ex.S-14, p 140, Vol II, State Exhibits.

could be arrived at in the absence of any witness statements to support it. When this question was specifically put to SW-3, J Surender Reddy, the Investigating Officer of CR No. 803 of 2019, he stated that he arrived at the conclusion that CW-44 directed CW-46, CW-47 and CW-48 to open counter firing without any direct aim based on the statement of CW-44.¹⁸⁶⁰ However, as detailed hereinabove, there is no mention of such a command in CW-44's S.161 statement or his statement before the NHRC. The fact that it is not mentioned in CW-44's 161 statement is also expressly acknowledged by CW-16,¹⁸⁶¹ Mahesh Bhagwat, the Head of the Special Investigation Team. CW-16 also categorically stated that as per CW-44's statement, he had issued only the first command on firing.¹⁸⁶² Despite this, Ravi Gupta (SW-1) upon being asked by the Counsel appearing for one of the police escort party, specifically states that the firing opened upon orders of V. Surender (CW-44).¹⁸⁶³

16.1.39 When SW-3, J Surender Reddy, was further asked what was the exact nature of the firing order given by CW-44 to the police party, he stated that the exact order was "to fire in the air to apprehend the fleeing accused"¹⁸⁶⁴ which is also contradictory to the finding in the report and in SW-3's own affidavit (Ex.S-17),¹⁸⁶⁵ that there were two separate sets of commands. Thus, when both the Investigating Officer and the Head of the Special Investigation Team were specifically asked to state the materials upon which they placed reliance to conclude that ACP V Surender, CW-44, had issued the second command on firing, they could not place any such material. This is crucial to note since SW-1, Ravi Gupta, has relied upon these reports of the Special Investigation Team to arrive at the stance that the police party had used appropriate force when the accused were resisting their arrest using lethal firearms and were justified by law under Section 76 and 79 of the IPC.¹⁸⁶⁶

16.1.40 It is to be noted that despite the police escort party and the *panch* witnesses stating that the mention of the second command on firing issued by CW-44 was not noted down by J Surender Reddy, SW-3, at the time of recording their S.161 statements, neither the counsel for the state nor the counsel for the police officers sought to re-examine or question SW-3 on this crucial aspect regarding incorrect recording of the

¹⁸⁶⁰SW-3, Response to Q 278, p 135, Vol I, Deposition of Witnesses.

¹⁸⁶¹CW-16, Response to Q 40, p 705, Vol II, Deposition of Witnesses.

¹⁸⁶²CW-16, Response to Q 39, p 705, Vol II, Deposition of Witnesses.

¹⁸⁶³SW-1, Response to Q 7, p 17, Vol I, Deposition of Witnesses.

¹⁸⁶⁴SW-3, Response to Q 277, p 134, Vol I, Deposition of Witnesses.

¹⁸⁶⁵Ex.S-17, p 165, Vol I, State Exhibits.

¹⁸⁶⁶Ex.S-1, pp 8-16, Vol I, State Exhibits.

S.161 statement. The issuance of a second command on firing has been brought up for the first time before this Commission. It appears to be a deliberate inclusion to bring the actions of the police escort party within the cloak of protection offered by the applicability of Section 76 IPC as justifiable actions taken pursuant to a lawful command. The consistent absence of any mention of a second command on firing in (i) S.161 statements, (ii) S.164 statements, (iii) S.176(1-A) statements and (iv) NHRC statement is a significant omission amounting to a contradiction.

16.1.41 At this stage, it is relevant to note that all the witnesses, i.e., CW-44 to CW-53, CW-30 and SW-4, have stated that their S.161 statement¹⁸⁶⁷ and their statement before the NHRC¹⁸⁶⁸ was incorrectly recorded and ridden with omissions and additions. Some witnesses have further stated that they were coerced into signing their statements before the NHRC¹⁸⁶⁹ and that they did not object to the recording of their S.161 statement because SW-3 was superior to them.¹⁸⁷⁰

16.1.42 This allegation of incorrect recording of S.161 statements and the NHRC statements at this stage, was not followed by way of cross-examination of SW-3 or CW-16, on this issue by the counsels representing CW-44 to CW-48 i.e., ACP V Surender, Shaik Lal Madhar, M Sirajuddin and Kocherla Ravi. Equally crucial is the absence of examination by the counsel representing the state of Telangana, either through re-examination of SW-3, J Surender Reddy, or cross-examination of CW-16, Mahesh Bhagwat, as to how specific conclusions were arrived at relating to the second command to fire without any supporting evidence in that regard. No clarification has been sought by the state counsels from either of these two witnesses. This lends credence to the possibility that, in a bid to justify the wrongful and questionable conclusions in the status report dated 24.06.2020 and the final report dated 05.02.2021 submitted by the Special Investigation Team, the police of officers incorporated the issuance of a second command in their narrative in their affidavits.

16.1.43 The near-verbatim rendition of the sequence of events in the affidavits of CW-44 to CW-50, who mention the issuance of the second command for the very first time,

¹⁸⁶⁷CW-47, Response to Q 119, p 1782, Vol VI, Deposition of Witnesses; CW-46, Response to Q 104-105, p 1717, Vol VI, Deposition of Witnesses; CW-48, Response to Q 147, p 1845, Vol VI, Deposition of Witnesses; CW-49, Response to Q 69-71, p 1887-1888, Vol VI, Deposition of Witnesses.

¹⁸⁶⁸CW-48, Response to Q 150, p 1846, Vol VI, Deposition of Witnesses; CW-46, Response to Q 134, p 1730, Vol VI, Deposition of Witnesses.

¹⁸⁶⁹CW-44, Response to Q 104-110, pp 1478-1480, Vol V, Deposition of Witnesses; CW-48, Response to Q 143-145, p 1844, Vol VI, Deposition of Witnesses.

¹⁸⁷⁰CW-46, Response to Q 135, p 1731, Vol V, Deposition of Witnesses.

indicates that it is an unnatural and spurious testimony which is a complete afterthought. Further, CW-51 to CW-53 do not make any mention of a second command anywhere, including in their affidavits before the Commission, which too are *inter se* verbatim.

16.1.44 Further, the nature of the second command, which CW-44 to CW-50, CW-30 and SW-4 mention for the first time in their affidavits, also raises several questions. As acknowledged by CW-16, Mahesh Bhagwat, himself, the very nature of the command, that is, to shoot in the direction of sense of sound, and not to shoot on the accused but to shoot either at the side or down with an intention to catch them without losing their lives, are inconsistent with each other.¹⁸⁷¹ Further, all three police officers who shot at the accused, i.e. CW-46 to CW-48, stated that the accused were clearly visible to them. If the accused were clearly visible to them, logically there arises no question of shooting in the direction of the sound.

16.1.45 The multiple variations in the statements of the police party and the *panch* witnesses also make it unclear whether the counter firing was initiated (i) in self-defence, (ii) to apprehend the accused or (iii) to open retaliatory fire. There is thus no clarity on the purpose for which firing was opened and this is extremely suspect since there is a clear admission that firing did indeed take place. It must be noted that the nature of firing, in terms of aim, frequency etc., would substantially differ depending upon the purpose and in the present case, all the four deceased bear gunshot wounds in their upper torso and head, lending credence to the possibility that clear aim was taken at the deceased who were visible.

16.1.46 The conclusion in the final report seeks to justify the firing made by the police party on grounds of self-defence, attempt to arrest etc. In the absence of clarity regarding the objective of firing and the exact nature of the command, it is difficult to see how the investigative agencies could have justified the action of the police party in such categorical terms as indicated in Para 16.10 of the final report.¹⁸⁷² In our opinion, the conclusions on the nature of commands on firing and the subsequent invocation of Section 76, IPC read with Section 149, 157, 60, 46, Code of Criminal Procedure and Sections 96, 97(first), 100, exception 3 of Section 300 read with Section 6, IPC, to justify the action is not merely suspect but is also legally unsustainable.

¹⁸⁷¹CW-16, Response to Q 38, p 705, Vol II, Deposition of Witnesses.

¹⁸⁷²Ex.S-14, p 146, Vol I, State Exhibits.

16.1.47 To summarise the above-discussion on the command to fire which was issued by CW-44:

- a) CW-46, CW-47 and CW-48 having claimed before the NHRC team that they fired on their own without any command by their superior officer, now take a plea that they acted as per the directions of their superior officer. On the other hand the earliest version of CW-44 to CW-53 in their statements before the Investigating Officer (SW-3) is silent with regard to any command to fire at the deceased suspects, having been given by CW-44. For the first time, in their affidavits before the Commission, CW-44 to CW-50 speak about a command to fire at the deceased suspects, having been given by CW-44. There could not have been multiple discrepancies with regard to the nature of command to fire given by CW-44, if really there was any genuine incident of firing by the deceased suspects. Such multiple versions as to the command of firing as is shown in Paragraph 16.1.35, also suggest that different pleas have been set up from time to time to wriggle out of the situation.
- b) In view of the fact that the alleged recovery, the attempt to escape and the assault by the deceased suspects have been disbelieved, in the considered opinion of the Commission, there arises no occasion for giving any lawful command as claimed and for its compliance in good faith.

16.2 Firing Incident

16.2.1 Whether the police team fired at the accused in standing position or lying position?

16.2.1.1 K. Narasimha Reddy (CW-45) states that he did not observe whether Lal Madhar (CW-46), K. Ravi (CW-48) and Mohammed Sirajuddin (CW-47) were firing while they were in a standing position.¹⁸⁷³ CW-47 states that he was in a kneeling position when he opened fire¹⁸⁷⁴ and the same is contrary to his answer to Question No. 13 of his Statement before NHRC,¹⁸⁷⁵ wherein he has stated that he was in a standing position and that he was moving hither and thither when he fired and he denies having stated so before NHRC team.¹⁸⁷⁶ He has stated before the NHRC team that he opened fire in a standing position without taking any aim and in his deposition he says that he stated that he was standing on his knees which is

¹⁸⁷³CW-45, Response to Q 150, p 1655, Vol VI, Deposition of Witnesses.

¹⁸⁷⁴CW-47, Response to Q 126, p 1784, Vol VI, Deposition of Witnesses.

¹⁸⁷⁵Ex.C-119, p 1342, Vol V, Commission Exhibits.

¹⁸⁷⁶CW-47, Response to Q 127, p 1785, Vol VI, Deposition of Witnesses.

also a kneeling position.¹⁸⁷⁷ Similarly CW-48 has stated before the NHRC team in answer to Question No.10 that “3 armed police personnel were standing including myself, and others were in lying position.”¹⁸⁷⁸ CW-48 denies having stated so before the NHRC team¹⁸⁷⁹ and also adds that the statement was not read over and explained to him. In his statement before NHRC, CW-48 has stated that the other two police personnel were in a standing position when they fired and he denies having stated so.¹⁸⁸⁰ When M. Rajashekhar (SW-4), the pancha is asked whether the police officers were in sitting or standing position or running position, he says that he does not know.¹⁸⁸¹

16.2.2 Firing towards direction of “sense of sound of firing”

16.2.2.1 The witnesses have stated that they did not fire by aiming at the accused and that they fired towards *direction of sense of sound of firing*. V. Surender (CW-44) states that his orders were not to shoot at the persons and only to fire towards the sound.¹⁸⁸² Mohammed Sirajuddin (CW-47) states that since the accused were escaping, they fired to distract them and to stop them from escaping¹⁸⁸³ and that he did not fire towards the accused and that he fired towards the sound of firing¹⁸⁸⁴ and that he could see the accused while firing.¹⁸⁸⁵ Though CW-47 states that he fired towards the direction from which the sound of firing was coming from the side of Arif and Chennakeshavulu,¹⁸⁸⁶ he says that he did not fire at Arif and Chennakeshavulu and that he only fired towards the sound of firing.¹⁸⁸⁷ K. Ravi (CW-48) states that he had fired towards the direction from which he felt the sound of firing has come.¹⁸⁸⁸ CW-48 says that he was getting up and seeing the accused and ducking back behind the bund¹⁸⁸⁹ and that he did not know the exact position of the accused as they were moving around¹⁸⁹⁰ and that he was instructed to fire

¹⁸⁷⁷CW-48, Response to Q 122, p 1838-1839, Vol VI, Deposition of Witnesses.

¹⁸⁷⁸Ex.C-95, p 1185 and 1189, Vol V, Commission Exhibits.

¹⁸⁷⁹CW-48, Response to Q 123, p 1839, Vol VI, Deposition of Witnesses.

¹⁸⁸⁰CW-48, Response to Q 69, p 1825, Vol VI, Deposition of Witnesses.

¹⁸⁸¹SW-4, Response to Q 86, p 245, Vol I, Deposition of Witnesses.

¹⁸⁸²CW-44, Response to Q 403, p 1572, Vol V, Deposition of Witnesses.

¹⁸⁸³CW 47. Response to Q 21, p 1759, Vol VI, Deposition of Witnesses.

¹⁸⁸⁴CW 47. Response to Q 22, p 1758, Vol VI, Deposition of Witnesses.

¹⁸⁸⁵CW 47. Response to Q 23, p 1759, Vol VI, Deposition of Witnesses.

¹⁸⁸⁶CW 47. Response to Q 24, p 1759, Vol VI, Deposition of Witnesses.

¹⁸⁸⁷CW 47. Response to Q 25, p 1760, Vol VI, Deposition of Witnesses.

¹⁸⁸⁸CW 48, Response to Q 25, p 1815-1816, Vol VI, Deposition of Witnesses.

¹⁸⁸⁹CW 48, Response to Q 26, p 1816, Vol VI, Deposition of Witnesses.

¹⁸⁹⁰CW 48, Response to Q 27, p 1816, Vol VI, Deposition of Witnesses.

towards the direction of firing in order to distract them and to apprehend them.¹⁸⁹¹ When asked whether he should not have fired at their legs, CW-48 says that he was instructed to fire towards the sound of firing.¹⁸⁹² CW-48 says that the accused were visible to him when he fired towards the sense of direction¹⁸⁹³ and that he saw them running and firing.¹⁸⁹⁴ When CW-48 is asked why he fired towards their bodies, he says that he fired only towards the sound and that he had not fired towards their bodies.¹⁸⁹⁵ When asked, how could he fire only at the direction from which the sound was coming, when in fact the accused were visible to him, CW-48 says that he was not looking at them continuously and that he was seeing them only when he got up from behind the cover.¹⁸⁹⁶ When CW-48 is asked whether he tried his best to aim at the lower part of the bodies of the accused, he says that he only fired towards the sense of direction.¹⁸⁹⁷ CW-48 states that “sense of direction” means firing in the approximate direction without aiming.¹⁸⁹⁸ When CW-48 was asked where was the need to fire towards the sound of firing, when the visibility was clear, he again states that he was instructed to fire towards the sound in order to frighten them and when it is suggested to him that he has not answered the question, he says “I cannot say” and adds that he fired towards the sound of firing as instructed by ACP.¹⁸⁹⁹ CW-47 states that he could see the accused firing and running and that as he was hiding, he could not see them continuously.¹⁹⁰⁰ CW-48 states that he could see the accused clearly when he opened fire.¹⁹⁰¹ D. Janakiram (CW-51) states that he could see Arif firing at the police party and that he could recognize Arif¹⁹⁰² and at the time of firing¹⁹⁰³. In fact, all the witnesses have stated that there was enough light and there was good visibility and also that the accused were visible when they were running and firing. In such an event, the evidence that they were firing towards *direction of sense of sound of firing* does not make any sense. If the target was not visible, then such a statement appears to be acceptable.

¹⁸⁹¹CW 48, Response to Q 28, p 1816, Vol VI, Deposition of Witnesses.

¹⁸⁹²CW 48, Response to Q 29, p 1816, Vol VI, Deposition of Witnesses.

¹⁸⁹³CW 48, Response to Q 30, p 1817, Vol VI, Deposition of Witnesses.

¹⁸⁹⁴CW 48, Response to Q 31, p 1817, Vol VI, Deposition of Witnesses.

¹⁸⁹⁵CW 48, Response to Q 32, p 1817, Vol VI, Deposition of Witnesses.

¹⁸⁹⁶CW 48, Response to Q 33, p 1817, Vol VI, Deposition of Witnesses.

¹⁸⁹⁷CW 48, Response to Q 68, p 1824-1825, Vol VI, Deposition of Witnesses.

¹⁸⁹⁸CW-48, Response to Q 17, p 1814, Vol VI, Deposition of Witnesses.

¹⁸⁹⁹CW-48, Response to Q 159-160, p 1849, Vol VI, Deposition of Witnesses.

¹⁹⁰⁰CW-47, Response to Q 27, p 1760, Vol VI, Deposition of Witnesses.

¹⁹⁰¹CW-48, Response to Q 141, p 1843, Vol VI, Deposition of Witnesses.

¹⁹⁰²CW-51, Response to Q 21, p 2002, Vol VI, Deposition of Witnesses.

¹⁹⁰³CW-51, Response to Q 20, p 2002, Vol VI, Deposition of Witnesses.

In fact, Mahesh Bhagwat (CW-16), the head of SIT was asked regarding the inconsistency as regards the directions to shoot i.e., direction (i) to shoot in the direction of sense of sound, and (ii) not to shoot on the accused but to shoot either at the side or down with an intention to catch them without losing their lives. In response thereto, CW-16 states that the two directions are inconsistent with each other.¹⁹⁰⁴ This plea of firing towards the direction of sense of firing is contrary to a statement made by CW-48 before NHRC¹⁹⁰⁵, to the effect that CW-48 first opened fire towards Arif, then towards Naveen and thereafter towards Chennakeshavulu. CW-48 however denies having made such a statement before NHRC team.¹⁹⁰⁶

16.2.2.2 If the accused were visible when the police party opened fire and if the police party had fired merely by the *sense of direction of sound*, the same would be highly hazardous and fatal. K. Ravi (CW-48) states that he can fire by hearing sound and that he cannot say whether it would hit the target or not¹⁹⁰⁷ and that it is difficult to identify from the sound of firing, the exact spot from which the firing comes and that it can be determined approximately.¹⁹⁰⁸ Since it is stated that he fired towards the sound of firing, CW-48 is asked whether it would mean that he fired even knowing that the accused may be injured due to his firing, he evasively says that he was instructed to fire towards the sound in order to frighten the accused.¹⁹⁰⁹ There is some discrepancy regarding the place from which the police party opened fire. Though CW-48 admits his signatures in the sketch enclosed to his statement before NHRC team,¹⁹¹⁰ when he is asked whether the position of the three armed persons as shown in the sketch is correct, he says that the sketch is confusing.¹⁹¹¹ When it is shown to him that as per the positions drawn by him in the said sketch, the 5th embankment is behind him, CW-48 says that he was confused by NHRC officials by making him to mark the positions in ten sketches¹⁹¹² and that in fact he had taken cover behind the 5th embankment at the time of firing.¹⁹¹³ Mohammed

¹⁹⁰⁴CW-16, Response to Q 38, p 704, Vol III, Deposition of Witnesses.

¹⁹⁰⁵Ex.C-95, p 1185 and 1187, Vol V, Commission Exhibits.

¹⁹⁰⁶CW-48, Response to Q 70, p 1825, Vol VI, Deposition of Witnesses.

¹⁹⁰⁷CW-48, Response to Q 7, p 1811, Vol VI, Deposition of Witnesses.

¹⁹⁰⁸CW-48, Response to Q 12, p 1813, Vol VI, Deposition of Witnesses.

¹⁹⁰⁹CW-48, Response to Q 158, p 1848-1849, Vol VI, Deposition of Witnesses.

¹⁹¹⁰CW-48, Response to Q 124, p 1839, Vol VI, Deposition of Witnesses.

¹⁹¹¹CW-48, Response to Q 132, p 1841, Vol VI, Deposition of Witnesses.

¹⁹¹²CW-48, Response to Q 135, p 1842, Vol VI, Deposition of Witnesses.

¹⁹¹³CW-48, Response to Q 134, p 1841-1842, Vol VI, Deposition of Witnesses.

Sirajuddin (CW-47) states that none of them were injured as they were lying down on the ground behind the bund.¹⁹¹⁴ CW-47 says that he fired with the intention that they would become frightened because of the firing and would stop running.¹⁹¹⁵

16.2.2.3 Such an inconsistent story of firing at the direction of the sound has been put forth only to evade criminal responsibility and to extricate themselves from the charge that the deceased suspects were directly fired upon. It is therefore seen that the alleged command to fire at the direction of the sound is contradictory. Assuming that such a command was given does not serve the purpose for which it was allegedly given.

16.2.3 Firing Distance

16.2.3.1 The evidence in relation to the firing distance is also not found to be satisfactory. As per the case diary of SW-13, the firing distance between both parties appeared to be about 26 feet to 45 feet at the time of occurrence.¹⁹¹⁶ However, in Para 7.4.4 of the Final Report, Ex. S-14,¹⁹¹⁷ the distance between the place of counter firing party and the place where the deceased were found is 90 to 95 feet. When Mahesh Bhagwat (CW-16) is asked to clarify, he states that distance between 5th bund and 6th bund is wrongly marked as 26-4 feet in the sketch (Ex. C-8) and that the actual distance is 26-4 meters and that the mistake arose because the measuring tape has meter on one side and feet on the other side and that the mistake was discovered during discussions¹⁹¹⁸ about one week before the preparation of final report.¹⁹¹⁹ CW-17, Apoorva Rao, a member of the SIT, states that the firing distance is 26-45 mtrs. and that the Investigating Officer has mistakenly noted it in terms of feet. Thus, according to CW-17, the distance would be approximately 78-145 feet. As per the status report, the distance is about 100 feet. There cannot be so many discrepancies.

16.2.3.2 It is on record that the investigating officer was assisted by a clues team and it is difficult to accept such belated explanation. During the examination of SW-3, an attempt was made by the lawyer appearing for one of the police parties to elicit that the distance is actually 25-30 mtrs, based upon a sketch prepared by the NHRC.¹⁹²⁰

¹⁹¹⁴CW-47. Response to Q19, p 1758, Vol VI, Deposition of Witnesses.

¹⁹¹⁵CW-47. Response to Q29, p 1761, Vol VI, Deposition of Witnesses.

¹⁹¹⁶SW-3, Response to Q 107, p 103, Vol I, Deposition of Witnesses.

¹⁹¹⁷Ex.S-14, pp 110-148, Vol I, State Exhibits.

¹⁹¹⁸CW-16, Response to Q 29, p 701, Vol III, Deposition of Witnesses.

¹⁹¹⁹CW-16, Response to Q 30, p 702, Vol III, Deposition of Witnesses.

¹⁹²⁰SW-3, Response to Q 446, p 171, Vol I, Deposition of Witnesses.

But the witness later admitted that there were no explanatory notes on the aforesaid sketch, and also that the said sketch did not indicate that the 25-30 mtrs is between the 5th and the 6th Bund.¹⁹²¹ Given that different witnesses have at different points of time given multiple figures about the distance between the police party and the deceased suspects, it would appear that these mutually contradictory statements regarding firing distance are yet another attempt to frustrate the inquiry into the truth.

16.2.4 Other discrepancies regarding the firing incident

16.2.4.1 When the witnesses are asked about the details of the firing incident, they have stated that they do not remember. When asked what was the angle of his rifle and whether it was held parallel to the ground, K. Ravi (CW-48) says that he does not remember.¹⁹²² When asked whether the accused were running backwards, CW-48 says that he cannot say exactly.¹⁹²³ Lal Madhar (CW-46) stated that he cannot say the distance between the police party and the accused by the time he opened fire into the air.¹⁹²⁴ When D. Janakiram (CW-51) is asked where was the necessity to fire back when they were taking shelter at the foot of the 5th bund, he says that he does not know.¹⁹²⁵ Mohammed Sirajuddin (CW-47) states that when Arif started firing, the other deceased had climbed the bund after throwing soil in the eyes of the Police¹⁹²⁶ CW-51 states that Arif was at a distance of 25-30 feet from the police party.¹⁹²⁷ However, in his affidavit, CW-51 has not stated that he saw Arif firing and only stated that he heard firing sound from the escaping accused. When CW-51 is asked to clarify, he states that he informed this to his advocate who noted it down, but said that he would not prepare a very long affidavit.¹⁹²⁸ CW-51 states that all the accused were running towards the east¹⁹²⁹ and he saw two of them were running and firing.¹⁹³⁰ Though D. Srikanth (CW-53) claims that he saw Arif and Chennakeshavulu firing, the same is not mentioned in his affidavit and when he is asked about it, he says that he informed his advocate that he had seen Arif and

¹⁹²¹SW-3, Response to Q 447-449, p 171, Vol I, Deposition of Witnesses.

¹⁹²²CW-48, Response to Q 24, p 1815, Vol VI, Deposition of Witnesses

¹⁹²³CW-48, Response to Q 34, p 1818, Vol VI, Deposition of Witnesses

¹⁹²⁴CW-46, Response to Q 111, p 1725, Vol VI, Deposition of Witnesses

¹⁹²⁵CW-51, Response to Q 27, p 2003, Vol VI, Deposition of Witnesses

¹⁹²⁶CW-47, Response to Q 136, p 1787, Vol VI, Deposition of Witnesses

¹⁹²⁷CW-51, Response to Q 22, p 2002, Vol VI, Deposition of Witnesses

¹⁹²⁸CW-51, Response to Q 23, p 2003, Vol VI, Deposition of Witnesses

¹⁹²⁹CW-51, Response to Q 24, p 2003, Vol VI, Deposition of Witnesses

¹⁹³⁰CW-51, Response to Q 25, p 2003, Vol VI, Deposition of Witnesses

Chennakeshavulu firing and that he does not know why it is not mentioned in his affidavit.¹⁹³¹ Thus, it would appear that some of the 8B noticees have even gone to the extent of not sparing their advocates when they find that they are unable to explain certain embellishments in their evidence.

16.3 Injuries to Deceased

16.3.1 Background

16.3.1.1 Though CW-44 to CW-53 have refused to acknowledge that the deceased suspects had bullet entry wounds on the front side on vital parts, the reports of post mortem examination conducted twice clearly show that all the injuries are on the front side on vital parts and above the waist.

16.3.1.2 The deceased suspects are alleged to have been in the 6th field. The police party is said to have fired from the foot of 5th bund in a lying position. It is stated that the height of each bund is about 2 feet. Thus, according to the version of the police, the deceased suspects were on a field at a height of about 4 feet. It is the further version of the police, that the accused were running away from the police party and also were firing at them simultaneously. Given that all entry wounds of the deceased suspects are in the front side of their bodies and above the waist, it is not possible to accept the version of the police that the deceased suspects running away while the police party was firing.

16.3.1.3 An attempt was made by CW-44 to CW-53, as well as in the Final Report filed by the SIT that, since Arif and Chennakeshavulu were firing towards the police party, and since all deceased suspects were running helter-skelter, the shots fired by Arif and Chennakeshavulu towards the police party might have hit Jollu Shiva and Jollu Naveen as well as themselves and caused those injuries.

16.3.1.4 But the forensic evidence on record belies this theory. The reports of the Telangana State Forensic Science Laboratory (Ex.S-13¹⁹³²) states that the analysis of the bullet holes in the shirts worn by the deceased suspects were caused by “*high velocity copper jacketed bullets*”. The evidence of the ballistics experts (CW-34) is that 9mm bullets, which the deceased suspects are alleged to have fired are not “high velocity”,¹⁹³³ whereas the AK-47 and SLR bullets, admittedly used by

¹⁹³¹CW-53, Response to Q 16-17, p 2081-2082, Vol VI, Deposition of Witnesses.

¹⁹³²Ex.S-13, p 106-109 @ p 108 (opinion no. 11 and 12), Vol I, State Exhibits.

¹⁹³³CW-34, Response to Q 11, p 1213, Vol IV, Deposition of Witnesses.

the police party are “high velocity”¹⁹³⁴. Thus, the forensic evidence would show that the injuries caused to all the four accused were from “high velocity” bullets, which could only have been fired from the AK-47 carried by CW-46 and the SLRs carried by CW-47 and CW-48.

16.3.1.5 It is alleged that the deceased suspects received all their bullet entry wounds in the front side of their bodies, since they turned towards the policemen to fire at them. The absurdity of this contention ought not to be lost on the Commission. It is the case of the police that the deceased suspects were running away and simultaneously firing, which version has been already disbelieved in the preceding sections of this Report. Even if it were assumed for a minute that they were in fact turning back while they were running in order to fire at the police, the injuries on the front side of Jollu Shiva and Jollu Naveen, who admittedly did not fire any weapon cannot be explained since they would only be running towards their alleged escaped route.

16.3.1.6 The version of the police about firing is further put into doubt by the findings in the reports of the post-mortem examinations of the deceased done by the doctors of Gandhi Hospital, Hyderabad and AIIMS, New Delhi. The post-mortem examination showed the following injuries

16.3.2 *Re: Mohammed Arif*

16.3.2.1 According to the first post-mortem examination of Mohammed Arif which was conducted on 06.12.2019 from 5:10 PM to 6:05 PM. According to this post-mortem report (Ex.S-9¹⁹³⁵), the following four injuries were noted:

- a) Fire-arm entry wound measuring 1.1*1.1cm at a distance of 10cm below the right mandible (lower jaw) and 143cm above the right heel. The bullet pierced the underlying tissue with fracture of right clavicle in its medial one third, exited out through upper boarder of right scapula over back of the chest with a wound measuring 3 cm x 2 cm. Bleeding and injury to blood vessels with bruising of surrounding issues noted along the track of the firearm injury noted. The margins of exit wounds are irregular and everted. The exit wound measuring 3 x 2cm was located near the upper border of the right scapula (back of the chest), located at a distance of around 146cms above the right heel.

¹⁹³⁴CW-34, Response to Q 12-14, p 1213-1214, Vol IV, Deposition of Witnesses.

¹⁹³⁵Ex.S-9, p 71-79, Vol I, State Exhibits.

- b) Fire-arm entry wound measuring 1.1 x 1.1cm located on front hand side of the chest (right side), at a distance of 0.5cms below Injury No. 1 and 138cms above the right heel. The bullet pierced the chest wall entered the chest cavity with fracture of 1st and 2nd ribs (right side) at sternal end, pierced right inferior lobe of the wing at lateral aspect, fracturing 6th, 7th, 8th ribs (right) over paraspinal region and exited out below lower boarder of right scapula (back of the chest) 7 cm away from midline and 134 cm away from right heel with a wound measuring 5 x 2.5 cm with everted, irregular margins. About 500 ml of blood collected in the chest cavity. Bruise and bleeding into surrounding tissues along with firearm injury noted. The exit wound measuring 5 x 2.5cm was located near the lower border of the right scapula (back of the chest), 7cms away from the midline and around 134cms above the right heel.
- c) Fire-arm entry wound measuring 1.1*1.1cm at a distance of 5cm below the suprasternal notch (front hand side of the chest) and 135cm above the right heel. The bullet pierced the chest wall, body of sternum bone, tracheal tube, fractured T1 and T2 thoracic vertebrae exited out through back of left shoulder with a wound measuring 2.5 cm x 2.5 cm with everted and irregular margins. The exit wound measuring 2.5*2.5cm was located 5cms away from the left auxiliary fold (back of left shoulder) and 136cms above the left heel.
- d) Fire-arm entry wound measuring 1.1*1.1cm located at the right lateral aspect of the chest, 20cms below the right auxiliary bed and 123cm above the right heel. Piercing the abdominal wall entered abdominal cavity with laceration of right lobe of liver, bruise of mesentery, piercing diaphragm entered chest cavity rupturing superior lobe of left lung posteriorly, exited out through back of left shoulder with an elliptical wound measuring 2 x 1.5 cm with irregular and everted margins. The exit wound measuring 2*1.5cm was located 2cms away from the 3rd exit wound and 138cms above the left heel.

16.3.2.2 According to Dr. Krupal Singh (CW-29) the trajectory of the first of the said injuries was downwards to upwards, the trajectory of the second of the said injuries was upwards to downwards, the trajectory of the third of the said injuries was downwards to upwards and the trajectory of the fourth of the said injuries was

downwards to upwards.¹⁹³⁶ The trajectory of the bullet injuries is also confirmed by the post-mortem report¹⁹³⁷ given by Dr. Sudhir Gupta (CW-28).

16.3.3 Re: Jollu Shiva

16.3.3.1 According to the first post-mortem examination of Jollu Shiva which was conducted on 06.12.2019 from 06:10 PM to 07:10 PM. According to this post-mortem report (Ex.S-10¹⁹³⁸), the following three injuries were noted:

- a) Fire-arm entry wound measuring 1.1*1.1cm on the right side of the abdomen, 4cms away from the umbilicus and 99cms above the right heel. Piercing the abdominal wall and muscles with diffuse bruise of mesentery, perforating bowel loops and right kidney entered chest cavity fracturing 8th and 9th ribs (left side) at vertebral ends posteriorly exited out at back of chest (left) with a wound measuring 1.5 cm x 1.5 cm with irregular and everted margins noted. About 1 litre of blood noted in abdominal cavity. The exit wound measuring 1.5*1.5cm was located at the back side of the chest, and at a distance of 114cms above the left heel, 2cms away from the midline and 29cms below the neck.
- b) Fire-arm entry wound measuring 1.1*1.1cm was located on the left side of the chest, 13cms below the medial and at a distance of 124cm above the left heel. Piercing the chest wall (left side) fracturing 4th and 5th ribs (left side) perforated the heart over right atrium and exited out at upper boarder of right scapula lateral aspect over back of the chest with an exit wound measuring 1.5 x 1.5 cm irregular and everted margins noted. Exit wound is located at a distance of 134 cm from right heel. About 500 ml of blood collected in chest cavity. The exit wound measuring 1.5x1.5cm was located near the upper border of the right scapula (backside of the chest) and 134cms above the right heel.
- c) Fire-arm entry wound measuring 1.1*1.1cm located at the left side of the chest, 9cms below entry wound 2, 11cms away from the midline (on the left) and 118cms above the left heel. Piercing the chest wall, fracturing 8th and 9th ribs (left) laterally, entered chest cavity, penetrated inferior lobe of left lung and middle lobe of right lung and inferior lobe of right lung and exited out through lower boarder of right scapula over back of chest with an exit wound measuring 2 x 1.5 cm, margins are irregular and everted. The exit wound measuring 1.5*1.5cm

¹⁹³⁶CW-29, Response to Q 61, p 1028, Vol IV, Deposition of Witnesses.

¹⁹³⁷Ex.S-33, p 370-371, Vol II, State Exhibits.

¹⁹³⁸Ex.S-10, p 80-88, Vol I, State Exhibits.

located near the lower border of the right scapula (backside of the chest) and 115cms above the right heel.

16.3.3.2 According to Dr. Krupal Singh (CW-29) the trajectory of the first of the said injuries was upwards to downwards, the trajectory of the second of the said injuries was downwards to upwards, the trajectory of the third of the said injuries was straight but marginally upwards to downwards.¹⁹³⁹ The trajectory of the bullet injuries is also confirmed by the post-mortem report¹⁹⁴⁰ given by Dr Sudhir Gupta (CW-28) with respect to the last two injuries, but so far as the first injury is concerned, the second post-mortem reports says that the trajectory is downwards to upwards.

16.3.4 *Re: Jollu Naveen*

16.3.4.1 According to the first post-mortem examination of Jollu Naveen which was conducted on 06.12.2019 from 07:10 PM to 08:15 PM. According to this post-mortem report (Ex.S-11¹⁹⁴¹), the following two firearm injuries were noted:

- a) Fire-arm entry wound measuring 1.1*1.1cm located at a distance of 2cm below the medial and 136cm above the right heel. Piercing the chest wall and 1st intercostal space medially, entered the chest cavity and pierced the superior lobe of right lung exited out piercing the first intercostal space posteriorly (right side) at upper boarder of right scapula (middle one third). The exit wound measuring 1.5*1.5cm was located 8cms away from the midline (right side) and 134cms above the right heel.
- b) Fire-arm entry wound measuring 1*1cm over the left temporal area of the scalp, 2.5cms above the left pinna and 160cms above the left heel. Penetrating the cranial cavity on left side, fracturing temporal bone (left side) skull and resulting in linear fracture of outer table of left fronto-parieto temporal bone. Fracture line measuring 13 cm noted. Piercing the Dura mater and brain matter exited out with a wound measuring 2.5 x 1.5 cm on right side temporal bone located 160 cm above right heel.

16.3.4.2 According to Dr. Krupal Singh (CW-29) the trajectory of the first of the said injuries was upwards to downwards, the trajectory of the second of the said injuries

¹⁹³⁹CW-29, Response to Q 60, p 1027, Vol IV, Deposition of Witnesses.

¹⁹⁴⁰Ex.S-33, p 375, Vol II, State Exhibits.

¹⁹⁴¹Ex.S-11, p 89-97, Vol I, State Exhibits.

was straight.¹⁹⁴² The AIIMS post-mortem report states that trajectory of the first bullet injury is horizontally backwards and the second one is horizontally from left to right.¹⁹⁴³

16.3.5 Re: Chintakunta Chennakeshavulu

16.3.5.1 According to the first post-mortem examination of Chintakunta Chennakeshavulu which was conducted on 06.12.2019 from 08:20 PM to 09:10 PM. According to this post-mortem report (Ex.S-12¹⁹⁴⁴), the following two firearm injuries were noted:

- a) Fire-arm entry wound measuring 1.1*1.1cm located at the root of the neck (right side) and at a distance of 148cm above the right heel. Piercing the chest cavity, fracturing the first rib [right side) medially, piercing the upper part of superior lobe of right lung (posteriorly), exited out through second intercostal space posteriorly through exit wound measuring 2.5 x 1.5 cm over back of chest (right) at upper and medial boarder of right scapula, 8 cm away from midline and 143 cm from right heel. The margins of exit wound are irregular and everted. About 1 litre of blood present in the chest cavity noted.

16.3.5.2 According to Dr Krupal Singh (CW-29), the trajectory of this firearm injury is upwards to downwards.¹⁹⁴⁵ But according to the post-mortem report of AIIMS, the trajectory of this injury is backwards to downward.¹⁹⁴⁶

16.3.6 Analysis

16.3.6.1 Both the post-mortem reports in respect of all the deceased suspects conclusively state that the deceased died as a result of firearm injuries. Both the medical experts who deposed before the Commission, stated that they could not give conclusive answers as to the exact distance from which the firearms were discharged. It is stated in Ex.C-138¹⁹⁴⁷, an additional opinion rendered by the doctors who undertook the first post-mortem that since there is no blackening, tattooing and burning, there is no point-range firing. However, the opinion does not state what is the distance relating to term “point-range firing”. The Ballistic expert (CW-34) stated that if AK-47 or SLR are fired within 2 feet from the victim, then

¹⁹⁴²CW-29, Response to Q 59, p 1027, Vol IV, Deposition of Witnesses.

¹⁹⁴³Ex.S-33, p 381, Vol II, State Exhibits.

¹⁹⁴⁴Ex.S-12, p 98-105, Vol I, State Exhibits.

¹⁹⁴⁵CW-29, Response to Q 58, p 1027, Vol IV, Deposition of Witnesses.

¹⁹⁴⁶Ex.S-33, p 387, Vol II, State Exhibits.

¹⁹⁴⁷Ex.C-138, p. 1406-1407, Vol VI, Commission Exhibits.

- blackening and tattooing can be detected at the entry wound, and if they are fired within 6-8 feet of the victim then tattooing can be detected.¹⁹⁴⁸
- 16.3.6.2 Dr. Sudhir Gupta (CW-28) on the other hand, stated that he could not comment on the nature of the firearm or the range of firing, since he did not have the ballistic reports.¹⁹⁴⁹
- 16.3.6.3 The State of Telangana contends relying on the opinion tendered *vide* Ex.C-138 that since there is no close-range firing, the version that there was an exchange of fire must be believed. In our considered opinion, there is no direct co-relation between the close-range firing and the alleged exchange of fire. At best, the absence of blackening, tattooing and burning indicates that the firing was perhaps beyond the range of 7-8 feet, but does not indicate that there was an exchange of fire nor does it rule out the possibility that the police party had taken deliberate aim and fired at the deceased suspects. In other words, a finding of deliberate firing with an intent to kill is not premised upon presence of close-range firing alone.
- 16.3.6.4 The artificiality of the narration of the firing incident by the witnesses is best illustrated by a question put by the tribunal to CW-44 “DO YOU MEAN TO SAY THAT THE OTHER TWO INSTEAD OF RUNNING AWAY STOOD THERE WAITING TO BE SHOT DEAD?” and the answer by the leader of the team CW-44 “I CANNOT SAY” is equally demonstrative of the helplessness of the witnesses to give a rational answer.¹⁹⁵⁰
- 16.3.6.5 It is quite astonishing that all the members of the police team state that they did not even observe the injuries on the dead bodies of the accused. When V. Surrender (CW-44) is asked whether all the entry wounds on the accused are on the front side, he says that he did not observe the injuries.¹⁹⁵¹ Mohammed Sirajuddin (CW-47) states that he does not know where the bullet injuries were caused on the accused¹⁹⁵² and that though he saw the dead bodies of the accused, he did not see the injuries on their bodies,¹⁹⁵³ and that he only checked whether they were alive or not and that he did not observe injuries¹⁹⁵⁴ and that he did not concentrate on the injuries when he saw the dead bodies, when he went near the dead bodies along

¹⁹⁴⁸CW-34, Response to Q 26, p 1217, Vol IV, Deposition of Witnesses.

¹⁹⁴⁹CW-28, Response to Q 11, p 1002, Vol IV, Deposition of Witnesses.

¹⁹⁵⁰CW-45, Response to Q 452, p 1587, Vol VI, Deposition of Witnesses.

¹⁹⁵¹CW-44, Response to Q 442, p 1585, Vol V, Deposition of Witnesses.

¹⁹⁵²CW-47, Response to Q 30, p 1761, Vol VI, Deposition of Witnesses.

¹⁹⁵³CW-47, Response to Q 31-32, p 1761, Vol VI, Deposition of Witnesses.

¹⁹⁵⁴CW-44, Response to Q 444, p 1585, Vol V, Deposition of Witnesses.

with DIG.¹⁹⁵⁵ When K. Ravi (CW-48) is asked whether all the entry wounds on all the accused are on the front side and on vital parts above the waist, he says he does not know¹⁹⁵⁶ and that he stood at a distance from the dead bodies¹⁹⁵⁷ and that he does not know how many fire arm wounds were caused to Arif.¹⁹⁵⁸ Though CW-48 claims that he was examined during the inquest, he says that he did not go near the dead body and that the MRO examined in a Tent.¹⁹⁵⁹ D. Janakiram (CW-51) states that he did not see the dead bodies¹⁹⁶⁰ and that he also did not see the injuries on the dead body.¹⁹⁶¹ He figures as a witness for the inquest over the dead body of Jollu Shiva and yet he says that he did not see the bodies even during the inquest and says that the Executive Magistrate examined him in a tent.¹⁹⁶² R. Balu Rathod (CW-52) states that he does not know how many injuries were caused to each of the accused¹⁹⁶³ and that he did not go near the place where the accused had fallen down¹⁹⁶⁴ and that he was examined in a tent during an inquest.¹⁹⁶⁵ D. Srikanth (CW-53) states that he did not see the dead bodies after the incident¹⁹⁶⁶ and that he was also not informed about the injuries on the deceased.¹⁹⁶⁷ Such conduct appears to be very unnatural and the same evokes great suspicion.

¹⁹⁵⁵CW-44, Response to Q 445, p 1585, Vol V, Deposition of Witnesses.

¹⁹⁵⁶CW-48, Response to Q 161, p 1849, Vol VI, Deposition of Witnesses.

¹⁹⁵⁷CW-48, Response to Q 162, p 1849, Vol VI, Deposition of Witnesses.

¹⁹⁵⁸CW-48, Response to Q 165, p 1850, Vol VI, Deposition of Witnesses.

¹⁹⁵⁹CW-48, Response to Q 169, p 1851, Vol VI, Deposition of Witnesses.

¹⁹⁶⁰CW-51, Response to Q 57, p 2012, Vol VI, Deposition of Witnesses.

¹⁹⁶¹CW-51, Response to Q 63, p 2013, Vol VI, Deposition of Witnesses.

¹⁹⁶²CW-51, Response to Q 58, p 2012, Vol VI, Deposition of Witnesses.

¹⁹⁶³CW-52, Response to Q 79, p 2054, Vol VI, Deposition of Witnesses.

¹⁹⁶⁴CW-52, Response to Q 80, p 2054, Vol VI, Deposition of Witnesses.

¹⁹⁶⁵CW-52, Response to Q 82, p 2054, Vol VI, Deposition of Witnesses.

¹⁹⁶⁶CW-53, Response to Q 10, p 2078, Vol VI, Deposition of Witnesses.

¹⁹⁶⁷CW-53, Response to Q 11, p 2079, Vol VI, Deposition of Witnesses.

17. DISCREPENCY IN CALL DATA RECORDS OF THE POLICE PARTY

17.1 It is noticed from an analysis of call data of the police officers who participated in the investigation on 05.12.2019 and 06.12.2019, that there is no activity on their phones from the night of 05.12.2019 to about 6.30 AM on 06.12.2019. This is rather odd considering the present-day life style. All these phones are official phones and the fact that there was no activity on these phones for such a long time would certainly suggest that the cell phones might have been switched off, which in turn raises doubt about the whole episode. There are also some specific instances which appear to be strange and the explanation is very odd-that the phones were taken by the IO on the ground on 06.12.2019, under the apprehension that the witnesses might speak to press and others, and that they may speak unnecessary things or that the phone may have fallen down etc.

17.2 According to CW-46, he stayed at Chatanpally till 8:00 PM or 8:30 PM on that day.¹⁹⁶⁸

CW-46 admits that his cell number is 9491030086.¹⁹⁶⁹ When questioned that as per the call details of 9491030086 on 06.12.2019, the tower location was Chatanpally at 7:59 AM & 8:02 AM, thereafter, from 9:49 AM to 11:55 AM it is shown as Maharajpet, at 6:09 PM, it is shown as Narsingi, at 6:11 PM, it is shown as Greyhounds, at 6:19 PM, it is shown as Kothwalguda and thereafter, the tower location is shown at Shamshabad, he says that on that day the SHO Shadnagar took away all their phones saying that they would be speaking to others and he further states that they informed that their bags remained at safe house and requested SHO Shadnagar to have them brought to Chatanpally¹⁹⁷⁰. CW 46 states that as far as he can remember, the phones of himself, Sirajuddin, Ravi and Narasimha Reddy were taken by SHO Shadnagar.¹⁹⁷¹ It may not be a mere coincidence that it was CW-46, Sirajuddin (CW-47) and Ravi (CW-48) who had opened fire on that day. Further even if the phones were taken over by SHO Shadnagar, the phones would not have been on multiplied location on the same day, would not have been made use of to make calls, even if the phone was not locked as claimed by CW-46

17.3 The cell phone number of CW 48 is said to be 9490617466.¹⁹⁷² When CW 48 is confronted with the tower location of his cell number 9490617466 as per Call Data Records, which is at Chatanpally at 07:58 AM on 06.12.2019, at Moinabad at 08:42 AM, at Kothwalguda at 08:52 AM, at Appa HM Sagar at 08:54 AM, at CBIT Gandipet at

¹⁹⁶⁸CW-46, Response to Q 144-145, p 1734, Vol VI Depositions of Witnesses.

¹⁹⁶⁹CW-46, Response to Q 147, p 1734, Vol VI Depositions of Witnesses.

¹⁹⁷⁰CW-46, Response to Q 148, p 1735, Vol VI Depositions of Witnesses.

¹⁹⁷¹CW-46, Response to Q 150, p 1735, Vol VI Depositions of Witnesses.

¹⁹⁷²CW-48, Response to Q 171, p 1851, Vol VI Depositions of Witnesses.

09:12 AM, and thereafter, from 10:43 AM to 12.02 PM at Maharajpet. He says that his cell phone was seized by Inspector Shadnagar at about 08 or 08:15 AM¹⁹⁷³ on the ground that he was speaking with other persons and that he may inform the press.¹⁹⁷⁴

17.4As per the case put forth by the police officers and the State, CW-49 was admittedly in CARE Hospital even by 8 AM on 06.12.2019. It is stated by CW-49 that his cell number is 8333993537.¹⁹⁷⁵ As per the tower location of his cell phone number, 8333993537 is shown to be at Narsingi at 5.07 PM on 06.12.2019.¹⁹⁷⁶ CW-49 states that during the incident at Chatanpally, his phone fell down and that he does not know whether it fell down during the incident or while being shifted to CHC Shadnagar and that the phone came to him on the evening of 06.12.2019 between 6 PM and 7 PM.¹⁹⁷⁷ Since there were no calls on this phone on the intervening night of 05.12.2019 and 06.12.2019, he was asked whether he had switched off the phone and he stated that he did not switch off the phone.¹⁹⁷⁸

17.5When CW-50 is asked whether it is not strange that there are no incoming or outgoing calls on his phone 9885780087 on 05.12.2019, he states that he cannot say.¹⁹⁷⁹ CW-52 states that his official phone number is 8333993287.¹⁹⁸⁰ As per the call data records of the said cell number 8333993287 of CW-52, tower location of the said phone at 4.35 PM on 06.12.2019 is at Maharajpet. When CW-52 is asked about it, he states that CI Shadnagar seized their cell phones saying that they would tell unnecessary things to outsiders and that they also informed CI Shadnagar that their bags are at Ravi Guest House and that he told one Constable to bring their bags.¹⁹⁸¹

17.6CW-47 in his statement before the NHRC, states that they were asked to go back to the safe house and in his deposition, he denies having stated so.¹⁹⁸² CW-47 states that on that day neither he nor any of the team members went back to the safe house and that he was present at Chatanpally till around 8 PM in the evening¹⁹⁸³. CW-47 states that his phone was taken by SHO Shadnagar on 06.12.2019.¹⁹⁸⁴ When asked whether his phone was

¹⁹⁷³CW-48, Response to Q 174, p 1852, Vol VI, Depositions of Witnesses.

¹⁹⁷⁴CW-48, Response to Q 175, p 1852-1853, Vol VI, Depositions of Witnesses.

¹⁹⁷⁵CW-49, Response to Q 187, p 1923, Vol VI, Depositions of Witnesses.

¹⁹⁷⁶CW-49, Response to Q 194, p 1925, Vol VI, Depositions of Witnesses.

¹⁹⁷⁷CW-49, Response to Q 193, p 1924-1925, Vol VI, Depositions of Witnesses.

¹⁹⁷⁸CW-50, Response to Q 189, p 1924, Vol VI, Depositions of Witnesses.

¹⁹⁷⁹CW-59, Response to Q 158, p 1985 Vol VI, Depositions of Witnesses.

¹⁹⁸⁰CW-52, Response to Q 129, p 2066, Vol VI, Depositions of Witnesses.

¹⁹⁸¹CW-52, Response to Q 130, p 2067, Vol VI, Depositions of Witnesses.

¹⁹⁸²CW-47, Response to Q 153, p 1791, Vol VI, Depositions of Witnesses.

¹⁹⁸³CW-47, Responses to Q 55,56,57, p 1768, Vol VI, Depositions of Witnesses.

¹⁹⁸⁴CW-47, Response to Q 8, p 1756, Vol VI, Depositions of Witnesses.

switched off from 10 PM on 05.12.2019 to 6 AM on 06.12.2019, CW-47 stated that he did not check¹⁹⁸⁵ and that he did not make or receive calls during that time.¹⁹⁸⁶

17.7 SW-3 states that on 06.02.2020, he addressed service providers to provide call data after the directions by the High Court¹⁹⁸⁷ and further states that the High Court passed the said directions on 21.12.2019.¹⁹⁸⁸ In para 30 of his affidavit, SW-3 states that he has made a comparison of call data record and the same corroborated with the statements of police. When he is asked to furnish a copy of the said comparison, he stated that he would furnish later.¹⁹⁸⁹ When he is asked the same question again on another date, he again stated that he would furnish later¹⁹⁹⁰ and also stated that he has not kept any writing of the analysis of call data records.¹⁹⁹¹ Finally, SW-3 stated that he has rough data and produced an unsigned document Ex.C-179.¹⁹⁹²

17.8 It is stated in Ex.C-179¹⁹⁹³ that the tower locations of cell phone numbers of Vasam Surender (CW-44), M. Rajasekhar (SW-4) and Abdul Rauf (CW-30), show that they were at Shamshabad at about 9 PM on 05.12.2019 and that later the tower location of CW-44, SW-4 and CW-30 showed Khanapur, Gandipet road and Anandnagar colony, Himayatsagar respectively and that all these places are en route Shamshabad to Mirjaguda. But even though all the three of them are said to be together at Shamshabad on the evening of 05.12.2019, yet the exact cell tower shows different locations. It is not clarified that all the three were together at the same location at Shamshabad. The employees of service providers who were examined as CW-39 to CW-42. CW-39 states that if two persons using the same network are present in the same geographical location, the ID of the same BTS will be shown in the CDRs of both the persons.¹⁹⁹⁴ When CW-41 is asked by the Counsel for the State whether there is a possibility that call made from the same location may be captured by two different towers, he states that he is not aware of the technicality.¹⁹⁹⁵ When the question is repeated to CW-42 by the counsel for the State, he states that only one tower will capture the call and the neighbouring tower will not

¹⁹⁸⁵CW-47, Response to Q 9, p 1756, Vol VI, Depositions of Witnesses.

¹⁹⁸⁶CW-47, Response to Q 11, p 1756-1757, Vol VI, Depositions of Witnesses.

¹⁹⁸⁷SW-3, Response to Q 199, p 119 Vol I, Depositions of Witnesses.

¹⁹⁸⁸SW-3, Response to Q 200, p 119 Vol I, Depositions of Witnesses.

¹⁹⁸⁹SW-3, Response to Q 201, p 119, Vol I, Depositions of Witnesses.

¹⁹⁹⁰SW-3, Response to Q 267, p 133, Vol I, Depositions of Witnesses.

¹⁹⁹¹SW-3, Response to Q 268, p 133, Vol I, Depositions of Witnesses.

¹⁹⁹²SW-3, Response to Q 532, p 215, Vol I, Depositions of Witnesses.

¹⁹⁹³Ex.C-179, p 2093-2114, Vol VIII, Commission Exhibits.

¹⁹⁹⁴CW-39, Response to Q 16, p 1344, Vol V, Depositions of Witnesses.

¹⁹⁹⁵CW-41, Response to Q 4, p 1352, Vol V, Depositions of Witnesses.

capture.¹⁹⁹⁶ CW-42 states that if the call is made from a distance of 100 meters away from the place where the first call is made, the call will be captured by another tower.¹⁹⁹⁷

17.9 What is obvious from the aforesaid discussion on call-data record is that the members of the police party, especially those who fired the long-range firearms have made desperate attempts to explain the discrepancy between their presence on the scene of occurrence on 06.12.2019 and the moving locations of their respective cellphones on the very same day. It is to be noted that while all of them claim that they were present at Chatanpally till late in the evening on 06.12.2019, their call data records indicate otherwise. To get over this rather inconvenient analysis of their call data records, they now state that their phones were seized by police officers but are unable to coherently explain, how despite the seizure the phones were in use and were mobile throughout the day. This unnatural and absurd explanation is buttressed by the fact that the investigating officer, SW-3 had to be questioned multiple times about his analysis of the call data records, and even after such questioning, no explanation is given by him. This is yet another circumstance where the conduct of the policemen is unnatural.

¹⁹⁹⁶CW-42, Response to Q 3, p 1356, Vol V, Depositions of Witnesses.

¹⁹⁹⁷CW-42, Response to Q 4, p 1356, Vol V, Depositions of Witnesses .

18 INVESTIGATION CONDUCTED BY NHRC TEAM

18.1 Formation of the NHRC Team

18.1.1 Pursuant to the firing incident on 06.12.2019, the National Human Rights Commission *vide* order dated 06.12.2019 (Ex.C-114), directed its Director General (Investigation) to send a team headed by a Sr. Superintendent of Police, for conducting a spot inquiry into the death of the four deceased.¹⁹⁹⁸ Therefore, a team led by Ms. Manzil Saini (CW-23), IPS, Sr. Superintendent of Police, NHRC, which comprised of officials from the Investigation Division of NHRC and a forensic doctor of Safdarjung Hospital, Delhi, were directed to visit the spot of occurrence of the incident and conduct a detailed fact-finding exercise from 07.12.2019 to 11.12.2019.¹⁹⁹⁹

18.2 Re: Manzil Saini (CW-23)

18.2.1 Pursuant to the aforesaid direction, Ms. Saini (CW-23), addressed a letter on 06.12.2019 (Ex. C-115) to the District Collector, Ranga Reddy District, Telangana, and sought for – (i) suitable directions to all the concerned police officials, civilian officials, doctors and independent witnesses to be present during the spot inquiry; (ii) relevant records pertaining to the encounter death of the four deceased, along with translations if the documents are in local language; and (iii) two liaison officers and two interpreters.²⁰⁰⁰ However, since a bulk of the documents/records were not handed over to her team,²⁰⁰¹ Ms. Saini *vide* letter dated 08.12.2019 (Ex. C-116), again requested the District Collector to hand over the relevant records and direct all the concerned officials to be present before the team.²⁰⁰² Consequently, V.C. Sajjanar (CW-38), Commissioner of Police, Cyberabad, *vide* letter dated 09.12.2019 (Ex. C-117), sent a part of the documents pertaining to CR No. 784/2019,²⁰⁰³ and the same was received by Mr. Bimal Jit Uppal (CW-20), Dy. Superintendent of Police, NHRC, on 11.12.2019²⁰⁰⁴. Further, documents pertaining to CR No. 803/2019 were sent *vide* letter dated 09.12.2019 (Ex. C-118) by the Additional Deputy Commissioner of

¹⁹⁹⁸Ex.C-114, pp 1317-1320, Vol V, Commission Exhibits.

¹⁹⁹⁹Ex.C-110, pp 1306-1308, Vol V, Commission Exhibits.

²⁰⁰⁰Ex.C-115, pp 1321-1323, Vol V, Commission Exhibits.

²⁰⁰¹CW-23, Response to Q 5, p 895, Vol III, Deposition of Witnesses.

²⁰⁰²Ex.C-116, pp 1324-1327, Vol V, Commission Exhibits.

²⁰⁰³Ex.C-117, pp 1328-1329, Vol V, Commission Exhibits.

²⁰⁰⁴CW-23, Response to Q 7, p 896, Vol III, Deposition of Witnesses.

Police, SOT, Rachakonda,²⁰⁰⁵ and the same was received by Mr. Bimal Jit Uppal (CW-20) on 09.12.2019²⁰⁰⁶.

- 18.2.2 It is to be noted that in her deposition before this Commission, Ms. Saini has stated that despite two letters being sent to the concerned authority, not all documents as requested were shared with the NHRC team.²⁰⁰⁷ When asked to point out which are those documents that were not handed over, Ms. Saini stated that ballistic reports qua the forensic evidence collected from the scene of occurrence, finger print analysis reports and hand wash reports were not received by the team. She also stated that autopsy reports were not prepared at that point of time and only inquest reports were made available.²⁰⁰⁸
- 18.2.3 In so far as her team's visit to the spot of occurrence is concerned, Ms. Saini stated that on 07.12.2019²⁰⁰⁹, along with N. Prakash Reddy (CW-18), DCP, Shamshabad²⁰¹⁰, the NHRC team visited – (i) the place where the encounter had taken place; (ii) the place where the dead body of the four deceased was found; and (iii) the place where the incident of rape had allegedly taken place²⁰¹¹. However, she stated that due to the presence of large sections of the general public and the media, the team could not take photographs or video graphs of the spot,²⁰¹² and that they had to make do with rough sketches,²⁰¹³ which were prepared by Mr. Arun Tyagi (CW-21), Inspector, NHRC,²⁰¹⁴ after receiving information from the concerned police officials.²⁰¹⁵
- 18.2.4 Ms. Saini, in her deposition has stated that making a rough sketch was imperative to know the exact series of events, what weapons the policemen were carrying, how many policemen were part of the team, who were the two independent witnesses who had accompanied the policemen, where was the bus parked, in what all directions the four deceased ran and which all policemen fired upon them.²⁰¹⁶ She deposed that the sketches were needed to rule out or to find out if any discrepancies had crept into the individual versions of the policemen who witnessed the firing incident on

²⁰⁰⁵Ex.C-118, pp 1330-1331, Vol V, Commission Exhibits; CW-23, Response to Q 8, p 896, Vol III, Deposition of Witnesses.

²⁰⁰⁶CW-23, Response to Q 9, p 896, Vol III, Deposition of Witnesses.

²⁰⁰⁷CW-23, Response to Q 5, p 895, Vol III, Deposition of Witnesses.

²⁰⁰⁸CW-23, Response to Q 15, pp 900-901, Vol III, Deposition of Witnesses.

²⁰⁰⁹CW-23, Response to Q 11, p 897, Vol III, Deposition of Witnesses.

²⁰¹⁰CW-23, Response to Q 12, pp 897-898, Vol III, Deposition of Witnesses.

²⁰¹¹CW-23, Response to Q 11, p 897, Vol III, Deposition of Witnesses.

²⁰¹²CW-23, Response to Q 12, pp 897-898, Vol III, Deposition of Witnesses.

²⁰¹³CW-23, Response to Q 26, pp 905-906, Vol III, Deposition of Witnesses.

²⁰¹⁴CW-23, Response to Q 34, pp 909-910, Vol III, Deposition of Witnesses.

²⁰¹⁵CW-23, Response to Q 28-30, pp 906-908, Vol III, Deposition of Witnesses.

²⁰¹⁶CW-23, Response to Q 26, pp 905-906, Vol III, Deposition of Witnesses.

06.12.2019.²⁰¹⁷ When questioned over the precision of the sketches, since the same was drawn based on memory after 2-3 days of the team's visit to the spot, Ms. Saini stated that her team took a fair view of the entire topography and made a basic sketch in which there was a plain landscape where the four bodies of deceased were lying and also an undulated landscape in the form of steps.²⁰¹⁸ She also deposed that as the incident had already taken place and there was nothing on the spot at the time of their visit, they drew the sketch and filled up the rest of the details after taking information from the policemen who were present at the time of the encounter.²⁰¹⁹

18.2.5 Further, Ms. Saini was extensively questioned over her team's failure to record the statements of the two policemen who were injured in the firing incident on 06.12.2019. However, she consistently maintained that despite meeting the injured policemen on 09.12.2019,²⁰²⁰ her team refrained from recording their statements, since the doctors treating them had orally informed the NHRC team that the policemen were not in a position to record statements owing to their injuries, and asked the NHRC team to record the statement after they were discharged.²⁰²¹ Ms. Saini's answer did not change, when her attention was drawn to the following words of Dr. Rajesh Racha (CW-35), Orthopedic Surgeon, Care Hospital, Hyderabad – "on examination, patient was conscious, coherent and in clear state of mind on vital observations of B.P., pulse, respiration rate were normal and stable".²⁰²² It is curious to note that on 09.12.2019, the authorities at Care Hospital had indeed granted permission to the NHRC team to record statements of the two injured policemen.²⁰²³ When the same was brought to the notice of Ms. Saini, she reiterated that her team had planned on recording the statements of the policemen only after they were discharged.²⁰²⁴ Nevertheless, she stated that her team took on record the self-written statements of the doctors who treated the two injured policemen.²⁰²⁵

²⁰¹⁷CW-23, Response to Q 26, pp 905-906, Vol III, Deposition of Witnesses.

²⁰¹⁸CW-23, Response to Q 28-31, pp 906-909, Vol III, Deposition of Witnesses.

²⁰¹⁹CW-23, Response to Q 28-30, pp 906-908, Vol III, Deposition of Witnesses (Information was taken from Mr. V. Surender (CW-44); Mr. Sk. Lal Madhar (CW-46); Mr. Ravi Kochala (CW-48); Mr. K. Narasimha Reddy (CW-45); Head Constable Mr. D. Srikanth (CW-53); Head Constable Mr. Janakiram (CW-51); Constable Mr. R. Balu (CW-52). Ms. Saini also deposed that there were seven sketches in which the information was filled in).

²⁰²⁰CW-23, Response to Q 17, p 901, Vol III, Deposition of Witnesses.

²⁰²¹CW-23, Response to Q 18, p 901, Vol III, Deposition of Witnesses.

²⁰²²CW-23, Response to Q 20, p 902, Vol III, Deposition of Witnesses.

²⁰²³CW-23, Response to Q 21-22, pp 902-903, Vol III, Deposition of Witnesses.

²⁰²⁴CW-23, Response to Q 21-22, pp 902-903, Vol III, Deposition of Witnesses.

²⁰²⁵CW-23, Response to Q 16, p 901, Vol III, Deposition of Witnesses.

18.3Re: Kulbir Singh

18.3.1 Mr. Kulbir Singh (CW-19), Dy. Superintendent of Police, NHRC, *vide* his affidavit dated 14.09.2021 (Ex. C-89), stated that he had examined the following people with the help of translators/interpreters provided by the State Government:²⁰²⁶

Name of the Witness	Exhibit No.	Date of Recording of the Statement	Whether Exhibit includes the sketch drawn	Statement recorded in who's handwriting
Mr. R. Venkatesh	Ex. C-90	10.12.2019 ²⁰²⁷	No	Chief Statement - Deponent Questions – CW-19 Answers - Deponent ²⁰²⁸
Mr. Shaik Lal Madhar	Ex. C-91	10.12.2019 ²⁰²⁹	Yes (Sketch drawn in the presence of CW-19) ²⁰³⁰	Chief Statement - Interpreter Questions – CW-19 Answers – CW-19 ²⁰³¹
Mr. D. Srikanth	Ex. C-92	10.12.2019 ²⁰³²	Yes (Sketch drawn in the presence of CW-19) ²⁰³³	Chief Statement – CW-19 Questions – CW-19 Answers – CW-19 ²⁰³⁴

18.3.2 Since Ex.C-90 to Ex.C-92 did not bear the sign of Mr. Kulbir Singh, it was put to him that the said statements were not made in his presence.²⁰³⁵ However, he refuted these claims and said that his handwriting is present on one or the other part of their statements, which shows that the statements were recorded in his presence.²⁰³⁶ He also

²⁰²⁶Ex.C-89, pp 1103-1104, Vol IV, Commission Exhibits.

²⁰²⁷CW-19, p 826, Vol III, Deposition of Witnesses.

²⁰²⁸CW-19, p 826, Vol III, Deposition of Witnesses.

²⁰²⁹CW-19, p 826, Vol III, Deposition of Witnesses.

²⁰³⁰CW-19, Response to Q No. 1-2, p 827-828, Vol III, Deposition of Witnesses.

²⁰³¹CW-19, p 826, Vol III, Deposition of Witnesses.

²⁰³²CW-19, p 827, Vol III, Deposition of Witnesses.

²⁰³³CW-19, Response to Q No. 3, p 828, Vol III, Deposition of Witnesses.

²⁰³⁴CW-19, Response to Q No. 6, p 829, Vol III, Deposition of Witnesses.

²⁰³⁵CW-19, Response to Q No. 4-8, pp 828-829, Vol III, Deposition of Witnesses.

²⁰³⁶CW-19, Response to Q No. 5-6, pp 828-829, Vol III, Deposition of Witnesses.

stated that the signatures of all the three witnesses are present on their respective statements and also on the cross-questioning.²⁰³⁷

18.3.3 Mr. Kulbir Singh was also questioned over the authenticity of the sketches, as it was suggested to him that the sketches were drawn by the NHRC team and signatures of the deponents were taken on them. Mr. Singh denied these suggestions and stated that Mr. Shaik Lal Madhar (CW-46) and Mr. D. Srikanth (CW-53) had drawn the sketch in front of him and had themselves signed on the sketches.²⁰³⁸

18.3.4 It is curious to note that the Counsel appearing for Mr. D. Srikanth (CW-53), had suggested that the statement of D. Srikanth, **being Ex. C-92**, was not given by him, as the NHRC team had themselves written a statement and D. Srikanth (CW-53) was threatened to sign on the same. However, Mr. Kulbir Singh denied these allegations as being incorrect and baseless and reiterated that Ex.C-92 is the statement given by Mr. D. Srikanth.²⁰³⁹ It is pertinent to note that Mr. D. Srikanth had not mentioned anything about the threats received either in his affidavit filed before this Commission or in his deposition. It was Mr. V. Surender (CW-44),²⁰⁴⁰ K. Narasimha Reddy (CW-45),²⁰⁴¹ Sk. Lal Madhar (CW-46)²⁰⁴² and K. Ravi (CW-48) who had deposed that they signed their respective NHRC statements under a threat. In fact, according to the deposition of V. Surender, he was threatened that if he does not sign the statement, then the matter would be referred to the CBI.²⁰⁴³ When this Commission asked him as to why did he not raise this issue in his affidavit, he stated that he wanted to close the issue.²⁰⁴⁴ For the same question asked to K. Narasimha Reddy, he stated that his lawyer advised him that it was not necessary to mention in his affidavit about the threats given by the NHRC.²⁰⁴⁵ Further, K. Narasimha Reddy had stated that he complained about the threats to V. Surender and who in turn informed N. Prakash Reddy (CW-18), however, he failed to follow up on the status of his complaint.²⁰⁴⁶ On the other hand to a similar question posed to Mr. Sk. Lal Madhar, he stated that he

²⁰³⁷CW-19, Response to Q No. 7, p 829, Vol III, Deposition of Witnesses.

²⁰³⁸CW-19, Response to Q No. 12, pp 831-832, Vol III, Deposition of Witnesses.

²⁰³⁹CW-19, Response to Q No. 22, p 834, Vol III, Deposition of Witnesses.

²⁰⁴⁰CW-44, Response to Q No. 84 and 107, p 1474 and 1479, Vol V, Deposition of Witnesses.

²⁰⁴¹CW-45, Response to Q No. 178, p 1662, Vol VI, Deposition of Witnesses.

²⁰⁴²CW-46, Response to Q No. 104, p 1723, Vol VI, Deposition of Witnesses.

²⁰⁴³CW-44, Response to Q No. 241, p 1524, Vol V, Deposition of Witnesses.

²⁰⁴⁴CW-44, Response to Q No. 240, p 1524, Vol V, Deposition of Witnesses.

²⁰⁴⁵CW-45, Response to Q No. 182, p 1667, Vol VI, Deposition of Witnesses.

²⁰⁴⁶CW-45, Response to Q No. 184-186, p 1667 Vol VI, Deposition of Witnesses.

made no complaints to higher authorities about the threats.²⁰⁴⁷ Lastly, K. Ravi stated that since he does not know English very well, he had asked the NHRC officials to read over and explain the statement recorded by, which they purportedly did not. He deposed that some of the officials present there threatened him and finally made him sign.²⁰⁴⁸ Despite making such serious allegations, the counsels appearing for Mr. V. Surender (CW-44), K. Narasimha Reddy (CW-45), Sk. Lal Madhar (CW-46) and K. Ravi (CW-48) failed to ask a single question to the NHRC officials regarding such threats, during their examination before this Commission.

18.4Re: Bimal Jit Uppal

18.4.1 Mr. Bimal Jit Uppal (CW-20), Dy. Superintendent of Police, NHRC, *vide* his affidavit dated 14.09.2021 (Ex.C-93), stated that he had examined the following people, with the help of translators provided by the State Government:

Name of the Witness	Exhibit No.	Date of Recording of the Statement	Whether Exhibit includes the sketch drawn by the respective witness
Mr. V. Surender (CW-44)	Ex. C-94	10.12.2019 and 11.12.2019	Yes (Sketch drawn in the presence of CW-20)
Mr. Ravi Kocherla (CW-48)	Ex. C-95	10.12.2019	Yes
Mr. R. Balu (CW-52)	Ex. C-96	10.12.2019	Yes
Mr. Abdul Rauf (CW-30)	Ex. C-97	09.12.2019	No (because CW-30 was a panch witness and was not a part of the team)
Mr. K. Jagadeshwar (VRO, Shadnagar)	Ex. C-98	10.12.2019 (Statement supported and signed by Kavali Chenniah)	No

²⁰⁴⁷CW-46, Response to Q No. 105, p 1723, Vol VI, Deposition of Witnesses.

²⁰⁴⁸CW-48, Response to Q No. 183, p 1855, Vol VI, Deposition of Witnesses.

Mr. T. Naveen (SI, Finger Print Expert Unit, CID, Cyberabad)	Ex. C-99	10.12.2019	No
Mr. G. Naveen Kumar (CW-32).	Ex. C-100	10.12.2019	No

18.4.2 Mr. Uppal, in his deposition stated that a part of Mr. V. Surender's statement was recorded by him, being Ex. C-94, and the remaining part was recorded by Mr. Deepak Kumar (CW-22), Inspector, NHRC, being Ex. C-108.²⁰⁴⁹ He further stated that the statements and consequent questions and answers of V. Surender (CW-44), K. Ravi (CW-48), R. Balu Rathod (CW-52) and Abdul Rauf (CW-30) were recorded in his handwriting, but the statements of T. Naveen and G. Naveen Kumar (CW-32) were recorded in the respective deponents handwriting.²⁰⁵⁰ However, he clarified that the question and answers of T. Naveen and G. Naveen Kumar (CW-32) were in his handwriting.²⁰⁵¹

18.4.3 Mr. Uppal was extensively questioned over the manner in which the sketches came to be drawn by the police officers. However, he clarified that their team had prepared a rough sketch before recording the aforementioned statements²⁰⁵², and that each officer was provided with a copy of the sketch at the time of recording their statement.²⁰⁵³ He stated that it was after placing identical sketches before all the concerned police officer²⁰⁵⁴, that they were asked to draw theirs as well as their colleagues position at the time of the firing incident²⁰⁵⁵, which they obliged to. During his cross-examination, it was put to him that the handwriting in the statement as well the handwriting on the sketch were one and the same. However, Mr. Uppal vehemently denied this suggestion and stated that it was indeed the concerned police officers who had written on the rough sketch provided to them.²⁰⁵⁶ Lastly, when Mr. Uppal stated

²⁰⁴⁹CW-20, p 843, Vol III, Deposition of Witnesses.

²⁰⁵⁰CW-20, pp 842-846, Vol III, Deposition of Witnesses.

²⁰⁵¹CW-20, pp 845-846, Vol III, Deposition of Witnesses.

²⁰⁵²CW-20, Response to Q 6 and 10, p 848, Vol III, Deposition of Witnesses.

²⁰⁵³CW-20, Response to Q 7, p 848, Vol III, Deposition of Witnesses.

²⁰⁵⁴CW-20, Response to Q 5, p 848, Vol III, Deposition of Witnesses.

²⁰⁵⁵CW-20, Response to Q 4, p 847, Vol III, Deposition of Witnesses.

²⁰⁵⁶CW-20, Response to Q 3-4, p 847, Vol III, Deposition of Witnesses.

that his team had visited the spot on 07.12.2019²⁰⁵⁷ and prepared a rough sketch of the spot at a later point of time (either on 08.12.2019 or 09.12.2019)²⁰⁵⁸, he was asked as to why was the sketch not prepared at the time of their visit to the spot. In response to this, he stated that the sketch had to be drawn based on memory at the Telangana State Police Academy, due to the presence of huge crowds of media and local people.²⁰⁵⁹

18.5Re: Deepak Kumar

18.5.1 Mr. Deepak Kumar (CW-22), Inspector, NHRC, *vide* his affidavit dated 14.09.2021 (Ex. C-107), deposed that – (i) he examined Mr. V. Surender (CW-44) on 10.12.2019²⁰⁶⁰, Smt. Jollu Laxmi (CW-8) on 08.12.2019²⁰⁶¹ and Mr. Chintakunta Kurumiah on 08.12.2019²⁰⁶², with Mr. Malliah (CW-24) translating the statements of CW-8 and Mr. Chintakunta Kurumiah²⁰⁶³; (ii) he visited the places of incident(s) on 07.12.2019²⁰⁶⁴; and (iii) he visited the hospitals where the dead bodies of the deceased were kept and where the two injured policemen were being treated²⁰⁶⁵. During his examination before this Commission, he stated all the aforesaid statements and the consequent questions and answers were recorded in his handwriting.²⁰⁶⁶

18.5.2 Further, Mr. Deepak Kumar was asked for the reason for not preparing a sketch at the time of their visit and also for not taking any photographs or videographs of the spot. However, he stated that he has no answer to this question.²⁰⁶⁷

18.6Re: Arun Tyagi

18.6.1 Mr. Arun Tyagi (CW-21), Inspector, NHRC, *vide* his affidavit dated 14.09.2021 (Ex.C-101), stated that he had examined the following people with the help of Mr. Mallaiah (CW-24) and the translators/interpreters provided by the State Government:²⁰⁶⁸

Name of the Witness	Exhibit No.	Date of Recording of the Statement	Whether Exhibit includes the sketch drawn by the respective
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²⁰⁵⁷CW-20, Response to Q 8, p 848, Vol III, Deposition of Witnesses.

²⁰⁵⁸CW-20, Response to Q 11, p 849, Vol III, Deposition of Witnesses.

²⁰⁵⁹CW-20, Response to Q 12, p 849, Vol III, Deposition of Witnesses.

²⁰⁶⁰Ex.C-108, pp 1292-1302, Vol V, Commission Exhibits.

²⁰⁶¹Ex.C-43, pp 779-781, Vol III, Commission Exhibits.

²⁰⁶²Ex.C-109, pp 1303-1305, Vol V, Commission Exhibits.

²⁰⁶³CW-22, p 883, Vol III, Deposition of Witnesses.

²⁰⁶⁴CW-22, Response to Q 1-2, p 883, Vol III, Deposition of Witnesses.

²⁰⁶⁵Ex.C-107, pp 1290-1291, Vol V, Commission Exhibits.

²⁰⁶⁶CW-22, pp 882-883, Vol III, Deposition of Witnesses.

²⁰⁶⁷CW-22, Response to Q 5, p 884, Vol III, Deposition of Witnesses.

²⁰⁶⁸Ex.C-101, pp 1264-1235, Vol V, Commission Exhibits.

			witness
Mr. Mohd. Hussan (CW-1)	Ex. S-52	08.12.2019	No
Mr. Jollu Rajaiah (CW-8)	Ex. S-57	08.12.2019	No
Mr. K. Narasimha Reddy (CW-45)	Ex. C-103	10.12.2019	Yes
Mr. Janakiram (CW-51)	Ex. C-104	10.12.2019	Yes
Mr. M. Yadagiri (CW-27)	Ex. C-105	Not stated	No
Mr. Patlola Srinivas Reddy (CW-43)	Ex. C-106	Not stated	No
Mr. M. Rajshekhar (SW-4)	Ex. C-19	09.12.2019	No

18.6.2 With respect to the sketch drawn by the police officers, Mr. Arun Tyagi stated that his team was prompted to prepare a sketch, since the state government did not provide the NHRC team with the requisite documents pertaining to the encounter case which includes site plan prepared by the Investigating Officer. He stated that on 10.12.2019, when the police officers were to be examined by the team, he prepared a rough diagram of the topography of the scene of offence and asked the concerned witnesses to tell him or fill the exact location of the place where the police officers, accused persons and the panchas were standing. After they depicted the details in the topographical outline, he added clarification notes in his handwriting to better appreciate the circumstances of the place of occurrence. He specifically deposed that the same sketch was also used by his colleagues during their interview with other police officers.²⁰⁶⁹

18.6.3 When asked for the reason behind getting the positions marked, he stated that the same was required – (i) to get a better picture of the spot; (ii) note down the inconsistencies in the statements of the police officers involved in the encounter; and (iii) to verify the claim of the individual officer over the police version, so that the

²⁰⁶⁹CW-21, p 860, Vol III, Deposition of Witnesses.

same can be checked or correlated with the documents which we were expected from the state government.²⁰⁷⁰

18.6.4 In so far as the team's visit to the spot is concerned, Mr. Arun Tyagi stated that the team could not take photographs of the spot due to the large-scale presence of the general public and the media persons.²⁰⁷¹ However, he stated that his team took a good view of the entire area, including the cordoned area (bearing yellow-coloured tapes of "do no cross the line") from where the dead bodies were recovered,²⁰⁷² the area from where the incriminating material of the deceased girl Disha was recovered,²⁰⁷³ and the area from where the body of the deceased girl Disha was recovered²⁰⁷⁴.

18.6.5 An extremely crucial part of his deposition is the section where he states that the documents annexed to the statement of Jollu Rajaiah, being Ex.S-57, were given on the next day i.e., 09.12.2019²⁰⁷⁵. He stated that they were handed over at the gate of Telangana State Police Academy and the same were handed over to him by the staff of the Academy. Since Jollu Rajaiah had said that he would give certain documents, Mr. Tyagi stated that he was expecting them to be handed over by Rajaiah himself, which was later confirmed by Rajaiah, as he called up Mr. Tyagi to inform him that he was sending the documents.²⁰⁷⁶ When asked to describe the documents handed over, Mr. Tyagi stated that documents included a bonafide certificate issued by the principal of the school purported to have been attended by Jollu Shiva, a copy of the food card, a copy of Aadhar card of Rajaiah. He deposed that he remembers that the date of birth mentioned in that bonafide certificate was year 2002.²⁰⁷⁷ After stating this, when Mr. Tyagi was questioned over the inconsistency in the date of birth recorded in Jollu Shiva's aadhar card (year of birth is 2001) and his bonafide certificate, he referred to the legal position governing the determination of the age of an alleged juvenile and stated that the date of birth stated in a bonafide certificate would prevail over the date of birth entry in an aadhar card.²⁰⁷⁸

²⁰⁷⁰CW-21, Response to Q 2, 19-20, p 861 and 866, Vol III, Deposition of Witnesses.

²⁰⁷¹CW-21, Response to Q 7, p 862, Vol III, Deposition of Witnesses.

²⁰⁷²CW-21, Response to Q 11 and 14, p 864, Vol III, Deposition of Witnesses.

²⁰⁷³CW-21, Response to Q 24-26, p 868, Vol III, Deposition of Witnesses.

²⁰⁷⁴CW-21, Response to Q 27-28, pp 868-869, Vol III, Deposition of Witnesses.

²⁰⁷⁵CW-21, Response to Q 43, pp 874, Vol III, Deposition of Witnesses.

²⁰⁷⁶CW-21, p 855, Vol III, Deposition of Witnesses.

²⁰⁷⁷CW-21, Response to Q 44, pp 874, Vol III, Deposition of Witnesses.

²⁰⁷⁸CW-21, Response to Q 52, pp 876-877, Vol III, Deposition of Witnesses.

18.7Re: Malliah

- 18.7.1 In response to this Commission's letter dated 01.09.2021, Mr. Malliah (CW-24), Constable, NHRC, filed an affidavit before this Commission (Ex.C-124), wherein he stated that he did not examine any witness and that he only assisted the NHRC team during the inquiry.²⁰⁷⁹
- 18.7.2 In his deposition before the Commission, he stated that he was present when the statements of Mohd. Hussain (CW-1), Jollu Rajaiah (CW-8), Jollu Laxmi (CW-7) and Chintakunta Kurumiah were recorded, and that his job was to translate their statements to Hindi language which was thereafter translated to English by the IO.²⁰⁸⁰ It should be noted that he confirmed Mr. Arun Tyagi's statement, by reiterating that Jollu Rajaiah submitted a document as proof of date of birth of Jollu Shiva.²⁰⁸¹
- 18.7.3 Apart from the statements recorded and documents collected, the NHRC team also received self-written statements by a few officials.²⁰⁸² A list of such statements are as follows:

Name of the Witness	Exhibit No.
Mohd. Sirajuddin	Ex. C-119
Dr. M. Venkanna	Ex. C-120
Dr. Rajesh Rachha	Ex. C-121
Dr. Vishwaksena Reddy	Ex. C-122
Syed Hyder Ali	Ex. C-123
B. Srikanth Reddy	Ex. C-62
K. Ramulu	Ex. C-60
J. Pandu	Ex. C-51

- 18.7.4 Despite undertaking the aforesaid exercise, the NHRC team could not proceed further in light of the Hon'ble Supreme Court's order dated 12.12.2019, whereby the Court constituted this Inquiry Commission and barred any other court/authority to inquire into the alleged encounter death of the four deceased. In light of the aforesaid order and the fact that certain documents which were to be provided by the State Government were not provided till 11.12.2019, Ms. Saini (CW-23) stated that the

²⁰⁷⁹Ex. C-124, pp 1361-1362, Vol V, Commission Exhibits.

²⁰⁸⁰CW-24, Response to Q 5-6, p 921, Vol III, Deposition of Witnesses.

²⁰⁸¹CW-24, Response to Q 4, p 921, Vol III, Deposition of Witnesses.

²⁰⁸²CW-23, Response to Q 14, pp 898-899, Vol III, Deposition of Witnesses.

NHRC team could not form an opinion regarding the veracity of the facts and circumstances of the case and the genuineness of the incident.²⁰⁸³

18.7.5 Considering that the NHRC team had examined witnesses and had collected documents, this Inquiry Commission *vide* letter dated 14.02.2020, asked for copies of all the statements and documents collected by the NHRC team.²⁰⁸⁴ The same was submitted to the Commission *vide* letter dated 20.02.2020 (Ex.C-113).²⁰⁸⁵ Further, Ms. Manzil Saini *vide* her affidavit dated 14.09.2021 filed before this Commission (Ex.C-112), also provided details of the manner in which investigation was conducted by the NHRC team, statements of witnesses recorded by the NHRC team, the number of witnesses examined by each member of the NHRC team and the name of the witnesses examined by the NHRC team.²⁰⁸⁶

18.7.6 After taking into account the statements of the NHRC officials, the following conclusions emerge:

- a) The NHRC team conducted an inquiry between 07.12.2019 and 11.12.2019, which included visiting the spot where the offence took place and also examining the concerned police officials and civilians. Further, the NHRC team had also drawn rough sketches of the spot to get a better picture of the topography of the area where the firing incident took place.
- b) Jollu Rajaiah had submitted date of birth documents of Jollu Shiva to Mr. Arun Tyagi as early as 09.12.2019, to prove that his son was a minor.
- c) V. Surender (CW-44), K. Narasimha Reddy (CW-45), Sk. Lal Madhar (CW-46) and K. Ravi (CW-48) had raised allegations that the NHRC team had recorded their statements by threatening them. It is noticed that V. Surender (CW-44), at one stage states that at the time of the inquiry by the NHRC team, an argument ensued and that the DIG madam asked him whether he would answer if questions are put to him, and that he agreed and they asked him questions in her presence. In his own words he says - "I am binding myself to those questions and answers as recorded in the NHRC

²⁰⁸³Ex.C-110, pp 1306-1308, Vol V, Commission Exhibits.

²⁰⁸⁴Ex.C-110, pp 1306-1308, Vol V, Commission Exhibits.

²⁰⁸⁵Ex.C-113, pp 1315-1316, Vol V, Commission Exhibits.

²⁰⁸⁶Ex.C-112, pp 1311-1314, Vol V, Commission Exhibits.

statement".²⁰⁸⁷ His statement before the NHRC team is marked as Ex.C-94²⁰⁸⁸. One of the questions and the answer²⁰⁸⁹ is extracted below:

Q:- When there was threat to life for those accused persons from general public and anyone could have got the articles recovered, why were all taken to the spot risking their life ?

Answer:- As all the accused persons confessed separately, and the items are crucial for us as without the recovery, there is no evidence against the accused persons.

When CW-44 is confronted with this question and answer, he, as usual, states that he did not state that there was no evidence against the accused and that he only stated that the evidence was crucial.²⁰⁹⁰ The Commission considers the afore extracted crucial question by the NHRC team, the categorical answer given by CW-44 to the NHRC team and desperate attempts made by him and his colleagues to repeatedly get over their statements made to the NHRC team, as furnishing the fundamental basis leading to the death of the deceased suspects. This concession, rather admission by CW-44 that there was no other evidence apart from the proposed recovery, in our opinion, provides a clear motive for the actions taken on 06.12.2019. Thus, the witnesses have chosen their own convenient mode of disowning prior statements which are not convenient to them.

- d) The answer given by CW-44 to the NHRC team that "*without the recovery, there is no evidence against the accused persons*" is reinforced in the context of DNA evidence. In this connection, it is noticed that in the press conference held on 06.12.2019, Commissioner of Police (CW-38), has stated that DNA profiling of both the victim and the accused had already been done and in his deposition CW-38 states that he mentioned it wrongly in the press conference.²⁰⁹¹ CW-44 in answer to a question by NHRC team whether DNA samples of the deceased suspects were collected, states that the DNA samples were not collected and as per the practice, they would file an application for DNA samples after completion of police custody remand.²⁰⁹² This statement of CW-44 was recorded by NHRC on 10.12.2019. In the said statement, he

²⁰⁸⁷CW-44, Response to Q 315, pp 1546-1547, Vol V, Depositions of Witnesses.

²⁰⁸⁸Ex.C-94, pp 1159-1184, Vol V, Commission Exhibits.

²⁰⁸⁹Ex.C-94, pp 1159-1184 @ 1171, Vol V, Commission Exhibits.

²⁰⁹⁰CW-44, Response to Q 426, pp 1581-1582, Vol V, Depositions of Witnesses.

²⁰⁹¹CW-38, Response to Q 129, p 1324, Vol V, Depositions of Witnesses.

²⁰⁹²Ex.C-108, pp 1292-1302 @ 1293, Vol V, Commission Exhibits.

does not say that he had made any request to the doctors conducting autopsy, to collect DNA sample from the dead bodies of the accused.

- e) However, as per the case diary in CR No. 784 of 2019 dated 06.12.2019,²⁰⁹³ after coming to know about post mortem examination at 21-30 hours, CW-44 had requested the team of doctors to collect and preserve the tissues for DNA profiling. As per Ex.C-137, letter dated 06.12.2019, CW-44 had requested Dr Krupal Singh to preserve tissue samples and to forward to FSL for DNA profiling.²⁰⁹⁴ CW-44 states that Dr Krupal Singh informed him that he had preserved the samples at Government Hospital, Mahaboobnagar and he had further informed him to address a letter to Government Hospital Mahaboobnagar.²⁰⁹⁵ CW-44 addressed a letter to Superintendent, Government Hospital, Mahaboobnagar to preserve the samples.²⁰⁹⁶ The Superintendent, Government Hospital, Mahaboobnagar, in turn addressed a letter to Superintendent, Gandhi Hospital, Secunderabad, dated 09.12.2019 stating that necessary action may be taken in this regard. A copy of the said letter is found in the records of CR No. 803 of 2019.²⁰⁹⁷ CW-44 states that he is not aware of the said reply.²⁰⁹⁸ As per the case diary in CR No. 784 of 2019 dated 12-12-2019,²⁰⁹⁹ PC 1915 has informed CW-44 that the Medical officer himself forwarded the tissue samples. CW-44 admits the said entry to be correct.²¹⁰⁰ As per the acknowledgement Ex.C-265²¹⁰¹, issued by FSL, the sample is sent by Professor, Forensic Medicine and the sample is received through PC 1915, which fact CW-44 admits to be correct.²¹⁰² Thus, whether the tissue samples were collected at Government Hospital, Mahaboobnagar or at Gandhi Hospital, Secunderabad, and further, whether the Medical Officer sent the sample directly as stated by PC 1915 or whether the sample was taken by PC 1915 himself, raise any amount of suspicion about this issue.
- f) Even though it is alleged by CW-44 to CW-53 that they were threatened by NHRC officials, their counsels failed to ask a single question to the NHRC officials regarding such threats. It was the counsel appearing for D. Srikanth (CW-53), who said that D.

²⁰⁹³P 611, Book No. 10 (Records in Crime No. 784 of 2019).

²⁰⁹⁴Ex.C-137, p 1403, Vol VI, Commission Exhibits.

²⁰⁹⁵CW-44, Response to Q 488, p 1599, Vol V, Depositions of Witnesses.

²⁰⁹⁶P 24, Book No. 11 (Records in Crime No. 784 of 2019).

²⁰⁹⁷P 626, Book No. 2 (Records in Crime No 803 of 2019).

²⁰⁹⁸CW-44, Response to Q 489, p 1599, Vol V, Depositions of Witnesses.

²⁰⁹⁹P 180, Book No. 11 (Records in Cr No 784 of 2019).

²¹⁰⁰CW-44, Response to Q 492, p 1600, Vol V, Depositions of Witnesses.

²¹⁰¹Ex.C-265, p 2462, Vol IX, Commission Exhibits.

²¹⁰²CW-44, Response to Q 497, p 1601, Vol V, Depositions of Witnesses.

Srikanth was threatened into signing the statement, when in the first place, D. Srikanth had not raised such an allegation either in his affidavit or in his deposition.

- g) Moreover the record of NHRC investigation shows that there were some police officials from the Telangana State Police Department were present during the examination of CW-44 to CW-53. There is signature of one S Ravi Chandra, ACP on Ex.C-95 as having translated the statement. CW-44 to CW-53 could have called those officials as their defence witnesses in respect of the NHRC investigation. They could have complained to those officials about any alleged mistreatment. They did not call those police officials as defence witnesses.

19 LAPSES IN INVESTIGATION

19.1 It is now settled law that lodging of FIR promptly expels the opportunity for any possible concoction of a false version. Even if there is any unavoidable delay, there ought to be a satisfactory explanation. In this case, the incident is said to have occurred at 06.10 AM and CW-44 is said to have informed CW-15 Sridhar Kumar over phone and CW-15 Sridhar Kumar is said to have arrived at the scene. It is stated that the complaint lodged by CW-44 was sent to the police station by 8am. It is received by SHO at 8.30 AM as per the endorsement in FIR, Ex.S-2.²¹⁰³ It is also admitted that the court premises is at a distance of 3 kms from the police station.²¹⁰⁴ It should not have taken more than half an hour to fill up the columns in the FIR and the FIR should have reached the Magistrate within an hour at the most. But the FIR in CR No. 803 of 2019 is received by the Magistrate at 4.40 PM as seen from the report Ex.C-58²¹⁰⁵. There is absolutely no explanation for the delay in sending the FIR to the court. Both the Commissioner of Police (CW-38) and the head of SIT (CW-16) state that they are not aware when the FIR was received by the jurisdictional court. The unexplained delay in sending the FIR to the court would only establish that the complaint was not received by the SHO at 8 AM and much time has been spent on deliberations. It is to be noted that Telangana State Police Manual enumerates various Orders regarding the various facets of investigation. As per Order number 411-1 of chapter 21 of Telangana Police Manual, the FIR in original should be sent to the Magistrate having jurisdiction without delay. The distance between Shadnagar Police Station and the court premises is about 3 kms.²¹⁰⁶ SW-3 the investigating officer states that he verified that the fire was received by the concerned court on 06.12.2019 in the afternoon hours,²¹⁰⁷ but when it is suggested to him that the FIR is received by the court at 4:40 PM, he states that he cannot say. CW-10, the Judicial Magistrate in her report Ex.C-58 states that she received the FIR in CR No. 803 of 2019 on 06.12.2019 at 4:40 PM while she was holding bench.²¹⁰⁸ The said statement of Judicial Magistrate is not disputed. There is no explanation for such inordinate delay. As per Order No 412-1 of chapter 21 of Telangana Police Manual, in grave crimes listed in Order 52-7 and specially grave offences listed in Order 55-2 of chapter 3, a telephonic/fax/radio message/email should be sent to SP and SDPO and in later cases i.e.,

²¹⁰³Ex.S-2, p 24, Vol I, State Exhibits.

²¹⁰⁴SW-3, Response to Q 51, p 90, Vol I, Deposition of Witnesses.

²¹⁰⁵Ex.C-58, p 911, Vol IV, Commission Exhibits.

²¹⁰⁶SW-3, Response to Q 51, p 90, Vol I, Deposition of Witnesses.

²¹⁰⁷SW-3, Response to Q 49, p 90, Vol I, Deposition of Witnesses.

²¹⁰⁸Ex.C-58, p 911, Vol IV, Commission Exhibits.

those listed in Order 55 – 2 of chapter 3, such message should also be sent to the District Magistrate and these reports are termed “express reports” and should be sent as quickly as possible. It is further laid down in Order 412 – 4 that in any case of use of firearms by police in dealing with a riot or in self-defence, an express report or radiogram or telegram or fax or email whichever is the quickest possible shall be sent to the District Magistrate and in the said report, the number of persons killed or injured, if any, shall be stated with their identity, if known. SW-3 admits the said legal requirements.²¹⁰⁹ The acknowledgement evidencing the delivery of copies of FIR to various officers is marked as Ex.C-4.²¹¹⁰ As per Ex.C-4, the officers mentioned at serial numbers 1 to 3 and 5, i.e., the Chief Secretary of the State of Telangana, Personal Secretary to the Home Minister, Principal Secretary to the Chief Minister, Principal Secretary of the Home Department have received the copies of FIR only on 07.12.2019. The Director General of Police, Commissioner of Police Cyberabad and Head of Intelligence Department have received it on 06.12.2019. As per Ex.C-4, the time at which the copies are delivered is noted only in respect of the Director General of Police and it is seen that the DGP has received the copy of FIR only at 8:15 PM. If really the complaint was lodged at 8 am, there could not have been such inordinate delay in sending the FIR to the court and to the concerned officers. The reason for the delay has not been explained and it should be assumed that the delay has occurred only for confabulations and deliberations.

19.2 It is noticed that in spite of so much delay in lodging the complaint, the necessary details of the incident that are said to have taken place on 06.12.2019 are not mentioned in the FIR, Ex.S-2. Many details of the events that occurred long prior to 06.12.2019 are mentioned in greater detail whereas the details relating to the incident of alleged “exchange of fire” are not set forth in Ex.C-2. The investigating officer SW-3 has admitted that the report given by the ACP runs into five pages and that the facts relating to the exchange of fire are set out in one page only.²¹¹¹ It is also admitted by SW-3 that in the report there is only a general allegation that the accused overpowered the police party, assaulted and snatched two firearms from CI, Amangal and SI Nandigama, and fled towards bushes and they were repeatedly warned and they opened fire on the police party with an intention to kill and in self-protection, they opened fire. He also admits that the various details such as which of the accused snatched the weapons and the nature of

²¹⁰⁹SW-3, Response to Q 52-53, p 90, Vol I, Deposition of Witnesses.

²¹¹⁰Ex.C-4, pp 52-55, Vol I, Commission Exhibits.

²¹¹¹SW-3, Response to Q 55, p 91 Vol I, Deposition of Witnesses.

the weapons which were snatched and who assaulted the policemen etc details are not found in the report.²¹¹² When the informant, CW-44 is confronted with the said omissions of material facts in his report, he repeatedly states that he was in a disturbed state of mind and that he could not give all the details. He also takes umbrage under the principle that an FIR need not be an encyclopaedia. If the report is given by a rustic person or an illiterate person such explanations may be tenable. In this case the FIR is lodged by a senior police officer.

19.3 There is a great deal of inconsistency with regard to the commencement of investigation.

The place of incident is within the jurisdiction of Shadnagar police station. A.Sridhar Kumar CW-15 Inspector of Police, the Station House officer of Shadnagar P.S., on reaching the scene of occurrence is said to have taken up investigation and he is said to have continued the investigation till the investigation was taken over by SW-3 on being appointed as the investigating officer as per the proceedings in Ex.S-18.²¹¹³ As per the case diary of CW-15 Sridhar Kumar, investigation was taken over by SW-3 after the completion of inquest at 2:45 PM.²¹¹⁴ However, SW-3 states that he took over the investigation at 12.40 PM and that however his case diary does not show that he took over investigation at 12.40 PM.²¹¹⁵ When he is confronted with the case diary of A Sridhar Kumar, showing that he handed over investigation to SW-3 at 2:45 PM, SW-3 states that his statement is correct and that case diary of Sridhar Kumar is incorrect.²¹¹⁶

19.4 It is seen that the case diary of CW-15 is full of inconsistencies. His case diary commences from page 25 of Book No 1. Column 8 of the Case Diary relates to “NAMES OF WITNESSES EXAMINED” and since CW-15 is said to have commenced inquest over the dead bodies even before the appointment of SW-3, it is expected that the names of witnesses for inquest are mentioned and accordingly they are mentioned at Page 25. But in the column “the witnesses for Scene Observation, Weapons Seizure and Mos Recovery mediators”, the names of Kavali Mallesh and Chapala Lingam are found. Similarly, under the caption “Forensic experts who held autopsy” the names of the doctors who conducted the autopsy are noted. Admittedly CW-15 did not conduct any observation of scene and he did not seize any material objects and autopsy was also conducted after SW-3 took over the investigation. The names of witnesses for

²¹¹²SW-3, Response to Q 56, p 91, Vol I, Deposition of Witnesses.

²¹¹³Ex.S-18, p 141, Vol I, State Exhibits.

²¹¹⁴P 37, Book No. 1.

²¹¹⁵SW-3, Response to Q 36, p 87, Vol I, Deposition of Witnesses.

²¹¹⁶SW-3, Response to Q 42, p 88, Vol I, Deposition of Witnesses.

observation and the names of doctors who conducted autopsy could not have been found in the case diary of CW-15. The names of ambulance staff which should find place in his case diary are not shown.²¹¹⁷ In order to justify the incorrect entries in his case diary, he states that the Commissioner of Police stated to him personally that a letter was addressed to Director of Medical Examination to constitute a medical team for conducting autopsy,²¹¹⁸ and when further questions are put to him, he says that he overheard the Commissioner of Police discussing the subject with other officers.²¹¹⁹

19.5 The evidence regarding the conduct of inquest over the dead bodies also is most discrepant. The four inquest reports are marked as Ex.S-20.²¹²⁰ The Executive Magistrates who conducted the inquest over the dead bodies of Md. Arif, Chintakunta Chennakeshavulu and Jollu Shiva are examined as CW-11, CW-12 and CW-13 respectively. The Executive Magistrate Hyder Ali who has conducted the inquest over the dead body of Jollu Naveen is said to be no more.

19.6 Generally, during the inquest, the presence of blood relatives is secured and in the prescribed format, there is a column to show the names of the blood relatives present during the inquest. In this case, admittedly the inquest was held without the presence of blood relatives of any of the deceased persons.²¹²¹ The evidence regarding the service of notice on the blood relatives of the deceased persons is very discrepant to say the least. SW-3 states that notices were sent to blood relatives of deceased but they refused to receive.²¹²² The said notices with endorsement of refusal are found at Ex.C-5.²¹²³ As per the endorsements on Ex.C-5, the serving officer went to the houses of the deceased.²¹²⁴ But as per paras 4 of the affidavits filed by the Executive Magistrates, they received information from Inspector of Police Shamshabad P.S. that he secured the presence of parents of the deceased at District Government Hospital, Mahabubnagar and tried to serve the notices and that they refused to acknowledge the notices.²¹²⁵ CW-12 states that the serving officers went to the residence of the relatives of the deceased and that there

²¹¹⁷CW-15, Response to Q 180, p 661, Vol II, Deposition of Witnesses.

²¹¹⁸CW-15, Response to Q 185-187, p 662, Vol II, Deposition of Witnesses.

²¹¹⁹CW-15, Response to Q 195, p 664, Vol II, Deposition of Witnesses.

²¹²⁰Ex.S-20, pp 199-234, Vol I, State Exhibits.

²¹²¹SW-3, Response to Q 57, p 91, Vol I, Deposition of Witnesses.

²¹²²SW-3, Response to Q 58, p 92, Vol I, Deposition of Witnesses.

²¹²³Ex.C-5, p 56-63, Vol I, Commission Exhibits.

²¹²⁴SW-3, Response to Q 61, p 92, Vol I, Deposition of Witnesses.

²¹²⁵Ex.C-45 at p 457, Ex.C-59 at p 513 and Ex.C-61 at p 541, Vol II, Deposition of Witnesses

was a lot of public wrath against them and that the blood relatives had gone to the hospital at Mahabubnagar.²¹²⁶

19.7As per the records in CR No. 803 of 2019, K, Venkateswarlu and Aravind Goud are sent to hospital and they were not present at the scene by the time the inquest was conducted. Similarly, D. Srikanth is said to have escorted the injured to the hospital. The names of D. Srikanth, K. Venkateswarlu and Aravind Goud are shown as witnesses for the inquest of Jollu Shiva, Jollu Naveen and Chinthakunta Chennakeshavulu respectively. D. Srikanth, CW-53, claims that he came back from the hospital by the time of inquest. Admittedly CARE hospital is at a distance of about 60 kms from the scene of incident and the journey time is said to be about 1 to 1.5 hours and when the condition of the injured is claimed to be critical, how could D. Srikanth come away from the hospital is a question to be examined. In this connection, it is stated that Vijaya bhaskar SI of Police Shadnagar also is said to have escorted the injured to CARE hospital and as per the statement of Vijaya bhaskar recorded by the Investigating Officer in CR No. 803 of 2019, shows that Vijaybhaskar stayed put at CARE hospital even on 07.12.2019.²¹²⁷ When an SI stays back at the hospital to attend on the injured, it would be expected that a head constable could not have come away. Hence it would appear that either D. Srikanth did not go to the hospital or he was not present during inquest. As far as K. Venkateswarlu and Aravind Goud are concerned, they were said to be admitted in ICU and therefore it could not have been claimed that they were present at the time of inquest. During the course of inquiry, CW-11, Kavali Ramulu, the Executive Magistrate who has conducted the inquest over the dead body of Chintakunta Chennakeshavulu, has filed an affidavit²¹²⁸ on 24.07.2021, stating for the first time, that K. Venkateswarlu who figures as a witness for the inquest of Chintakunta Chennakeshavulu was admitted in CARE hospital and the police officials caused him to interact with the witness through WhatsApp video call and that he examined K Venkateswarlu over WhatsApp video call. When he is examined before the commission, he states that he has mistakenly stated the name of Venkateswarlu (the witness allegedly examined over WhatsApp video call), instead of the name of Aravind Goud,²¹²⁹ who also incidentally happens to be another injured who was said to be doing treatment at CARE hospital. When he is questioned

²¹²⁶CW-12, Response to Q 10, p 547, Vol II, Deposition of Witnesses.

²¹²⁷P 254, Book No. 12.

²¹²⁸Ex.C-59, p 512, Vol II, Deposition of Witnesses

²¹²⁹CW-11, Chief Examination, p 515, Vol II, Deposition of Witnesses

whether it is the only correction he wanted to make in his affidavit, he said “yes”.²¹³⁰ But when his attention is drawn to para 5 of his affidavit where it is stated that he secured the presence of Aravind PC 4385, he says that he did not secure the presence of Aravind²¹³¹ and that he was in the hospital and the statement in para-5 of his affidavit is incorrect.²¹³² With regard to the WhatsApp video call, he now says during examination²¹³³ that Hyder Ali (another Executive Magistrate who has conducted the inquest of Jollu Naveen and who is said to be no more) was talking to Venkateswarlu over WhatsApp video call and that since Venkateswarlu was also his witness, he spoke to him through the WhatsApp video call of Hyder Ali. It may be recalled that he has stated in the affidavit that police officials caused him to interact with the witness and now he says it was Hyder Ali who facilitated the WhatsApp video call. It may also be recalled that at the first instance he corrected himself and stated that he interacted with Aravind Goud and not Venkateswarlu as stated in his affidavit. Once again, he claims that Venkateswarlu was his witness. Later he once again says that he did not examine Venkateswarlu and that he examined Aravind Goud.²¹³⁴ When the video recording of the witness was played back, he again says that Venkateswarlu told him that he was injured²¹³⁵ and again says that he did not speak to Venkateswarlu and that after Hyder Ali spoke to Venkateswarlu, he spoke to Aravind Goud.²¹³⁶ This is the nature of evidence in relation to inquest which is a judicial proceeding of utmost importance in the investigation of a crime.

19.8 It is to be noted that the alleged examination of Venkateswarlu and Aravind Goud through WhatsApp video call during inquest is not noted either in the inquest reports²¹³⁷ or in the case dairy²¹³⁸ or in the statements of the said Venkateswarlu and Aravind Goud recorded by the investigating officer or in the statements recorded by the judicial magistrate. SW-3 states that he has not adopted the mode of examination of witnesses through video call anywhere else.²¹³⁹ SW-3 has stated that he cannot give the phone numbers through which such video calls were made.²¹⁴⁰ In fact, SW-3 admits that only the names of persons who were present at the time of inquest, were to be mentioned in

²¹³⁰CW-11, Response to Q 10, p 519, Vol II, Deposition of Witnesses.

²¹³¹CW-11, Response to Q 11, p 520, Vol II, Deposition of Witnesses.

²¹³²CW-11, Response to Q 13, p 520, Vol II, Deposition of Witnesses.

²¹³³CW-11, Response to Q 18, p 521, Vol II, Deposition of Witnesses.

²¹³⁴CW-11, Response to Q 19, p 521, Vol II, Deposition of Witnesses.

²¹³⁵CW-11, Response to Q 20, p 522, Vol II, Deposition of Witnesses.

²¹³⁶CW-11, Response to Q 21, p 522, Vol II, Deposition of Witnesses.

²¹³⁷SW-3, p 96, Vol I, Deposition of Witnesses.

²¹³⁸SW-3, p 96, Vol I, Deposition of Witnesses.

²¹³⁹SW-3, p 96, Vol I, Deposition of Witnesses.

²¹⁴⁰SW-3, p 96, Vol I, Deposition of Witnesses.

Column 1(b) of the Inquest Report.²¹⁴¹ It is therefore apparent that the names of Venkateswarlu and Aravind Goud in the inquest report do not match the theory of their admission in CARE hospital and therefore the plea of examination over WhatsApp video call has been belatedly introduced through the affidavit of CW 11.

19.9 In his evidence CW-11 stated that during inquest V. Surender told that he was involved in the firing²¹⁴² and stated that he shot at all the four deceased and that he did not say towards which deceased he particularly shot at²¹⁴³ and that he also told that Ravi and Aravind Goud also shot at them²¹⁴⁴ and that he told that they used 9 MM pistol.²¹⁴⁵ In the cross-examination by the counsel for the State, he once again affirms that V. Surender informed him that he fired and also stated the names of other people who fired²¹⁴⁶ and again states that V. Surender did not tell him that he used bullet²¹⁴⁷ and finally states that there is no other document other than the inquest report to show the recording of the statement of V. Surender.²¹⁴⁸ CW-12 states that Surender told²¹⁴⁹ that the accused used stones and sticks²¹⁵⁰ and that Lal Madhar fired²¹⁵¹ and that when he examined Lal Madhar, he stated that since the accused were attacking them with sticks and stones, he fired in self-defence.²¹⁵² CW-12 has stated that it is not mentioned in Ex.S-20 inquest report that Surender informed him that Lal Madhar had fired.²¹⁵³ As per Order 496-1 of Telangana Police Manual, the Executive Magistrate is required to record the statements of witnesses at the time of inquest and SW-3 admits the same.²¹⁵⁴ SW-3 states that Executive Magistrates did in fact record such statements and again says that he did not observe.²¹⁵⁵ Though CW-11 states that the inquest was videographed and photographed and though a photographer and a videographer were said to be present during the inquest as per the entries in the inquest report Ex.S-20, the entire footage of the video recording and photographs are not produced before the Commission. Only some photos and bits and pieces of video recording is made available to the Commission.

²¹⁴¹SW-3, p 99, Vol I, Deposition of Witnesses.

²¹⁴²CW 11, Response to Q 49, p 528, Vol II, Deposition of Witnesses.

²¹⁴³CW 11, Response to Q 50-51, p 529, Vol II, Deposition of Witnesses.

²¹⁴⁴CW 11, Response to Q 52, p 529, Vol II, Deposition of Witnesses.

²¹⁴⁵CW 11, Response to Q 53, p 529, Vol II, Deposition of Witnesses.

²¹⁴⁶CW 11, Response to Q 79, p 535, Vol II, Deposition of Witnesses.

²¹⁴⁷CW 11, Response to Q 81, p 536, Vol II, Deposition of Witnesses.

²¹⁴⁸CW 11, Response to Q 83, p 537, Vol II, Deposition of Witnesses.

²¹⁴⁹CW 12, Response to Q 35, p 552, Vol II, Deposition of Witnesses.

²¹⁵⁰CW 12, Response to Q 34, p 552, Vol II, Deposition of Witnesses.

²¹⁵¹CW 12, Response to Q 36, p 552, Vol II, Deposition of Witnesses.

²¹⁵²CW 12, Response to Q 38, p 552, Vol II, Deposition of Witnesses.

²¹⁵³CW 12, Response to Q 87, p 563, Vol II, Deposition of Witnesses.

²¹⁵⁴SW-3, p 99, Vol I, Deposition of Witnesses.

²¹⁵⁵SW-3, p 99, Vol I, Deposition of Witnesses.

19.10 CW-11 states that the observation panchnama of the scene of offence was also a part of inquest proceedings and the scene of crime was photographed and video was taken and the same is mentioned in column number 8 of the inquest report.²¹⁵⁶ CW-11 states that scene of offence observation proceedings started at 12.45 PM.²¹⁵⁷ When CW-11 is confronted with the contents of the inquest report wherein it is stated that the scene of offence observation panchnama had been concluded, he states that it is a mistake.²¹⁵⁸ On the other hand, CW-12 states that the scene of offence observation panchnama was concluded at about the same time when the inquest was concluded.²¹⁵⁹ Thus, according to the evidence of Executive Magistrates, inquest and observation of scene of offence took place simultaneously. Even SW-3 at one stage states that he took up investigation and his first step was to visit the scene of offence at 12.40 PM.²¹⁶⁰ In fact, as per the contents of column 8 of the inquest reports of Jollu Shiva²¹⁶¹, Jollu Naveen²¹⁶² and Chintakunta Chennakeshavulu,²¹⁶³ the scene of observation proceedings were already conducted and the scene of offence has been photographed and videographed. Therefore, according to the contents of column 8 of the inquest reports of Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu, the observation of the scene of offence had already been concluded before the inquest i.e., before 2.45 PM as it is stated that inquest was concluded at 2.45 PM. But as per the scene of offence observation panchnama prepared at 3 PM which is marked as Ex.C-3²¹⁶⁴, the observation of scene of offence is commenced at 3 PM. The Investigating Agency has not placed the scene of offence observation Reports which were said to have been prepared earlier and referred to in column 8 of the inquest reports of Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu. In view of the evidence of the Executive Magistrates and in view of the contents of inquest reports, the non-production of the scene of offence observation reports prepared at the earliest point of time raises any amount of doubt. An inference may have to be drawn that the said reports prepared at the earliest point of time do not advance the present version put forth by the State.

²¹⁵⁶CW-11, Response to Q 60, p 531, Vol II, Deposition of Witnesses.

²¹⁵⁷CW-11, Response to Q 69, p 533, Vol II, Deposition of Witnesses.

²¹⁵⁸CW-11, Response to Q 76, p 534, Vol II, Deposition of Witnesses.

²¹⁵⁹CW-12, Response to Q 74, p 560, Vol II, Deposition of Witnesses.

²¹⁶⁰SW-3, p 88, Vol I, Deposition of Witnesses.

²¹⁶¹Ex.S-20, pp 199-234, Vol I, State Exhibits.

²¹⁶²Ex.S-20, p 199-234, Vol I, State Exhibits.

²¹⁶³Ex.S-20, p 199-234, Vol I, State Exhibits.

²¹⁶⁴Ex.C-3, pp 41-51, Vol I, Commission Exhibits.

19.11 The Investigating Agency has placed two scene of offence observation and seizure reports. They are Ex.C-3²¹⁶⁵ dated 06.12.2019 at 3 PM together with the sketch Ex.C-8²¹⁶⁶, another panchanama Ex S 30²¹⁶⁷ dated 06.12.2019 at 5.10 PM. During the first panchanama at 3 pm, the position of the four dead bodies at the scene and the distance from the underpass bridge and the distances between the dead bodies inter se have been noted. Further, two 9 mm pistols said to have been found in the hands of Md. Arif and Chennakeshavulu and 10 empty cartridges of 9 mm calibre and 3 empty cartridges of SLR and 6 empty cartridges of AK 47 apart from one brown colour pistol pouch, a piece of black colour pistol pouch, two small stones, one iron rod and two pieces of wooden stick are said to have been seized. The location of these objects and the distances from one another have been noted in Ex.C-3 as well as the sketch Ex.C-8. In the Inquest reports Ex.S-20 also, the distances at which some of the material objects were found are noted. There should not be any discrepancies either regarding the distances noted in the various documents or in the nature and number of material objects said to have been found. But there are several unexplained discrepancies.

19.12 Thus, as per column number 8 of the inquest report of Jollu Shiva,²¹⁶⁸ a pistol pouch had fallen at a distance of 9 feet from the dead body of Jollu Shiva. However as per the sketch²¹⁶⁹ the pistol pouch is at a distance of 22 feet towards west from the dead body of Jollu Shiva and the same is admitted by SW-3.²¹⁷⁰ But as per serial number 7 in Ex.C-3, the pistol pouch is at a distance of 22 feet from one 9 mm empty cartridge shown at serial no 6. When SW-3 is asked about the discrepancy, he states that it is a mistake.²¹⁷¹ Similarly as per the inquest report of Jollu Shiva, two sticks are found at a distance of 4.9 feet on the left side on the western side. But no such sticks are shown in Ex.C-8 at the location shown in the inquest report. The same is admitted by SW-3.²¹⁷² Similarly as per the inquest report of Jollu Shiva, the dead body of Md. Arif is found at a distance of 7.4 feet on the eastern side. But as per the sketch Ex.C-8, the distance between the dead body of Md. Arif and the dead body of Jollu Shiva is shown as 16 feet. The same is admitted by SW-3.²¹⁷³

²¹⁶⁵Ex.C-3, p 41-51, Vol I, Commission Exhibits.

²¹⁶⁶Ex.C-8, p 124-125, Vol I, Commission Exhibits.

²¹⁶⁷Ex.S-30, p 313-317, Vol II, State Exhibits.

²¹⁶⁸Ex.S-20, p 210, Vol I, State Exhibits.

²¹⁶⁹Ex.C-8, p 124-125, Vol I, Commission Exhibits

²¹⁷⁰SW-3, Response to Q 503, p 205, Vol I, Deposition of Witnesses.

²¹⁷¹SW-3, Response to Q 508, p 206, Vol I, Deposition of Witnesses.

²¹⁷²SW-3, Response to Q 509, p 207, Vol I, Deposition of Witnesses.

²¹⁷³SW-3, Response to Q 511, p 207, Vol I, Deposition of Witnesses.

- 19.13 Similarly, as per column number 8 of the inquest report of Jollu Naveen,²¹⁷⁴ one cartridge is shown at a distance of 10 feet from the head of Jollu Naveen. However, no such cartridge is shown in the rough sketch at the location shown in the inquest report and the same is admitted by SW-3.²¹⁷⁵ Similarly, as per column number 8 of the inquest report of Jollu Naveen,²¹⁷⁶ a piece of black coloured pistol pouch is shown at a distance of 5 feet from the right knee of Jollu Naveen. However, no such piece of black coloured pistol pouch is shown in the rough sketch at the location shown in the inquest report and the same is admitted by SW-3.²¹⁷⁷
- 19.14 Similarly, as per column number 8 of the inquest report of Chintakunta Chennakeshavulu,²¹⁷⁸ one empty cartridge is shown on the south west of the dead body at a distance of 16.7 inches. However no such cartridge is shown in the rough sketch Ex.C-8 at the location shown in the inquest report and the same is admitted by SW-3.²¹⁷⁹ Thus SW-3 categorically admits the various discrepancies between the inquest reports and the scene of offence observation panchanama Ex.C-3 and the rough sketch Ex.C-8. He has volunteered to say in his responses that the objects are noted elsewhere in the rough sketch. As far as discrepancies are concerned, he states that he is not the author of inquest reports. Admittedly he was present throughout the inquest proceedings and he being the Investigating Officer, he cannot escape his responsibility in clarifying the discrepancies. The said discrepancies coupled with the recital in the inquest reports that the scene observation was already concluded by the time the inquest was concluded would throw any amount of doubt regarding the authenticity of the scene observation report, Ex.C-3 and rough sketch Ex.C-8. Added to it, neither the State nor the investigating agency has produced all the photos and the entire video footage. All these suggest that the original record relating to scene of offence observation is not placed before the Commission. Otherwise, there cannot be any explanation for the discrepancies relating to the location of the objects and the distances.
- 19.15 It is further noticed that there is a serious discrepancy with regard to the observations at the scene and the seizure of the material objects belonging to DISHA. As per the contents of Ex.C-3, the investigating officer, panchas and the clues team go near the place where the objects of DISHA were allegedly found and yet the said objects are not

²¹⁷⁴Ex.S-20, p 219, Vol I, State Exhibits.

²¹⁷⁵SW-3, Response to Q 512, p 208, Vol I, Deposition of Witnesses.

²¹⁷⁶Ex.S-20, p 219, Vol I, State Exhibits.

²¹⁷⁷SW-3, Response to Q 513, p 208, Vol I, Deposition of Witnesses.

²¹⁷⁸Ex.S-20, p 228, Vol I, State Exhibits.

²¹⁷⁹SW-3, Response to Q 514, p 209, Vol I, Deposition of Witnesses.

seized during the first panchnama conducted at 3 PM. There is no explanation for not seizing those objects during the first panchnama at 3 PM. As against the contents of Ex.C-3, Kavali Mallesam, one of the attestors of Ex.C-3, who is examined as CW-13 states that when the first panchnama was conducted, they did not even go near the place where the objects of DISHA were found.²¹⁸⁰ But as per Ex.C-3, when they visited the place where the objects of the DISHA were found, the pit was covered with two big stones.²¹⁸¹ However, as per the evidence of CW-44 to CW 53, by the time the incident occurred, the stick, stones and soil were already removed and they could find a polythene cover and a mobile phone was seen.²¹⁸² Therefore, when the scene is inspected after the incident, the pit could not have been covered with stones. If at all any such stones were found during the first panchnama at 3 PM, the same should be seen even at 5:10 PM. But it is stated in Ex.S-30, the panchnama conducted at 5.10 PM, that they found a part of polythene cover and that on picking up the same, they found the cell phone, power bank, wristwatch and a wire.²¹⁸³ When SW-3 is asked whether there was any tampering of the scene of occurrence during the intervening period, he says “no”.²¹⁸⁴ He tries to justify that there were some small stones in the pit. However, as per the description in Ex.C-3, there were “peddarallu” which mean two big stones. Surprisingly, SW-3 states that “pedda” means “small”. Either he should not be knowing Telugu or he should be speaking false. He being a native of Telangana cannot plead that he does not know Telugu. SW 3 states that he has shown the said pit in the sketch Ex.C-8. When he is asked to point it out, he points to a place marked “stone” and the witness encircled it in the sketch in red colour.²¹⁸⁵ The said red marked portion is not located in the centre of the embankment.²¹⁸⁶ As per the description in Ex.C-8, the pit was in the lower side of the centre of the embankment.²¹⁸⁷ Therefore the marking made by the witness while he was in the box is different from the location described in Ex.C-3. At any rate, the alleged place where the objects of DISHA were found is not even marked as “pit” in the sketch Ex.C-8. Since it is claimed that this is the place from where the accused are said to have fled, it was quite necessary to mark the said location in the sketch. In fact, it is claimed

²¹⁸⁰CW-13, Response to Q 33, p 575, Vol II, Deposition of Witnesses

²¹⁸¹SW-3, Response to Q 93, p 100, Vol I, Deposition of Witnesses.

²¹⁸²Ex.C-181, p 1421, Vol V, Deposition of Witnesses.

²¹⁸³SW-3, Response to Q 94, p 100, Vol I, Deposition of Witnesses.

²¹⁸⁴SW-3, Response to Q 95, p 100, Vol I, Deposition of Witnesses.

²¹⁸⁵SW-3, Response to Q 97, p 101, Vol I, Deposition of Witnesses.

²¹⁸⁶SW-3, Response to Q 101, p 101, Vol I, Deposition of Witnesses.

²¹⁸⁷SW-3, Response to Q 102, p 102, Vol I, Deposition of Witnesses.

that the police party had positioned themselves at the point where the objects of DISHA were found and that the police party opened fire from that point. Therefore, a clear marking of that point was quite essential. SW-3 states that the exact point where the police were positioned is not marked in the sketch.²¹⁸⁸ As per the contents of Ex.C-3, clues team members were present at the time of scene observation and seizure of material objects. CW-31, Dr Venkanna, Asst Director, Telangana Forensic Science Laboratory, who is the head of the clues team, states in his affidavit²¹⁸⁹ that he assisted the Investigating Officer in Cr No 803 of 2019 for the seizure of the material objects. CW-31 initially claims that the scene of offence including the place where the police had positioned themselves at the time of firing incident was cordoned off²¹⁹⁰ by using a tape “Crime scene. Do not cross.”²¹⁹¹ CW 31 again states that the place from where the police had fired upon the deceased was not included in the place preserved.²¹⁹² The place from where the objects of DISHA were allegedly seized which is also the place from where the police party had opened fire is not shown in the sketch, it is not cordoned off and not a single photo or video footage of that place is forthcoming. If really there was such a pit from where the objects of DISHA were seized and if it was the place where such altercation such as throwing of soil and hurling of stones and causation of bleeding injuries had taken place, such place would have been cordoned off and the same would have been duly photographed. When SW-3 is asked where is the video clip showing the place from where the objects of DISHA were recovered and from where the whole incident started, he gives an irrelevant answer that in clipping no. 02957, video clipping is taken zoom from 6th level bund showing public and media vehicles on the NH-44. Finally he says that he will prove his case by producing seizure panchanamas and Section 164 Cr.P.C. statements of eye witnesses- Rajashekar and Abdul Rauf and rough sketch of scene of place and that he is satisfied that the mere recovery photo does not help his case.²¹⁹³ When the question is repeated to him, he concedes that the place from where the articles of DISHA were recovered is not covered in the photographs or videograph.²¹⁹⁴ CW-16, the head of SIT concedes that it is not stated in recovery

²¹⁸⁸SW-3, Response to Q 113, p 104, Vol I, Deposition of Witnesses.

²¹⁸⁹CW-31, p 1085, Vol IV, Deposition of Witnesses

²¹⁹⁰CW-31, Response to Q 27, p 1095, Vol I, Deposition of Witnesses.

²¹⁹¹CW-31, Response to Q 28, p 1095, Vol I, Deposition of Witnesses.

²¹⁹²CW-31, Response to Q 31, p 1096, Vol I, Deposition of Witnesses.

²¹⁹³SW-3, Response to Q 483, p 199, Vol I, Deposition of Witnesses,

²¹⁹⁴SW-3, Response to Q 484, p 199, Vol I, Deposition of Witnesses.

panchanama that recovery was effected from the 5th bund,²¹⁹⁵ and that the spot of recovery is not marked in the sketch(Ex.C-8),²¹⁹⁶ and that there is no reference to 5th bund in the statements of any of the witnesses.²¹⁹⁷

19.16 The evidence in relation to the firing distance is also not found to be satisfactory. As per the case diary of SW-13, the firing distance between both parties appeared to be about 26 feet to 45 feet at the time of occurrence.²¹⁹⁸ However, in para 7.4.4 of the Final Report, Ex.S-14,²¹⁹⁹ the distance between the place of counter firing party and the place where the deceased were found is 90 to 95 feet. When CW-16, the head of SIT is asked to clarify, he states that distance between 5th bund and 6th bund is wrongly marked as 26-4 feet in the sketch (Ex.C-8) and that the actual distance is 26-4 meters and that the mistake arose because the measuring tape has meter on one side and feet on the other side and that the mistake was discovered during discussions²²⁰⁰ about one week before the preparation of final report.²²⁰¹ It is stated that the investigating officer was assisted by a clues team and it is difficult to accept such belated explanation.

19.17 Even the spent bullets are not seized from the scene of offence. CW-31 states that even though they put lot of efforts, including the efforts of Bomb Disposal Team, they were unable to trace spent bullets.²²⁰² While the contents of Ex.C-3 show that the seized material objects were taken over by the Investigating Officer (SW-3), as per the letter Ex.C-145, Dr Venkanna (CW-31) has handed them over to SHO, Shadnagar. As per the records, SHO Shadnagar ceased to be the Investigating Officer by the time of observation of scene of offence and it is not explained why the objects were handed over to SHO, Shadnagar. CW-31 states that someone assigned by SHO received those objects.²²⁰³ In this connection, it is apt to refer to a seizure report pertaining to the alleged seizure of the blood stained clothes of K. Venkateshwarlu and Aravind Goud. According to the Investigating Officer they were taken to CARE hospital by 8 AM on 06.12.2019. Therefore, their clothes could not have been seized at the scene of offence on 06.12.2019 at 8 PM. When SW-3 is asked whether the clothes of the injured police were seized, he

²¹⁹⁵CW-16, Response to Q 23, p 699, Vol III, Deposition of Witnesses.

²¹⁹⁶CW-16, Response to Q 24, p 699, Vol III, Deposition of Witnesses.

²¹⁹⁷CW-16, Response to Q 26, p 700, Vol III, Deposition of Witnesses.

²¹⁹⁸SW-3, Response to Q 107, p 103, Vol I, Deposition of Witnesses.

²¹⁹⁹Ex.S-14, pp 110-148, Vol I, State Exhibits.

²²⁰⁰CW-16, Response to Q 29, p 701, Vol III, Deposition of Witnesses.

²²⁰¹CW-16, Response to Q 30, p 702, Vol III, Deposition of Witnesses.

²²⁰²CW-31, Response to Q 42, p 1099, Vol I, Deposition of Witnesses.

²²⁰³CW-31, Response to Q 104-105, p 1114, Vol I, Deposition of Witnesses.

says they were not seized.²²⁰⁴ After being confronted with the statement of Venkateswarlu²²⁰⁵ and copy of letter of advice,²²⁰⁶ he states that there is a seizure report Ex.C-9.²²⁰⁷ As per Ex.C-9 the clothes of injured police officers are seized at the scene of offence at 8 pm. But SW-3 states that Ex.C-9 was prepared at CARE hospital on 07.12.2019. The attestors to Ex.C-9 are the same persons who have attested the pancahanamas and seizure reports prepared at scene of offence. CARE hospital is at a distance of 50 to 60 KMs from the scene of offence and the attestors are residents of area near the scene of offence and there is no reason to associate the same attestors for the alleged seizure at CARE hospital and no reason is forthcoming for not noting the date and time correctly. For all these reasons, it is to be held that the evidence relating to the proceeding relating to observation of scene and seizure of material objects at the scene, is not at all creditworthy. Surprisingly, CW-32 who is said to have treated the injured policemen in the first instance at Community Health Centre, Shadnagar, states that the clothes of the injured policemen were not at all stained with blood.²²⁰⁸

19.18 The investigating officer, SW-3 in his deposition has admitted that the pistol pouch as shown in the inquest report is not to be seen at the same spot in Ex.C-8.²²⁰⁹ He admits that there are other discrepancies as to the distance of this pistol pouch. He admits that two sticks which are shown as found in the inquest report, are not shown in Ex.C-8 and in the latter, they are found at a different spot.²²¹⁰ Similarly, a stone which is found in the inquest report is not shown in the Ex.C-8, rough sketch.²²¹¹ Curiously, he admits that the distance between the dead bodies of Arif and Shiva in the inquest report differ from the distance shown in Ex.C-8.²²¹² Cartridges which are shown in the inquest report, the witness admits are not shown in the rough sketch.²²¹³ He also admits that the position of the black coloured pistol pouch does not tally with the sketch at Ex.C-8,²²¹⁴ nor does the position of the brown colour pistol pouch tally²²¹⁵. The only conclusion that can be drawn from such discrepancies between the inquest report and Ex.C-8 is that, the scene

²²⁰⁴SW-3, Response to Q 118, p 105, Vol I, Deposition of Witnesses.

²²⁰⁵P 334, Book No. 1.

²²⁰⁶P 432, Book No. 1.

²²⁰⁷Ex.C-9, p 126-127, Vol I, Commission Exhibits.

²²⁰⁸CW-32, Response to Q 65, p 1154, Vol IV, Deposition of Witnesses.

²²⁰⁹SW-3, Response to Q 504, p 205, Vol I, Deposition of Witnesses.

²²¹⁰SW-3, Response to Q 509, p 207, Vol I, Deposition of Witnesses.

²²¹¹SW-3, Response to Q 510, p 207, Vol I, Deposition of Witnesses.

²²¹²SW-3, Response to Q 511, p 207, Vol I, Deposition of Witnesses.

²²¹³SW-3, Response to Q 512 and 514, p 208-209, Vol I, Deposition of Witnesses.

²²¹⁴SW-3, Response to Q 513, p 208, Vol I, Deposition of Witnesses.

²²¹⁵SW-3, Response to Q 508, p 206, Vol I, Deposition of Witnesses.

of incident may have either been tampered or the scene has been created to suit the convenience.

19.19 Since the action of the police officers was under scrutiny in CR No. 803 of 2019 and since the State Police was investigating the case, it was all the more necessary to maintain transparency so that it may not be accused that there was no fair and proper investigation. It is seen that since the investigation was handed over to a Special Investigation Team (SIT), the Hon'ble Supreme Court while appointing this Commission, specifically permitted SIT to continue the investigation. It would be expected that when a Special Investigation Team headed by Senior Officers of the Department take up investigation as a team, there would not be any negligence whether designed or otherwise and that there would not be any shortcomings in the investigation. However, the investigating agency in CR No. 803 of 2019, has not made any such attempts to collect scientific evidence immediately. In stark contrast, the material in CR No. 784 of 2019 placed before the Commission in Books 10 and 11 and also through the affidavit of CW-44 Vasam Surender, the investigating officer in CR No. 784 of 2019 and the documents enclosed to his affidavit show that a large amount of scientific evidence in the form of CCTV footage and call details records has been collected. In fact, the CCTV footage shows that there is very effective network of CCTV in the State of Telangana even in rural areas along the highway in particular. In fact, it is claimed in the press conference held after the arrest of the accused that scientific evidence played a crucial role in the detection of the crime and apprehension of the offenders. During the investigation in CR No. 803 of 2019, there is not only a failure to collect scientific evidence but it is also noticed that some evidence routinely collected such as all the relevant photographs and entire footage of video recordings, are not placed before the Commission and it also appears that some attempt is made to manipulate some of the material documents such as statements recorded under Section 161 and log books of the vehicles etc.

19.20 It is seen that such scientific evidence is collected in CR No. 784 of 2019 even though there is no order/direction by any court. In fact, collection of evidence is a routine matter and no specific directions are required. But in this case though there are specific directions by the High Court of Telangana, the Investigating Officer and the SIT do not appear to have made sincere attempts collect such scientific evidence.

19.21 As per the order of the High Court in W.P. (PIL) 173 of 2019, dated 21.12.2019, SIT was directed to collect all the necessary evidence which may be useful for the perusal of

the Commission. A specific direction was also issued to collect the call details record and the details with regard to cell tower location.

19.22 A special mention is required to be made regarding collection of CCTV footage. One of the directions issued by the High Court of Telangana was to collect CCTV footage of the police station from where the alleged offenders were taken. The concerned police station is Shadnagar. In his examination, the Investigating Officer, J. Surender Reddy (SW-3) was confronted with the notices to SHO Shadnagar and others dated 26.12.2019 issued under section 91 Cr.P.C. for production of CCTV footage at Pages 810, 811 and 812 of Book No. 2, where under he has directed SHO Shadnagar to produce CCTV footage of Shadnagar police station for the period 29.11.2019 to 06.12.2019.²²¹⁶ According to SW-3, he issued the notices²²¹⁷ as per the directions of High Court and the SHO, Shadnagar informed that data is not available because the CCTVs were not functioning from 29.11.2019 to 10.12.2019,²²¹⁸ and that SHO gave information orally.²²¹⁹ As per the letter of Additional Director General of Police (Law & Order), Telangana, dated 13.03.2020 in LR. No. 780/C-3/2020 to the Commission Ex.C-75,²²²⁰ it is stated that there are no CCTV cameras available in Shadnagar Police Station. When the witnesses are confronted with that letter, Sridhar Kumar maintains that CCTVs were in working condition²²²¹ and that he informed the Investigating Officer that the footage is not available due to lapse of time.²²²² But SW-3 maintains that SHO Shadnagar orally²²²³ informed him that CCTVs were not functioning. As regards the reply to the notice under Section 91 Cr.P.C., the Investigating Officer states that Sridhar Kumar gave oral reply and that however he has not recorded the same in his case diary.²²²⁴ On the other hand, Sridhar Kumar states that the CCTV cameras were in working condition between 28.11.2019 and 06.12.2019 and that he cannot produce them as the back-up is only for 10 days²²²⁵ and that he did not preserve the same as he did not think it necessary and that he did not think the CCTV camera footage would be of use.²²²⁶ Sridhar Kumar states that he informed the Investigating Officer that the footage of the relevant period was not

²²¹⁶SW-3, Response to Q 181, p 116, Vol I, Deposition of Witnesses.

²²¹⁷Ex.C-76, p 1049-1050, Vol IV, Commission Exhibits.

²²¹⁸SW-3, Response to Q 182, p 116, Vol I, Deposition of Witnesses.

²²¹⁹SW-3, Response to Q 1823, p 116, Vol I, Deposition of Witnesses.

²²²⁰Ex.C-75, p 1047-1048, Vol IV, Commission Exhibits.

²²²¹CW-15, Response to Q 3, p 615, Vol IV, Deposition of Witnesses.

²²²²CW-15, Response to Q 8, p 616, Vol I, Deposition of Witnesses.

²²²³SW-3, Response to Q 183, p 116, Vol I, Deposition of Witnesses.

²²²⁴SW-3, Response to Q 187, p 117, Vol I, Deposition of Witnesses.

²²²⁵CW-15, Response to Q 4, p 615, Vol II, Deposition of Witnesses.

²²²⁶CW-15, Response to Q 5, p 615, Vol II, Deposition of Witnesses.

available by the date the request was made as the time period had lapsed and that he gave a written reply²²²⁷ stating that the CCTV footage for the period 29.11.2019 to 06.12.2019 was not available²²²⁸ and that however he cannot produce a copy of the reply²²²⁹ as he has been transferred from that police station. But the Investigating Officer, when recalled and examined, maintains that Sridhar Kumar did not give any written reply. Mr Mahesh Bhagwat, CW-16 also says that Sridhar Kumar did not give any reply.²²³⁰

19.23 Since the version in Ex.C-75 is at variance with the evidence of the Investigating Officer and Sridhar Kumar, there is a feeble attempt from the evidence of Mr Mahesh Bhagwat when he says that in the state of Telangana, there are community CCTV's sponsored by the local community and that such cameras may have been installed in Shadnagar P.S. and as such in the official record they couldn't find Government cameras installed in Shadnagar P.S.²²³¹ When it is known to the authorities that CCTV's sponsored by the local donors are installed in some Police Stations, the Addl. DGP while giving information ought to have enquired whether any such CCTVs sponsored by local donors are installed in Shadnagar P S. However, the discrepancy whether the CCTVs were not functioning as stated by the Investigating Officer or whether the back-up was lost due to lapse of time as stated by Sridhar Kumar and whether Sridhar Kumar gave a written reply to notice u/s 91 Cr.P.C. or only gave an oral reply still remains and there is no explanation. In answer to a question whether the CCTV's were installed and not working, or were the CCTV's were never installed at all at Shadnagar police station, Mr Mahesh Bhagwat states that Investigating Officer, J. Surender Reddy couldn't get any reply from the SHO Shadnagar.²²³² Mr Mahesh Bhagawat states that no such recordings were recovered from the above places because by the time the collection started the storage capacity was exhausted.²²³³ He doesn't explain why the collection was started late and whether it was necessary for the High Court to issue any such directions and whether it was not necessary to forthwith collect all evidence.

19.24 The evidence is discrepant in relation to other CCTV footages also. To a question, he has stated that CCTV footage en route Ravi guest house to Chatanpally were

²²²⁷CW-15, Response to Q 142, p 649, Vol II, Deposition of Witnesses.

²²²⁸CW-15, Response to Q 143, p 649, Vol II, Deposition of Witnesses.

²²²⁹CW-15, Response to Q 144, p 649, Vol II, Deposition of Witnesses.

²²³⁰CW-16, Response to Q 46, p 708, Vol III, Deposition of Witnesses.

²²³¹CW-16, Response to Q 47, p 708, Vol III, Deposition of Witnesses.

²²³²CW-16, Response to Q 46, p 708, Vol III, Deposition of Witnesses.

²²³³CW-16, Response to Q 44, p 707, Vol III, Deposition of Witnesses.

exhausted²²³⁴ and the same is contrary to paragraph 30 of his affidavit²²³⁵ where he has stated that there are no CCTV's en route Ravi guest house to Chatanpally and when sought clarification whether CCTV footages enroute Ravi Guest House to Chatanpally were not available or they were exhausted, the Investigating Officer has stated that they were exhausted and that due to insufficient storage, the backup capacity was exhausted. When asked which of his two statements are correct, he has stated that his statement made in deposition is correct and that what is stated in his affidavit is a typing error.²²³⁶

19.25 In answer to a question by the Tribunal, the Investigating Officer has stated that he has not collected any footage of CCTV either from Shadnagar Police Station or Ravi Guest House or enroute Ravi Guest House to the place of the incident.²²³⁷ At last he states that since there were number of eye witnesses, and there was recovery of articles and evidence of safe house witnesses and vehicle log books and also FSL reports, he did not consider it necessary to get the CCTV footage.²²³⁸ The entire evidence on this aspect shows that there is deliberate suppression of crucial evidence which has a bearing on the matter under inquiry.

19.26 Thus, both the Investigating Officer and Sridhar Kumar state that they did not consider the CCTV footage of any use and therefore they did not make any attempt to collect CCTV footage. It is bounden duty of Investigating agency to collect all evidence and here is a case where the Investigating Officer starts making attempt only after the directions by the High Court and such attempts are also half-hearted attempts.

19.27 During his examination on 16.10.2021 the Investigating Officer produced a memory card and a pen drive said to be containing the complete original footage of the video recordings of the scene of incident and inquest proceedings and digital photographs recorded by clues team and said to have been handed over to him by Dr N. Venkanna. The pen drive was opened before the Commission and there were 25 video clippings with Numbers 02946, 02947, 02955, 02956, 02959, 02960, 02964, 02967, 02968, 02969, 02970, 02972, 02973, 02975, 02976, 02979, 02981, 02982, 02983, 02985, 02991, 02994, 02998 and 03004. The video clippings were played on the screen. The Investigating Officer admitted that the video does not cover the topography of the scene and more particularly the spot from where DISHA's articles were recovered. The Investigating

²²³⁴SW-3, Response to Q 169, p 113, Vol I, Deposition of Witnesses.

²²³⁵Ex.S-17, Page 56 Vol, I Deposition of Witnesses.

²²³⁶SW-3, Response to Q 170, p 114, Vol I, Deposition of Witnesses.

²²³⁷SW-3, Response to Q 190, p 118, Vol I, Deposition of Witnesses.

²²³⁸SW-3, Response to Q 184, p 116, Vol I, Deposition of Witnesses.

Officer admits that they are not in seriatim. The length of many of the clippings is too short. They also appear to have been modified. There is no explanation by the State as to why the entire footage is not placed before the Commission. The Commission has issued summons to media houses to produce available photos, videos and paper clippings covering the incident and accordingly several such videos and photos were produced and the copies of the same have been given to all the counsel. The said videos show better coverage than what is found in the videos and photos produced by the state.

19.28 There is so much discrepancy with regard to production of the medical records of CARE hospital. The Investigating Officer initially states that the CARE hospital refused to give medical records of the injured policemen who were treated in hospital. After the records were summoned from the CARE hospital, it was noticed that the records were in fact, given to one Assistant Sub-Inspector by name Somaiah. When the investigating officer was confronted with the said endorsement, Investigating Officer produced a set of records. They are only copies of the records and not the original records. He says that the original case sheets were not received and by mistake it was stated in the case diary that original case sheets had been collected. Thus, the original records of care hospital said to have been given to the Assistant Sub-Inspector Somaiah have not seen the light of the day. The x-ray films and CT scan films are said to have been handed over to the attendants of the patients but they plead ignorance about the said same. In fact, the crucial CT scan film of left shoulder or even the report of the CT scan which is said to have identified the hairline fracture of Aravind Goud is neither produced before the commission nor even referred to in the discharge summary.

19.29 All the material witnesses including the 10 police officers who participated in the investigation on 06.12.2019 have stated that their statements were not recorded by the Investigating Officer in their presence and that the statements are not recorded accurately and that what is stated by them has been omitted and what is not stated by them has been incorporated. Thus, the police officers make accusations against officers of their own department. From the material available on record, there is nothing to suggest that either the State or the Investigating agency is antagonistic to 8B noticees. If anything, they are more than eager to help the 8B noticees. Therefore, the allegation that the Investigating Agency has not recorded the statements as told by them does not appear to be acceptable. It is therefore to be held that whenever any statement convenient to the 8B noticees is not found in their statements, it is stated that the Investigating Officer did not record the statements properly.

- 19.30 The way in which the investigation has been done would raise a great deal of doubt. It does not appear to be a case of mere instance of faulty investigation and it appears to be a case of deliberate withholding of best evidence & screening of material evidence so as not to place the true version.
- 19.31 The case diary from day 1 shows that the Investigating Agency proceeded on the basis that it is a “case of exchange of fire” while arresting the accused and the same caption continues in the case diary till the end and the conclusion also follows the same line.
- 19.32 The entire material placed by the state does not show that the other members of SIT had taken any part in the investigation except a copy pasted case diary of Ms Apoorva Rao and in view of the various lapses noted during the inquiry by the Commission, the SIT does not appear to have supervised the investigation made by J. Surender Reddy at any point of time or on any particular aspect. It is true that SIT was formed a few days later and SIT may not be held responsible for the lapses in matters such as delay in lodging the report and in not safeguarding the scene of incident and in not taking and preserving proper photos and video recording of the scene of offence and in conducting proper observation of the scene of offence. But immediately after the formation of the SIT, necessary steps ought to have been taken to preserve the available evidence more particularly the scientific evidence such as CCTV footage, call records etc. The claim of juvenility at least in respect of some of the accused has been made during the inquiry conducted by NHRC team, even according to the evidence of CW-44. But SIT has not made any efforts to find out whether the claim is true or not.
- 19.33 The manner in which the dead bodies have been dealt shows scant respect for human rights. CW-9 states that as per NHRC guidelines, the dead body should be treated with respect.²²³⁹ He states that all the 4 bodies were shifted to the hospital for post-mortem in an ambulance.²²⁴⁰ CW-9 on the next date of his examination states that the bodies were put in Tata Ace ambulance.²²⁴¹ The attention of CW-9 was drawn a video clip (Ex.C-46) which showed the arrival of the body of Md. Arif at the hospital for post-mortem examination and it showed that the bodies of all the four deceased were brought in a goods vehicle and the witness states that according to his version, it is an ambulance.²²⁴²

²²³⁹CW-9, Response to Q 39, p 466, Vol II, Deposition of Witnesses.

²²⁴⁰CW-9, Response to Q 40, p 467, Vol II, Deposition of Witnesses.

²²⁴¹CW-9, Response to Q 73, p 475, Vol II, Deposition of Witnesses.

²²⁴²CW-9, Response to Q 83, p 478, Vol II, Deposition of Witnesses.

20 FINDINGS OF THE COMMISSION

- 20.1 Having considered the extensive oral, documentary and other material evidence on record, having examined the same in the light of the probabilities, and having heard the submissions advanced before it, the Commission now proceeds to consolidate the necessary conclusions in order to answer the points of reference set out in the order of the Hon'ble Supreme Court.
- 20.2 It is to be noted that the Hon'ble Supreme Court even while constituting the Commission, permitted investigation by the Special Investigation Team (SIT) to continue. The witnesses examined by the Commission and the documents referred to by the Commission are substantially the same as in the Final Report submitted to the concerned court by the SIT. The only difference is that the SIT has limited itself to examine the events from the time the deceased suspects were taken from the Central Prison, Cherlapally, to the Safe House till the incident resulting in their death whereas, the Commission has considered the additional crucial aspects of legality of the arrest, remand to judicial custody, remand to police custody and the issue pertaining to the claim of juvenility of the deceased suspects. The importance of the additional aspects had become sufficiently clear soon after the incident.
- 20.3 The parents of the deceased suspects in their affidavits filed before the Commission, have in addition to the allegation, that, it is not an encounter as alleged by the State, alleged that the deceased suspects were arrested illegally and also that the deceased suspects were juveniles. The issue of juvenility was also raised during the inquiry by the NHRC team. Immediately after the incident, even in the Writ Petitions filed before the Hon'ble Supreme Court and Hon'ble High Court for the State of Telangana, the issues of juvenility were raised. Therefore, it is wrong for the State of Telangana to contend that it was raised for the first time before the Commission, since it was already aware of the issues, as in W.P. (PIL) 185 of 2019 filed by *Prof P.L. Vishweshwer Rao v. State of Telangana*, a specific issue of juvenility was raised. In that Petition, the State of Telangana was represented by its Advocate General. Hence, the Commission had to look into these aspects. The objections raised by the 8B noticees and the State regarding the scope of inquiry, were considered and appropriate orders were passed. Similarly, the objections regarding certain procedural aspects were also heard, considered and appropriate orders were passed.
- 20.4 After their arrest, the deceased suspects are said to have made confessional statements at Shadnagar P.S. on 29.11.2019 wherein, they are said to have stated that the articles of

Disha were hidden by them in the bushes near the place where her dead body was burnt and the deceased suspects are also said to have offered to take the police to the said place. However, it is stated that in view of the protests by the mob and apprehension of attack on the deceased suspects, in the event of taking them out to effect recovery of the articles, the deceased suspects had been remanded to judicial custody on the orders of the Executive Magistrate. Later, on the application of the Investigating Officer in CR No. 784 of 2019 (CW-44), the Judicial Magistrate granted police custody for a period of 10 days.

20.5 It is stated that in view of the threat to the deceased suspects, a safe house was identified and the same was taken on lease. There are several contradictions relating to lease of the safe house. In the statement of Anil Kumar (CW-25), Manager of the Guest House, recorded by the Investigation Officer in the first instance, and submitted to the Commission by the Additional Director General of Police, there is no reference to execution of any rental deed. However, a second statement of CW-25, which surfaced for the first time before the Commission along with the SIT Report, contains a reference to execution of a rental deed. The seizure memo of the said rental deed though said to have been prepared is not produced. Similarly, CW-25 states that usually they do not give the guest house to an outsider and that when the police came and asked for a rental receipt, he has issued a rental receipt for 3 days. Considering the gravity of the incident on 06.12.2019, neither party would be in a great hurry to settle the payment of rent for the guest house. But here is a case where CW-44 is said to have paid rent on 07.12.2019, though CW-25 states that he received rent after about 10 days and in any event, there is no record of the payment of rent in the accounts maintained at the Police Station. Hence the entire case that the safe house was taken on lease is thoroughly false and unacceptable.

20.6 In these circumstances, the crucial question that arises is whether the deceased suspects made a second set of confessional statements at the safe house pursuant to the interrogation. The deceased suspects were said to have been brought to safe house, contending that their long interrogation was necessary to find out if they were involved in similar offences. But strangely enough, CW-44 does not even visit the safe house for 21 hours after the deceased suspects were allegedly taken there. Even after he arrived at the safe house, he states that he did not interrogate the deceased suspects and he only introduced the deceased suspects to the panchas and the panchas recorded the confessional statements of the deceased suspects. Both in the case diary and in the

affidavits of CW-44 to CW-53, it is stated that the deceased suspects were interrogated by CW-44. The reason for this volte face is not forthcoming. The fact that they were not interrogated by CW-44 at the safe house falsifies the reason set out to bring the deceased suspects to safe house. A belated version is put forth that the deceased suspects were interrogated by one Venkata Reddy, an Asst. Investigating Officer. The interrogation reports said to have been prepared by the Asst. Investigating Officer do not see the light of the day till CW-44 filed his affidavit before the Commission. In his statement before the NHRC team, CW-44 has stated that there is no record of interrogation made by the said Venkata Reddy. SW-3, J. Surender Reddy has also stated that there is no record of such interrogation. They are not part of the record of CR No. 784 of 2019 submitted to the Commission at the earliest point of time. Even otherwise the alleged interrogation reports do not contain anything except for some details of phone numbers of the deceased suspects and their family members. Thus, the alleged interrogation by Venkata Reddy, Asst. Investigating Officer, cannot be accepted as true. It appears that the alleged interrogation and the interrogation reports are introduced only to make it appear that some investigation was done on the morning of 05.12.2019 at the safe house.

20.7 It is stated that the deceased suspects made confessions at the safe house in the presence of two panchas - Rajashekhar (SW-4) and Abdul Rauf (CW-30). As seen in the preceding paragraphs, CW-44 claims to have only introduced the panchas to the deceased suspects. Therefore, the veracity of the evidence of SW-4 and CW-30 must be rigorously tested. Both these witnesses in their statements recorded u/s 161 Cr.P.C., in their affidavits filed before this Commission and shockingly even in their statements recorded u/s 164 Cr.P.C. before the judicial magistrate, have stated certain facts which are not at all found in the confessional statements allegedly recorded at the safe house on 05.12.2019-06.12.2019, which facts are found only in the confessional statements said to have been recorded at Shadnagar Police Station on 29.11.2019. Thus, the statement *“on the evening at about 6 PM a girl aged about 20 to 25 years parked her scooty near their lorry and she boarded a car near the tollgate and went away and all the 4 deceased suspects hatched a plan to rape her and that after she left they deflated the rear tyre and that after she returned, they offered to get the tyre punctured”* is not found in the confessional statements said to have been recorded at safe house in their presence. This would suggest that Rajashekhar (SW-4) and Abdul Rauf (CW-30) may not have witnessed any such recording of confession at the safe house, that they have simply reproduced in whatever manner they were tutored and the person who has briefed the witnesses appears to have relied upon

the confessions said to have been recorded at police station. Hence, it is to be concluded that the deceased suspects did not make any confessional statement at the safe house on 05.12.2019 and 06.12.2019.

20.8 Even otherwise, the credibility of the panchas – SW-4 and CW-30, who are the only independent witnesses is in serious doubt. Their evidence is found to be discrepant in many important respects. Though it is stated that they were present at the time of seizure of the articles of Disha, under Ex.S-30, they do not refer to it in their affidavits. Though they figure as witnesses during inquest held between 12.45 PM and 2.45 PM, they do not state about the same in their statements under Section 164 Cr.P.C. or 161 Cr.P.C., wherein they have stated that they returned to the scene in the evening of 06.12.2019. Even with regard to the incident, they have made several inconsistent and self-contradictory statements and some of the statements are at variance with their prior statements. For instance, SW-4 stated that at the time of incident, he did not know that two police people were injured in that incident and after the incident was over, he found two persons lying down. In his statement before NHRC team, SW-4 has stated that he did not see any accused person attacking police personnel. Similarly, CW-30 states that he was present in a tent erected at the scene from morning to evening and that he was called by the police in the evening. Hence, the evidence of the alleged independent witnesses is not at all creditworthy.

20.9 The version that the deceased suspects were taken to Chatanpally pursuant to their alleged confessions for effecting recovery in the din of the night is also thrown to the winds for another reason. The evidence on record shows that there is a serious contradiction whether the bus that was allegedly used to transport the deceased suspects was secured before or after recording of the alleged second confession. The various statements of CW-27, including his deposition demonstrate that he reached the safe house along with the bus latest by 12 AM on 06.12.2019, which leads to the irresistible conclusion that much before the alleged confessional statements were recorded, a decision had been taken to take the deceased suspects to Chatanpally for recovery.

20.10 Similarly, the evidence regarding the time at which they left the safe house and the time at which they reached Chatanpally is also varied. The time at which the police party reached Chatanpally is also not free from discrepancies. If they had left the safe house at 3 AM as claimed by them, the journey should not have taken more than an hour or one and half hours and they would have reached by 4.30 AM, which is the time the witnesses have stated before the NHRC team. But they claim that they reached at about 5.30 AM.

Both on the basis of the statements recorded by NHRC team and also on the basis of the journey time observed by us during our visit to the site, it is to be held that if the bus had left the safe house at 3 AM, it would have reached Chatanpally by 4.30 AM. More importantly, it is the consistent version of all the witnesses before the NHRC that by the time they reached Chatanpally, it was dark and they stayed in the bus till 5.30 AM as per the instructions of CW-44. Therefore, if the bus had left the safe house at 3 AM, it would have reached Chatanpally at about 4.30 AM and since it would be dark, they all stayed in the bus for more than an hour. It is claimed that the bus travelled through a service road along the Outer Ring Road. It is not explained why the bus did not travel through the Outer Ring Road which is an 8-lane expressway. At any rate, the bus would have certainly travelled through Tondupally toll plaza where the entry of the vehicle would have been recorded in the CCTV camera. It is not explained why such crucial evidence is not collected.

20.11 Another curious aspect is that there are two log book extracts produced before the Inquiry Commission for the same journey by the same bus bearing number TS 09 PB 4760. One is Ex.S-28 and another Ex.C-128. However, it is seen from the photographs and videos collected from the media houses that the bus bearing no. 4760 was present at Chatanpally. Therefore, even if the police party had travelled from safe house to Chatanpally in that bus, the claim that the bus reached Chatanpally at 5.30 AM cannot be accepted. The evidence in regard to the time at which the police party reached Chatanpally is also to be viewed with suspicion. On the one hand it is stated that there was enough light even by the time they alighted from the bus, and on the other hand it is stated that they were carrying three dragon lights. Having stated that they were carrying three dragon lights, all held by the three senior police officers, they later stated that they did not have to use the dragon lights in the fields since the light had significantly improved as there was clear visibility by the time of the firing incident. Since they have all stated that they did not use the dragon lights as there was sufficient light, there was no need to carry the dragon lights in their hands at the time of the incident. The claim that CW-45 Narasimha Reddy was holding a torch light in his right hand when he was looking for material object at the fifth bund, appears to be absurd and the same appears to have been introduced to make it probable that the deceased suspects snatched the pistol of CW-45.

20.12 Since it is found in the above paragraphs that there was no second confession at the safe house, there was no necessity at all to enter the agricultural fields. It may be recalled

that as per the confessions recorded at Shadnagar P.S., the deceased suspects are said to have stated that they had hidden the articles of Disha in the bushes at some distance from the place where the dead body was burnt. It is claimed that in the second confessions, the deceased suspects stated that they have hidden the articles near a big electric pole on the eastern side at some distance from where the body was burnt. In this regard, the Commissioner of Police, V.C. Sajjanar (CW-38) has stated in the press conference held on 06.12.2019 at the scene of occurrence that, the articles of Disha were recovered from behind the bushes. However, when he was confronted with this during his examination by the Commission, he stated that it is erroneous.

20.13 Another pertinent aspect to be examined is whether the deceased suspects would have travelled up to the alleged spot of recovery at the *fifth bund* on the intervening night of 27.11.2019 and 28.11.2019 to hide the articles of Disha. The Commission inspected the scene of incident. It is approximately 500 meters from the Service Road of the National Highway 44, in the middle of the fields. There was a barbed wire fence separating the fields from the service road. There was no electrical light available in that area. The photographs and videos of the scene of incident on 06.12.2019 reveal that the land was covered with lush green weeds. Traversing that land in day time itself is difficult if one is not familiar with the lay of the land. Traversing it during night time without light or even with some form of light would be extremely difficult and time consuming. It is not believable that the deceased suspects who went to Chatanpally allegedly to dispose of the dead body of the victim girl would have taken the time to move across the field to hide the articles of the victim girl. Moreover, there were several bushes bordering the service road where the articles could be hidden. Therefore, it is highly improbable that the deceased suspects could have travelled up to the *fifth bund*, the alleged spot of recovery.

20.14 For knowing what actually transpired at the *fifth bund*, it would be first necessary to examine whether there is any reference to fifth bund as the exact location of the incident. Whatever be the truth in respect of the claim that the deceased suspects made confessional statements that they had hidden the articles in the said field, the present claim in the affidavits filed before the Commission that the said articles were found at the *fifth bund* and were recovered from the *fifth bund* in the said field, is a substantial improvement. There is no reference to any such *fifth bund* in any of the prior statements of any of the witnesses. There is no reference to *fifth bund* in the scene observation panchanamas at the scene of occurrence or in the sketch drawn by the Investigating Officer. All the witnesses CW-44 to CW-53 pleaded inability to draw a sketch of the

scene of occurrence. The *fifth bund* is not shown in any of the photographs filed by the State. No such *fifth bund* is cordoned off to protect the scene. If at all any such incident had occurred at a particular location called *fifth bund*, there would have been found any amount of tell-tale evidence such as soil said to have been thrown at the police party by the deceased suspects, pile of stones said to have been thrown at the police party.

20.15 As regards the recovery of the said articles on 06.12.2019, there is a major discrepancy. There is one scene of observation mahazar at 3 PM (Ex.C-3) and as per the said mahazar, the pit where the articles of Disha were concealed was covered with two big stones. As per the evidence of CW-44 to CW-53, CW-30 and SW-4, the stones had already been removed and the polythene cover was visible by the time of the incident of firing. There is another mahazar, the panchanama conducted at 05.10 PM (Ex. S-30), where it is stated that they found a part of polythene cover and that on picking up the same, they found the cell phone, power bank, wristwatch and a wire. Thus, the stones with which the pit was said to have been covered at 3 PM are not found at 5.10 PM. The exact place where the articles of Disha were found is not identified either in the sketch or by showing any photographs etc. The available evidence also shows that the area where the articles of Disha were found was not even guarded and protected. Hence the claim that the articles of Disha were hidden in a pit at the *fifth bund* and that they were subsequently recovered from the scene of offence, more particularly at the *fifth bund*, is not at all established.

20.16 It is also strange that no steps have been taken to have the alleged articles identified by the family members of Disha. SW-2, the sister of Disha has categorically stated before the Commission that she was not summoned by the police after the incident on 06.12.2019. The record would show that till the time of examination of SW-2, the articles allegedly recovered were not shown to the family members of Disha for identification. The Investigating Officer (SW-3) in CR No. 803 of 2019, SW-3 was asked as to who identified the alleged articles recovered as those belonging to Disha. SW-3 stated that he had verified with the sister of Disha on 07.12.2019 and that he had not recorded the statement of sister of Disha under Section 161 Cr.P.C. SW-3 also stated that finger prints of the deceased suspects were not found on the alleged articles of Disha and that they were not sent for forensic examination.

20.17 The allegation is that the escape of the deceased suspects was initiated with the throwing of mud on the police party. The throwing of mud/soil by the deceased suspects is not stated in the Complaint, Ex.S-2, prepared and filed by CW-44, neither in the

statements of SW-4 and CW-30 under Section 161 or 164 Cr.P.C. nor in their statements before the NHRC team. This is also conspicuously absent from the statements of CW-49 and CW-50 recorded by the Magistrate in the inquiry under Section 176(1-A) Cr.P.C. It finds place in the statements of CW-44 to CW-53 under Section 161 Cr.P.C. That any such incident of the police team being incapacitated by throwing of soil and earth into their eyes, and which lead to an attempted escape by the deceased suspects in custody could have occurred, is somewhat strange considering the significant number of armed police men were present. The Commission collected a great number of contemporaneous photographs and videos of the Scene of Incident from the police and the Media. All the photographs and videos show that the scene of incident was a fallow land covered with lush green weeds and picking up soil from the ground is well-nigh impossible. A handful could have been collected only by scraping the ground with some effort, but nowhere enough to simultaneously throw in the eyes of twelve persons so as to incapacitate them and attack them.

20.18 Further it is to be noted that the leader of the police party, CW-44 deposed that the soil falling in their eyes was not sufficient to incapacitate them. Even though it is alleged that soil in such sufficient quantity so as to incapacitate all the 12 persons was thrown by the deceased suspects, it is surprising that there is no mention of such soil in the inquest report or scene of observation and seizure panchanama (Ex.C-3), nor is it found on the police uniforms and in the hands of the deceased suspects. In our opinion, it is highly improbable that such throwing of soil would not have impacted the deceased suspects, given that some of the witnesses have stated that the soil/dust travelled 10 feet. On account of the fact that the allegation of throwing of dust and earth is introduced belatedly and considering the improbabilities in the version, it is to be held that this allegation is an embellishment and introduced only to give a plausible explanation that the deceased suspects could escape from the custody of such a contingent of armed police party. All these aspects render this part of the version absolutely unbelievable.

20.19 Even as regards the claim of the two policemen of having sustained injuries about which there ought not to have been any discrepancies in the record, the Commission found multiple contradictions and absurdities. While the Status Report submitted by the SIT on 04.06.2020 and the case diary recorded by K Apoorva Rao, IPS (CW-17), indicate that both the officers suffered bleeding injuries, the subsequent stand of the police has been that only one police officer suffered a bleeding injury.

- 20.20 It is stated in the Final Report, Ex.S-14, that during the incident on 06.12.2019, Jollu Shiva, beat Saidupally Aravind Goud (CW-50) with a stick and that Jollu Naveen, beat K. Venkateshwarlu with stones. It is also stated that both the injured were shifted to Community Health Centre, Shadnagar, and from there to CARE Hospital. It is stated by CW-32 that he received three requisitions for the examination of the injured persons at 7 AM on 06.12.2019 and strangely the CR No. 803 of 2019 is noted in two requisitions, even though the case in CR No. 803 of 2019 is registered at 8:30 AM. CW-32 has noted the size of the laceration injury on the forehead of CW-49 as 2cms in the original medico legal register, whereas in the medico legal certificate issued by him, the size of the laceration injury is noted as 3cm x 1cm. There are corrections in relation to the entries of CW-50 in the medico legal register. In one set of documents, the injured policemen are said to have been referred to Care Hospital, and in the other set of documents, they are said to have been referred to Osmania General Hospital.
- 20.21 As regards the treatment at Care Hospital, it has been shown above that there are multiple discrepancies about the time at which the injured policemen are supposed to have been admitted. The original records of treatment at Care Hospital which have been admittedly handed over to the SIT are not produced before the Commission. No X-ray films or CT scans of the injured policemen are produced before the Commission. While it is alleged that CW-50 suffered an injury to his shoulder, his discharge summary records that the CT scans of his abdomen and brain have been taken, and there is a conspicuous absence of reference to any radiological examination of the shoulder. The injuries suffered by CW-49 on his forehead according to some medical records are on the left side and according to some medical records, it is on the right side. The nature of injuries suffered by them did not warrant their admission in a hospital, let alone being admitted in ICCU for three long days. In fact, the alleged treatment in ICCU is to be viewed with suspicion in view of the statement of CW-17, K. Apoorva Rao, that the injured policemen were in a general ward and not in ICCU.
- 20.22 It is claimed that the blood-stained clothes of the injured policemen were seized at Care Hospital on 07.12.2019, whereas the seizure memo shows that they were seized at the scene of incident on the evening of 06.12.2019. On the contrary, the evidence of CW-32, who is said to have treated the injured policemen in the first instance, is that the clothes of the injured policemen were not at all stained with blood.
- 20.23 Though the record shows that there was a history of transient loss of consciousness for five minutes in respect of CW-49, all the witnesses claimed that CW-49 and CW-50

were unconscious for a substantial length of time. CW-50, who is said to have suffered shoulder injury, also claims that he lost consciousness and in his statement before the judicial magistrate, he states that he regained consciousness only at Care Hospital. It is noticed that both CW-49 and CW-50 have stated before the Magistrate that even though they were unconscious, they could hear firing and siren sounds. If at all, they were injured so critically, they would have been shifted from the scene of offence immediately after the incident in an ambulance, but they were not shifted in the ambulance which came to the scene and they were said to have been shifted in a police vehicle.

20.24 Furthermore, the injured policemen who were said to have been shifted to the hospital at 8 AM, are shown as witnesses present and examined during the inquest conducted over the dead bodies between 12.45 PM and 2.45 PM. A belated attempt is made to get over this absurdity by contending that an Executive Magistrate, since deceased, spoke to the injured who were in ICCU through WhatsApp call.

20.25 For all the circumstances stated above, we find that the claim that the deceased suspects assaulted the policemen, that the two policemen sustained injuries as a result and that they were treated at hospitals is false.

20.26 The allegation of snatching of pistols from the policemen CW-44 and CW-49 is artificial and unbelievable. The evidence relating to snatching of weapons is best illustrated by the flip-flop evidence of CW-44, the leader of the police party. He first states that he saw weapons being snatched from both police officers with his own eyes and later states that he only saw one and heard about the other.

20.27 CW-45 in his deposition gave a graphic description of how Arif snatched his pistol along with the pouch. This story in its entirety is missing from all the previous statements of CW-45 including his affidavit filed before the Commission. It is highly improbable that he would have failed to mention such important details in the previous statements. Further, his subsequent conduct in not going to look for his pistol for which he is responsible is unnatural. Moreover, the narration of the snatching given by CW-45 is also not found in the statements of the other witnesses.

20.28 Similarly, the claim of snatching of pistol of CW-49 is also ridden with contradictions and inconsistencies. The other witnesses claimed at some places that they had seen CW-49's weapon being snatched, but at some other places they state that they only heard the shout of the pistol of CW-49 being snatched. CW-49, who is alleged to have carried his 9MM pistol in a black pouch, states that the pistol was snatched from the pouch leaving the pouch intact on his belt. The Commission is unable to comprehend how this is

possible because this would require the pouch to be opened and the pistol taken out, while the pouch was still hooked to the belt of CW-49. That apart, while CW-49 claimed that his pouch was left intact on his belt, a piece of the pouch is recovered at 3 PM *vide* Ex.C-3 on 06.12.2019. In his deposition, he has categorically admitted that no part of his pouch was separated from the whole. Surprisingly, a black coloured pistol pouch is again recovered at 8 PM *vide* Ex.C-9 from the agricultural fields. The absurdity does not stop there. The hospital record shows that a black coloured pistol pouch was handed over to CW-53 *vide* Ex.C-278 on 06.12.2019. Yet again, CW-49 in his deposition states that he handed over the pistol pouch to SW-3 on 07.12.2019. One can only wonder how many times the same pistol pouch is recovered multiple times from multiple places.

20.29 It is stated by SW-3 and other officers of the SIT that there is no material to indicate that the deceased suspects were familiar with the operation of fire arms. On the directions of the Commission, CW-45 brought a pistol to the Commission premises during the hearing and demonstrated the operation of the same. The process is complicated enough that a person unfamiliar with the use of firearms would not be able to operate the pistol easily and especially the operation of firearm would not be possible in the circumstances in which the deceased allegedly used them. Further it is admitted by both CW-45 and CW-49 that the pistols were carried by them in what is termed as “magazine load” position. That means in order to fire the weapon, the pistol has to be cocked to chamber load by pulling the slide. There is no evidence on record to suggest what was the position of the safety switch in the 9MM pistol on 06.12.2019. As stated by the Ballistics Expert, it is not possible for an untrained person to identify the safety switch and thereafter fire the weapon. It is also not conceivable that within a short span of time, as alleged by the police, the deceased suspects snatched the weapons, cocked the pistol and used it to fire.

20.30 These circumstances are compounded by the infirmities in the collection of gunshot residue (GSR) from the hands of the deceased suspects. The process of collection was neither photographed nor video graphed. The approved methods of collection were not followed. The analysis of the same is suspect. The experts before the Commission have also stated before the Commission that it is possible to plant GSR. For all these reasons, it has to be held that the deceased suspects could not have fired those pistols and in fact did not fire the pistols.

20.31 As regards the allegation that the deceased suspects fired at the police party even while running, the record shows contradictory statements by the witnesses. The most improbable part is that when Arif is alleged to have attempted to escape, the police would

have been alerted and they would have ensured that the other deceased suspects do not escape. Moreover, once they escaped and started running, it would be highly improbable that they would fire towards the police party while running. They would either run away or stand and fire at the police party. As discussed above it is not possible for the deceased suspects to have operated the firearms. Even if they could operate the firearms, their aim would only be to escape. They would not stand and enter into an exchange of fire with the police. Therefore, it has to be held that the deceased suspects could not have fired and run away simultaneously.

20.32 A version is sought to be projected that the deceased suspects might have died from the indiscriminate firing by Arif and Chennakeshavulu. This version is made untenable both by the fact that all the injuries to the deceased are all above waist on the vital organs and all the entry wounds are on the front side and exit wounds are on the back side. The forensic reports show that the injuries were caused by “high velocity copper jacketed rounds” and the evidence of Ballistics expert shows that the bullets of 9MM pistols allegedly snatched by the deceased suspects are not “high velocity” bullets whereas the bullets of AK-47 and the two SLRs wielded by the police party are “high velocity” bullets. As per the record, the bodies were lying in the four corners of a trapezium with the deceased suspects Shiva and Naveen who do not have any arms in the front and Arif and Chennakeshavulu with pistols at the back. The artificiality of the narration of the firing incident by the witnesses is best illustrated by a question put by the tribunal to CW-44 “DO YOU MEAN TO SAY THAT THE OTHER TWO INSTEAD OF RUNNING AWAY STOOD THERE WAITING TO BE SHOT DEAD?” and the answer by the leader of the team CW-44 “I CANNOT SAY”, is equally demonstrative of the helplessness of the witnesses to give a rational answer.

20.33 Therefore, it cannot be believed that the deceased suspects might have died due to the indiscriminate firing from the pistols allegedly snatched by them and it has to be held that all the deceased suspects died due to the injuries caused by the bullets fired by the police party. It cannot also be believed that the deceased suspects opened fire towards the police party.

20.34 Here is a case where there is a documentation at the earliest point of time, to the effect that SW-46, SW-47 and SW-48 claim to have opened firing on their own accord and initiative and without any command by CW-44. Such statements are found in the statements of SW-46, SW-47 and SW-48 recorded by NHRC. Of course, as usual, they deny having made any such statements before NHRC. It is found that in the record of

investigation by Special Investigation Team headed by CW-16, a command being given by CW-44 to open firing which resulted in the death of the deceased suspects, is conspicuously absent. On the other hand, there is a specific reference in the statements of all the witnesses recorded under Section 161 Cr.P.C. that CW 44 directed Lal Madhar to fire into the air. However, in their affidavits SW-4, CW-30 and CW-44 to CW-50 as well as other witnesses such as SW-3 speak of two commands to fire, one in the air and the second towards the sense of direction of sound. Thus, there are multiple variations in the statements of the police party and the panch witnesses regarding nature of command given by CW 44. On one extreme is the version that CW-44 did not issue any instructions whatsoever with respect to firing. On the other extreme is the version that CW-44 issued a command *specifically to CW-46 to fire into the air* and later issued a command *specifically to CW-46, CW-47 and CW-48* asking them to fire in the direction of sound to divert attention and apprehend the deceased suspects. In between, a version that CW-44 instructed *one command* after which CW-46 fired warning shots in the air. There is another version that CW-44 issued *two sets of commands to the police party*, first to fire into the air and later to fire in the direction of sound to divert attention and apprehend the deceased suspects. Lastly, there is another version that CW-44 issued a command specifically to CW-46 to fire into the air and *later issued a command to the police party* asking them to fire in the direction of sound to divert attention and apprehend the deceased suspects.

20.35 There are also many contradictions with regard to the second command. It is quite significant that three witnesses, CW-51 to CW-53, do not make any mention of a second command of firing at any point in time, including in their affidavits. The two panch witnesses in their statements made before NHRC team or in their statements under Section 161 or Section 164 do not make any mention of any command in firing apart from a general direction by CW-44 to catch the deceased suspects at any cost. However, their narration of the incident differs in their affidavit and they mention two commands of firing issued by CW-44.

20.36 These discrepant versions with regard to such a crucial aspect make it unclear whether the counter firing by the police party was initiated (i) in self-defence, (ii) to apprehend the deceased suspects or (iii) to open retaliatory fire. There is thus no clarity on the purpose for which firing was opened and this is extremely suspect since there is a clear admission that firing did indeed take place. It must be noted that the nature of firing, in terms of aim, frequency etc., would substantially differ depending upon the purpose and

in the present case, all the four deceased bear gunshot wounds in their upper torso and head, lending credence to the possibility that clear aim was taken at the deceased who were visible.

20.37 The evidence in relation to the firing distance is also not found to be satisfactory. As per the case diary of SW-3, the firing distance between both parties appeared to be about 26 feet to 45 feet at the time of occurrence. However, in paragraph 7.4.4 of the Final Report, Ex.S-14, the distance between the place of counter firing party and the place where the deceased were found is 90 to 95 feet. When Mahesh Bhagwat (CW-16) is asked to clarify, he states that distance between 5th bund and 6th bund is wrongly marked as 26.4 feet in the sketch (Ex.C-8) and that the actual distance is 26.4 meters and that the mistake arose because the measuring tape has meter on one side and feet on the other side and that the mistake was discovered during discussions about one week before the preparation of final report. CW-17, Apoorva Rao, a member of the SIT, states that the firing distance is 26-45 meters. and that the Investigating Officer has mistakenly noted it in terms of feet. Thus, according to CW-17, the distance would be approximately 78-145 feet. As per the status report, the distance is about 100 feet. There cannot be so many discrepancies.

20.38 As acknowledged by the Head of SIT, Sri Mahesh Bhagwat (CW-16) himself, the very nature of the command given by CW-44, that is, to shoot in the direction of sense of sound, and not to shoot on the deceased suspects but to shoot either at the side or down with an intention to catch them without losing their lives, are inconsistent with each other. Further, all three police officers who shot at the deceased suspects, i.e. CW-46 to CW-48, stated that the deceased suspects were clearly visible to them. If the deceased suspects were clearly visible to them, logically there arises no question of shooting in the direction of the sound.

20.39 Thus, it can be seen that there are multiple discrepancies on all crucial aspects from arrival at Chatanpally, the manner in which the police party travelled to the fifth bund, there are different versions of alleged recoveries, multiple versions of assault, contradictory versions on command to fire and firing. In such circumstances, where such glaring discrepancies are found with respect to material aspects, we fail to understand how they can be called minor discrepancies as contended by the State of Telangana.

20.40 It is the case of the police that the deceased suspects fired towards the police who were taking cover of the bund. The evidence of the police party is that none of the bullets hit them because of the bund. Some bullets might have hit the bund and lodged there. If

the police were firing towards the tree line, some bullets might have hit the trees or the intervening bunds, but no bullets were recovered. It is very curious that that no bullets were found at the scene of occurrence nor were all cartridges recovered, even though the status report dated 04.06.2020 specifically states that some firing took place pointing towards the ground. Ballistics show that a bullet fired either from a pistol or a rifle would travel considerable distance unless impeded by any object. But the empty cartridges ejected would be found around the place from where the shooter fired the firearm. In this case only 19 empty cartridges were recovered even though 41 rounds were allegedly fired from the two 9MM pistols, one AK-47 and two SLRs, and none of the bullets were found, even though SW-3 says that a search was made by using the services of Bomb Disposal Unit and metal detectors.

20.41 It is also to be noted that the record shows that the entire scene of the alleged firing was not secured. Therefore, without the recovery of all the empty cartridges, it is impossible to say that in fact 41 rounds have been fired. The non-recovery of the bullets also casts doubt on the version of firing.

20.42 While it is stated in the inquest reports that the scene observation and seizure mahazar was already conducted and the scene was already photographed and video graphed even before the inquest examination conducted between at 12.45 PM and 2.45 PM, what is placed before the Commission are the scene observation and seizure mahazars conducted at 3 PM and 5.10 PM. It is further noticed that there are irreconcilable discrepancies regarding the location of material objects such as the cartridges, sticks, stones, pouches, etc as noted in Ex.C-3 panchanama, as well as the sketch Ex.C-8 and the Inquest reports Ex.S-20. The investigating officer, SW-3 in his deposition has admitted that the pistol pouch as shown in the inquest report is not to be seen at the same spot in Ex.C-8. He admits that there are other discrepancies as to the distance of this pistol pouch. He admits that two sticks which are shown as found in the inquest report, are not shown in Ex.C-8 and in the latter, they are found at a different spot. Similarly, a stone which is found in the inquest report is not shown in the Ex.C-8, rough sketch. Curiously, he admits that the distance between the dead bodies of Arif and Shiva in the inquest report differ from the distance shown in Ex.C-8. Cartridges which are shown in the inquest report, the witness admits are not shown in the rough sketch. He also admits that the position of the black coloured pistol pouch does not tally with the sketch at Ex.C-8. The only conclusion that can be drawn from such discrepancies between the inquest report and Ex.C-8 is that, the

scene of incident may have either been tampered or the scene has been created to suit the convenience.

20.43 In the light of the above discussion, it cannot be said that the police party fired in self-defence or in a bid to re-arrest the deceased suspects. The record shows that entire version of the police party beginning from the safe house to the incident at Chatanpally is concocted. It was impossible for the deceased suspects to have snatched the weapons of the police and they could not have operated the fire arms. Therefore, the entire version is unbelievable.

20.44 There is the usual malady of delay in sending FIR to the Court in this case also. In this case, the incident is said to have occurred at 06.10 AM, the complaint lodged by CW-44 is sent to the police station by 8am and it is received by SHO 08.30 AM as per the endorsement in FIR, Ex.S-2. Since the court premises is at a distance of 3 kms from the police station it should not have taken more than half an hour to fill up the columns in the FIR and the FIR should have reached the Magistrate within an hour at the most. But the FIR in CR No. 803 of 2019 is received by the Magistrate at 04.40 PM, as seen from the report, Ex.C-58. As per Order 412 – 4 of Telangana Police Manual, in any case of use of firearms by police in dealing with a riot or in self-defence, an express report or radiogram or telegram or fax or email whichever is the quickest possible shall be sent to the District Magistrate and in the said report, the number of persons killed or injured, if any, shall be stated with their identity, if known. The unexplained delay in sending the FIR to the court would only establish that the complaint was not received by the SHO at 8 AM, and it should be concluded that the delay has occurred only for confabulations and deliberations, which in turn affects the veracity of the case put forth by the State.

20.45 Above all, there is a grave suspicion that the best evidence in respect of CCTV footages, video recording of inquest and crime scene etc has been withheld from the Commission.

20.46 To obviate shortcomings in the investigation of cases through human fallibility or otherwise, in recent times there is greater dependency on scientific investigation. However, the investigating agency in CR No. 803 of 2019, has not made any such attempts to collect scientific evidence immediately. In stark contrast, the material in CR No. 784 of 2019 placed before the Commission in Books 10 and 11 and also through the affidavit of Vasam Surender (CW-44), the Investigating Officer in CR No. 784 of 2019 and the documents enclosed to his affidavit show that a large amount of scientific evidence in the form of CCTV footage and call details records has been collected. In fact,

the CCTV footage shows that there is very effective network of CCTV cameras in the State of Telangana even in rural areas and especially along the highway. In fact, it is claimed in the press conference held after the arrest of the deceased suspects that scientific evidence played a crucial role in the detection of the crime and apprehension of the offenders. The Investigating Officer, J. Surender Reddy has stated that he has not collected any footage of CCTV either from Shadnagar Police Station or Ravi Guest House or enroute Ravi Guest House to the place of the incident. Both J. Surender Reddy (SW-3) and Sridhar Kumar (CW-15) state that they did not consider the CCTV footage of any use and therefore they did not make any attempt to collect CCTV footage.

20.47 Some of the video footages of the scene of incident are produced before the Commission, which are not in seriatim and are very short clippings that appear to be sourced from a primary footage. There is no explanation by the State as to why the entire footage is not placed before the Commission. The Commission observes that apart from the aforesaid lapses, there seems to have been a deliberate attempt to suppress the truth from emerging. The State has not been able to explain why there have been multiple statements of the same witness recorded under Section 161 Cr.P.C., which were incrementally produced before the Commission. It has not been able to explain the presence of multiple log books in relation to the bus that is said to have transported the deceased suspects. Further, the absence of original medical records of Care Hospital concerning the injured policemen, the inability to recover all the spent cartridges and also the complete absence of the fired bullets from the scene of occurrence, in the opinion of the Commission perhaps cannot be classified as mere lapses in investigation. As stated above, the crucial differences in the positions of the dead bodies and other material objects, and their inter-se differences in the inquest reports and crime scene panchanamas only further our conclusion that the version put forth by the police is not believable.

20.48 For the first time, during the inquiry a plea has been put forth that the NHRC team recorded the statements of CW-44 to CW-53 under threat and coercion. Prior to the examination of the police officers who were served with 8B notices, there was no allegation that the statements of the witnesses were recorded by NHRC team under threat and coercion, though some witnesses were confronted with their statements recorded by NHRC team. Thus, the two panch witnesses, the three doctors and the driver of the bus and the head of the clues team etc have only denied some statements which are contrary to their present version or they have added/ explained their prior statements. For the first time, V. Surender (CW-44), the head of the team came up with this allegation and the

other officers have taken cue. No such allegations are found in the statements recorded by J. Surender Reddy (SW-3) and no such allegations are found in the affidavits filed before the Commission. If at all, there were any such threats, the same would have been taken to the notice of the higher authorities. Though they all stated that they informed DCP Prakash Reddy (CW-18), it is not elicited from him that such complaints were made. In fact, J. Surender Reddy (SW-3) states that he is not even aware that NHRC team recorded the statements of any of the police officers. Their counsel failed to cross examine the NHRC officials regarding such threats. Only the counsel appearing for D. Srikanth (CW-53), suggested that D. Srikanth was threatened into signing the statement. However, D. Srikanth has not stated that he was threatened either in his affidavit or in his deposition. Admittedly, some senior police officers of Telangana Police department were present at the time of recording the statements by NHRC team either as translators or otherwise and they could have been examined to prove such grave allegations. It is therefore to be concluded that the police officers served with 8B notices have invented the allegation of threat and coercion by NHRC team belatedly, only to get over the prior statements which do not suit them.

20.49 After considering the entire material on record, we conclude that the deceased have not committed any offence in connection with the incident on 06.12.2019, like snatching the weapons, attempt to escape from the custody, assaulting and firing at the police party.

20.50 In view of the fact that the Commission has disbelieved the second confession, the alleged recovery at the 5th bund, the assault by the deceased suspects on the police officers, the alleged snatching of weapons and subsequent firing of 9MM pistols by the deceased suspects, there did not arise any occasion for exercising the right of private defence and consequently, there is no question of invocation of Section 96 IPC, 97 IPC (firstly), 100 IPC and Exception 3 to Section 300 IPC r/w Section 6 IPC.

20.51 In view of the fact that the Commission has disbelieved the alleged recovery, that the deceased suspects assaulted the policemen and attempted to escape, the actions of the police officers in deliberately firing at the deceased suspects, is not justified in light of Sections 46 Cr.P.C. r/w 60 Cr.P.C.

20.52 In view of the fact that the Commission has disbelieved that the deceased suspects fired upon the policemen, the actions of the police officers in deliberately firing at the deceased suspects, is not justified in light of Sections 149 Cr.P.C.

20.53 It is admitted that the deceased suspects were in the custody of CW-44 to CW-53. It is admitted that CW-44 to CW-53, SW4, CW-30 and the deceased suspects alone were

present at the scene of incident. It is also admitted by CW-46 to CW-48 that they fired their weapons and the forensics establish that the death was caused by the bullets that could have come only from the weapons of CW-46 to CW-48. Once the claims of CW-44 to CW-53 concerning the deaths of the deceased suspects are disbelieved, the only conclusion possible is that CW-44 to CW-53 were responsible for the deaths of the deceased suspects. Each one of them were responsible for the safe keeping of the four deceased suspects. If either by acts or omissions they failed to fulfil their responsibility, then their common intention to cause the deaths of the deceased suspects is established. Their conduct subsequent to the deaths of the deceased suspects in falsifying the record would indicate that not only did they act in furtherance of common intention to give false information in order to screen the offenders but also that, they all acted with the common intention to cause the deaths of the four deceased suspects. *Res Ipsa Loquitor*.

20.54 In our considered opinion, the accused were deliberately fired upon with an intent to cause their death and with the knowledge that the firing would invariably result in the death of the deceased suspect. It is also of the opinion of the Commission that:

A) Shaik Lal Madhar, Mohammed Sirajuddin and Kocherla Ravi are liable to be tried for the offence under Section 302 IPC. These officers cannot take shelter under Section 76 IPC and Exception 3 to Section 300 IPC because their contention that they fired in good faith at the deceased suspects has been disbelieved. Good faith, which is an essential pre-requisite of Section 76 IPC and Exception 3 to Section 300 IPC, is found to be clearly absent.

B) All the 10 police officers i.e., V. Surender, K. Narasimha Reddy, Shaik Lal Madhar, Mohammed Sirajuddin, Kocherla Ravi, K. Venkateshwarulu, S. Arvind Goud, D. Janakiram, R. Balu Rathod and D. Srikanth, are to be tried for the offences under Section 302 r/w 34 IPC, 201 r/w 302 IPC and 34 IPC, as the above discussion would show that the different acts committed by each of them were done in furtherance of common intention to kill the deceased suspects.

20.55 Ms. Lata Krishnamurthy, learned counsel for the State of Telangana, strenuously contended that according to the dictum in *Om Prakash & Ors v. State of Jharkhand & Anr*, (2012) 12 SCC 72, no inference can be drawn that the police action is indefensible or vindictive or that the police were not acting in discharge of their official duty. The facts of the said case discloses that the father of a person killed in an encounter had challenged the order of the high court quashing the proceedings against a DSP on the

ground of absence of sanction under Section 197 Cr.P.C. The said decision depended upon the peculiar facts of that case, and the same has to relevance to the facts of this case. The Ld. Counsel strongly relied on the observations made in the said decision to the effect that even police officers need protection from wrongful prosecution. The Commission observes that in the same judgement the Court has deprecated “killings by trigger-happy police personnel, who liquidate criminals and project the incident as an encounter”.

20.56 It was contended by the State of Telangana that all directions given by the Hon’ble Supreme Court in PUCL v. State of Maharashtra, (2014) 10 SCC 635, with respect to encounter killings have been followed. The Commission is of the opinion that this judgement has been followed in breach, and at best, there is only symbolic compliance.

20.57 As stated in the above paragraphs, serious allegations were made by the parents of the deceased that their children were arrested illegally. It was also contended by the parents of the deceased that their children are juveniles. During the course of the inquiry, it also came to light that the constitutional and statutory rights of the deceased suspects at the time of their arrest and remand to judicial and police custody appear to have been violated. As such, the said aspects are being considered. The deceased suspects, at the time of arrest, were entitled to a number of constitutional and statutory rights that were violated by the police personnel. They are listed as follows:

Firstly, in violation of Section 41B(a) of the Code of Criminal Procedure, the NHRC Guidelines on arrest, the Telangana Police Manual and several Supreme Court judgments, the deceased were not arrested by police personnel bearing accurate, visible and clear identification of their names. This is indicated by record which are as contemporaneous to the incident as possible, namely the statements of CW-3, CW-7 and CW-8 recorded by the Investigating Officer and NHRC. Although CW-1 offers contradictory statements, the other witnesses have maintained a consistent stand that they could not identify anyone at the time of arrest other than P Srinivas Reddy, the lorry driver.

Secondly, in violation of Section 41B(c) of the Cr.P.C., the NHRC Guidelines on Arrest, the Telangana Police Manual, and several Supreme Court judgments, the police personnel did not inform the factum of arrest to family members or friends named by the persons being arrested. With the exception of CW-1, who has made contradictory statements, all the family members of the deceased have consistently

maintained that the deceased had been taken away on false premises at the instance of the lorry owner P Srinivas Reddy. Although Section 41B(c) requires the police to inform the fact of arrest to the family members of an arrested person if the family members do not themselves attest the arrest memos. It must be noted that in this case, the arrest memos were not executed at the time that the deceased suspects were picked up from their residences and further. Further, there are discrepancies in the thumb prints attributed to the family members of the deceased suspects in three of the arrest memos.

Thirdly, in violation of Section 41B(b) of the Cr.P.C., the NHRC Guidelines on Arrest, the Telangana Police Manual, and several Supreme Court judgments, the police personnel did not execute an arrest memo *while* making the arrest, but well after the deceased suspects were picked up from their villages. Further, Section 41B(b) requires that the arrest memos should be attested by a witness who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made. However, the thumb impressions in two of the arrest memos, attributed to Jollu Rajaiah, are denied by him.

Fourthly, in violation of Article 22(1) of the Constitution of India, Section 50 of the Cr.P.C., the NHRC Guidelines on Arrest and the Telangana Police Manual, the deceased suspects were not made aware of the grounds on which the arrests were made. Whereas the Supreme Court has placed the burden of proof on the State to show that the same has complied with the same, they have not done so. It is our finding that the arrest was made on the intervening night of 28.11.2019 and 29.11.2019, and that there is no written record to show that the police had informed the deceased suspects or their relatives as to the reason for the arrest. Rather, all the relatives of the deceased suspects except Pinjari Hussain (CW-1) have maintained a consistent account that the deceased suspects had been picked up on false pretexts, without having the right reason being provided to them. Although A Sreedhar Kumar (CW-15) stated in his deposition that he informed the reasons of arrest both to the deceased suspects as well as their relatives when he picked them up on the afternoon of 29.11.2019, this account is falsified, when the statements of P Srinivas Reddy (CW-43), the relatives of the deceased suspects and the irregularities in the material on record are considered with respect to the time at which the deceased suspects were picked up. V Surender (CW-44) has also stated in the Case Diary Part I, that he

informed the deceased suspects, the reason for their arrest when they were produced before him at the Shadnagar Police Station, which according to him was at 4:45 PM. Even if this were true, the deceased suspects were supposed to have been told the reason for the arrest when they were being picked up, and not when they were produced at the police station.

Fifthly, in violation of Section 41D of the Cr.P.C., the NHRC Guidelines on Arrest and various judgments of the Supreme Court, the deceased were not given the right to meet an advocate of their choice during their interrogation. Whereas it is the duty of the arresting officer to inform the arrested person about this right, there is no record of they having been informed of the same.

20.58 It has also come to the fore that the statutory provisions required to be complied at the time of the remand to judicial custody of the deceased suspects had been violated. The circumstances prior to the grant of judicial custody and the order granting the same suggest anomalies and irregularities.

Firstly, there are irregularities pertaining to the conduct of medical examination of the deceased. The case diary maintained by CW-44 states that the medical examination took place at Shadnagar P.S., however, the arrest memos and remand case diary state that the deceased were taken to Community Health Centre, Shadnagar, for the said purpose. Not only is the place of examination unclear, but even the time of medical examination is not devoid of inconsistencies.

Secondly, the time at which Sri J Pandu, the Executive Magistrate(CW-9) arrived at the police station is unclear. Sri V Surender (CW-44) first stated that he (CW-9) arrived between 11:30 AM and 12 PM and then stated that he arrived at 1 PM. Sri A Sreedhar Kumar (CW-15) stated that CW-9 arrived between 2 PM and 2:30 PM. This is barely half an hour before the deceased suspects were boarded onto the bus to Central Jail, Cherlapally, as per the entry in the case diary. CW-9 on the other hand states that he arrived between 12:30 PM and 1 PM, which is when, according to him, the medical examination was conducted.

Thirdly, there are several illegalities in the remand proceedings as well – (i) CW-9 admitted to signing a remand order (Ex.C-54) that was prepared in advance and given to him along with the case diary. He copied the content shown to him and signed the order without any application of mind; (ii) he did not inquire any details regarding the

time and manner of arrest of the deceased suspects either from the police or from the deceased suspects themselves; (iii) he did not independently verify the details of the identity of deceased suspects and only verified the consistency of details across the documents given to him by the police, i.e., remand notice, arrest warrant, Section 50 notice, arrest memo and confessional statement. It is unclear whether even this verification was done by him or by the accompanying court staff; (iv) he did not inform the deceased suspects about their right to legal representation; and (v) he did not attempt to ascertain whether notice had been issued to relatives of Jollu Shiva and Naveen despite their signatures not being there on Section 50-A notice (Ex.C-56). It is thus evident that there are several irregularities, and at times, patent illegalities with respect to the remand proceedings. The Hon'ble Supreme Court in *Khatri (2) v. State of Bihar*, (1981) 1 SCC 627, has categorically noted that the constitutional obligation to provide free legal aid attracts at the stage of production of an accused before the magistrate for the first time since it is at this stage when the deceased suspects needs competent legal advice regarding application for bail and/or resisting the remand to police/judicial custody. The Hon'ble Supreme Court *Mohd. Ajmal Amir Kasav v. State of Maharashtra*, (2012) 9 SCC 1, has endorsed the findings in *Khatri*.

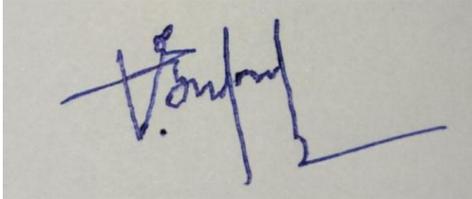
20.59 It is also found that there are also serious violations of law at the time of granting police custody by the Judicial Magistrate. The order granting police custody by CW-37 leaves much to be desired. CW-37 seems to have come to a conclusion to grant police custody without perusing any documents apart from the petition for police custody. In fact, he does not even insist for the production of relevant documents by the police, especially, the documents collected by the police between 30.11.2019 to 02.12.2019. Most importantly, the deceased suspects were neither produced before CW-37 nor were they represented by a counsel. This should have raised questions as to whether the deceased suspects were even served a notice, however, CW-37 fails to satisfy himself on this front. Further, there was neither a public prosecutor nor a police officer present during the proceedings before him. It is claimed that a court constable was present, although the order granting police specifically records that ACP V. Surender (CW-44) was present. Strangely, in the absence of any lawyers appearing in the Petition, the order records "heard arguments". Thus, it is evident that there are several irregularities as the proceedings conducted by him do not conform to the duties categorically recognized and

cast upon the court of magistrate by the Hon'ble Supreme Court in Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1.

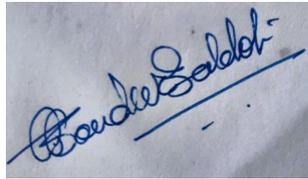
20.60 As regards the claim of juvenility of the four deceased suspects, it is claimed by their relatives that they were minors at the time of their arrest and death. As per the available records, it can be conclusively stated that Mohd. Arif was aged 26, as on 06.12.2019 and therefore, the question of him being a minor at the relevant point does not arise. CW-7 and CW-8 had raised the issue of juvenility of their sons when they were examined by the NHRC team on 08.12.2019. The claims were made two days after the incident, In fact, the Bonafide Certificate of Jollu Shiva (Ex.B-4) was dated 09.12.2019, the Bonafide Certificate of Jollu Naveen (Ex.C-42) was dated 09.12.2019 and the Bonafide Certificate of Chintakunta Chennakeshavulu (Ex.C-31) was dated 24.07.2018, which are also contemporaneous. It is therefore quite difficult to accept the suggestions made by the State and the persons served with notices under Section 8-B of the Commissions of Inquiry Act, 1952, that the documents produced before the Commission have been doctored or falsified. The Aadhaar cards of Shiva, Naveen and Chennakeshavulu, being Ex.B-4, Ex.S-53 and Ex.S-56 respectively, record only their year of birth as 2001 and no exact date of birth is mentioned in any of these documents. However, various judicial decisions have held that Aadhaar card cannot be proof of date of birth. On the other hand, Section 94(2)(i) of the Juvenile Justice (Care and Protection of Children) Act, 2015, provides that the date of birth certificate obtained from the school as recorded in their admission registers shall be the primary document evidencing the age of an alleged juvenile.

20.61 In the present case, the relevant portions of the admission registers of Jollu Shiva and Chennakeshavulu (Ex.C-33 and Ex.C-34) demonstrate that their date of birth is 15.08.2002 and 10.04.2004 respectively, whereas, Jollu Naveen's date of birth according to the admission register is 04.04.2004. In our considered view, there is no reason to disbelieve the evidence of the Head Masters, CW-4 and CW-6, who not only identified the relevant entries pertaining to the deceased but also have deposed that they personally knew the family of the deceased persons. CW-4 specifically stated in his examination that after three or four days of Disha incident, Mandal Educational Officer telephoned him during night at 10.00 to 10.30 PM and told him that some police men might come, so he has to show the school registers and that he then went to the school by 10.30 PM and thereafter the police arrived and checked the records. He also stated that they took photographs of the admission registers with mobile phones and that the policemen came

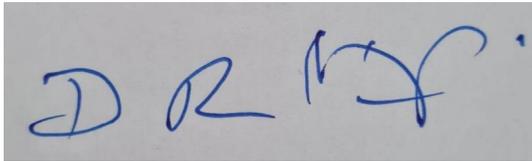
from Shamshabad PS and one of them was a Sub-Inspector. This clearly suggests that the police were well aware about the school records of Jollu Shiva and Chennakeshavulu and yet have not recorded the age of the deceased persons according to the admission registers at any given point of time. Therefore, we are of the opinion that at the relevant time, Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu were minors.

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Hon'ble Mr. Justice V S Sirpurkar, Chariman

A handwritten signature in blue ink, appearing to read 'Rekha P SondurBaldota', written on a light-colored background.

Hon'ble Ms. Justice Rekha P SondurBaldota, Member

A handwritten signature in blue ink, appearing to read 'D R Kaarthikeyan', written on a light-colored background.

Dr. D R Kaarthikeyan, Member

21. GENERAL RECOMMENDATIONS

Just as Mob Lynching is unacceptable, so is any idea of instant justice.

At any point of time Rule of Law must prevail. Punishment for crime has to be only by the procedure established by law.

21.1 During the course of this inquiry, the Commission had the opportunity to observe and ponder over the entire criminal justice system. The Commission observed that in certain aspects there is absence of clear legal provisions, but in certain aspects although the legislative mandates are clear, there is laxity in enforcement. It is in this context that the following recommendations are proposed:

21.2 Registration of FIR in respect offences against women and children - Order 409 (3) of the Andhra Pradesh Police Manual mandates that information relating to the cognizable offences should be registered even if they are presented in a police station not having jurisdiction and such registration should not be refused on the point of jurisdiction and after registration, the FIR should be transferred to the concerned police station. However this provision does not authorize such Police Station to start with the investigation into the information relating to the offence presented to it. It is seen that Order 409(3) was not followed in the case of Disha. The Commission is informed that the Government has since issued circular mandating strict compliance with order 409(3). In addition to strict compliance with the order, the Commission recommends that an exception be made in respect of the information received of offences against women or children. Whenever information relating to cognizable offences committed against women or children is received by any police station not having jurisdiction, it should not only register the complaint but also start the investigation immediately. It shall later handover the further investigation to the regular police station.

21.3 Separation of investigation wing of Police from Law and Order wing of Police - Recommendations have already been made by different Commissions for police reforms that separate wings of Police be maintained for investigation and for maintenance of Law and Order. This Commission supports those recommendations, because in its opinion, the separation would facilitate quicker investigation into the offences.

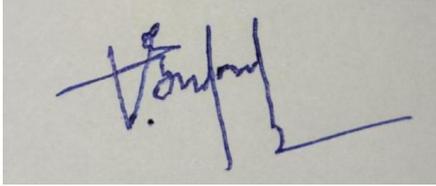
21.4 Mandatory Compliance of the Constitutional and statutory requirements during arrest- There are several directions even in this regard by the Hon'ble Supreme Court from time to time. A distinction is sought to be drawn between apprehending the person and

arresting a person. Such distinction cannot be available to the police. Whenever the police take a person into their custody, all the Constitutional and statutory requirements during arrest become applicable because a person is deemed to be arrested. IN that case the police will have to mandatorily comply and have documented all the Constitutional and statutory requirements.

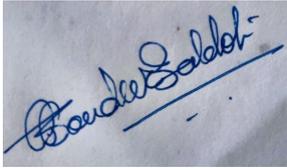
- 21.5 Video recording of all the investigative processes - The Commission recommends that the investigative processes such as arrest, service of notice of arrest, crime scene observation, inquest, forensic examination of the crime scene, recovery of material objects, topography of the crime scene should be video recorded.
- 21.6 Body worn cameras and dash cameras - The Commission recommends that the police should use body worn cameras which record in real time their actions as well as their surroundings and their interactions with the citizens and suspects. Similarly cameras should be installed on the dashboards of the police vehicles which also record the happenings in the surroundings of the police vehicles.
- 21.7 Mandatory Collection of CCTV footage during investigation into all offences - The Commission recommends that CCTV footage should be mandatorily collected during investigation into all offences and preserved.
- 21.8 Audio-video recording of statements of witnesses - The Commission recommends that the statements of witnesses recorded under Sections 161, 164 and 176 (1-A) Code of Criminal Procedure, 1973, should be mandatorily recorded through Audio-video recording devices.
- 21.9 Forensics - The Commission recommends that the first responders to a crime scene should be trained and instructed in the preservation of the crime scene. The “Clues Team” or Forensic experts should be given complete charge of the Crime Scene preservation, observation, documentation, photography, videography and collection of forensic evidence.
- 21.10 Chain of Custody of forensic evidence - The Commission observed many lapses in the chain of custody of forensic material collected during investigations. Any lapse in chain of custody destroys the evidentiary value of the forensic material. Therefore the Commission recommends that collection and preservation of forensic evidence should be properly documented. Also the transmission of the forensic evidence to the Forensic Science Laboratory and the analysis done in the laboratory as well as the transmission of reports and the materials back to the investigation officer or the court should be properly documented. Appropriate standard procedures should be evolved in this regard.

- 21.11 Remand of accused by Executive magistrate - The Commission recommends that Executive Magistrates being kept in charge of the Court of Judicial Magistrate for any purpose should be completely avoided. It is further recommended that in case of an extraordinary situation where the Executive Magistrates required to be called upon to exercise powers under Section 167(2-A) Cr.P.C, careful selection be made keeping in mind the knowledge of concerned law and procedure and experience of the person.
- 21.12 Production of accused while granting police custody - The Commission recommends that it in view of the proviso (b) to Section 167(2) of Cr.P.C it should be made mandatory that every time an application for police custody is filed, the Magistrate should direct that the accused be produced before him at the time of hearing the said application.
- 21.13 Service of notice of applications filed by police on accused in prison - It is recommended that serving of notice to the accused while they are in prison should not be considered as sufficient notice in any application if such notice is given prior to filing the application before the Court. Even if such notice is effected, the Court should order fresh notice specifying the date on which the application is listed for hearing and also specifying that the accused should be produced before the Court on that date.
- 21.14 Magisterial Inquiry under Section 176 (1-A) Code of Criminal procedure, 1973 - The Commission recommends that the Magisterial Inquiry under Section 176 (1-A) Code of Criminal procedure, 1973, in cases of deaths in police custody should be conducted by a Judicial Magistrate only. The Magistrate within whose Jurisdiction the incident has occurred should be informed immediately upon the occurrence of a death in police custody. The information shall be given either in electronic form or through telephone, in addition to the physical intimation. On receiving such information the Judicial Magistrate shall immediately proceed to the scene of custodial death for inquiry after due intimation to the Principal District and Sessions Judge in charge of the district. Inquest and other proceedings should be done under the supervision of the Judicial Magistrate. The bodies and the scene of incident should not be disturbed until the Judicial Magistrate has inspected and documented that same. The State shall not appoint an Executive Magistrate to hold inquiries under Section 176(1-A) in cases of custodial deaths.
- 21.15 Press conference by Police officers - No police officer shall hold press conference in respect of an offence under investigation until such time as the investigation is complete and final report filed in the concerned court. A police station may issue a press note communicating updates about the investigations, but shall not divulge information collected during investigation.

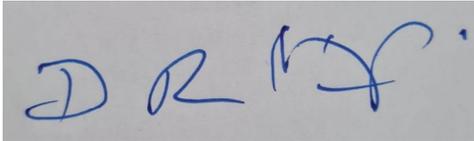
21.16 Perjury - The present procedure for prosecuting perjury is cumbersome and hence perjury proceedings are not as effective as desired. The procedure for action for perjury shall be simplified.

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Hon'ble Mr. Justice V S Sirpurkar, Chariman

A handwritten signature in blue ink, appearing to read 'Rekha P SondurBaldota', written on a light-colored background.

Hon'ble Ms. Justice Rekha P SondurBaldota, Member

A handwritten signature in blue ink, appearing to read 'D R Kaarthikeyan', written on a light-colored background.

Dr. D R Kaarthikeyan, Member